

Site Development Plan Letter of Intent Checklist, Revised
Ellicott Sand and Gravel, Schubert Ranch Sand Resources (Pit)
Applicant: Ellicott Sand and Gravel, LLC
PPR 0234

Date: 2-26-2023, Revised 3-29-2023



2880 International Circle, Suite 110
 Colorado Springs, CO 80910
 Phone 719-520-6300
 Fax 719-520-6695
 www.elpasoco.com

**EL PASO COUNTY PLANNING AND
 COMMUNITY DEVELOPMENT
 DEPARTMENT**

SITE DEVELOPMENT PLAN LETTER OF INTENT CHECKLIST

entered

Revised: January 2022

Site Development Plan		
The letter of intent for a site development plan should summarize how the plan is in compliance with any of the requirements for approval of a site development plan in Chapter 6 of the LDC. The letter of intent should also specifically address any proposed alternative requests.		
The PCD Director may modify the applicable requirements, including requiring additional items or removing items, based upon the project and site-specific circumstances.		
	Applicant	PCD
NOTE: Please confirm each item below has been included by placing a check mark in the "Applicant" column. See right for an example. The "PCD" column is for office use only.	✓	Office use only
Letter of Intent		
1	Owner name, contact telephone number, and email for responsible party	X
2	Applicant name (if not owner), contact telephone number, and email for responsible party	X
3	Property address	X
4	Property tax schedule number	X
5	Current zoning of the property	X
6	A discussion summarizing the proposed request and compliance with the applicable requirements of the Land Development Code.	X
7	A discussion regarding how the proposed request complies with the definition of the proposed use and any applicable use specific standards within the Land Development Code.	X
8	A discussion regarding the provision of utilities.	X
9	A discussion regarding anticipated traffic generation and access, unless a separate traffic study is required and is being provided.	X
10	A discussion and justification for any alternatives being requested.	X

INTRODUCTORY STATEMENT:
THE SCHUBERT RANCH SAND RESOURCE PIT
PPR 234

Following is our discussion as to why we believe our proposed activity does not fit the definition of “Development” and therefore should not be subject to certain of the El Paso County Development Code requirements.

We suggest a mining activity is like an over lot grading operation. Each involves a modification the of sites topography which may also include removal of material from the site. It is our understanding commercial/residential over lot grading prepares a site for streets, sidewalks, buildings, utilities, and landscaping. Our proposed activity, once mining is complete, will prepare the site for rangeland (an agricultural use) and wildlife habitat which does not include streets, sidewalks, buildings, utilities, or landscaping.

We also point out; the end land use of rangeland/wildlife habitat is an approved County land use. The EPC definition of “Development” states, “*Development shall not* (Emphases added) *include...(d) the use of any land for an agricultural activity.*” (Emphasis added) We strongly suggest since the end land use includes agriculture (identical with the existing use), the provision applicable to a “Development” should not apply. (Please remember, mining is only an interim and temporary use.)

There is precedent for this. The County has already waived the need for a soils and geology report/checklist, since no structures are to be built as part of the mineral extraction operation.

However, we have attempted to address the EPC checklists and Code provisions, where they are not in conflict with, or contrary to, the CRS 34-32.5-101 statute and implementing regulations. Examples include the Parking and Lighting Checklist, among others.

We therefore request El Paso County make the finding that the activity should not be considered a “Development”, due to the site’s present and post mining use as agriculture, and the associated County Codes specific to a “Development” be waived.

1. *“Owner name, contact telephone number, and email for responsible party.”*

- Parcel Owners:
Parcel No. 2400000276, Stage I, where mineral extraction will occur.
Schubert Ranches Inc.
1555 S. Baggett Rd., Calhan, CO 80808
Phone: (719) 683-2262, Email: grasstogo@aol.com

“2. Applicant name, contact telephone number, and email address”

- Applicant:
Ellicott Sand and Gravel LLC
Christine Wilson, Manager
235 Franceville Coal Mine Road, Colorado Springs, CO 80929
(719) 568-3164
ellicottsandgravel@gmail.com

“3. Property address.”

- The Schubert Ranch Sand Resource Pit address is:
25410 Sanborn Road
Calhan, Colorado 80864

“4. Property Tax Schedule number

- Parcel No. 2400000276.

“5. Current zoning of the property”

- A-35, agricultural.

“6. A discussion regarding the proposed request and compliance with the applicable requirements of the Land Development Code.”

- Proposed Request:
 - This is a request to El Paso County to approve a proposed open pit sand and gravel mining operation, Stage I. The proposed mining operation is located approximately 3.1 miles southeast of Ellicott, Colorado. The site is currently used as irrigated agricultural land and rangeland. The Applicant/Operator is Ellicott Sand and Gravel LLC.
 - The subsurface consists of deep sand deposits up to one hundred feet deep and runs parallel to both sides of Black Squirrel Creek. The usable sand deposit is approximately seventy feet deep; however, we have committed to stay ten feet above the prevailing ground water elevation. Upon completion of mining, the pit floor will

- be sand. The remaining sand left in place will be up to thirty feet deep. The post mining interior pit slopes will be 3H:1V or less.
- Of the ±733.7 acres in the approved permit area, approximately ± 61.6 acres are in Stage I.
 - As currently proposed, the operation will maintain a 150-foot setback from Black Squirrel Creek and a 25-foot setback from the approved permit boundary.
 - ✓ It will utilize a “Ranch Road” stream crossing at the northern most location of Stage 1 to cross Black Squirrel Creek.
 - ✓ The ranch road exits the mine site at the northeastern corner of the approved mine permit boundary, on to Baggett Road.
 - The operation will extract sand and gravel with on-site processing as needed to size and wash the material to produce saleable products. The various grades of material will be placed into on-site stockpiles for loading into highway haul trucks for delivery to local markets.
 - The post mining land use is proposed to be rangeland. In addition, the Operator will have posted a \$138,200.00 financial warranty sufficient to ensure the implementation of the proposed site reclamation plan.
- It is our understanding, with the approval of the EPC Planning Department and approval by the EPC County Commissioners, (August 3, 2022, Resolution No. 22-269) the SUP application was found to be in compliance with all “applicable requirements of the Land Development Code”.

“7. A discussion regarding how the proposed request complies with the definition of the proposed use and applicable use specific standards with the Land Development Code.”

- According to the Zoning Table on the Planning Department webpage, a parcel zoned A-35 may be used for “Mineral and Natural Resource Extraction Operations, Commercial” through the Special Use Permit (SUP) process. We successfully went through the SUP process on August 3, 2022. We were awarded an SUP for our proposed mineral extraction operation.

- Specific Standards:

(From the Mineral and Natural Resource Extraction Application submittal as part of the SUP application, approved August 3, 2022.)

**For: Schubert Ranch Sand Resource (Pit)
Ellicott Sand and Gravel, LLC**

5.2.31(A) (3) General Requirements:

(b) Valid Mining Permit:



November 9, 2021

Perry Hastings
Ellicott Sand & Gravel LLC
235 Franceville Coal Mine Road
Colorado Springs, CO 80929

**Re: Schubert Ranch Sand Resource (Permit No. M-2018-063)
Permit Issuance
Construction Material Operation**

Dear Mr. Hastings:

On November 9, 2021 the Division of Reclamation, Mining and Safety (Division) found Ellicott Sand & Gravel LLC to have satisfied the applicable requirements of C.R.S. 34-32.5-101 et seq. for obtaining a mining and reclamation permit. Two signed originals of the permit have been executed. We have kept one copy for our files and are enclosing one copy for your use. It is your responsibility to comply with all of the terms of the permit.

1. All of the original application materials, as amended and supplemented, are an integral part of your permit and are incorporated into the permit by reference. We presume that you have a copy of all of these materials; therefore, none have been enclosed with this mailing. We suggest that you keep a copy of the permit and the permit application at the mining operation as a reference for operating personnel to help ensure compliance with the terms of the permit.
2. Changes in the mining and reclamation operations that differ from those described in the permit may require a modification to the permit. We suggest consulting Rule 1 of the Construction Materials Rules and Regulations and/or contacting us to determine if a revision to the permit is necessary.
3. On your permit anniversary date each year, November 9, you must submit an annual fee and an annual report to the Division. The annual fee for this permit is \$791.00. Please consult the Act, Rules and Regulations, and your permit for specific annual report requirements applicable to your mine. Annual reports, maps, and fees must be filed electronically using the Division's ePermitting portal. If you have not done so already, you will need to sign up for electronic filing of your annual report, map, and fee by visiting the Division's web site (<https://colorado.gov/drms>) clicking on "ePermitting" on the home page, and then clicking on the "Sign up for Minerals Annual Report Electronic Filing" link.





COLORADO
**Division of Reclamation,
Mining and Safety**

Department of Natural Resources

1313 Sherman St. Room 215
Denver, CO 80203

MINING AND RECLAMATION PERMIT
CONSTRUCTION MATERIAL MINING OPERATIONS

Permit Number: M-2018-063
Type of Permit: 112c
Permit Date: November 9, 2021
(Anniversary date for annual report and fees purposes)

THIS PERMIT is issued by the Mined Land Reclamation Board, Department of Natural Resources, State of Colorado.

RECITALS

- A. The Permittee, Ellicott Sand & Gravel LLC, desires to conduct a mining operation known as Schubert Ranch Sand Resource, for the purpose of extracting Aggregate. Unless this permit is modified or a separate permit is issued to cover the mining and/or recovery of other minerals or extractive products, the Permittee will not mine or recover any other commodities at this site.
- B. On November 6, 2019 the Mined Land Reclamation Board (Board) approved the Permittee's application for this permit, fixed the amount of the financial warranty and directed that this permit be issued upon the filing with the Division of Reclamation, Mining and Safety (Division) of performance warranty and financial warranty (or warranties) in the amount so fixed in form and substance approved by the Division. Said warranties have been filed with the Division.
- C. If the Permittee desires to extract materials other than those listed in (A), a separate permit or a permit modification may be required.
- D. On November 6, 2019 the Board made the following findings:
 1. The application for this permit complies with the requirements of the Colorado Mined Land Reclamation Act for the Extraction of Construction Materials, C.R.S. 34-32.5-101 et seq., as amended, and with all applicable local, state and federal laws;
 2. The operation will not adversely affect the stability of any significant, valuable, and permanent man-made structure located within two hundred feet of the Affected Land, except 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 Permittee or if such an agreement cannot be reached, an engineering analysis establishes no damage will occur to the structure to the satisfaction of the Division; and;

3. The proposed mining and reclamation operations can be carried out in conformance with the requirements of the Act, and the Construction Material Rules and Regulations.
- E. The Permittee has made a showing satisfactory to the Board that:
1. It will employ, during and after its underground mining and/or surface operations, procedures designed to minimize environmental disturbance from such operation
 2. It will provide for reclamation of the Affected Lands appropriate to the subsequent beneficial use of such lands; and
 3. In the event of the failure of its proposed reclamation plan, it will take whatever measures may be necessary to assure the success of reclamation of the lands affected by such operations in accordance with the Act.
- F. A copy of the Permittee's application, as amended and supplemented, has been approved by the Board and is, by this reference, incorporated herein.
- G. The issuance of this permit does not relieve the Permittee from having to comply with all applicable Federal, State and County statutes, including State water law.

