

sagebrush component and rangeland seed mix as recommended by the Colorado Division of Wildlife.

12. Routt County has the authority to close any county road at their discretion if such road surface is in poor condition and would be further damaged by additional use.

13. The permits/approval shall not be issued until all fees have been paid in full. Failure to pay fees may result in revocation of this permit. Permits/Approvals that require an ongoing review will be assessed an Annual Fee. Additional fees for mitigation monitoring will be charged on an hourly basis for staff time required to review and/or implement conditions of approval.

Specific Conditions:

14. Typical hours of operation shall be from 6:30 a.m. to 5:00 p.m., Monday through Friday. Any prolonged departure from the typical hours must be administratively reviewed and approved by the Planning Director.

15. The Operator shall submit an annual report to the Planning Department that details total materials hauled and remaining disposal capacity.

16. Disturbed acreage is defined as all areas not covered by water, pavement, or substantially noxious weed free vegetation. Reclamation shall be conducted according to approved plans including grading, topsoiling, and seeding.

17. All internal haul roads shall be watered or chemically stabilized to minimize dust. Watering operations shall be increased immediately in response to periods of high wind. The operator shall take all appropriate actions to mitigate and control dust from all sources. The Routt County Environmental Health Director or the Planning Administrator may require temporary closure of facility if dust control measures are not effective.

18. Prior to commencement of operations, the haul road and County Road 27 crossing shall have adequate signage and safety lighting as approved by the Road and Bridge Director.

19. This site is specifically for the disposal of ash, associated emission control byproducts and other solid waste approved for disposal at the facility by the CDPHE. It is not for public use but for the exclusive use of Xcel Energy and/or its subsidiaries.

20. All required or necessary fencing will be put in place as part of the project completion and any reclaimed areas grazed early on in the reclamation process will be fenced according to the Colorado Division of Wildlife's specifications.

Commissioner Monger seconded; the motion carried 3-0.

EN RE: PEABODY SAGE CREEK MINING, LLC (PP2011-007)

PRE-APPLICATION CONFERENCE TO EXPAND THE RED ROCK GRAVEL PIT

Chad Phillips and Rebecca Bessey, Planning; Scott Cowman, Mike Ludlow, and Jay James, Peabody Sage Creek Coal, and Tom Ross, Steamboat Today, were present.

Commissioner Mitsch Bush stated that no decisions were made at a pre-application hearing; only suggestions as to additional information and direction would be provided by the Board.

Ms. Bessey said that a pre-application conference was held with the Planning Commission on March 17, 2011 at which the petitioners provided a PowerPoint presentation that they would present this day to the Board. At that meeting, the Planning Commission was concerned about the landscaping and reclamation plans and suggested that additional information, including details as to the phasing timeframe, be provided as the application went forward. Questions as to the County's use of the pit and the way in which operations would occur had been posed by Planning Commissioners, and the recommendation was that more clarification on the County's use of the pit was needed in the actual application.

Mr. Cowman presented a PowerPoint presentation for continued operation and a proposed future expansion of an existing gravel extraction operation at the Red Rock Gravel Pit located southwest of Hayden near the Sage Creek permit area. He noted that the County Road and Bridge Department had previously operated the pit and had transferred the operation of the pit to Sage Creek. The purpose of the operation was to provide pit-run road base material for road development associated with Sage Creek Mine and to continue supplying the Road and Bridge Department with road material that Road and Bridge would crush and screen for its annual road repair use and leave 25% for Peabody Sage Creek mine use. The pit would primarily be a truck/shovel/dozer operation that would extract rock with dozers and backhoes; excavated materials would be loaded into road-legal haul trucks with a front-end loader. Some extracted material might be crushed and stockpiled. Other permits required for the operation included a CDRMS Operation Reclamation Permit and a Department of Health and Environment Air and Stormwater Discharge Permit. The anticipated start time would be spring or summer of 2011; termination would be in 2021. The material to be extracted was a layered sandstone overlying a thin coal seam outcrop that had been exposed to oxygen and burned millennia ago. Heat produced from this exothermic reaction had altered the sandstone to create red rock, or scoria. The thickness varied in correspondence to the slope, thickness of overburden, and distance above the coal outcrop. The permit area was 41.8 acres; the mining area was 23.3 acres; reserve was estimated to be 300,000 tons. The operation would occur in phases: Phase 1 was occurring presently with approximately half of the 8.3 acres already mined and would last between two and five years; Phase II would involve approximately 8.6 acres and last between three and five years; Phase III would mine 6.5 acres and last between three and five years. He indicated on a map the areas to be mined associated with each phase and noted the location of the nearest residence across from the pit on County Road 53. He stated that the property owner had only expressed concern about dust created from haul trucks and wanted assurance that the road would be watered when hauls occurred. He explained that approximately one mile of gravel road existed from the south end of the permit boundary to the pavement and stated that water and magnesium chloride would be used on that

