

June 22, 2022

Sent via email to: agoldich@co.routt.co.us and via Routt County Portal

Alan Goldich, Planner II
Routt County Planning Department
136 6th St., Suite 200
Steamboat Springs, CO 80487

RE: Applicant's Response to County's Review Letter dated 6/1/2022

Dear Alan:

Tara Sanders, the Applicant, hereby submits the following responses to the County's review letter dated June 1, 2022. Pursuant to the June 4, 2021 Notice of Violation ("NOV"), Applicant was "to obtain a Special Use Permit for your operation." Accordingly, as soon as Applicant was made aware of the need to obtain permitting (both state and county), Applicant ceased all mining operations and has since diligently pursued obtaining all required permitting including the Section 110(c) permit from the Colorado Division of Reclamation Mining and Safety ("DRMS") as well as related permits and approvals relative to air quality and stormwater. Applicant has gone to great trouble and expense throughout this process. We sincerely hope that Routt County Planning Department ("Planning") does not deny a very remedy it proposed in the NOV.

Please note that, even if a county permit is not issued, DRMS requires that the site be reclaimed. Therefore, while extraction and hauling of materials would not occur in that instance, essentially the same earth-moving operations would be required to reclaim the existing site as will be needed to extract resources pursuant to the Applicant's SUP application ("Application"). Furthermore, if the site is reclaimed, valuable resources needed in Routt County, and for which there is much demand, will then be unavailable for extraction or use. Accordingly, we urge you to re-refer to the Application and reconsider your proposed denial.

The County's items to be addressed are listed below in bold, italicized font. Applicant's responses are provided in blue below each item. We believe nearly every issue raised has already been addressed in the Application and supporting documentation. Please carefully review the following and refer back to the Application and all other submitted documentation prior to further action.

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Holsinger Law, LLC

Planning Review (Reviewed By: Alan Goldich)

1. Will there be a water truck on-site? If not, how will you respond to high wind periods when the pit and access road will need to be watered to keep the dust down?

In its May 6, 2022 response to questions posed by Planning and Road and Bridge, Applicant previously stated that: “A water truck will be used to manage dust at the site.” The water truck may or may not be kept at the site. During high dust generating periods, the Applicant will ensure the road is kept watered to keep the dust down.

The Applicant described its dust suppression plan in ¶(f) to Exhibit 4 of the Application, “Detailed description of subject site and proposed use” (“SUP Exhibit 4”): “As necessary, Applicant will purchase water for dust suppression and other nonsubstantive industrial uses on the site. Applicant estimates that it may use approximately 2,000 gallons of water per operating day for these purposes.” This plan applies to both the access road and the Extraction Site.

In addition, the access road has a gravel surface which will be maintained to decrease blowing dust. As described in submitted documentation, topsoil stockpiles will be seeded as necessary, which will decrease both erosion and blowing dust.

2. Your response does not address the use of "jake brakes" on the access road. Please indicate how you intend to mitigate noise associated with their use. You also mention that pit walls will be on the north and west side of the pit to help mitigate noise. The mining plan does not show walls in these location. It is questionable whether there is enough room to build these walls and maintain a looped vehicular flow pattern. Please provide specifics on locations of the walls, the size of them, and where they will be located in relation to the looped vehicular pattern.

The Applicant does not intend to use “jake” brakes in any location. Therefore no noise mitigation for “jake” brakes is necessary.

In addition, as described in the Application, the Extraction Site consists of a natural depression. As mining operations continue, the pit walls on the west, south and east will form and grow. The particular locations and dimensions of the features of the Extraction Site, including the outline of the walls (formed by the slopes to be mined out) have already been detailed on the Mining Plan Maps submitted with the Application (for both Phase 1 and 2). Furthermore, as previously indicated, product stockpiles will be strategically placed so as to be used as temporary sound barriers along the northern boundary of the extraction site. This will initially be a seasonal occurrence as stockpiling will occur as extraction is conducted early in each season and then, the stockpiles will be removed as the product is hauled away. As the pit

expands, some stockpiles may be left until near the end of mining to act as both a visual and trespass screen as well as a sound barrier.

Public Works Review (Reviewed By: Mike Mordi)

1. See attached letter.

Applicant's Response to the Public Works Review is provided in a separate letter appended hereto.