GRANTS, CONDITIONS AND AGREEMENTS

The Board, in reliance upon the representations and promises made in the permit application, as amended and supplemented, and the performance warranty, hereby issues a life of the mine permit to the Permittee, to engage in the operations described in the application on certain lands lying in the County of El Paso, State of Colorado. These lands are described in the permit application, as amended and supplemented, and are referred to herein as the "Affected Lands".

This permit is issued subject to the following conditions and agreements:

- 1) The Permittee will be bound by all applicable requirements of the Act, and all applicable rules and regulations of the Board, as amended from time to time, the terms of the permit application, the terms of the performance warranty, and the terms of the financial warranty filed with the Division.
- 2) The Permittee will file with the Division its annual report and fees on each anniversary date of this permit.
- 3) If analyses of the mining and reclamation operation and the data collected through monitoring and experimentation by the Permittee or monitoring by the Division indicate that the operation will not be able to comply with the requirements of the Act and applicable rules and regulations of the Board, the Permittee hereby agrees to exercise its best efforts, after consulting with the Division, to modify the plans to correct such deficiencies in the future. Such modifications may require technical revisions or amendments to the permit.

to the structure is to be compensated for by the Permittee or if such an agreement cannot be reached, an engineering analysis establishes no damage will occur to the structure to the satisfaction of the Division; and;

3. The proposed mining and reclamation operations can be carried out in conformance with the requirements of the Act, and the Construction Material Rules and Regulations.

E. The Permittee has made a showing satisfactory to the Board that:

1. It will employ, during and after its underground mining and/or surface operations, procedures designed to minimize environmental disturbance from such operation
2. It will provide for reclamation of the Affected Lands appropriate to the subsequent beneficial use of such lands; and
3. In the event of the failure of its proposed reclamation plan, it will take whatever measures may be necessary to assure the success of reclamation of the lands affected by such operations in accordance with the Act.

F. A copy of the Permittee's application, as amended and supplemented, has been approved by the Board and is, by this reference, incorporated herein.

G. The issuance of this permit does not relieve the Permittee from having to comply with all applicable Federal, State and County statutes, including State water law.

GRANTS, CONDITIONS AND AGREEMENTS

The Board, in reliance upon the representations and promises made in the permit application, as amended and supplemented, and the performance warranty, hereby issues a life of the mine permit to the Permittee, to engage in the operations described in the application on certain lands lying in the County of El Paso, State of Colorado. These lands are described in the permit application, as amended and supplemented, and are referred to herein as the "Affected Lands".

This permit is issued subject to the following conditions and agreements:

- 1) The Permittee will be bound by all applicable requirements of the Act, and all applicable rules and regulations of the Board, as amended from time to time, the terms of the permit application, the terms of the performance warranty, and the terms of the financial warranty filed with the Division.
- 2) The Permittee will file with the Division its annual report and fees on each anniversary date of this permit.
- 3) If analyses of the mining and reclamation operation and the data collected through monitoring and experimentation by the Permittee or monitoring by the Division indicate that the operation will not be able to comply with the requirements of the Act and applicable rules and regulations of the Board, the Permittee hereby agrees to exercise its best efforts, after consulting with the Division, to modify the plans to correct such deficiencies in the future. Such modifications may require technical revisions or amendments to the permit.

- 4) The Board or its authorized representative may enter upon the lands of the permitted operation at all reasonable times for the purpose of inspection to determine whether the provisions of the Act, Rules and Regulations, and permit have been complied with pursuant to C.R.S. 34-32.5-121.
- 5) This permit may be revoked or suspended for non-compliance with the Act or applicable rules or regulations promulgated by the Board, the permit, or by violation of a Board Order.
- 6) a) Pursuant to 34-32.5-118(5) of the Act, the Board has a right of entry to reclaim the lands affected by the operation or to respond to an emergency as defined by C.R.S. 34-32.5-121(2).
b) The Board will enter the lands to perform reclamation only if the Board has determined that:
 - i. Reclamation required the permit, statute, or regulations to be performed upon such lands has not been performed, or
 - ii. Financial warranty forfeiture proceedings described in the Act or similar provisions of subsequent laws, if any, have been initiated.
- c) The Division, acting for the Board, will enter lands to respond to an emergency only where the Division determines that any of the conditions of Construction Material Rule 8.4.2 exist.
- 7) The additional conditions set forth in the attached rider, if any, are incorporated herein by reference.

 / a) Rider is attached.

 /XX b) No rider is attached.

MINED LAND RECLAMATION BOARD
COLORADO DEPARTMENT OF NATURAL RESOURCES



Virginia Brannon
Division Director

- **Written Notice of Filing for Permit with the MLRB:**

Attached below are copies of the written notice provided the El Paso County Clerk and proof of filling the notice to the El Paso County Clerk which were part of the SUP Application:

Environment, Inc.

LARRY E. O'BRIAN
FOUNDER

STEVEN L. O'BRIAN
PRESIDENT

December 3, 2018

7985 VANCE DRIVE, SUITE 205A
ARVADA, COLORADO 80003
303-423-7297
FAX 303-423-7599

Mr. Chuck Broerman
El Paso County Clerk & Recorder
Citizens Service Center
1675 West Garden of the Gods Rd., Suite 2201
Colorado Springs, CO 80907

Re: Application for a Mined
Land Reclamation Permit
Ellicott Sand & Gravel LLC

Dear Mr. Broerman:

We are delivering to you here with a copy of an application for the Schubert Ranch Sand Resource, a Regular (112) Construction Materials permit, to be operated by the Ellicott Sand & Gravel LLC. Two copies of the application are on file with the Division of Reclamation, Mining & Safety (DRMS).

This copy of the application packet is delivered to you pursuant to 34-32.5-112(9)(a), Colorado Revised Statutes 1995, as amended, which states in part:

...the applicant shall file a copy of such application for public inspection at the office of the County Clerk and Recorder of the County in which the affected land is located.

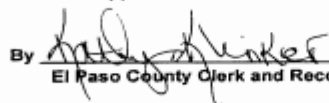
Please acknowledge receipt of this copy of the permit application by signing in the appropriate space provided below and returning one copy of this letter to the person delivering the book. Please hold the book for pick-up after the application has been heard by the MINED LAND RECLAMATION BOARD (approx. 180 days).

Yours truly,
Environment, Inc.


Stevan L. O'Brian

enclosure

RECEIVED THIS 3rd DAY OF December, 2018
MLRB application for the referenced mine.

By 
El Paso County Clerk and Recorders Office

- Also attached is the Division of Reclamation, Mining and Safety (DRMS) finding that the Application was filed and accepted by the DRMS for its review. It verifies that all required notices, posting of the notice sign and the public notice published in a newspaper of local circulation have been complied with. We have also provided proofs, as required by County regulations.



COLORADO
 Division of Reclamation,
 Mining and Safety
 Department of Natural Resources
 1313 Sherman St. Room 215
 Denver, CO 80203

December 14, 2018

Perry Hastings
 Ellicott Sand & Gravel LLC
 235 Franceville Coal Mine Road
 Colorado Springs, CO 80929

**Re: Schubert Ranch Sand Resource, File No. M-2018-063
 Receipt of 112c Construction Materials Reclamation Permit Application**

Dear Mr. Hastings:

On December 14, 2018, the Division of Reclamation, Mining and Safety received your 112c Construction Materials Reclamation Permit application for the Schubert Ranch Sand Resource, which is located in El Paso County. All comment and review periods began on December 14, 2018. The decision date for your application is scheduled for March 14, 2019.

Newspaper publication of a notice (published once a week for four consecutive weeks) regarding the filing of your application and transmittal of a copy of the notice to all owners of record of surface and mineral rights, holders of any recorded easements, and all owners of record of lands that are within 200 feet of the boundary of the affected land is required within 10 days of submittal. You must submit proof of the notice and mailings, such as Certified Mail Return Receipt Requested, to the Division prior to the decision date.

The Division is reviewing your application to determine whether it is adequate to meet the requirements of the Act. We will contact you if additional information is needed. Any changes or additions to the application on file in our office must also be reflected in the public review copy which has been placed with the El Paso County Clerk and Recorder.

Please be reminded that all operators must contact the Colorado Department of Health, Water Quality Control Division regarding storm water permits.

If you have any questions, please contact me.

Sincerely,

Timothy A. Cazier
 Environmental Protection Specialist

M-AP-04



- The Division of Reclamation, Mining and Safety Application Approval:



November 6, 2019

Perry Hastings
Ellicott Sand & Gravel LLC
235 Franceville Coal Mine Road
Colorado Springs, CO 80929

Re: File No. M-2018-063, Schubert Ranch Sand Resource, 112c Decision Letter - Financial and Performance Warranty Request - Construction Material Operation

Perry Hastings:

On November 6, 2019, the Division of Reclamation, Mining and Safety approved your 112c mining permit application.

The amount of financial warranty set by the Division for this operation is \$138,200.00. You must submit a financial warranty in this amount and a performance warranty in order for us to issue a permit. In the event you have requested a financial warranty form, we have enclosed it in this letter. If you have not, please select a type of financial warranty from Rule 4.3. Then contact us so that we can provide you with the appropriate warranty form. We have enclosed a performance warranty form with this letter for your use.

Conditions of Approval:

No mining is allowed within 200 feet of any structure until the required geotechnical stability exhibit is submitted via a technical revision (including the requisite \$216 fee) and approved by the DRMS.

PLEASE NOTE THAT MINING OPERATIONS MAY NOT COMMENCE UNTIL A PERMIT HAS BEEN ISSUED BY THE DIVISION AFTER RECEIPT OF YOUR FINANCIAL WARRANTY AND PERFORMANCE WARRANTY. A PERMIT WILL NOT BE ISSUED UNTIL WE VERIFY THE ADEQUACY OF BOTH YOUR FINANCIAL WARRANTY AND PERFORMANCE WARRANTY.

