

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



DATE: August 2, 2013

TO: Colorado Mined Land Reclamation Board

FROM: Wally Erickson, DRMS

RE: **Supporting Documents for August 14-15, 2013, Board Hearing,
Consideration of an Amended 112c Application with Objections,
Rocky Mountain Aggregate & Construction LLC,
Uncompahgre Pit, File No. M-2013-007**

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Piñeda
Director

Please find enclosed copy of the following documents:

1. DRMS Chronology of Permit Process
2. Objection from Janice Wheeler, dated February 25, 2013, received March 6, 2013
3. Agency Comment from State Historic Preservation Officer, dated March 8, 2013, received March 12, 2013
4. Objection from Susan J. Hansen, dated March 27, 2013, received March 29, 2013
5. Objection from Dr. Joseph J. and Mary A. Scuderi, dated March 28, 2013, received March 29, 2013
6. Objection from Gene and Carolyn Kliethermes, dated March 30, 2013, received April 1, 2013
7. Letter of Support from Al & Vicki Becker, dated April 2, 2013
8. Objection from Robert G. & Joan D. Hooper, dated April 8, 2013, received April 9, 2013
9. Objection from Dennis Schultz, dated April 7, 2013, received April 10, 2013
10. Objection from Barbara Bernhardt, dated April 7, 2013, received April 10, 2013
11. Objection from Lester & Kathleen Stigall, dated April 8, 2013, received April 11, 2013
12. Applicant response to protest letters, dated April 9, 2013, received April 11, 2013
13. Objection from Carter & Stacy Trask, dated April 12, 2013, received April 15, 2013
14. Agency Comment from Colorado Parks and Wildlife, dated April 9, 2013, received April 15, 2013
15. Objection from Stan & Kathy Borinski, dated April 12, 2013, received April 17, 2013
16. Objection from Stan & Kathy Borinski, dated April 12, 2013, received April 17, 2013
17. Objection from Keith & Sharon Rasmussen, not dated, received April 17, 2013
18. Objection from Roger & Gail Noble, dated April 12, 2013, received April 17, 2013
19. Objection from Margaret T. Zanin, dated April 24, 2013, received April 17, 2013
20. Objection from Susan Berg, dated April 15, 2013, received April 18, 2013
21. Objection from Jim & Paula Wyrick, dated April 16, 2013, received April 18, 2013

22. Objection from Craig B. Schaff, dated April 19, 2013, received April 22, 2013
23. Objection from Amanda Winston, dated April 15, 2013, received April 22, 2013
24. Objection from Leigh Robertson, dated April 18, 2013, received April 22, 2013
25. Objection from Pam East, dated April 23, 2013, received April 23, 2013
26. Objection from Karen Michaelis, dated April 20, 2013, received April 24, 2013
27. Objection from Karen Michaelis, dated April 20, 2013, received April 24, 2013
28. Objection from Richard Schulz, dated April 20, 2013, received April 24, 2013
29. Objection from Richard Schulz, dated April 20, 2013, received April 24, 2013
30. Objection from Barbara Bernhardt, dated April 21, 2013, received April 24, 2013
31. Objection from Dr. Joseph & Mary Scuderi, dated April 4, 2013, received April 26, 2013
32. Applicant response to protest letters, dated May 6, 2013, received May 7, 2013
33. Objection from Zoe D. Larkin, dated May 15, 2013, received May 17, 2013
34. Objection from Rodger & Gail Noble, dated June 14, 2013, received June 17, 2013
35. Objection from Laurie Brandt, Buckhorn Geotech, dated June 20, 2013, received June 24, 2013
36. Objection from Barbara Bernhardt, dated May 23, 2013, received June 26, 2013
37. Objection from Jennifer Thurston, INFORM, dated June 26, 2013, received June 26, 2013
38. Objection from Lee R. Bartlett, dated June 23, 2013, received June 26, 2013
39. Objection from Janice Wheeler, dated June 23, 2013, received June 26, 2013
40. DRMS recommendation and rationale to approve the application over objections, dated July 19, 2013

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February 12, 2013	112c application materials received
February 26, 2013	112c application filed, commencement of first public comment period
March 1, 2013	DRMS notice of 112c application to Applicant and agencies
March 6, 2013	Objection received from Janice Wheeler, dated February 25, 2013*
March 12, 2013	Agency Comment received from SHPO, dated March 8, 2013*
March 13, 2013	1 st newspaper publication
March 20, 2013	2 nd newspaper publication
March 22, 2013	Application materials received regarding Gunnison sage grouse
March 27, 2013	3 rd newspaper publication
March 29, 2013	Objection received from Susan Hansen, dated March 27, 2013*
	Objection received from Dr. Joseph & Mary Scuderi, dated March 28, 2013*
April 1, 2013	Objection received from Gene & Carolyn Kliethermes, dated March 30, 2013*
April 3, 2013	4 th newspaper publication
	DRMS notice to parties and interested persons
April 4, 2013	Letter of Support received from Al & Vicki Becker, dated April 2, 2013*
April 9, 2013	Objection received from Robert & Joan Hooper, dated April 8, 2013*
April 10, 2013	Objection received from Dennis Schultz, dated April 7, 2013*
	Objection received from Barbara Bernhardt, dated April 7, 2013*
April 11, 2013	Objection received from Lester & Kathleen Stigall, dated April 8, 2013*
	DRMS notice to parties and interested persons
	Applicant response to protest letters, dated April 9, 2013*

***Document(s) attached, copied from the public record**

April 12, 2013	Amendment to 112c received, incomplete for filing
April 15, 2013	Objection received from Carter & Stacy Trask, dated April 12, 2013*
	Agency Comment received from CPW, dated April 9, 2013*
April 17, 2013	DRMS deficiencies for filing requirements to Applicant DRMS notice to parties and interested persons
	Objection received from Stan & Kathy Borinski, dated April 12, 2013*
	Objection received from Stan & Kathy Borinski, dated April 12, 2013*
	Objection received from Keith & Sharon Rasmussen, not dated*
	Objection received from Roger & Gail Noble, dated April 12, 2013*
	Objection received from Margaret Zanin, dated April 24, 2013*
April 18, 2013	Objection received from Susan Berg, dated April 15, 2013*
	Objection received from Jim & Paula Wyrick, dated April 16, 2013*
April 19, 2013	DRMS notice to parties and interested persons
April 22, 2013	Amendment to 112c filed, commencement of second public comment period
	DRMS notice of amended 112c application to Applicant and agencies
	Objection received from Craig Schaff, dated April 19, 2013*
	Objection received from Amanda Winston, dated April 15, 2013*
	Objection received from Leigh Robertson, dated April 18, 2013*
April 23, 2013	Objection received from Pam East, dated April 23, 2013*
April 24, 2013	Close of first public comment period
	Objection received from Karen Michaelis, dated April 20, 2013*
	Objection received from Karen Michaelis, dated April 20, 2013*
	Objection received from Richard Schulz, dated April 20, 2013*
	Objection received from Richard Schulz, dated April 20, 2013*

***Document(s) attached, copied from the public record**

	Objection received from Barbara Bernhardt, dated April 21, 2013*
April 26, 2013	Objection received from Dr. Joseph & Mary Scuderi, dated April 4, 2013*
April 30, 2013	DRMS notice to parties and interested persons
May 15, 2013	1 st newspaper publication
May 7, 2013	Applicant response to protest letters, dated May 6, 2013*
May 17, 2013	Objection received from Zoe Larkin, dated May 15, 2013*
May 22, 2013	2 nd newspaper publication
May 29, 2013	3 rd newspaper publication
June 4, 2013	DRMS site inspection
June 5, 2013	4 th newspaper publication
June 14, 2013	DRMS 1 st adequacy issues to Applicant
June 17, 2013	Objection received from Roger & Gail Noble, dated June 14, 2013*
June 21, 2013	DRMS notice to parties and interested persons
June 24, 2013	Objection received from Laurie Brandt, Buckhorn Geotech, June 20, 2013*
June 26, 2013	Objection received from Barbara Bernhardt, dated May 23, 2013*
	Objection received from Jennifer Thurston, INFORM, dated June 26, 2013*
	Objection received from Lee Bartlett, dated June 23, 2013*
	Objection received from Janice Wheeler, dated June 23, 2013*
	Close of second public comment period, total comment period 120 days
July 8, 2013	DRMS notice to parties and interested persons
July 9, 2013	Applicant response to adequacy issues

*Document(s) attached, copied from the public record

July 11, 2013	DRMS notice to East and Noble
July 15, 2013	Objection (late) received from Janice Wheeler, dated July 11, 2013
July 16, 2013	DRMS 2 nd adequacy issues to Applicant Correspondence received from Susan Baker, Esq., on behalf of her client, Janice Wheeler, dated July 11, 2013
July 17, 2013	Applicant response to adequacy issues
July 18, 2013	Applicant response to adequacy issues
July 19, 2013	Applicant response to adequacy issues DRMS Recommendation and Rationale to Approve*
July 23, 2013	Applicant response to Baker, dated July 23, 2013
July 25, 2013	Pre-hearing Conference
August 14-15, 2013	MLRB Hearing

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M-2013-007

February 25, 2013

Division of Reclamation, Mining and Safety

1313 Sherman St. Rm 215

Denver, CO 80203

RECEIVED

MAR 06 2013

DIVISION OF RECLAMATION
MINING AND SAFETY

To Whom it May Concern,

I have enclosed a photograph of the Public Notice Posted by Rocky Mountain Aggregate and Construction, LLC ("the Company" hereafter). This "Public Notice" is placed approximately 40 feet INSIDE their property line at the end of a dead end road, T Road. I have also enclosed the Posted sign that is located at the property line. Generally the gate is closed, at the time the photo was taken it was open. In addition, the County listed is Mesa County—this property is in Montrose County, and it is the Montrose County Clerk's office that has the copy of the application. It does not seem that this is an acceptable error for a Public Notice of this magnitude. The location is completely unacceptable as well.

This gravel pit will have tremendous impact on the local area. According to the Montrose County Master Plan this area not only is not considered a "gravel resource"—see maps on their website, but it is listed as Agricultural, Rural Residential, Critical Mule Deer Habitat, Winter Elk Habitat, and has "Substantial" Wildfire Danger. There are two Diesel tanks requested, one 3,000 gallons and one 10,000 gallons. Should these be allowed year round in "substantial" wildfire danger area? Bio-Logic, who they used to do the wildlife survey, says the area has "no Raptors". We see Raptors every day, all day in this area; from Red Tails to Golden Eagles to Bald Eagles to Falcons. If this statement is inaccurate, imagine how inaccurate their other statements are. The Colorado Department of Parks and Wildlife has listed this property as "Occupied" Sage Grouse territory on their Endangered Species maps. This bird, as you know, is being considered for the Endangered Species list. This land borders BLM on one side and also is home to Mule Deer, Elk, rabbits, red fox, coyotes and many other species found in this area. Every fall the Deer and Elk rut just below the Mesa that the company is proposing to demolish.

The Company is proposing a 105 year plan to mine this area! According to their numbers, (which our County planning department says are very low estimates of actual harvest), operating 7 months of the year, 1694 hours, that is 61 trucks per day down T Road, and then most of them return, or one every 6 minutes or so. T Road connects directly to the busy north south highway 550. There are times I sit for minutes just trying to turn onto this highway. The application claims that there would be no noticeable impact on the traffic patterns in this area, this statement is inconceivable.

There is a United Gravel pit within one mile of this proposed site. With the extremely poor condition of the economy in Montrose County, I have yet to talk to anyone who sees a need for another gravel pit in this area. While we support healthy competition, why disrupt such a crucial wildlife area AND many people's lives? This property is surrounded on three sides by residences and one side by BLM.

Please feel free to contact me with questions or additional information, I look forward to hearing from you on this matter at your earliest convenience.

970 209-9630

Thank you for your time and consideration. I am emailing a copy of this letter as well to the email on your website.

Janice Wheeler

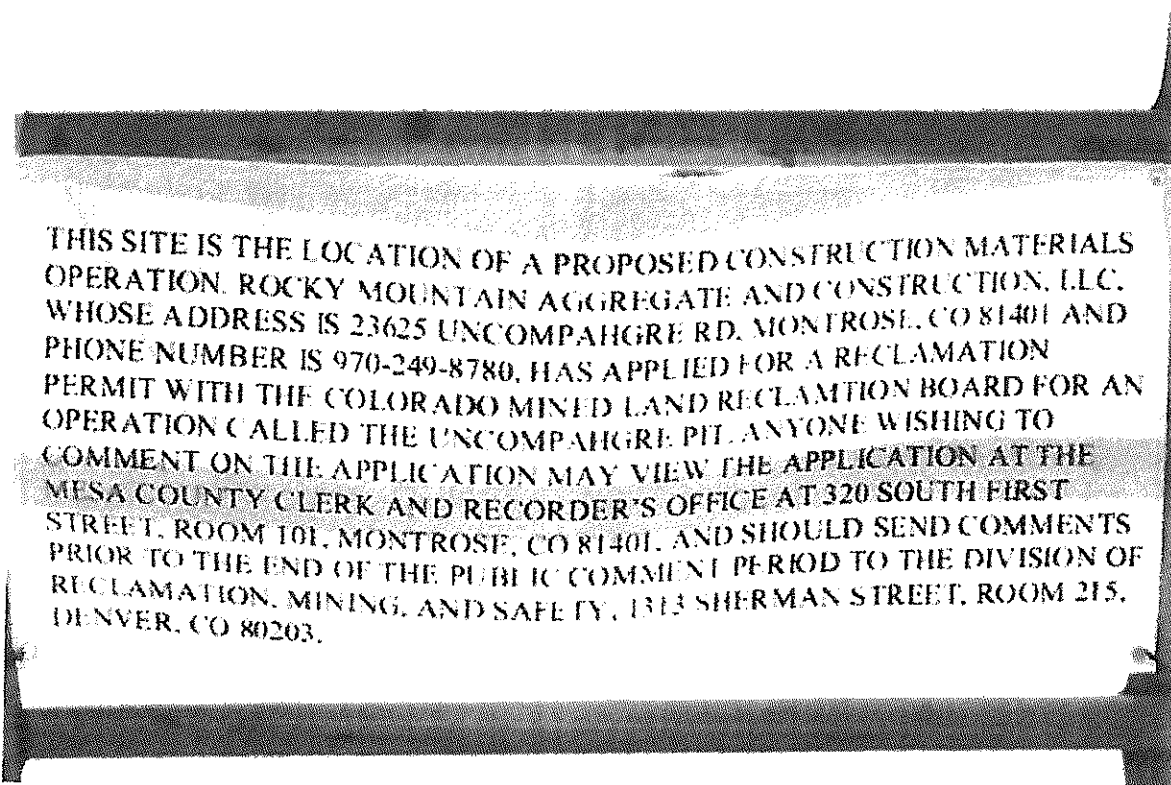
67269 T Road

Montrose, CO 81403

Janice Wheeler

From: "Janice Wheeler" <janice@pineconeunlimited.com>
To: "Janice Wheeler" <janice@pineconeunlimited.com>
Sent: Thursday, February 21, 2013 8:32 AM
Subject: Fw: 7 great iPhotos

DSC_0569.JPG



DSC_0570.JPG



DSC_0571.JPG

DSC_0572.JPG

DSC_0573.JPG

DSC_0574.JPG

DSC_0575.JPG



March 8, 2013

Wallace H. Erickson ✓
Environmental Protection Specialist
Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

Re: Notice of 112 Construction Materials Reclamation Permit Application Consideration Rocky Mountain Aggregate and Construction, Uncompahgre Pit, M-2013-007 (HC #63673)

Dear Mr. Erickson:

Thank you for your correspondence dated March 1, 2013 (received by our office on March 5, 2013) regarding the subject project. We corrected the project location to Sections 27 and 34, Township 47N, Range 9W, N1M Prime Meridian.

A search of the Colorado Cultural Resource Inventory database indicated eight sites within the project area with the following determinations of eligibility for listing on the National Register of Historic Places:

5OR.1960	Officially eligible 2008
5OR.1961	Officially eligible 2008
5OR.1962	Officially eligible 2008
5OR.1963	Officially not eligible 2008
5OR.1964	Officially eligible 2008
5OR.1965	Officially not eligible 2008
5OR.1980	Field not eligible 2006
5OR.1981	Field not eligible 2006

"Field not eligible" means that the person preparing the inventory form believed the site not to be eligible but our office has not officially made a determination. For officially eligible and field not eligible sites, we recommend that they are avoided by the project.

Our files contain incomplete information for this area, as most of Colorado has not yet been inventoried for cultural resources. As a result, there is the possibility that as yet unidentified cultural resources exist within the proposed permit area.

Should human remains be discovered during mining activities, the requirements under State law CRS 24-80 part 13 apply and must be followed.

Thank you for the opportunity to comment. If we may be of further assistance, please contact Dan Corson, Intergovernmental Services Director, at (303) 866-2673 or dan.corson@state.co.us.

Sincerely,


Edward C. Nichols
State Historic Preservation Officer

RECEIVED

MAR 12 2013 ✓

DIVISION OF RECLAMATION
MINING AND SAFETY

Whe, gmm

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

March 27, 2013

I'm writing in opposition to the application file #m2013007. This proposed gravel pit in the Southwest portion of Montrose, will affect at least 250 residences within a 1 mile radius. I am writing to you so that you might consider the families that this project will negatively affect. In addition to the gravel being mined, there will also be an asphalt plant, and a concrete operation. Some residents that will be affected are unable to open windows in the spring, the traffic (I know this is a local issue) will put undue burden on the capacity of the roadway 550. This is already a hazardous intersection in a rural part of the county.

I know we love gravel in Western Colorado, however, I believe it would be beneficial to have another look at this location. Please let me know what I could possibly do.

Susan Hansen
for Susan J Hansen
10990 5880 Road
Montrose CO 81403
970-209-0239

Cc: Mike King, Director, Department of Natural Resources

RECEIVED
✓ MAR 29 2013
DIVISION OF RECLAMATION
MINING AND SAFETY
to

Dr. Joseph J & Mary A Scuderi
68044 Tulare Road
Montrose, Colorado 81403

March 28, 2013

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

RECEIVED
MAR 29 2013
Durango Field Office
Division of Reclamation,
Mining and Safety

RE: Uncompahgre Pit, File No. M-2013-007

Dear Mr. Erickson:

The concerned citizens in Montrose County have many in depth environmental issues that need to be addressed before the State and Montrose County Governmental Agencies approve the gravel, asphalt and concrete plant for Rocky Mountain Aggregate and Construction, LLC.- Permit No. M2013-007. Therefore it is recommended you do not approve this project at the T Road location at this time.

We believe spot zoning is an illegal practice that favors one individual at the expense of others, especially considering the large number of individuals who live in the given area of this pit. The River's Edge subdivision and other minor divisions are affiliate communities directly across from the pit. Numerous residents and a bed & breakfast surround the project. This massive industrial nightmare will result in decades of noise, water and air pollution from mining, petroleum and toxic dust, with a parade of dump trucks clogging narrow county roads and Highway 550 which cannot accommodate the present day two lane traffic much less the hundred plus added large quarry equipment.

