



## **Plan of Development, Mineral and Natural Resource Extraction Application**

**Date: 5-12-2023**

**For: Schubert Ranch Sand Resource (Pit)**

**Ellicott Sand and Gravel, LLC**

**PPR 234**

Following are the El Paso County's requirements for a Plan of Development for a Mineral and Natural Resource Extraction operation. We reviewed the following documents to prepare the Plan of Development and we checked to make sure we are using the most current versions.

- El Paso County, Use and Dimensional Standards-Chapters 5 and 6.
- The Engineering Criteria Manual, sections which address traffic, drainage, and grading.

We believe we have fully addressed the applicable requirements of the above County codes and standards. It appears the Code was not drafted with mineral extraction operations in mind, rather it is intended to address residential, commercial, and industrial developments. These types of developments are intended to be long-lasting and permanent. Mining operations are temporary. Borrow pit mining operations are short term. The other types of mining operations are also temporary but of longer duration.

As stated above, the El Paso County Development Code is written specifically for residential, commercial, and industrial development. Mineral extraction operations, in general, do not easily fit into the El Paso County Development Code and its requirements. Therefore, we have attempted to address all pertinent El Paso County Code (Code) for mining and not residential/commercial development.

- In some cases, the following narrative omits those portions of the Code which obviously do not pertain to the proposed mineral extraction operation. For example, those portions of the code specifically dealing with residential, commercial, or industrial development.
- This method of addressing the Code results in gaps in the numbering system. To help the County review process, we list each portion of the Code addressed and cite the pertinent Code. That helps us address the Code question or requirement and allows the County to tie a response to a specific Code.

We look forward to the Planning Department's review, to ensure we have met the County requirements and are able to receive Development Plan approval and implement our Natural Resource Extraction Operation.



**Use and Dimensional Standards, Chapter 5:  
Response Date, from SUP Application: 2/8/2021**

***“Chapter 5 – Use and Dimensional Standards”***

- *“5.1.2 Types of Uses and Limit on the Number of Uses per Lot or Parcel*
  - *“...Only one principal use is allowed per lot or parcel, except in the A-35 zoning district ...where more than one principal use may be established subject to the requirements and limitations of this Code, or where special use approval or variance of use approval has authorized additional use...”*
  - **Response:**
    - ✓ The mineral extraction operation will take place in parcels zoned A-35.
    - ✓ We have received Special Use approval.
    - ✓ The use we are requesting, by way of this Special Use Application, is a Natural Resource Extraction Operations, Commercial.
    - ✓ According to the above section of the EPC Code, 5.1.2, more than one use may be allowed in the two Parcels (2400000276 and 2400000275) which are zoned A-35, agriculture. The proposed mineral extraction will permit area is approximately 733.7 acres of the Parcel’s total acreage, 2,162.98 acres.
    - ✓ The only use will be mineral extraction which will include a portable material processing plant for raw sand and gravel material. It is not known at this time if a crushing facility will be needed.
- ***5.1.3 Principal Uses Described – Principal Use Table Described –***
  - **Response:**
    - ✓ According to the following Table (Chapter 5, Table 5-1) “Mineral and Natural Resource Extraction Operations, Commercial” are allowed in Agricultural Zoning Districts through the “Special Use” process.
    - ✓ Mineral Extraction Table 5-1.



Use Type	Agricultural Zoning Districts			Residential Zoning Districts														Commercial Zoning Districts			Industrial Zoning Districts			Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-3	RR-2.5	RR-0.5	RS-20000	RS-5000	RS-5000	RS-5000	RM-12	RM-30	RT	MHP	MBS	MIPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4				
Mineral and Natural Resource Extraction Operations, Commercial	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	YES		YES
Mineral Processing Plant																													YES	

- **5.1.4 Accessory Use Table Described – Table 5-2 identifies accessory uses which may be located on a lot or parcel use in that zoning district...**

  - Response:
    - ✓ We did not identify any accessory uses applicable to the proposed mineral extraction operation which occurs in the A-35 zoning district.
  
- **5.1.7 Accessory Use and Structure Standards**

  - Response:
    - ✓ No accessory uses are proposed; therefore, this section does not apply.
  
- **5.1.18 Commercial and industrial Accessory Structures and Uses – The following structures and uses are considered accessory to commercial and industrial use.**

  - Response:
    - ✓ Section 5.1.18 includes the following “accessory structures” which may be found at the proposed operational site.
      - ❖ On-site parking or parking lot.
      - ❖ On-premises signs.
      - ❖ Fences.
      - ❖ Antennas and/or radio facilities.
  
- **“Accessory uses shall meet the general accessory structure and use standards, ...Chapter 6.”**

  - Response:
    - ✓ How we intend to meet the standards for accessory uses are addressed in the following sections of this document which addresses the El Paso County Code, 6.0.
  
- **“5.2.31. Mineral and Natural Resource Extraction:**

  - (A) Commercial Mineral and Natural Resource Extraction Operations.
  - (3) General Requirements.
    - (a) Compliance with this Section. In addition to compliance with the special use permit standards, any other applicable requirements of this Code and any conditions imposed by the BoCC, a commercial mineral and natural resource



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*extraction operation shall also comply with the standards, requirements and conditions required by this Section.”*

➤ Response:

- ✓ We do not intend to NOT comply with the applicable Federal, State or El Paso County rules, regulations, licenses or permits.

*“(b) Valid Mining Permit Required. A commercial mineral and natural resource extraction operation shall have a valid mining permit from the Colorado Mined Land Reclamation Board prior to beginning or expanding operations and during the entire period of operation.”*

➤ Response:

- ✓ As a condition of the SUP approval, we agree to provide the County with a copy of our issued Mined Land Reclamation Board (MLRB) permit.
- ✓ We would like to point out the above County Code does not require we provide the MLRB permit as a requirement prior to County approval of the SUP/Development Plan. Rather it says to us that we must provide a “...valid mining permit...prior to beginning or expanding operations...”.
- ✓ The Permit has been issued by the Mined Land Reclamation Board.

*“(c) Written Notice of Filing for Permit with MLRB. Written notice of the filing of an application for a reclamation permit or renewal of an existing mining permit to the Colorado Mined Land Reclamation Board shall be provided to the PCD by the applicant concurrent with the placement of a copy of the application or renewal for public inspection at the office of the Clerk and Recorder in accordance with C.R.S. § 34-32-112(10)(a).”*

➤ Response:

- ✓ The DRMS “Completeness Letter” that the application is considered filed.



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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

1313 Sherman St. Room 215 Denver, CO 80203 P (303) 866-3567 F  
John W. Hickenlooper, Governor | Robert W. Randall, Executive Director | Virginia Brannon, Director



✓ Response: Proof of notice to the El Paso County Clerk and Recorder:

*“(d) Proof of Publication Required. The applicant shall provide copies of the proof of publication of any notice required by C.R.S. § 34-32-112 (10)(b) to the PCD.”*

➤ Response:

✓ Proof of Publication:



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ELLCOTT 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

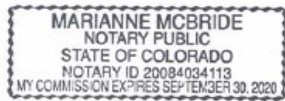
I, Karen M. Johnson, do solemnly swear that I am General Manager of the El Paso County Advertiser and News, that the same is a weekly newspaper printed, in whole or in part, and published in the County of El Paso, state of Colorado, and has a general circulation therein; that said newspaper has been 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  
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  
Notary Public



*“(e) Comply with Construction Permit and Erosion and Sediment quality Control Permit. Mineral and natural resource extraction operations shall comply with ECM and any required permits.”*

- Response:
  - ✓ We do not intend to NOT comply with the applicable El Paso County rules, regulations, licenses or permits.

*“(4) Local Approval and State of Colorado Discharge Permits. Approval of a special use permit does not relieve the applicant from compliance with discharge requirements of the State of Colorado.”*



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- Response:
  - ✓ As stated in our responses to the Colorado Department of Public Health and Environment, Water Quality Control Division (CDPHE, WQCD), we will comply with all applicable CDPHE, WQCD Rules and Regulations and necessary permits.
  - ✓ We received our Stormwater Certification to discharge on 1/5/2022, Certification #COG502203.

*“(B) Additional Standards. A mineral and natural resource extraction operation shall, in addition to meeting the special use standards, demonstrate conformance with the following standards:”*

*“(1) Consistent with the Master Plan. The operation shall be consistent with the Master Plan for the Extraction of Commercial Mineral Deposits.”*

- Response:
  - ✓ We believe we have demonstrated in the submitted document titled, “Master Plan V2 Redlines, 11/25/2020, PCD Project Manager, Response Date: 2/8/2021” that we will meet the Master Plan’s Goals, Policies, and Proposed Actions which are applicable to our proposed mineral extraction operation.

*“(2) No Adverse Long-Term Visual Impacts. The operation shall have no adverse long-term visual impact either from adjacent properties or major transportation corridors.”*

- Response:
  - ✓ We do not foresee any, “...adverse long-term visual impact...from adjacent properties or (from) major transportation corridors.”
  - ✓ Once mining and reclamation operations are complete, the site will be returned to non-irrigated rangeland which will reduce the traffic load to the area. Returning the site to non-irrigated rangeland will return the visual and traffic impacts to pre-mining conditions in terms of visual impacts and traffic impacts.

*“(3) Reclaimed to a Compatible Use. The land on which the operation is located shall be reclaimed to a use and character compatible with the surrounding uses and zoning.” “Please site what the future use of the site will be after mining is complete in further detail, will vegetation measures be taken if so, what are those measures?”*

- Response: (From 11/25/2020 PCD PM Letter of Intent Comments.)



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- ✓ The post mining land use will be non-irrigated rangeland. Since the existing use is agriculture, zoned 35-A, the post mining land use should be compatible with the existing use.
- ✓ The site reclamation measures will include:
  - ❖ Backfilling and grading to a 3H:1V slope or less.
  - ❖ Replacement of up to six inches of plant growth material.
  - ❖ Seed to the DRMS/MLRB, site specific, approved seed mix.
  - ❖ Apply a weed free straw mulch based on the DRMS/MLRB approved permit specifications.
  - ❖ Noxious weed control as needed and as specified in the DRMS/MLRB approved permit.

*“(4) Operation to Result in Efficient Use of Resources. The operation shall result in an efficient use of the mineral deposit.”*

➤ Response:

- ✓ The response is from the Mineral Extraction Application, 11/21/2019, previously submitted:
  - ❖ 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 and gravel 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, excluding contaminants such as clay, shale, and sandstone) vary in extent from fifty-six feet to eighty-eight feet of actual





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thickness. (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” will be removed at the on-site processing facility and disposed on-site as part of the reclamation process.



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WR-406-72

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 6969-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 (Carrie)	
100	102	Clay + shale	

TOTAL DEPTH 102

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 & kind from to f

GROUTING RECORD  
Material Clay  
Intervals 0 - 25  
Placement Method poured  
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 54 hrs.  
Sustained Yield (Metered) 840  
Final Pumping Water Level Bottom

Use additional pages necessary to complete log.



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WELL LOG 6971-FP

From	To	Type of Material	Water Loc.
0	3	top soil	
3	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 Reverse 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 7/16 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. Humphries

License No. 71

State of Colorado, County of Elbert ss

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

My Commission expires Dec 6, 1970. Bonnie Delores Hamrick  
Notary Public



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WR-20-72

COLORADO DIVISION OF WATER RESOURCES

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RECEIVED

JUL 11 1972

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

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. 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 - horri's	
94	96	Shale	
TOTAL DEPTH		96	

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 ?

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 34

Length of Test 24

Sustained Yield (Metered) 480

Final Pumping Water Level Bottom

Use additional pages necessary to complete log.



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Custom Soil Resource Report

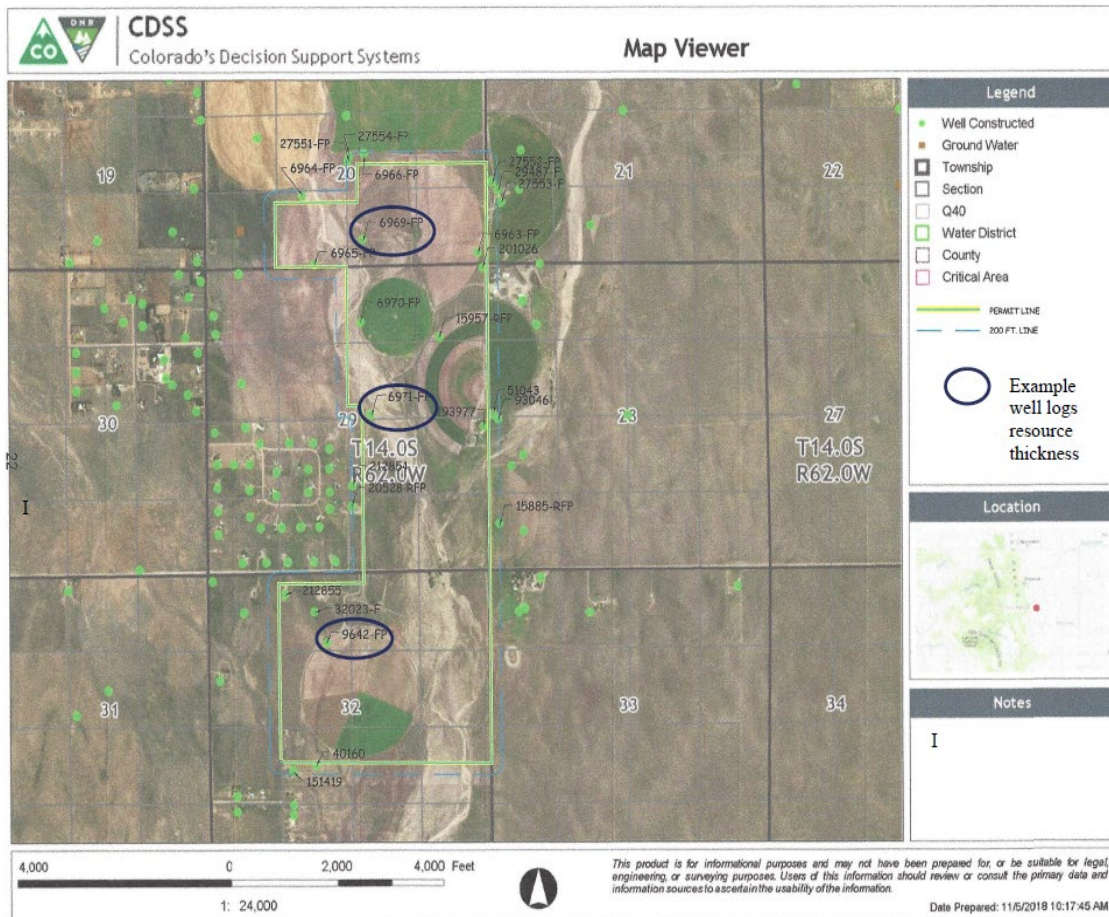
## Map Unit Legend

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%
<b>Totals for Area of Interest</b>		<b>729.4</b>	<b>100.0%</b>



EXHIBIT G

WATER (CONT)



➤ Map of water well logs to illustrate depth of resource.

*“(5) Disturbance of Sensitive Environment Limited. The operation shall not substantially disturb uniquely sensitive environmental features including but not limited to wetlands, riparian habitats, wildlife habitats, threatened or endangered species habitat, high priority land for conservation, and rare or unusual natural features.”*

➤ Response:

- ✓ The response is from the Mineral Extraction Application, 11/21/2019, previously submitted:
  - ❖ 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.

- ❖ Retention ponds may be constructed on the site to collect stormwater before it leaves the site.
- ❖ No stormwater will be retained for more than 72 hours and then only after it meets water quality standards. These ponds will be removed when an area is reclaimed.” (Ellicott Sand and Gravel, DRMS approved Permit Application.)
- ❖ *Evaluation of Impacts on the one hundred Year Flood Plain:*  
Please See Attachment III in the previously submitted Mineral Extraction Application. Omitted here due to size.
- ❖ *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 on the mine 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 Division Parks and Wildlife (CDPW) 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 & Gravel will then take the appropriate actions to prevent disturbance to the nest or roost site. If raptor use occurs or is observed after mining activities have commenced on an area, then CDPW will be contacted to advise actions that can be worked out to operate the mine without completely abandoning the site for lengthy periods of time.” (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 Land for Conservation” or “Rare or Unusual Natural Features”.
  - From the approved DRMS Permit Application:

## 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).

- “The site is mostly grassland and developed agricultural areas with some ephemeral creek bed running down the central part of the site. 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. Some 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.)

*“(6) Disturbance of Historic Resources Limited. The use shall not substantially disturb identified historical, archaeological, or paleontological sites.*

➤ Response:

- ✓ The response is from the Mineral Extraction Application, 11/21/2019, previously submitted:
  - ❖ A review of the Division of Reclamation, Mining and Safety electronic files indicates that “History Colorado” has not yet 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 operation.
  - ❖ 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, if human remains are discovered, the El Paso County Sheriff will 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 site and associated special use operations shall be adequately buffered from surrounding properties and uses.”*



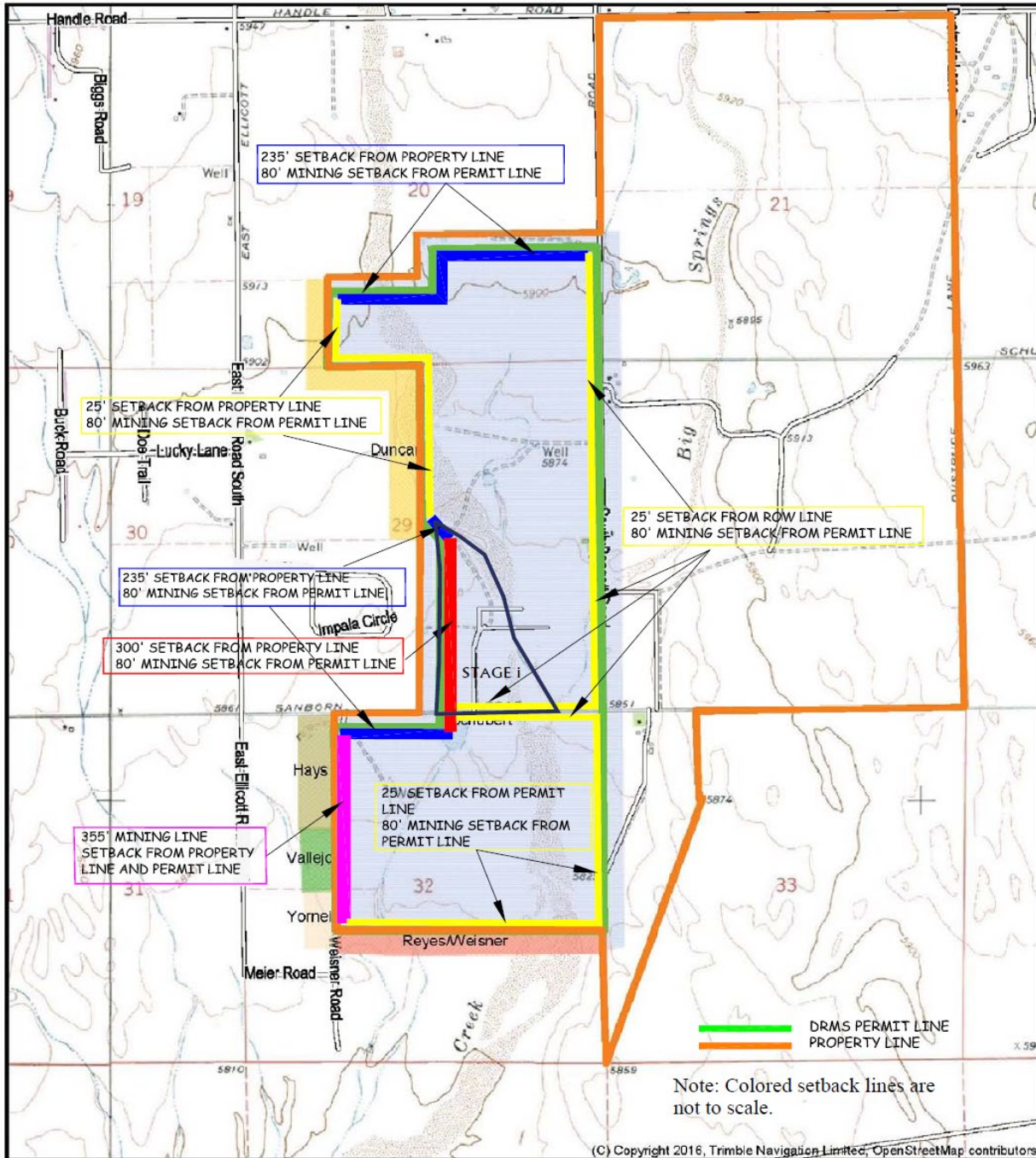
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- Response:
  - ✓ The response is from the Mineral Extraction Application, 11/21/2019, previously submitted:
  - ✓ The permit boundary is proposed to be setback from the Schubert Ranch property boundary by at least two hundred feet. The following map illustrates the property line setback around the perimeter of the permit boundary and is from “ESG County Plot Plan, PCD Project Manager, 11/25/2020, Response date 2-8-2021” which also addresses this item in more detail.



➤ Property Setback Map:



Quad. Name: BIG SPRINGS RANCH  
 Date: 02/16/21  
 Scale: 1 inch = 2,000 ft.

Part of the S1/2N1/2SE1/4, S1/2SE1/4, and SE1/4SW1/4 of Section 20, and The E1/2E1/2 and NW1/4NE1/4 and parts of the SW1/4NE1/4, SW1/4SE1/4, and NW1/4SE1/4 of Section 29 and The E1/2NE1/4, SW1/4NE1/4, & SE1/4NW1/4, and parts of the NW1/4NE1/4 & NE1/4NW1/4, Section 32, Township 14 South, Range 62 West, 6th P.M. El Paso County, Colorado Containing 733.7 acres more or less.

**ELLCOTT SAND AND GRAVEL LLC  
 SCHUBERT RANCH SAND RESOURCE  
 MAP EXHIBIT 1 - SETBACK MAP**



*“(8) Water Supply Adequate for Operations and Reclamation Uses. Adequate water supplies shall be available for drinking, dust control, landscaping, general operations, and effective reclamation. Proof of approved water supply shall be provided to PCD.”*

*“It is unclear if you are planning on drilling a well OR bringing water in from outside sources. If you are planning on drilling a well, we would need to be stated and proof of water rights need to be submitted. If you are bringing in outside water in, we would need you to identify the location and size of cisterns. PCD would also need to add a condition of approval to the project of cisterns and would need a record of receipts. (This comment is from 11/25/2020 PCD PM Letter of Intent Comments.)*

➤ Response:

- ✓ The following response is modified from the Mineral Extraction Application, 11/21/2019, response previously submitted.
- ❖ 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.” It will be purchased from a local commercial water provider which has water permitted for industrial uses. (Please see additional response to this comment, below.)
- ❖ No on-site drilling of new wells will be done. No on-site wells are proposed to be used at this time. If, in the future, on-site wells are needed, we will permit that use through the Department of Water Resources.
- ❖ As stated in the “Colorado Division of Water Resources, DWR Comment Date: 7/1/2020,12/8/2020, Response Date: 2/8/2020”, response to comments; “The source of water needed for processing and fugitive dust control will likely be Tim Kunan Drilling, 23945 Lucky Lane, Calhan, Colorado.”
- ❖ No water will be used for reclamation, nor will the revegetation areas be irrigated.” (Ellicott Sand and Gravel, DRMS approved Permit Application.)
- ❖ Potable water will either be purchased locally or obtained from on-site domestic ground water wells. A total of six employees will be on-site at any one time.

*“(9) Mitigation of Impacts to Adjacent Properties. Adverse impact from vibration, noise, glare, blowing or flowing materials, or odors shall be mitigated to ensure minimal impacts to adjacent properties and travelers.”*



➤ Response:

✓ **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.
- ❖ The processing will not include any large crushing equipment. The crushing which may occur on-site 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 most 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 mine 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 and as demand for product dictates.)
  - Placement of topsoil stockpiles may be used to reduce noise and visual 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 and visual impacts.
  - The highway haul trucks point(s) of access will be away from residential areas and will help reduce the noise impact. (Please see the Mine Plan Map which shows the point of access, Stage 1, midway along Sanborn Road, well away from the housing development on the west side of the proposed mining operation.

✓ **Glare Impacts:**



- ❖ This is proposed to be a daytime mining operation. Therefore, no operational lighting is needed.
- ❖ If night operations should be needed, we will return to the County to properly address operational lighting needs and impacts.
  
- ✓ **Blowing or Flowing Materials, or Odor Impacts:**
  - ❖ We do not anticipate impacts from materials which might produce odors. This is a sand and gravel operation which will use water in its processing facility. In addition, we will secure portable toilets for use on-site. A commercial provider will service the portable toilets on a regular basis. In addition, the site will be gated to prevent illegal dumping.
  - ❖ There should not be any “flowing materials”. It is true the fine sands and reject fine soil may flow. Material movement will be contained within the active pit for each Stage.
  - ❖ Fugitive dust is the primary air pollutant. We will have, in-place, 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, etc.
    - It should be noted, the pit roadways will be sand, or sand and gravel which should prevent significant generation of fugitive dust.
    - In addition, the mined material will have some level of entrained moisture which will help control fugitive dust.