Colorado Parks and Wildlife (Reviewed By: Kris Middledorf)

1. See attached letter.

Applicant's Response to the CPW letter is provided in a separate letter appended hereto.

Staff does not believe that this use is appropriate on this site. Findings of fact for denial will be included in the staff report. Those findings are as follows:

***1. The proposal does not comply with the following policies of the Routt County Master Plan:
a. 3.3.A – Growth Center proximity***

→ Section §3.3.A of the Master Plan states:

New residential, commercial and industrial developments and uses should occur within the vicinity of designated growth centers and in compliance with the adopted comprehensive plans of those areas.

The proposed activity which is the subject of the Application (i.e., resource extraction) is not a residential, commercial, or industrial development or use. The site will be a private gravel pit, from which the Applicant will mine materials to sell on demand. It is important to note that the gravel pit has been in existence and unpermitted on this land for decades. In response to the NOV, Applicant merely seeks to follow the rules and permit this gravel pit so some economic value can be realized and needed resources can be provided to the community. The gravel pit existed long before our client owned the property. The proposed activity falls within the uses allowed for properties zoned for Agriculture and Forestry. *See* Zoning Regulations, §4.4, §4-8; *see also* Applicant's Answer to Items b. 4.3.B and c. 4.3.C, below. This concern was also addressed in the Applicant's May 6, 2022 Response.

In addition, based on satellite imaging, the extraction site has been in existence--and growing since at least 2005--well before the Applicant acquired the property in 2020. Applicant is merely obtaining permitting for an existing site in accordance with local and state directives.

Therefore, the Application is in compliance with §3.3.A of the Master Plan.

b. 4.3.B – Altering historical use

c. 4.3.C – Historical ag use

Applicant hereby addresses both of the above points together.

→ Section 4.3.B of the Master Plan states: “*Use Permits that significantly alter the historical use, intensity of use, or character of an area may be deemed incompatible with this plan.*”

→ Section 4.3.C of the Master Plan states: “*Use Permits for projects located on traditional ranch lands may be approved when the petitioner has demonstrated that the historic agricultural operation and stewardship of the land will be maintained or enhanced.*”

The historical use of the property has been isolated to grazing livestock on portions of the property, as described in SUP Exhibit 4, ¶ a(3): “Parts of the subject property are occasionally used for agricultural purposes.” Portions of the property will continue to be used for grazing both during extraction operations, as well as during and after reclamation of the Extraction Site. The remainder of the property consists of rangeland. Furthermore, given the on-and off use of the Extraction Site since at least 2005, resource extraction is not a new activity on the property.

The property is zoned AF (Agriculture and Forestry). Pursuant to the Routt County Zoning Regulations (Adopted March 7, 1972, Amended and Restated on September 27, 2011), this zoning use is described as:

This Zone District is created for the purpose of providing the productive agricultural and forested lands of Routt County and preserving the visual, productive, and cultural values associated with agriculture and agricultural lifestyles in rural, unincorporated areas of Routt County. The Zone District also provides for other uses including resource extraction, most requiring permits.

Zoning Regulations, §4.4. *See also* Zoning Regulations at §4-8 (Emphasis added).

Pursuant to the zoning regulations, resource extraction is a use permitted for the property. 1) The limited agricultural use of the property will continue in the same manner it has historically and will not be altered, and 2) the historic agricultural operation and stewardship of the land will be maintained or enhanced. The historical use, intensity of use, or character of the area will not be affected.

Therefore, the Application is in compliance with §§ 4.3.B and 4.3.C of the Master Plan.

d. 5.3.B – Degradation of environment

→ Section 5.3.B. of the Master Plan states:

While respecting private property rights, the County will not approve development applications or special use permits that would lead to the degradation of the environment without proper mitigation that would bring the proposal into compliance with the Master Plan, appropriate Sub-area Plans, Zoning Resolution, and Subdivision Regulations.

The DRMS mining and reclamation standards are rigorously protective of the environment. Applicant has described, in both the Applicant's DRMS and County applications, the extensive mitigation measures the Applicant will follow in accordance with the DRMS and County standards. The Applicant has also submitted to the County a Grading and Excavation Permit Application providing the Applicant's Storm Water Management Plan, and has also submitted an Air Pollutant Emission Notice (APEN) to the Colorado Department of Public Health and Environment. The Applicant has also submitted a Level 2 Traffic Impact Study, as revised. The Applicant has also provided the County with copies of the Applicant's DRMS permit application, which was approved by DRMS on January 31, 2022. All applicable mitigation standards will be followed during the proposed operations.