There are studies, which show the air and noise pollution harm wildlife living and nesting near gravel, asphalt and concrete plants. We have experienced this first hand on Fountain Creek when the Blue Hereon Crane population was compromised. The Uncompahgre River is a very valuable wetland, which is less than a mile away from this future quarry operation. There are eagles, humming birds, ducks, and geese nests on the river and ponds with a fox den, deer, raccoons and other animals living near the river. The endangered Gunnison Sage Grouse has been seen on the proposed site. The health and welfare of human beings living around and near this pit will be subject to carcinogens and pollution, which could destroy one's health, especially several small children under the age of nine which live in this given area. No two asphalts are chemically alike because of the chemical content of the original crude petroleum form. Concrete, crushed rock and asphalt additives, plus operating temperatures of recycled paving materials cause increase in toxic emissions as is

documented by the EPA Division. (Case-EPA Division 1996) Therefore exposure to fumes and toxic dust from this plant will cause headaches, skin rashes, fatigue, reduced appetite, throat and eye irritation along with coughing and lung disease. The Air Pollution Control Division under the Federal Occupational Safety and Health Administration has documented these facts to be true. There is no biological mechanism for cleaning the body tissues from the toxins released from these types of plant operation pollution.

The water quality may also pose serious health issues to the largely populated area from the pit. The storm water run off and the water being used by this facility can lead to water quality impairment of our drinking water by polluting the aquifer because the sandy soil drains quickly. (Case Va Released 2009 by EPA.) Sediment ponds leak into the aquifer, which will have lime silo and fly ash from the site as stated in their permit. This is not only a health hazard to humans but also wildlife and fish in the area. It would be a true poison to our natural environment.

The irrigation ditch which Rocky Mountain Aggregate and Construction LLC will use is not piped but rather an open ditch carrying water to farmers in the area and the crops they grow could become contaminated with chemicals which infiltrate their fields from this proposed quarry. This would obviously have a negative impact on the agriculture food chain for humans, farm animals and wildlife downstream.

The permit request also states, "the soil area is covered with cobbles, stone, boulders and un-weathered bedrock." There is documentation, which shows a great deal of radioactive materials exists in these materials, which will be crushed at this site. It is well known and has been proven that radioactive material is a carcinogen, and causes respiratory cancer. This substance could be carried in the dust along with crystalline silica created by this plant. The pit will be located in a high wind belt; the wind blow west to east and vice versa. The direction of the wind pattern in this given area will increase the corrosion and is harmful to wildlife, humans, farm animals and vegetation. Breathing the particles from this deadly dust could cause severe health issues for the many residents that live in this area. The dust will be produced from blasting, crushing, screening and stacking operations as well as conveyor belts and loaders plus truck transport on site and off site. Dust is also produced during the overburden removal of berms and wind blowing over stockpiles and across the pit floor. How will the topsoil stockpile stated in Rocky Mountain Aggregate's permit report be secured without blowing dust pollution, if not used for at least a year? If approved, what agency will closely monitor toxic dust pollution and will the same agency make sure the natural berms are not totally destroyed? How often will this be checked? Also will all the heavy equipment be visually present after the pit operation starts and the mining continue for a number of years?

There have been a number of serious accidents at the Tulare and T Roads because the heavy traffic that already exists on Highway 550. What enforcement mechanism will be in place for future accidents, windshield damage to autos caused from gravel

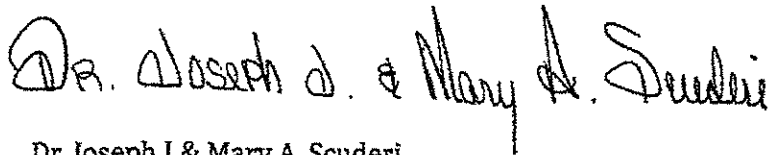
and concrete trucks entering 550? Who will be responsible for the road damage that will occur from the heavy equipment usage on all County and State roadways from this project?

Auburn University Studies show a significant decrease in property values, which are permanent, especially for home and businesses adjacent and next to the quarry operations. Therefore, we are requesting Montrose County conduct a reliable economic impact study by an outside independent firm to learn and document the real cost taxpayers will face in the true future value of their properties.

Converting recreational, historical sites and the residential area into a heavy industrial project is radical change and will cause Montrose County's future overall economic health to stagnate. The pit will be detrimental to the Fort Crawford Historical Site, which is less than 3/10 a mile away, and the scenic route with the majestic San Juan Mountains to the South. These attractions lead to tourist campgrounds and business establishments, which are vital to this community. Are Montrose County Officials concerned about the negative long term financial and health impact this pit will have on its citizens in this populated part of the county? Have government officials considered that two quarries are already in existence south of the proposed gravel site?

In summary, we respectfully request that Montrose County and the State Agencies that would grant permission for this gravel pit to operate, conduct an independent objective study before moving forward with approval of Rocky Mountain Aggregate and Construction, LLC- Permit No.M2013-007. The study should include issues of fragile wildlife and the health and welfare of those living near this proposed pit. The study should include the air, toxic dust and fumes, noise, traffic and property values that will be affected by this project. We request that copies of this research be made available to all the concerned citizens living near the proposed pit and submitted as part of the public record regarding this project.

Sincerely,

A handwritten signature in black ink that reads "Dr. Joseph J. & Mary A. Scuderi". The signature is written in a cursive, flowing style.

Dr. Joseph J & Mary A. Scuderi

March 30, 2013

Mr. Wally Erickson
Division of Reclamation, Mining & Safety
691 County Road 233, Suite A-2
Durango, CO 81301

Re: Uncompahgre Pit
Permit File No. M-2013-007

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

Dear Mr. Erickson:

We are writing to express our concerns regarding the permit request for another large gravel pit along Hwy 550, south of Montrose. Rocky Mountain Aggregate and Construction, LLC is seeking to operate a 248-acre gravel-mining site, as well as producing asphalt and concrete. Entry to the gravel and asphalt operation will be via T Road, directly across Hwy 550 from the entrance to Rivers Edge at Southmont subdivision and near many other small subdivisions, individual homes and small businesses. While our concerns are many, the major ones are addressed below.

Highway 550 - Traffic:

Rocky Mountain Aggregate has told us there could be as many as 100 gravel trucks pulling out of T Road onto 2-lane Hwy 550 on a daily basis. This number was for gravel trucks only and did not include asphalt trucks, concrete trucks, water trucks, diesel trucks, equipment trucks and/or employee and customer traffic.

- During an average off-season workday, Hwy 550 has a constant stream of traffic, both north and south. That traffic becomes heavy during the morning and evening commutes of people working in Telluride and other points south. Shuttles from Montrose to Telluride run several times each day. There are school bus stops and turnoffs along Hwy 550.
- Once tourist season begins, daytime traffic on Hwy 550 never stops. Added to normal traffic are campers, motor homes, motorcycles and other recreational equipment. Tourist season would coincide with the peak production cycle of the Uncompahgre Pit. The combination of heavy truck traffic and frustrated drivers would be a disaster waiting to happen.

Highway 550 – Our Scenic Byway:

Two emphases adopted by Montrose County for economic development are (1)to promote tourism and attract new residents and (2)to improve public infrastructure.

- Hwy 550 is the main tourist corridor between Montrose, the mountains, and resort areas to our south. So far, that corridor includes two active gravel pits, car-repair shops, used vehicle sales, storage units, and a tire dump. Another gravel pit will neither impress visitors nor encourage people to stay.
- The city of Montrose is growing and the southern part of Montrose County is a prime location for people to live, play and shop. A huge, long-term gravel operation would be detrimental to this potential development opportunity.

Property Values and Quality of Life:

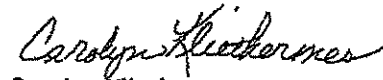
- According to a 2006 study by Diane Hite of Auburn University, all houses within a 3-mile radius of a gravel pit will lose from 4.9% to 30% of its value.* Most property in Montrose County has already lost value due to the recession. Those of us who would be living next door to the Uncompahgre Pit would never regain full value of our homes.
 - * *Diane Hite's study methods have been used in many places and for all kinds of quarries, and the results are always the same – i.e., the closer the pit, the more value is lost.*
- Unlike the existing gravel pits nearby, the Uncompahgre Pit would be above and to the west of the Rivers Edge subdivision, as well as many smaller subdivisions and individual homes. With our typical westerly winds, the rock-crusher noise, truck noise, dust from digging, dust from trucks on a dirt road, stink of asphalt production and diesel smells of trucks and heavy equipment will drop on the entire area. *Dust-borne pollutants will invade our air, our homes, our irrigation ditches and our river.*
- Our neighbors in Rivers Edge range from young families with children to retirees. A Mormon church and a bed-and-breakfast border our subdivision at the corner of Hwy 550 and Uncompahgre Road. We enjoy a quiet existence along with deer, rabbits, marmots, foxes, geese, hawks, eagles, a myriad of small birds, and an occasional bear. Like ourselves, many of the retirees left other states to fulfill long-term dreams of living in the Montrose area. Our life savings are in our homes. A noisy, smelly, contaminated gravel/asphalt/concrete business in our backyard would totally destroy everything we have invested.
- The site of the proposed Uncompahgre Pit includes potential habitat for the Gunnison sage grouse. Is not this potential habitat to be preserved? The Uncompahgre Pit permit will span decades. Just because the sage grouse is not currently in the area, can you positively state that it would not make use of the potential habitat in the future?

The Montrose County Mission says the Commission will “..provide services that facilitate public health, welfare, safety and infrastructure to Montrose County citizens..” and the County Vision states the Commission will “..serve as a responsive body to citizen needs, quality of life and individual liberties”.

With the Mission and Vision in mind, please weigh the quality of life and safety of the many against the profit potential of a few - and help us reject the Uncompahgre Pit (M-2013-007) proposal.

Respectfully,


Gene Kliethermes
20462 Tulip Circle
Montrose, CO
gkliet@aol.com
970-252-1498


Carolyn Kliethermes
20462 Tulip Circle
Montrose, CO
cskliet@aol.com
970-252-1498

"Comments"

1.M-2013-007

RECEIVED

April 2, 2013

whe, grm

APR 04 2013

DIVISION OF RECLAMATION
MINING AND SAFETY

to

To Whom This May Concern:

I am writing to you about the gravel pit proposed south of Montrose, CO.

My husband and I live south of town not too far from the proposed gravel pit and we are all FOR it!! The environmentalists are, as usual, totally out in left field over this one.

We think this gravel pit will be good for our economy and have very little negative impact in the area. We also think that people have a right to do what they want to do with their own land. And we NEED gravel—it is essential for building roads, houses and many other things. All of the people who are over-reacting to this proposed pit live in houses and drive on roads that were provided by gravel.

We are tired of exaggerated fear-mongering and government intrusion and regulations that have hurt business and industry in this nation.

So, for what it's worth, you can put us down for a "yes" vote on this gravel pit.

Sincerely,

Al & Vicki Becker

for

Al & Vicki Becker
66810 Solar Road
Montrose, CO 81403

P.S. You also need to know that there are VERY FEW people that even live in the proposed gravel pit area. This is a few people who have too much time on their hands and yell bloody murder over every little thing that they think might put a little dust in the air. Please consider that in the entire state of Colorado you are dealing with less than one tenth of a percent of the population. We probably live closer to the pit than the ones who are making all of the noise.

Whe, grm

Division of Reclamation, Safety and Mining

1313 Sherman St. Room 215

Denver, CO 80203

8 April 2013

RE: File# M-2013-007

RECEIVED

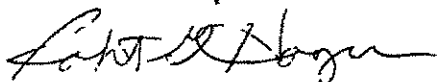
✓ APR 09 2013

DIVISION OF RECLAMATION
MINING AND SAFETY ✓

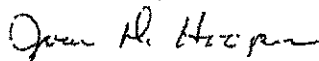
For the following reasons we are opposed to the gravel pit and asphalt plant proposed at the end on T Road off of Highway 550 in Montrose County.

- 1) The gravel pit and asphalt plant will devalue the subdivision we live in. We live one mile west of the proposed pit. We worked 40 years to own the home we live in and we should not have to suffer this loss so a land speculator can profit.
- 2) Highway 550 gets a heavy traffic load in the mornings and evenings year round. During the tourist season the traffic is heavy all day. The intersection of T Road-550-Tulare is certainly not set up to handle 100 heavy trucks a day coming into T road and 100 trucks a day pulling out onto 550. This intersection will become a major safety hazard and a major bottleneck to traffic flow on Highway 550.
- 3) We do not welcome the health hazard of asphalt fumes and rock dust on a regular basis.

Robert G. Hooper



Joan D. Hooper

✓ 

20537 Tulip Circle

Montrose, CO 81403

Whe, GRM

April 7, 2013

Mr. Wally Erickson ✓ DNR Division of Reclamation, Mining and Safety

1313 Sherman St. Room 215

Denver, CO 80203

Mr. Erickson,

RECEIVED

APR 10 2013

✓ DIVISION OF RECLAMATION
MINING AND SAFETY

I am writing in regard to Permit Application M-2013-007, the Uncompahgre Pit proposed in Montrose County. It is my understanding that there have been several zoning laws passed in recent years to stop Construction in Skylines within scenic corridors in Colorado. The proposed Mine is on the skyline and they intend to run (in their estimation) 250 semi trucks per day on top of the Mesa as well as a large visible mining operation that includes diesel generators, wash plants, rock crushers, asphalt and concrete plants.

Many people have placed their life savings into their homes in this area; they can view this operation from these homes. They would not have purchased these properties if this possibility had been in the County Master Plan.

Why did the County hire people at tremendous expense to help design a Master Plan which recommends all development be north of Montrose and leaving the scenic corridor as it exists? Don't put Industry in amongst Agriculture!

In addition this area is high wind with proposed 77,000 tons of topsoil piled and stored on top of a Mesa 600 feet above the valley. We have recorded 30-40 mile per hour winds regularly with ¼ mile of this site.

The access road connects to a very busy two lane highway with no turn lanes—in their estimation these would pull out or back every 3 minutes.

There is a gravel pit .6 miles south of this location with two permits, one which has never been mined. The other pit has "several years" of product according to the foreman. It is our understanding that there are 15 gravel pit operations within 15 miles of this proposed site. There is very little demand in this area, what is the need for a 105 year 247 acre mine that will destroy many people's life savings and quality of life in one of Colorado's most scenic corridors?

I strongly oppose this Special Use Application. Please do not hesitate to contact me for further information.

Thank you for your consideration.


Dennis Schultz ✓

970 209-1419

Whe, grm

✓
Barbara Bernhardt
20409 Solitude Road
Montrose, CO 81403

April 7, 2013

Colorado Division of Mining, Reclamation, and Safety
1313 Sherman Street - Room 215
Denver, CO 80203

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✓ APR 10 2013

✓ DIVISION OF RECLAMATION
MINING AND SAFETY

Re: Permit Application Number m2013007, Proposed Uncompahgre Gravel Pit

I am writing to comment on one of the concerns I have with the above permit application, that being the inaccurate representation of surrounding properties.

A photo in section J-4 (page 53) of the New 112c Application submitted on 2/12/2013 is wrongly identified as 'Picture 5 - Lower valley bottom west of pit showing Irrigation Canal after tunnel under property'. Also, an accurate photograph of nearby properties on the north end of the mesa was not provided. Additionally, no accurate photograph of nearby property owners to the east or south of the proposed pit was provided. Because of the misidentified photo and the omission of other pertinent ones, the actual status of the land as an area with a significant number of residences surrounding the proposed pit is not accurately reflected in the application.

Since I live in the valley west of the proposed pit, I recognize the 'Picture 5' photo on page 53 as having been taken from the far north end of 6565 road, near its intersection with Solar Road, about 1.3 miles to the north of the location wrongly identified in the photo caption. The canal in 'Picture 5' is not the 'West Canal', which travels beneath the mesa to the south, just north of the proposed pit, but rather the 'Montrose and Delta Canal' after it has rounded the northern end of the same mesa. I have included a photo of the Montrose and Delta Canal that I took this afternoon. The road in the picture is Solar Road. Please note the white pickup camper in both photographs.

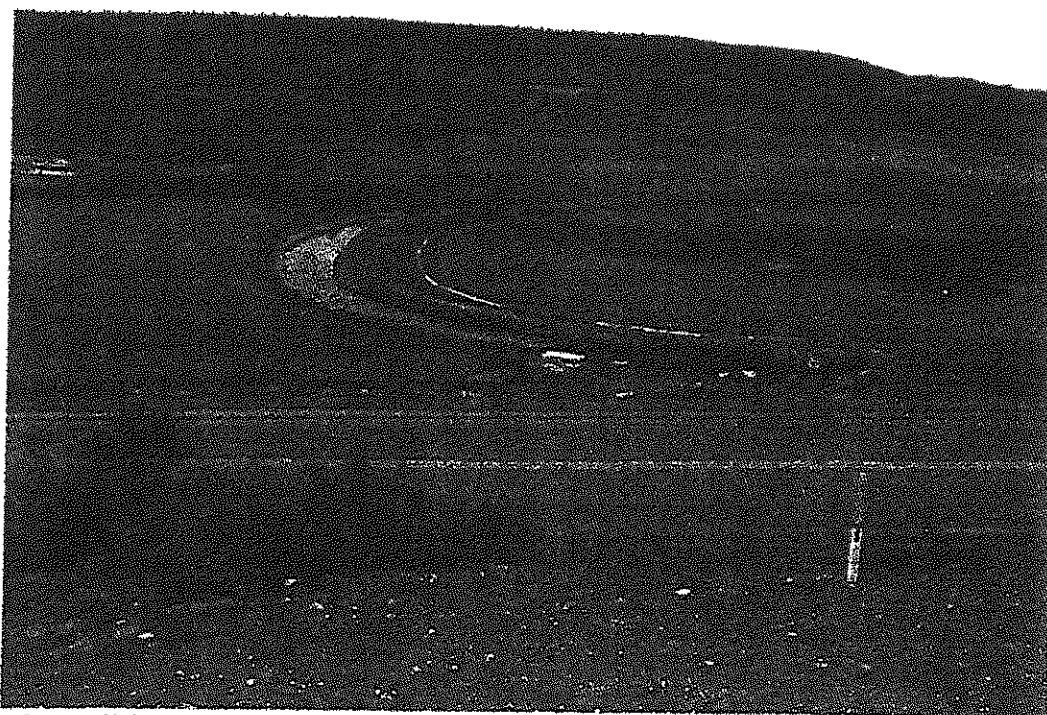
An accurate photograph actually taken from the proposed mine site would have revealed that there are eighteen homes in the valley immediately to the west of the proposed pit. In total, this small valley currently contains 51 homes. On the mesa top immediately north of the proposed pit (of which no photo has been provided by the applicant) there are 8 homes in the Mountain View Mesa Subdivision. A second subdivision, Moonlight Mesa Subdivision, consists of 6 homes and is located to the immediate north of the Mountain View Mesa Subdivision on the mesa top. This brings the total to 14 homes on the small contiguous mesa top just to the north of the proposed pit, and to 65 the number of homes immediately north and west of the proposed pit.

It is interesting to note that Map B-2, Adjacent Landowner Map, and its accompanying Appendix 3, Nearby Landowner List, supplied with the 112c Application, fails to account for any of the landowners living either in the valley to the west or on the mesa top to the north of the proposed pit. Since an accurate representation of the current use of the entire area surrounding the proposed pit has not been provided in the application, and consequently a substantial number of nearby properties and their uses have not been accounted for, it would not be possible for DMRS to render an appropriate decision regarding the permit application.