*“(10) Commercial Mineral Deposit Required. A commercial mineral deposit as defined by State Statute shall exist on the land on which the operation will be located.”*

➤ Response:

- ✓ The following was originally submitted as part of the Mineral Extraction Application.
- ✓ 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 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 ...”
- ✓ 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 ultimately capable of



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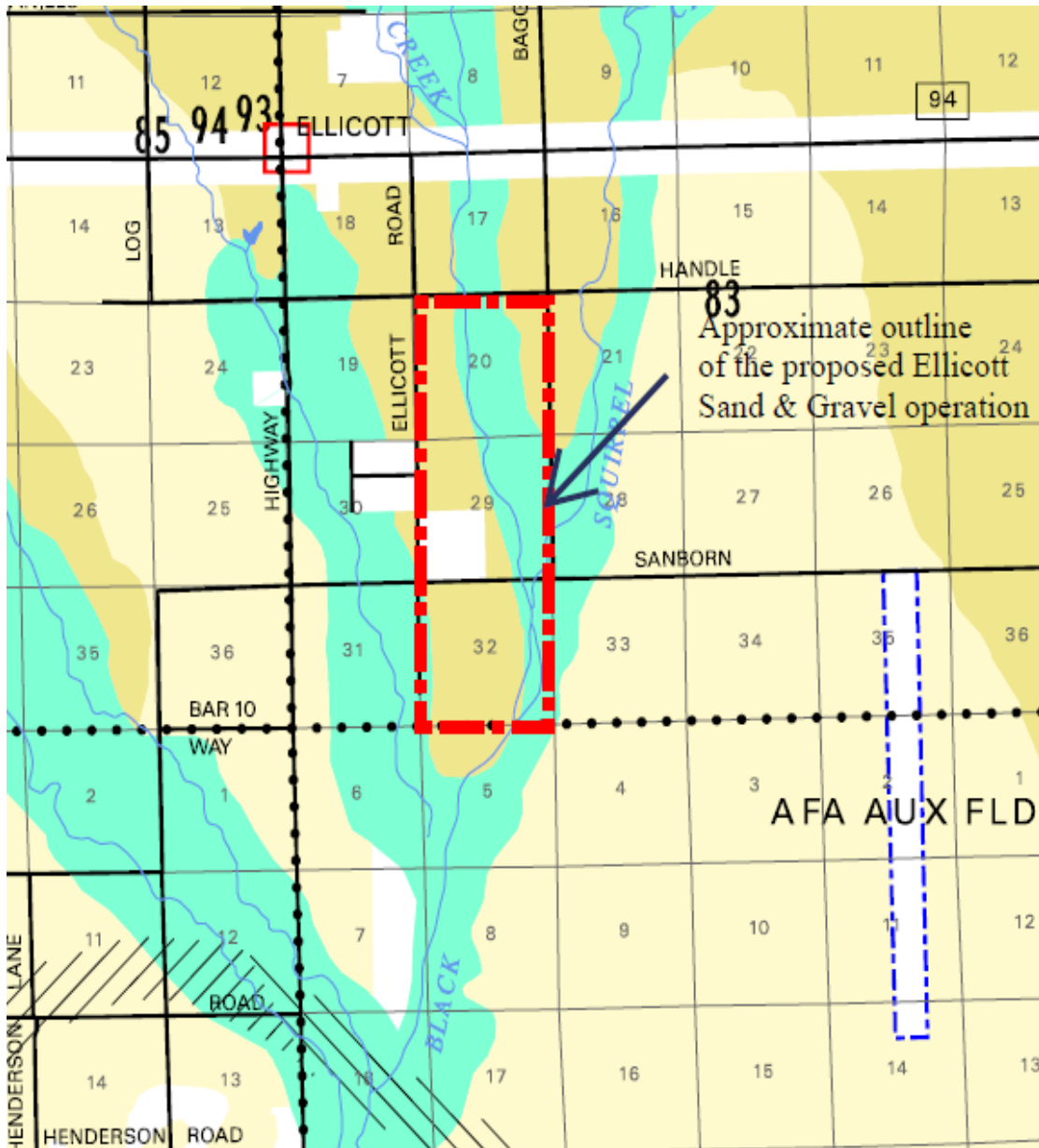
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providing many of the elements necessary to support residential, commercial, and industrial development. It is the intention of the plan to promote the Valley as the location for one or more *self-sustaining* (emphasis added) satellite communities which will be complementary to the existing metropolitan area.” A regional source of aggregate will be an important asset to the area development.

- ✓ 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 3:

















### El Paso County Aggregate Resource Evaluation







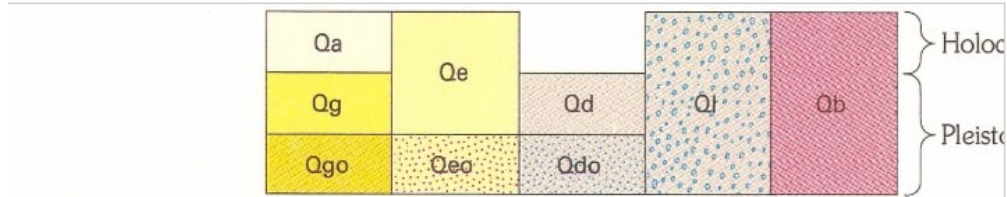
### (Residual Version)

-  **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 rock 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

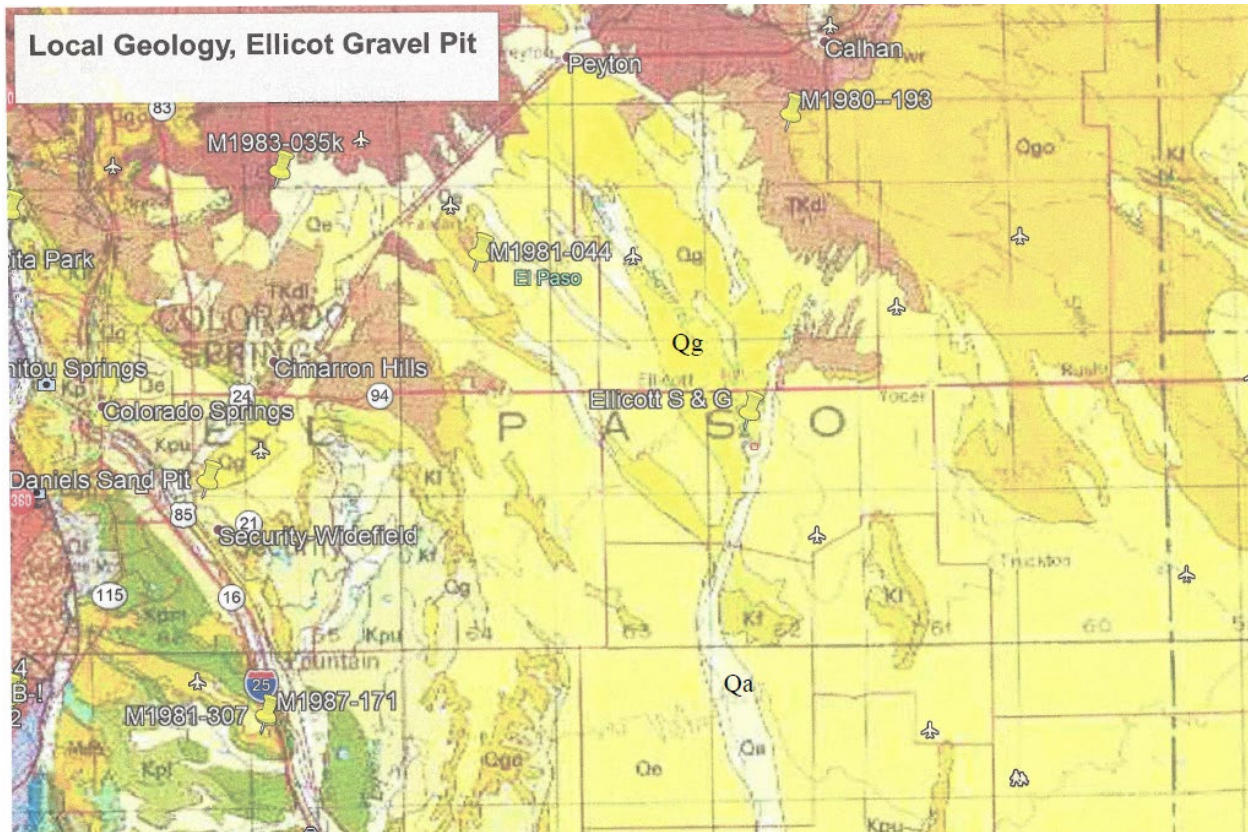


#### UNCONSOLIDATED SURFICIAL DEPOSITS AND ROCKS OF QUATERNARY AGE

- Qa MODERN ALLUVIUM—Includes Piney Creek Alluvium and younger deposits
- Qg GRAVELS AND ALLUVIUMS (PINEDALE AND BULL LAKE AGE)—Broadway and Louviers Alluviums
- Qgo OLDER GRAVELS AND ALLUVIUMS (PRE-BULL LAKE AGE)—Includes Verdos, Rocky Flats, and Nussbaum Alluviums in east, and Florida, Brick, and Bayfield Gravels in southwest
- Qe EOLIAN DEPOSITS—Includes dune sand and silt and Peoria Loess
- Qeo OLDER EOLIAN DEPOSITS—Includes Loveland Loess

#### 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. It is understand that 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 polotical 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 sizable 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. Adequate site security and safety plans shall be provided at all times.”*

*“State what measure will be taken for site security and safety.” (From 11/25/2020 PCD PM Letter of Intent Comments.)*

➤ Response:

- ✓ The following was originally submitted as part of the Mineral Extraction Application:
  - ❖ **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, etc.
  - ❖ **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 to sign-in, demonstrate they have recent MSHA minor training, and PPG. The perimeter of the mine site will be posted with no trespassing, mining operation signs.
  - ❖ **Fire Safety and Emergency Response:**
    - Fire safety – The mine operations are under Mine Safety and Health Administration (MSHA) regulations.
      - MSHA requires mine safety training on a regular basis which includes how to suppress a fire until the local emergency fire responders arrive.



- MSHA requires fire suppression equipment on all mobile equipment and fire suppression equipment near any significant sources of ignition, such as areas of stored petroleum products and other stored combustibles.
- As part of the MSHA training mine employees are to receive first aid training. The mine operator is required to have appropriate first aid supplies on site.
- 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. Hours of operation shall be compatible with neighboring uses, traffic volumes, affected transportation corridors and school bus operations, and designated pedestrian crosswalk activity over the lifetime of the operation.”*

*“What are the hours of operation are for all types of operation?” (From 11/25/2020 PCD PM Letter of Intent Comments.)*

➤ Response:

- ✓ The proposed mineral extraction operation will operate during daylight hours, six days per week, as demand for product dictates.

*“(13) Reclamation of Visual and Environmental Impacts. Reclamation of adverse visual and other environmental impacts shall take place within a reasonable and specified time frame.”*

➤ Response:

- ✓ Reclamation will be concurrent with each Stage.
  - ❖ This is to be a phased mining operation. As a new Stage is begun, the previous Stage will begin reclamation. An exception will be if portions of a Stage need to be left open for the material processing, scale and scale house use, product stockpiles use, and internal mine access road use.
  - ❖ In addition, the MLRB Rules and Regulations require once we notify the DRMS that mining has been concluded in a Stage, we have 5 years to complete the reclamation in that Stage.
- ✓ Adverse Visual Impact Reclamation:
  - ❖ In a general sense, mining is not a long-term activity and varies in length from a few months (highway borrow site) to longer term mining operations such as Climax Mine near Leadville, Colorado. In this case, the expected life expectancy of the mine is between 53 and 80 years. During this period, the site will be mined in several Stages. As a new



Stage is begun, the previous Stage may begin reclamation as discussed above.

- ❖ What they all have in common is as a Stage is completed, reclamation will begin.
    - A reclamation plan must specify a post mining land use which has the concurrence of the local county 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 to complete reclamation.
  - ❖ Therefore, any visual impacts will be addressed shortly after mining in a Stage is complete.
  - ❖ In addition, once a pit (Stage) is initially opened, the operations will be below grade and will have only limited visibility.
  - ❖ Also, where possible, topsoil stockpiles will be placed to limit visibility to the operation from certain locations around the perimeter of a Stage.
- ✓ 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 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, etc.

- ❖ 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. The County has agreed to make submittal of the air permit a condition of approval.
  - This is not a construction activity, rather it is a mining operation.
  - In a typical sand and gravel mining operation, such as the proposed 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). The AQCD will review the Operation's Air Pollution Emission Notice (APEN) and determine what operational controls will be required.



- Air quality impacts, therefore, will be mitigated by the requirements of the Air Quality Permit(s) issued by the CDPHE, AQCD. Prior to beginning any on-site mining operations, Ellicott Sand and Gravel will provide the documents as required by Section 6.3.1.(B)(2)(b) shortly after approval by the Colorado Air Quality Control Division.
  - We therefore suggest, since this is not a typical development, it may not be necessary for the County to apply the provision of Section 6.3.1.(B)(3) for the above reasons and waive this provision.
- ❖ 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(s) 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 the ground water and will stay at least ten feet about the regional ground water elevation.
    - 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 handle and provide portable toilets.
      - ✚ If diesel fuel is stored onsite, the storage facility will either be double walled with barriers to prevent vehicle strikes, or a berm to contain the capacity of the fuel tank plus the appropriate design storm event.
        - Other than the possibility of diesel fuel, the only other petroleum products which may impact ground water (and



- surface water) are antifreeze, hydraulic fluid and grease and oils. These items will not be stored on site.
- 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 CDPHE, Water Quality Control Division (WQCD) Discharge Permit should not be required. We will, however, comply with requirements of the WQCD in the event the WQCD determined a discharge permit is required.
    - We may need to obtain a Stormwater Discharge Permit. Regardless, we intend to have a Stormwater Management Plan (SWMP). We will implement the SWMP as a part of our Best Management Practices (BMP). Please see the attached “Ellicott Sand and Gravel’s Erosion and Sediment Quality Control Permit Application” which was previously submitted to El Paso County Planning Department.
  - The ephemeral drainages will not be disturbed by mining.
  - 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, and that no ephemeral drainages will be disturbed by mining, we believe, will sufficiently mitigate 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 is non-irrigated rangeland. The existing use is agriculture. The proposed reclamation seed mix includes a significant number of perennial grass species, several shrubs and one forb, (clover). The post mining land use of non-irrigated rangeland will encourage use by various classes of wildlife, more so than what is typical of other agricultural uses.
    - The proposed operation will be mined in Stages. Once mining is complete in a Stage, reclamation will begin in that Stage. Those Stages not yet mined will be available for wildlife use. The





- commitment to staged mining, followed by reclamation of that Stage, will limit the impact on wildlife.
- Of the available 733.7 available for mining, 220.2 acres will not be mined and available for wildlife use.
  - The present use of the mine site includes extensive areas of irrigated cropland with limited wildlife use.
- Therefore, given the above factors, we do not expect significant impact to existing wildlife. Further, once the site is fully reclaimed, wildlife use should be enhanced.
- ❖ 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.
    - The control of the above petroleum products is addressed above.
  - ❖ Noxious Weed Mitigation:
    - The approval of the DRMS Permit Application contains a typical Noxious Weed Control Plan which was provided in previous documents submitted to the County.
  - ❖ 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 is given the sandy nature of the proposed mine site. Wind erosion and fugitive dust, will be controlled by the following means:
        - ✚ Dust, primarily fugitive dust, will have the appearance of soil wind erosion.
          - Fugitive dust will be controlled under the provision of the approved Air Quality Permit, through road watering and some type of controls on the crushing and screening operations and at the drop/transfer points of the conveyor system.
          - In addition, the processing operation will occasionally be moved to where mining is occurring to reduce travel distance from the in-bank resource and the processing facility. Doing so will reduce the potential for mining and haul equipment fugitive dust generation.



- ✚ Loss of soil and subsoil from bare, disturbed areas should be minimal due to the natural moisture in the soil and the active removal of in-bank raw sand and gravel products.
- 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.
  - ✚ Since this is a non-discharging facility, most soil erosion will be internal to the operation and should not affect off-site drainage ways.
  - ✚ Significant topsoil and soil erosion should not occur in areas which have not been disturbed since such areas are covered by natural, perennial grasses and other vegetation. Once an area is ready for mining, the available topsoil will be salvaged and placed in topsoil stockpiles.
- Topsoil stockpiles will be seeded with the approved seed mix once the pile reaches its intended size, and it will not be disturbed for at least one year. Seeding topsoil stockpiles will ensure the loss of soil, due to erosion is mitigated.

*“(14) Mineral Processing. Mineral processing such as material washing, sorting, crushing or more intensive modification and alteration through mechanical or chemical means to a mineral resource extracted within the same ownership as the mineral extraction operation is prohibited unless specifically approved as part of the special use. If processing is to occur on the property where an exceptional use is requested for mineral extraction, then the special use cannot be approved administratively, and the public hearing process to review the special use will be triggered.”*

*“Please elaborate on all processing that will occur on site.” “Please verify if there will be processing or not on site.” (From 11/25/2020 PCD PM Letter of Intent Comments.)*

- Response:
  - ✓ Since material sorting is likely to occur on the proposed mineral extraction operation site, we understand a public hearing is triggered.
  - ✓ In addition, based on the makeup of the raw material extracted and the types of products eventually sold, additional processing may be required, such as crushing, screening, and washing.



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- ✓ All material processing equipment and scale will be portable and will following mining as each Stage is completed and a new Stage is opened.
- ✓ In some Stages it may be more efficient to leave portions of the processing equipment and/or scale in a previous Stage.
- ✓ Process Equipment (Revised from Mineral Extraction Application)
  - ❖ Portable crusher
  - ❖ Portable screens (may be combined with the crusher)
  - ❖ Portable conveyors/stacker
  - ❖ Portable scale and scale house

- Comments from the 11/25/2020 PCD PM, concerning the Letter of Intent:

*“Review one comment: As stated in the TIS there is an off-site parking lot that would be used for this site that is not addressed in the letter of intent, the mining operation plan or identified on a site plan.*

➤ Response:

- ✓ That statement is an error. There will be no off-site parking. All parking will occur within the proposed mine site and in the areas where topsoil has been removed. Typically, this will be the active mining area and/or around the portable scale and scale house.

*“Review 2: The TIS indicates that haul vehicles will originate from off-site locations and that Ellicott would control half of the haul trips. Please be sure to address in the letter of intent any off-site parking areas used by Ellicott Sand and Gravel. An access permit will be required prior to the use of this off-site parking. Note that use approval may be required as well. Verify with the planning staff regarding any requirements for this off-site parking.”*

➤ Response:

- ✓ There will be no off-site parking. All employee vehicles, visitors, and haul trucks will park on the active mining area where topsoil has been removed.
- ✓ This item was requested to be addressed in the letter of intent. We have addressed it here instead.
- ✓ If any off-site parking is needed, we will contact El Paso County and obtain the necessary approvals and permits prior to use.

***(14) Mineral Processing – Mineral Processing such as material washing, sorting, crushing or more intensive modification and alteration through mechanical or chemical means to a mineral resource extracted within the same ownership as the mineral extraction operation is prohibited unless specifically approved as part of***



***the special use. If processing is to occur on the property where a special use is requested for mineral extraction, then the special use cannot be approved administratively, and the public hearing process to the special use will be triggered.***

- Response:  
Not applicable since the EPC BoCC approved the SUP.
  
- “5.3.2 Special Use
  - (B) Applicability – *No special use application shall be considered unless the underlying land is located within a particular zoning district which allows the proposed special use.*”
  - Response:
    - ✓ According to the El Paso County records, the two parcels upon which the proposed mineral extraction operation is to be located are zoned A-35, agriculture.
    - ✓ According to Table 5-1, Principal Uses, Mineral and Natural Resource Extraction Operations, Commercial, are allowed in parcels zoned A-35.
  
- “*The special use is generally consistent with the applicable Master Plan;*”
  - Response:
    - ✓ We believe the following referenced document demonstrates the proposed mineral extraction operation is “generally consistent” with the Master Plan.
    - ✓ Please see the document titled “Master Plan V2 Redlines, 11/25/2020, PCD Project Manager: Response Date: 1-16-2021”
  
- “*The special use will be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;*”
  - Response:
    - ✓ The proposed use will be temporary and will return the proposed use, mineral extraction, to the previous use, agriculture. To be specific, non-irrigated agriculture.
    - ✓ Apart from a small residential development to the west of the proposed mineral extraction operation, the surrounding uses are agriculture.
  
- “*The impact of the special use does not overburden or exceed the capacity of the public facilities and services, or,*



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- Response:
  - ✓ As we stated in our Mineral Extraction Application, other than fire protection and availability of an ambulance and the local sheriff, there should be no need for any other “public facilities or services”.
  - ✓ The Ellicott Fire Protect District had no significant concerns with the proposed project. The minor concerns they did have, we understand have been addressed to their satisfaction.
  
- *“in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner.”*
  - Response:
    - ✓ We anticipate no additional “public facilities”, or services will be required, as the result of the proposed mineral extraction operation.
  
- *“The special use will not create unmitigated traffic congestion or hazards in the surrounding area, and”*
  - Response:
    - ✓ We believe the “Traffic Impact Report” and follow up responses demonstrates the level of operational traffic generated will be under the 200-vehicle limit trigger. Therefore, there should be no need to provide traffic mitigation at this time.  
(Please see the Traffic Report for details, sent as a separate document.)
  
- *“has adequate, legal access.*
  - Response:
    - ✓ The proposed mineral extraction operation will consist of several Stages. As the mining is completed in a Stage, the mining operation will move to the next Stage. Therefore, some Stages may use the same access point or require a unique access point. We therefore intend to obtain the appropriate “driveway permits” from the County, as necessary.
    - ✓ Each access point will be designed to accommodate highway haul trucks. As part of the “driveway permit(s)” submitted to the County, we will supply all required documents necessary for the County to review and approve the access point driveways as they are needed.
  
- *“The special use will comply with all applicable local,*



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- Response:
  - ✓ We believe with the submittal of the El Paso County Planning Department required document, and addressing all local agency comments, we follow all applicable local rules and regulations and licenses and permits.
- “state,” (licenses, permits, rules and regulations)
  - Response:
    - ✓ We have committed to supplying a copy of the DRMS/MLRB approved permit upon approval of the SUP/Development Plan applications and issuance of the DRMS/MLRB permit.
      - ❖ We have received DRMS/MLRB application approval and have supplied proof of the approved application.
      - ❖ We have submitted the Financial and Performance Warranties to the DRMS.
    - ✓ We have committed to supply copies of the Air Quality Control Division’s Air Quality Permit(s) upon approval of the SUP/Development Plan Applications. We laid out the steps necessary for the issuance of the Air Quality Permit in the document titled, “Impact Mitigation Analysis V2 Redlines, 11/25/2020, PCD Manager: Response Date: 1-15-2021”. As of the date of this document, we have received a permit number for our air quality permit.
    - ✓ We received comments from the Office of the State Engineer/Division of Water Resources. We believe we have adequately addressed their comments dated July 1, 2020, and December 8, 2020.
      - ❖ Our responses may be found in the document titled, “Colorado Division of Water Resources, 12/8/2020.
    - ✓ Water quality issues are addressed in our approved DRMS/MLRB permit application.
      - ❖ The DRMS/MLRB application we submitted covered both surface and ground water potential issues. The DRMS reviewed our responses to their surface and ground water regulations.
        - Requests for comments were sent to the Colorado Department of Public Health and Environment, Water Quality Control Division.
        - They did not comment on the DRMS/MLRB application we submitted.
      - ❖ Based on our responses to Division’s rules and regulations and comments, the DRMS approved the application package, which included protection to the quality and quantity of both surface and ground water.



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- ✓ Solid waste and asbestos, lead based paint and water quality issues were addressed in the following submittal to the EPC Planning Department:
  - ❖ “Colorado Department of Public Health and Environment Comments, Solid Waste, Water Quality, Asbestos and Lead Based Paint Date: 11/10/2020, Response to Comments, Date: 12/6/2020.”
- ✓ Light pollution should not be an issue since no nighttime mineral extraction activities will occur. We will operate only during daylight hours.
- ✓ Noise pollution was addressed in our document titled “Impact Mitigation Analysis” submitted to the EPC Planning Department on 3/11/2020.
  
- *“The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County;”*
  - Response:
    - ✓ We believe we meet the conditions of the above approval criteria for the following reasons:
      - ❖ The proposed mineral operation is of limited duration and will be reclaimed to a post mining land use of non-irrigated rangeland, an agricultural use.
      - ❖ Once the SUP application and the Development Plan are approved, the required reclamation plan financial and performance warranties will be posted with the State of Colorado.
      - ❖ Therefore, future residents should not suffer detrimental public health, safety, or welfare issues.
    - ✓ We believe the proposed mineral extraction operation will not be detrimental to the public health, safety, and welfare for the present residents.
      - ❖ We have shown, in the various submittals to El Paso County we meet this condition based on the following:
        - The DRMS/MLRB approval of the permit application documents demonstrates the proposed mineral extraction operation should not violate the MLRB rules and regulations which are intended to protect human health, property, and the environment.
        - Mineral extraction operations may not begin until the appropriate Air Quality Control Division, Air Quality Permit and its requirements are in place. The Air Quality Permit(s) are intended to mitigate potential fugitive dust. impacts.
        - Are stated intent to comply with the Colorado Department of Human Health and Environment, Water Quality Control Division



- rules and regulations demonstrate our proposed mineral extraction operations should not negatively impact surface or ground water quality.
- Our stated intent to comply with the Division of Water Resources rules and regulations demonstrate our proposed mineral extraction operation should not negatively impact adjacent water rights or other such issues.
  - With approval of the SUP permit and Development Plan, the remaining protections, not covered by State agencies rules and regulations, are covered by the El Paso County rules, regulations, and ordinances.
- *“The special use conforms or will conform to all other applicable County rules, regulations or ordinances”*
    - Response:
      - ✓ With approval of the Special Use Permit and Development Plan, we understand El Paso County will have found the proposed mineral extraction operation “conforms” to all applicable County rules, regulations, and ordinances.
  - *“(E) Performance Guarantees and Financial Assurance.*
    - *Sufficient performance guarantees and financial assurance may be required to ensure implementation of and compliance with the conditions imposed. The terms or any required guarantees and financial assurance shall be made part of a development agreement.*
    - Response:
      - ✓ Since this is a mineral extraction operation and not a commercial or residential development, we suggest this provision does not apply.
      - ✓ In addition, under the terms of the DRMS/MLRD application approval, the permittee must post a DRMS determined Financial Warranty, sufficient to complete mine site reclamation.
      - ✓ Further, the permittee must also execute a Performance Warranty which legally requires the permittee to complete site reclamation.
  - **Chapter 6.0**
    - **6.1. “The parties responsible for this plan have familiarized themselves with all current accessibility criteria and specifications and the proposed plan reflects all site elements required by the applicable ADA design standards and guidelines as**





*published by the United States Department of Justice. Approval of this plan by El Paso County does not assure compliance with the ADA or any regulations or guidelines enacted or promulgated under or with respect to such laws.”*

➤ Response:

We will comply with the ADA regulations where appropriate.