Therefore, the Application is in compliance with §5.3.B of the Master Plan.

e. 5.1.1 and 7.3.C – Significant safety concerns

→ Section 7.3.C of the Master Plan states: "*Routt County discourages mining that would cause significant health or safety problems to people.*"

The proposed activity poses no significant health or safety problems to people. The Applicant has described the safety standards and protocols it will employ and/or follow, in its Application, DRMS application, the Grading and Excavation Permit Application, and other responses to the County. Safety concerns were also addressed in the Applicant's May 6, 2022 Response.

Therefore, the Application is in compliance with §7.3.C of the Master Plan

f. 7.3.T – Sufficient separation distance from other mines

→ Section 7.3.T of the Master Plan states: “*Routt County encourages the separation and sufficient spacing of mining operations to prevent cumulative significant negative impacts to roads and to surrounding areas.*” The Zoning Regulations at §9.2(B) state: “*The proposed operation will be located a sufficient distance from other mining operations so as not to create cumulative impacts to roads, air and water quality, or other resources and amenities.*”

Based on the DRMS mine mapping function (map attached here to as Exhibit A), the nearest active mine (of any type) is over 6 miles to the north of the Extraction Site. Every other active mine in Routt County is located at an even further distance from the Extraction Site. Furthermore, as is also shown on Exhibit A, there are a number of active mines in Routt County in much closer proximity to each other. The Extraction Site is demonstrably separate from other mining operations.

Therefore, the Application is in compliance with §7.3.T of the Master Plan.

g. 7.3.Z – Land Use Compatibility

→ Section 7.3.Z of the Master Plan states:

Long term mining operations and associated uses should be located in areas where they do not greatly impact scenic vistas, where there are compatible agricultural and industrial uses, and where they are not in proximity to residential neighborhoods, recreational, or other incompatible uses. Areas with parcels of 35 acres and greater are not considered residential neighborhoods.

The Extraction Site is located in a natural depression and is not visible to the nearest residences or from County Road 129. In fact, the nearest residence to the gravel pit is owned and occupied by the Applicant herself. As discussed above, the property zoning of AF allows resource extraction. The use of the remainder of the property will be unaltered before, during, and after the proposed activities. In addition, the post-reclamation use of the Extraction Site, as described in the Applicant’s applications, will likewise be compatible with the surrounding uses. This concern was also addressed in the Applicant’s May 6, 2022 Response.

Therefore, the Application is in compliance with §7.3.Z of the Master Plan.

2. The proposal does not comply with the following standards of the Routt County Zoning Regulations:

a. 6.1.2 – Consistency with Master Plan

→ Section 6.1.2 of the Zoning Regulations states: *“The proposal shall be consistent with applicable Master Plans and sub-area plans.”*

As the Applicant has described hereinabove, the Application is in compliance with the Master Plan and therefore is in compliance with § 6.1.2 of the Zoning Regulations.

b. 6.1.7.I - Noise

→ Section 6.1.7.I of the Zoning Regulations states:

The proposal shall not create any significant negative impact in surrounding areas. Significant negative impacts are generally considered to be impacts that do not meet regulatory and/or generally accepted performance and environmental standards. If the Planning Director, Planning Commission or County Commissioners determine a proposed Land Use Change has the potential to create a significant negative impact in the surrounding area mitigation may be required, any such mitigation shall meet the Standards of Sections 6.4 through 6.13. If adequate mitigation cannot be accomplished, the use shall not be permitted. Issues that may be reviewed for potentially significant negative impacts include, but are not limited to: . . . Noise.

→ Section 9.2(D) of the Zoning Regulations states that resource extraction uses *“[s]hall be operated such that noise generated by the use does not exceed State of Colorado residential noise standards within 150 feet of any residence.”*

Pursuant to C.R.S. § 25-12-103: *“Sound levels of noise radiating from a property line at a distance of twenty-five feet or more therefrom in excess of the db(A) established for the following time periods and zones shall constitute prima facie evidence that such noise is a public nuisance...”* The sound levels for residential areas (agriculturally-zoned areas are not discussed in the statutes) are as follows: Between the hours of 7:00 a.m. to 7:00 p.m., sound levels shall not exceed 55 db(A); and between the hours of 7:00 p.m. to 7:00 a.m., sound levels shall not exceed 50 db(A).