Sincerely,

A handwritten signature in cursive script, reading "Barbara Bernhardt". The signature is written in dark ink and is positioned above the printed name.

Barbara Bernhardt



View of Montrose & Delta Canal from 6565 Road, approximately 1.3 miles N. of pit

April 8, 2013

Application of Reference: M-2013-007 Rocky Mountain Aggregate & Const LLC
Uncompaghe Grand Pit

Dear Sir,

This letter is in regard to the above Reference.

I'm sure you are familiar where this proposal is located. Possibly the Board in Denver is not familiar with it.

This area is introduction of skiing the opening up to the San Juan Mountains.

Most people that have moved here in the past ten years was because of the beauty of this area.

We are a retired couple from the Denver area, doing the mountains but never dreaming living here.

Having a business located in Englewood, Co. for 20 years afforded us to move to Montrose.

Our custom built home is in a hayfield that my husband enjoys irrigating bring back childhood farming memories.

The property this proposal, Grand Pit is perpendicular from our home and 10 acres.

The truck road from 550 on T road going up to the pit will be less than a quarter mile away from our home. The road will be cut into the Mesa and an "eye sore" to what we see now "tree covered Mesa." The smells and dust from Asphalt and concrete production will take away the air that we moved here for.

My husband has C.O.P.D. and is "coughing" at night.

The Hardy Manganese Co. that own the property have two other gravel pit sites south of us that is not hindering anyone's homes - and does not produce concrete and asphalt. Why do they have to do that here?

It will be a detrimental sight to see from 530 Hwy. on top of the mesa with the equipment they will need.

This is a retirement area of beautiful homes and landscaped yards and gardens and agriculture too. It would make potential residents think that the "City Fathers" have no regard for what draws people to this area and owners of this plan seems to care less.

The legacy we thought we created for our children will be gone.

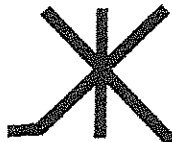
Respectfully,

Leaster and Kathleen Stigall
67751 Uintah Ct
Montrose, CO 81403

E-mail LNK@frontier.net

RECEIVED
APR 11 2013

Durango Field Office
Division of Reclamation,
Mining and Safety



Greg Lewicki And Associates, PLLC

11541 Warrington Court
Parker, CO USA 80138

Phone: (303) 346-5196
E-Mail: info@lewicki.biz

Fax (303)-346-6934

April 9, 2013

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

RECEIVED

APR 11 2013

Durango Field Office
Division of Reclamation,
Mining and Safety

RE: Response items to protest letters for Rocky Mtn Aggregate and Construction
Uncompahgre Pit

Wally:

We have received from you protest letters from the following people:

- 1) Janice Wheeler, on Feb 25
- 2) Susan Hansen, March 27
- 3) Dr Joseph and Mary Scuderi, on March 28
- 4) Gene and Carolyn Klieffermes on March 30

First of all, it is important to state that the operator Rocky Mountain Aggregate and Construction, LLC takes any protest very seriously. Most of the concerns expressed in these letters concern items that are covered by the Special Use process in Montrose County and are not subject to DRMS jurisdiction. However, it must be stated that these concerns have been taken seriously, such as the truck traffic and dust on T Road, as well as the access onto Highway 550, and the plans are being modified to address these concerns with Montrose County.

The items raised that are subject to DRMS jurisdiction are discussed below:

1- Janice Wheeler – issue of diesel tanks on site, one is 3000 gallons in the pit area and another is 10,000 gallons in the office shop area. These tanks are under the very strict requirements of the Spill Prevention Control and Countermeasure Plan, which is required for these tanks and is regulated by the CDPHE Water Quality Control Division. The tanks must be evaluated for integrity and are required to have secondary containment in another tank of 110% of the full tank volume. Records of inspections must be kept, spill kits must be present near the tanks and training must take place for all employees that will use the tanks. The plans must be available onsite for inspection. Fines are very steep for any violations.

2 – Janice Wheeler – “Occupied Sage Grouse Habitat”. No one has a verified sighting of a sage grouse on the property for decades, to our knowledge. Apparently, there was a sighting years ago but somewhere on the BLM property. The site has been consistently used for cattle grazing, as evidenced by the number of small stock ponds on the terrace. It has also been used as a shooting range, which is not exactly helpful for sage grouse habitat. I spoke at length with Matt Ortega of the Colorado Division of Parks and Wildlife as well as Charles Sharp of the USFW Service. Charles sent an e-mail to me stating their position on the sage grouse, which is attached to this letter. This e-mail states that they do not have jurisdiction over this area and they appreciated that we were willing to work with them.

3 – Janice Wheeler – Sign Placement and typo error. She was correct. Two signs have now been made and the typo has been corrected. The signs have been placed in the proper locations.

4 – Susan Hansen – all issues raised are County special use issues.

5 – Joseph and Mary Scuderi – Sage Grouse and Wildlife issue (See 2 above)

6 – Joseph and Mary Scuderi – “Storm water runoff and the water used by the facility can lead to water quality impairment of our drinking water by polluting the aquifer because the sandy soil drains quickly. Sediment Ponds leak into the aquifer, which will have a lime silo and fly ash from the site”. The runoff from the entire mesa will be completely contained in the collection ditch and sediment pond system for the 10 year event. This system, as shown on Map C-2A, will be installed prior to any disturbance; even topsoil removal. Once the site mines into the terrace, the natural berm left around the perimeter will contain an event over 1000 years in frequency. The gravel is very porous, and immediately below the gravel is a shale zone that is impermeable, and there is no aquifer anywhere in this sequence. There is simply not enough recharge area in this isolated terrace to produce any water at the contact between the gravel and the shale. To substantiate this, there are no springs or seeps along the eastern slope of the terrace, where this contact daylights at its low points. Unlike other areas much further north, there is no irrigation on the terrace and there never has been any irrigation there historically. There simply is no aquifer on the terrace and the operation must contain all runoff in the sediment ponds. Once the water has been deemed in compliance with the strict NPDES requirements of the discharge permit with the CDPHE Water Quality Control Division, the water can be released downstream. One item of note: The requirements for suspended solids in the discharge must be hundreds of times lower than the natural arroyos in the area have during a storm. No chemicals are used in the mining, crushing or screening operation. There may be a lime silo associated with the asphalt plant and a fly ash silo associated with the concrete plant. These silos are under strict dust control regulations of the air emissions permit for each individual plant and fines are extremely large for violations of these permits. As described previously, the diesel tanks are under strict regulations of the SPCC Plan. Magnesium chloride may be used for dust control but the operator has now committed to paving the entire length of the access road from the pit to its intersection with the frontage road to Highway 550. This will limit the use of magnesium chloride to minor roads within the pit itself.

7 – Joseph and Mary Scuderi – The irrigation ditch in the field could get contaminated with chemicals from the operation. See responses 1 and 6 above.

8 – Joseph and Mary Scuderi – There is documentation which shows a great deal of radioactive materials in the soil area, which is covered with cobbles, stone, boulders and un-weathered bedrock. We believe that this documentation should be provided. It is extremely unlikely that any radioactive material could be present in any quantity that could have any detrimental effects to anyone in or outside of the permit area. The existing tailings at the Whirlwind uranium mine of Energy Fuels in Mesa County were tested for this very concern and it was found that if a person camped on the tailings in a tent, there was more radiation from the sun in a year than that radiating from the pile.

9 – Joseph and Mary Scuderi - How will topsoil be secured without blowing dust pollution. The topsoil pile will be constructed at the start of the operation and will be seeded immediately with the rangeland mix described in the permit within 60 days after construction. If no rains occurs, the pile will be watered to encourage immediate plant growth.

10 - Gene and Carolyn Kliethermes – Dust and fumes are handled by the air emissions permit with the Air Quality Control Division of the CDPHE. The asphalt plant, the cement plant and the site itself will each have separate air emissions permits. These permits are very strict and control the amount of dust produced per year, as well as the opacity allowed from the site. The plants are required to have strict and detailed Operating and Maintenance Plans which are also approved by the Air Quality Control Division. As stated earlier, fines are extremely expensive if violations are found with these permits. The quality of life and other nuisances will be controlled better than almost all other sites in the state due to the berm being present around the operation for 95% of its life, which will make the operation virtually invisible to anyone in the valley below.

Wally, you can let any of the protesters know that I am available by phone if any of them would like to talk about these issues further. My number is 303-346-5196. Zane Luttrell, the operator, can also be reached at 970-249-8780.

Sincerely,

A handwritten signature in cursive script that reads "Greg Lewicki".

Greg Lewicki, P.E.
Greg Lewicki and Associates

Cc: Zane Luttrell



State
of
Colorado

FW: Gunnison sage-grouse and proposed Montrose County gravel pit

Greg Lewicki <greg@lewicki.biz>

Mon, Mar 18, 2013 at 1:01 PM

To: "Erickson - DNR, Wally" <wally.erickson@state.co.us>

Cc: Zane Luttrell <zane@rockymountainaggregate.com>

Wally: See the attached letter from the Colo Parks and Wildlife and the e-mail below from USFW. The USFW basically states they say that the Gunnison sage grouse is not legally protected at this time and they appreciate the measures we have employed for the operation. Greg

From: Sharp, Charles [mailto:charles_sharp@fws.gov]

Sent: Wednesday, March 13, 2013 4:43 PM

To: Greg Lewicki

Subject: Gunnison sage-grouse and proposed Montrose County gravel pit

Hi Greg,

Good talking w/ you today. I appreciate the call and request for input on the proposed gravel pit south of Montrose, CO. We understand the proposed gravel pit is in proposed occupied critical habitat for Gunnison sage-grouse, but that the habitat is believed to be unoccupied by the species. The gravel pit and area of disturbance at any given time is expected to be relatively small, and reclamation will occur on a rolling basis. Reclamation plans include establishment of rangeland vegetation.

Attached is the guidance I mentioned that the Fish and Wildlife Service has been providing to Federal agencies and other entities requesting our input (or approval) on various land use projects. This guidance and my email message may help answer Colorado Parks and Wildlife's (CPW) and others' requests for our input on the project.

As discussed, if and until Gunnison sage-grouse is listed and critical habitat is designated under the Endangered Species Act (to be determined by September 30, 2013), the species is not legally protected under that law, and so our authority on any projects or activities that may affect the bird are very limited. You will notice in the attached guidance that our legal authority for species proposed for listing such as Gunnison sage-grouse is limited to Federal lands and actions (and only those actions expected to have detrimental impact—or jeopardy—on the species, rangewide). Therefore, a private land project for which there is no Federal funding or authorization, such as the proposed gravel pit, is not legally required to consult (or conference) with our agency at this time.

I understand that the applicant has consulted w/ CPW, and that CPW has provided recommended measures to minimize impacts on habitat. I can also take a look at the project specifics and provide recommended

3/20/13

State.co.us > ve Branch Mail - FW: Gunnison sage-grouse and prop Montrose County gravel pit

conservation measures, if necessary. You mentioned you would send maps and CPW's comment letter. Would you mind also sending BIO-Logic's evaluation?

Here is my mailing address:

Attention: Charles Sharp, U.S. Fish and Wildlife Service

USDA Natural Resources Conservation Service
Montrose Service Center

102 Par Place

Montrose, CO 81401-4144

I hope this helps address your needs for the proposed project.

Sincerely,

Charlie Sharp

—

Charlie Sharp, Fish and Wildlife Biologist

Western Colorado Ecological Services Field Office

U.S. Fish & Wildlife Service

Montrose, CO

(970) 623-0919

2 attachments



Guidance for Endangered Species Act Conferencing for GUSG (1).pdf
85K



Uncompahgre Pit Parks Wildlife letter.pdf
2043K

Guidance for Endangered Species Act Conferencing for Gunnison Sage-grouse and Proposed Critical Habitat

Background

- Pursuant to section 7 of the Endangered Species Act (ESA) for Federal agencies, conferencing on proposed species is required only for projects that are likely to jeopardize Gunnison sage-grouse (GUSG), or for projects likely to result in destruction or adverse modification of proposed critical habitat for the species.
- Pursuant to section 7 of the ESA, the Service does not provide “concurrence” for projects that “may affect” proposed species (such as Gunnison sage-grouse) or proposed critical habitat, or projects determined to have “no effect”.

Expectations

- The Service requests that Federal agencies seek section 7 conferencing only for landscape level projects, and/or projects that are likely to jeopardize GUSG, or projects likely to result in destruction or adverse modification of proposed critical habitat for the species (however, see *Recommendations* below). This is consistent with the section 7 regulations and requirements for Federal agencies.
- The Service will continue focusing its conferencing efforts on significant, landscape level projects or activities that may affect Gunnison sage-grouse. This includes planning associated with conservation tools and actions. Examples of significant, landscape level projects include resource or forest management plans, national wildlife and species initiatives, and candidate conservation agreements.

Recommendations

- The Services recommends that Federal agencies consult the Gunnison sage-grouse Rangewide Conservation Plan (e.g., see Appendix I: GUSG Disturbance Guidelines) in the design of their projects. As necessary, the Service can provide further technical assistance in the design of projects to avoid and minimize effects to GUSG.
- The Service recommends that Federal agencies internally document project effect determinations (e.g., no jeopardy or adverse modification), as appropriate, including rationale for not conferencing under the ESA (see *Background* above).



COLORADO PARKS & WILDLIFE

2300 S. Townsend Avenue • Montrose, Colorado 81401
Phone 970 252-6000 • FAX 970 252-6053
wildlife.state.co.us • parks.state.co.us

February 28, 2013

Greg Lewicki
Greg Lewicki and Associates
11541 Warrington Ct.
Parker, CO 80138

Re: Uncompahgre Pit, Colona, Colorado

Dear Mr. Lewicki,

Thank you for the opportunity to comment on the possible impacts the Uncompahgre Pit may have on wildlife. Colorado Parks and Wildlife (CPW) has reviewed the plans and visited the site of the proposed project, and hope to sufficiently answer the questions you have provided us. CPW does have concerns for certain wildlife issues that will be addressed in the questions.

1. Description of Significant Wildlife Resources on the Affected Lands

The area of the proposed Uncompahgre Pit consists primarily of sage-brush vegetation on the upper terrace, with pinyon-pine and juniper trees on the surrounding slopes. The proposed site is significant winter range for deer and elk, with the open sage terrace top and tree covered slopes providing equally important winter habitat for both deer and elk. Cottontail rabbit, red fox, coyote, small rodents, raptors, and song birds also utilize the sage brush and pinyon pine and juniper ecosystem. The United State Fish and Wildlife Service (USFWS) has included this area in the proposed critical habitat for Gunnison sage-grouse.

2. Significant Non-game Resources on the Affected Lands

Small mammals and song birds rely on the sage brush ecosystem as protected nesting and foraging sites. With the adjacent agriculture fields in the surrounding valleys, many raptors, including bald and golden eagles will utilize the proposed site for foraging, as well as perching in the pinyon and juniper on the slopes.

3. Seasonal Use of Affected Lands

The proposed pit site is critical winter range for both mule deer and elk, being utilized every winter and even greater use during severe winter conditions. Mule deer are browsers relying on the sagebrush flats for foraging and the steep, treed slopes for foraging, cover and bedding areas. Mule deer will prefer to forage on the sagebrush flats, as sagebrush is a winter staple to their diet, while forbs and grasses make up a smaller portion of their diet. The proposed site lies within the largest mule deer concentration area in the Uncompahgre valley, with animals that migrate from the Uncompahgre Plateau population to the West and the Cimarron population to the East. Mule deer exhibit high site fidelity toward their selected home ranges returning to the exact same area year after year. Disturbance to mule deer winter ranges can cause them to select alternative areas that provide poorer quality forage and cover, potentially increasing their risk of conflict, predation, and subsequent population declines.

Elk utilize the sage flats as bedding and foraging areas, as well as the treed slopes. Elk are not constantly present in the area during winter, but do utilize the available food resources throughout the winter. Elk are grazers, preferring to forage in the sagebrush flats on grasses and during heavy snow years on the sagebrush as well. Elk show site fidelity to their selected home ranges, but are generally quicker to shift habitat selection and home range use following

STATE OF COLORADO

John W. Hickenlooper, Governor • Mike King, Executive Director, Department of Natural Resources
Rick D. Cables, Director, Colorado Parks and Wildlife
Parks and Wildlife Commission: Robert W. Bray • Chris Castilian • Jeanne Home
Bill Kane, Vice-Chair • Gaspar Pericone • James Pribyl • John Singletary, Chair
Mark Smith, Secretary • James Vigil • Dean Wingfield • Michelle Zimmerman
Ex Officio Members: Mike King and John Salazar

disturbance, which results in shifting to poorer quality forage and cover, or most likely in this area to greater conflict as the elk will utilize the large agricultural fields below the mesa.

The proposed site with large sagebrush flats and the cover of the treed slope's, are used by both deer and elk as a buffer between the higher pinyon-juniper forests and the agriculture fields in the valley. Currently, Moonlight Mesa experiences very little human activity, which is partially why the mule deer and elk utilize it extensively throughout the winter. With increased disturbance, we would anticipate that both deer and elk will come down to the valley increasing damage to agriculture fields coupled with a significant increase in highway crossings.

4. Presence and Estimated Populations of Threatened or Endangered Species in the Area

In January of 2013 the USFWS proposed to list the Gunnison sage-grouse under the U.S. Endangered Species Act. The specific area of the proposed pit, Moonlight Mesa, was where the last confirmed sighting was recorded for Gunnison sage-grouse from the Sims Mesa population. The listing of this species as Endangered or Threatened will make it unlawful to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect any individuals of this species or attempt to engage in any such conduct without prior authorization from the USFWS. Harm is further defined to include significant habitat modification or degradation that results in death or injury to a listed species by significantly impairing behavioral patterns such as breeding, feeding or sheltering. The listing proposal includes maps identifying "critical habitat" essential to the conservation of the species. The proposed gravel pit project falls within an area mapped by the USFWS as critical habitat for Gunnison sage-grouse because it contains physical and biological habitat features essential to the conservation of the species. CPW recommends that the project proponent contact the USFWS prior to initiation of the activities outlined in their proposal to ensure compliance with the Endangered Species Act.

5. Fish Resources

There are no water bodies in the permit area, however proper steps will need to be taken to prevent erosion pollution to irrigation canals, streams and rivers.

6. General Effects of the Operation on the Existing Wildlife of the Area

The proposed Uncompahgre Pit will negatively affect winter range for mule deer and elk through direct habitat loss and increased stress to ungulates during their most stressful time of year. Ceasing winter mining activity from December 15th through April 30th, will minimize stress to wintering ungulates. Proper re-vegetation with appropriate native plant seeding similar to current species composition will help repair the winter range and minimize affect on winter range over the long term. It will be important to minimize road structure and disturbance to the surrounding treed slopes of the pit area to minimize habitat loss, fragmentation and spread of weeds. Mule deer especially will rely on the treed slopes for bedding and cover. Outside of direct removal of sagebrush habitat, the introduction and spread of invasive weeds poses the second greatest threat to sagebrush habitat loss through increased fire frequency, erosion, and decreased plant species diversity.