➤ **6.2.1. Development Standards for Ancillary Facilities and Activities**

**(c) General Standards Applicable to Fences, Walls, or Hedges**

**(1) 100-Year Floodplain – Fences and walls within a 100-year floodplain shall comply with the requirements of the Floodplain Regulations.**

➤ Response:

✓ No walls are proposed to be constructed within the 100-year flood plain.

**(2) No Obstruction of View of Vehicle Operators – No fence, wall, or hedge may obstruct the view of vehicle operators entering or leaving any parking area, service drive, driveway, road, alley, or other thoroughfare. Fences, walls, and hedges are subject to the site standards in Chapter 2 of the ECM.**

➤ Response:

✓ No such fences will be installed.

✓ Agricultural fences are exempt and may be on-site from the present land use, agriculture.

**(a) Corrugated Metal Not Approved as Fencing Material. Corrugated metal is not considered an acceptable fencing material in perimeter fencing if visible from outside the fenced lot or parcel.**

➤ Response:

No corrugated metal will be used as fencing material if it is visible from outside the fenced lot or parcel.

- **Chapter 2.4.1.D, ECM –...Any potential obstructing object, such as but not limited to advertising signs, structures, trees, and bushes, shall be designed, placed, and maintained at a height not to interfere with the sight distance needed by any vehicle using the access...**

➤ Response:

✓ We will comply with this provision. The existing and proposed fencing will be three to four strand woven wire with steel or treated wooden posts.

Corners will be braced using diagonal brace posts in each angled direction.

We believe such an arrangement will minimally affect the site distance.

✓ Signs will be placed in compliance with this provision.



- ✓ No other structures, trees, or bushes are proposed at the access point to the mineral extraction operation.

***(3) Measuring the Height of a Fence:***

➤ Response:

Not applicable since fences will be typical agricultural land woven and/or barbed wire. If barb wire, it will be three strands. If a combination, it will be one strand of barb wire and then woven wire under the single strand of barb wire.

***(4) Fencing Maintained. Fences. Fences, walls or hedges shall be maintained in good structural or living condition. The owner is responsible for the repair or removal of a fence, wall, or hedge, which constitutes a safety hazard, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, or which constitutes a zoning violation.***

➤ Response:

- ✓ The proposed mineral extraction operation does not intend to construct any fences. However, if temporary fences are necessary for operational safety reasons, they will be installed, maintained, and removed by the Mine Operator during the Stage reclamation phase.
- ✓ As part of the State approved reclamation plan and bond, any fences not needed as part of the post mining land use, are to be removed. Any existing or new fence lines, at the request of the landowner, are to be left for their use. We will ensure the fences which are to remain are left in a condition acceptable to the landowner.
- ✓ Any fences left as part of the post mining land use and their repair and maintenance will be the responsibility of the landowner once the State Reclamation Bond is released.

***(D) Height and Location Standards***

***(1) Building Permit Required for Fences and Walls Over 7 feet in Height***

➤ Response:

All fences will be less than 7 feet high. No walls are planned. Therefore, we understand no building permit will be required.



***(2) Fences and Walls 7 Feet in Height Considered Accessory Structure***

➤ Response:

All fences will be less than 7 feet in height. No walls are proposed. Therefore, we understand any less than 7-foot-high fences we construct, or use are not considered “Accessory Structures”.

***(3) Fences and Walls not to Disrupt Drainage – The fence and wall shall not be established where it would impede the drainage established by an approved drainage plan.***

➤ Response:

Any fences needed will be woven wire fences and will not impede the drainage established by an approved drainage plan.

***(4) Fences and Walls Not to Disrupt Use of Easement – The fence or wall shall not be established within an easement in a manner where the use of the easement is unnecessarily impeded.***

➤ Response:

No new fences are proposed to be constructed within any easement. In the unlikely event a new fence needs to be constructed within an easement; it will be constructed in such a manner as to protect the use of the easement.

• ***(F) Specific Fence Standards for Non-Residential Uses***

***(1) 7 Feet High Fences Allowed – Fences not exceeding 7 feet in height may be placed anywhere on the lot or parcel except no fence, wall or hedge shall exceed 30 inches in height when located within a sight distance triangle or as otherwise limited by Chapter 2 of the ECM.***

➤ Response:

Please see above response to El Paso County Code 6.2(2), Chapter 2.4.1(D) of the ECM.

***(2) Security Fencing – Security Fencing – Security fencing may include 3 strands of wire on top of the fence. The wires are not included in the height measurement.***

➤ Response:

- ✓ As stated above, we propose to use 3 - 4 strand barb wire and/or woven wire fence material and wood and/or steel t-posts for security fencing, as needed.



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- ✓ Given this is an agricultural tract of land, for livestock fencing purposes, it may be necessary to use four strand barb wire or alternatively woven wire with one to two strand barb wire above the woven wire.

***(3) Subject to Parking, Landscaping, and Screening Standards – Walls and fences shall conform to the parking, landscaping, and screening standards of this Code.***

➤ Response:

Our fencing will conform to El Paso County Code to the extent possible. The proposed mine site is not a residential, commercial, or industrial development. Rather, it is proposed as a mineral extraction operation, on agricultural lands. The fencing needs to address mine site safety and landowner agricultural needs.

- ***(G) Noise Barrier Fencing or Walls***

➤ Response:

At this point, we do not propose the construction of any fencing or walls as noise barriers. If, in the future, such structures are proposed, we will comply with this provision of the El Paso County Code.

- ***(H) Development Perimeter Fencing – If fencing is proposed around the perimeter of the...development, any fencing adjacent to a County Road or State or federal highway shall be compatible with the existing land uses, topography, landscaping in the immediate vicinity...***

➤ Response:

The parcel is presently zoned as A-35, agricultural. As such, 3 - 4 strand barb and/or woven wire is compatible with the surrounding uses, typical easement right-of-way fencing, topography, and surrounding landscaping.

- ***Retaining wall Standards.***

➤ Response:

No retaining walls are proposed.

- ***6.2.2.(A)(2) Landscape Requirements – Applies to All Land Uses***

***...except...associated accessory uses which are not (emphasis added) located within a PUD.***

***(4) Authority of Director to Accept Alternative Landscape Designs – The DSD Director may approve landscaping that does not meet the specific requirements of this Section provided the proposed landscaping meets the purpose of this Section,***



***promotes the concepts contained in the Landscape and Water Conservation Manual, and provides an equivalent benefit to the community and environment as would otherwise be achieved by meeting the specific requirements of this Section...***

➤ Response:

- ✓ It appears this section does not apply to a mineral extraction operation since it is not located within a PUD. We are providing response to ensure the County the site will be reclaimed to a designated, post-mining land use and will be compatible with surrounding land use.
- ✓ The Landscape and Water Conservation Manual lays out the following goals or purposes:
  - ❖ "...provides a quality environment for tourists and residents.
  - ❖ Reduces stormwater runoff rates and volumes and mitigates water quality concerns....
  - ❖ Controls dust....
  - ❖ Screens undesirable views....,
  - ❖ Reduces noise pollution."
- ✓ We believe the approved Reclamation Plan for the Project will meet all the goals of the "Landscape and Water Conservation Manual" and request the PCD Director concurs with the Mined Land Reclamation Board's approved post mining land use and associated site Reclamation Plan. (Alternative Landscape Design in this case).
- ✓ Once mining extraction is completed, the affected land in a Stage will be reclaimed to the post mining land use, rangeland. The approved reclamation plan requires the affected area be graded to a 3H:1V slope, or less, topsoil be replaced, and the area seeded to the approved rangeland seed mix.
- ✓ The reclamation plan, and storm water controls installed during mineral extraction operations will control dust generation and mitigate impacts to surrounding water quality.
- ✓ Most of the mineral extraction will take place below the surrounding ground elevation which will reduce noise and mitigate visual impacts.

***(B) Roadway Landscaping Requirements***

***(1) Minimum Depth of Roadway Landscape Area –***

➤ Response:

- ✓ We do not propose installing landscaping or trees adjacent to the roadway. There is no residential development along the proposed access routes, entering or leaving the proposed operation.



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- ✓ In addition, the proposed mineral extraction operation and any processing will be below grade shortly after active mineral extraction begins.

***(B-2) Location and Type of Trees in Roadway Landscaping Area.***

➤ Response:

The site is primarily a shortgrass prairie. No trees are planned as part of the mining operation or part of the approved Reclamation Plan.

***(3) Walls and Fences in Roadway Landscape Area –***

➤ Response:

Since there will be no roadway landscaping, this provision of the El Paso County should not apply.

***(C) Parking Lot Landscape Requirements***

***(1) Required Trees-***

➤ Response:

There will be no parking lots as such. Parking areas will occur on the floor of the Pit and move as mining progresses from Stage to Stage. In addition, the Mined Land Reclamation Board approved reclamation plan does not call for trees within the boundaries of the approved permit area.

***(5) Required Parking Lot Screening – Parking lots shall be screened from view from adjacent roads and properties with differing land uses.***

➤ Response:

Shortly after operations begin, parking areas will be screened from adjacent roads and adjacent properties since the parking will be on the floor of a pit or Stage, well below the undisturbed, surrounding topography.

***(D) Required Buffer and Screen Areas***

***(1) Buffer Between Non-Residential Districts Separated by a Non-Arterial Road or Public Alley.***

***(a) Where Required – A buffer is required along the road-side lot, parcel, or tract line of any non-residential zoning district by a non-arterial road or public alley.***

➤ Response:

We believe this provision is not applicable. The mining and Reclamation plans have built in setbacks at various locations around the approved permit boundary. These setbacks are shown on the attached map, please see above.



***(c) Opaque Fence or Wall Required – An opaque fence or wall with a minimum height of 6 feet is required along the inside edge of required buffer when the area immediately adjacent to the 15-foot buffer is used as a service corridor for loading, maneuvering or storage.***

➤ Response:

There will be no service corridor for loading, maneuvering or storage along the inside edge of any permit boundary. The access road will run in a right-angle off Schubert Road, to the north into the pit area. There will be topsoil stockpiles between the active mining area and the adjacent parcel property line. In addition, there will be raw and finished product stockpiles within the confines of an active pit.

***(d) Minimum Ground Cover Required – The required buffer area shall require a ground cover at maturity with a minimum of 75% living plant materials...rock, stone, or other natural landscape material shall be used as a non-living ground cover. Areas of a required buffer not covered in approved living ground cover material shall be covered in an approved non-living ground cover.***

➤ Response:

The “buffer areas” will consist of natural undisturbed grassland. The only areas to be stripped of topsoil (and vegetation) will be those areas where resource excavation will occur, for the construction of interior mine roads and the need for overburden stockpiles. It is not necessary to remove topsoil where a topsoil stockpile will be located.

***(2) Buffer Between Non-Residential, Multifamily Residential and Single-Family/Duplex Uses.***

***(a) Where required –***

***A buffer is required in the following situations:***

***(i) Along the lot, parcel, or tract line on the non-residential use property between the non-residential uses and a residential zoning district.***

➤ Response:

As stated above and as indicated on the above map, we have committed to “buffer areas” between the mining operation and adjacent residential areas.



**(ii) Along the lot, parcel, or tract line on the multifamily use property between the multifamily use and a single-family or duplex zoning district.**

- Response:  
Not applicable, pertains to residential uses.

**(iii) On the residential side of the project when use to use compatibility is a concern.**

- Response:  
This provision of the El Paso County Code is not applicable.
- ✓ As far as we know, there are no multifamily or duplex zoning districts associated with the properties impacted by the proposed mineral extraction operation.
  - ✓ We do not have access to the residential lots or parcels which are adjacent to the Schubert Ranch property.
  - ✓ We have committed to significant “buffer areas”, please see map above.
  - ✓ In addition, once mining is underway, mining operations will be recessed into the site topography, shielding the residential lot or parcel from the mining activity. (See note on regulations at (iii) when addressing this question)
  - ✓ *depends on the outcome of SUP.*

**(b) Depth and Planting Standards – The required buffer shall be a minimum of 15 feet deep. The minimum number of trees in the buffer shall be one tree for every 25 feet of common lot, parcel, or tract line. A minimum of 1/3 of the trees shall be evergreen trees.**

- Response:  
The proposed activity will not result in residential, commercial, or industrial developments. The approved post mining land use is rangeland and will be seeded to a grass/shrub mix, suitable to the post mining land use. Therefore, the MLRB approved permit application does not call for tree plantings.

**(c) Opaque Fencing or Wall Required – An opaque fence or wall with a minimum height of 6 feet is required along the lot, parcel, or tract line except where the adjacent single-family or duplex residential zoning district or use abuts a required roadway landscaping area.**

- Response:





The approved MLRB permit includes placement of topsoil stockpiles between a Stage of mining and the adjacent residential development. Additionally, once mineral extraction begins, mining activities will move vertically downward, below the surrounding topography, shielding the adjoining properties, much like an opaque fence or wall.

***(d) Minimum Ground Covering Required:***

- ***Bark, wood chips, rock, stone, or other natural landscape material shall be used as a non-living ground cover. Areas of a required buffer not covered in approved non-living ground cover material shall be covered in a living plant material.***

➤ Response:

The unaffected “buffer areas”, where topsoil has not been stripped, will be left in their natural state, i.e., turf grassed, native grasses and/or forb species.

***(E) Internal Landscaping - The following internal landscaping is required:***

***(2) Requirements for Non-Residential Uses - The following internal landscaping is required for non-residential uses.***

➤ Response:

- ✓ We suggest this provision is fulfilled by the commitments made in the DRMS/MLRB approved permit application.
- ✓ No “internal landscaping” will occur in a stage while mining is in process. It is highly likely “internal Landscaping” would interfere with on-going mining operations in an active Stage.
- ✓ Once mining is completed in a Stage, reclamation of that Stage will begin. It may be necessary to not reclaim portions of a Stage if it would be impacted, due to on-going mining operations.
- ✓ The remaining subsections of this section are not applicable since the operation is subject to and will be reclaimed according to the Mined Land Reclamation Board’s approved reclamation plan.
- ✓ Plus, once mining is complete the entire stage will be reclaimed. (Reclamation will occur Stage by Stage. However, portions of a Stage may need to be left un-reclaimed until all the Stages of mining are complete.)
- ✓ We request, based on the provisions of El Paso County Code 6.6.2.(E)(3)(c) and the fact the proposed project is not a residential or commercial development, and that the proposed project is a mining operation, subject to the reclamation provisions of the Rules and Regulations of the Mined Land



Reclamation Board, the DSD Director wave the requirements for “internal landscaping”.

***(d) Paved Areas within the Internal Landscaped Area:***

➤ Response:

We do not anticipate or propose any paved areas within the “Internal Landscaped” areas or any other location within the active mining area and any required buffer areas. This is a sand and gravel operation. The internal mining access roads will be sand and gravel.

***(F) Minimum Plant Sizes and Percentage of Live Ground Cover***

➤ Response:

- ✓ A mining operation, with a Mined Land Reclamation Board (MLRB) approved reclamation plan, includes an approved seed mix. Therefore, we believe the provisions of the remaining sections of El Paso County Code (F)(1)(a)(e) and (F)(2) do not apply. (The MLRB Rules and Regulations specify the reestablished vegetation, grasses, forbs, and shrubs, must equal in extent the ground cover of the surrounding vegetation.
- ✓ The MLRB approved reclamation plan includes ten perennial grass species, a forb and two shrub species. No trees are proposed as part of the approved reclamation plan since the post mining land use is rangeland. All proposed species are to be drill seeded.
- ✓ Given the site will not be irrigated and is a dryland prairie environment, the approved seed mix, coupled with the proposed replacement of topsoil, should result in a soil stabilizing plant community, suited to the post mining land use.
- ✓ In addition, the approved reclamation seed mix is what was proposed by the U.S. Dept. of Agriculture, Natural Resources Conservation Service.
- ✓ The seeded vegetation will be dryland species and will not be irrigated.
- ✓ No artificial groundcover is proposed or approved by the MLRB for the site.

***(G) Other Required Landscape Areas***

***(1) Other Areas to be Landscaped or Screened***

***(a) Zoning District Boundary Trees – A minimum of one tree shall be provided for every 30 feet of lot, parcel, or tract line coincident with a zoning district boundary line except if otherwise required to meet the buffering requirements between a non-resident use or multifamily use and residential zoning district.***



➤ Response:

We request this provision of the El Paso County Code shall not apply to the proposed activity, a mineral extraction operation. The proposed activity is not a residential, commercial, or industrial development. Once mineral extraction is complete, the Stage will be reclaimed to rangeland, per the requirements of the approved Mined Land Reclamation permit. Please note, some areas of a Stage may need to be left unreclaimed for operational needs.

***(b) Refuse Areas Screened***

➤ Response:

This subsection of the El Paso County Code does not apply. There will be no refuse collection areas or trash bins as one would expect with a typical residential or commercial business area. We will have trash cans and other similar containers which will be located within the active pit area.

***(c) Loading Docks and Other Vehicle Areas Screened – Loading docks, vehicle repair bays, and vehicle fueling areas shall be screened from view from adjacent roads by the use of plantings, berms, walls, fences, or other architectural elements.***

➤ Response:

- ✓ There will be no loading docks, vehicle repair bays or designated vehicle fueling areas. We do plan to have a portable truck scale on-site which will move to various locations within the mining operation, dependent on the mining Stage and point(s) of access.
- ✓ In addition, we may need to service mining equipment from a mobile fuel/lube truck which will not be stored at the mine site. It will visit the site as needed to provide mining equipment mobile services.

***(d) Landscaping Required Between Lot and Curb – Landscaping is required between the lot, parcel, or tract line and the required roadway landscaping area. Although this landscape area is located within the right-of-way, easement or tract, the adjacent lot, parcel, or tract owner shall be responsible for maintenance. Xeric planting shall be used in order to avoid the need to install an irrigation system within the right-of-way, easement, or tract. Xeric plants may require supplemental irrigation to get them established or in times of extreme drought. Installation of an irrigation system requires approval of EPCESD or owner or right-of-way, easement,***



**or tract. Installation of plant materials may also require approval of the EPSPCSD or owner or right-of way, easement, or tract.**

➤ Response:

- ✓ There will be no residential or commercial lots or associated curbs.
- ✓ The grass, forb and shrub species are dryland species. We therefore do not intend to irrigate the areas undergoing reclamation.
- ✓ We are not released from our state reclamation bond until we meet the MLRB performance standards which negates the need to irrigate.
- ✓ There will be no permanent roads within the area affected by the mining and reclamation operations. (However, the landowner may request certain roads be left for ranch access. If requested by the landowner, these roads must receive DRMS/MLRB approval to be left as part of the post mining land use.
- ✓ The only easements affected will be those where the temporary points of access are needed for a Stage of mining. Once mining is completed and access to is no longer needed, the point of access will be reclaimed. The El Paso County Road easement will be reclaimed using the seed mix specified in the approved Mined Land Reclamation Board permit. Any culverts will be removed, and the access point graded to a pre-mining condition.
- ✓

**Types of Recommended Irrigation**

Type of Planting	Irrigation Required	Possible Solutions
Native grass seed or drought tolerant turf grass seed.	May germinate with normal precipitation if planted in late fall or early spring.	Insure sufficient moisture by temporary overhead or agricultural system; add soil amendments/surfactants to soil to aid in moisture retention

- ❖ The preceding table is from the El Paso County Landscape and Water Conservation Manual. It specifies that “native grass seed” does not need to be irrigated, it states, “May germinate with normal precipitation if planted in late fall or early spring. According to the approved Mined Land Reclamation Board permit, the affected land under going reclamation will be seeded between November 1 and April 30<sup>th</sup>.
- ❖ In addition, the species chosen are essentially native, and were recommended by the NECS. The only non-native species to be seeded is Winterfat. It was also recommend by the NRCS. Appropriate soil amendments, based on soil test, will be applied.



RPM, Inc.

25049 E. Alder Dr., Aurora, CO Phone: 303 854 7499 Email: hlhumphries2@comcast.net

CO-ECS-05 - 1

USDA NRCS United States Department of Agriculture Natural Resources Conservation Service **Grass Seeding Planned and Applied Worksheet**

**Grass Seeding PART I - Planned**

Cooperator	Ellicott Sand and Gravel	Date	3/28/18
Tract/Field No	Schubert Gravel Pit	Acres	750
Soil Survey Area	El Paso	Map Unit (s)	Ellicott Loamy course sand 0 to 5 percent
Contract No.	NA	CIN	NA
Seeding dates	dormant suggested	Purpose	Other
Seedbed preparation	Intensive: more than 3 tillage operations	Seed rate	Critical Area Planting drilled (40 seeds/sq ft)
Drill type	grass	Acres to be seeded	750.00
Planting depth-Drill spacing (in)	1/4-1/2 in, 6-8 in spacing		
Planned fertilizer application (lb/ac)	N	P <sub>2</sub> O <sub>5</sub>	K <sub>2</sub> O
	0	0	0
	A Nutrient Management Plan is not required for the establishment of vegetative conservation practices.		
Planned weed control activities	Description	Tillage	Attach WIN-PST Soil-Pesticide Interaction Risk Report for all chemical suppression activities
	Date(s)	mowing as needed	
Planned residue cover or mulch	Type	Cereal grain straw	
	Amount (lb/ac)	4000	
	Application method	straw spreader	

**Seed Mix Recommendation, † ‡**

(PLS = Pure Live Seed)

Common name N=Native, I=Introduced	Genus, species	Recommended Cultivar	% of seed mix	Total Pounds PLS	Pounds PLS per acre
<b>Grasses, forbs</b>					
Grams, Sidecoats	N <i>Bouteloua curtipendula</i>	Vaughn	10.0	682.50	0.91
Sand dropseed	N <i>Sporobolus cryptandrus</i>	Common	1.5	5.63	0.01
Bluestem, Little	N <i>Schizachyrium scoparium</i>	Camper	10.0	502.50	0.67
Wheatgrass, Western	N <i>Pascopyrum smithii</i>	Arriba	10.0	1200.00	1.60
Bluestem, Sand	N <i>Andropogon hallii</i>	Chet	5.0	592.50	0.79
Prairie sandreed	N <i>Calamovilfa longifolia</i>	Goshen	5.0	240.00	0.32
Yellow indiagrass	N <i>Sorghastrum nutans</i>	Cheyenne	10.0	765.00	1.02
Switchgrass	N <i>Panicum virgatum</i>	Blackwell	28.0	840.00	1.12
Green needlegrass	N <i>Ephedra viridis</i>	Lodorn	5.0	360.00	0.48
Indian ricegrass - Nezpar, Rimrock	N <i>Achnatherum hymenoides</i>	Nezpar	15.0	832.50	1.11
Prairie clover, purple	N <i>Dalea purpurea</i>		0.5	23.63	0.03
			100.0		

**Shrubs (add shrub seed to grass - forb seed mix)**

Four-wing saltbush	N <i>Atriplex canescens</i>			750.00	1.00
Winterfat	N <i>Krascheninnikovia lanata</i>			15.00	0.02
				Shrubs	765.00

† Certified Seed is required for all NRCS cost share programs

‡ Complete a Tree and Shrub Establishment 612 Job Sheet for bare-root shrub plantings

Grasses, Forbs	6044.25
Total lbs PLS	6809.25
Seed Rate (Pounds PLS per acre)	9.08

**Additional Recommendations**

use dealer recommended cultivars for area.. Certified seed REQUIRED. Rip seed bed to a depth of 24 inches if prior use has compacted soil. Seedbed should be firm, not fluffy. Exclude livestock grazing from seeded area for a minimum of 3 years or until grass is solidly established.

Certified Planner

Greg Langer 57

Date

3/28/2018



***(e) Commercial Tower, Water Storage Tank and Utilities Landscape Requirements.***

➤ Response:

- ✓ This subsection of the El Paso County Code is not applicable, there will be no commercial tower, permanent water storage tank or other utilities.
- ✓ For fugitive dust control there may be small, temporary, and portable water storage tank(s).

***(f) Outside Storage Area Landscaping Requirements***

***i. Site-Specific Landscaping Required – DSD Director approval of site-specific landscaping is required for establishing an outside storage area. Installation of approved site-specific landscaping is required prior to utilizing an outside storage area.***

➤ Response:

- ✓ Topsoil and Overburden Stockpiles - If the topsoil and overburden piles remain undisturbed for more than a year, a vegetative cover will be established on the stockpile. (Mineral Rules and Regulations of the Mined Land Reclamation Board, Rule 3.1.9(1))
- ✓ Product Stockpiles –The processing site/stockpile area will start on the surface, but once the initial extraction level is reached, the product stockpiles and processing plant will be moved below grade, so it is screened from the surrounding areas. (Paraphrased from the approved MLRB Mining and Reclamation Permit Application, page 6.)

***ii. Site-Specific Landscaping Standards – The site-specific landscaping shall reflect a combination of berms, shrubs, trees, fences, or walls which will provide, at a minimum 6-foot-high, 100% opaque screening for the outside storage area.***

➤ Response:

Based on the approved mining and reclamation plan, once excavation into the initial extraction level is reached, the processing plant and associated product stockpiles will be moved below the level of the surrounding topography. (Approved MLRB Mining and Reclamation Permit, page 6)

***(2) Miscellaneous Requirements***

***(a) Flexibility in Design Allowed – The owner may select the types of and the planting spaces between the required trees. The types of trees***



***selected shall be commonly known to grow in the Colorado Springs area and should be a type listed in the Landscape and Water Conservation Manual.***

➤ Response:

✓ We request we be allowed flexibility in the “Landscape Design” since it is a mining operation. The “Landscape Design” is the MLRB approved reclamation plan and State law mandates the MLRB is the only government agency which can set reclamation standards and approve a mine site reclamation plan. C.R.S.§34-32.5-109 (3)

- ❖ “No governmental office of the state, other than the board, nor any political subdivision of the state shall have the authority to issue a reclamation permit pursuant to this article, to require reclamation standards different than those established in this article, or to require any performance or financial warranty of any kind for mining operations.”
- ❖ The landowner agrees with the post mining land use and the reclamation plan which is intended to achieve the approved post mining land use, rangeland. This use is compatible with the surrounding land use.

