



June 3, 2021

El Paso County Planning and Community Development Department  
Attn: Ms. Nina Ruiz, Planning Manager  
2880 International Circle, Suite 110  
Colorado Springs, CO 80910

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Setback Map:**
- **DWR Comment** – Impact Mitigation Analysis, V2 Redline, PCD Manager
- **911 El Paso and Teller Counties Resp to Comments**
- **CDOT – Pueblo Office Response to Comments**
- **CDPHE Water, Air, Waste Response** to 12-6-2020 V2 Redline, PCD Manager
- **CDPW Response to Comments** – 11-30-2020
- **Chapter 5 Use and Dimensional Standards Response**
- **DRMS Mine Permit Application**, V2 Redline, PCD Manager
- **Ellicott Fire District**, Response to Comments
- **EPC Environmental Services**, Response to Comments, 11-30-2020
- **EPC PH**, Response to Comments
- **EPC County Conservation District**, Response to Comments
- **ESG County Plot Plan**, V2 Redline, 11-25-2020, PCD Project Manager
- **Final Resp Goals and Policy, Water Master Plan**, Redline, PCD Manager
- **Impact Mitigation Analysis, Air Quality**, V2 Redline, 11-25-2020
- **Master Plan**, V2 Redline, PCD Manager, 11-25-2020
- **MVEA**, Response to Comments
- **Reclamation Plan**, V2 Redline, PCD Manager, 11-25-2020
- **Revised Letter of Intent**
- **Signed Application, Type D, Corrected**
- **DRMS Application Mail Receipts, Schubert Ranch Structures**
- **New Deviation Request**, LCS Signed Document
- **Ellicott Sand and Gravel, Traffic Report (Combined)**
- **Haul Route Plan from LCS Traffic Report**
- **Wetlands Analysis**
- **Wildlife Analysis**
- **Natural Features Analysis**



RPM, Inc., 25049 E. Alder Dr., Aurora, CO 80016 Phone: (303) 854-7499 Email: hlhumphries2@comcast.net

- **Noxious Weed Plan**
- **Approved State Mining Permit**
- **DRMS Approved Mining Plan Approval**
- **Mining Operation Plan Approval**
- **Approved Reclamation Plan**
- **Emergency Safety Plan**
- **ESG County Plot Map**
- **Impact Mitigation Analysis**
- **Impact Mitigation Analysis (Air Q., Traffic Congestion, Waiver Request)**
- **Comments from the 11/25/2020 PCD PM, concerning the Letter of Intent.**
- **CDPHE Air Q., Water Q., Solid Waste, Asbestos and Lead Based Paint**
- **Impact Mitigation Analysis (Impacts to adjacent properties)**

Dear Ms. Ruiz,

Following are our responses to the above listed agency comments:

Respectfully,

H. B. Humphries

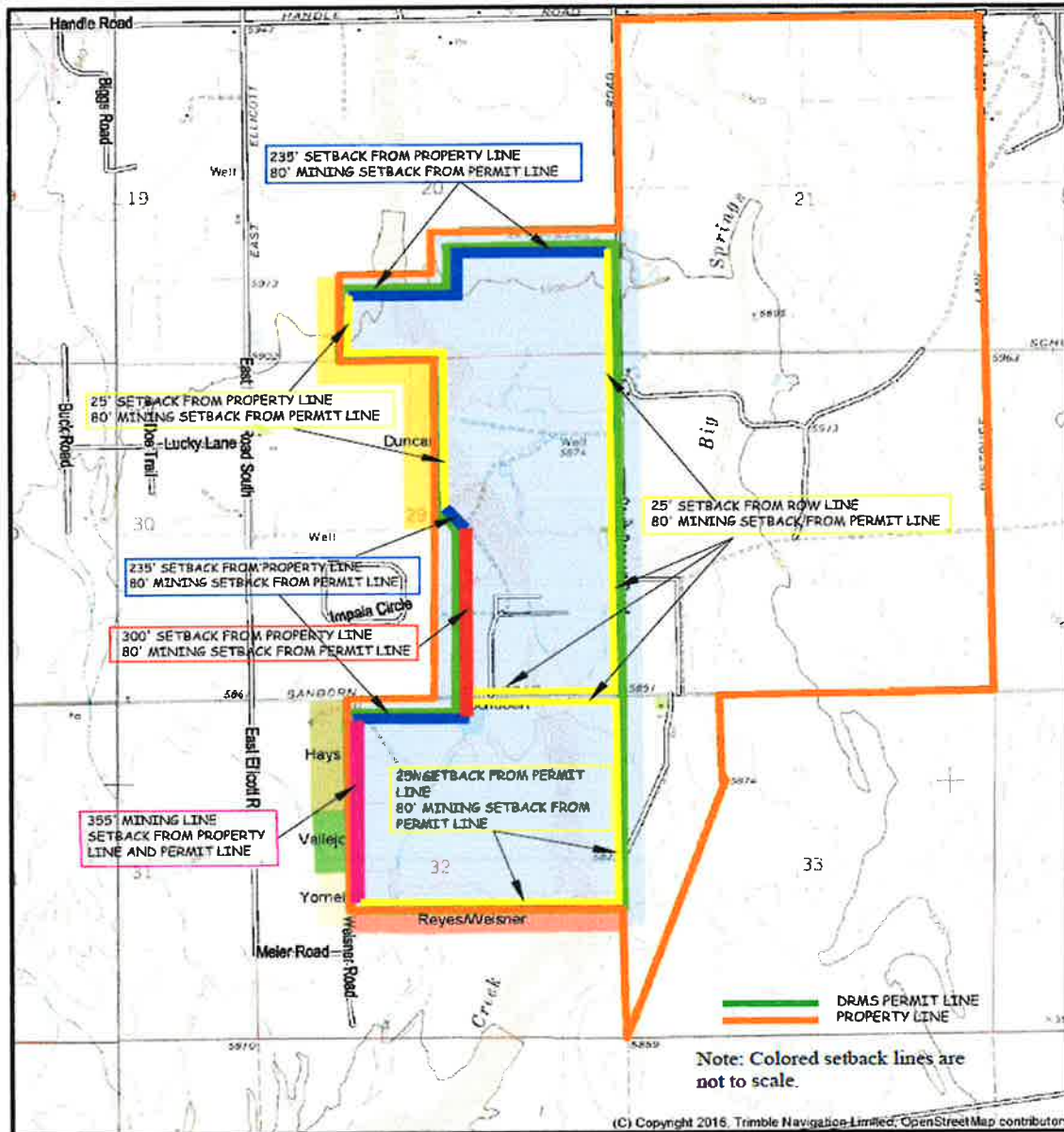
Regulatory Permits Management, Inc.  
Consultant to Ellicott Sand and Gravel



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

• **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.

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



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **DWR Comment – Impact Mitigation Analysis, V2 Redline, PCD Manager:  
Colorado Division of Water Resources,  
DWR Comment Date, V2 Redline PCD Manager: 7/1/2020, 12/8/2020  
Response Date: 2/8/2021, and 4-29-2021**

➤ Comment, 7/11/2020, 12/8/2020:

*“Although the gravel pit is located within the allowed place of use of the wells, as permitted, well nos. 9642-FP, 20528-FP, and 27582-FP cannot be used for industrial use at the private gravel pit site since the use of the wells is limited to supply municipalities. Therefore prior to using well permit nos. 9642-FP, 20528-FP, and 27582-FP at the gravel mining operation, the well owner(s) must obtain new permits from the Groundwater Commission that allows for such industrial use. In addition, the applicant should be required to provide evidence of a contract with Schubert Ranch along with specific amounts that will be used from these well for processing and dust control purposes at the site.*

*Further if water is purchased from a public water provided the applicant should be required to demonstrate that the water was purchased from a legal source that is permitted/decreed for industrial use.”*

➤ Response:

- ✓ We understand, from the perspective of the DWR, the three wells identified as a source of water for use in processing and fugitive dust control are not authorized. We therefore propose to bring the necessary water for processing and fugitive dust control from offsite.
- ✓ The DWR also requested we verify the source of water for processing and fugitive dust control is “...a legal source that is permitted /decreed for industrial use.” The source of water needed for processing and fugitive dust control will likely be Tim Kunan Drilling, 23945 Lucky Lane, Calhan, Colorado.
- ✓ In addition, potable water will be purchased off site from a potable water provider. We have not provided documentation that the source of potable water is from an authorized domestic water source, since that was not requested. For example, given the small work force to be present, we may buy bottled water from a local market for their use.