Proper re-vegetation will be important for re-establishing habitat for all wildlife species that currently utilize this area. A mix consisting of shrubs and forbs and to a lesser extent grasses will be needed for small mammal and bird habitat restoration. CPW suggests a seeding mix of Daisy Fleabane at 1lb per acre, Dusty Penstemon at 1lb per acre, Sulfer flower Buckwheat at 2lbs per acre, Small Burnet at 3lbs per acre, and Sagebrush at 1lb per acre.

Galleta, Indian Ricegrass, Winterfat, Shadscale, Scarlet Globemallow, Bottlebrush, Rabbitbrush, Four-winged Saltbrush would also be good to mix in. CPW would not recommend seeding with Crested Wheatgrass or Pubescent Wheatgrass.

The proposed pit area is inside USFWS proposed critical habitat for Gunnison sage -grouse. The USFWS will need to be consulted for proper procedures dealing with Gunnison sage -grouse and to ensure compliance with the Endangered Species Act.

If you have any further questions, please contact Matt Ortega at 970.252.6011 or myself.

Sincerely,

A handwritten signature in black ink, appearing to read "Renzo DelPiccolo". The signature is fluid and cursive, with a large initial "R" and "D".

Renzo DelPiccolo
Area Wildlife Manager
970.252.6010

cc: Matt Ortega-DWM, Patt Dorsey, SW Region Manager

April 12, 2013

Carter and Stacy Trask
67920 Tulare RD.
Montrose, CO 81403
(970) 252-1801

RECEIVED

APR 15 2013

Durango Field Office
Division of Reclamation,
Mining and Safety

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

Dear Mr. Erickson:

We are writing in response to the proposed gravel pit located west of Highway 550 and T- road (File No. M-2013-007; Montrose County special use permit #SU-13-0004) filed by Rocky Mountain Aggregate. We respectfully solicit your support in our efforts to oppose this application because of the negative economic and environmental impact on surrounding residents and motor vehicle safety along Highway 550.

Economic shortfalls will come in the form of reduced new home construction and a lowering of current residential property values. These financial drawbacks will be a direct result of the environmental issues which are inherent in any such operation. Aggregate operations generate large amounts of dust and noise, loss of wildlife habitat, and create large decade long scars on the land. We feel an environmental impact study needs to be done prior to the approval of this permit. Do you know of anyone who wants to live near a gravel pit?

Vehicle safety is another concern for this heavily traveled portion of Highway 550. As we understand, this 250 acre operation may generate in excess of 100 additional vehicles accessing T-road. In the 14 years we have lived at our address we have seen four vehicle accidents at this intersection. They resulted from traffic failing to yield as homeowners were attempting to turn off of Highway 550. Increased heavy truck traffic may also lead to premature road wear and roadway hazards from loose gravel falling from trucks. Will highway 550 be widened, or a turning lane added? Will T-road be paved to reduce dust?

These issues have not been adequately discussed or resolved. Though there are numerous state and federal regulations regarding such sites we feel this location should not be developed with so many serious potential problems and close proximity to numerous homeowners. The homeowners living nearby moved to this area for the great quality of life. We take pride in our homes and the rural undeveloped nature of Montrose County. This special use permit does not appear to promote the best interest of the general public's health, safety and welfare.

Thank you for you time and consideration,

Sincerely,

Carter Trask



Stacy Trask





COLORADO PARKS & WILDLIFE

2300 S. Townsend Avenue • Montrose, Colorado 81401
Phone 970 252-6000 • FAX 970 252-6053
wildlife.state.co.us • parks.state.co.us

✓
M-2013-007

"Comment" ✓

April 9, 2013

Wallace H. Erickson
Environmental Protection Specialist
Colorado Division of Reclamation, Mining and Safety
1313 Sherman St, Room 215
Denver, Colorado 80203

RECEIVED

APR 15 2013

DIVISION OF RECLAMATION
MINING AND SAFETY

Re: Uncompahgre Pit, Rocky Mountain Aggregate, Colona, Colorado

Mr. Erickson,

Thank you for the opportunity to comment on the possible impacts the Uncompahgre Pit may have on wildlife. Colorado Parks and Wildlife (CPW) has reviewed the plans and visited the site of the proposed project. CPW does have concerns for certain wildlife issues that will be affected by the proposed Uncompahgre Pit.

The area of the proposed Uncompahgre Pit consists primarily of sage-brush vegetation on the upper terrace, with pinyon-pine and juniper trees on the surrounding slopes. The proposed site is significant winter range for deer and elk... Cottontail rabbit, red fox, coyote, small rodents, raptors, and song birds also utilize the sage brush and pinyon pine and juniper ecosystem. Small mammals and song birds rely on the sage brush ecosystem as protected nesting and foraging sites. With the adjacent agriculture fields in the surrounding valleys, many raptors, including bald and golden eagles will utilize the proposed site for foraging, as well as perching in the pinyon and juniper on the slopes.

The proposed pit site is critical winter range for both mule deer and elk, being utilized every winter and even greater use during severe winter conditions. Mule deer are browsers relying on the sagebrush flats for foraging and the steep, treed slopes for foraging, cover and bedding areas. Mule deer will prefer to forage on the sagebrush flats, as sagebrush is a winter staple to their diet, while forbs and grasses make up a smaller portion of their diet. The proposed site lies within the largest mule deer concentration area in the Uncompahgre valley, with animals that migrate from the Uncompahgre Plateau population to the west and the Cimarron population to the east. Mule deer exhibit high site fidelity toward their selected home ranges returning to the exact same area year after year. Disturbance to mule deer winter ranges can cause them to select alternative areas that provide lower quality forage and cover, potentially increasing their risk of conflicts with agricultural producers, predation, and decreased survival and fawning rates leading to subsequent population declines.

Elk utilize the sage flats as bedding and foraging areas, as well as the treed slopes. Elk are not constantly present in the area during winter, but do utilize the available food resources throughout the winter. Elk are grazers, preferring to forage in the sagebrush flats on grasses and during heavy snow years on the sagebrush as well. Elk show site fidelity to their selected home ranges, but are generally quicker to shift habitat selection and home range use following disturbance, which can result in shifting their distribution to areas that create greater conflict on the large agricultural fields below the mesa.

The proposed site with large sagebrush flats and the cover of the treed slope's, are used by both deer and elk as a buffer between the higher pinyon-juniper forests and the agriculture fields in the valley. Currently, Moonlight Mesa experiences very little human activity, which is partially why the mule deer and elk utilize it extensively throughout the winter. With increased disturbance, it is expected that both deer and elk will

STATE OF COLORADO

John W. Hickenlooper, Governor • Mike King, Executive Director, Department of Natural Resources
Rick D. Cables, Director, Colorado Parks and Wildlife
Parks and Wildlife Commission: Robert W. Bray • Chris Castilian • Jeanne Home
Bill Kane, Vice-Chair • Gaspar Pemcona • James Pribyl • John Singletary, Chair
Mark Smith, Secretary • James Vigil • Dean Wingfield • Michelle Zimmerman
Ex Officio Members: Mike King and John Salazar

come down to the valley, increasing damage to agriculture fields coupled with a significant increase in highway crossings.

The proposed Uncompahgre Pit will affect winter range for mule deer and elk through direct habitat loss and increased stress to ungulates during their most stressful time of year. Ceasing winter mining activity from December 15th through April 30th, will minimize stress to wintering ungulates. Proper re-vegetation with appropriate native plant seeding similar to current species composition will help restore the winter range and minimize affect on winter range over the long term. It will be important to minimize road structure and disturbance to the surrounding treed slopes of the pit area to minimize habitat loss, fragmentation and spread of weeds. Outside of direct removal of sagebrush habitat, the introduction and spread of invasive weeds poses the second greatest threat to sagebrush habitat loss through increased fire frequency, erosion, and decreased plant species diversity.

Proper re-vegetation will be important for re-establishing habitat for all wildlife species that currently utilize this area. A mix consisting of shrubs and forbs and to a lesser extent grasses will be needed for natural habitat restoration. CPW suggests a seeding mix of Daisy Fleabane at 1lb per acre, Dusty Penstemon at 1lb per acre, Sulfer flower Buckwheat at 2lbs per acre, Small Burnet at 3lbs per acre, and Sagebrush at 1lb per acre. Galleta, Indian Ricegrass, Winterfat, Shadscale, Scarlet Globemallow, Bottlebrush, Rabbitbrush, Four-winged Saltbrush would also be good to mix in. CPW recommends avoiding Crested Wheatgrass or Pubescent Wheatgrass as they tend to out compete native plants and don't provide quality forage for wildlife.

The specific area of the proposed pit, Moonlight Mesa, was where the last confirmed sighting was recorded for Gunnison sage-grouse from the Sims Mesa population. In January of 2013 the USFWS proposed to list the Gunnison sage-grouse under the U.S. Endangered Species Act. The listing proposal includes maps identifying "critical habitat" essential to the conservation of the species. The proposed gravel pit project falls within an area mapped by the USFWS as critical habitat for Gunnison sage-grouse because it contains physical and biological habitat features essential to the conservation of the species. CPW recommends that DRMS and the operator consult with the USFWS to ensure compliance with the Endangered Species Act.

If you have further questions please contact Matt Ortega, 970-209-2367, or myself.

Sincerely,



Renzo DelPiccolo
Area Wildlife Manager
970.252.6010

cc: Matt Ortega-DWM, Patt Dorsey-SW Region Manager

67737 Uintah Ct.
Montrose, CO 81403

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

RE: File #M-2013-007

April 12, 2013

RECEIVED
APR 17 2013
Durango Field Office
Division of Reclamation,
Mining and Safety

This letter is to voice our opposition to the proposed gravel pit/strip mining operation located nine miles south of Montrose on Highway 550, on land currently zoned general agriculture.

The new owners of the land, Lazy K-Bar Land & Cattle Company, LLLP, have proposed to lease out a portion of the parcel that is not conducive to ranching to Rocky Mountain Aggregate and Construction. A strip mine of horrendous magnitude, covering over 250 acres, is proposed for this portion. The beautiful mesa will be totally destroyed.

The owners of the parcel of land withheld information from the public regarding their intentions right from the start. When landowners near the site such as ourselves were finally informed about the operation, we discovered that significant changes had already been made to widen T Road and that a single-family home was purchased to serve as an office and scale site, in anticipation of the project already being approved.

If the gravel pit/strip mining operation is allowed to proceed, the value of all property near the facility will plummet. We and many of our neighbors have invested much of our retirement in our home and land. An operation of this size would result in sizable decreases in equity. It is unfair for the Lazy K-Bar Land & Cattle Company to be able to enhance the value of their property at the expense of so many others.

Over the last several years, Montrose County has been experiencing strong winds & dust storms during the spring months. The operation will carry even more dust and dirt in the air and neighboring landowners will be subjected to the strong, unpleasant odor from the asphalt processing plant.

The extensive operation will also have a negative effect on the wildlife, including deer, elk, coyotes, foxes, bobcats, mountain lions, bears, eagles, hawks, kestrels, various songbirds, and possibly Gunnison sage grouse. With plant activity, noise, and pollution, these animals will be forced to relocate.

Montrose relies on tourism for its economy and on the retirement community for its growth. An eyesore like the gravel pit/strip mining operation and its heavy truck traffic will surely not appeal to tourists and prospective newcomers. There has been much invested in real estate both to the east and west of the mesa. The most rapid growth of Montrose is south of town. The operation will also have a detrimental effect on the value of vacant land and subdivisions waiting to be developed in the area.

It is estimated that there will be anywhere from 30 to 100 trucks per day entering and leaving the gravel pit/strip mining facility. This will include loaded and unloaded gravel trucks, cement trucks, asphalt trucks, fuel trucks and trucks delivering concrete and asphalt to be recycled. This is a very significant increase in traffic and poses a threat for oncoming traffic traveling 60 mph. The increased truck traffic also represents a hazard for school buses that travel on the highway.

To summarize, the strip mining operation will negatively impact:

- wildlife
- the environment
- property values
- residential living
- tourism
- the local economy
- driving conditions
- road quality

The attorney for Rocky Mountain Aggregate and Construction has publically admitted that this gravel pit/strip mining will be one of the largest of its kind in Colorado. As such, the negative aspects of this type of operation are multiplied. The company has made some concessions for the community, such as adding ingress/egress lanes to their facility. However, unless many larger concessions are made to the residents in the immediate vicinity and to the city and county at large, the impacts of project will be too significant. **Therefore, we ask that you deny this operation.**

Sincerely,

Stan Borinski
Kathy Borinski

Stan & Kathy Borinski
(970) 252-0006

67737 Uintah Ct.
Montrose, CO 81403

Division of Reclamation
Safety & Mining
1313 Sherman St., Room 215
Denver, CO 80203

RECEIVED

APR 17 2013
Division of Reclamation,
Mining & Safety

RE: File #M-2013-007

April 12, 2013

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Sincerely,



Stan & Kathy Borinski
(970) 252-0006

✓ "OPPOSITION Letter" RECEIVED

Whe

Division of Reclamation, Safety and Mining
1313 Sherman Street, Room 215
Denver CO 80203

✓ APR 17 2013
to Division of Reclamation,
Mining & Safety

RE: File # M-2013-007

As Colorado residents since 1994, we believed we'd found the perfect retirement spot – a quiet valley with amazing wildlife, 350 degree views of surrounding mountains, no road or city noise – total solitude, as our street address indicates.

Now we are told we will be experiencing an invasion of this solitude due to a gravel strip mining operation application that is within a mile of another gravel operation and 15 miles with 14 other pits. (www.montrosecounty.net – Master Plan Maps) The designated gravel mine location is labeled Agricultural/Rural Residential, also on the master plan.

As believers in the entrepreneurial society in which we live, we do question why a gravel strip mine would be allowed to interfere with a location that has been labeled "Mule Deer Critical Winter Range" and "Elk Winter Concentration Area" (Montrose County Master Plan Wildlife Map) and also lies within the historic habitat of the recently highlighted Gunnison Sage-grouse.

In addition to affecting the wildlife, why would the state allow a mesa, which can be seen from U.S. Hwy. 550 beginning at the Montrose city limits and viewed to the Montrose/Ouray County border, be made into a commercial eye-sore when one of the most economic draws is state tourism. The drive from Montrose to Ouray is one of the most beautiful in Colorado.

Not only will landscape views be affected, but tourists will have to deal with gravel trucks exiting and entering the operation at County Road T on Hwy. 550 – an estimated 200 trucks daily. How will this impact tourist travel? How will this affect the road condition of Hwy. 550? Will road repairs increase? Who pays?

The winds across Duckett Draw and up over the mesa (proposed mining area) can be very forceful. How will the state enforce dust control when even the dust of nature can make Hwy. 550 cloudy? The application makes comment that there should be limited dust impact and indicates the Air Quality Control Division of the CDPHE regulates this impact. How often will this be inspected?

Finally, we are in a drought and water rights have already been cut – water used to grow crops and feed animals for nutrition. How can the state justify using water for dust control, concrete batching, asphalt operation and crushing and screening gravel? Once again, who oversees the amount of gallons used for this operation and how much water do these other 14 gravel mines use? A gravel operation at this time and in this location certainly seems redundant!

A gravel mine situated within established residential communities highlights a selfish interest of a few while affecting many! We question this application and oppose such a development in this location.

Sincerely,

Keith W. Rasmussen

Sharon Rasmussen

✱ Keith and Sharon Rasmussen, 20828 Solitude Road, Montrose, CO 81403, 970-240-1699
CC: Montrose County

M-2013-007 whe

RECEIVED

✓ APR 17 2013

to Division of Reclamation,
Mining & Safety

April 12, 2013

Division of Reclamation, Mining, and Safety
1313 Sherman Street
Room 215
Denver, CO 80203

To Whom It May Concern:

My wife and I are property owners in Montrose County adjoining T Road. We own the property at 67409 T Road just north of the property whose owners are in the process of applying to get a Montrose County Special Use Permit to operate a gravel pit on land currently zoned "general agricultural".

We strongly object to a special use permit for a gravel pit. Our property has the most road frontage on T Road (2350 ft. more or less) except for the applicant, and we feel if this gravel pit permit is granted it will have a great negative impact on our property and life there. It will significantly reduce our property value with a 105 year plan and no compensation.

The gravel pit itself will create dust but, also, the big trucks hauling the gravel out (estimated to be as many as 100, 200 ? trucks a day) will create high truck traffic with more dust! The truck traffic not only increases the danger to farming and ranching activities (moving farm machinery and cows), but also is hazardous to anyone walking on the road (school bus students, pedestrians, and their pets). This scenario turns a quiet, rural, country road into a high traffic road with dangerous, heavy loaded, trucks which take more distance to stop safely. We feel this truck traffic turning onto and off of Highway 550 would certainly warrant acceleration and deceleration lanes due to the impact of high traffic and the dangerous situation the gravel pit usage of T Road would create and therefore become even more of a safety issue than exists now from the high traffic volume on Highway 550. A dedicated or private road on the applicant's property would be more appropriate for all concerned.



We feel the impact of this type of an operation on T Road negatively affects us and the other residents of the local area. Such a large operation will certainly detract from the agricultural nature of the area, the scenery, the ascetics that attract tourism and the beauty of the area. It will devalue our property, and make it less desirable to live safely on T Road.

We cannot stress enough, how important it is for this application for a special use gravel pit permit to be denied as proposed. Please consider all the different phases of an operation this size. Who will and what will be affected before making any decision in this matter. There is

already two other gravel pits in this local area of Montrose County. We implore your best judgment for all the citizens on this critical issue.

Is a gravel pit worth jeopardizing a whole community of people for one family's gain?

Sincerely,



✓ Roger and Gail Noble

Cc: Montrose County Planning Commission
Montrose County Commissioners

Whe

✓ Margaret T. Zanin
65010 Solar Rd.
Montrose, CO 81401
970-252-8139
pegpzan@aol.com

1.M-2013-007

Division of Reclamation
Safety & Mining
1313 Sherman St., Rm.215
Denver, CO 80203

RECEIVED

✓ APR 17 2013

✓ DIVISION OF RECLAMATION
MINING AND SAFETY

April 24, 2013

✓ "OBJECTION LETTER"

Gentlemen:

The possibility of a gravel mine doesn't bother me. They can be made socially acceptable but the possibility of an asphalt plant seems really over the top. That has got to make awful stinks. I have trouble breathing as it is and have to use supplemental oxygen at this elevation. Now you want to poison my air. My daughter has spent the past 2 years fighting for her life with a particularly difficult form of cancer. She is still totally disabled but is making headway toward being a normal person. This cancer is known to be associated with chemical pollution. Your proposal will kill her.

And what about the birds? We have operated a rescue ranch for animals and birds for many years. We have in indoor aviary with about a dozen birds, 4 of which came from the Gabriel Foundation because they couldn't place these birds and didn't have room to keep them so we were asked to foster them. Their veterinarians stress the need for clean air in the birds environment. We're not even allowed to clean the glass in the aviary with Windex because it gives off vapors that will make the birds sick. What will happen to them with an Asphalt Plant on the other side of the hill. And what about migrating birds? This is a flyway for migrating birds. The great blue herons, the whooping cranes and many other species will have to change their flight plan and we will lose the thrill of seeing them coming through.

You may think this area is not heavily populated and therefore not much of an interference. Don't be deceived. There are approximately 60 homes just in Duckett Draw (immediately north of your proposed asphalt plant. There are literally hundreds of homes also tucked into the hillsides and valleys. We get very strong winds, often from the south. They will sweep the fumes from the asphalt directly to us! What will this do to our property values? The assessments on our homes will decrease and the corresponding taxes will drop causing a loss of revenue to the County.