***(b) Minimum Cover of Internal Landscape Area – The internal landscape area shall consist of a minimum of 50% ground cover by living plant materials. The Landscape and Water Conservation Manual provides guidance for planting near foundations.***

➤ Response:

✓ Planting Near Foundations:

- ❖ This provision of the El Paso County Code does not apply since no foundations are proposed. If we find we need a structure with a foundation, we will comply with the requirements of this subsection.
- ❖ Internal Landscape Area:
  - The proposed activity is a mineral extraction operation. No permanent structures are proposed. However, the landowner requests that mine access roads be left at the conclusion of a Stage of mining for their agricultural (rangeland) use.
  - We do not propose “landscape” in any of the affected areas. Once mineral extraction is complete, and reclamation will not interfere with on-going mining operations, the Stage will be reclaimed to rangeland. We suggest the MLRB approved Reclamation Plan be considered the degree of landscaping needed to return the affected land to rangeland.



***(c) Plant Spacing – The plant spacing should accommodate the growth characteristics of the trees without adversely impacting structures, walks, or drives.***

- Response:
  - ✓ No walks, or drives, other than mine access roads are planned.
  - ✓ Currently no temporary or permanent structures are planned. We do, however, plan to have a portable scale and scale house, and a mobile processing plant on-site.
  - ✓ If any structure(s) are needed at a future date, they will be temporary and will be removed as part of the approved MLRB Reclamation Plan.

***(d) Minimum Planting Size of Trees***

- Response:

No trees are to be planted, therefore, the provisions of this subsection of the El Paso County Code are not applicable.

***(e) Existing Vegetation – Existing vegetation which meets the plant type requirements of the Landscape and Water Conservation Manual may be counted toward the internal Landscape requirement.***

- Response:
  - ✓ For the proposed affected areas, (those areas and Stages not yet stripped of soil and vegetation in preparation for mineral extraction) the existing vegetation will be the internal landscaping.
  - ✓ Significant parts of the permit boundary area will not be affected by the proposed mineral extraction operations. On these areas, the existing vegetation (natural and turf grass) will be the internal landscaping.
  - ✓ Once mining and reclamation are complete, the following plant species are to be established and will be the internal landscaping:
    - ✓ Grasses:
      - ❖ Sideoats grama (Vaughn)
      - ❖ Sand dropseed (common)
      - ❖ Little bluestem (Camper)
      - ❖ Western wheatgrass (Arriba)
      - ❖ Sand bluestem (Chet)
      - ❖ Prairie sandreed (Goshen)
      - ❖ Yellow Indiangrass (Cheyenne)
      - ❖ Switchgrass (Blackwell)
      - ❖ Green needlegrass (Lodorm)





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- ❖ Indian ricegrass (Nexpar) \*
- ✓ Forbs:
  - ❖ Purple prairie clover
- ✓ Shrubs:
  - ❖ Four-wing saltbush \*
  - ❖ Winterfat \*
- ✓ The plant species marked with an \* are on the list of acceptable plant species in the “Landscape and Water Conservation Manual”. The non-asterix marked plant species were provided by the El Paso County National Resource Conservation Service Office. The listed species are considered appropriate for the post mining land use, dryland, rangeland and were approved as part of the MLRB permit application approval.

***(f) Limitations on Landscape Placement***

***(i) No Conflicts with Traffic or Sight Distance - ...***

- Response:
  - ✓ We agree to comply with this provision.

***(ii) No Interference with Utilities and Fire Equipment - ...***

- Response:
  - ✓ We agree to comply with this provision.

***(g) Limitations on Landscape Materials***

***(i) No Artificial Landscape Materials -...***

- Response:
  - ✓ We agree to comply with this provision.

***(h) Calculating the Required Number of Plants***

- Response:
  - ✓ We agree to comply with the provisions of this subsection ((G)(2)(h)(i) – (iv) where the need to calculate the numbers of landscape materials per unit area applies in specified areas, as determined by the Planning Department.
  - ✓ However, the proposed post mining land use is rangeland. Therefore, the typical requirements for residential, commercial, and industrial landscaping are not appropriate.
  - ✓ The post mining land use is rangeland. We suggest MLRB and typical agricultural standards should apply.



***(i) Approval of Certificate of Occupancy or Use – All required landscaping shall completed, and then inspected and approved by the DSD prior to the ...establishment of use, except when a financial assurance acceptable to the DSD Director guaranteeing the completion of the landscaping is provided....Any request for...prior to the completion of the required landscaping shall include a written request explaining the circumstances why the landscaping cannot be installed, a cost estimate prepared by a qualified party, a landscape completion agreement signed by the owner, and financial assurance acceptable to the DSD Director...***

➤ Response:

Written Request – “Circumstances” as to why the use should be granted:

- ✓ Approval of the Use Prior to Completion and Inspection of Landscaping.
  - ❖ During the permit review process, the MLRB Permit Applicant must notify the Board of County Commissions for their comment on the proposed post mining land use, rangeland.
  - ❖ No comments were received from the El Paso County County Commissioners.
  - ❖ Estimate of Cost to Complete Reclamation (Part of the DRMS Application approval). The DRMS financial warranty calculation is based on industry standards and has proven reliable over time. In addition, the necessary financial warranty is periodically evaluated and if is adequate, the operator must post a new revised financial warranty within a specified period.
  - ❖ Financial Assurance (To be posted with the MLRB, prior to permit issuance.).
  - ❖ Reclamation Completion Agreement - Approval of Landowner and the Mined Land Reclamation Board (Prior to financial warranty release).

***(j) Compliance with Plans – The completed landscaping shall comply with the approved landscape plan and shall include the quantities, locations, species and size of plants and other landscape materials as represented on the approved landscape plan. Seeded landscape areas shall have no bare areas larger than 6 square inches after germination.***

➤ Response:

- ✓ We believe the Mined Land Reclamation Board is sole entity responsible for determining whether a mine site has been successfully reclaimed, based on the provisions of the approved reclamation plan and in conformance with the standards of Mined Land Reclamation Act for Construction Materials (Act).



We understand the Act provides for comments from the landowner and the local government agencies at the time an operator files for release and termination of its Mined Land Reclamation Board Permit.

- ✓ Compliance with the terms and conditions of the MLRB Permits and its Rules and Regulations are insured by:
  - ❖ The DRMS conducts periodic inspections of mining operations to ensure the operator is following their approved Permit and at the time an operator submits a reclamation release request.
  - ❖ The DRMS periodically reevaluates the posted reclamation financial warranty to ensure the State holds a viable financial warranty, sufficient for a third-party contractor to complete site reclamation.
  - ❖ Inspections and posted financial warranties and the DRMS calculations upon which financial warranties are based, are public documents available for review and comment.

***(k) Maintenance:***

***(i) Owner Responsible - ...***

- Response:
  - ✓ The Operator, Ellicott Sand & Gravel is the responsible party during the period the MLRB permit is enforceable, i.e., until the permittee is released by the MLRB, or the permit is revoked by the MLRB.
  - ✓ Once the permit is released by the MLRB, the Operator is no longer responsible for the site.
  - ✓ The Operator must file a formal release request with the DRMS.
    - ❖ The DRMS must conduct a financial warranty release request inspection, determining if the conditions of the Permit and the MLRB Regulations have been met by the Operator.
    - ❖ As part of the normal release process, the landowner is notified of the release request and given the opportunity to comment on the proposed release.
    - ❖ In addition, if the DRMS decides to release the permit, no release may occur until the end of the public comment period.

***(ii) Replacement of Dead or Damaged Materials –***



- Response:
  - ✓ Under the provisions of the MLRB Rules and Regulations, an operator has five years to complete reclamation upon a determination that mining has ceased.
  - ✓ An operator must formally notice the DRMS that mining has ceased, based on the various MLRB Regulatory definitions of mining. A release inspection is conducted by the CDRMS to determine if the site has been successfully reclaimed, according to the terms of the MLRB permit.

***(iii) Maintenance Inspections – Maintenance inspections may be performed periodically. Failure to maintain the landscaping in compliance with the approval is considered a zoning violation.***

- Response:
  - ✓ Once we achieve successful site reclamation, as determined by the MLRB, and the permit is released, site maintenance responsibility will revert to the landowner.
  - ✓ The landowner will be responsible for management of his rangeland.

### **6.2.3 Lighting**

#### **(A) General**

***(2) Applicability – This Section applies in all zoning Districts, except as otherwise provided.***

- Response:
  - ✓ No lighting is proposed. If in the future, it is determined security lighting is needed, we will comply with the provisions of this subsection.
  - ✓ If night operations should be needed, we will return to the County to properly address operational lighting needs and impacts.

#### **(B) Design Standards and Requirements**

##### **(1) Limitations on Extent of Lighted Area**

***(a) Concealed or Shielded – Light fixtures shall be arranged and positioned such that the light sources are concealed and fully shielded so that no direct light or reflection creates a nuisance or hazard to any adjacent ownership or right-of-way and that up-light, spill-light, glare and unnecessary diffusion are minimized. Light fixtures, except as otherwise permitted herein, are required to be full cutoff as defined by the Illuminating Engineers Society of North America (IESNA). The cut-off fixtures may not be tilted or aimed in a manner that results in a light***



***distribution above the horizontal plane. The use of semi-cutoff or cutoff (as opposed to full cutoff) fixtures shall be permitted to illuminate areas other than parking lots provide the pole or mounting point is not more than 10' in height and the maximum lumen output does not exceed 1800 lumens per lamp.***

➤ Response:

- ✓ No lighting is proposed. If in the future it is necessary to install security lighting, we will comply with the provisions of this subsection.

***(d) Maximum Levels – Maximum on-site lighting levels shall not exceed 10-foot candles, ...***

➤ Response:

- ✓ No lighting is proposed. If in the future it is necessary to install security lighting, we will comply with the provisions of this subsection.

***(e) Measurement at Property Boundaries – Light levels measured at the property line of the development site adjacent to residential property or public right-of-way shall not exceed 0.1-foot candles as a direct result of the on-site lighting. All light fixtures mounted within 15' of any residential property line of the site shall be classified as IES Type II or Type III, or fixture demonstrated to provide similar distribution patterns and shielding properties. Fixtures shall be fitted with “house side shield” reflectors on the side facing residential property line.***

➤ Response:

- ✓ No lighting is proposed. If in the future it is necessary to install security lighting, we will comply with the provisions of this subsection.
- ✓ In the event we require security lighting, we will install “house side shield” reflectors, on the side facing the residential property line.

***(2) Height – No freestanding light fixtures shall be mounted higher than 15 feet, except parking lot light fixtures which shall be mounted no higher than 20 feet unless an alternative lighting proposal is approved in accordance with this Code.***

➤ Response:

- ✓ No lighting is proposed. If in the future it is necessary to install security lighting, we will comply with the provisions of this subsection.



- **Lamp Types.**
  - Response:  
We will comply with the lamp type requirements where such outdoor fixtures are needed.
- **Consideration of Pilots.**
  - Response:  
We will comply with this provision of the EPC Building Code
- **(E) Alternative Lighting Proposal - ...**
  - Response:
    - ✓ Currently, we do not intend to submit an Alternative Lighting Proposal.

#### **6.2.5. Parking, Loading, and Maneuvering Standards**

##### **(A) General**

##### **(2) Applicability**

##### **(a) Applies to All Land Uses**

- Response:
  - ✓ We understand this provision.

##### **(B) General Parking Standards**

##### **(2) Location and Condition of Parking**

##### **(a) Use of the Public Right-of-Way - ...**

- Response:
  - ✓ There will be no use of the public right-of-way for, "... parking or loading requirements", needs.

***(b) Parking to be Located on the Same Lot as Use Served – Parking and maneuvering areas shall be located on the same lot or parcel as the use it is intended to serve...Parking shall be located within 500 feet of the building or use which the parking is intended to serve.***

- Response:
  - ✓ All parking and maneuvering areas will be located within each Stage of an active mining area.
  - ✓ Temporary parking may also occur within a Stage where active reclamation is occurring for reclamation maintenance purposes such as rill and gully repair, noxious weed control, inter-seeding, plant establishment evaluation, DRMS inspections, etc.



***(d) No Storage of Vehicles, Supplies, or Merchandise – Required parking areas shall not be used for storage of inoperable vehicles, supplies, merchandise, trash, or other items that could prohibit the parking space from being used on a day-to-day basis.***

➤ Response:

- ✓ We will comply with this provision.
- ✓ However, product stockpiles are the “merchandise” the mining operation will produce and sell. We will need product stockpiles to load from. They will be in various areas of a Stage where active mining is occurring. Since the entire floor of the active pit is both a parking and loading area, we request a waiver to allow for storage (stockpiles) for “merchandise”.

***(4) Compliance with State and Federal Regulations – It shall be the owner’s responsibility to comply with all other State and federal regulations including, but not limited to, ADA regulations.***

➤ Response:

We will comply with State and Federal regulations, to include but not limited to, ADA regulations as they pertain to this operation.

***(C) Parking Design Standards – The following design requirements shall apply to all parking areas ...***

***(1) Circulation within Parking Areas***

***(b) Fire Department Review and Requirements – The internal circulation system shall be reviewed by the appropriate fire department. The fire department standard, if any, shall apply.***

➤ Response:

- ✓ We propose this provision does not apply since there will be no structures on the floors of the various Stages of mining operations.
- ✓ In addition, there will be ample room for fire equipment to maneuver on the floor of an active Stage since large highway haul trucks will require room to maneuver for loading.

***(2) Construction Requirements – ...***

➤ Response:

- ✓ We believe this subsection, (a) and (b), of the El Paso County Code does not apply since no parking facility will be constructed. The parking areas will be



developed as the mining in a Stage progresses. The parking areas will be gravelly/sandy in nature, well suited to the type of equipment working in each mining Stage.

- ✓ In addition, no lighting is planned since only daylight operations will occur.

***(c) Paving of Parking Areas –***

***(i) Water Quality Protection – Parking areas will be designed and maintained so that water quality is protected. Measures to prevent tracking or runoff of sediment and other contaminants shall be designed, implemented, and maintained, as necessary, to protect water quality. Paving should be designed to reduce imperviousness. The provision of water quality Best Management Practices (BMPs) is encouraged. If water quality BMPs are not incorporated in the parking area construction, off-lot new development BMPs will be needed as described in Appendix I of the ECM.***

➤ Response:

- ✓ The access points on to County roads will be graveled. Both Sanborn is a gravel road.
- ✓ Any material tracked onto the Baggett Road will be like Baggett Road's existing surface material.
- ✓ Since this is a sand and gravel mining operation, all internal roads will be sand and gravel.
- ✓ To protect off-site water quality, a Spill Prevention, Control and Countermeasure Plan (SPCCP) will be in place. The SPCCP will deal with reportable spills of petroleum products, including hydraulic and engine coolants, in the unlikely event a spill occurs.

***(iii) Paving in Rural Areas – Parking areas for more than 25 cars in rural areas shall be paved ...Parking lots for less than 25 cars in rural areas may use rock or gravel or other measures...Any access to a paved County-maintained Road shall be paved for a distance of at least 50 feet from the paved County Road.***

➤ Response:

- ✓ Total, on-site parking will be less than 25 cars. According to the Traffic Report, up to six employees are expected daily. The other anticipated vehicles visiting the site will be haul trucks which will be on-site to be loaded and immediately leave.





- ✓ The floor of the various pits will be sand/gravel.
- ✓ Baggett Road is a gravel road, according to the Traffic Report which is part of the SUP application. Therefore, we do not anticipate paving the access to the County Road. In addition, the access point will be temporary, abandoned and reclaimed according to the approved reclamation plan once a Stage is complete.
- ✓ Please note, there will be several types of mining equipment on-site during active mining operations. We suggest these items should not be counted toward the 25-car standard.

***(3) Access to Parking Spaces and Areas***

***(a) Access Location Approved by Owner of Road – The number and location of road access points shall be approved by the El Paso County Public Services Dept (EPCPSD), the Colorado Department of Transportation (CDOT), or other entity with responsibility for maintenance or ownership of the road and authority to review and approve the access locations.***

➤ Response:

- ✓ Prior to opening a Stage of mining, we will obtain approval of the access location from the appropriate State and/or El Paso County Public Services Department, or other entity with responsibility for maintenance and/or ownership of the road and has authority to review and approve the access location.

***(e) Access to Large Parking Lots – A drive aisle used to access parking spaces in parking areas with over 200 parking spaces shall be located at least 100 feet from the access point from any public road. This will help to minimize potential stacking problems resulting from vehicles entering the parking area. Signage shall give the entering vehicle the right-of-way where the entrance crosses the parking lot aisle.***

➤ Response:

- ✓ At any active Stage, it is likely to have over 200 parking spaces if one considers the entire pit floor as available for parking.
- ✓ Since only six employees are expected to be at the site at any one time, this provision should not be an issue.
- ✓ We believe the question is whether entering haul trucks would need to stage or wait on the driveway access and/or back-up on to Sanborn Road, while waiting to be loaded.



- ❖ Mineral extraction will begin with the removal of and stockpiling of topsoil and overburden. The only vehicles present will be Ellicott employees and associated mining equipment.
- ❖ No highway haul trucks will be at the site until actual mineral extraction begins. Once the area is striped of topsoil, there will be ample room within an active Stage to contain the highway haul trucks (staging) while the haul trucks are being loaded.

***(f) Parking Spaces Not Conflict with Lot Line***

- Response:
  - ✓ Given the approved layout of the proposed permit boundary, and layout of the proposed mining Stages, no parking spaces will conflict with any property or lot line.
  - ✓ There will be no long-term parking spaces. Short term parking will not conflict with any lot lines.

***(g) No Backing into Public Right-of-Way***

- Response:
  - ✓ Given the approved layout of the proposed permit boundary, and layout of the proposed mining Stages, it is unlikely any mine site equipment or commercial highway trucks will back up into the public Rights-of Way.

***(D) Parking Space Requirements***

***(1) number of Parking Spaces – The number of parking spaces required is equal to the total number of standard parking spaces and disabled spaces required by this Section.***

***(a)(i) – (vi)***

- Response:
  - ✓ We have stated that up to six employees will be on-site at any one time.
  - ✓ Table 6-2 Minimum Parking Requirements by Use does not have a specific requirement for mineral extraction operations. The closest use is “Industrial Use” which includes “construction”. The Table, at “Industrial Use” requires 750 square feet per space. Assuming six employees and up to four possible visitors at any one time requires .2 acres of parking space. Stage I will cover an area of approximately sixty plus acres, ample area for parking.



- ✓ We believe the County provisions (i)-(vi) do not apply since the proposed project is a mineral extraction operation.

**From the Letter of Intent, Page 4: (Note this application is for Stage 1)**

Phase	Est. Yrs.	Total Acres Available	Total Acres Mined
1	10-15	66.1	49.9
2	15-20	213.7	173.0
3	4-6	54.2	39.2
4	2-5	24.3	14.9
5	2-4	20.8	14.2
6	20-30	268.4	222.3
Other not mined	Life of Mine	220.2	
Total		733.7	513.5

*(b) Minimum Disabled Parking Spaces – Table 6-3 shows the number of additional parking spaces required to be provided as disabled spaces by parking area size. Spaces shall meet the minimum standards for disabled spaces.*

- Response:
  - ✓ As stated above, we will have up to six employees on-site at any one time, and four additional parking spaces for visitors. Given the entire floor of an active pit is available for parking, we will have ample room for disabled parking.
  - ✓ Table 6 – 3, Disabled Parking Space Requirements, requires one (1) disabled parking space for up to twenty-five parking spaces. Given these criteria, we would need only one ADA parking space.

**(2) Dimensions of Standard Parking Spaces and Aisles**

*(a) – (c)*

- Response:
  - ✓ We believe the provisions of subsections (a) – (c) are not applicable since no structures are proposed and the entire floor of an active Stage (pit) will be available for parking.

**(D) Truck Loading and Turnaround Areas**

*(1) Truck Loading and Turnaround Areas Required – Loading and turnaround areas shall be provided for all non-residential building of 3,000 square feet or greater...*



- Response:  
Other than the scale house (which is less than 3,000 Sq. Ft.), no buildings are proposed for the mineral extraction site currently. Therefore, this provision does not apply.

***(2) Design to Minimize Noise Impacts – Truck loading and turnaround areas shall be designed and located to minimize any potential noise impacts to adjacent residential properties.***

- Response:
  - ✓ All truck loading and turnaround areas will be in an active mineral extraction area, i.e., the floor of the sand and gravel pit. The pit side walls will act as a noise buffer, to a varying degree, as a pit is deepened.
  - ✓ The highway haul truck turnaround locations will be moved to various locations in an active pit as mining proceeds. Therefore, it is difficult to design and locate truck loading and turnaround areas. Nor are they needed.
  - ✓ The location of topsoil stockpiles and the downward movement of the extraction operation will help minimize noise impacts.

***(3) No Obstruction of Parking Lot Aisles***

- Response:  
Not applicable since there will be no parking lot aisles.

***(4) Onsite Turnaround Areas Required – An onsite turnaround area shall be provided for all loading areas. Only turning radii found to be acceptable by the Institute of Traffic Engineers or determined to be acceptable by the ECM Administrator shall be acceptable for compliance with this requirement.***

- Response:  
We request the ECM Administrator waive or accept the area to be affected in a Stage to meet the requirements of this subsection. As topsoil/overburden is removed to initiate the actual extraction of the mineral resource, ample area will be available for highway haul truck turnaround.

***(5) Loading Areas Screened – Loading areas shall be screened from view from a public road or residential areas. Screening shall meet the screening requirement of this Code.***

- Response:

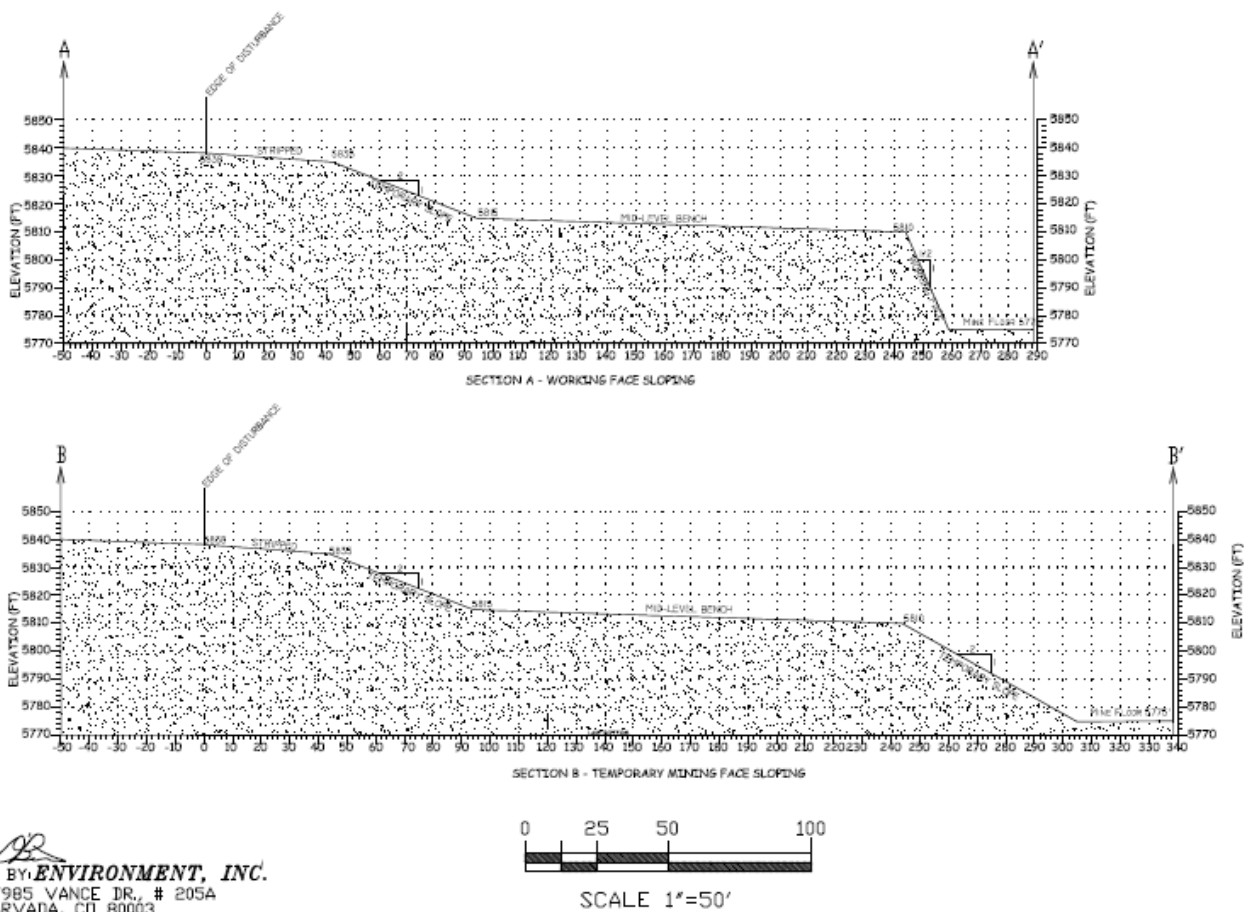


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- ✓ Except for a brief period of time, while Stage I is being opened, loading will take place on the floor. The initial opening of a Stage I will create a pit about 30 - 35 feet deep. The second level of mining will be approximately 30 - 35 feet deep as illustrated in the following figure D-1. We believe once activities begin, the mineral extraction will soon be screened from view by being within the depressed active mining area.

**ELLICOTT SAND AND GRAVEL, LLC.**  
**SCHUBERT RANCH SAND RESOURCE**  
**CROSS SECTION FIGURE D-1**



*Handwritten signature*  
 PREPARED BY ENVIRONMENT, INC.  
 7985 VANCE DR., # 205A  
 ARVADA, CO 80003  
 (303) 423-7297

DATE: MAR 17, 2009 - 15:09:13

- ✓ In addition, topsoil stockpiles will be located between Stage I and the adjacent residential area. Stage I will also be separated from the residential area by a 200+ foot "buffer area".

**(6) Loading Areas to Meet the Requirements of Table 6-6**



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➤ Response:

We propose the Truck Loading Areas, Table 6-6, provisions do not apply for the following reasons.