As described in ¶1 of SUP Exhibit 4: *“Detailed description of subject site and proposed use”* to the Applicant’s SUP application, *“The nearest residences are approximately 1514 (separated from the Extraction Site by topography and County Road 129), 1541 (separated from the Extraction Site by topography), and 1632 feet (separated from the Extraction Site by topography) from the Extraction Site. The Applicant does not anticipate that noise mitigation measures will be necessary.”* The distance from the nearest residences, in addition to the

topography of the Extraction Site, will extensively minimize noise. The mining operations will not exceed State of Colorado residential noise standards within 150 feet of any residence.

In addition, the Applicant revised the hours of operation for mining, processing, and hauling as described in Applicant's May 6, 2022 Response: "The hours of operation will be from 8-4 from November through March and from 7-5 from April through October." These hours are intended to provide the maximum window when operations *may* be occurring, but are not intended to mean that mining operations will be constant and continuous during those hours.

Therefore, the Application is in compliance with §6.1.7.I of the Zoning Regulations.

c. 6.1.7.K, 6.13.B, and 9.2.A – Land Use Compatibility

→ Section 6.1.7.K of the Zoning Regulations states:

The proposal shall not create any significant negative impact in surrounding areas. Significant negative impacts are generally considered to be impacts that do not meet regulatory and/or generally accepted performance and environmental standards. If the Planning Director, Planning Commission or County Commissioners determine a proposed Land Use Change has the potential to create a significant negative impact in the surrounding area mitigation may be required, any such mitigation shall meet the Standards of Sections 6.4 through 6.13. If adequate mitigation cannot be accomplished, the use shall not be permitted. Issues that may be reviewed for potentially significant negative impacts include, but are not limited to: ...Land Use Compatibility.

As described hereinabove and in the Application, the DRMS permit and other supporting documentation submitted to the County, the impact of the mining operations will not have a significant negative impact on surrounding areas. Any other impacts, which will be within regulatory and/or generally accepted performance and environmental standards, will be mitigated by the Applicant as described in the Application, the DRMS permit and the supporting documentation. Any impacts resulting from the mining operations, which will also be within regulatory and/or generally accepted performance and environmental standards, will be primarily localized to the Extraction Site and will be mitigated by the Applicant throughout the mining and reclamation processes.

Therefore, the Application is in compliance with § 6.1.7.K of the Zoning Regulations.

→ Section 6.13.B of the Zoning Regulations states:

- A. Avoid recreation areas and residential areas.*
- B. Locate uses incompatible with residential or recreation and tourism uses a sufficient distance from such areas. Planning Commission and the Board of County Commissioners will determine sufficiency of distance.*
- C. Practice continued mitigation of noise, dust, and other environmental impacts.*
- D. Route haul truck traffic away from residential and recreation areas.*
- E. Limit traffic generation and/or provide customer shuttles.*

A) As described hereinabove and in other submitted documentation, the proposed operations will not be located in or near recreational or residential areas (*see* response to Item b. 6.1.7.I (Master Plan) – Noise, above, with regard to distance from the nearest residences). B) The use (resource extraction) is allowed for and is compatible with the AF zoning of the property and is therefore consistent with the uses of the surrounding properties. C) The Applicant has addressed mitigation of noise, dust, and other environmental aspects, as may be needed, in these responses and in other submitted documentation. D) Haul truck traffic (consisting of small dump trucks, as described in the Applicant’s May 6, 2022 Response, will not be routed through residential or recreational areas. E) The amount of traffic as described in Applicant’s revised TIS will not be excessive.

Therefore, the Application is in compliance with § 6.13.B of the Zoning Regulations.

→ Section 9.2.A of the Zoning Regulations states:

All Mining and accessory uses shall comply with the applicable Standards and Mitigation Techniques of Section 5 and Section 6 of these Zoning Regulations. In addition, all Mining and accessory uses shall comply with the following standards: A. Shall be compatible with surrounding agricultural, residential, and recreational land uses by selection of location and/or mitigation.