1313 Sherman St. Room 215 Denver, CO 80203 P (303) 866-3567 F (303) 832-8106 <https://mining.state.co.us>
Jared Polis, Governor | Dan Gibbs, Executive Director | Virginia Brannon, Director



Mr. Perry Hastings
November 6, 2019
Page 2

If you have any questions, please contact me.

Sincerely,



Timothy A. Cazier
Environmental Protection Specialist

Enclosure

cc: Steve O'Brian, Environment, Inc.

M-AP-18

(d) "Proof of Publication Required"

- The proof of the newspaper public notice for the Ellicott Sand and Gravel 112C Regular Operations Permit application is attached below:

ELLICOTT AND AND GRAVEL LLC.
 PROOF OF PUBLICATION
 FEBRUARY 15, 2019

SCHUBERT RANCH SAND RESOUTCE
 MLRB- M-2018-056

THE EL PASO COUNTY ADVERTISER AND NEWS,
 FOUNTAIN, COLORADO 80817
 STATE OF COLORADO

ss.

COUNTY OF EL PASO

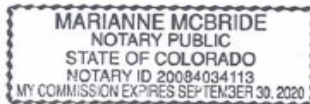
I, Karen M. Johnson, do solemnly swear that I am General Manager of the El Paso County Advertiser and News, that the same is a weekly newspaper printed, in whole or in part, and published in the County of El Paso, state of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said county of El Paso for a period of more than 52 weeks next prior to the first publication of the annexed notice and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That copies of each number of said paper in which said notice and list were published were delivered by carriers or transmitted by mail to each of the subscribers of said paper for a period of 4 consecutive insertions, once each week, and on the same day of each week; and that first publication of said notice was in the issue of said newspaper dated Dec. 19, A.D. 2018 and that the last publication of said notice was in the issue of said newspaper dated Jan. 9, A.D. 2019.

Karen M. Johnson
 Karen M. Johnson
 General Manager

Subscribed and sworn to before me, a notary public in and for the County of El Paso, State of Colorado, this 9th day of Jan., A.D. 2019

Marianne McBride
 Marianne McBride
 Notary Public



PUBLIC NOTICE
PUBLISHED NOTICE OF APPLICATION FILING FOR
A REGULAR (112) CONSTRUCTION MATERIALS RECLAMATION PERMIT

The Ellicott Sand and Gravel, L.L.C., 235 Franceville Coal Mine Road Colorado Springs, CO 80909, has filed an application for a Construction Materials Regular 112 Reclamation Permit with the Colorado Mined Land Reclamation Board under provisions with the Colorado Mined Land Reclamation Act for extraction of Construction materials. The proposed mine is located at the Schubert Ranch Gravel Resource, (Permit # M-2018-056) and is located in or near the SW¼ of Section 20, E½ of Section 29 and parts of the SW¼ of Section 32, T-14-S, R-62-W the 6th P.M., El Paso County, Colorado.

The date of commencement will be September 2018 (the proposed date of completion December 2048). The proposed future use of the land is rangeland.

Additional information and a tentative decision date may be obtained at the Division Reclamation, Mining & Safety, 1813 Sherman Street, Rm 215, Denver, Colorado 80203, (303) 866-3567, or at the office of the El Paso County Clerk and Recorder, 1675 West Garden the Goods Rd., Suite 2201 Colorado Springs, CO 80907.

Written comments to the application must be received at the office of the Mined Land Reclamation Division no later than 4:00 p.m. on the 29th day of January, 2019.

Please note that comments related to noise, truck traffic, hours of operation, visual impacts, effects on property values, and other social or economic concerns are issues not subject to this Office's jurisdiction. These subjects and similar ones are typically addressed by local governments, rather than the Division of Reclamation, Mining & Safety or the Mined Land Reclamation Board.

Ellicott Sand & Gravel LLC
 Colorado Springs, Colorado

Publication Dates:
 First: December 19, 2018
 Second: December 26, 2018
 Third: January 2, 2019
 Fourth: January 9, 2019
 Published in the El Paso County Advertiser and News

(e) ***“Comply with Construction Permit and Erosion and Sediment Quality Control Permit***

- Ellicott Sand and Gravel’s Erosion and Sediment Quality Control Permit Application was submitted as part of Stormwater Management Plan Checklist.
- We have not attached a Construction Permit since this is a mining operation and no construction or constructed facilities are proposed.

“5.2.31(B) Additional Standards:

(1) Consistent with Master Plan

- We believe we have addressed the required items in the Master Plan for Mineral Extraction since our SUP application was approved by the El Paso County Commissioners on August 3, 2022, and no revisions or modification were required by the reviewing Planning Department or at the County Commissions SUP application review hearing.
- The following sections also provide the environmental items addressed and approved in the Division of Reclamation, Mining and Safety (DRMS) Permit application. (We have drawn from the DRMS application to address these similar issues of concern in the County application process.
- Such items as traffic, visual, noise, etc. were addressed in the County SUP process in the following sections as well.

“(2) No Adverse Long-Term Visual Impacts

- Adverse, long term visual impacts to adjacent property owners:
 - The estimated life of Stage I is from 10-15 years. As Stage I is completed and the next mining stage (Stage II) begins, the previous stage will begin the approved reclamation. The Permit Application states reclamation will run concurrent with the mining operations.

Stage	Est. Yrs.	Total Acres Available	Total Acres Mined
1	10-15	66.1	49.9

(Note, of the 66.1 acres available for mining, 16.2 acres will not be mined.)

- The visual impact from the mining operation will be relatively brief. In addition, Stage I is to be up to 60+ feet deep. Given the 200+ foot setback from the adjacent property lines to the permit boundary, the 25-foot setback from the permit boundary to the affected land boundary, and the depth of Stage I being up to 60+ deep, little, if any of the operation should be visible from the adjoining properties.

In addition, the mine operation's visibility will be further limited through the placement of topsoil and/or overburden stockpiles (visual berms) as shown on Map 3, Interim Phase (Stage I). As required by MLRB regulations, such piles are to be seeded, if not disturbed, within one year.

- The reclamation plan calls for Stage I to be reclaimed to rangeland, and it will be seeded to a grass, forb, and shrub mix. This will ensure that a disturbed stage will be put back to the approved post mining land use (rangeland, an agricultural use) as soon as possible.
- The approved MLRB application states, we will have "... no more than 40 acres ± disturbed at any-one-time."
- Adverse long-term visual impact on major transportation corridors:
 - ✓ The major transportation corridors are Ellicott Highway and Colorado State Highway 94 to the north of the operation. The mining operation will not be visible from either Ellicott Highway or Highway 94 since they are some distance from the active mining operation which will be below the adjacent topography.
 - ✓ The point of access will be at the northeast corner of the approved mine site, on Baggett Road. Then north on Baggett Road 1.65 miles to Colorado Highway 94. The approximate access point coordinates are:
38°, 48' 51.28" N, -104°, 21' 01.55" W

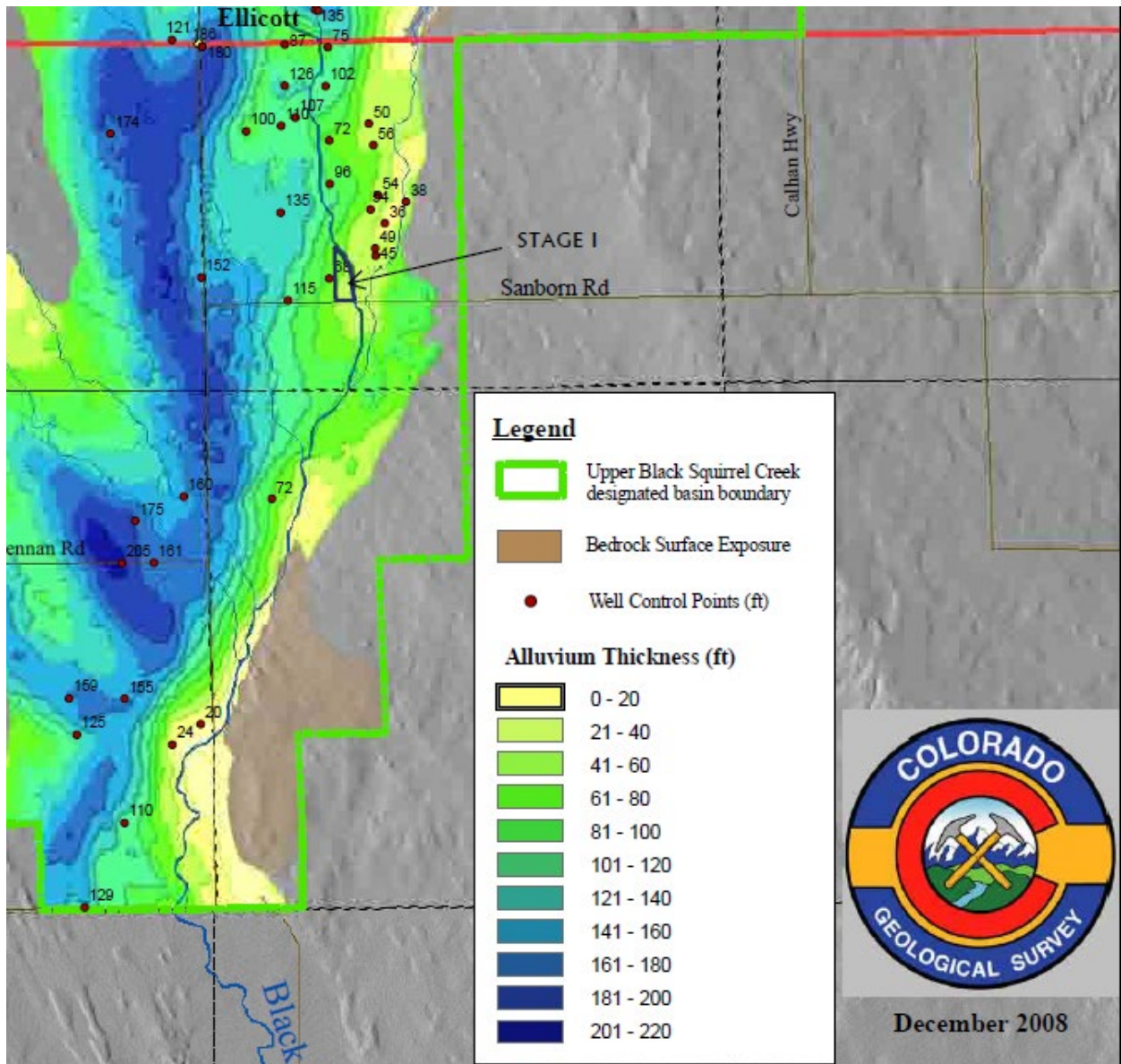
"(3) Reclaimed to a Compatible Use of Resources

- The Mined Land Reclamation Act for Construction Materials requires the Mined Land Reclamation Board and the Board of County Commissioners to confer as to the proposed post mining land use. Ellicott Sand and Gravel provided a notice to the El Paso County Commissioners which specified the proposed post mining land use is to be rangeland (an agricultural use) and wildlife habitat. Mined Stage I will retain its current zoning, A-35, (agriculture). The Board of County Commissioners did not provide comments on the proposed post mining land use.