- ✓ No maneuvering aisles are needed.
- ✓ There are no overhead structures or other structures proposed, other than a portable scale and scale house.
- ✓ The loading space is the entire affected area of an active mineral extraction Stage.
- ✓ We cannot designate specific loading spaces since the loading areas may move as the face of the active mining highwall moves.

***(F) Bicycle Facilities***

➤ Response:

We believe the provisions (1)-(3) of the El Paso County Code do not apply for the following reasons.

- ✓ The public is not allowed on the site.
- ✓ Bicycles will not be allowed on the site for mountain biking or any other bicycle riding.

***(G) Drive-Through Design Requirements –***

➤ Response:

We believe none of El Paso County Code (G) applies to this activity since this is not a commercial operation utilizing a drive-through as envisioned by the El Paso County Code. There will be a “drive through” for highway haul truck loading and weighing on the portable scale. These activities will move, as needed, with the on-going mineral extraction and to some extent, with the reclamation operations (topsoil pile placement and removal).

***6.2.6. Pre-Development Site Grading –***

➤ Response:

We believe the provisions of Subsection 6.2.6 of the El Paso County Code do not apply. No construction is proposed in the intended purpose of this provision. No structures, road, facilities, or other structures requiring a Construction Permit are required.

***6.2.7 Operational Standards***

***(B) Dust and Debris Control***



***(1) Prohibition of Blowing Dust and Debris – The blowing of dirt, sand, or debris from an ownership to an abutting or nearby ownership, or right-of-way is not allowed...***

➤ Response:

We have obtained an Air Pollution Emission Notice (APEN) fugitive dust permit from the Colorado Department of Public Health and Environment, Air Quality Control Division. The APEN and approved permit detail the type of fugitive dust control to be used during extraction and reclamation operations.

***(2) Prevention Blowing Dust and Debris - The prevention of blowing of dirt, sand, or debris may be accomplished by oiling, placement of base course or asphalt, application of calcium chloride, watering and wetting of the area, installation of a snow fence or barrier, chiseling the ground, or other effective means.***

➤ Response:

- ✓ We have our fugitive dust permit from the CDPHE, APCD. We will comply with the provisions of our Air Quality Permit/APEN. Implementation of the approved APEN, fugitive dust control measures, will minimize blowing dust.
- ✓ Since this is a mining operation and not a construction site, there should be little, if any blowing debris.
- ✓ In addition, during site reclamation, once an area is seeded, it will be mulched per the requirements of our approved MLEB Reclamation Plan. Reclamation is designed to address site maintenance through Financial Warranty Release and will control blowing dust during the reclamation phase.

***(3) Mud or Dirt Carryout – Construction activities shall include mechanisms to limit or reduce mud or dirt carryout from the construction site, in accordance with the provisions of ECM and the requirements of the EPCPH.***

➤ Response:

The proposed activity, mineral extraction, is not a construction operation. Construction sites typically consist of soil and not sand and/or gravel substrate. Since this is a sand and gravel mineral extraction operation, a soil (clayey/loamy) substrate is not generally present. The mineral extraction operation is intended to extract sand and gravel and to limit excavations in clayey/loamy areas. Therefore, tracking of clay/loamy materials onto adjacent public roadways will be minimal.



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In addition, the adjacent public roads are surfaced with sand and gravel, like the type of material being extracted.

***(4) Structure Demolition –***

➤ Response:

Currently, only portable “structures” are planned (scale and scale house and portable processing facility). If, in the future, permanent structures are needed, we will comply with the provisions of this subsection.

***(C) Electromagnetic and Electrical Interference – The operation of equipment shall not adversely affect the operation of any off-premise electrical, radio, to television equipment. No use may be made of land or water which creates interference with navigational signals for radio communications between an aviation facility aircraft.***

➤ Response:

- ✓ Normally, communications are handled through cell phones. If two-way radios are used, they will follow State and Federal communication regulatory agencies regulations.
- ✓ The operations should not affect or interfere with “...off-premises electrical, radio, or television equipment...” or “...with navigational signals for radio communications between ...aviation facilities and aircraft”.
- ✓ As we have stated elsewhere, mining operations will generally be recessed into the area’s topography.

***(D) Humidity, Heat, Glare, Smoke, or Radiation – Uses shall not emit offensive, harmful, hazardous, or annoying amounts of heat, glare, humidity, smoke, or radiation at any point on any boundary line of the ownership within which the use is located.***

➤ Response:

Of the five areas of concern in this El Paso County Code, the only item which may occur are diesel equipment exhaust emissions. These emissions follow state and federal air quality regulations, and all equipment shall meet federal and state emission standards.

***(E) Noise – Noise producing activity is regulated by Ordinance 02-1: Ordinance Concerning Noise Level in Unincorporated El Paso County. Uses and activities***





shall be conducted in conformance with Ordinance 02-1 including, but not limited to, the following standards.

(1) Maximum Permissible Noise Levels – Sound levels shall be measured in dBA as provided for in Section 6 of Ordinance 02-1. During the time period indicated in Table 6-7, the sound levels allowed by Ordinance 02-1 shall be observed.

Table 6-7. Maximum Noise Standards by Land Use Type.

Land Use	Maximum Noise [dBA]	
	7:00 A.M. - 7:00 P.M.	7:00 P.M. Next 7:00 A.M.
Residential or Commercial Area	55	50
Industrial area or Construction Activities <sup>1</sup>	80	75
Non-specified Areas	55	50

<sup>1</sup> Construction activities are subject to the sound level allowed for industrial areas during construction conducted pursuant to a valid building or construction. At other times, construction activities are subject to the sound level specified.

➤ Response:

- ✓ Since the El Paso County Code does not appear to have specific maximum noise standards for mineral extraction, we assume El Paso County will apply the Maximum Noise Standards for “Industrial area or Construction Activities”. Please be aware, MSHA requires all mining equipment to be equipped with backup alarms or horns. Once the mineral extraction activity moves downward, noise from the mineral extraction operations should be lessened.
- ✓ We will measure our noise level activity as needed to ensure we do not exceed the Maximum Noise Standard at the Parcel boundary between the mineral extraction operation and an adjacent residential parcel.
- ✓ Once we move the mineral extraction operations downward, we should be able to further reduce the maximum generated noise.
- ✓ An additional noise mitigation measure is the placement of the overburden/topsoil stockpiles between the active mining operations and the Impala Circle residential subdivision.

(F) Vibration – Uses and activities shall be conducted so ground vibration inherently and recurrently generated is non perceptible without instruments at any point along the boundary line of the ownership on which the user or activity is conducted. Those activities typically performed as part of an agricultural operation in an agricultural or forestry zoning district shall be exempt from the requirements of this section.

➤ Response:



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- ✓ Given the proposed mineral extraction is sand and gravel, we do not expect vibration from mining equipment or the processing equipment to migrate off-site. The operating surface will be sand and gravel which tends to absorb and dissipate equipment vibrations.
- ✓ No blasting will occur as part of the mineral extraction operation.

***(G) Odor – No uses shall be conducted that creates a malodorous condition, except those odors which may typically be associated with an agricultural operation in an agricultural, forestry or rural residential zoning district.***

➤ Response:

No uses will occur which could produce a “malodorous condition”.

#### **6.2.8 Maintenance Plans –**

➤ Response:

It appears to us that the provisions of this section do not apply to a mineral extraction operation.

#### **6.2.9. Signs, Off-Premise –**

➤ Response:

There will be no “off-premises” signs.

#### **6.2.10. Signs, On-Premise –**

##### ***(A) General Provisions***

***(3) Exemptions – The following signs are exempt for the requirements to obtain a sign permit provided the sign complies with the restrictions and performance standards identified. The following signs shall further conform to the site distance requirements in Chapter 2 of the ECM, and the signs shall be located entirely on private property unless otherwise provided.***

***(i) Official Signs – Official signs erected and maintained by the government, or otherwise required by law, are exempt from the requirements of this Section provided the signs conform to the site distance requirement of the ECM.***

➤ Response:

Sections (3)(a) – (h) do not appear applicable. We are required to post a mine site identification sign by the Mined Land Reclamation Board Regulations, C.R.S. 34-32.5-102 Rule 3.1.12(1). However, we will comply with the site distance requirements of the ECM.



**(B) Permits Required**

**(1) Sign Permit**

***(a) Sign Permit Required – No sign, except a sign not requiring a sign permit, shall be erected, ...***

➤ Response:

It is our understanding that since the mine identification sign is a requirement of the Colorado Mined Land Reclamation Division Rules and Regulations, a sign permit for El Paso County is not required.

***(b) Signs and Activities Exempt from Obtaining Sign Permit***

***(i) Information Signs – Information signs no more than 6 square feet in area, 3 feet in width or length, and 4 feet in height are exempt from the requirement to obtain a sign permit.***

➤ Response:

The proposed mine site identification sign will be equal to or less than 6 square feet and less than 3 feet in width or length and less than 4 feet in height. Therefore, we understand a sign permit is not required.

**(2) Building Permit**

***(a) Building Permit – No sign, except a sign not requiring a building permit, ...***

➤ Response:

The mine identification sign is a requirement of the Colorado Mined Land Reclamation Division Rules and Regulations and must be placed at the point of access to the mining operation. Since it is a sign required by another government agency, it is our understanding a sign permit for El Paso County is not required.

**(D) General Sign Standards**

***(1) Setback Requirements – Signs shall meet the minimum setbacks required by the zoning district as otherwise provided***

➤ Response:

We will meet the minimum setback requirements as specified by the respective zoning district.

***(2) Height Limitations***

➤ Response:



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We will not exceed the respective zoning district height limitations of this subsection, (a) – (c).

***(4) Standards for Specific On-Premise Sign Types***

➤ Response:

- ✓ The previous Off-Premises Sign Types Section does not apply since operational and governmental required signs will be on the mine site.
- ✓ This section gives no examples for the types of signs which may be required on the proposed mine sites. The types of signs which may be needed include:
  - ❖ Mined Land Reclamation Board, mine identification sign.
  - ❖ Mine Safety and No Trespass, mining operation signs, which can have Federally mandated dimensions.
  - ❖ Topsoil and overburden signs required by the Colorado Mined Land Reclamation Board regulations and State Statute.
  - ❖ Product specification signs, to identify various grades of product.
  - ❖ Internal mine direction signs.
  - ❖ Internal mine Right-of-Way and Stop/yield Signs, office sign, etc.
  - ❖ Note: Site office may be the scale house or a trailer.

***(c) Flagpoles and Flags – Flags are considered signs and shall meet all standards for signs except as otherwise provided by this section.***

***(i) Area of Flag Limited – The area of the flag shall not exceed 40 square feet ...The allowable area of freestanding signage shall be reduced by the size of the flag.***

➤ Response:

If a flag and flagpole are displayed, it will meet the requirements of this subsection.

***(iii) Height of Flagpole – No flagpole shall exceed 20 feet in height if located within a setback area or the maximum height for the zoning district if located outside the setback area.***

➤ Response:

If a flagpole is displayed for a flag, it will meet the requirements of this section.



***(iv) Sign Permit – A flag or flagpole located on property in a residential or agricultural zone district shall not be subject to the sign permit requirements.***

Response:

We understand the requirements of this subsection.

***(E) Regulations by Zoning District***

***(1) Agricultural, ...Zoning District***

***(a) Types of Signs Allowed - ...Subject to the standards of this section...***

➤ Response:

The following are the typical types of signs which are listed in this subsection, and which may be present on the proposed mine site. The proposed mineral extraction operation does not fit well into the El Paso County sign code. We will do our best to comply with the El Paso County requirements. El Paso County should be aware that there are State and Federal sign standards for their respective signs. We have marked with an Asterix the types of signs which may occur on the proposed mineral extraction operation.

- ***Direction signs \****
- ***Flag and flagpole \****
- ***Information signs \****
- ***Identification signs \****
- ***Official signs \****
- ***Traffic signs \****
- ***Utility signs***
- ***Bulletin boards***

***6.2.11 Vehicle Storage***

***(B) Standards Applicable in all Zone Districts***

***(1) Allowed Vehicles - Boats, trailers, recreational vehicles, stock automobiles, ski mobiles and all-terrain vehicles owned by a property's owner or occupant may be stored or parked outdoors in any zone district provided the storage or parking meets the standards listed in this Section.***

➤ Response:

Subsections (ii) and (iii) are primarily concerned with parking on public right-of-way. No mine vehicles or second party vehicles (pickup and haul trucks) will be parked on a public right-of-way. In addition, subsection (3) concerns "Collectors' Vehicles" and "inoperable vehicles". No "Collectors' Vehicles" or inoperable vehicles will be stored on the proposed mine site.



***(2) Parking on Public Right-of-Way***

- Response:  
No Mining vehicles, third party pickups or haul trucks will be parked on Public Right-of-Ways.

***(3) Collectors' Vehicles***

- Response:  
Please see the response to 6.2.11(B)(1), above.

***(C) Standards Applicable in...Agricultural Zones***

***(1) Prohibited Vehicles – No vehicles with a gross vehicle weight rating of 13,001 lbs. or greater shall be kept, stored, or parked on private property or within the right-of-way in a zoning district where a residential use exists, except in an A-35 zoning district....***

- Response:  
This provision does not apply since the proposed mineral extraction operation will occur in a district zoned A-35, agricultural.

***(2) Inoperable Vehicles and Vehicle Parts –***

- Response:  
We believe this provision will not apply. The only vehicle maintenance which will occur on the mine site are possible fueling, greasing, or lubing, coolant addition, tire replacement, etc., of equipment, prior to the start of a shift or as established maintenance programs require. On occasion, it may be necessary to make temporary repairs to return a piece of equipment to the off-site maintenance shop.

***(3) Vehicle Repairs***

- Response:  
Except for the items addressed in the above response to (C)(2) above, no vehicle repairs shall occur on the mine site with one exception. In an emergency, such as equipment malfunction or breakdown, it may be necessary to conduct some level of repair to get the equipment operational to remove it to an off-site repair facility or to correct a safety issue to protect the equipment and/or the operator.

***6.3. Environmental Standards***



### 6.3.1 Air Quality Standards

#### **(B) Air Quality Management Plan Required**

**(1) Sketch Plan and Other Applications – Applicants for a sketch plan shall submit an air quality management plan addressing how air quality impacts will be minimized and identify how conformance with any Pikes Peak Area Council of Governments (PPACG) air quality plans will be achieved. Where the DSD Director determines that a proposed development may have significant air quality impacts, the DSD Director may request the submission of an air quality management plan to support review of the development application and permit for conformance with this Section.**

➤ Response:

As stated above, under the subsection discussing the control of emissions affecting air quality, we have, in-place, an APEN/Air Permit to control air quality impacts. We will ensure, under the provision of our APEN/Air Quality Permit, that we meet air quality standards. Given the location of the proposed mineral extraction operation, we assume the anticipated APEN/Air Quality Permit will meet the requirements of the PPACG.

#### **(2) Air Quality Management Plan Contents**

**(a) General Requirements – The air quality management plan shall identify potential sources of air emissions, identify possible strategies for minimizing emissions and propose a plan for implementing those strategies. The strategies shall include those methods that are available, feasible, and economically reasonable...**

➤ Response:

We will make a copy of our approved APEN/Air Quality Permit available to the County once we receive final approval by the Air Quality Control Division.

**(b) Submission of Supplemental Documentation – Proposed development that have emission sources regulated under State regulations shall submit the following documentation regarding control of emissions:**

**(i) A copy of any air pollution emission notice, prepared in accordance with State guidelines, shall be submitted to the DSD and shall identify potential air emissions and appropriate control strategies.**

➤ Response:

We will make a copy of our APEN available to the County once we receive approval from the Air Quality Control Division. It is our preference to provide a copy of the approved APEN to the DSD rather than the draft APEN submitted to



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the Colorado Department of Public Health and Environment, Air Quality Control Division. We may have to revise the draft APEN during the Colorado Air Quality Control Division (CAQCD) adequacy review. Until the APEN is approved, any drafts provided with the DSD may complicate the process and foster confusion.

***(ii) A copy of any required Colorado Air Emissions Permit shall be submitted to the DSD prior to operating the facility.***

➤ Response:

We will make a copy of our approved APEN/Air Quality Permit available to the County once we receive final approval by the Air Quality Control Division.

***(3) (Note to Applicant) Review of Air Quality Plan by County Departments – The DSD, EPCPH, and ESD will review any required air quality management plans, coordinate with the PPACG where appropriate, and recommend they be accepted or rejected prior to the public hearing process.***

➤ Response:

We suggest this provision is not applicable for the following reasons:

- ✓ The proposed activity is a mineral extraction operation subject to State and Federal air quality regulations.
- ✓ It is not a residential, commercial, or industrial development.
- ✓ The proposed mineral extraction operation is in an area zoned A-35.
- ✓ El Paso County and associated agencies should accept the approval of the AQCD, APEN/Air Quality Permit as the official Air Quality Plan.
- ✓ We cannot begin mineral extraction operations until an APEN/Air Quality Permit Application is approved.
- ✓ We therefore request that El Paso County not delay the review and its final decision on the proposed mineral extraction operation pending an approval from the Colorado Air Quality Control Division.

***(C) Air Quality Development Standards***

***(1) Compliance with EPCPH Regulations – All land use and development shall comply with the Air Quality Regulations of the EPCPH.***

➤ Response:

- ✓ We suggest this provision will be met, for the following reasons:
  - ❖ The proposed activity is a mineral extraction operation subject to State and Federal air quality regulations. If we meet and satisfy the State and





Federal air quality regulations, that suggests that should be sufficient for the County.

- ❖ It is not a residential, commercial, or industrial development.
- ❖ The proposed mineral extraction operation is in an area zoned A-35.
- ❖ El Paso County and associated agencies should accept the approval of the AQCD, APEN/Air Quality Permit as the official Air Quality Plan.
- ❖ We cannot begin mineral extraction operations until an APEN/Air Quality Permit Application is approved.
- ✓ We therefore request that El Paso County not delay the review and its final decision on the proposed mineral extraction operation pending an approval from the Colorado Air Quality Control Division.

***(2) Compliance with Air Pollution Control Regulations – Land uses with the potential to emit air pollutants above certain defined limits shall report those potential emissions and obtain an air emission permit...***

➤ Response:

As a mining operation, we are required to obtain an APEN/Air Quality Permit approval for both the crusher/screening equipment and any fugitive dust emissions associated with the mining operation. We will not begin mineral extraction operations until the appropriate AQCD permits are in place.

***(3) Relationship to Paving Requirements for Roads – Where the additional impact of the development-related traffic on new or existing roads will meet the thresholds for paving as identified in the ECM, the applicant shall pave the new or existing roads in accordance with the requirements of the ECM.***

➤ Response:

The route of travel into and out of the proposed mineral extraction operation will be by the following means:

- ✓ Approximately half of haul trips (loaded and empty) would be controlled by Ellicott, while the other half would be operated by outside hauling companies. The applicant will direct the trucking company and outside hauling companies to use this specific route when departing the site, which may be used for truck loads up to 78,000 lbs. gross vehicle weight (DVW):
  1. From the mine entrance, turn right and continue northbound on Baggett Road for 1.6 miles
  2. Turn left onto State Highway 94.
- ✓ Truck drivers would be required to travel to the site using this route in the reverse direction.



**(4) Fugitive Dust During Construction**

**(a) Developments to Comply with Emission Standards**

***(i) Construction Activity Compliance – Any person engaged in grading, excavating, filling, or other construction activity of greater than one acre shall be required to comply with the requirements of the Air Quality Regulations, obtain a Construction Activity Permit from the EPCH, and comply with the applicable requirements.***

➤ Response:

- ✓ We suggest the Colorado Department of Public Health and Environment, Air Quality Control Division's APEN/Air Quality Permit should be the standard for mitigation to air quality impacts, from the proposed mineral extraction operation. We are required to address emissions from our processing equipment, and fugitive dust emission related to our mineral extraction and reclamation operations.
- ✓ We also suggest an EPCH Construction Permit should not be required. This is not a residential, commercial, or industrial development. At the present time, no permanent structures are planned. If, in the future, a permanent structure(s) is planned we will comply with any applicable El Paso Codes and Regulations.

***(ii) Emission Control Plan Required - Duration of Construction Exceeds 6 Months: The emission control plan shall be approved prior to site grading and a State Construction Permit shall be obtained prior to beginning construction.***

➤ Response:

- ✓ This is not a construction project. It is a mining operation with a life expectancy dependent upon the availability of the resource, and market demand with a more than a six-month project duration.
- ✓ This is a mining operation. The operator has obtained approval for a State of Colorado, Colorado Mined Land Reclamation Board, 112 Regular Operation mining permit. We suggest a State Construction Permit should not be required. The activity is covered by an MLRB permit.

***(iii) Nuisance Conditions: Regardless of the size or duration of the development, land disturbance shall be conducted so nuisance conditions are not created. If dust emissions do create a nuisance, an emission control plan is required.***



➤ Response:

Since this is proposed as a sand and gravel mining operation and requires a Colorado Mined Land Reclamation Board Mining Permit, we must also file an Air Pollution Emission Notice (APEN) with the Colorado Air Quality Control Division (CAQCD). That APEN will describe how we intend to mitigate fugitive dust emission. We will make that APEN, and the CAQCD Permit available to El Paso County once we receive final permit approval.

***(b) Dust Control Measures - Acceptable dust control measures and operating procedures for construction activities may include, but are not limited to, planting vegetation cover, providing synthetic cover, watering, chemical stabilization, furrows, compacting, minimizing disturbed area, wind breaks, on-site vehicle speed control, and delayed surface opening. Solid wood fencing along adjacent developed areas may be required.***

➤ Response:

Typical fugitive dust control measures at a mining operation which could be employed include:

- Natural moisture in the excavated product
- Road watering
- Revegetation as soon as possible
- Spray bars on processing equipment
- On-site vehicle speed limits
- Given the operations will be conducted within the excavated pit area, the depression will reduce the average on-site wind velocity.

***(5) Haul Trucks and Haulage Equipment***

***(a) Deposition of Dirt and Mud on Roads – Any person undertaking any construction, demolition, dismantling, or earthmoving activities shall prevent the deposit of dirt, mud, or debris on public roads; and should deposition occur, the dirt, mud or debris shall be removed as quickly as possible by the person performing the activities.***

➤ Response:

- ✓ Given this is a sand and gravel mining operation, it is unlikely mud, dirt, or debris will be tracked on to Baggett Road which is a sand and graveled road. Some sand may be tracked onto Baggett Road but should not affect the road surface which is also sand and gravel.
- ✓ In the unlikely event mud, dirt or debris are tracked on the Sanborn Road, it will be removed prior to the end of the following shift.



***(b) Particulates Emission in Transit – Particulates that may be emitted in transit shall be controlled by covering, wetting, or otherwise treating the load prior to transit.***

➤ Response:

Particulate emission in transit will be controlled by the following means:

- ✓ The product will be wet and will acquire additional moisture during the processing operation.
- ✓ In addition, commercial highway haul trucks typically cover the load prior to leaving the mine site.

***(6) Open Burning***

***(a) No Open Burning – No Person shall burn or allow the burning of rubbish, wastepaper, wood, or other flammable material on any lot, tract or on any public road, alley, or other land unless an Open Burning Permit is first obtained from the EPCPH and in conformance with the Air Quality Regulations.***

➤ Response:

- ✓ No open burning will occur on-site. Waste materials and any woody vegetation will be hauled to an approved off-site waste disposal facility.
- ✓ Alternatively, woody material may be used as a mulch or as a source of erosional control material.

***(D) Continuous Compliance with the Air Quality Standards Through Conditions – Where determined appropriate by the approving authority, continuous compliance with these standards may be imposed through conditions of approval of the development permit.***

➤ Response:

- ✓ We will comply with the requirements of our State Air Quality Permit which will include mandatory fugitive dust controls during the life of the Operation. We assume these standards will be acceptable to the EPCPH Department.
- ✓ If additional standards are required by the EPCPH, we request we be able to discuss the additional standards with the EPCPH and ensure the additional requirements will not negatively affect our mineral extraction, process and hauling operations or conflict with the CAQCD.

**6.3.2 Drainage** (Note: Section 6.3.2 Drainage was prepared by EME Solutions.)

***(A) General.***



***(1) Purpose - The purpose of this Section is to outline the standards for obtaining approval to disturb drainage facilities or alter drainage in association with development activities, and ensuring those activities conform to the requirements of this Code and the ECM.***

***(2) Applicability - This Section shall apply to all development applications and permits that will result in the disturbance of drainage facilities or will alter storm drainage from the subject property during or following construction.***

➤ **Response:**

The Schubert Ranch Sand Resource Project (the Project) does not appear to be subject to the requirements of this subsection. We do not plan to disturb or alter any storm drainage facilities.

***(3) Relationship to Other Standards and Regulations.***

***(a) The technical standards for preparation of drainage reports and design standards for construction are contained in the ECM. Where any conflict exists with this Section, the requirements of the ECM shall control.***

***(b) Relationship to Floodplain Regulations - Drainage reports required under this Section shall be prepared in conformance with the Floodplain Management Regulation.***

➤ **Response:**

All drainage reports and design standards applicable to the Project will be prepared in conformance with the ECM, the drainage criteria manual, and the Floodplain Management Regulations.

***(B) Report Requirements.***

***(1) Types of Reports.***

***(a) Letter Report - A letter report is required to accompany any development application for minor subdivision, replat, site development plan, site plan, and other development of a minor nature except under the following circumstances:***

- Where a complete drainage report has previously been approved by the County and significant changes are not proposed;***
- Where it is deemed unnecessary by the County due to minimal drainage impacts; or***
- Where the 100-year floodplain is not included on the lot, parcel, or tract.***



➤ Response:

Based on conversations with El Paso County personnel, a “letter report” is not the appropriate drainage report format for the Project. (See the response to the following question, (c).

*(b) Master Development Drainage Plan (MDDP) - The MDDP identifies major drainageways, ponding/detention areas, and locations of culverts, bridges, open channels, and drainage areas that are tributary to the proposed development.*

*The MDDP presents alternate solutions to drainage problems, which may have been identified by the Drainage Basin Planning Study. The ability of downstream drainage facilities to pass developed runoff from the proposed development is thoroughly analyzed in the MDDP.*

*Generally, phased developments greater than 10 acres in total area and major subdivisions are required to submit a MDDP. A determination of whether an MDDP is required shall be made by the ECM Administrator in conformance with the requirements of the ECM.*

➤ Response:

Based on conversations with El Paso County personnel, a Master Development Drainage Plan will not be required for the Project. Although large, the Project consists solely of excavation of sand from mining pits, with minimal ancillary infrastructure.