The question arises, would you want a stinky asphalt plant in your back yard? I have to believe the answer would be no. If you destroy the beauty and the cleanliness of our "back yard" it will destroy our property values and our quality of life. That will impact revenue to support the County as well as influence the voting preferences of the residents. We'll have a daily reminder of who caused the demise of our way of life.

Sincerely,

Margaret T. Zanin

RECEIVED

✓ Susan Berg

M-2013-007

APR 18 2013

"Comments"

From: "Susan Berg" <skberg@mountaingrocery.com>
To: <swhite@montrosecounty.net>
Cc: <dwhite@montrosecounty.net>; <rhenderson@montrosecounty.net>; <gellis@montrosecounty.net>
Sent: Monday, April 15, 2013 2:58 PM

DIVISION OF RECLAMATION
MINING AND SAFETY ✓

Subject: strip mine, concrete plant, asphalt plant south of town
Its 2007, We are an average, hard working, middle class family. We sell everything to be able to move to beautiful South Montrose and into the exceptional Rivers Edge Subdivision so my husband can work in Ridgway. Like almost everyone in our neighborhood we work hard putting in landscaping, irrigation systems, our shop, curbing...everything to improve our home. We are sooo lucky because we have peace and quiet, fresh air and and neighbors you only hear about in stories. We take care of each other and help each other out on a daily basis in in our neighborhood and we all take great pride in the appearance of it. Can you even IMAGINE our fear and shock when we heard that one of our "good neighbors" is trying to start a strip mine, a concrete plant and an asphalt plant right across the highway from us !?!

Asphalt plants mix gravel and sand with crude oil derivatives to make asphalt. These plants release millions of pounds of chemicals into the air during production each year, including many cancer causing toxic air pollutants such as: arsenic, benzene, formaldehyde and cadmium. Other toxic chemicals are released into the air as the asphalt is loaded into the trucks and hauled from the plant site, including volatile organic compounds, polycyclic aromatic hydrocarbons (PHS'S) and very fine condensed particles.

Asphalt processing facilities are major source of hazardous air pollutants such as hexane, phenol, polycyclic organic matter and toluene. Exposure to these toxics may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritations.

A plant producing 100,000 tons of asphalt a year may release up to 50 tons of toxic fugitive emissions into the air. How often will this plant be tested for these emissions and will they have an actual "stack test" or will they just be estimated by computers and mathematical formulas ? According to Dr. Luanne Williams, a N. Carolina state toxicologist, 40% of toxins from asphalt plants smokestacks may meet air quality standards and for the other 60% of these emissions, the state lacks sufficient data to determine further data, so people living nearby are still exposed to cancer causing substances that can cause long term damage. These Standards are based on "acceptable risk".

"Acceptable" ... in my eyes, anything harmful to the human body and to our health is totally "UNACCEPTABLE"! Would YOU move your families and grandchildren into our Rivers Edge Subdivision or anywhere near this proposed plant ?!?!

This plant will be one of the biggest in the state of Colorado to date and offers NO benefits! It creates NO outside jobs, and will NEGATIVELY impact our wildlife, environment, property values, health, traffic, residential living, tourism, driving conditions, road quality and local economy. Have we elected the WRONG people to watch out for us and protect us from JUST this very thing? I'd like to think MY elected officials will take great thought in the making of this decision that will negatively affect the lives, health and properties of soooo mant citizens and to ONLY promote positive growth in Montrose. What would that say about our elected officials if all they can attract is businesses that will negatively promote Montrose ? Please agree UNANIMOUSLY that this strip mine , concrete plant and asphalt plant NOT BE APPROVED. That would be the RIGHT decision for this wonderful community..

Susan Berg
67888 Tumbleweed Rd.
(970)240-4323

Susan Berg
67888 Tumbleweed Rd
Montrose, CO
81403

4/15/2013

Whe

CM-2013-007

RECEIVED

APR 18 2013

DIVISION OF RECLAMATION
MINING AND SAFETY

April 16, 2013

Div of Reclamation Mining & Safety
1313 Sherman St Rm 215
Denver CO 80203

Re: Proposed Gravel Pit

Gentlemen:

We would like to express our opposition to the proposed Uncompahgre Gravel Pit on T Rd west of Hwy 550 in Montrose, Colorado.

Our main concerns are the close proximity to our neighborhood on Moonlight Mesa, which would look down onto the pit. It would result in a lot of dust and noise as well as odor from the asphalt plant operation. The increased truck traffic on 550 would be quite dangerous as well. We also believe our property values would be severely impacted.

Please consider the concerns of the homeowners in the vicinity of this gravel pit. I don't know why anyone would consider putting this so close to so many homes.

Sincerely,

Jim and Paula Wyrick

19488 6565 Rd

Montrose CO 81403

Whe

W-2013-007

21645 Government Springs Road
Montrose, Colorado 81403
April 19, 2013

RECEIVED

APR 22 2013

DIVISION OF RECLAMATION
MINING AND SAFETY

To Whom It May Concern

Re: Proposed Gravel Pit/Asphalt Plant

I am opposed to the proposition of another Gravel Pit/Asphalt Plant Facility to be established approximately seven miles south of Montrose off Highway 5 & on "S" Road. Please understand that I am not against progress or job creation.

I already own property on Vernal Road which was 3/4 of a mile away from The United Gravel Pit. In recent years United has expanded up to Vernal Road, so now we are neighbors. I moved to the "Countryside" for "Country Living". If I wanted to live in an industrial park, I should have purchased property in an industrial park. I would expect that the State of Colorado would have zoning laws to cover this issue. The present location and proximity of the Gravel Pit have significantly devalued my Vernal Road Property. I now live on Government Springs Road, with six acres of "country living" surrounded by ranches and nearby BLM lands. Here comes a proposal

for another Gravel Pit / Asphalt Plant Facility to further devalue my second property, just in case the economy has not produced enough shrinkage in real estate values already.

I think it is time to forget the Gravel Pit on "S" Road. If you must move forward with this project then place it on BLM land where no people live. Another alternative might be to roll back the property taxes to the assessed rates in 1931 for all homeowners within a five mile radius and let the Gravel Pit pick up the difference. If this seems unfair to the Gravel Pit then roll everyone's tax base back to 1931 rates and let the county and state collect less revenue.

In conclusion I have respiratory problems and paid to live in a place with clean air. If you attended the local March meeting on this subject, you should have observed a close call with violence.

I believe April 19, 1775 was the Boston Tea Party --- if you push people too far it can happen again!

Sincerely,

H Craig B. Schaff

the

State of Colorado
Division of Reclamation, Safety & Mining
1313 Sherman St. Room 215
Denver, Colorado 80203

4/15/13

File M-2013-007

RECEIVED

✓ APR 22 2013

✓ DIVISION OF RECLAMATION
MINING AND SAFETY

TO WHOM IT MAY CONCERN:

Please be advised that the above mentioned application for permit for a proposed gravel pit/strip mine/asphalt plant/concrete plant, is opposed due to the following

1. The land is zoned Rural/Ag.
2. The area is a regular migration route for Elk and Mule deer.
3. The land is located less than a mile from Hwy 550, and this mining operation will directly affect residents on the only access road (T Road), and also residents within an approximate 10 square mile area. The resulting loss of property values, plus heavy truck traffic, dust and asphalt odor is unacceptable.
4. Hwy 550 is a two-lane, already dangerous highway, which would become even more of a hazard with the added heavy truck traffic.
5. There are already three gravel pit/mining operations within a 20 mile radius.
6. Does the State of Colorado actually need one more strip mine along a beautiful mesa, which is seen by heavy tourist traffic both summer and winter?

I send this letter in the hope that you, our elected and appointed officials, will take note, and strive to maintain the quality of life and beauty of the land, and deny this application for permit to those who seek it only for greed, and self-benefit.

Respectfully,

✓ *Amanda Winston*
AMANDA WINSTON

20798 Solitude Rd. Montrose, Co. 81403

RECEIVED

APR 22 2013

Durango Field Office
Division of Reclamation,
Mining and Safety

April 18, 2013

Mr. Wally Erickson
Colorado Division of Reclamation, Mining and Safety
691 County Road 233, Suite A2
Durango, CO 81301

Dear Mr. Erickson,

Thank you for the opportunity to comment on Rocky Mountain Aggregate and Construction LLC's proposed gravel pit, concrete, and asphalt-producing batch plants on: a tract of land located within the Eastern portion of Section 27, Northeast portion of Section 34, and the Southwest portion of Section 26, all in T48N, R9W of the N.M.P.M., Montrose County, State of Colorado.

To provide some background, I have a B.S. in Natural Resources from The Ohio State University. I have worked for the U.S. Forest Service, The Nature Conservancy, state and county parks, and am the author of *Southern Rocky Mountain Wildflowers* by Falcon Press.

While these are my personal comments, you may want to know that I am the coordinator of the San Miguel Basin Gunnison Sage-grouse Working Group. I've held this position since 2006. The Working Group is comprised of staff from agencies such as the BLM, Forest Service, Colorado Division of Parks and Wildlife, and environmental groups as well as ranchers, businesses, university professors, landowners, and interested citizens. The goal of the group is: *To work together and coordinate efforts to ensure a thriving population of Gunnison sage-grouse in a healthy, conserved sagebrush ecosystem while helping to ensure a sustainable community in the San Miguel Basin, CO.*

This site is located within proposed critical habitat for the Gunnison sage-grouse (GuSG). The grouse was proposed to be listed as an endangered species in January by the U.S. Fish and Wildlife Service (FWS), and the final rule is due by September 30, 2013.

The proposed site for the gravel pit is very close to a historic grouse courtship ground (called a lek). Leks are arguably the most critical part of grouse habitat, and grouse are sensitive to noise and activity near leks. The noise from trucks is particularly disturbing to males on leks (Hicks, et al., 2011).

At the 28th Western Agencies Sage and Columbian Sharp-tailed Grouse Workshop, Dr. Gail Patricelli spoke on the impacts of noise on greater sage-grouse (which are very similar to GuSG). Dr. Patricelli's research found, "that noise caused significant declines in male attendance at leks

OVER →

(73% decline from road noise, as compared to control leks). We also found impacts on individual males who remained at noise-playback leks, with elevated stress hormones indicating chronic stress and changes in display behavior consistent with an impact from acoustic masking."

Dr. Patricelli stated that 49 db(A) is too loud for grouse, and it is our understanding that the noise level proposed for the gravel pit could go up to 50 db(A). Dr. Patricelli stated that for grouse the undisturbed ambient level is likely to be at 20-24 db(A) or less. She recommended that stipulations shouldn't allow noise to be over 10 db(A) above ambient levels.

Even though grouse haven't been spotted on this lek in recent years, it may be an area where biologists would like to reintroduce grouse in the future. In addition, it could be possible that grouse are in the area, but haven't been seen by biologists. In addition, this habitat could provide connectivity between various subpopulations of Gunnison sage-grouse, a factor that the FWS stated was important in their proposed rule.

If this gravel pit is denied, I believe the state of Colorado would be showing the Fish and Wildlife Service that they are willing to do what's necessary to protect the grouse and its habitat. This would show the FWS that state agencies can be trusted, and the FWS doesn't necessarily have to come in to ensure that this type of development doesn't occur in grouse habitat. On the other hand, if this permit is approved, it shows the FWS that the grouse really does need endangered species protection at a federal level.

For these reasons I would strongly recommend that this gravel pit, etc. be denied. Thank you for your consideration.

Sincerely,



4/18/13

Leigh Robertson
596 Sabeta Drive, # D
Ridgway, CO 81432
970-316-1650
LeighRobertson3@gmail.com

Whe

Division of Reclamation, Safety and Mining
1313 Sherman St. Room 215
Denver, CO 80203
Re: File # M-2013-007

RECEIVED

✓ APR 29 2013

✓ DIVISION OF RECLAMATION
MINING AND SAFETY

April 23, 2013

Dear Division,

I am writing this letter in opposition to permit file number M-2013-007 also known as the Uncompahgre Gravel Pit application in Montrose County, Colorado. My husband, two children and I live within less than 2 air miles of the land proposed to house this site. My objections have to do with the size and scope of the project and in turn the amount of traffic it would generate. I am also concerned with the amount of noise, dust, and contaminants it would produce which would greatly affect the air quality of the surrounding area. Lastly, I do not believe that it is needed as there are already enough local gravel pits to supply demand.

Because this is such a large development it is estimated that with the concrete and asphalt batch plant in operation there is the potential for 130 loads daily which equals 260 semi trucks entering and exiting onto Highway 550 per day. Living in this rural area my family and I commute into town every day, sometimes having to make numerous trips in one day. Thus we spend a lot of time on the stretch of highway that would be most utilized by these trucks. This is an already very dangerous section of road with many accidents and fatalities. Ironically, just this morning the kids and I witnessed a horrific traffic accident on the way to school. There was a fatality and a dump/gravel truck was involved. Because of the high rate of accidents due to wildlife on the roadway, it is already a designated wildlife zone in which speed limits are decreased during the winter months after 5pm. I am extremely concerned that such a huge increase in truck traffic will make traveling Highway 550 south of Montrose even more hazardous.

Currently there is a United Companies gravel pit in operation approximately 2 miles south of the proposed Uncompahgre Pit. Since I travel the highway on a regular basis, I have had numerous encounters with excess gravel and even cobbles which made the highway impassible all spilled from trucks traveling from the United pit. I am also concerned that these types of incidents would only increase with yet another gravel pit operating on the same stretch of road.

Because I also live just down the road from the current gravel pit, I am familiar with how much noise is generated when a gravel pit is in full operation, particularly when the rock crushers are running. The noise level along this highway and valley corridor is what I would consider to be very loud just with the traffic noise alone. Adding more traffic and the noise from the daily operations of a gravel pit would push it to an almost unbearable limit for those of us who live in this area.

In the springtime we have excessive wind storms which when strong enough will carry dust from the deserts to the south and west of us and deposit that dust all over the area. At times the dust is even

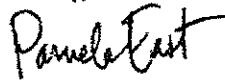
thick enough to block out the mid-day sun. The Mountain Studies Institute in Silverton, Colorado documents these dust storms and measures the impact of dust layers in the snowpack of the San Juan Mountains just 30 miles south of here. With such strong wind events which mostly blow from the west and south, I am also concerned that excessive dust would be stirred up by a large gravel pit operation and thus diminish the air quality of the nearby area. The landowners apparently have water rights attached to that land that they propose to use to help control dust. I would argue that in drought years that water needs to be available for the farmers and ranchers who depend on it for their livelihoods rather than being used for dust control. I also believe that toxins from an asphalt batch plant would diminish the air quality to an even greater degree.

According to Montrose County land use records, there are currently approximately 10 gravel pits surrounding the immediate municipality of Montrose. There are most likely more than that as those are the only ones that have been put in place after the county began requiring special use permits in the late 90's. At this time there is also a new pit that was granted a special use permit in 2007 near Highway 50 and Kinikin Road that has not yet begun operating. I would argue that for a municipality of just over 20,000 people, there are enough gravel pits currently to sustain the needs of the area.

I ask that you seriously consider all of these arguments and others before moving forward with this application. Our county commissioners are very pro resource development so if it passes at the state level I am certain that it will have no problem passing locally. Personally I am not anti development and I am sympathetic to economic opportunity. However I do feel that development must be done in a responsible manner and I do not feel as though an operation of this size and magnitude would be responsible. It would have too many negative effects on the rural area and residents that surround it which include a dangerous increase in the amount of traffic in an already hazardous area, air quality issues and water use. There are also currently enough gravel pits in the area to qualify not granting an application for a new one.

Thank you for your time in reading my concerns.

Sincerely,

✓ 

Pam East

pameast@centurylink.net

we

April 20, 2013

Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, CO 80203

Re: Opposition to the Proposed Uncompahgre Pit (Permit File No. M-2013-007)

Dear Sir:

The city of Montrose and Montrose County are largely supported by the tourist industry. The Uncompahgre Valley stretching south out of Montrose is by far the most scenic route in or out of our town. Highway 550 south, which connects the town of Montrose to the tourism reliant communities of Ridgway, Ouray, Silverton, Durango and Telluride, runs directly between the proposed Uncompahgre Pit (File No. M-2013-007) and the Uncompahgre River. This is one reason why our county's master plan does not designate this area for gravel extraction.

The valley south of Montrose is currently occupied by farms, both large and small, and residential acreages of varying sizes. The property between the proposed pit and the Uncompahgre River on both sides of Hwy 550 is filled with private residences. The mesa area north of the proposed pit, accessed by Solar Road, is subdivided and occupied as well as the area immediately to the south, which is accessed by Government Springs Road.

A massive industrial pursuit of this size seems wholly incompatible with the current land use in the valley as well as being contrary to the county's master plan. The proposed pit would virtually gut one of the small mesas which lie just above the valley floor between south end of the Uncompahgre Plateau, the Uncompahgre River, and the undeveloped areas just north of the Cimarron Ridge to the east. The gash it would cut, through this irreplaceable terrain and well-established migration corridor, would be over a mile long north to south and nearly a mile wide.

Anyone who lives south of town can attest to the amount of wildlife in the area. A simple count of the deer on the highway any given evening is a testament to the fact that the entire valley south of town is a very active wildlife corridor. Recently this particular section of the highway, which parallels the proposed pit, has imposed a lowered speed limit from 5pm to 7am from October 1st to June 1st for this very reason.

RECEIVED

APR 24 2013

✓ Division of Reclamation,
Mining & Safety

If you climb the dobie hills on the east side of the highway and look back west toward the property in question, it is impossible to deny what a travesty a pit of this magnitude would be for all the local inhabitants. It is simply not feasible to mitigate the grossly negative impacts this type of industrial land use will have on the surrounding area.

The devastation a pit of this size would wreak on this environmentally sensitive and wildlife rich area is irreclaimable. The proposed 105 year permit would allow Rocky Mountain Aggregate and Construction, LLC to inflict a wholly incompatible industry on a peaceful and beautiful valley where the current residents, both human and wild, live in relative harmony.

And in answer to a question a supporter of this proposed pit asked me lately:

Would I rather have a gravel pit for a neighbor or another subdivision?

Hands down .. I would much rather have another neighbor for a neighbor.

Thank you for taking the time and making the effort to consider all our comments.

✓ Karen Michaelis
21115 Uncompahgre Road
Montrose, CO 81403
rakenlee@hotmail.com
970.240.4790

RECEIVED

APR 24 2013

Division of Reclamation,
Mining & Safety

April 20, 2013

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APR 24 2013
Durango Field Office
Division of Reclamation,
Mining and Safety

Mr. Wally Erikson
Division of Reclamation, Mining and Safety
691 County Road 233, Suite A-2
Durango, CO 81301

Re: Opposition to the Proposed Uncompahgre Pit (Permit File No. M-2013-007)

Dear Mr. Erikson:

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Karen Michaelis
21115 Uncompahgre Road
Montrose, CO 81403
rakenlee@hotmail.com
970.240.4790

whe

April 20, 2013

Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, CO 80203

Re: Opposition to the Proposed Uncompahgre Pit (Permit File No. M-2013-007)

Dear Sir:

My biggest objection to the proposed Uncompahgre Pit (File # M-2013-007) is the destruction of the natural landscape, which will eventually be visible from Highway 550. This road is the main artery running south out of Montrose, through the greenbelt of the valley.