"(4) Operation to Result in Efficient Use of Resource

- According to the Natural Resources Conservation Service soil survey for the proposed mining operation, the sand resource is considered "**Fair**". Excerpts from the soil survey, "Description – Sand Sources" describe the proposed minable sand as follows:
 - "Sand is a natural aggregate (0.05 millimeter to two millimeters in diameter) suitable for commercial uses with a minimum of processing. (Emphasis added) It is used in many kinds of construction."

- “The properties used to evaluate the soil as a source of sand are gradation of grain size (as indicated by the Unified classification of the soil), the thickness of suitable material, and the content of rock fragments.”
- The soils are rated “good,” “fair,” or “poor” as potential sources of sand. A rating of “good” or “fair” means that sand is likely to be in or below the soil.”
- The available drill logs further confirm the site has a sand resource of considerable depth. The following water well, well logs illustrate the extent of the sand and gravel resource on the proposed mine site. Based on the three well logs taken across the property, the sand and gravel resource varies in extent from fifty-six feet to eighty-eight feet of actual depth of sand and gravel. (The depth of the in-place resource varies in depth from seventy-seven feet to one hundred feet and includes interbedding of clay, shale, and sandstone.) The “contaminates” (clay, shale, and sandstone) will be removed by the on-site processing facility.
- The sand and gravel resources are further confirmed by the Upper Black Squirrel Creek Basin Aquifer Recharge and Storage Evaluation (UBSCARSE). According to Plate 5 of that report, the alluvial thickness ranges from 40 to 60 feet in the vicinity of the proposed operation.
- Given the high variability in the alluvial depth across the basin, the alluvial depths are similar to what the drilled well’s log reports.



THIS FORM MUST BE SUBMITTED WITHIN 60 DAYS OF COMPLETION OF THE WORK DESCRIBED HEREON, TYPE OR PRINT IN BLACK INK.

COLORADO DIVISION OF WATER RESOURCES

101 Columbine Bldg., 1845 Sherman St.
Denver, Colorado 80203

WELL COMPLETION AND PUMP INSTALLATION REPORT

PERMIT NUMBER 6967-F



WELL OWNER Schubert Ranches Inc S-W 1/4 of the S-E 1/4 of Sec. 20

ADDRESS RT-2 Canon, Colo. T. 14 S, R. 62 W, 6th P.1

DATE COMPLETED May, 1973

HOLE DIAMETER 36" in. from 0 to 102 ft.

WELL LOG

From	To	Type and Color of Material	Water Loc.
0	2	top soil	
2	8	sand gravel	
8	12	Clay	
12	26	Sand gravel	
26	32	Clay	
32	82	Sand + gravel	
82	100	Sand + gravel (Cavio)	
100	102	Clay + shale	

TOTAL DEPTH 102

Use additional pages necessary to complete log.

_____ in. from _____ to _____ ft.
_____ in. from _____ to _____ ft.

CASING RECORD: Plain Casing
Size 16" & kind Steel from 0 to 59 f
Size _____ & kind _____ from _____ to _____ f
Size _____ & kind _____ from _____ to _____ f

Perforated Casing
Size 16 & kind Steel from 59 to 102 f
Size _____ & kind _____ from _____ to _____ f
Size 18 & kind _____ from _____ to _____ f

GROUTING RECORD
Material Clay
Intervals 0 - 25
Placement Method grout
GRAVEL PACK: Size 9/16
Interval _____

TEST DATA
Date Tested May, 1973
Static Water Level Prior to Test 34
Type of Test Pump Turbine
Length of Test 2 1/2 hrs.
Sustained Yield (Metered) 340
Final Pumping Water Level Bottom

WELL LOG 6971-FP

From	To	Type of Material	Water Loc.
0	2	top soil	
2	8	Clay	
8	25	sand & gravel R+J	
25	33	sand gravel J	
33	37	sand gravel & clay	
37	45	sand gravel	
45	53	Clay	
53	77	sand gravel	
77	78 1/2	shale	

Use additional paper if necessary to complete log.

WELL DATA

Type Drilling Reamer Rotary

HOLE DIAMETER:

32 in. from 0 ft. to 78 1/2
 _____ in. from _____ ft. to _____
 _____ in. from _____ ft. to _____

CASING RECORD

Plain Casing

Size 1 1/2 kind Steel from 0 ft. to 38 1/2
 Size _____ kind _____ from _____ ft. to _____
 Size _____ kind _____ from _____ ft. to _____

Perforated Casing

Size 1 1/2 kind Steel from 38 1/2 ft. to 78 1/2
 Size _____ kind _____ from _____ ft. to _____
 Size _____ kind _____ from _____ ft. to _____

GROUTING RECORD

Material _____
 Intervals _____
 Placement Method _____

GRAVEL PACK RECORD

Size 3/16 to 3/4 Interval _____

TEST DATA

Date Tested May 19
 Type of Pump Turbine
 Length of Test 24 hrs
 Constant Yield 600
 Drawdown 40

WELL DRILLER'S STATEMENT

The undersigned, being duly sworn, deposes and says; he is the driller of the well hereon described; he has read the statement made here knows the content thereof, and the same is true of his own knowledge.

X J. R. Hamaker

License No. 71

State of Colorado, County of Elbert ss

Subscribed and sworn to before me this 15 day of September, 1976

My Commission expires Dec 6, 1970. Bonnie Dolores Hamaker
 Notary Public

THIS FORM MUST BE SUBMITTED WITHIN 90 DAYS OF COMPLETION OF THE WORK DESCRIBED HEREON. TYPE OR PRINT IN BLACK INK.

COLORADO DIVISION OF WATER RESOURCES

101 Columbine Bldg., 1845 Sherman St. Denver, Colorado 80203

RECEIVED

JUL 11 1972

WELL COMPLETION AND PUMP INSTALLATION REPORT

PERMIT NUMBER 9642-FP

WATER RESOURCES STATE ENGINEER COLO.

WELL OWNER Buddy B. Babcock NE 1/4 of the NW 1/4 of Sec. 32

ADDRESS R. #2 Colhan, Colo. T. 14 S. R. 62 W. 6th P.M.

DATE COMPLETED 2-18 1972 HOLE DIAMETER

30 in. from 0 to 26 ft.

WELL LOG

From	To	Type and Color of Material	Water Loc.
0	2	top soil	
2	9	Sand & gravel	
9	11	clay	
11	15	Sand & Gravel	
15	23	sand Stone	
23	39	Sand med. fine	
39	45	Clay	
45	60	Sand & gravel / Rock	
60	71	Sand & Gravel	
71	74	Sand gravel Rock	
74	94	Sand gravel - Corri's	
94	96	Shale	

TOTAL DEPTH 96

Use additional pages necessary to complete log.

in. from to ft.
in. from to ft.