*(c) Preliminary Drainage Report - The preliminary drainage report identifies specific solutions to on-site and off-site drainage issues resulting from the development of a lot, parcel, or tract. In addition, those drainage problems that exist prior to development are addressed in the preliminary drainage report.*

*Generally, a preliminary drainage report is required for preliminary plans and large or phased developments. A determination of whether a preliminary drainage report is required shall be made by the ECM Administrator in conformance with the requirements of the ECM.*

➤ Response:

Based on conversations with El Paso County personnel, **a combined Preliminary and Final Drainage Report** is the appropriate drainage report format for the Project.

*(d) Final Drainage Report - The final drainage report finalizes concepts and presents the design details for the drainage facilities. Any changes to the preliminary design concepts presented in a preliminary drainage*



*plan due to review comments by the County are incorporated into the final drainage plan.*

*A final drainage report is generally required to accompany any site development plan, final plat or major development that utilized a preliminary drainage report, or which does not qualify for a letter report. A determination of whether a final drainage report is required shall be made by the ECM Administrator in conformance with the requirements of the ECM.*

*When specific improvements are required, the construction drawings and specifications shall be submitted for review with the final drainage plan, and any improvements included in the construction financial assurance required by the ECM.*

➤ Response:

Based on conversations with El Paso County personnel, **a combined Preliminary and Final Drainage Report** is the appropriate drainage report format for the Project.

*(2) Referral and Review Requirements - Drainage reports required by this Code, or the ECM may be referred to other agencies for review and comment.*

➤ Response:

We understand this El Paso County Code provision.

*(3) Approval Required Before Action on Development Application - No final action will be taken on a development request until the drainage report as required by this Section is approved by the ECM Administrator.*

➤ Response:

We understand this is a Paso County Code provision.

*(4) Modification to Approved Reports - Any modification to an approved letter report or final drainage report shall be approved by the ECM Administrator and shall require submittal of the revised report for review and approval.*

➤ Response:

We understand this is an El Paso County Code provision.

*(C) Maintenance Agreement Required - Where necessary to ensure maintenance of permanent stormwater measures, a maintenance agreement in accordance with the provisions of the ECM shall be approved prior to the approval of the development permit or issuance of the Certificate of Occupancy where the only development permit required is a building permit.*

➤ Response:



Based on conversations with El Paso County personnel, it is not expected that any permanent stormwater measures will be required for the Project.

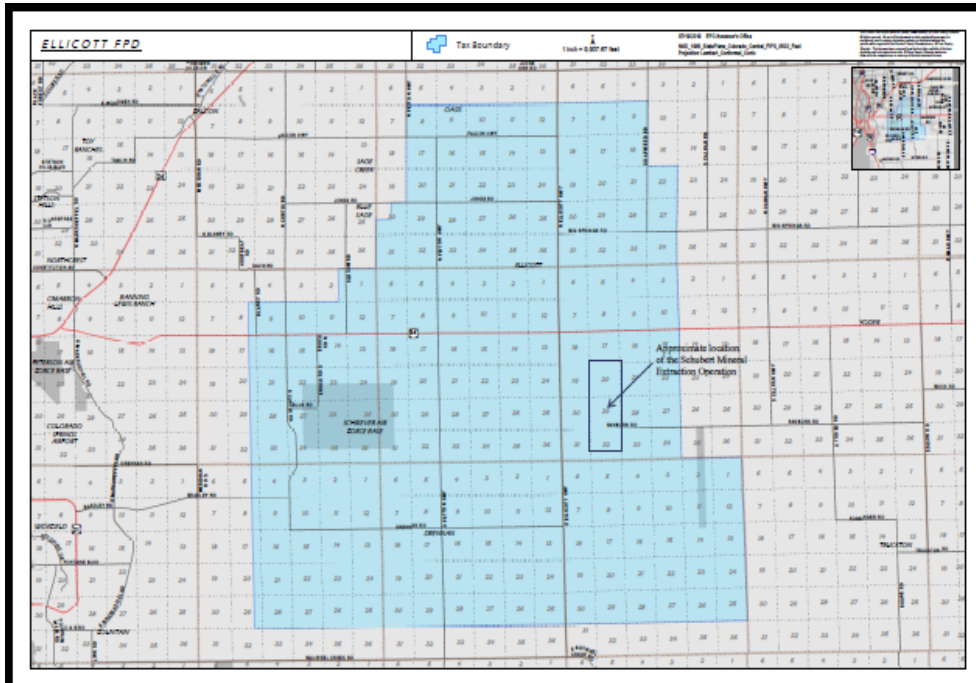
### 6.3.3 Fire Protection and Wildfire Mitigation

#### (A) General

*(2) Applicability – This Section shall apply to all development applications and permits within the unincorporated areas of El Paso County. The standards and requirements related to construction in wildland areas are applicable on land that is shown as forested on the Vegetation Map or to areas identified in the wildland fire risk and hazard mitigation plan, if required by the approval of that plan.*

➤ Response:

- ✓ The proposed mineral extraction operation is in the Ellicott Fire Protection District.
- ✓ Please see subsection 6.3.3.(A)(3) for a discussion of the Wildfire Plan.



- ✓ Based on the attached excerpt from the Colorado State Forest Service, Wildfire Risk Public Viewer (below), Colorado Forest Atlas, the wildfire risk





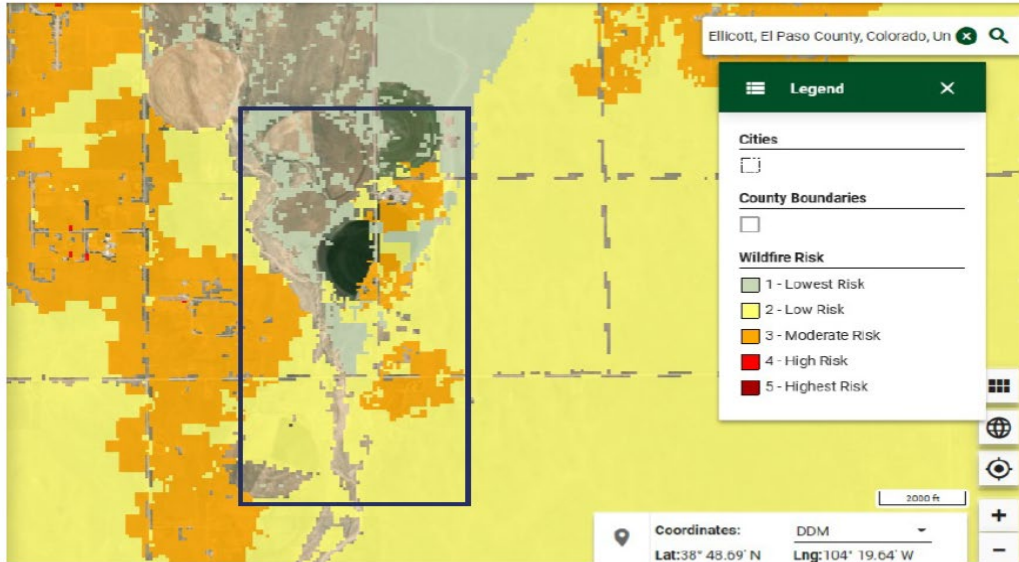
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is lowest to moderate risk. Most of the areas are lowest risk to low risk, with three smaller areas within the moderate risk to low-risk category.

### Wild Fire Risk Map

(Wildfire Risk Public Viewer, Colorado Forest Atlas)



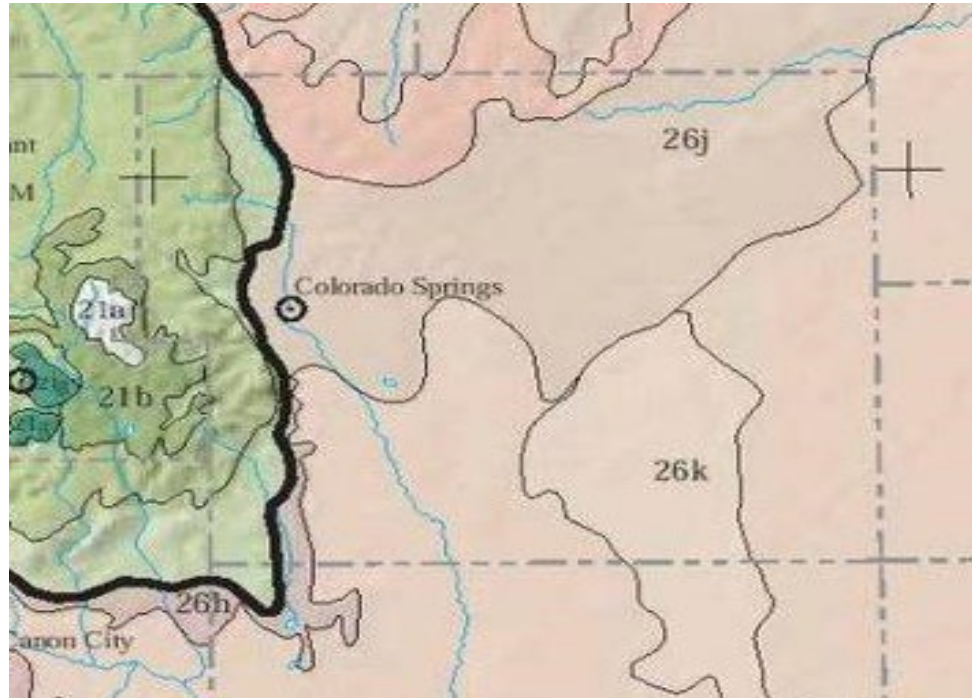
Approximate Location of the Proposed Schubert Mineral Extraction Operation.  
Risk appears to be Moderate to Lowest Risk.

- ✓ The risk of wildfire should be the lowest risk. Once topsoil removal operations begin, no vegetative fuel will be present in the areas of mineral extraction.
- ✓ Due to the Corona-19 virus, we were not able to get approval from the Colorado State Forest Service. We could not get a response to our inquiry for guidance as to how to download the official wildfire map. We filled out the on-line request but got no response.



### Ecoregions of Colorado

(Product of the Environmental Protection Agency, June 2014)

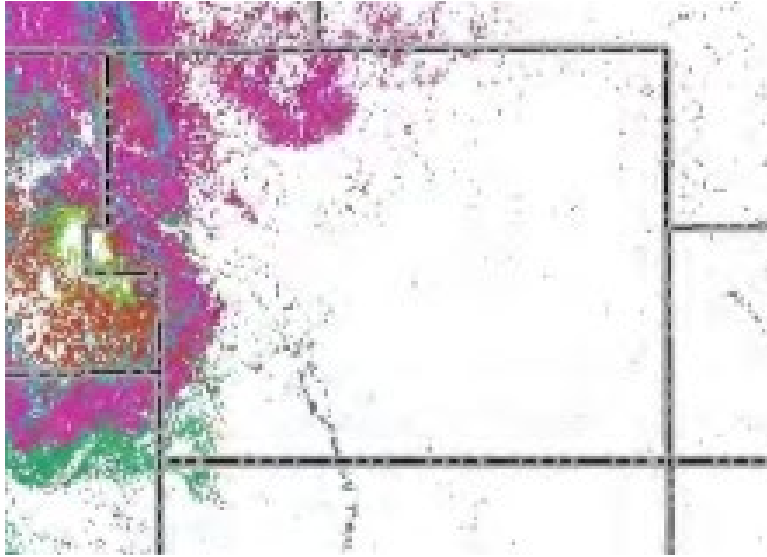


21h	Volcanic Mid-Elevation Forests	25	<b>High Plains</b>	26	<b>Southwestern Tablelands</b>
21i	Sagebrush Parks	25b	Rolling Sand Plains	26e	Piedmont Plains and Tablelands
21j	Grassland Parks	25c	Moderate Relief Plains	26f	Mesa de Maya/Black Mesa
22	<b>Arizona/New Mexico Plateau</b>	25d	Flat to Rolling Plains	26g	Purgatoire Hills and Canyons
22a	San Luis Shrublands and Hills	25i	Front Range Fans	26h	Pinyon-Juniper Woodlands and Savannas
22b	San Luis Alluvial Flats and Wetlands			26i	Pine-Oak Woodlands
22c	Salt Flats			26j	Foothill Grasslands
22e	Sand Dunes and Sand Sheets			26k	Sand Sheets

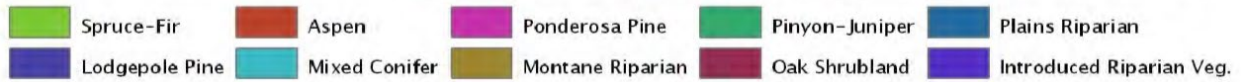
The proposed mineral extraction site appears to be in the Sand Sheets and Foothill Grasslands Ecoregion, 26j and 26k.



### Forest Types of Colorado



There does not appear to be any forest types in the area of the proposed operation.

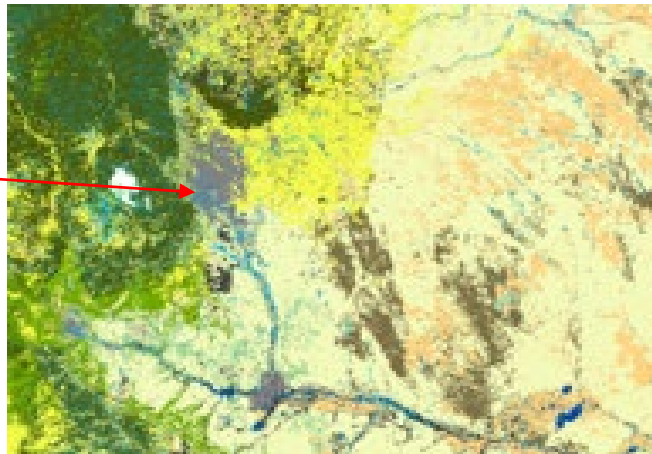


### Ecological Systems of Colorado

(Colorado Natural Heritage Program)

(Grouped by Dominate Specie)

Colo. Springs



Appears to be a grassland and shrubland ecological systems.



- ✓ The map does not appear to show any forests within the proposed Mine Plan Area.
- ✓ Based on the National Resources Conservation Service, soil survey for the site, Ecological Site Descriptions (ESD), which describe the typical soil unit vegetation, the proposed mine site in not considered forested lands. Following are the ESD's for the soil units expected to be impacted by the proposed mining operation.
- ✓ According to the Ecological Site Description for soils unit 28, the reference plant community is as follows:

The reference plant community consists chiefly of tall warm season grasses. Principle dominants are sand bluestem, prairie sandreed, switchgrass and yellow Indiangrass. Sub-dominant grasses include needleandthread and blue grama. Significant forbs and shrubs are silky prairie clover, lemon scurfpea, dotted gayfeather, leadplant and western sandcherry. The potential vegetation is about 70-85% grasses or grass-like plants, 10-15% forbs and 5-15% shrubs.

- ✓ (Note, trees, and tree-like plants are not found in the reference plant community. The reference plant community is what typically exists on this soil type if properly managed.)
- ✓ According to the Ecological Site Description for soils unit 101, the reference plant community is as follows:

The interpretive plant community for this site is the Reference Plant Community. This community developed with herbivory by large herbivores. The potential vegetation is about 70-85% grasses and grass-likes, 5-10% forbs and 10-20% shrubs by air-dry weight.

Dominant grasses include alkali sacaton, western wheatgrass, vine mesquite, blue grama and switchgrass. Grasses of secondary importance are big bluestem, galleta, green needlegrass and needleandthread. Fourwing saltbush is an important shrub in this plant community. Inland saltgrass and sun sedge are common. Forbs such as American vetch, American licorice, leafy false goldenweed, scarlet globemallow and dotted gayfeather are significant.

- ✓ (Note, trees, and tree-like plants are not found in the reference plant community.)
- ✓ The reference plant community is what typically exists on this soil type if properly managed. According to the Ecological Site Description for soils unit 6, the reference plant community is as follows:



The dominant tall warm season grasses are prairie sandreed, sand bluestem and switchgrass. Blue grama dominates the understory. Important cool season grasses and grass-likes are needle and thread and sun sedge. Key forbs and shrubs are American vetch, pacific peavine (manystem pea), purple prairie clover, and spreading buckwheat.

Table 5. Annual production by plant type

Plant Type	Low (Lb/Acre)	Representative Value (Lb/Acre)	High (Lb/Acre)
Grass/Grasslike	600	1300	1690
Shrub/Vine	50	150	255
Forb	150	200	255
<b>Total</b>	<b>800</b>	<b>1650</b>	<b>2200</b>

Note: Trees and tree-like plants are not found in the reference plant community. The reference plant community is what typically exists on this soil type if properly managed.

- ✓ Based on the above information, the area is non-forest, and the vegetation types are grasses, forbs, and woody shrubs. The wildfire danger is rated as lowest to small inclusions of moderate fire risk.

***(3) Relationship to Other Standards – Where a fire department has adopted standards, the more restrictive shall apply in the case of a conflict between adopted fire district standards and this code. The Fire Marshal may approve an alternative design which accomplishes the purpose of this section and provides an equivalent or similar benefit to the property or the community.***

- Response:
  - ✓ The proposed mineral extraction operation is not a residential, commercial, or industrial development. No fire hydrants are planned for the site.
  - ✓ During mining operations, combustible vegetation will be removed as part of the topsoil stripping operations. Any significant piles of woody vegetation (brush) will be either mulched and stockpiled for use in revegetation operations or hauled to an approved disposal facility.
  - ✓ All on-site mobile and non-mobile mining equipment and commercial highway haul trucks are required to have operating fire extinguishers.
  - ✓ No fuel is to be stored on-site.
  - ✓ No buildings, other than the portable scale and scale house will be on-site. (The scale house is required to have a fire extinguisher.)
  - ✓ In addition, the raw product processing equipment will need dust suppression. Typically, dust suppression is spray bars. Also, a water truck will be on-site to suppress road generated fugitive dust emissions. As such, there will be water on-site to suppress fires, in the unlikely event a fire should occur.



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- ✓ Mine site personnel are required to be trained in the use of on-site fire suppression equipment.
- ✓ All the above fire suppression and training are required by the Mine Safety and Health Administration (MSHA).

***(4) Responsibility – The Fire Marshal shall have authority to enforce the provisions of this Section. The Fire Marshall shall be authorized to develop and utilize forms and checklists to implement the requirements of this Section.***

➤ Response:

We agree to recognize the authority of the local Fire Marshall. However, please keep in mind that MSHA requirements are Federal Agency regulations. Where there is a conflict between the local Fire Marshall and MSHA, we must comply with the MSHA regulations. Where there is a conflict between agencies, we request the local Fire Marshall contact MSHA, in consultation with Ellicott Sand and Gravel, and work out a compromise acceptable to all parties.

***(B) Reports and Commitments Required for Subdivisions***

➤ Response:

The proposed activity is a mineral extraction operation. This section does not appear applicable.

***(C) Design Standards***

***(1) Water Supply***

***(a) General- Water supply systems used for fire protection purposes shall be installed and maintained in accordance with NFPA standards. The required fire flow for one or more buildings of a planned building ...shall be determined by the Fire Marshal using locally adopted codes, or as specified per the following conditions:***

- ***For areas without municipal-type water systems, NFPA 1142, Standards of Water Supplies for ...Rural Fire Fighting, shall be applied.***

➤ Response:

NFPA 1142 Standard states, in part, “This standard identifies a method of determining the minimum water supply necessary for structural fire-fighting purposes in areas where it has been determined that there is no water for firefighting.” We believe NFPA 1142 does not apply since no structures are planned. We will have fire extinguishers on-site and a source of water available for fugitive dust control, which could be used for fire suppression.



***(d) Areas without Central Water Systems***

***(i) Fire Cisterns – Fire Cisterns Required: Fire cisterns shall be provided in planned building areas which are not served by hydrants unless the Fire Marshal has approved an alternative fire protection water supply system.***

➤ Response:

- ✓ There are no “planned building areas”.
- ✓ We have on-site fire extinguishers and sources of water needed for fugitive dust control which could be used for fire suppression.
- ✓ In addition, we have construction grade earth moving equipment which could be used to install fire breaks within the property boundary, if needed.

***(iii) Water Supply Requirements***

➤ Response:

We believe this provision does not pertain to our planned operation. We do not envision the need for a cistern. We will have sources of water available for fugitive dust control which could be used for fire suppression, as well as fire extinguishers and construction grade earth moving equipment.

***(2) Roads – This section shall apply to all roads providing access to a planned building area whether or not they are dedicated as public roads.***

➤ Response:

Except for subpart (e), we believe this section does not pertain to our mineral extraction operation.

***(e) Road Grades in Wildland Fire Areas – Within wildland fire areas, road grades steeper than 10 percent may be permitted where mitigation measures can be agreed on by the Fire Marshal and ECM Administrator.***

➤ Response:

The only grades which may be steeper than 10% are those grades into and out of the active pit area and areas undergoing site reclamation. The reclaimed mine slopes are to be 3H:1V or less. The equipment chosen to operate on the proposed mine site is capable of safely traversing slopes steeper than 3H:1V. No public access will be allowed on the mine site. Once mining operations begin, all combustible materials (vegetation) will be removed. Therefore, firefighting equipment needed to fight wildfires in the active mining area should not be needed.



***(3) Non-Road Access – The following minimum standards shall apply to emergency vehicle lanes, driveways and parking lot drive lanes serving as emergency vehicle lanes.***

➤ Response:

We believe the provisions of this subsection do not pertain to our proposed mineral extraction operation, except for sub-subsections (e), (f), (g), (h), (i), (j), (k), (l), and (m).

***(e) Width of Driveway ...- Where the driveway is greater than 150 feet in length, it shall be not less than 10 feet in unobstructed width...fire lanes with tow-way travel shall be a minimum of 24 feet in width.***

➤ Response:

The access into the proposed mine site will be at least 24 feet in width to handle highway haul trucks which will be entering and leaving the proposed mine site.

***(f) Vertical Clearance –***

➤ Response:

Since there are no structures planned, this provision will be complied with.

***(g) Turns – Required driveways shall be designed, constructed, and maintained to accommodate the turning radius of the largest apparatus typically used to respond to that location. A turn in an emergency vehicle lane shall be constructed with a minimum radius of 25 feet at the inside curb line and a minimum radius of 50 feet at the outside curb line.***

➤ Response:

- ✓ We believe the driveways (points of access) for the proposed mineral extraction operation will be designed and constructed adequately, in terms of width and how surfaced for emergency response equipment. The driveway and internal access road around the scale will need to be adequate to handle typical highway haul trucks, to include ten wheel and eighteen-wheel trucks.
- ✓ We need to ensure the entrance and driveway are properly maintained for highway haul trucks to efficiently enter and leave the site.
- ✓ There are no curbs or gutters at the points of access to the proposed mine site.

***(h) Grades – Emergency vehicle lanes and required driveways shall not exceed 10 percent in grade unless steeper grades are allowed where mitigation measures can be agreed on by the Fire Marshal and the property owner.***





➤ Response:

- ✓ The proposed activity will be a mineral extraction operation. Mining operations typically have roads and road grades not suitable for typical fire and emergency response equipment.
- ✓ The areas where mining equipment will be operating will be devoid of combustible materials, such as trash, building materials and vegetation.
- ✓ Mining operations fall under MSHA regulations, as such, we are required to do the following:
  - ❖ Have fire suppression equipment on all mining equipment.
  - ❖ Conduct annual safety miner safety training, such as how to use fire extinguishers.
- ✓ We will have sources of water on-site for fugitive dust control, such as a water truck for road watering.

***(j) Turnouts and Turnarounds Required***

***(i) Driveways – Where the required driveway is greater than 300 feet, it shall be provided with turnouts or turnarounds at locations approved by the Fire Marshal.***

➤ Response:

- ✓ We suggest this provision will be met by the very nature of the mining operation. Once mining operation begins, significant areas will be stripped of vegetation and soil, making large areas available for maneuvering large trucks and other similar vehicles.
- ✓ The topsoil and overburden stripped area will expose a sand/gravel surface, suitable for large equipment movement.

***(ii) Turnarounds – Dead-end emergency vehicle lanes in excess of 300 feet in length shall be provided with turnouts and turnarounds as approved by the Fire Marshal. The turnaround at the terminus shall have a minimum radius of 50 feet. The Fire Marshal shall be authorized to approve, as an alternative, a “hammerhead” turnaround to provide emergency vehicles with a three-point turnaround.***

➤ Response:

It is unlikely there will be any dead-end turnarounds. There should be ample room for equipment maneuvering within the active pit area.



***(k) Load Design – Emergency vehicle lanes and required driveways shall be designed, constructed, maintained to accommodate the load of the largest apparatus typically used to respond to that location.***

➤ Response:

- ✓ We suggest this provision has limited application. No permanent internal roads are planned. Temporary internal roads are simply bladed in, to allow access for scrapers, loaders, and other mine equipment.
- ✓ Given the nature of the active mining area, there should be no impediment to access by emergency vehicles. If an access problem should arise, on-site mining equipment may install access.

***(l) Bridges or Drainage Crossings – A bridge or drainage crossing on an emergency vehicle lane or required driveway shall be designed to accommodate the load of the largest apparatus typically used to respond to that location. The load limit shall be clearly posted at the approaches to the bridge.***

➤ Response:

The driveway access will be culverted and constructed to handle the weight of fully loaded highway haul trucks and lowboys which may be needed to bring mining equipment on to and removal from the mine site. The weight of these vehicles should result in access design, construction and maintenance which will be suitable for emergency vehicles.

***(m) Landscaping Maintained – Landscaping or other obstructions shall be maintained in a manner that provides unobstructed access for fire department operations.***

➤ Response:

No landscaping or other obstructions will be installed or constructed. However, a mine permit identification sign, business name sign, or other signs required MSHA, etc., will be posted at the entrance to the mine site and other locations, as required. These will comply with local, state, and federal regulations. We will ensure such signs do not obstruct fire department site access.