Years ago the first business that travelers and tourists would see on the south side of Montrose was a car parts junk yard - not a good first impression. Gravel pits do not make a good first impression either, particularly one of this size.

For the people who live along T Road this proposed gravel pit is their worst nightmare. Big trucks up and down the road all day long, their lives will never be the same.

With all the current gravel pits in the immediate area, we do not need another one. We certainly do not need a pit of this size, and definitely not in the midst of the most scenic and most visible land in the valley.

Thank you for your time and consideration.

✓Richard Schulz
21115 Uncompahgre Road
Montrose, CO 81403
970.485.3802

RECEIVED

✓APR 24 2013

✓Division of Reclamation,
Mining & Safety

April 20, 2013

RECEIVED
APR 24 2013
Durango Field Office
Division of Reclamation,
Mining and Safety

Mr. Wally Erikson
Division of Reclamation, Mining and Safety
691 County Road 233, Suite A-2
Durango, CO 81301

Re: Opposition to the Proposed Uncompahgre Pit (Permit File No. M-2013-007)

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Thank you for your time and consideration.

Richard Schulz
21115 Uncompahgre Road
Montrose, CO 81403
970.485.3802

Barbara Bernhardt
20409 Solitude Road
Montrose, CO 81403

April 21, 2013

Colorado Division of Mining, Reclamation, and Safety
1313 Sherman Street - Room 215
Denver, CO 80203

RECEIVED

APR 24 2013

DIVISION OF RECLAMATION
MINING AND SAFETY

Re: Permit Application Number m2013007, Proposed Uncompahgre Gravel Pit

I am writing to submit a second comment of concern, this time an objection to the permit application on the basis that the applicant has failed to prove that there is a viable gravel resource on this parcel.

In reviewing the application, I noticed that the applicant has submitted that 'their test pits have found gravel' on this mesa, yet they have provided no data to support this statement. What they have provided is a soils map that shows that the soil types they propose to mine consist of two types: Mesa Clay Loam (#760) and Barboncito Rock Outcrop (#30).

In consulting with a professional geologist who has worked on the same mesa that the mine is proposed for, I learned that both soil formations have "'poor" ratings as having gravel resource potential', and that this geologist's experience with this particular mesa is 'that there is a lot of soil mixed with the gravels and the gravels were laid down in a chaotic manner. The deposits are "dirty" and not well sorted. The Barboncito soils are shallow sandstone bedrock with a thin veneer of gravels. Neither mapping unit is a good source for gravel or sand.'"

In parallel with the geologist assessment, the Montrose County Gravel Resource Map does not indicate a gravel resource exists in the region of the mesa of the proposed mine.

Given that the area is critical habitat for a species under consideration for the Endangered Species List, why would the state Division of Mining, Reclamation, and Safety approve a 112c permit for a resource that has not been documented to exist on the proposed site?

Prior to the granting of this permit, I urge you to require that the applicant's claim of the existence of a viable gravel resource within the permit area, based only upon a claim to having dug their own test pits, be verified by a disinterested third party professional geological consulting firm familiar with the area.

Sincerely,


Barbara Bernhardt

Dr. Joseph & Mary Scuderi
68044 Tulare Road
Montrose, Colorado 81403

April 4, 2013

Barbara J.B. Green
Sullivan, Green & Seavy
3223 Arapahoe Avenue
Boulder, Colorado 80303

RECEIVED

APR 26 2013

Durango Field Office
Division of Reclamation,
Mining and Safety

Re: Impacts of the Uncompahre Pit: Rocky Mountain Aggregate LLC- Permit
NoM2013-007

Dear Ms. Green:

It is our understanding you are a member of the State Reclamation Board. There are many concerned citizens in Montrose County with depth environmental issues that need to be addressed before the State and Montrose County Governmental Agencies approve the gravel, asphalt and concrete plant Rocky Mountain Aggregate Construction, LLC- Permit No. M213-007.

We believe the health and welfare of wildlife and human beings living around this pit will be jeopardized in the years to come if approved. This area is populated with many sub-divisions and businesses. This massive industrial nightmare will result in decades of noise, water and air pollution from mining, petroleum and toxic dust.

As you may know, there are studies, which show the air and noise pollution harm wildlife nesting and living near these types of plants. We have experienced this first hand on Fountain Creek when the Blue Hereon Crane population was compromised.

The Uncompahgre River is a very rare and valuable wetland, which is less than a mile away from the future quarry operation. There are eagles, geese, ducks, humming birds and dove nests along this part of the river and special ponds. We see fox, deer and other animals living near this river. The health and welfare of inhabits living around this pit will be subject to carcinogens and pollution, which could destroy one's health. No two asphalts are chemically alike because of the chemical content of the original crude petroleum form. Concrete, crushed rock and asphalt additives, plus operating temperatures of recycled paving materials cause increase in toxic emissions. Therefore exposure to fumes and toxic dust from the plant will cause headaches, skin rashes, fatigue, and reduced appetite, throat and eye irritation along with coughing and lung disease. The Federal Occupational Safety and Health Administration documents. "THERE IS NO BIOLOGICAL MECHANISM FOR CLEARING THE BODY TISUES FROM TOXINS RELEASED FROM THESE TYPES OF PLANT OPERATION."

The water quality may also pose serious health issues to the largely populated area around the pit. The storm water run off and the water being used at the facility can lead to water quality impairment of our drinking water by polluting the aquifer because of the sandy soil which drains quickly from the pit. The sediment ponds leak into the aquifer, which will have lime silo and fly ash from the site as stated in their permit. This is not only a health hazard to humans but to wildlife and fish in this area. It would be a true poison to our natural environment in this given area.

The irrigation ditch which Rocky Mountain Aggregate and Construction LLC. will use is not piped but rather an open ditch carrying water to farmers and the crops they grow which could become contaminated with chemicals. This would infiltrate their fields from this proposed large quarry. Obviously having a negative impact on the agriculture food chain for humans, farm animals and wildlife downstream.

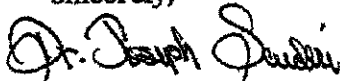
The permit request also states, "the soil area is covered with cobbles, stone, boulders and un-weathered bedrock at the site. There is documentation, which shows a great deal of radioactive materials exists in these materials when crushed. It is well known and has been proven that radioactive material is a carcinogen and causes respiratory cancer. This substance could be carried in the dust along with crystalline silica created by this plant. The pit will be located in a high wind belt; the winds blow west to east. This will increase the corrosion and be harmful to wildlife, humans, farm animals and vegetation. Breathing the particles from deadly dust could cause severe health issues.

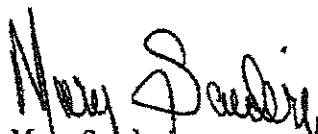
We believe the casualty of this development will destroy habitat. Shouldn't this part of the county continue to be a sustainable healthy riparian for humans, wildlife and a pleasant natural environment, as it now exists on its way to the scenic San Juan Mountains?

Does Montrose County have a master plan to protect the wildlife, which lives in and near this valuable wetland of Uncompahre River? Will State and local government protect the human, plant and wildlife threatened by this 247.76 acres of industrial encroachment?

We are requesting you do not give approval to this massive industrial nightmare, which will result in decades of noise, water, and toxic air pollution and perhaps loss of life for those living near this quarry.

Sincerely,


Dr. Joseph Scuderi


Mary Scuderi



Greg Lewicki And Associates, PLLC

11541 Warrington Court
Parker, CO USA 80138

Phone: (303) 346-5196
E-Mail: info@lewicki.biz

Fax (303)-346-6934

M-2013-007

May 6, 2013

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

RECEIVED

MAY 07 2013

DIVISION OF RECLAMATION
MINING AND SAFETY

RE: Response items to protest letters for Rocky Mtn Aggregate and Construction
Uncompahgre Pit based on letter dated April 26, 2013 from Wally Erickson

Wally:

We have received from you the new protest letters from various people which now add to 26 total.

As we stated before, it is important to state that the operator Rocky Mountain Aggregate and Construction, LLC takes any protest very seriously. All of the newest letters concern items that are covered by the Special Use process in Montrose County and are not subject to DRMS jurisdiction. However, it must be stated that these concerns have been taken seriously, such as the truck traffic and dust on T Road, as well as the access onto Highway 550, and the plans have been modified to address these concerns with Montrose County.

The issue of the Gunnison sage grouse has been brought up in the letter from Leigh Robertson and in the letter from Colorado Division of Parks and Wildlife:

We have conducted additional research on the potential use of the mesa by the grouse. According to records of the Colorado Division of Parks and Wildlife, they do take visual observations annually on Sims Mesa. This mesa is a larger area that encompasses the mesa located west of this property but also includes this property, which is really referred to as Moonlight Mesa. It is our understanding that, if no birds have been sighted on the mesa for a 10 year consecutive period, it is not classified as occupied habitat. The enclosed records attached to this letter show that no Gunnison Sage Grouse have been observed by CPW. In addition, all former owners and managers of the property have also written letters stating that they have never seen a sage grouse since their involvement on the property dating back to the 1950's. These letters are also attached.

In addition, a letter is attached from the CPW to the US Fish and Wildlife Service dated April 1, 2013 which states that CPW is against the listing of the Gunnison Sage Grouse

as endangered, due to incorrect mapping of habitat, and the inclusion of vacant or unknown habitat and potentially suitable habitat into the definition of critical habitat.

The CPW letter to Wally Erickson dated April 9, 2013 states that the operator should consult with the USFW concerning the sage grouse. We have done that and the prior e-mail from Charles Sharp to me dated March 13, 2013 states that the site is "believed to be unoccupied" and that they have no jurisdiction over private property at this time. They also state that the applicant has no legal right to consult with them at this time. In spite of this, we have worked with both CPW and USFW. We have sent full copies of the plans and have asked for comments from both agencies. Both agencies have recommended seed species for the revegetation of the site and we have incorporated most of these species in the seed mix which is a binding part of the revegetation plan.

The CPW letter also states that mesa where the pit is to be located (Moonlight Mesa) is critical habitat for deer and elk. We have some reservation about this since the mesa has so little grass and no water. The precipitation annually is only 12 inches. Even the sagebrush is not very healthy and does not grow very tall. All of the former ranch owners and managers have stated that the deer and elk use the irrigated fields below the mesa for winter grazing since this area is so much more productive. However, the following steps are taken to mitigate the mining to occur on the mesa with regard to deer and elk habitat:

- 1- Although the entire mining area is 191 acres, only 21 acres will be disturbed at any one time, which includes the processing area. The mining area will move as a unit from the south end of the property to the north and will strip topsoil in advance of the pit and place it on the regraded area to the south. Revegetation of the topsoiled areas will occur every year, likely to be done in the fall.
- 2 – The reclamation seed mix, with its very diverse species list, is very good for deer and elk habitat, so that the reclaimed area will likely be better habitat than the existing site.
- 3- Although it cannot be a commitment for 100% of the winter, but it is highly unlikely that any mining or processing will occur during the cold months. Sales of existing piled material may occur, but these will also be very limited since most construction work is not done during these months.

Sincerely,

A handwritten signature in black ink that reads "Greg Lewicki". The signature is written in a cursive, flowing style.

Greg Lewicki, P.E.
Greg Lewicki and Associates

Cc: Zane Luttrell

From: Jutten [mailto:lazyk@montrose.net]
Sent: Tuesday, April 23, 2013 3:24 PM
To: Zane Luttrell
Subject: Fw: Rocky Mountain Aggregate Application

----- Original Message -----

From: Joey Burns
To: swhite@montrosecounty.net
Sent: Tuesday, April 23, 2013 10:11 AM
Subject: Rocky Mountain Aggregate Application

April 23, 2013

Mr. Steve White
Montrose County Planning and Development Director

Mr. White,

I'm writing in reference to the proposed gravel pit with Rocky Mountain Aggregate. As a point of reference, I am a land owner who lives within 1/2 mile from the proposed gravel pit and I have had a personal interest in this property for over 10 years. Our company Lone Eagle Land Brokerage, Inc. assembled this holding and have managed the property for the past two ownerships. I have spent countless hours on the property, we have had the property studied for a proposed habitat mitigation with the Natural Resource Conservation Service, conducted geological surveys and have had numerous consultants study the property for its highest and best use. I know this land and I have a deep history of the property through all seasons.

Recently I assisted in the sale of the property with NO knowledge of the proposed gravel pit. It was only after the closing that I was informed of the current owner's intentions. My reaction today is the same as it was when I learned of the application. That plateau is an appropriate location for a gravel pit. Personally I think gravel pits are unsightly and inevitably they get placed adjacent to a major thoroughfare (example the United pit on south Hwy 550.) However, the subject property's topography is such that it would be virtually impossible to see the pit and or the equipment from the Hwy 550 to the east and Ducket Draw to the west.

I felt it was necessary that I address the county after I read a recent article in the paper that I felt was inflammatory, exaggerated and untrue. In addition, because of my concern as a land owner regarding the specifics of the application, I contacted the applicant, set a meeting to preview the permit in detail. The applicant was direct, forthcoming and responded immediately to my request.

First the claim I read in the paper of increased traffic is unfounded. Gravel is a supply and demand business. If demand increases we currently have the United gravel pit on south Hwy 550. By approving this application the change in traffic will be minor. If the demand for aggregate increases, the United pit is in place and consequently will

naturally increase the demand on traffic as well. By approving this application, traffic on T road and its intersection to Hwy 550 will see increased activity. This should have a low impact on the property owners of T road as the private drive way accessing the permit directs traffic away from its residences. Also there is an aggregate trucking company at the conclusion of T Road. To my recollection, there has never been a county hearing to determine the impact this company places on T Road. The fact is, numerous semis pulling belly dump trailers travel T Road every day.

I was asked two direct questions from the applicant regarding wildlife and past property use.

- 1) Have I ever seen sage grouse on this property? No, not at all. In fact we contacted the Natural Resource Conservation Service (NRCS) regarding cost share related to hydro axing the entire plateau. We choose not to proceed with the habitat mitigation because of economics but sage grouse habitat was never a factor. This proposal was conducted in the last 4-5 years.
- 2) Could I address our past use of the property? In years past the ranch was used for ranching and hunting purposes as development seemed many years off. In addition we shoot long range rifles on this plateau and have done it for many years. We shoot large caliber rifles with muzzle breaks, the volume of the guns is such that it warrants wearing two layers of hearing protection. I cannot imagine the noise conducted by the gravel pit operation would ever compare to the past activity. In the past 10 years we have never been contacted by a neighbor with a negative comment related to the shooting.

In closing I reiterate, I support this application as a land owner with a deep physical knowledge of the subject property.

Sincerely,

Joseph C. Burns
21330 67.85 Court
Montrose, Colorado 81403

April 22, 2013

To Whom It May Concern:

Re: Sage Grouse on Jutten Gravel Pit Property South of Montrose

Hello my name is Thomas E. Kettle (Tom) and I own a parcel of ground North of where the proposed gravel pit will be. I have lived on this farm for 63 years. My grand father J.E. Kettle purchased the 97 acres in 1920. I Tom Kettle have walked, rode horses, rode 4-wheelers and hunted on that flat top and to my recollection have never seen a sage grouse on this piece of ground. I have seen livestock for spring and fall pasture both cattle and sheep but because of the poor quality of feed and zero water it has been over 40 years ago that any pasture activity has taken place.

Thomas E. Kettle

Zane Luttrell

From: David Purdum <dvp355@gmail.com>
Sent: Tuesday, April 23, 2013 10:34 AM
To: Zane Luttrell
Subject: Re: Gravel Pit Letter

On Apr 23, 2013 8:54 AM, "David Purdum" <dvp355@gmail.com> wrote:

To Zane Luttrell
Re: Uncompahgre gravel pit

My name is Dave Purdum. I lived and owned subject property from 1984 to 1995. We ranched hunted and was in generally all over the property and surrounding public land. Since then I and my boys have hunted on adjacent public land. We never saw any grouse at all. I have never seen any sage grouse at all around Montrose. I have seen a number of them South of Douglas WY. I do not believe there are any sage grouse on the property I used to own and you are planning to dig and crush gravel. Good luck with your enterprise. We need more local resource development. Please forward my comments to Steve White Montrose County Planning and Development.

Sincerely

David Purdum 970-209-7749

On Apr 18, 2013 4:29 PM, "Zane Luttrell" <zane@rockymountainaggregate.com> wrote:

Greg Lewicki

From: Zane Luttrell [zane@rockymountainaggregate.com]
Sent: Wednesday, May 01, 2013 6:52 AM
To: Greg Lewicki
Subject: FW: Grouse data
Attachments: Sims Mesa lek counts.xlsx

Greg,

Here is the grouse data CP&W. I will get the information regarding the time frame of non-occupied designation to help boost our case.

Thanks,
Zane

From: Phillips - DNR, Evan [mailto:evan.phillips@state.co.us]
Sent: Thursday, April 25, 2013 6:39 PM
To: Zane Luttrell
Subject: Grouse data

Zane,

Attached is a quick spreadsheet with the lek count data for the Sims Mesa grouse population. This has been a busy day and I can get you some more information soon.

Thanks,

Evan

*Evan Phillips
Wildlife Biologist, Area 18
Colorado Parks and Wildlife
2300 S Townsend Ave.
Montrose, CO 81401
(970) 252-6045*

Year	Sims
1959	
1960	8
1961	
1962	
1963	
1964	9
1965	
1966	11
1967	8
1968	
1969	
1970	
1971	
1972	
1973	
1974	
1975	
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1988	
1989	
1990	
1991	
1992	
1993	
1994	
1995	1
1996	
1997	
1998	2
1999	0
2000	1
2001	4
2002	2
2003	0

2004	0
2005	0
2006	0
2007	0
2008	0
2009	0
2010	0
2011	0
2012	0

Jutten

From: "Zane Luttrell" <zane@rockymountainaggregate.com>
To: "Jutten" <lazyk@montrose.net>
Sent: Thursday, April 25, 2013 4:42 PM
Attach: Parks and Wildlife Sage Grouse Letter.pdf; ATT00001.htm
Subject: Fwd: Sage Grouse Letter [ref:_00D301GdJi_500a0UyK4T:ref]

Thanks,
Zane Luttrell

Begin forwarded message:

From: The Office of Governor Hickenlooper <do-not-reply-gov-office@state.co.us>
Date: April 25, 2013, 3:48:36 PM MDT
To: "zane@rockymountainaggregate.com" <zane@rockymountainaggregate.com>
Subject: Sage Grouse Letter [ref:_00D301GdJi_500a0UyK4T:ref]

Zane,

The letter stating Parks and Wildlife's and the Governor's position on the issue of Sage Grouse is attached below.

Best,
Office of Constituent Services
Governor Hickenlooper's Office

ref:_00D301GdJi_500a0UyK4T:ref



COLORADO PARKS & WILDLIFE

1313 Sherman Street, Room 618 • Denver, Colorado 80203
Phone (303) 866-3437 • FAX (303) 866-3206
wildlife.state.co.us • parks.state.co.us

April 1, 2013

Public Comments Processing, Attn: FWS-R6-ES-2012-0108
Division of Policy and Directives Management
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive, MS 2042-PDM
Arlington, VA 22203

Re: Docket No. FWS-R6-ES-2012-0108 - Proposed Rule for Gunnison Sage Grouse as an Endangered Species, and
Docket No. FWS-R6-ES-2011-0111 - Designation of Critical Habitat for Gunnison Sage-Grouse

Attention U.S. Fish and Wildlife Service:

Colorado Parks and Wildlife (CPW) appreciates this opportunity to comment on the proposed listing of Gunnison sage-grouse (GuSG) as endangered.