The Application was prepared to be in compliance with Routt County’s zoning regulations. Furthermore, as described herein, the proposed resource extraction operations are compatible with the surrounding agricultural land uses. The isolated location, and mitigation of impacts, further ensures the use is compatible with surrounding uses. This concern was also addressed in the Applicant’s May 6, 2022 Response.

Therefore, the Application is in compliance with § 9.2.A of the Zoning Regulations.

d. 6.10.J and 9.2.B – Sufficient separation distance from other mines

→ Section 6.10.J of the Zoning Regulations states: *“Place the operation a sufficient distance from residences, commercial areas, and recreation areas to minimize noise impacts to those areas.”*

The Applicant has addressed the distance of the Extraction Site from residences and recreational areas, hereinabove. No commercial areas are located near to the Extraction Site.

Therefore, the Application is in compliance with § 6.10.J of the Zoning Regulations

→ Section 9.2.B of the Zoning Regulations states: *“The proposed operation will be located a sufficient distance from other mining operations so as not to create cumulative impacts to roads, air and water quality, or other resources and amenities. The Planning Commission and the Board of Commissioners will determine sufficiency of distance.”*

See Applicant’s Response to Item f. 7.3.T (Master Plan) – Sufficient separation distance from other mines” As discussed and shown on Exhibit A, the nearest active mine (of any type) is over 6 miles to the north of the Extraction Site. Every other active mine in Routt County is located at an even further distance from the Extraction Site. Furthermore, as is also shown on Exhibit A, there are a number of active mines in Routt County in much closer proximity to each other than the Extraction Site is to any other mine. The Extraction Site is demonstrably separate from other mining operations. There will be no cumulative impacts to roads, air and water quality, or other resources and amenities.

Therefore, the Application is in compliance with § 9.2.B of the Zoning Regulations.

e. 6.10.P – Use of “jake” brakes

As stated above (*see* response to Planning Review, Item 2 re “jake” brakes), “jake” brakes will not be used.

Therefore, the Application is in compliance with § 6.10.P of the Zoning Regulations.

As you can see, the Applicant has endeavored to minimize and mitigate any environmental and health impacts associated with approval of this request through a series of actions including:

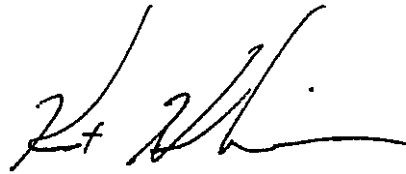
1. Seeking and receiving approval for a Mining and Reclamation Permit from DRMS, including posting of a financial warranty in the amount of \$39,125.00, which will ensure that the site is mined in an orderly manner and reclaimed to a beneficial use at the conclusion of mining.

2. Making application for an APEN from CDPHE which will ensure air quality standards are met during mining and reclamation.
3. Working with Routt County to make application for a conditional use permit and a grading and excavation permit which addresses a series of steps to properly minimize or mitigate impacts from the proposed activity including, preparing a traffic study which identified the best way to export materials off site, creating a stormwater management plan to address any potential off site sedimentation, committing to reasonable hours of operation, developing traffic flow plans, creating noise buffering with strategic development of the site and stockpiling of materials and commitments to not use “jake” brakes, and committing to utilizing water trucks to mitigate off-site dust impacts.

Through these steps, we believe any potential impacts have been appropriately minimized and/or mitigated and respectfully request that this application be approved as it has met the requirements of applying for a Conditional Use Permit. We are available to answer any questions and look forward to hearing from you.