***(4) Gates***

***(a) Gate Location and Dimensions – Gates shall be located a minimum of 30 feet from the public right-of-way and shall not open outward. The opening provided through a gate shall be 2 feet wider than the traveled way.***



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➤ Response:

We will ensure that where a gate or cable is provided to control site access, it will comply with the provision of this subsection of El Paso County Code.

***(b) Locks – Fire Department shall have ready access to locking mechanisms on a gate restricting access to a fire line. Proposed changes to access shall be approved by the Fire Marshal.***

➤ Response:

We will provide the Fire Marshal with a duplicate key or combination to the site access lock. If the lock is changed, we will also provide the Fire Marshal with the new key or combination.

***(D) Construction in Wildland Fire Areas***

***(1) General***

➤ Response:

No structures are planned for this operation. We will have, however, a scale and scale housed on-site that will be moved from stage to stage as needed. Therefore, we believe this section does not apply.

***(2) Wildland Fire Hazard Mitigation Plan Required***

***(a) General Plan Standards and Requirements – When a subject lot, parcel, or tract falls within a wildfire area, a wildland fire risk and hazard mitigation plan shall be prepared by a qualified professional and shall be tailored to the stage of development application and the stage of development application and the stage of subdivision-related construction. A higher level of plan may be submitted at any stage of the process so long as it is implemented at the final stage of development. Plans shall utilize the Colorado State University (CSU) Guidelines and NFPA standards, as applicable. Additional fire precaution measures may be required because of fire hazard in the following areas:***

***(i) Areas depicted as forested on the Vegetation Map;***

***(ii) Areas rated as fire hazard by the CSFS;***

***(iii) Where slopes in or adjacent to proposed development are in excess of 20%; or***

***(iv) Where the local fire protection agency identifies a specific fire danger.***

➤ Response:

✓ On the vegetation maps we reviewed, there are no areas depicted as forested.

✓ The mine permit areas are shown to have very low to low fire hazard with three possible inclusions of moderate fire hazard.



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- ✓ Until the site is mined and then reclaimed to 3H:1V slopes, there do not appear to be any existing, significant slopes more than 20%. There are a few areas along the drainageways which may exceed 20%.
- ✓ The area is composed of prairie and agricultural lands, some of which have a very low risk to moderate wildfire risk.

***(b) Development Plan***

***(i) General Mitigation Plan Requirements – This plan shall include, but not be limited to, the following:***

- ***Access, ingress, egress, and evacuation.***

➤ Response:

Access to a mine site Stage will be via a driveway which connects to either Baggett Road or Sanborn Road. If for some reason site evacuation is necessary, the existing driveway will be used.

- ***Fuel Modification.***

➤ Response:

- ✓ The sources of fuel for a fire would likely be the mine equipment, such as haul trucks, loaders, a scale house, and undisturbed grasslands. All mining equipment is required to have some type of fire suppression device (such as a fire extinguisher) on the equipment.
- ✓ Mine personnel are to receive periodic safety training which typically includes the proper use and care of fire extinguishers.
- ✓ The grass will be stripped when the topsoil is removed when a Stage is opened.
- ✓ Once a Stage reaches full reclamation, the area undergoing reclamation will be seeded and mulched. We do not recommend modifications to the reclamation process.
- ✓ There should not be any other fuels on site which would require modification.

- ***Water supply.***

➤ Response:

There are two water wells on site which could be used for a wildfire or other fire.

- ***Construction, location, and design of structures; and***

➤ Response:

No structures, other than a portable scale house and scale, are planned currently. If structures are needed in the future, the General Mitigation Plan will be revised.



- ***Ignition potential.***

- Response:

We submit the following as our General Fire Mitigation Plan:

- ✓ Given the nature of modern mining equipment, the ignition potential is low. In addition, each piece of mobile mining equipment includes a fire extinguisher.
- ✓ The other likely source of ignition is the surrounding grasslands. The potential to the ignition of undisturbed grasslands is no greater than what normally exists if no mining operation was present. Once mining begins, the grasses will be removed along with the topsoil which will be stripped and stockpiled for future reclamation.
- ✓ Once reclamation begins, the area where topsoil replacement occurs will be seeded and mulched. The mulch has a low potential for ignition given its low-density nature.
- ✓ The establishing perennial grasses, forbs and shrubs will have the same ignition potential as the surrounding undisturbed vegetation.

***(ii) Approval of the Fire Marshal – The Fire Marshal shall approve the mitigating measures relative to access, defensible space, water supply, and construction based on the relative risk and hazard rating.***

- Response:

We understand the Fire Marshal has the authority to approve our General Fire Mitigation Plan. However, please be aware our plan must also comply with MSHA requirements. It is our understanding that MSHA regulations take precedent over state and local regulations. If there is a conflict between local and/or state and/or federal Regulations, we request the local agencies meet with the appropriate federal and/or state agencies, in consultation with the mine operator, to resolve the issue.

***(3) Wildland Fire Risk and Hazard Severity Analysis Required***

***(a) Risk Assessment to be Performed – A risk and hazard rating analysis shall be performed to determine the level of the wildland fire threat to life and values at risk prior to building permit authorization in high hazard areas unless completed as part of the wildland fire hazard mitigation plan.***

- Response:

- ✓ We believe the Wildland Fire Risk and Hazard Severity to the, “...threat of life and values at risk...” is low to very low. This is based on site wildland fire



rating being lowest risk to low risk with three small inclusions of moderate risk. Therefore, we suggest there is a very low risk to “life and values at risk”.

- ✓ Since the apparent risk is not a “high hazard”, it appears a building permit is not needed.
- ✓ Only mobile structures (scale and scale house) are proposed.
- ✓ Therefore, our “Wildland Fire Risk and Hazard Severity Analysis” conclusion is the “Wildland Fire Risk and Hazard Severity” is very low to low risk.

***(b) Basis for Mitigation Measures – The risk and hazard ratings shall be the basis for the implementation of mitigation measures relative to vegetation, other combustibles, and construction criteria.***

➤ Response:

We suggest the following proposed mitigation measures are in line with the potential fire hazard risk:

- ✓ Removal of site vegetation as part of the process in opening a portion of a Stage for mineral extraction.
- ✓ MSHA requires that all on-site mobile vehicles carry fully functional fire extinguishers. Mine personnel shall be trained in the use and care of fire extinguishers.
- ✓ No blasting is to occur as part of the mining operations.
- ✓ All electrical devices shall meet MSHA code.
- ✓ All stored flammable liquids, materials and waste shall be stored or placed in MSHA compliant receptacles.
- ✓ The proposed fire safety and suppression Mitigation Measures are based on the level of wildland fire risk in (3)(a), above.

***(C) Analysis Rating Factors – The following shall be considered in analyzing the risk factors:***

- ***The history of local wind, relative humidity, temperature, and fine fuel moisture content shall be considered in determining defensible space.***

➤ Response:

No permanent structures are planned for the mineral extraction operation currently. Therefore, the concept of “defensible space” is not applicable.

- ***All vegetative fuels and other combustible materials shall be evaluated for their potential to contribute to the intensity and spread of wildland fire.***



- Response:
  - ✓ Grasslands, depending on the time of year, are flammable. However, once a portion of a Stage is opened, the grasses are removed and do not return until the mined area is ready for reclamation.
  - ✓ The other source of possible combustible materials is mining equipment. Given the safety appliances present on modern mining equipment and the requirements of MSHA, the potential for a fire is low at best. In addition, the equipment will primarily be operating in areas devoid of vegetation.
    - ***Slope and aspect shall be evaluated as to their potential to increase the threat of wildland fire to life or improved lot, parcel, or tract.***
- Response:
  - ✓ Threat of wildland fire to life:
    - ❖ Given the wildfire risk for the site (grassland) is very low to low with three minor inclusions of moderate risk, the mineral extraction area is agricultural land, (not residential, commercial, or industrial) the risk to life should be similar very low to low.
    - ❖ In addition, once an area is stripped of soil and vegetation, the only risk to life would be from a vehicle fire. Such a risk to life should be extremely low, given each piece of mining equipment must have a fire extinguisher and meet MSHA safety requirements, to include the risk of fire. Keep in mind the safety of other nearby operators and their equipment would be of first importance. The burning equipment would be isolated from the other mining equipment by moving everything a safe distance away.
  - ✓ Threat of wildland fire to improved lot, parcel, or tract:
    - ❖ Given the wildfire risk for the site (grassland) is very low to low with three minor inclusions of moderate risk, the risk to improved lot, parcel or tract should be similar very low to low. In addition, any improved lot, parcel, or tract property line is separated from the affected land by over two hundred feet of buffer.
    - ❖ In addition, once an area is stripped of soil and vegetation, the only risk to improved lot, parcel or tract would be from a vehicle fire. Such a risk to improved lot, parcel or tract should be extremely low, given each piece of mining equipment must have a fire extinguisher. The first line of defense would be for the operator and others nearby to attempt to safely extinguish the fire with fire extinguishers. Keep in mind the safety of other nearby operators and their equipment would be of first importance. The burning



equipment would be isolated from the other mining equipment by moving everything a safe distance away.

- ***The factors determining required defensible space shall include the history of wildland fire for the area.***

➤ Response:

- ✓ “Defensible Space” is not applicable. No permanent structures are planned currently. If any structures should occur in the future, “defensible space” will occur as part of the topsoil stripping operation to construct a structure.
- ✓ The scale house and scale will be placed in areas stripped of vegetation and topsoil, thereby creating the mandated “defensible space”.

- ***Fire-safe routes for emergency service apparatus and for egress shall be evaluated.***

➤ Response:

We believe the driveway (access) to each stage will be a fire-safe route onto the mine site since all vegetation must be removed prior to site disturbance, to include the access road and any internal roads not within the footprint of the active pit.

- ***Other factors that can affect the risk of ignition or the spread of wildland fire on improved lot, parcel, or tract, including the risk of structure fires spreading to vegetation, shall be part of the analysis.***

➤ Response:

- ✓ On-site fueling – Fueling of mining equipment will consist of a fuel and lube truck (diesel fuel) coming on-site, as needed to fuel the equipment. No fuel tanks will be maintained on-site. The fueling truck will follow all MSHA regulations, as appropriate.
- ✓ MSHA approved trash and waste disposal receptacles will be made available. Trash will be periodically removed to an approved off-site disposal facility by a commercial waste disposal company.
- ✓ Any other combustibles will be stored and/or disposed of in MSHA approved containers.

***(4) No Permit or Approval Granted without Compliance – No permit or approval associated with development...shall be approved or issued until the provisions of this standard are satisfied. Notwithstanding the foregoing, the Fire Marshal shall have authority to grant administrative variances to the design standards of this Section upon the finding of two or more of the following criteria:***





- *The fire protection district responsible for providing fire protection services to the project has adopted a fire code with a more stringent design standard from that contained herein;*
- *The application of a design standard will cause undue hardship or practical exceptional difficulties; or*

➤ Response:

We believe the application of design standards, other than what is suggested above, would result in unnecessary and undue hardship and difficulties for the mine operator.

- *An alternative design standard will satisfy the intent and meet the goals of these Fire Protections and Wildfire Mitigation Regulations.*

➤ Response:

We believe the alternative fire suppression and control plan outlined above will satisfy, "...the intent and meet the goals of the Fire Protections and Wildfire Mitigation Regulations".

We request an administrative variance for the above reasons.

**(5) Defensible Space Requirements**

*(a) General – The Defensible Space Requirements in Table 6.8 shall be implemented as minimum requirements in association with the development in any Wildland Fire Area.*

**Table 6-8. Defensible Space Clearing and Structural Summary (Recommendations from NFPA by Wildland Fire Hazard Severity Analysis).**

Low Hazard	High Hazard
9.14 m (30 ft) clearance Class A roof No portion of trees or other vegetation within 3.048 m (10 ft) of chimney outlets Trees within defensible space shall be pruned to minimize ladder fuels	9.14 m (30 ft) irrigated Class A roof 30.48 m (100 ft) fuel treatment Noncombustible siding/decks, and boxed eaves Selected fire-resistant trees within 9.1 m (30 ft) of structures Selected thinning of trees and shrubs Trees within defensible space shall be pruned to minimize ladder fuels All trees and shrubs pruned of dead material No portion of trees or other vegetation within 3.48 m (10 ft) of chimney outlets

➤ Response:

This subsection does not apply. No structures, other than a mobile scale and scale house will be present. No trees are present in the areas of mineral extraction and reclamation. In addition, grass will be removed as part of the topsoil stripping process prior to initiation of mineral resource extraction.



***(b) Maintenance of Defensible Space and Associated Fuel Break Thinning – Defensible space and fuel break thinning work shall be completed and maintained to the standards described in the Colorado State University’s Cooperative Extension Fact Sheet 6.302. The responsibility for maintaining defensible space and associated fuel break thinning lies with the landowner. Noncompliance with defensible space maintenance standards will be enforced as a zoning violation.***

➤ Response:

Based on the recommendations of CSUCE Fact Sheet 6.302, and the fact the proposed mine site is grasslands, we propose the following:

- ✓ CSUCE Fact Sheet 6.302 is primarily intended to protect structures and other significant valuable properties. The proposed activity will not include or require construction of residential, commercial, or business structures. There will be a mobile scale and scale house on site. Even if a wildland fire would occur, the area around the mobile scale and scale house would be essentially bare ground. As required by the MLRB Regulations, all topsoil (to include overlying vegetation) must be removed prior to affecting an area by mining and extraction operations.
- ✓ Since there are no proposed structures (except for the scale and scale house) there should not be a problem with adequate room for firefighters to do their job.
- ✓ The only fuels which will be present are grasslands and shrubby areas. Once mining begins, the source of fuel in the active mining area will be removed during the process of topsoil stripping.
- ✓ It is true mobile equipment has caught on fire. Each piece of mobile equipment is required by MSHA to have functioning fire extinguishers with the equipment operators trained in their use.
- ✓ In addition, the mineral extraction equipment will be operating in the areas where topsoil (and vegetation) will have been removed. Based on CSECU Fact Sheet 6.302, with the removal of the on-site topsoil and associated vegetation, the affected area would fit the definition of a “Zone 2 Defensible Space Management Zone”. Therefore, the “Zone 2” goal of reducing the intensity of any fire approaching structures would be achieved. In addition, as stated above, no structures will be constructed or are present (except for the scale and scale house).
- ✓ Once an area is reclaimed, the area will be a grassland ecosystem, as the site is now. During the period of perennial species establishment, the Operator is



required to implement its noxious weed control which may include spraying and mowing as needed. Removal of noxious weed should help reduce a source of wildfire fuel.

**(6) Fuels Modification During Development and After Construction**

**(a) Identification of Modification Required – Identification of fuel modification measures may be required in order to reduce the threat of wildfire. If fuel modification is determined to be necessary, the plan shall comply with NFPA requirements. Required elements shall include but are not limited to the following:**

- **Identification of fuel type, volume, and loading, in conjunction with an assessment of slope and aspect, to determine the ability for a wildfire to spread;**
- **Reduction of fuel loading and modification of fuel types to reduce the risk to structures or adjacent vegetation, including the creation of fire breaks; and**
- **Creation of defensible space to protect structures from approaching wildfire and reduce the potential for turning a structure fire into a wildfire.**

➤ Response:

We believe this subsection does not apply since no construction will occur, all vegetation will be removed as part of the topsoil stripping operations and the entire stripped area Stage I will be a defensible space.

**(b) Fuel Modification Standards – When the Wildland Fire Risk and Hazard Mitigation Plan requires establishment of a fuel modification area:**

➤ Response:

Of the list of Fuel Modification Standards, we have listed and addressed those which may apply to the mineral extraction operation and briefly discuss how they will be implemented:

- **Ground fuels within the defined defensible space shall be treated or removed.**

➤ Response:

This provision of the El Paso County Code should not apply. No “defined defensible space” is needed since no construction of structures shall occur at this time. If, in the future, temporary structures are needed, they will occur within the footprint of the active mining pit, on a sand and gravel surface.



- ***Live vegetation within the defensible space shall have dead material removed and shall be thinned and pruned.***

➤ Response:

This provision of the El Paso County Code should not apply. No “defined defensible space” is needed since no construction of structures shall occur at this time. In addition, all vegetation, living and dead, will be removed as part of the topsoil removal process. If, in the future, temporary structures are needed, they will occur within the footprint of the active mining pit, on a sand and gravel surface. All temporary structures, if needed and installed, must be removed as part of the final reclamation process.

- ***The fuel modification plan shall include a maintenance element with the responsibility for maintenance defined.***

➤ Response:

This provision of the El Paso County Code should not apply. No “defined defensible space” is needed since no construction of structures shall occur at this time. Since no “defined defensible space” is needed, no maintenance plan is needed, and no responsible party should need to be identified. If, in the future, temporary structures are needed, they will occur within the footprint of the active mining pit, on a sand and gravel surface. All temporary structures, if needed and installed, must be removed as part of the final reclamation process. Structure removal is the responsibility of the mine operator and is ensured by the required MLRB financial warranty.

***(7) Combustible Materials – Propane tanks and other combustible liquids storage shall conform to NFPA 30, Flammable and Combustible Liquids Code, NFPA 58, Liquefied Petroleum Gas Code, and the Wildland Fire Risk and Hazard Mitigation Plan. Other combustible materials shall be removed from the defensible space or stored in conformance with the fire protection plan as approved by the Fire Marshal.***

➤ Response:

No flammable liquids, including propane tanks will be stored at the site. We may want to use portable flame throwers for weed control. If used, these devices will not be stored at the mine site. They will be brought in at the start of a shift and removed at the end of a shift.



#### **6.3.4. Forestry**

##### **(A) General**

**(2) Applicability – The provisions of this Section shall apply to the review and approval of all development applications and permits on land that is forested.**

➤ Response:

This Section does not apply. No forested lands, other than an occasional cottonwood are found on the proposed mineral extraction site.

#### **6.3.5. Grading and Erosion Control**

##### **(A) General**

**(2) Applicability – This Section shall be applicable whenever a development activity results in a land disturbance of greater than one acre ..., subject to the exceptions listed in Chapter 3 of the ECM.**

**(3) Approved Plan and ESQCP Required Before Land Disturbance - No clearing, grading, excavation, filling, or other land-disturbing activities covered under this Section and Chapter 3 of the ECM shall be allowed until approval of the grading plan and erosion and sediment control plan is received, and an ESQCP is approved.**

➤ Response:

We understand.

##### **(B) Grading Standards – Grading shall meet the following standards...**

**(1) No sever changes in Grade – Grading adjacent to existing development shall not result in severe changes in grade.**

➤ Response:

We suggest this provision of the El Paso County code does not apply. None of the proposed excavations within the Stages will be adjacent to an “existing development”. In addition, the setback from the property line will ensure no adjacent “severe changes in grade”. Further, any revisions to the final and approved reclamation slopes must be approved by the CMLRB/CDRMS. Their regulations ensure the final reclaimed slopes must be compatible with most mine land use, and result in an erosional and geotechnically stable slope.

**(2) Utility and Drainage Easements Established and Modified – In association with grading, utility and drainage easements shall be established or modified to produce a usable and desirable transition between developments.**



➤ Response:

This subsection is not applicable. The proposed activity is not a development, such as a residential, commercial, or industrial development. It is a mineral extraction operation and is not immediately adjacent to any existing or planned residential, commercial, or industrial developments.

***(3) Steep Lots or Parcels Terraced – Beyond any easements area, lot, or parcel grades in excess of 4:1 shall be terraced or otherwise permanently stabilized.***

➤ Response:

We suggest this provision of the El Paso County Code should not apply to a mineral extraction operation for the following reasons:

- ✓ The proposed activity is not a residential, commercial, or industrial development. It is a mineral extraction operation.
- ✓ The CMLRB/CDRMS have reviewed the proposed final reclaimed slope and found the applicant to have demonstrated final slopes will be geotechnically stable. With the proposed revegetation plan, the CDRMS determined the final reclaimed slope should be erosional stable as well.
- ✓ The post mining land use is rangeland. The 3H:1V final slopes will be conducive to grazing livestock.

***(4) Graded to Protect Structures – All lots, tracts and parcels shall be graded to protect structures from the 100-year storm. Lots, tracts, and parcels shall be graded to avoid concentrating flows or creating ponding near existing or proposed structures.***

➤ Response:

- ✓ Protection of structures on and off-site:
  - ❖ Subsection (4) is written to protect residential, commercial, and industrial structures which are intended to be permanent. It is likely the code was also written to protect any existing structures on adjacent properties.
  - ❖ No permanent structures shall be constructed on any of the affected land. The grade between the affected area and adjacent lots, tracts and parcels will not be affected. Therefore, the proposed unaffected buffer between the active mining area and adjacent properties/parcels, we believe, will protect offsite structures. This conclusion was reached by CDRMS during their application review process.
  - ❖ In essence, all runoff from the 100-year storm, once a pit is opened, will be internal to the mining operation. Any 100-year storm prior to the



initiation of mining operations, would be no different than what would normally occur in terms of on and off-site storm water flows.

- ❖ Given the sandy/gravelly nature of the area being mined, the infiltration rate of the soils will mitigate ponding of water on the mine site.

***(5) Any disturbance to approved grading shall be promptly restored by and at the expense of the owner.***

➤ Response:

The MLRB Regulations and the approved MLRB permit application specify the topography of the final site (grading). Any significant deviations from the approved reclamation plan require MLRB/DRMS approval through a permit revision. The Operator is responsible for correcting any manmade or natural caused deviations to the approved, final site topography.

***(6) Financial Assurance Not Released Until Land Stabilized – Financial assurance for drainage and erosion control shall not be released until final grading is completed and the site is stabilized, in accordance with the drainage and erosion control plan and ESQCP.***

➤ Response:

The Mined Land Reclamation Act and the implementing MLRB Regulations require the following:

- ✓ Prior to issuance of the MLRB Permit, the operator must post a financial warranty and a performance warranty.
- ✓ The financial warranty posted must ensure the implementation of the entire, approved reclamation plan in the event the operator defaults and does not complete site reclamation.
- ✓ The DRMS conducts periodic site inspections to evaluate compliance with both the approved mining and reclamation plans.
- ✓ The DRMS is required to periodically evaluate site conditions and the adequacy of the posted financial warranty. If there is a significant difference between the posted financial warranty, the operator must timely upgrade the financial warranty to cover the deficit.
- ✓ The operator must file a request to get release from the posted warranties and release of the permit. The DRMS must conduct a site inspection to ensure the terms and obligations of the approved permit have been met. The release process is a public process, requiring public notice to the landowner.



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25049 E. Alder Dr., Aurora, CO Phone: 303 854 7499 Email: hlhumphries2@comcast.net

***(7) Minimize Use of Retaining Wall –***

➤ Response:

No retaining walls are planned currently.

***(8) Disposal of Removed Vegetation – Disposal of removed vegetation shall occur off-site at an approved location unless on-site disposal is allowed as part of an approved forestry management plan and noxious weed management plan and the disposal location is noted on the final plat or approved plan.***

➤ Response:

The sources of removed vegetation will consist of the following materials and will be disposed in the following manner:

- ✓ Grasses and forbs will be removed with the topsoil that is stripped and stockpiled for future mine site reclamation.
- ✓ Shrubs will be grubbed and either disposed off-site at an approved waste disposal facility or used in site erosion control to retard slope runoff as may be needed and as may be appropriate. Please note “small” shrubs will be removed during the topsoil stripping process; provided the size of the shrub being removed will not interfere with future topsoil replacement.
- ✓ Any trees which may need to be removed will either be cut up and disposed off-site at an approved waste disposal facility or cut up and used as firewood. Alternatively, trees may be mulched and used in on-site erosion control. (Note: there are few if any trees in the proposed affected area.)

***(9) Noxious Weed Management Plan Required – Where applicable, a noxious weed management plan shall be prepared and implemented.***

➤ Response:

A Noxious Weed Management Plan is part of our approved Mined Land Reclamation Board (MLRB) mining and reclamation permit and will be implemented as needed. A copy of the Noxious Weed Management Plan was attached to the Special Use Permit Application package, Attachment II.

***(C) Erosion and Sediment Control Plan***

***(1) General***

***(c) Financial Assurance Required – Financial assurance for all temporary and permanent measures to prevent and control anticipated erosion shall be provided in conformance with the ECM.***





➤ Response:

We suggest the required MLRB financial warranty is adequate and sufficient to cover and address site erosion control and any maintenance or repair.

***(d) Plans Combined – Where appropriate, the erosion and sediment control plan and the grading plan may be combined in a single document.***

➤ Response:

The approved mining and reclamation plans are part of our approved MLRB mining and reclamation permit. In addition, we have a Stormwater Management Plan which will be implemented, as appropriate, to control storm water runoff.

***(2) Construction Drawings – When specific erosion control improvements are required, the construction drawings and specifications shall be submitted for review with the final plat and any improvements included in the construction financial assurance required by the ECM>***

➤ Response:

Since this is not a typical development plan for a residential, commercial, or industrial development, erosion control improvements are not proposed. In addition, the financial assurance is incorporated within the approved financial warranty which will be posed with the Mined Land Reclamation Board. The financial warranty must be posted prior to issuance of the of the approved MLRB Construction Materials permit.

***(3) Referral and Review Requirements – The grading plan and erosion and sediment control plan required by this Code may be referred to other agencies for review and comment.***

➤ Response:

- ✓ We believe this provision of the El Paso County Code was addressed during the Colorado Division of Reclamation, Mining and Safety (CDRMS) review process for the original Mine Permit Application. As part of this process, the CDRMS sends request for comment letters to the various State and Federal Agencies. In addition, notices are sent to the Board of Supervisors, local Soil Conservation Board, Board of County Commissioners, and a copy of the application is placed with the County Clerk and Records Office for review.
  
- ✓ We request El Paso County defer this item to the review and approval by the CDRMS/MLRB for approval of the grading plan and erosion and sediment control plan.



- ✓ Any design changes, once the permit application is approved, must be made through a permit revision filed with the CDRMS.