Colorado contains the majority of the present-day range of GuSG. CPW has led conservation efforts for GuSG for decades, partnering with local governments, Utah Division of Wildlife Resources, federal agencies, universities, and landowners to develop a robust and comprehensive program to safeguard the species. Our long history of GuSG conservation includes population protection, monitoring and management, habitat conservation efforts and extensive research.

We have significant concerns with the science used to support the listing proposal, and believe that existing data do not support the conclusion that the GuSG is threatened with extinction throughout all or a significant portion of its range. Rather, we believe the best available science demonstrates that the species is sufficiently secure in a significant portion of its range that listing under the Endangered Species Act is not warranted.

The vast majority (88%) of the range-wide population and nearly two-thirds (63%) of occupied habitat are found within the Gunnison Basin. State- and county-led conservation actions in the Gunnison Basin have produced regulatory certainty in managing major threats to the species. We are addressing concerns about extirpation of the 6 small insular Colorado GuSG populations by augmentation with transplanted birds from Gunnison Basin. It is worth noting that these populations continue to persist, albeit at low levels, since the late 1950s.

STATE OF COLORADO

John W. Hickenlooper, Governor • Mike King, Executive Director, Department of Natural Resources
Rick D. Cables, Director, Colorado Parks and Wildlife
Parks and Wildlife Commission: Robert W. Bray • Chris Castilian • Jeanne Home
Bill Kane, Vice-Chair • Gaspar Perricone • James Pribyl • John Singletary, Chair
Mark Smith, Secretary • James Vigil • Dean Wingfield • Michelle Zimmerman
Ex Officio Members: Mike King and John Salazar

This letter provides a concise overview of our perspective on the proposal; our detailed comments are enclosed.

Science

We respectfully submit that the science-based arguments in the rules have many weaknesses. Some information in the proposed rules is misinterpreted or misquoted and some important published work that is contrary to the proposed rules appears to have been omitted from the proposals. We note several instances where the proposals cite subjective or speculative statements from the literature that are not supported by data. The enclosure addresses our concerns in greater detail.

Population Sizes and Trends

Available data on the status of the Gunnison Basin population of GuSG demonstrate that this population is relatively stable. In fact, recent lek counts in the Gunnison basin are at historic highs. Furthermore, lek counts in about half of the small outlying populations in Colorado have increased in recent years; the increased numbers of males on leks is encouraging and may be tied to our efforts to augment these populations and movements of birds. We advocate for continued aggressive conservation measures directed at these populations. Three independent Population Viability Analyses (PVAs) consistently conclude that the Gunnison Basin population is at little risk of extinction. The PVA included in the Rangewide Conservation Plan (GSRCP 2005) suggests that the probability of extinction in the Basin is <1% in the next 50 years and that projection was made at a time (2005) when the Basin population was significantly (approximately one third) smaller than it is today.

Threats to the Gunnison Basin Population

Sixty-seven percent (67%) of GuSG habitat in the Basin is owned by the federal government (and therefore should be managed in a way that conserves GuSG), 31% is in private ownership and 2% is owned by the state. In our opinion, *at least 79% of the occupied range within the basin is adequately protected from threats such as development* (e.g., via federal management, conservation easements, CCAA certificates of inclusion, county land use regulations) (enclosure, Table 1).

Production areas, defined as habitat within 4 miles of a lek, are arguably the most important component of occupied habitat. In the Gunnison Basin, 81% of nests and 80% of seasonal habitat occurs within 4 miles of a lek; *82% of this production area habitat has some level of protection* (enclosure, Figure 4).

We believe that the federal listing proposal *overstates the threat of development* by basing projection on a short and anomalous period of time and inappropriately bases it on demand for amenities near the Crested Butte ski area, which is not applicable outside of the East Fork Valley. More appropriate data are available from Colorado Department of Local Affairs (DOLA) (enclosure, page 6). In addition, Gunnison County has undertaken

projections of development in the county and is an excellent source of accurate data on historic growth patterns.

We believe the Fish and Wildlife Service (FWS) significantly *overstates the threat represented by roads, powerlines, fences and grazing*. The proposed rule is based on a 2012 National Park Service study of impacts of roads that is not representative of the Gunnison Basin as a whole; we present compelling data from throughout the Basin that refutes the NPS study (beginning on page 6 of the enclosure and also see Figure 3). The listing proposal treats correlative studies on powerline impacts as conclusive, despite no demonstrated cause and effect relationship. CPW has telemetry data that contradict FWS statements made about fragmentation of habitat and the impact (or lack thereof) of fences on sage-grouse mortality rates. Although admitting that no studies have linked livestock grazing practices to grouse population levels, the FWS proposal concludes that grazing, in conjunction with climate change, is a threat to sage-grouse, and dismisses CPW monitoring data that indicate large portions of breeding habitat in the Gunnison Basin meet or exceed GuSG habitat guidelines under existing grazing management.

Significant Portion of the Range

We conclude that the GuSG is adequately protected throughout a significant portion of its range, and therefore does not warrant protection by listing under ESA. Our position is based on information indicating that 88% of the entire species' population is contained within the Gunnison Basin population and nearly 80% of the Basin population's habitat is protected in some fashion from the habitat threats identified in the proposal (enclosure, page 12).

The FWS has applied the concept of risk of extinction in a significant portion of range to determine if a species as a whole is warranted for listing. Because the species is *not* threatened with risk of extinction in such a significant portion of its range, we assert that listing under ESA is *not warranted* for GuSG.

Historic Range and Critical Habitat

We believe FWS has overestimated the historic distribution of GuSG in the listing proposal (enclosure, page 3). The historic distribution portrayed in the listing proposal includes extensive landscapes that are non-habitat. When compared to the present-day range, an inflated historic distribution results in an overstatement of the impact of habitat loss and fragmentation.

We also believe there are serious deficiencies in the proposed critical habitat designation (enclosure, page 18). One concern is the inclusion of vacant or unknown habitat and potentially suitable habitat into the definition of critical habitat; much area designated as potentially suitable habitat is lands that have soils unsuitable for supporting sage-brush, and other lands will require extensive restoration to be suitable for GuSG as they have become dominated by pinyon-juniper or converted to rangeland. Given the lack of

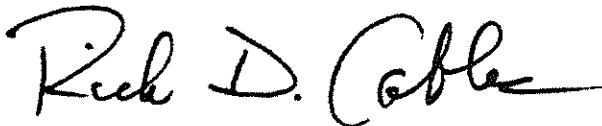
interchange between populations of GuSG, we have concerns about using critical habitat designations to promote genetic diversity. We are actively transplanting Gunnison Basin birds to outlying populations to address this issue. This is a reliable, efficient and effective technique to ensure genetic diversity in the insular populations. We will address these and additional concerns during the upcoming comment period for the economic report on Critical Habitat.

Summary

In our view, the Gunnison sage-grouse does not warrant listing as a threatened or endangered species. We urge the USFWS to reconsider the listing proposal in light of the information we provide. The Gunnison Basin population, containing the vast majority of the range-wide population of Gunnison sage-grouse, is protected by regulatory and other mechanisms that effectively address threats to the bird and its habitat. In our estimation, threats in the Gunnison Basin from development, roads, powerlines and fences are significantly less than suggested in the listing proposal and do not pose a threat to the long-term viability of the species.

Thank you for considering our comments on the proposed listing. Chad Bishop, Assistant Director for Wildlife and Natural Resources (chad.bishop@state.co.us; 303.594.8831) is available to address any questions about the information used in assembling these comments.

Sincerely,

A handwritten signature in black ink that reads "Rick D. Cables". The signature is fluid and cursive, with the first name "Rick" being the most prominent.

Rick D. Cables
Director

Enclosures:

cc: Noreen Walsh, Director, Region 6 USFWS

who

11M-2013-007

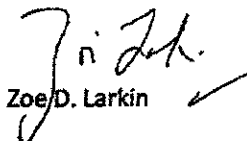
May 15, 2013

To Whom It May Concern:

I am completely opposed to the Rocky Mountain Aggregate and Construction LLC application for a Special User permit to put in a 247 acre gravel pit near T Road. This will have a tremendous negative impact on the local area, including to all of the wildlife- Sage Grouse, Mule Deer, Elk, Coyotes and Red Fox.

Also, please consider the impact on water usage, traffic patterns, local neighbors and increased fire danger. I do not believe this is a good location for this gravel pit.

Thank you for your time and consideration.


Zoe D. Larkin

22893 V-66 Trail

Montrose, CO 81403

RECEIVED

✓ MAY 17 2013

✓ DIVISION OF RECLAMATION
MINING AND SAFETY

Whe

✓M-2013-007

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✓JUN 17 2013

✓DIVISION OF RECLAMATION
MINING AND SAFETY

June 14, 2013

State of Colorado
Division of Reclamation, Mining and Safety
1313 Sherman Street
~~Room 215~~
Denver, Colorado 80203

RE: Uncompahgre Pit

Rocky Mountain Aggregate and Construction, LLC has filed for a 112 c Permit with you for a new sand and gravel pit south of Montrose known as the Uncompahgre Pit.

We are not sure what issues are subject to your Office's jurisdiction, but feel a special use permit for over a century is not acceptable nor is it fair for future generations of citizens to have to deal with and live with. Seems most related issues are to be addressed by local governments, which we have sent letters to them about our concerns. However, we want to document our objection with your Office.

We would ask that you deny this application as there are too many questions and damaging issues for all residents, especially adjoining neighbors, that far outweigh the benefit for a few to make money!

Sincerely,

Roger Noble
Gail K. Noble
Roger and Gail Noble Jr
Property Owners
67409 T Road
Montrose, CO 81401



June 20, 2013

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

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.

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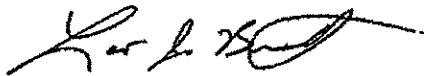
JUN 24 2013

DIVISION OF RECLAMATION MINING AND SAFETY

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

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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&blobheadername1=Content-Disposition&blobheadername2=Content-Type&blobheadervalue1=inline%3B+filename%3D%22D+2013-005.pdf%22&blobheadervalue2=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"

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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 and last names being more prominent than the middle initial.

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

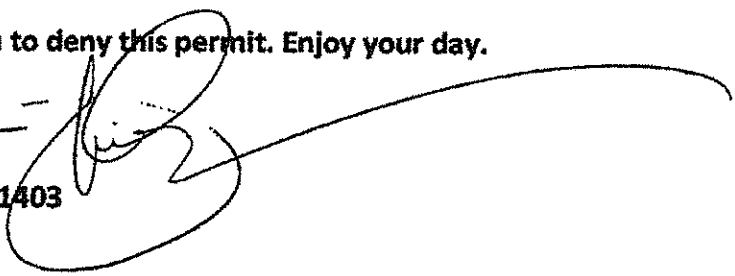
there is no water on this mesa? Shouldn't those ponds be reclaimed to the original landscape? As another issue it is illegal in the state of Colorado to capture rainwater, but that is exactly what this project does. I have contacted DNR water resources on this issue but did not receive an adequate response.

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

6/23/2013

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 19, 2013

Notice to Parties and Interested Persons

**RE: Recommendation to Approve a 112c Application with Objections,
Rocky Mountain Aggregate and Construction, LLC,
Uncompahgre Pit, File No. M-2013-007**

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Piñeda
Director

Dear Party and/or Interested Person:

The Division of Reclamation, Mining and Safety (the Division) hereby issues its recommendation for approval of the 112c application for the Uncompahgre Pit, File No. M-2013-007, submitted by Rocky Mountain Aggregate and Construction, LLC.

This recommendation is based on the Division's determination that the application satisfied the requirements of Section 34-32.5-115(4) of the Colorado Land Reclamation Act for the Extraction of Construction Materials, 34-32.5-101 et seq., C.R.S. A copy of the Division's rationale for its recommendation is enclosed for your review.

The Division's recommendation is to the Colorado Mined Land Reclamation Board (Board). The Division's recommendation and the application with objections will be considered by the Board during a formal hearing, scheduled to occur August 14-15, 2013, at 1313 Sherman Street, Room 318, Denver, Colorado, beginning at 9:00 a.m., or as soon thereafter as the issue may be considered. Pursuant to Rule 2.8.1(1) of the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (the Rules), any party who does not attend the Board hearing forfeits its party status and all associated rights and privileges.

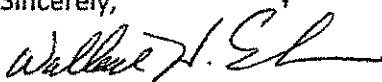
A live audio broadcast of the formal hearing can be found at the following link, mms://165.127.23.236/DRMS_Stream. Audio stream service may be temporarily unavailable or limited, due to technical difficulties and bandwidth limitation, and could result in loss of audio signals or in the impairment of the quality of the transmission.

All parties and interested persons who intend to participate in the Board hearing are strongly encouraged to attend the Pre-hearing Conference. Pursuant to Rule 2.7.3(4), any party who does not attend the Pre-hearing Conference forfeits its party status and all associated rights and privileges, unless such party provides a fully executed proxy authorization form to the Pre-hearing Conference Officer and the party's authorized representative is present. The Pre-

hearing Conference is scheduled to occur July 25, 2013, in the Centennial Room at 433 South First Street, Montrose, Colorado, beginning at 1:00 p.m. and terminating at or before 3:00 p.m.

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

Sincerely,



Wallace H. Erickson
Environmental Protection Specialist

Attachment: Certificate of Service

Enclosure: Rationale for Recommendation

ec w/enclosure: Zane Luttrell, Rocky Mountain Aggregate and Construction, LLC
Greg Lewicki, Greg Lewicki and Associates
Janice Wheeler, timely objector to the application
Dr. Joseph J. and Mary A. Scuderi, timely objector to the application
Gene and Carolyn Kliethermes, timely objector to the application
Dennis Schultz, timely objector to the application
Lester and Kathleen Stigall, timely objector to the application
Leigh Robertson, timely objector to the application
Margaret T. Zanin, timely objector to the application
Pam East, timely objector to the application
Karen Michaelis, timely objector to the application
Jennifer Thurston, INFORM, timely objector to the application
Lee R. Bartlett, timely objector to the application
Steven G. Renner, Pre-hearing Conference Officer
John Roberts, AGO for MLRB
Jeff Fugate, AGO for DRMS
Julie Murphy, AGO for DRMS
Russ Means, DRMS GJFO

Certificate of Service

I, Wallace H. Erickson, hereby certify that on this 19th day of July, 2013, I deposited a true copy of the foregoing Notice to Parties and Interested Persons, RE: Recommendation to Approve a 112c Application with Objections, Rocky Mountain Aggregate and Construction, LLC, Uncompahgre Pit, File No. M-2013-007, with the Division's rationale for its recommendation, RE: Rational for Recommendation to Approve a 112c Application with Objections, Rocky Mountain Aggregate and Construction, LLC, Uncompahgre Pit, file No. M-2013-007, in the United States Mail, postage paid, addressed to the following:

Zane Luttrell
Rocky Mountain Aggregate & Construction
23625 Uncompahgre Road
Montrose, CO 81401

Greg Lewicki
Greg Lewicki and Associates
11541 Warrington Court
Parker, CO 80138

Janice Wheeler
67269 T Road
Montrose, CO 81403

Dr. Joseph J. & Mary A. Scuderi
68044 Tulare Road
Montrose, CO 81403

Susan J. Hansen
10990 5880 Road
Montrose, CO 81403

Gene & Carolyn Kliethermes
20462 Tulip Circle
Montrose, CO 81403

Al & Vicki Becker
66810 Solar Road
Montrose, CO 81403

Robert G. & Joan D. Hooper
20537 Tulip Circle
Montrose, CO 81403

Dennis Schultz
117 North 4th Street
Montrose, CO 81401

Barbara Bernhardt
20409 Solitude Road
Montrose, CO 81403

Lester & Kathleen Stigall
67751 Uintah Ct
Montrose, CO 81403

Carter & Stacy Trask
67920 Tulare Road
Montrose, CO 81403

Stan & Kathy Borinski
67737 Uintah Ct
Montrose, CO 81403

Keith & Sharon Rasmussen
20828 Solitude Road
Montrose, CO 81403

Leigh Robertson
596 Sabeta Drive, #D
Ridgway, CO 81432

Margaret T. Zanin
65010 Solar Road
Montrose, CO 81401

Susan Berg
67888 Tumbleweed Road
Montrose, CO 81403

Craig B. Schaff
21645 Government Springs Road
Montrose, CO 81403

Karen Michaelis
21115 Uncompahgre Road
Montrose, CO 81403

Roger & Gail Noble
General Delivery
Ridgway, CO 81432

Jennifer Thurston
INFORM
P.O. Box 27
Norwood, CO 81423

Pam East
67680 Trout Road
Montrose, CO 81403

Patrice Mosher
Board of Supervisors
Shavano Conservation District
102 Par Pl, Suite 4
Montrose, CO 81401

Colorado History
Edward C. Nichols
State Historic Preservation Officer
1200 Broadway
Denver, CO 80203

Jim & Paula Wyrick
19488 6565 Road
Montrose, CO 81403

Amanda Winston
20798 Solitude Road
Montrose, CO 81403


Richard Schulz
21115 Uncompahgre Road
Montrose, CO 81403

Laurie J. Brandt, P.G.
Buckhorn Geotech
222 South Park Avenue
Montrose, CO 81401

Lee R. Bartlett
23400 Horsefly Road
Montrose, CO 81403

Colorado Parks & Wildlife
Renzo DelPiccolo
2300 South Townsend Avenue
Montrose, CO 81401

Board of County Commissioners
Montrose County
161 South Townsend Avenue
Montrose, CO 81401


Signature and date

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



DATE: July 19, 2013

RE: Rationale for Recommendation to Approve a 112c Application with
Objections, Rocky Mountain Aggregate and Construction, LLC,
Uncompahgre Pit, File No. M-2013-007

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Pineda
Director

Introduction

Herein, all references to the Act and Rules refer to the Colorado Land Reclamation Act for the Extraction of Construction Materials, 34-32.5-101 et seq., C.R.S. (the Act), and to the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (the Rules or Rule). Copy of the Act and Rules are available through the Division's web site at <http://mining.state.co.us>.

On July 19, 2013, the Division of Reclamation, Mining and Safety (the Division or Office) issued its recommendation to approve the permit application for the Uncompahgre Pit, File No. M-2013-007, over public objections. This document is intended to explain the process by which the Division arrived at its recommendation to approve, over public objections, and respond to the issues raised by the objecting parties and commenting agencies. The Division reserves the right to further supplement, amend, modify, or clarify this document and recommendation with additional details as necessary.