CASING RECORD: Plain Casing
Size 16" & kind Trench from 0 to 56

Size & kind from to f
Size & kind from to f

Perforated Casing
Size 16" & kind Steel from 56 to 96 f

Size & kind from to f
Size & kind from to f

GROUTING RECORD
Material 9

Intervals
Placement Method

GRAVEL PACK: Size 9/16
Interval

TEST DATA
Date Tested 2-19 1972

Static Water-Level Prior to Test 29

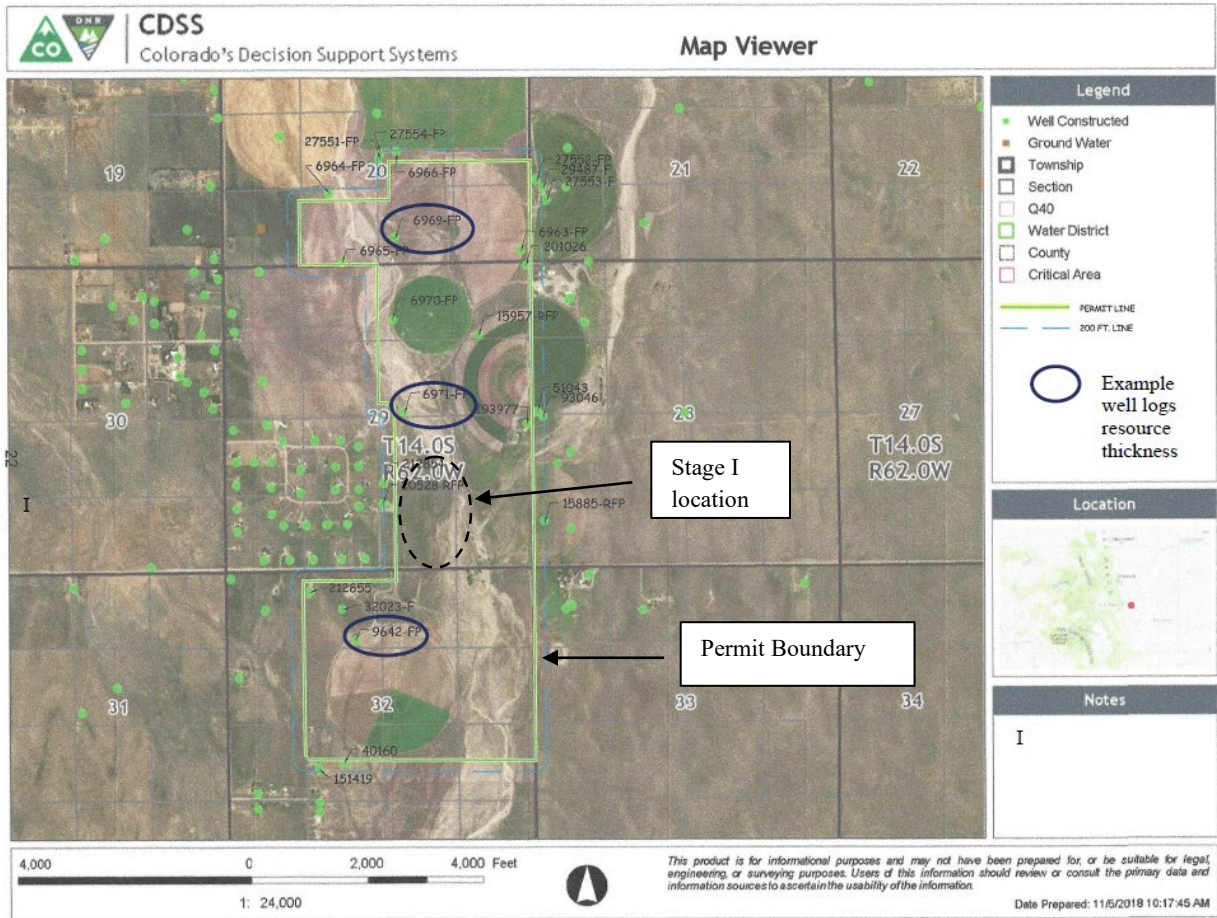
Type of Test Pump Turbine 24

Length of Test 24
Sustained Yield (Metered) 480
Final Pumping Water Level Bottom

Custom Soil Resource Report

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
5	Bijou loamy sand, 1 to 8 percent slopes	26.5	3.6%
6	Bijou sandy loam, 0 to 3 percent slopes	52.9	7.3%
28	<i>Sand</i> Ellicott loamy coarse sand, 0 to 5 percent slopes	406.4	55.7%
78	<i>Fair</i> Sampson loam, 0 to 3 percent slopes	96.2	13.2%
95	Truckton loamy sand, 1 to 9 percent slopes	31.7	4.3%
97	Truckton sandy loam, 3 to 9 percent slopes	12.4	1.7%
101	<i>Fair</i> Ustic Torrifuvents, loamy	101.3	13.9%
106	Wigton loamy sand, 1 to 8 percent slopes	2.0	0.3%
Totals for Area of Interest		729.4	100.0%



Map of water well logs to illustrate depth of resource.

“(5) Disturbance of Sensitive Environment Limited

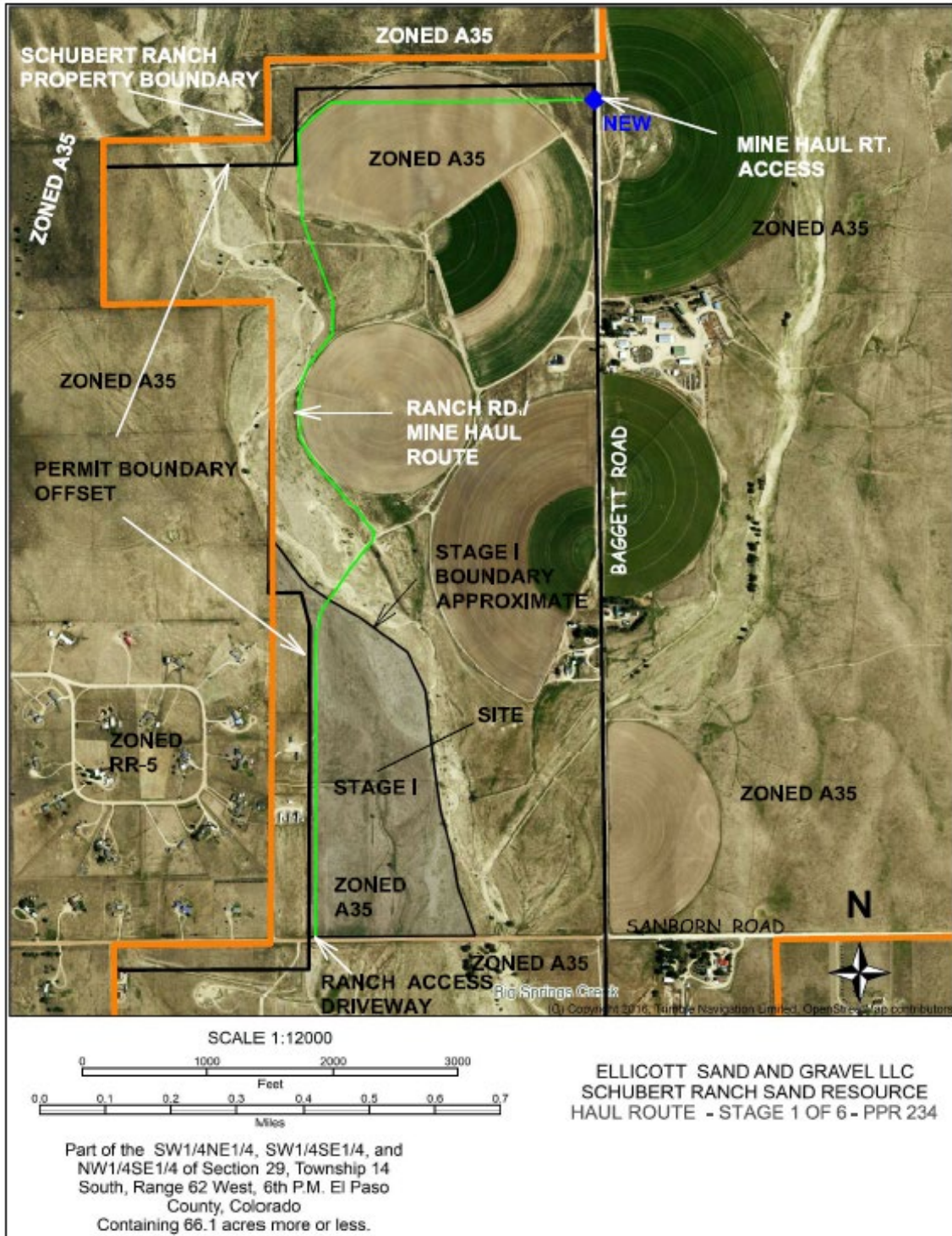
- The approved Reclamation Plan, Exhibit E and wildlife statement, states, “The mining and reclamation plans consider existing wildlife conditions and final reclamation will not change the area for wildlife use. The mining and reclamation plans allow for the safety and protection of wildlife remaining on the mine site, at the processing site and along all access roads to the site. In general, we have found there is little long-term disturbance to native wildlife species around gravel mining operations. The big game species tend to use mining sites and newly vegetated areas after operations have stopped for the day. The smaller species tend to move to undisturbed areas.”

- *Wetlands, Riparian Habitat, Wildlife Water Habitat:*
 - “No dredging takes place at this facility, there are no temporary siltation structures involved in this operation and no mining will be done in a river or waters of the United States.”
 - “A U.S. Army Corps of Engineers Permit is not required for this operation because no wetlands will be disturbed based on a statement from the Army Corps of Engineers.”, Ellicott Sand & Gravel LLC – Schubert Ranch Resource M-2-18-063 – Adequacy Response 01, from Environment, Inc., to Mr. Timothy A. Cazier, P.E. DRMS:

U.S. Army Corps of Engineers (rec. 1/23/19)

The letter refers information requests to the Albuquerque District but noted that placing dredged or fill into waters of the US will require a 404 permit. No dredge or fill material will be placed in waters of the US nor will wetlands be impacted, as none exist on the site. All mining and reclamation activities will remain outside the normal flow channel and/or above the ordinary highwater line of both Black Squirrel Creek and Big Spring Creek. We have met with Tony Martinez from the Pueblo office to delineate the OHW and will avoid placing fill or mining in the OHW of Black Squirrel Creek or Big Spring Creek. If a 404 permit is required it will be obtained prior to any activity commencing.

- An existing ranch road which crosses Big Squirrel Creek will be used as a haul road for Stage 1.



- *Threatened or Endangered Species Habitat:*
 - “Review of the Conservation Status Handbook for El Paso County indicates that the proposed permit area does not lie in any of the listed Critical Habitat areas of El Paso County, and we find no list of endangered or threatened species for the area around or on the permit area. No raptor nests were observed in the area during site inspections and in discussion with the landowner. They, ‘...do not remember any being present in the past.’”
 - “Prior to opening an area for mining, Ellicott Sand & Gravel will make observations of the new area to determine if there are raptors using the site as active hunting areas, overnight roost site or nesting sites. If any are observed, the Colorado Springs Office of the Colorado Parks and Wildlife (CPW) office will be contacted to confirm the observations and advise Ellicott Sand & Gravel on what actions should be taken to avoid disrupting the sites during nesting times.” (Ellicott Sand and Gravel, DRMS approved Permit Application.)
- *High Priority Land for Conservation and Rare or Unusual Natural Features:*
 - To the best of our knowledge, there are no “High Priority Lands for Conservation” or “Rare or Unusual Natural Features”.

EXHIBIT H

WILDLIFE STATEMENT.

. The Colorado Springs office of the Colorado Department of Parks and Wildlife (CDPW) was contacted around July 26, 2018 about supplying a Wildlife Statement for this permit application and declined to comment at this time on the grounds that they do not provide the service as described in Rule 6.8.4(1).

- From the approved DRMS Permit Application:
 - Stage I is mostly rangeland, an agricultural area. An ephemeral drainage runs along the east side of Stage I. The only trees of any significance are located on or around the farmyards, on the parcel. There are a few shrubs and scattered small trees on the southern end of the area. Wildlife resources on the affected lands are limited by the existing ground cover consisting of seasonal grasses, shrubs, and weeds. Ground cover in this area averages 25% or less, with some areas having little or no cover, only exposed sand.”
 - “Not a lot of wildlife has been observed in the area. Usually, it consisted of larger mammals such as deer and antelope that use travel corridors over the area. Small game species and birds have been observed. Wildlife expected to be found on the

property may include deer, antelope, small rodents and mammals, and songbirds. There are no known threatened or endangered species on the property.”

- “Existing wildlife in the area is not expected to be significantly impacted by mining at this site. Temporary and permanent losses of food and habitat are not expected to be significant as the area of disturbance will be limited to less than 10% of the permit area at any given time. Haul road speed limits will be limited to 15 MPH or less.” (Ellicott Sand and Gravel, DRMS approved Permit Application.)
- Of the 66.1 acres in Stage I, the affected area will be approximately 49.9 acres which leaves sixteen acres available for wildlife use. Plus, reclamation will begin once mining in Stage I is complete.