***(D) Requirement for Maintenance Agreement – Where necessary to ensure maintenance of permanent stormwater quality and erosion control measures, a maintenance agreement in accordance with the provision of the ECM shall be approved prior to the approval of the development permit or issuance of the Certificate of Occupancy when a building permit is the only development permit required.***

➤ Response:

- We propose a Maintenance Agreement is not required for the following reasons.
- ✓ No detention basins will be constructed. Storm water runoff will enter the mined out and reclaimed pits, then infiltrate into the sandy pit floor. We addressed the infiltration rates and how we will handle storm water ponding and mosquito mitigation in the document titled, “El Paso County Public Health, Comment Date, 12/28/2020, Response Date: 2-8-2021”.
  - ✓ Since this is a mining operation, any storm water diversion ditches, and other Best Management Practices to control storm water runoff will be temporary. Any such structures will be removed as part of reclamation of a Stage(s).
  - ✓ If a temporary culvert is needed where the access road joins the public road, to provide for drainage, it will be properly sized for a 10 year/24-hour stormwater event.
    - ❖ Once mining and reclamation in all the Stage the access point serves, the driveway fill and culvert will be removed, and the area seeded to the approved seed mix and mulched with a weed free straw mulch at a rate of one ton/acre.
    - ❖ Straw bales or other suitable erosion control material will be placed in the invert of the roadway drainage, to promote drainage stability and perennial grass establishment.
  - ✓ We suggest this provision is not applicable to a mineral extraction operation, permitted under the MLRB.
    - ❖ The approval and issuance of a MLRB permit is, in essence, a maintenance agreement between the State of Colorado and the mine operator, secured by a financial warranty and a performance warranty.
    - ❖ The financial warranty ensures there are secured funds, held by the State of Colorado, to complete site reclamation.
    - ❖ The performance warranty is a binding promise between the State of Colorado and the mine operator to complete site reclamation.



### **6.3.7. Noxious Weeds**

#### **(A) General**

**(2) Applicability – This Section shall apply to all lands and the review and approval of development applications and permits for land identified on the Noxious Weed Map or identified by Forest and Noxious Weed Manager as containing Noxious Weeds or adjacent to lands containing noxious weeds.**

➤ Response:

One of the requirements of the MLRB Rules and Regulations is an applicant include a Noxious Weed Management Plan as part of the applicant's permit application for a MLRB Mining and Reclamation Permit. The plan that was included in the Ellicott Sand and Gravel Permit Application included a Noxious Weed Management Plan (Plan). The Plan was approved as part of the overall permit application approval and is part of our SUP submittal package.

**(3) Target Weeds of Concern – The target weeds that are of concern and which are the subject of this requirement are those noxious weeds as described in the Colorado Noxious Weed Act, C.R.S. §§ 35-5.5-101, et seq., and any amendments thereto, and any applicable El Paso County ordinance.**

➤ Response:

We will comply and control noxious weeds according to the State criteria which includes the classification and control of noxious weeds by the following categories.

- A. A list of noxious weeds shall be “eliminate everywhere”.
- B. B list of noxious weeds, “spread should be stopped”.
- C. C list of noxious weeds, “Control is recommended”.

#### **(B) Noxious Weed Management**

**(1) Noxious Weed Management and Plan Required – Noxious weed management shall be undertaken in association with a development application and permit when noxious weeds are identified on the Noxious Weed Map or by the Forestry and Noxious Weed Manager as being located on the subject property. Noxious weeds shall be addressed through the preparation of a noxious weed management plan.**

➤ Response:

We intend to control noxious weeds based on our approved noxious weed management plan which is part of our approved MLRB permit application.



***(2) Early Consultation with ESD - The ESD should be Consulted prior to submittal of a development application. The ESD input should be reflected in the design of the project.***

➤ Response:

- ✓ Based on the 11/16, 2021 response, the CSD, ED state, “We have reviewed the submittal and have no comments at this time.
- ✓ The El Paso County Conservation District (Mr. Kenneth Barker, EPCCD President, stated, “We commend you on your integrated noxious weed control plan ...”

***(3) Site Control Measures – Topsoil stockpiles shall be managed, and disturbance should be minimized to control noxious weeds.***

➤ Response:

Per the Rules and Regulations of the MLRB, all stockpiles are to be seeded with a seed mix which has been approved, as part of the MLRB permit application process. The MLRB Rules and Regulations specify that a topsoil pile shall not be moved until the topsoil can be placed on a regraded area. In addition, we are required by the MLRB Rules and Regulations to implement our Noxious Weed Management Plan as needed, to include topsoil stockpiles.

***(5) Implementation of Approved Plan***

***(a) Recording of Plan – Implementation of the noxious weed management plan shall be accomplished by the recording of the development guide (in the case of a PUD) or the final plat and related documents (in the case of a subdivision that incorporate the recommendations of the plan.***

➤ Response:

- ✓ Please note, the proposed mineral extraction operation is neither a Planned Unit Development nor involves a final plat for a residential, commercial, or industrial development.
- ✓ The MLRB approved Mining and Reclamation Application includes a Noxious Weed Management Plan. The Noxious Weed Management Plan is a public record, on file with the CDRMS. The Noxious Weed Management Plan is available to any person by simply contacting the CDRMS and providing the Agency Staff the MLRB permit number (MLRB Permit Number, **M2018-063**, Schubert Ranch Sand Resource).
- ✓ The Noxious Weed Management Plan has been reviewed by the EPC Conservation District. We believe we have addressed their concerns, i.e., noxious weed control. Reclamation species and seeding dates.



***(b) Plat Notes Required – Notice of any noxious weed issues may be required by the County through conditions of approval or notes placed on the face of the final plat.***

➤ Response:

We understand. However, since a final plat does not appear to be part of the process for a mineral extraction operation approval, we assume a separate document addressing this issue, if needed, will be attached to our approval.

***(c) Mitigation Costs Included in Construction Financial Assurance – If the noxious weed issues are significant enough in the determination of the DSD Director to require mitigation associated with development construction, the cost of the mitigation shall be included in the construction financial assurance. Release of the financial assurance shall be consistent with the requirements of the ECM.***

➤ Response:

We believe this subsection is not directly applicable to a mineral extraction operation for the following reasons:

- ✓ No development construction is occurring on the site.
- ✓ We have in place a State mandated Noxious Weed Management Plan as part of our approved MLRB Permit.
- ✓ We will post a DRMS/MLRB approved reclamation financial warranty which must be maintained for the life of the project. The DRMS/MLRB Regulations require the financial warranty periodically be reviewed by the DRMS to ensure it is adequate for site reclamation, to include treatment of noxious weeds. (The reclamation financial warranty is yet to be posted. It must be posted for the Permit to be issued.)
- ✓ As part of our Annual Report to the CDRMS, we are required to address any needed noxious weed control, species treated and how treated.
- ✓ The presence of noxious weeds is part of the CDRMS site inspection.

### **6.3.8. Wetlands**

#### **(A) General**

***(2) Applicability – This Section shall apply to all activities and to the review of development applications and approval of development permits on lots, tracts or parcels that include wetland identified on the National Wetland Inventory, or otherwise identified by field inspection or in the drainage report.***



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25049 E. Alder Dr., Aurora, CO Phone: 303 854 7499 Email: hlhumphries2@comcast.net

➤ Response:

This section does not apply to the proposed area of the mineral extraction operation for the following reasons:

- ✓ The proposed mineral extraction operation includes portions of two parcels.
- ✓ Within the proposed affected area, the following attributes of wetland do not appear to be present:
  - ❖ Wetlands are associated with vegetation.
  - ❖ Wetlands associated soils.
  - ❖ Wetlands are associated with hydric régime.
- ✓ The following note from the Army Corps of Engineers:
  - ❖ “A U.S. Army Corp 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 Resources M2018 – 063 – Adequacy Response 01, from Environment, Inv, to Mr. Timothy A. Cazier, P.E., DRMS.”, M2018-063, Ellicott Sand & Gravel LLC, Schubert Ranch Sand Resource, approved Permit Application document.
  - ❖ Copy of Note from U.S. Army Crop. Of Engineers:

**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.

(M2018-063, Ellicott Sand & Gravel LLC, Schubert Ranch Sand Resource, approved Permit Application document.)

**6.3.9 Wildlife**

**(A) General**

**(2) Applicability – This Section shall apply to all activities and to the review and approval of development applications and permits on land identified on the Wildlife Habitat Maps as significant wildlife habitat.**



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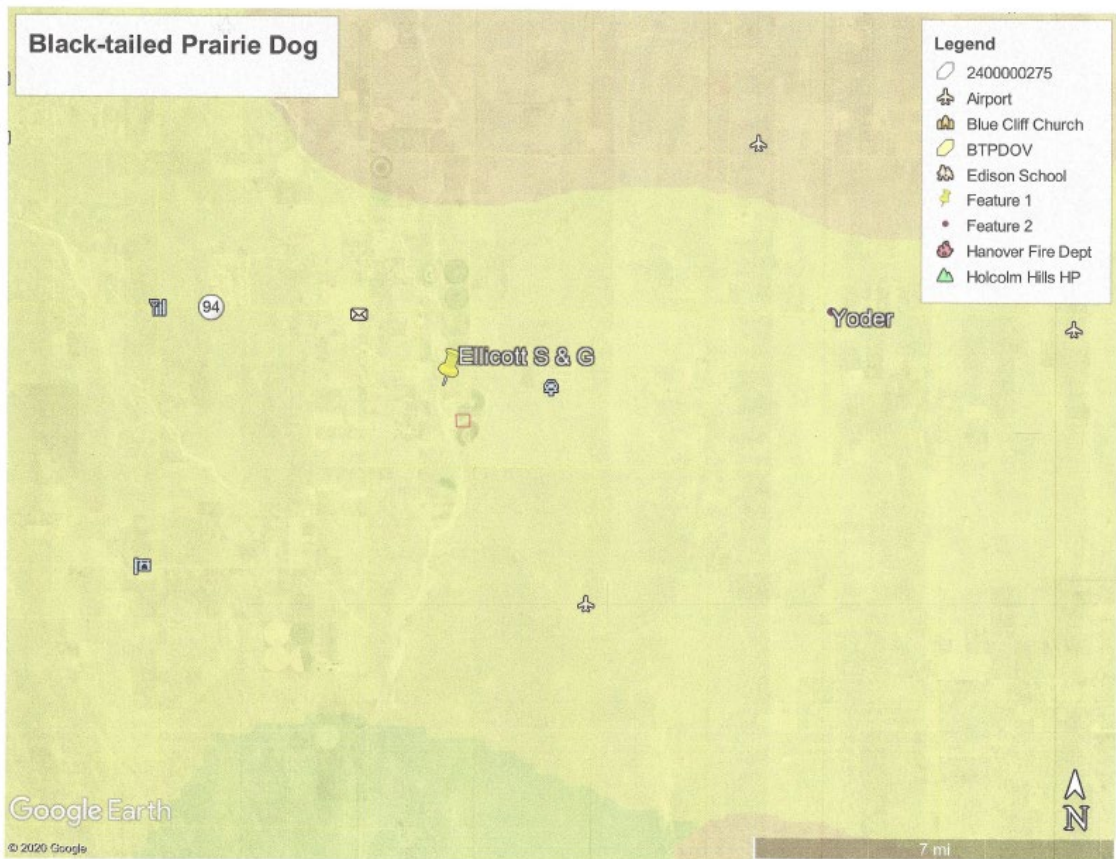
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➤ **Response:**

The following animal species appear to have a general or “range” (not “significant”), wildlife habitat within and adjacent to the proposed minerals extraction area, based on the Colorado Division of Parks and Wildlife, Wildlife Habitat Maps:

- ✓ Black-tailed Prairie Dog
- ✓ Pronghorn Antelope
- ✓ Swift Fox
- ✓ Mule Deer
- ✓ Scaled Quail

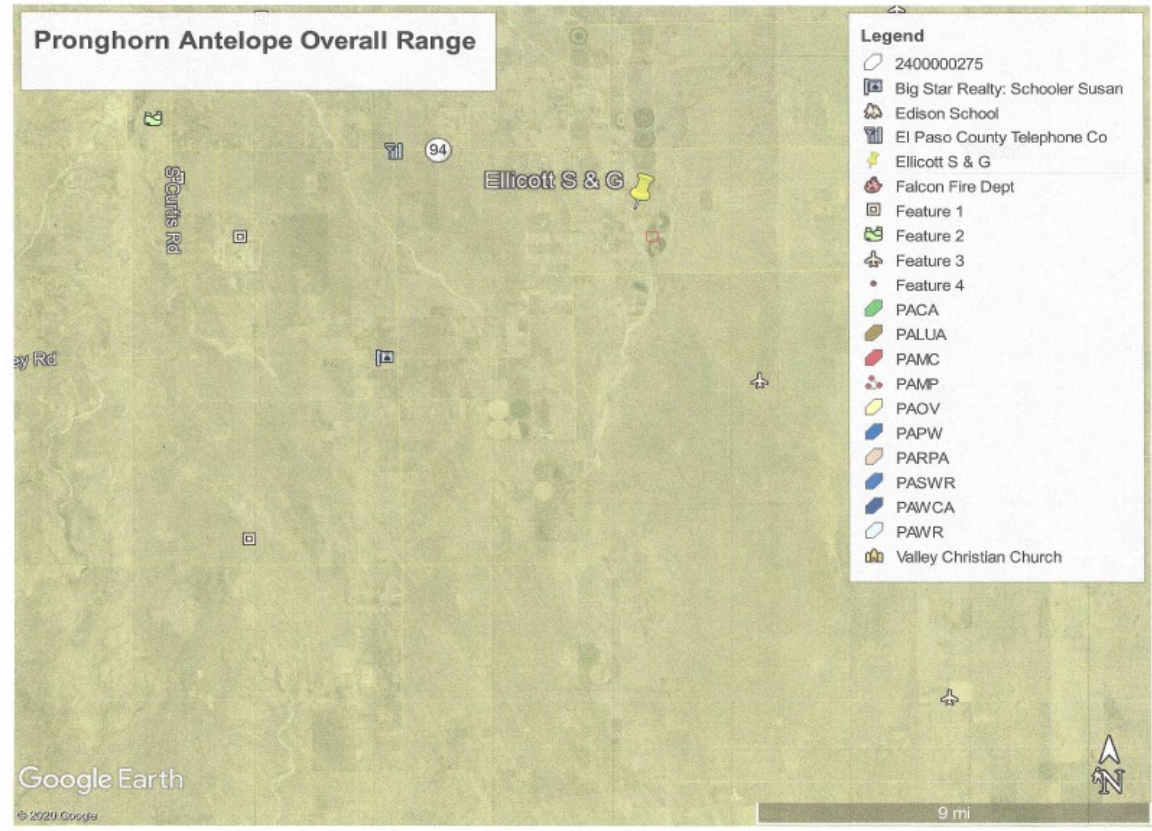
• **Colo. Div. of Parks and Wildlife Habitat Maps:**





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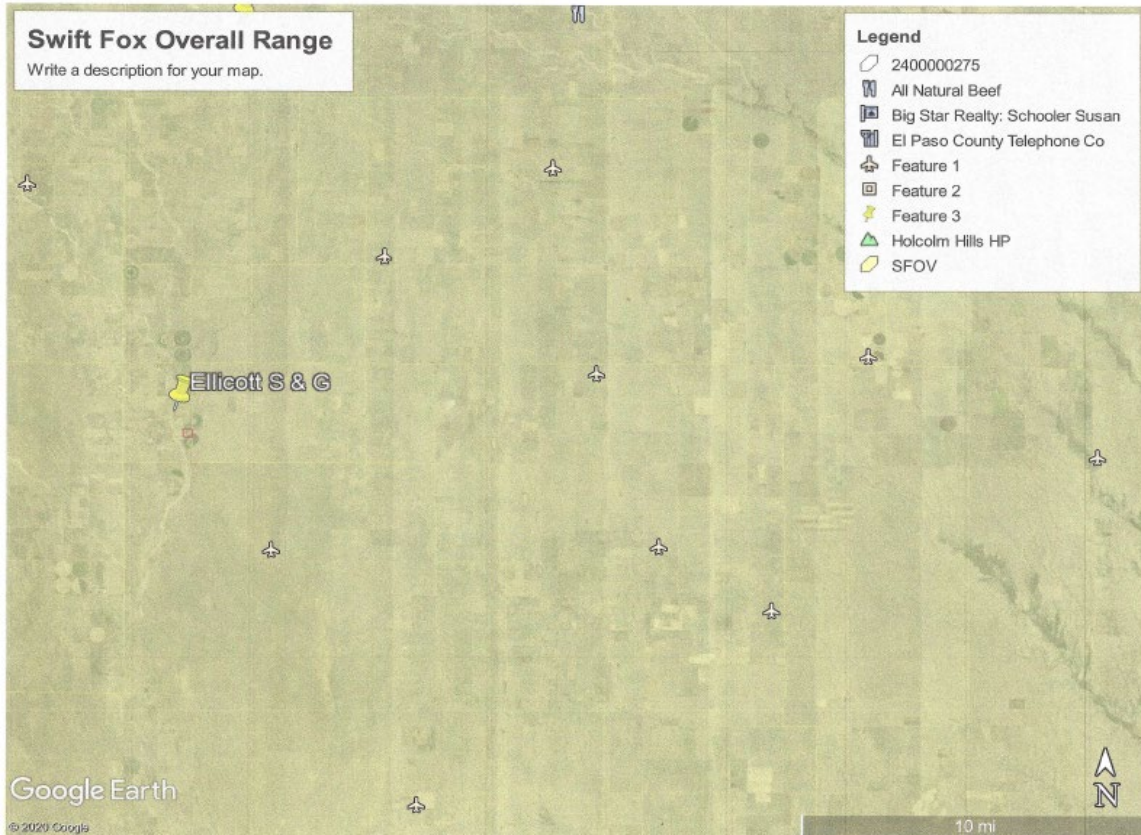






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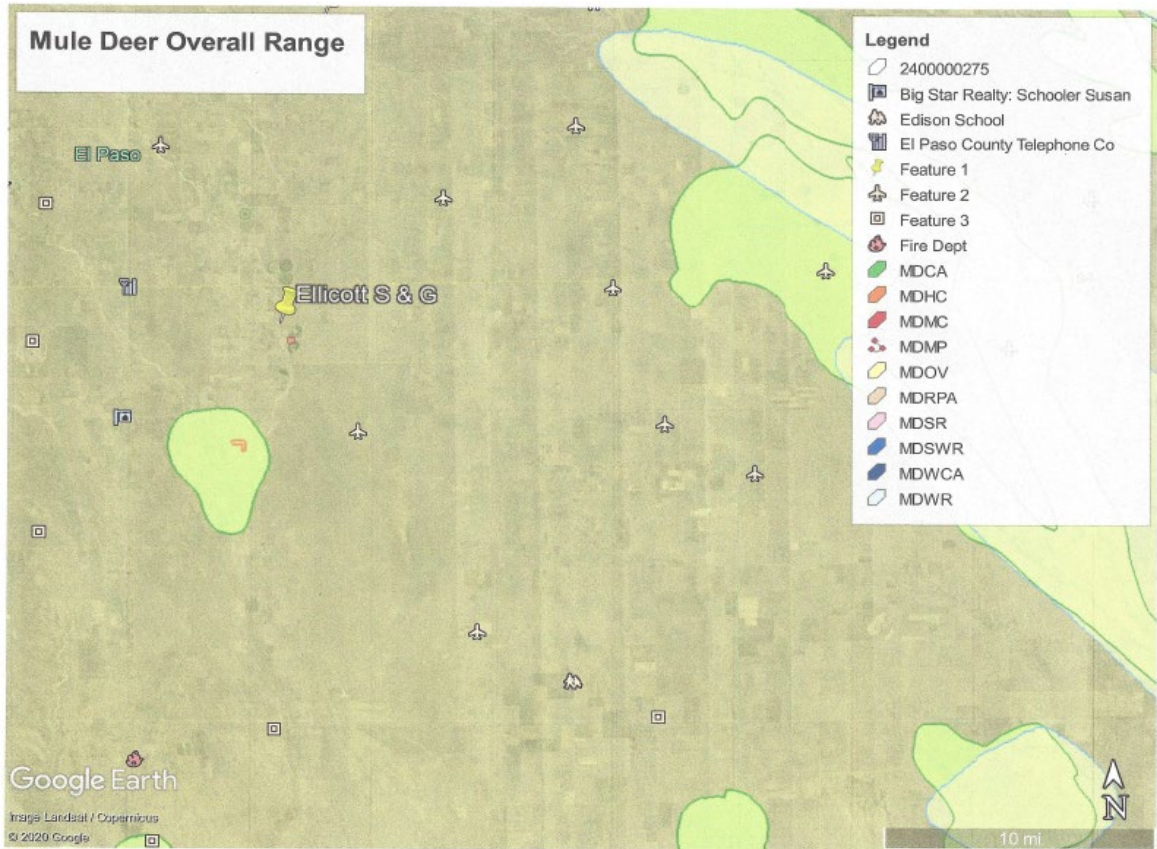
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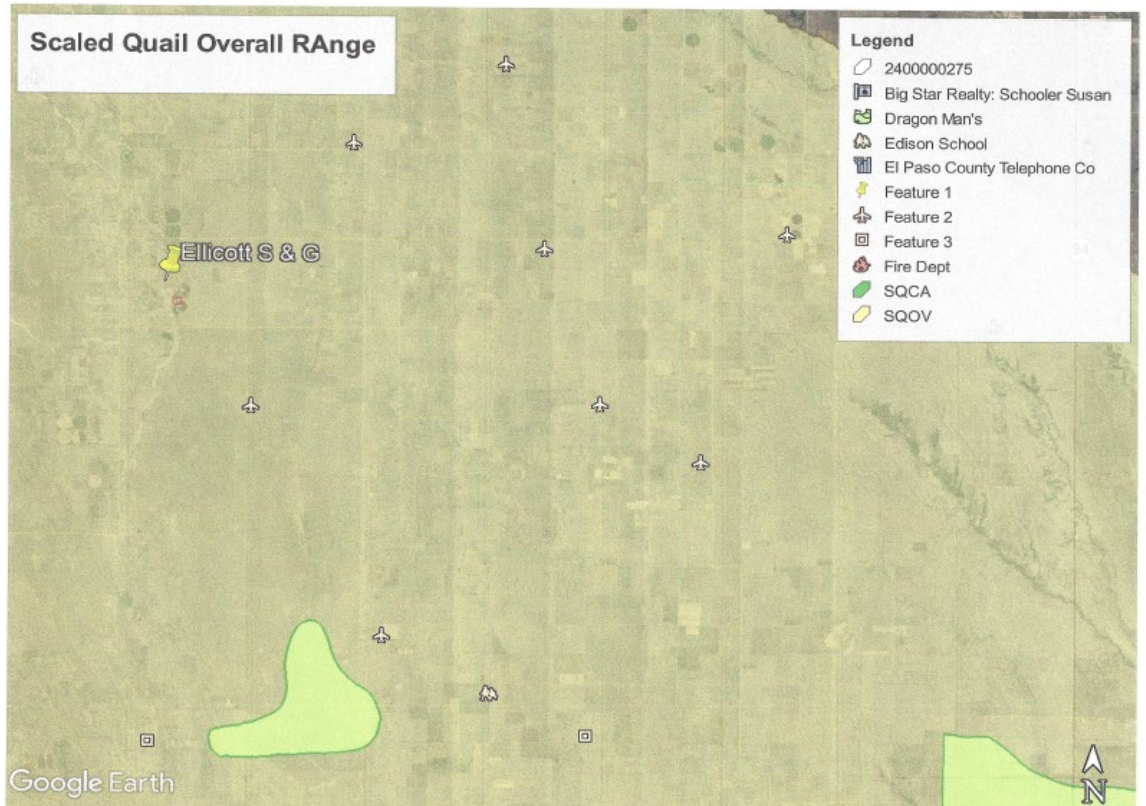




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***(B) Wildlife Standards***

***(1) Reduction of Impacts and Avoidance – Wildlife and wildlife habitat are important to the quality of life in El Paso County. When developing a lot, tract, or parcel, wildlife considerations should be incorporated into the design of the Project and important wildlife habitat avoided when practical.***

➤ Response:

Our following responses (subsection (b)(2)) are taken from the approved MLRBP.

***(2) Other Local, State and Federal Standards***

***(a) Compliance with Recommendations of DOW (CDPW) Standards – Proposed development should make every reasonable attempt to comply with the requirements of the DOW (Now the Colorado Division of Parks and Wildlife, CDPW). The applicant should consult with the DOW prior to submission of a development application when significant wildlife habitat is present on the subject property. DOW input should be reflected in the design of the project.***

➤ Response:

✓ “The Colorado Springs Offices of the Colorado Department of Parks and Wildlife (CDPW) was contacted around the 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 services as described in Rule 6.8.4(1).

- ✓ We reviewed the Conservation Status Handbook for El Paso County. It indicates the proposed permit area shows no endangered or threatened species in or adjacent to the permit area. No raptor nests were observed on the mine during site inspections. In addition, discussion with the landowner indicates they do not remember raptor nests being present.
- ✓ The site is mostly grassland and developed agricultural areas with some ephemeral creek bed running down the central part of the site. The only trees of any significance are located on or around the farmyards. 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. Some 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.
- ✓ 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. Also, haul road speed limits will be limited to 15 MPH or less.
- ✓ 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 sites 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 & Gravel will then take the appropriate actions to prevent disturbance to the nest or roost site. If raptor use occurs or is observed after mining activities have commenced on an area, then CPW will be contacted to advise actions that can be worked out to operate the mine without completely abandoning the site for lengthy periods of time.”



**RPM, Inc.**

25049 E. Alder Dr., Aurora, CO Phone: 303 854 7499 Email: hlhumphries2@comcast.net

***(b) Requirements of DOW and Other Agencies – The applicant is responsible for identifying and complying with all other applicable federal, State, or local laws and regulations prior to commencing construction. If the applicant fails to determine compliance requirements and integrate the comments of the other regulatory agencies in advance of approval of the development permit and compliance results in a modification to the development permit, the DSD Director may require the applicant to:***

- *Submit amended reports;*
- *Revise construction design;*
- *Change approved documents and plats; or*
- *Change recorded documents and plats.*

***Compliance with any requirements of this Code does not relieve any applicant from compliance with any requirements of the DOW or other agencies.***

➤ Response:

We understand this requirement and will comply.

***(3) Conditions and Notes on Development Permit – Conditions or notes may be required to be placed on any development permit, which may include required no-build areas, easements, conservation easements, restricted areas, or other descriptions.***

➤ Response:

We understand this provision of the El Paso County, County Code.