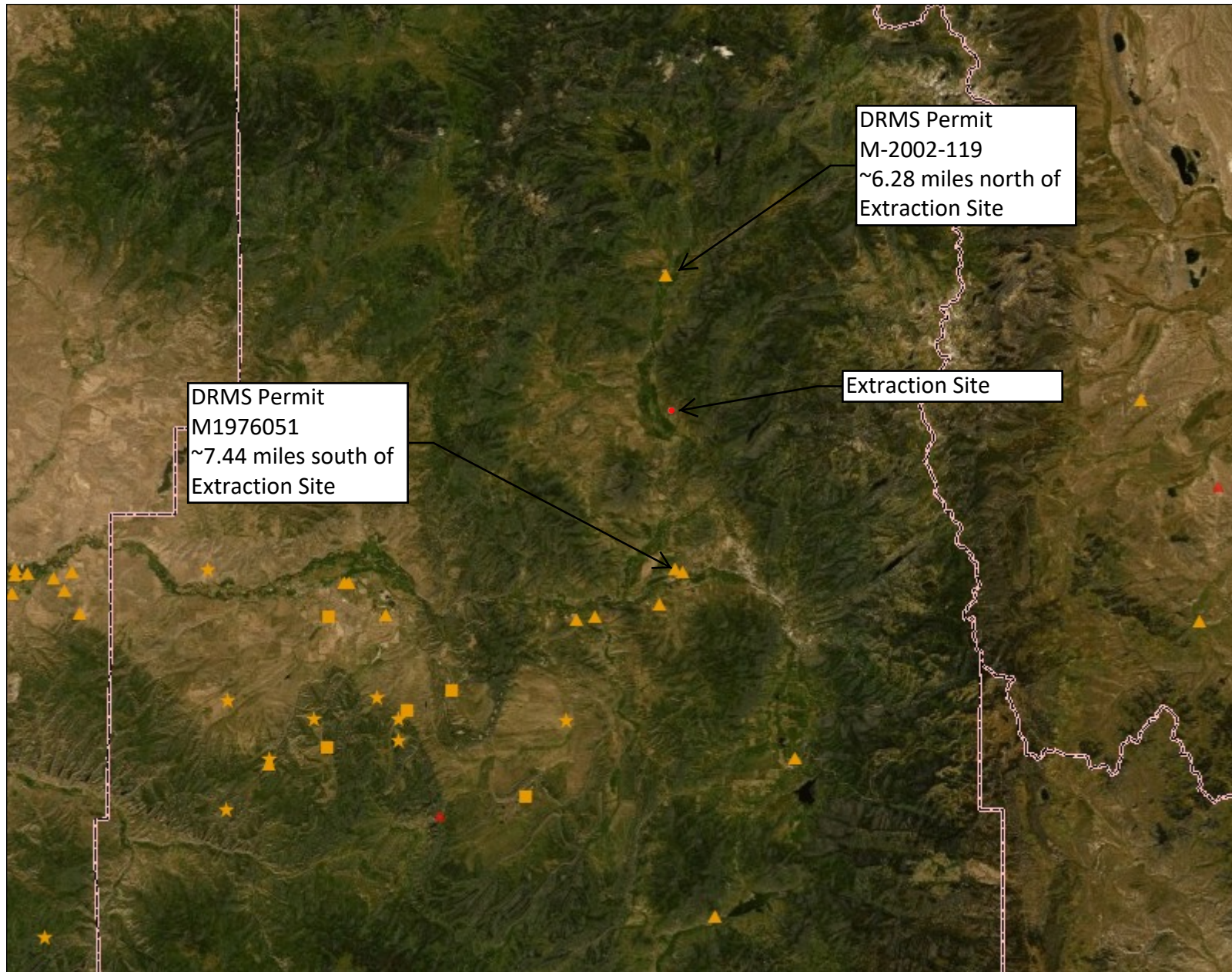
Sincerely,

HOLSINGER LAW, LLC

A handwritten signature in black ink, appearing to read 'K. Holsinger', with a stylized flourish at the end.

Kent Holsinger

cc: Tara Sanders
Tony Waldron



Legend

- ▲ Active Construction Permit
- Active Hardrock Permit
- Active Coal Permit
- ★ Active Coal Exploration Permit
- ▲ CO_AML_Mine_Fire_Location
- ▭ County
- ▭ State Border

Location



Notes

14.17 0 7.09 14.17 Miles

1: 449,028



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Date Prepared: 6/15/2022 11:45:38 AM

June 22, 2022

Sent via email to: agoldich@co.routt.co.us and via Routt County Portal

Alan Goldich, Planner II
Routt County Planning Department
136 6th St., Suite 200
Steamboat Springs, CO 80487

**RE: Applicant's Response to County's Review Letter dated 6/1/2022
Public Works Department Memorandum**

Dear Alan:

This letter is in response to the Routt County Public Works Department's ("PW") memorandum dated May 31, 2022, reviewing the Traffic Impact Study dated 3/1/2022 and revised 4/28/2022 ("Revised TIS"). PW's comments are provided in bold, italicized font. Applicant's responses to PW's memorandum are provided in blue font below PW's comments. Generally, Applicant believes the Revised TIS speaks for itself and requires little additional elaboration. Applicant believes nearly every issue raised has been addressed already in the Revised TIS and its responses to date.