portion of the road. Water would also be used at the pit for dust mitigation. Fences and gates would be installed to prevent public access to the pit. Sage Creek would comply with the Division of Wildlife (DOW) fencing requirements. Mr. Cowman stated that the number of haul trucks would vary significantly from year-to-year. Approximately 900 loads would be hauled to the Peabody Sage Creek Mine in 2011 to construct a 14.5-mile road, after which truck traffic would be considerably lessened. Traffic volume on the County Road was unknown at present. He indicated the haul route on a map from County Road 53 to 27A and noted that Twentymile Coal hauled to the Hayden Station on County Road 27 and from County Road 27 to Highway 40 for the Stoker coal haul. He stated that Sage Creek would reclaim each section of the permitted area as a phase was completed to keep the active disturbed acreage under ten acres and thereby avoid conservation easements requirements. He said that the project would not alter the landscape; it was simply a temporary disturbance.

Commissioner Monger asked whether any blasting would occur. Mr. Cowman said that no blasting would take place; it was strictly a track-hoe operation. Commissioner Monger asked about the steepness of the slope. Mr. James replied that the material would be removed from the exposed hillside approximately 500 feet into the slope. Commissioner Monger asked about fencing. Mr. Ludlow said that fencing had been installed by the County around the perimeter of the County's boundary, but fencing would be installed before mining began. He stated that the DOW had written a letter that specified that wildlife-friendly fencing should be installed. Commissioner Monger asked about reclamation and road boundaries. Mr. Ludlow said that gates would be installed to prohibit access. Mr. James added that the roadside of the operation would continue to be fenced after mining had been completed. Commissioner Monger asked whether a berm could be constructed to protect the road from falling rock. Mr. James said that the banking face would be stable, like the sandstone cliffs up and down the valley. He explained that wherever a level bench could be created, topsoil would be added and seeded. He said that the cliff face would be set back approximately 200 feet from the County Road. Commissioner Monger asked about hours of operation. Mr. James said the pit would operate during daylight hours in the summertime. Sage Creek would work with the adjacent landowners in regard to evening hours. Mr. Ludlow said that a 6:00 a.m. to 6:00 p.m. or 7:00 a.m. to 7:00 p.m. day might occur during short-term heavy construction periods.

Commissioner Mitsch Bush asked about hauling. Mr. Ludlow said that the haul to Sage Creek was 14.5 miles. Commissioner Mitsch Bush asked about the road surface and steepness. Mr. Ludlow said that the County road was gravel and was a 5-6% grade; the tie-cross road was not paved. He said that Sage Creek was working with Road and Bridge on a roundabout design. In regard to dust control, Mr. James said that the haul road would be watered and magnesium chloride would be applied.

Commissioner Mitsch Bush asked about the reclamation plan. Mr. Cowman said that the operation was associated with Seneca Coal so the reclamation practices were well refined and had been utilized for decades. Reclamation would occur based on the

DOW's recommendations. He said that the topography was cliffs that had limited topsoil. The cliffs would be further exposed; no productive pastureland would be created as a result of reclamation. Mr. James added that the overburden would be saved then spread atop the cliffs and topsoil added. The amount of overburden would be unknown until removal of it began. Commissioner Mitsch Bush recommended that the plan contain details such as the locations on which topsoil would be applied and the types of seed mixes that would be used.