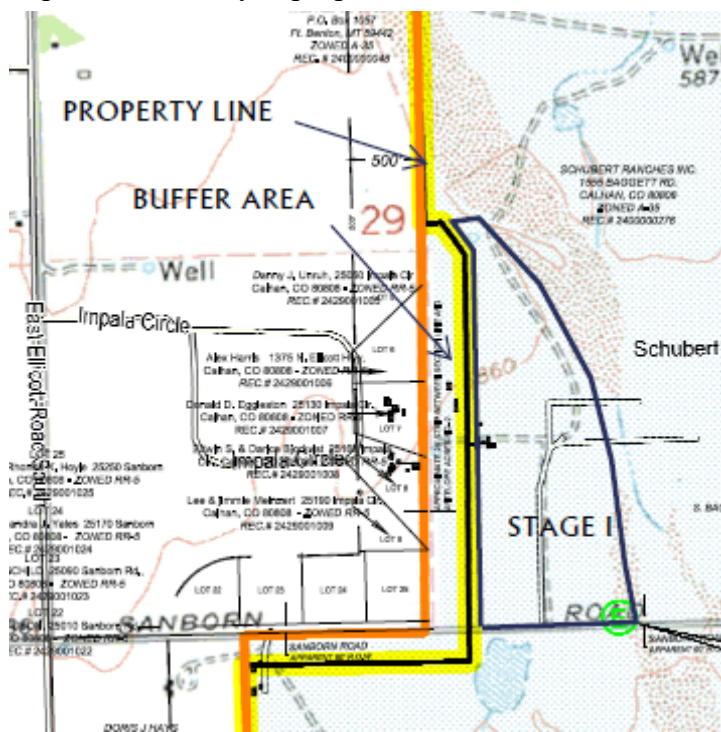
“(6) Disturbance of Historic Resources Limited

- A review of the Division of Reclamation, Mining and Safety electronic files indicates that “History Colorado” has not provided comments on the proposed operation. (As of 10/14/2019) To the best of the Applicant’s knowledge, no historic resources are within the limits of the proposed Stage I mining area.
- As required by C.R.S. 24-80 (Part 13), we will follow the requirements of this Statute, should human remains be “discovered” during our mining and reclamation operations. In addition, as stated in the approved application, if human remains are discovered, the El Paso County Sheriff will also be contacted.
- It is our understanding, given the proposed mining operation is on private lands, cultural resource inventories are not required under State Statute.

“(7) Buffering Required

- The permit boundary is proposed to be setback from the Schubert Ranch property boundary by at

least two hundred feet.



- In addition, the affected land (pit) boundary will be set back from the property lines. As stated in the Mining Plan, Exhibit D of the mining application submitted to the DRMS, “There will be a 25 foot or wider dig line setback maintained from the permit boundary so there is adequate space on the level above the slope for property line access, setback maintenance, grading and shaping.” (Ellicott Sand and Gravel, DRMS approved Permit Application.)
- “The plant site/stockpile area will start on the surface, but once the initial level is reached it will be moved below grade, so it is screened below the surrounding areas.” (Ellicott Sand and Gravel, DRMS approved Permit Application.) Note the visual berms in Stage one will remain until mining is complete and will be removed during reclamation.
- In addition, topsoil stockpiles (temporary visual berms) will be placed and then seeded with the approved seed mix once we have completed topsoil removal. (Not all perimeter areas will have topsoil pile visual barriers.)

“(8) Water Supply Adequate for Operations and Reclamation Uses

- From the Ellicott, DRMS Permit Application, Page 20, Exhibit G. “We estimate water use at the mine, including, dust control will require 12.0 ac-ft per year.”
- Water needs will be purchased from a local water provider and brought to the site. Water needs include fugitive dust control and product processing.
- Potable water will be purchased locally.
- “No water will be used for reclamation, nor will the revegetation areas be irrigated.” (Ellicott Sand and Gravel, DRMS approved Permit Application.)

“(9) Mitigation of Impacts to Adjacent Properties

- **Vibration Impacts:**
 - There are two potential sources of vibration impacts, blasting and operational equipment, such as dozers, backhoes, and crushers.
 - ✓ No blasting will occur at the proposed operation.
 - ✓ The ground vibration from tracked equipment is minimal since the substrate will be sand. The sandy nature of the site will absorb vibration from such equipment.
 - ✓ Processing will not include any large crushing equipment. The crushing which may occur on-site, if needed, will use a typical sand and gravel crusher and screening system. Little vibration is transmitted from the equipment to the ground. Since the substrate is sandy, it will absorb any such vibration.

- **Noise Impacts:**
 - Mining operations create noise from several sources, including haul trucks, excavation equipment, and processing equipment. Safety related sources of noise include backup alarms or horns, required by Federal safety regulations.
 - Noise Mitigation Practices, includes but are not limited to:
 - ✓ Hours of operation: The proposed mining operation will only operate from 7 am to 7 pm, six days per week, as needed. (Only during daylight hours within that timeframe.)
 - ✓ Placement of topsoil stockpiles may be used to reduce noise impacts.
 - ✓ Once the initial pit cut is achieved, operations may be moved below the surface elevation into the active pit. Relocation into the operational pit will help reduce operational noise.
 - ✓ The highway haul trucks point of access will be away from residential areas and will help reduce the noise impact. (Please see the Stage I site photo which shows the point of access at the northeast corner of the approved permit area, away from the present housing development.)
- **Glare Impacts:**
 - This is proposed to be a daytime mining operation. Therefore, there will be no operational lighting. If night operations should be needed, we will return to the County to properly address operational lighting and impacts.
- **Blowing or Flowing Materials, or Odor Impacts:**
 - We do not anticipate impacts from materials or items which might produce odors. This is a sand and gravel operation which will use water in its product processing facility. In addition, we will secure portable toilets for on-site use. A commercial provider will service the portable toilets on a regular basis. In addition, the site will be gated and signed to help prevent illegal dumping.
 - There should not be any “flowing materials”. While it is true, fine sands and reject fine soil may flow. All such minor material movement will be contained within the active pit.
 - Fugitive dust is the primary air pollutant. We have a fugitive dust control plan as part of our air quality permit. Fugitive dust control plans may include periodic watering to control fugitive dust from the roads and spray controls (as may be needed) for the crushing and screening operations. It should be noted that the pit roadways will be sand, or sand and gravel which should prevent significant generation of fugitive dust.

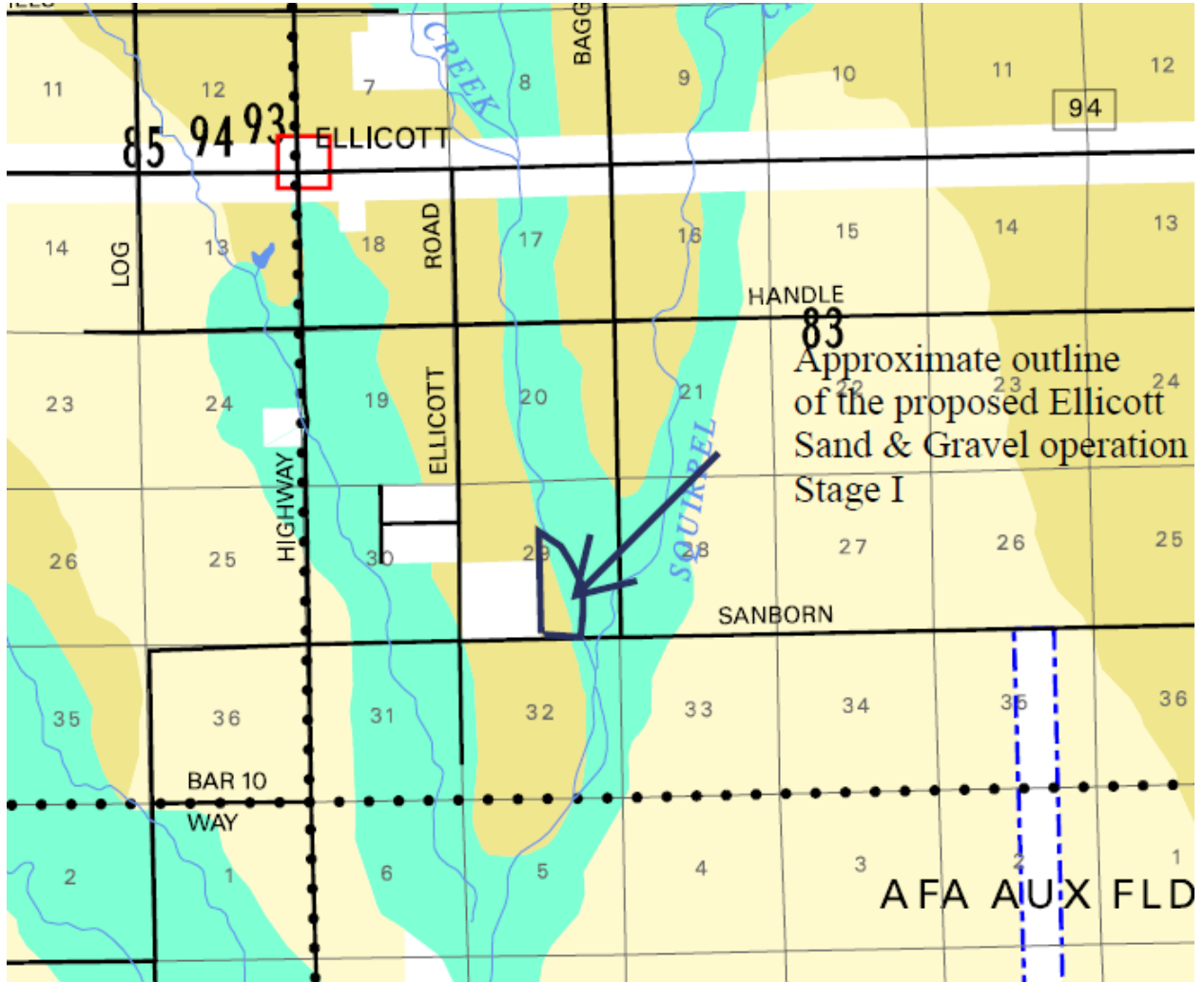
“(10) Commercial Mineral Deposit Required

- C.R.S. 34-1-302(1) “‘Commercial mineral deposit’ means a natural deposit of ... sand, gravel...for which extraction by an extractor is or will be commercially feasible