1. Project Location and Description - Provide description of CR 129 in terms of surface material(s) and width(s), speed limit and County roadway classification.

Surface materials: Paved (asphalt concrete).

Width and speed limit: Provided on page 13 of the Revised TIS: "2-lane roadway with a posted speed limit of 45 mph."

County roadway classification: "1 – Main" per the Road Maintenance Classes map.¹

2. Trip Generation – The current Trip Generation is not consistent with Owner-provided data or typical calculation of Design Hourly Volume. The proposed aggregate operation is anticipated to produce 67,000 tons of aggregate annually. Using other regional gravel operation data, the percent sales by month is estimated in the following example tabulation. DHV is based on peak-season operation hours of 7 am to 5 pm (April through September). Trips are distributed equally through period of operations. [table omitted here] Using the peak seasonal months of May-September, assuming side or belly trailer trucks at 25 T/load, DHV is converted to PCE's (3) plus 50% of staff trips during DHV (mid-day) for DHV of 16, as an example.

¹ <https://www.co.routt.co.us/DocumentCenter/View/4873/Road-Maintenance-Level-Map?bidId=>

As stated in the Applicant's 5/6/2022 Response, Applicant will not be using side or belly trailer trucks, but will be using smaller, tandem axel trucks (i.e., dump trucks). The trip generation calculations provided in the Revised TIS are consistent with how the Applicant intends to use the Extraction Site.

3. Trip Assignment – Assigned trips must consider whole PCE vehicles in multiples of 3.

Applicant proposes a maximum of approximately 11am trips and 15pm trips during operations (see Revised TIS at 16). We are unsure we understand the request relative to PCEs in multiples of three. However, if that were applied, then Applicant's projection would be for approximately 12am trips.

4. Auxiliary Turn Lane Evaluation – Provide reassessment using above trip generation methodology plus background traffic for design year(s).


As stated in the Applicant's 5/6/2022 Response, Applicant will not be using side or belly trailer trucks, but will be using smaller, tandem axel trucks (i.e., dump trucks). The auxiliary turn lane evaluation provided in the Revised TIS confirms an auxiliary turn lane is unnecessary consistent with how the Applicant intends to use the Extraction Site.

5. Intersection Sight Distance - Provide reassessment using a WB-50 design vehicle and recommendation for appropriate safety measures.

As stated in the Applicant's 5/6/2022 Response, Applicant will not be using side or belly trailer trucks, but will be using smaller, tandem axel trucks (i.e., dump trucks). The sight distance calculations and safety recommendations provided in the Revised TIS are consistent with how the Applicant intends to use the Extraction Site.

Sincerely,

HOLSINGER LAW, LLC

A handwritten signature in black ink, appearing to read 'K. Holsinger', with a stylized flourish at the end.

Kent Holsinger

cc: Tara Sanders
Tony Waldron

June 22, 2022

Sent via email to: agoldich@co.routt.co.us and via Routt County Portal

Alan Goldich, Planner II
Routt County Planning Department
136 6th St., Suite 200
Steamboat Springs, CO 80487

**RE: Applicant's Response to County's Review Letter dated 6/1/2022
Colorado Parks and Wildlife Comments**

Dear Alan:

This letter is in response to the Colorado Parks and Wildlife ("CPW") letter dated May 20, 2022. CPW's comments are provided in bold, italicized font. Applicant's responses to CPW's letter are provided in blue font below CPW's comments.

Applicant notes that the questions and requested information for the County's SUP Application form ("Application") and the Division of Reclamation, Mining and Safety application form varies. Therefore, while the Applicant's responses to the two applications are not identical (in order to respond to the specific questions of each application form), the two applications are consistent with each other.

This mining effort was initially described to CPW by DRMS staff as a short-term property improvement initiative with reclamation occurring in as little as two years. DRMS issued the applicant their smallest permit, 110(C), which allows mining of up to 9.9 acres and annual production of 70,000 tons. This permit covers a 10-year period of activity and requires a reclamation process.