Commissioner Monger confirmed that no commercial sales would occur at the pit. Mr. James noted that that was stipulated in the agreement with the County.

Commissioner Monger asked about the volume of the operation. Mr. Cowman said that approximately 900 loads would be hauled in 2011.

Commissioner Monger asked whether a referral letter had been sent to the Road and Bridge Department. Ms. Bessey said that one had. Commissioner Monger thought that some type of notification regarding trucks hauling would be beneficial since travelers were unused to truck traffic on that section of road. Mr. Phillips said that residences along the haul road could be notified.

In regard to the comment regarding conservation mitigation made by Mr. Cowman during his presentation, Commissioner Stahoviak cited Section 9.4.1.D, Standards for Mining Operations. Mr. Cowman had stated that if less than ten acres were disturbed at any one time, no conservation mitigation was necessary. She said that the regulations stated that, "Any new surface mine or expansion of the permit boundary of any existing surface mine that is permitted for a time period of five years or greater and results in a new cumulative surface disturbance greater than ten acres shall be required to enter into a development agreement with the County to provide conservation mitigation." She explained that even though ongoing reclamation was planned, the total disturbed acreage would exceed ten acres. Thus, conservation mitigation was required. Mr. Cowman asked whether only permitting Phase I would negate that requirement. Commissioner Monger said that the Camilletti and Connell pits had already asked about that issue and the Board had advised both operations that they would have to mitigate both phases of their operations. He said that a conservation easement was one mitigation option; another was to enter into a development agreement with the County. Mr. Cowman said that the land was part of a large reserve that had the potential to be developed for coal extraction, both through surface reserves and underground reserves. Also, he stated that the outcrops would be removed with the scoria excavation operation, and the land would be in better condition than it was prior to any gravel extraction. Thus, given the situation and the resultant topography, he could not understand why conservation mitigation was being required. Commissioner Monger said that consistency in applying the regulations for all gravel operations was essential. Commissioner Mitsch Bush noted that the conservation mitigation had two options that the applicant could consider. Mr. Cowman said that he would review the options and resolve the situation with Planning prior to submitting a completed application. Mr. Ludlow noted that one of the options was to preserve land

from future residential or commercial development. He asked whether that excluded mining. Commissioner Monger said that the other option was to provide a public benefit, which might be more amenable in the present situation.

Ms. Bessey showed photographs of the existing access and mined area.

Commissioner Monger mentioned fencing. Mr. Ludlow pointed out that the operation would have a single access point, but that access would move as each phase of the operation moved from north-to-south.

Mr. Phillips asked how close to natural the slope would look after excavation and reclamation had been completed. Mr. Ludlow said that the slopes would be semi-natural but there would be a scar that would match the natural sandstone cliffs in the area. The slope would not be a long, denuded slope; rather it would match the existing sloping hillsides. Mr. Phillips suggested that some after-mining simulations of the topography be included in the full application, particularly since that was a major concern of Planning Commission members.

Commissioner Monger asked about the road surface. Mr. Ludlow said that the scoria was good for a limited-access road's sub-base; the road would probably be topped with gravel from the Mesa Gravel Pit.

Commissioner Monger thought that the proposal was a good use of the pit.

EN RE: LEGAL / ERICK KNAUS

MEMORANDUM OF AGREEMENT FOR COUNTY ROAD 14 PROJECT

Mr. Knaus reviewed a Memorandum of Agreement pertaining to the acquisition of a right-of-way related to the County Road 14, Phase 4, project. He noted that the agreement before the Board was one of the final agreements to be negotiated. He asked that the Board authorize the Chair to sign the agreement when the final Memorandum had been received and signed by the landowners.

MOTION

Commissioner Monger moved to approve and authorize the Chair to sign the Memorandum of Agreement with Erik Steinberg and Katherine Billington Steinberg for the purchase of right-of-way on Parcel Number 11, for the County Road 14, Phase 4, project, in the amount of \$28,445.00, contingent on the Agreement having no substantial changes from the one before the Board this day.

Commissioner Stahoviak seconded; the motion carried 3-0.