- and regarding it can be demonstrated by geologic, mineralogic, or other scientific data that such deposit has significant economic or strategic value to the area, state ...”
- Based on the following from the Ellicott Valley Comprehensive Plan, the proposed sand and gravel operation should fit nicely within the Ellicott Valley Comprehensive Plan Position Statement, “The Valley is capable of providing many of the elements necessary to support residential, commercial, and industrial development. It is the intention of the plan to promote the Valley as the location for one or more *self-sustaining* (emphasis added) satellite communities which will be complementary to the existing metropolitan area.”
 - The following information from the USGS Geologic Map of Colorado illustrates the potential of the deposit as a commercial sand and gravel deposit. Also shown is the El Paso County Resource Evaluation, Map three:

El Paso County Aggregate Resource Evaluation

Map three

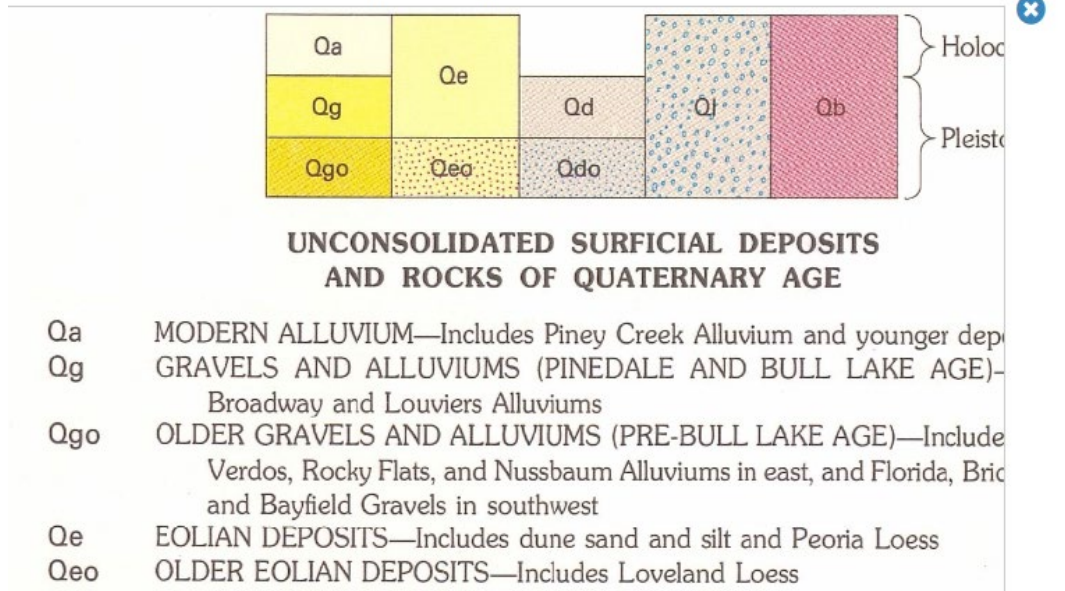


(Residual Version)

-  **FLOODPLAIN DEPOSIT:** Sand and gravel with minor amounts of silt and clay deposited by water along present stream courses.
-  **VALLEY FILL:** Sand and gravel with silt and clay deposited by water in one or a series of stream valleys.
-  **STREAM TERRACE DEPOSIT:** Older stream deposits containing sand, gravel, silt, and clay preserved on benches or broad flat to sloping areas adjacent to streams.
-  **MESA GRAVEL:** Sand and gravel with silt and clay deposited by older streams and slope wash on upland mesas which slope gently from the mountains.
-  **UPLAND DEPOSITS:** Sand, gravel with silt and clay; remnants of older streams deposited on topographic highs or bench like features.
-  **ALLUVIAL FAN DEPOSITS:** Gently sloping fan shaped deposits of sand, gravel, silt, and clay. Deposited by a stream from a steep, narrow valley into a broad, relatively flat plain or valley.
-  **EOLIAN DEPOSITS:** Wind blown sands.
-  **GRANITE:** Granite and granitic type rocks such as Quartz, monzonite, and Grandiorite underlying mountainous areas. ---
-  **FINE GRAINED GRANITE:** Granite and granitic type rocks with small crystal structure generally dense and requiring blasting for excavation.
-  **DECOMPOSED GRANITE:** Weathered granite and granitic type rocks generally easily excavated.
-  **LIMESTONE:** Sedimentary rock consisting mainly of calcium carbonate, generally dense and quarried for use as aggregate.
-  **CONGLOMERATE:** Course grained sedimentary rock containing Arkosic sand, pebbles and cobble. Commonly forms a cap over underlying rocks.
-  **COAL:** 0-150 feet of overburden, minimum coal thickness 4 feet. Includes Dawson and Laramie.
-  **COAL:** 0-200 feet of overburden, thickness unknown. Laramie coal

Geological Survey Map

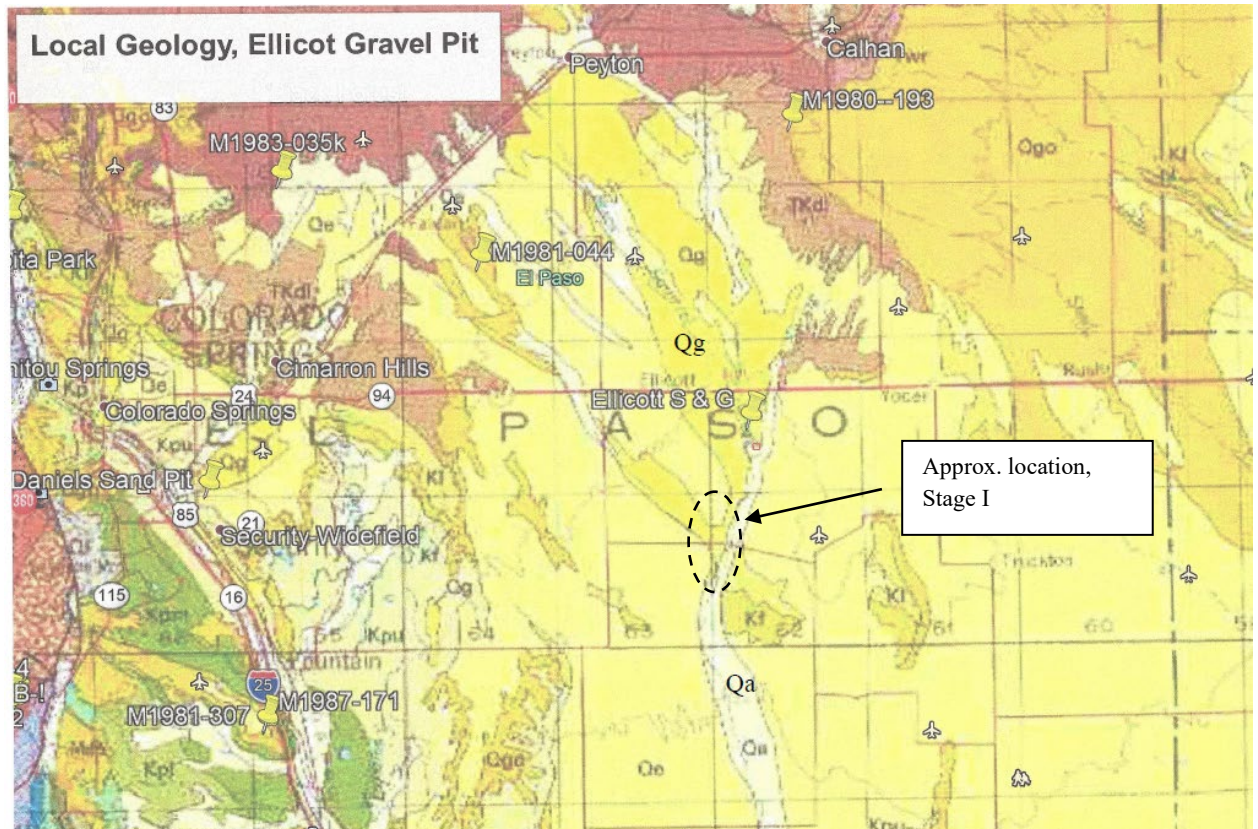
Image 2 of 2 — Explanation



Geology of the Area Based on the USGS Survey Map:

The following geologic map illustrates the extent of the Qg and Qa deposits:

- Qg is Gravels and Alluviums
- Qa is Modern Alluvium



- “Commercial mineral deposit” means a natural deposit of ... sand, gravel...for which extraction by an extractor is or will be commercially feasible...”
Based on the above statutory definition and the depth of resource available, we believe the deposit is a commercial deposit.
- The second part of the definition requires, “...and regarding which it can be demonstrated by geologic, mineralogic, or other scientific data that such deposit has significant economic or strategic value to the area, state ...”
 - We have underlined the portion of the statute to which the resource’s significance applies. A significant source of sand and gravel is becoming less available (see below) as the current deposits are nearing either the limits of the resource, limited by surrounding development, or political resistance to the permitting of new sources of construction aggregate.
 - According to the Colorado Division of Reclamation, Mining and Safety website, El Paso County has sixteen permitted sand and gravel operations. Of that number, six are of less than 10 acres in size and may not be a significant source of sand. One operation is a clay operation for providing other than sand and gravel. The Daniels Sand Pit #2 is responsible for 75% of the sand sold locally. (Page 49, El Paso County Master Plan for Mineral Extraction, Feb 8, 1996) However, it appears the Daniels Sand Pit #2 is nearing completion of mining given it has almost reached the limits of lands available for mining “land locked”. (*The*

Schubert Ranch sand resource has the potential to replace a significant portion of the sand resource, upon closure of the Daniels Sand Pit #2.) Another site is also “land locked. Two sites are greater than thirty-four miles from Colorado Springs. One site is in final reclamation.

“(11) Site Security and Safety

- Site security and safety will be ensured by the following means:
 - **Site Safety** – As a mining operation, we are subject to the Mine Safety and Health Administration (MSHA). Their regulations include but not limited to mine site speed limits, employee training, back-up alarms, fan and belt guards, site security, posting of signage, personal protective gear (PPG), roll over protection on equipment, and periodic inspections by MSHA personnel.
 - **Site Security** – We will provide an entrance gate which will be locked during non-business hours. Given the operation will have a scale for weighing loaded highway haul trucks, all persons entering the mine site will be required to check with the Scale House personnel, sign-in, and demonstrate they have recent MSHA miner training, and PPG. The perimeter of Stage 1 that borders adjacent property will be posted with typical “No trespassing, mining operation” signs.
 - ✓ Emergency Response – MSHA also requires miner training to include emergency response training, such as spill response.
 - ✓ The fire protection district is the Ellicott Fire District.