Applicant is unsure when or why DRMS staff may have communicated to CPW that the mining operation was a "short-term property improvement initiative with reclamation occurring in as little as two years." Language to that effect is not included in the Notice of Consideration of 110c Construction Materials Reclamation Permit Application DRMS sent to CPW on November 24, 2021.¹ Applicant has been unable to find a response from CPW to DRMS with regard to this notice in the DRMS permit file.² In both the DRMS and County SUP applications, the Applicant

¹ Available at: [https://dnrweblink.state.co.us/DRMS/PDF/npwmda3e2q0d0rp44n5gqj2j/2/2021-11-24_PERMIT%20FILE%20-%20M2021066%20\(2\).pdf](https://dnrweblink.state.co.us/DRMS/PDF/npwmda3e2q0d0rp44n5gqj2j/2/2021-11-24_PERMIT%20FILE%20-%20M2021066%20(2).pdf)

² Permit file available at: <https://dnrweblink.state.co.us/drms/search.aspx?dbid=0>. Specifically, see the list of comment letters received by DRMS as noted in DRMS' adequacy review letter dated December 20, 2021, available

has clearly and straightforwardly communicated its intentions to excavate resources from the Excavation Site to the extent they are available. Review of the applications will evidence this.

Furthermore, DRMS permits are in effect for the life of the mine (as long as resources may be extracted), as long as the Applicant is in compliance with DRMS requirements. As Routt County only allows a permit to be issued for 10 years, however, before it must be renewed, Applicant, by necessity, stated that the permit would be for 10 years, with the intention of renewing upon expiration of the permit.

The current proposed application to Routt County describes the excavation of gravel material from a pit 8 hours per day, 5 days per week, and 50 weeks per year. The applicant anticipates approximately 20 vehicles per day to access the site. CPW has concerns with these activities. Routt County has the ability to place restrictions that will limit the Sander's mining activities. CPW recommends that Routt County consider regulating how many gravel trucks per day may access this property and applying seasonal timing limitations to protect wildlife resources.

These hours were revised in Applicant's May 6, 2022 response, but CPW appears to not be aware of that revision. As noted in the letter to the County's review to which this response is appended, these hours are intended to provide the maximum window when operations *may* be occurring, but are not intended to mean that mining operations will be constant and continuous during those hours. Routt County's Resource Extraction (Mining) Submittal Checklist asks for "hours of operation (mining, processing, hauling)." In addition, the trip generation has also been revised per the 4/28/2022 revised Traffic Impact Study (TIS) and Applicant's May 6, 2022 response to the County's questions.

The Sanders' property is located within the following High Priority Habitats, which are habitats for which CPW has sound spatial data and scientifically-backed recommendations...[table omitted here] To avoid impacts to the above wildlife populations, CPW recommends that mining activities and truck hauling only occur from July 1 – November 14th, annually, to accommodate the following recommended timing limitations.

- ***Columbian sharp-tailed grouse winter range: November 15 – March 15***
- ***Elk winter ranges: December 1 – April 30***
- ***Elk production: May 15 – June 30***

Applicant has reviewed CPW maps showing the spatial data for the referenced wildlife ranges/areas and understands elk population numbers are generally above goals. Furthermore, Applicant has first-hand experience with the elk's habituation to activities on the property and believes timing restrictions are inappropriate and unnecessary for elk or other species.

Moreover, such restrictions would just prolong the operation of the pit in terms of number of years in operation.

Additionally, CPW requests that the applicant utilize CPW and DRMS approved seed mixes during the reclamation process. Any topsoil piles to be used during reclamation activities should be stored in piles no more than 1.5 meters tall and seeded with desirable seeds such as western wheatgrass, Indian ricegrass (White River or Rimrock varieties), slender wheatgrass (preferably San Luis), dryland alfalfa, and/or Utah sweetvetch. Top soil piles should be monitored for the establishment of noxious weeds. Soils stored more than 2 meters tall cause anaerobic conditions which kill the soil organisms necessary for plant support.

In the County SUP Application and the approved DRMS application, the Applicant has provided the seed mixture to be used on the site, which was approved by DRMS and which is consistent with the rangeland grass found on the property. Applicant will comply with DRMS requirements as to the height of stockpiles.

Regards,

HOLSINGER LAW, LLC

A handwritten signature in black ink, appearing to read 'K. Holsinger', with a stylized flourish at the end.

Kent Holsinger

cc: T. Waldron
T. Sanders