Summary of the Review Process

Rocky Mountain Aggregate and Construction, LLC (the Applicant) filed the application with the Division on February 26, 2013. The original application described a construction materials mining operation with on-site processing of mined materials to include crushing, screening, washing and production of concrete and asphalt products. The permit boundary included two non-contiguous areas identified as the extraction/processing area at 244.07 acres, and the office/shop area at 3.67 acres, totaling 247.76 acres. Of the 247.76 acres, the mining operation was anticipated to affect approximately 190.83 acres, leaving approximately 56.93 acres located within the permit boundary but not affected by the mine operation. Affected lands would be reclaimed to support rangeland, wildlife habitat and industrial/commercial post-mining land uses. Notice of the filing occurred in accordance with the general requirements of the Act and Rules. The public comment period closed on April 24, 2013. During the public comment period the Division received written comments from the following individuals and agencies:

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

Timely Letter of Support:

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

Timely Commenting Agency:

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

The Division forwarded copies of all comments to the Applicant and scheduled the application for a hearing before the Colorado Mined Land Reclamation Board (the Board) and a Pre-hearing Conference. The Division provided notice of the scheduled Board hearing and Pre-hearing Conference to all parties and interested persons. Due to the timely objections, on the decision date the Division would not make a decision on the application, but rather a recommendation to the Board.

An amendment to the application was filed with the Division on April 22, 2013. The application was amended to address concerns raised by Montrose County and the public regarding the

substandard condition of County Road T, existing structures in close proximity to County Road T, and potential for adverse impacts to County Road T and nearby structures resulting from mine traffic. In response, the Applicant agreed to construct a new mine access road located on private lands and adjacent to County Road T. The plans for the new access road increased the permit area to 253.25 acres, increased affected lands to approximately 244.07 acres, and joined all affected lands into one contiguous affected land boundary.

Notice of the amended application occurred in accordance with the general requirements of the Act and Rules. The amendment to the application re-opened the public comment period and extended the review period. The public comment period for the amended application closed on June 26, 2013. During this second public comment period the Division received written comments from the following individuals:

Timely Letters of Objection:

- 29. Dr. Joseph & Mary Scuderi, dated April 4, 2013, received April 26, 2013
- 30. Zoe D. Larkin, dated May 15, 2013, received May 17, 2013
- 31. Rodger & Gail Noble, dated June 14, 2013, received June 17, 2013
- 32. Buckhorn Geotech, dated June 20, 2013, received June 24, 2013
- 33. Barbara Bernhardt, dated May 23, 2013, received June 26, 2013
- 34. INFORM, dated June 26, 2013, received June 26, 2013
- 35. Lee R. Bartlett, dated June 23, 2013, received June 26, 2013
- 36. Janice Wheeler, dated June 23, 2013, received June 26, 2013

Late Letter of Objection:

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

The Division forwarded copies of all comments to the Applicant and provided notice to all parties and interested persons of the re-scheduled Board Hearing, Pre-hearing Conference and staff recommendation date.

During the review period the Division generated two adequacy letters. The Applicant addressed all adequacy issues to the Division's satisfaction. Therefore, on July 19, 2013, the Division determined the application to have satisfied the requirements of Section 34-32.5-115(4) C.R.S. and issued its recommendation to approve the application.

Issues Raised by the Objecting Parties and Commenting Agencies

The issues raised by the objecting parties and commenting agencies are represented by italic bold font. The last names of the objecting parties who raised the issue are listed after the issue. The Division's response follows in standard font.

- 1. Concerns regarding the mine operation being incompatible with historic, current, and future land uses. Concerns regarding the operation being in conflict with local zoning***

and the Montrose County Master Plan. Concerns regarding adverse impacts to the visually appealing landscape. Concerns regarding adverse impacts to tourism and the local economy. Concerns for devaluation of nearby property. Concerns regarding hours of operation, noise pollution, sight pollution, and quality of life. (Bartlett, Berg, Bernhardt, Borinski, East, Hansen, Hooper, Kliethermes, Larkin, Michaelis, Noble, Rasmussen, Robertson, Schaff, Schultz, Schulz, Scuderi, Stigall, Thurston, Trask, Wheeler, Winston, Wyrick, Zanin)

In these proceedings, the Division's jurisdiction is limited to enforcement of the specific requirements of the Act and Rules. The Division considers all timely submitted comments in its review, but can address only the issues that directly relate to the specific requirements of an application as stated in the Act and Rules.

The Act and Rules do not specifically address issues of zoning and land use, impacts to visually appealing landscapes, tourism and impacts to the local economy, hours and/or days of operation, noise and sight pollution, and quality of life. Such issues are typically addressed at the local government level and not at the State government level. These issues should be addressed through the Montrose County permitting process.

According to Section 34-32.5-115(4)(d) C.R.S., the Board or Office may deny an application if the proposed operation is contrary to the laws or regulations of Colorado or the United States, including but not limited to all federal, state, and local permits, licenses, and approvals, as applicable to the specific operation. On March 1, 2013, and April 22, 2013, the Division provided notice of the permit application to Montrose County. Montrose County has not indicated any conflict with local zoning, local regulations or the Master Plan for the proposed mine operation.

- 2. Concerns regarding traffic and traffic safety. Requests for acceleration and deceleration lanes at the intersection of County Road T and Highway 550. Concerns regarding road impacts to County Road T and Highway 550. Requests for the Applicant to construct a new access road on private lands to relieve traffic and impacts on County Road T. (Bartlett, Berg, Borinski, East, Hansen, Hooper, Kliethermes, Larkin, Michaelis, Noble, Rasmussen, Robertson, Schultz, Schulz, Scuderi, Stigall, Thurston, Trask, Wheeler, Winston, Wyrick)***

The Act and Rules do not specifically address traffic, traffic safety and road impacts for roads located off-site of a mining operation. Such issues are under the jurisdiction of Montrose County and the Colorado Department of Transportation. These issues should be addressed through the permitting processes of Montrose County and Colorado Department of Transportation.

The Applicant has affirmatively stated that a Special Use Permit, through Montrose County, and an Access Permit, through the Colorado Department of Transportation, is being pursued.

As noted previously, in response to issues raised by Montrose County and the public regarding the substandard condition of County Road T, the Applicant amended the application to incorporate a new access road to be located on private lands, which will alleviate mine traffic and impact to County Road T.

3. Concerns regarding the Division's permit being approved prior to the issuance of the access permit from the Colorado Department of Transportation. Concerns regarding conflicting descriptions provided to various agencies regarding the same operation. (Bartlett, Wheeler)

According to Exhibit M of the application the Applicant must attain approval from the following agencies for the proposed operation:

- Montrose County Special Use Permit
- NPDES permit from the Water Quality Control Division (WQCD) of the Colorado Department of Public Health and Environment, addressing water quality issues resulting from discharge of process water and storm water to the environment
- APEN permit from the Air Pollution Control Division of the Colorado Department of Public Health and Environment, addressing air pollution issues
- Division of Water Resources of the Office of the State Engineer, regarding water rights issues
- Spill Prevention Control and Countermeasure Plan, required through WQCD
- Access Permit from the Colorado Department of Transportation for access to Highway 550 from County Road T

The Act and Rules do not require the attainment of all other permits prior to the approval of the Division's reclamation permit. Pursuant to Rules 1.4.9 and 1.4.13(1), the Office was mandated to render a recommendation on the application on July 19, 2013, and did so in accordance with the Act and Rules.

4. Concerns regarding the concentration of mining operations and the cumulative impacts of multiple mine operations located in close proximity to one another. (Bartlett, East, Kliethermes, Noble, Rasmussen, Thurston, Schaff, Schultz, Schulz, Scuderi, Stigall, Wheeler, Winston)

The Act and Rules do not prohibit the concentration of mining operations and their cumulative impacts. Conversely, the Act and Rules anticipate mining operations will locate where ever minable resources exist. The Act and Rules provide reclamation requirements to ensure affected lands are reclaimed to a beneficial use. The Act and Rules provide performance standards and environmental protection requirements, which apply throughout the life of mine. Pursuant to Rule 1.4.1(10), each application is reviewed, and ultimately approved or

denied, based on the Applicant's ability to demonstrate the application meets the requirements of the Act and Rules.

5. *Concerns regarding the size of the operation and extended life of mine. Concerns regarding the extent of disturbance generated over the life of mine will render the site not reclaimable. (Bartlett, Berg, Borinski, East, Kliethermes, Michaelis, Noble, Schultz, Schulz, Scuderi, Thurston, Wheeler)*

The application proposes a phased mine plan with contemporaneous reclamation whereby the un-reclaimed disturbance is limited to approximately 20 acres at any given time. The approximate 20-acre commitment is an enforceable condition of the permit. Pursuant to Rule 1.1(22), any permitted operation may continue indefinitely as long as minable reserves remain and the operation is in compliance with the permit conditions and the Act and Rules.

The Office is tasked with conducting routine periodic inspections of all permitted operations to ensure compliance with the permit conditions, the requirements of the Act and Rules, and to maintain the amount of financial warranty in accordance with current reclamation costs. The purpose of the financial warranty is to ensure the Office holds sufficient funds to reclaim the site in the event of permit revocation and forfeiture.

Based on the proposed mining and reclamation plans and the applicable requirements of the Act and Rules, the Office has calculated the initial cost of reclamation at \$99,409.04. The Applicant has agreed to provide financial warranty in the amount required by the Office.

6. *Concerns regarding the economic viability of the proposed operation. The Applicant has inappropriately used a 2006 geotechnical study, conducted to investigate the viability of the property for residential development, to substantiate an unproven gravel resource. The development of the State's natural resources must occur in a responsible manner. (Bartlett, Bernhardt, Brandt, East, Thurston, Wheeler)*

The Act and Rules do not require an Applicant to demonstrate the economic viability of a proposed operation. Rather, the Act and Rules require an Applicant to demonstrate how the proposed operation will satisfy the applicable performance standards, environmental protection requirements and reclamation requirements for the operation, and require sufficient financial and performance warranties to ensure affected lands are reclaimed to a beneficial use, in the event of default by the permit holder. The economic viability of the proposed operation is a risk accepted by the Applicant and not by the Division or the general public.

7. *Concerns regarding the consumption of water during drought conditions. Concerns regarding possible injury to water rights and compliance with water laws. (Bartlett, East, Larkin, Rasmussen, Thurston, Wheeler)*

Pursuant to Rule 3.1.6(1)(a), the application must demonstrate compliance with applicable Colorado water laws and regulations governing injury to existing water rights. Colorado water laws and regulations governing injury to existing water rights are enforced by the Division of Water Resources of the Office of the State Engineer. On March 1, 2013, and April 22, 2013, the Office provided notice of the permit application to the Division of Water Resources. The Division of Water Resources has not indicated any conflict with existing Colorado water laws for the proposed mine operation. On July 19, 2013, the Office determined the application satisfied the requirements of Rule 3.1.6(1)(a).

8. Concerns regarding an error in the public notice posted on site. Concerns regarding the sign being posted in an unacceptable manner. Concerns regarding the time period between the filing of the application with the Division and the commencement of the newspaper publications informing the general public of the application. (Wheeler)

The Applicant corrected the typographical error immediately upon being informed of the error. The Applicant provided the Division with an affidavit of the posting of the corrected sign, in accordance with Rule 1.6.2(1)(b). A correct sign was posted a second time with the filing of the amended application. The Division determined the Applicant had complied with the requirements of Rule 1.6.2(1)(b).

Pursuant to Rule 1.6.2(1)(d), within ten days of filing the application with the Division the Applicant is required to publish a notice in a newspaper of general circulation in the locality of the proposed operation. As noted previously, there were two filings for the application. The first filing occurred on February 26, 2013, and the associated newspaper publications commenced on March 13, 2013; on the 15th day after filing. The second filing, for the amended application, occurred on April 22, 2013, and the associated newspaper publications commenced on May 15, 2013; on the 23rd day after filing.

The delayed newspaper publications resulted in a public comment period longer than provided under Rules 1.6.2(1)(d), 1.6.5(1), and 1.7.1(2)(a). The public comment period for a typical 112c application is approximately 45 days. However, due to the second filing and the delayed newspaper publications, the public comment period for the Uncompahgre Pit remained open for 120 days. The Division determined the public was not harmed, but rather benefited, by the delayed commencement of the newspaper publications. The Division determined the Applicant had complied with the intent of the public notice requirements of the Act and Rules, although not in strict accordance with the chronological sequence provided therein.

9. Concerns regarding dust and air pollution resulting from truck traffic, excavation activity, rock crushing, material stockpiling, and the production of asphalt and concrete products. Concerns for wind erosion and resulting dust from topsoil stockpiles, which may not have a protective vegetative cover for one year. (Bartlett, Berg, Borinski, East, Hansen, Hooper, Kliethermes, Noble, Rasmussen, Schaff, Scuderi, Schultz, Stigall, Thurston, Trask, Wheeler, Winston, Wyrick, Zanin)

The Act and Rules do not specifically address air quality issues. Such issues are under the jurisdiction of Montrose County and the Air Pollution Control Division of the Colorado Department of Public Health and Environment. These issues should be addressed through the permitting process of Montrose County and the Air Pollution Control Division of the Colorado Department of Public Health and Environment.

The Applicant has affirmatively stated that an APEN permit from the Air Pollution Control Division of the Colorado Department of Public Health and Environment, addressing air pollution issues, is being pursued.

The Act and Rules do not authorize the Division to regulate dust or air pollution issues. However, the protection and preservation of stockpiled topsoil is addressed under the performance standards of Rule 3.1.9. Pursuant to Rule 3.1.9(1), where it is necessary to remove overburden in order to expose the mineable materials, topsoil shall be removed and segregated from other spoil. If such topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, vegetative cover of other means shall be employed so that the topsoil is protected from erosion, remains free of any contamination by toxic or acid-forming material, and is in a usable condition for reclamation.

The Division has determined one year to be an appropriate time frame for the establishment of a protective vegetative cover for stockpiled topsoil, and requires the same for all mining operations throughout Colorado.

10. Concerns regarding discharge permits for process water and storm water. Concerns regarding the proposed sediment ponds leaking and contaminating the ground water aquifer. Concerns regarding water pollution and adverse impacts to the water quality of surface and ground water resources. (Bartlett, Kliethermes, Scuderi, Wheeler)

Pursuant to Rule 3.1.6(1)(b), the application must demonstrate compliance with applicable federal and Colorado water quality laws and regulations, including statewide water quality standards and site-specific classifications and standards adopted by the Water Quality Control Commission.

The Applicant has affirmatively stated that an NPDES permit from the Water Quality Control Division of the Colorado Department of Public Health and Environment, addressing water quality issues resulting from discharge of process water and storm water, is being pursued. Therefore, the Office determined the application to have demonstrated compliance with the requirements of Rule 3.1.6(1)(b).

The application indicates depth to ground water for the office and shop area at 5.5 feet, and depth to ground water for the excavation and processing area at greater than 200 feet. The

ground water elevation data was procured from a 2006 geotechnical evaluation of the property, which included the installation and monitoring of 20 piezometers on the property.

A 10,000 gallon diesel fuel tank will be located at the shop area. The 10,000 gallon fuel tank will be located within a spill containment structure sized at 110% capacity of the fuel storage tank. The spill containment structure will be constructed from cemented concrete block and lined with a geosynthetic membrane to ensure containment. The design engineer has specified the geosynthetic membrane to be a 20 mil High Density Polyethylene (HDPE). HDPE is resistant to ultraviolet radiation, is able to withstand high hydraulic head, and is appropriate for the intended purpose. The Division determined the design to be appropriately protective of surface and ground water resources for the areas surrounding the fuel tank and demonstrated compliance with the performance standards of Rules 3.1.5(11) and 3.1.6.

A 3,000 gallon diesel fuel tank will be located at the excavation and processing area. The 3,000 gallon tank will be double-walled and will be located within a spill containment structure sized at 110% capacity of the fuel storage tank. The 3,000 gallon tank will be located within the pit area, which will exhibit internal drainage and ensure the containment of spilt fluids being otherwise transported off-site by surface run off. The Division determined the design to be appropriately protective of surface and ground water resources for the areas surrounding the fuel tank and demonstrated compliance with the performance standards of Rules 3.1.5(11) and 3.1.6.

- Rule 3.1.5(11), no unauthorized release of pollutants to ground water shall occur from any materials mined, handled or disposed of within the permit area
- Rule 3.1.6, disturbances to the prevailing hydrologic balance of the affected land and to the surrounding area and to the quantity or quality of water in surface and ground water systems both during and after the mining operation and during reclamation shall be minimized.

The Applicant has affirmatively stated a Spill Prevention Control and Countermeasure Plan will be posted at the mine office and the employees will be trained to take appropriate steps for inspections of facilities and rapid response in case of a spill. The Division determined the application demonstrated compliance with the performance standards of Rule 3.1.13, regarding protocol and procedures whereby spills of any toxic or hazardous substances, including spills of petroleum products, will be reported to the Office, as well as to any Division of the Colorado Department of Public Health and Environment, the National Response Center, the Colorado Emergency Planning Commission, local Emergency Planning Committee, or the State Oil Inspector.

11. Concerns regarding potential impacts on wildlife, endangered species, including the Gunnison sage grouse. The Division should consult the US Fish and Wildlife Service. (Bartlett, Berg, Bernhardt, Borinski, Colorado Parks and Wildlife, East, Kliethermes, Larkin, Michaelis, Rasmussen, Robertson, Scuderi, Thurston, Trask, Wheeler, Winston, Zanin)

On March 1, 2013, and on April 22, 2013, the Division provided notice of the application to the Colorado Parks and Wildlife. On April 22, 2013, the Division provided notice of the application to the US Fish and Wildlife Service.

The application materials include documents and comments from both agencies. Neither agency indicated the proposed operation was in conflict with any federal or state law. Many of the recommendations from the wildlife agency(s) have been incorporated into the application materials. The Office determined the application satisfied the requirements of Rules 3.1.8 and 6.4.8, regarding the protection of wildlife.

12. Concerns regarding man-made structures located within 200 feet of the affected land boundary. (Wheeler)

Pursuant to Section 34-32.5-115(4)(e) C.R.S., the Board or Office may deny an application if the proposed operation will adversely affect the stability of any significant, valuable, and permanent man-made structures located within 200 feet of the affected land; except that the permit shall not be denied on this basis where there is an agreement between the Operator and the persons having an interest in the structure that damage to the structure is to be compensated for by the Operator, or where such an agreement cannot be reached, the Applicant provides an appropriate engineering evaluation that demonstrates such structures shall not be damaged by the proposed operation.

The application identified numerous permanent and valuable man-made structures located within 200 feet of the affected land boundary. The application identified 13 structure owners. The Office required the Applicant to satisfy the requirements of Rule 6.4.19 for all structures located within 200 feet of the affected land.

Pursuant to Rule 6.4.19(a), the Applicant provided damage compensation agreements to all 13 structure owners. The proposed damage compensation agreements were accepted and executed by the Lazy K Bar Land & Cattle Company and the Ouray Ditch Company. The Applicant demonstrated that the damage compensation agreements had been attempted for all 13 structure owners but attained for only two. Pursuant to Rule 6.4.19(b), the Office was authorized to accept the engineering evaluation provided by the Applicant. The engineering evaluation was prepared and certified by a Colorado licensed professional engineer. The engineering evaluation demonstrated to the Office's satisfaction that no structure located within 200 feet of the affected lands would be damaged by the proposed operation.

Conclusion

Therefore, on July 19, 2013, the Office determined the application satisfied the requirements of Section 34-32.5-115(4) C.R.S., and issued its recommendation to approve the 112c application for the Uncompahgre Pit, File No. M-2013-007.