“(12) Hours of Operation

- The proposed mining operation will only operate during daylight hours, six days per week, 7 am to 7 pm, as needed.

“(13) Reclamation of Visual and Environmental Impacts

- Adverse Visual Impact Reclamation:
 - This topic was discussed above. In a general sense, mining is not a long-term activity and varies in length from months (highway borrow site to longer term mining operations such as the Climax Mine near Leadville, Colorado. In this case, the expected life of Stage I is between 10 and 15 years. Upon completion of mining, reclamation will begin. An operator has 5 years to complete reclamation for a stage or for the entire operation, if not mined in stages. A reclamation plan must specify a post mining land use which has the concurrence of local county government in which the mine is to be located. Once an operator notifies the DRMS that mining is complete at a mine site or stage of mining, the operator initiates site reclamation to meet the regulatory requirement for reclamation. Therefore, any visual impacts will be addressed shortly after mining in Stage I is complete.

- In addition, once Stage I is initially opened, the operations will move below grade and will have only limited visibility. Also, where possible, topsoil/overburden stockpiles will be placed to limit the operation's visibility.
- Environmental Impact Mitigation:
 - ✓ There are several environmental impacts possible from a typical sand and gravel mining operation. Below are what we believe are the potential environmental issues and how we intend to mitigate Stage I impacts.
 - ✓ Environment impacts are determined by Federal, State, and local (El Paso County) regulations. For example, typical county environmental impacts are noise, light, and visual impacts.
- Air Pollution:
 - ✓ Section 6.3.1 of the El Paso County Land Development Code requires an operator to comply with County, State and Federal air quality standards.
 - ❖ This is not a construction activity; it is a mining operation.
 - ❖ The expected air pollutant is fugitive dust.
 - ❖ There will be some emissions from gas and diesel equipment (trucks and mining equipment). Engine emissions from equipment and fugitive dust are subject to regulation by the State Air Quality Control Division (AQCD).
 - ❖ Our Air Quality Permit has been obtained (Permit No. 22EP0054F).
- Section 6.3.1(C)(5)(a) and (b) Haul Trucks and Haulage Equipment:
 - ✓ Deposition of Dirt and Mud on Roads:
 - ❖ This is a sand and gravel operation. Therefore, dirt and mud should be minimal. The operational surface will be sand and/or sand and gravel.
 - ❖ The access point will be surfaced with pit run material (sand and/or gravel).
 - ✓ (b) Particulates Emission in Transit:
 - ❖ All loads will be covered.
- (6) Open Burning:
 - ✓ There will be no open burning.
- Impacts to Water Quality:
 - ✓ Ground Water Quality:
 - ❖ The operation is designed to not intercept ground water and will stay at least ten feet about the regional ground water elevation. (Ellicott Sand and Gravel, DRMS approved Permit Application.)
 - ❖ No toxic or other hazardous material will be on site in reportable quantities.
 - ❖ All other solid and liquid waste will be disposed off-site at an approved facility.

- ❖ We will contract with a commercial provider to manage and provide Port-a-potty's.
- ❖ If diesel fuel is stored onsite, the storage facility will either be double walled with barriers to prevent vehicle strike, or a berm to contain the capacity of the fuel tank plus the design storm event. Other than the possibility of diesel fuel spill, the only other petroleum products which may impact ground water (and surface water) are antifreeze, hydraulic fluid and grease and oils. We will clean up spills of petroleum products which meet the reportable quantities limits and dispose off-site at an approved facility.
- ✓ Surface Water:
 - ❖ This will be a non-discharging facility. Therefore, a Water Quality Control Division (WQCD) Discharge Permit should not be required. We will, however, comply with the requirements of the WQCD, in the event the WQCD determines a discharge permit is required.
 - ❖ We have a Stormwater Discharge Permit (Permit No., COG502203). We have a certified Stormwater Management Plan (SWMP). We will implement the SWMP as a part of our Best Management Practices (BMP).
 - ❖ We also have a signed ESQCP permit application which is attached to the Stormwater Checklist.
 - ❖ Retention basins may be constructed on the site to collect stormwater before it leaves the site. No stormwater will be retained for more than 72 hours. It will only be discharged after it meets water quality standards. Any remaining basins will be removed as Stage I is reclaimed.
 - ❖ The ephemeral drainages will be minimally impacted by mining.
 - We will use a "Ranch Road" stream crossing, across Black Squirrel Creek at the northern most part of Stage 1. If required, the drainage crossing will be reviewed and approved by the Colorado Division of Reclamation, Mining and Safety.
 - With implementation of our SWMP, coupled with our commitment to stay at least ten feet above the regional ground water table plus the other commitments noted above. No ephemeral drainages will be disturbed by mining. We believe our stated mitigation is sufficient to address any potential impacts to surface and ground water.
- Wildlife Impacts:
 - ✓ The reclamation plan approved by the DRMS lays out how the site will be reclaimed and takes into consideration the protection of wildlife resources.

- ❖ For example, the post mining land use of rangeland will encourage use by various classes of wildlife, more so than what is typical of an agricultural use.
- ❖ The proposed operation will be mined in stages. Those stages not yet mined will be available for wildlife use.
- ❖ Once a stage is mined, reclamation will begin.
- ✓ Therefore, given the above factors, we do not expect significant impact to existing wildlife use.
- Impacts from Hazardous Waste:
As discussed above, other than the possibility of diesel fuel, antifreeze, hydraulic fluid and grease and oils, no hazardous or toxic substances shall be on-site.
- Noxious Weed Mitigation:
The approval of the DRMS Permit Application contains a typical Noxious Weed Control Plan.
- 6.3.2.(B) Drainage Report (Soil Erosion Control):
 - ✓ There are two types of soil erosion, rainfall runoff and wind erosion.
 - ❖ Wind Erosion: Wind erosion may occur given the sandy nature of the proposed mine site. Wind erosion and fugitive dust will be controlled under the provisions of our Air Pollution Control Permits and by reseeding once mining in a stage is complete.
 - ❖ Rainfall Runoff Erosion:
 - This is a non-discharging facility and rainfall runoff does not report to any public or private sanitary or stormwater sewer system.
 - In addition, we have in place a certified Stormwater Management Plan.

“(14) Mineral Processing

- It is our understanding the Special Use Process which approved our Special Use Application also approved our mineral processing and its associated equipment.
- The proposed operation will include, but not be limited to the following sand and gravel processing equipment.:

Processing Equipment:

Crusher

Screens

Conveyors

A scale and house

(End of excerpts from the Mineral Extraction Application.)

“8. A discussion regarding the provision of utilities.”

- No utilities are necessary. A stub line has been provided for power to the scale house and scale. All material processing equipment will have self-contained power supplies.

A commercial provider will provide water, from offsite. Portable toilets will be provided and serviced by a commercial provider.

“9. A discussion regarding the anticipated traffic generation and access unless a separate traffic study is required and is being provided.”

- A separate traffic study (Report) was provided for the County.

“10. A discussion and justification for any alternatives being requested.

A RATIONAL ARGUMENT FOR NOT IMPOSING

EI PASO COUNTY’S LANDSCAPE REQUIREMENTS ON THE SCHUBERT RANCH SAND RESOURCE PIT, PPR 234

In the El Paso County (EPC) comments to our initial Site Development Plan Letter of Intent Checklist), EPC requests we, “...provide justification for your alternative landscape request. “

Under State Statute, review and approval of mine site reclamation rests with the Colorado Mined Land Reclamation Board and based on their implementing Rules and Regulations. (Please see Colorado State Statute, CRS 34-32.5-109(3)) which states in part, “*No government office of the state, other than the board, nor any political subdivision (Emphasis added) of the state shall have authority to issue a reclamation permit pursuant to this article, to require reclamation standards different than those established in this article, (Emphasis added) or to require any performance or financial warranty of any kind for mining operations.”*

To further clarify, reclamation means, “...*the employment, during and after an operation, of procedures reasonably designed to, “...provide for the establishment of plant cover, stabilization of soil, protection of water resources, or other measures appropriate to the subsequent beneficial use of the affected lands.”* (Emphasis added) (CRS 34-32-103(19)) The subsequent beneficial use is rangeland/wildlife habitat. Our reclamation plan (to achieve this use) has been approved by the Colorado Division of Parks and Wildlife, the local Soil Conservation Board of Supervisors, the Office of the State Engineer, and the Colorado Department of Public Health and Environment. All referral agencies concurred with the CDRMS approved Reclamation Plan. Further, your own Planning Commission and Board of County Commissioners gave unanimous approval to the SUP which included concurrence with the proposed reclamation plan.

We further believe the proposed mining activity is like an over lot grading operation. Each involves a modification of site topography which may include removal of material from the site. Commercial/residential over lot grading prepares a site for streets, sidewalks, buildings, utilities, and landscaping. Our proposed activity, once mining is complete, will prepare the site for rangeland (an agricultural use) and wildlife habitat which does not include streets, sidewalks, buildings, utilities, or landscaping. Since no commercial or residential infrastructure will be constructed, there should be no need for the application of the County’s landscape regulations.

We believe the approved reclamation plan is adequate for the proposed post mining land use, rangeland/wildlife habitat since it meets the State’s regulatory criteria to, “...*provide for the establishment of plant cover, stabilization of soil, protection of water resources, or other measures appropriate to the subsequent beneficial use of the affected lands.*” (CRS 34-32-103(19))

We also point out; the end land use of rangeland/wildlife habitat is an approved County land use. The EPC definition of “Development” states, “*Development shall not include...(d) the use of any land for an agricultural activity.*” (Emphasis added) We strongly suggest since the end land use includes agricultural (identical with the existing use), the provision applicable to a “Development” should not apply. (Please remember, mining is only an interim and temporary use.)

There is precedent for this. The County has already waived the need for a soils and geology report/checklist, since no structures are to be built as part of the mineral extraction operation.

However, we have attempted to address the EPC landscape checklist and other code provisions, where they are not in conflict with or appear contrary to the CRS 34-32.5-101 statute and implementing regulations. Examples include the Parking and Lighting Checklists, among others.

We therefore request El Paso County accept the CMLRB approved reclamation plan since the County is not allowed to require reclamation different than what the Mined Land Reclamation Board has approved; and the activity should not be considered a “Development”, due to the site’s present and post mining land use, agriculture.