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **911 El Paso and Teller Counties Response to Comments:**

**911 Authority El Paso /Teller County,**

**6/22/2020, 11/9/2020:**

**Response Date: 2-8-2021, and 4-29-2021**

- Comment, 6/22/2020:
  - ✓ *“No permanent roads to be constructed. No new street names requested.”*
  - ✓ *“No action for E911.”*
- Response:
  - ✓ No response is required.
- Comment, 11/9/2020:
  - ✓ The 911 comment is identical to the response provided on 6/22/2020.



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **CDOT – Pueblo Office Response to Comments:**

**Colorado Department of Transportation – Pueblo Office,**

**6/11/2020, 12/10/2020:**

**Response Date: 2-8-2021, and 4-29-2021**

- *Comment: 6/11/2020*
  - ✓ *“CDOT Traffic and CDOT Access have no Comment.”*
- *Comment: 12/10/2020*
  - ✓ *“CDOT Environmental”*
- *Response:*
  - ✓ We have not provided the CDOT Environmental section comments. It is our understanding since this is a mining operation and not related to a CDOT highway project, CDOT Environmental would have no jurisdiction. In addition, their environmental comments which have to do with wildlife habitat, fugitive dust, storm water runoff, and impacts to Black Squirrel Creek have been addressed by the other responsible agencies, to include CDRMS, CAPCD, CDPW, CWRD, and CSEO.



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **CDPHE Water, Air, Waste Response to 12-6-2020 V2 Redline, PCD Manager:  
Colorado Department of Public Health and Environment Comments, Air Quality,  
Water Quality, Solid Waste, Asbestos and Lead Based Paint**

**Date: 11/10/2020**

**Response to Comments, Date: 2-8-2021, and 4-29-2021**

- Comment, Air Quality (From CDPHE Comments Dated 11/10/2020):
  - ✓ *“The applicant must comply with all relevant state and federal air quality rules and regulations...”*
  - ✓ Response:
    - ❖ As stated in our June 26, 2020 response:
      - “Ellicott Sand and Gravel will not begin operations until we have all appropriate air quality permits.”
      - We will comply with all “...relevant state and federal air quality rules and regulations...”.
- Comment, Air Quality, Air Pollution Emission Notices (APENs) and Permits (From CDPHE Comments Dated 11/10/2020):
  - ✓ *Applicable requirements may include, but are not limited to, reporting emissions to the Air Pollution Control Division (APCD) by completing an APEN... While only businesses that exceed the Air Quality Control Commission (AQCC) reporting thresholds are required to report their emissions, all businesses – regardless of emission amount must always comply with applicable AQCC regulations.*
  - ✓ Response:

We agree to comply with above requirements, as applicable.
- Comment, Air Quality, APEN, (From CDPHE Comments Dated 11/10/2020):
  - ✓ *In general, an APEN is required when uncontrolled actual emissions for an emission point or group of emission points exceed the ... (Table 1 APEN Thresholds) ... This project may require a mining APRN.*
  - ✓ Response:
    - ❖ We will provide the necessary APEN application form(s) to the CDPHE/AQCD prior to beginning any mining operations.



- ❖ We propose to not begin the APEN application process until the El Paso County SUP and Develop Permit applications are approved.
- ❖ Once the CDPHE/APCD provides the “Issuance 1 of a permit” document to Ellicott Sand and Gravel, we will forward copies to the El Paso County Planning Department. We understand from the Nina Ruiz email, 12/16/2020, that supplying the “Issuance 1 of a permit” will suffice and the County “... found no contradictions in the ECM...” to such an approach.

✓ Comment:

*It is important to note that even if a permit is not required, fugitive dust control measures include...must be followed at the site. Fugitive dust control techniques commonly included in the plan are ...”* as follows: Unnumbered table form CDPHE comment, dated 11/11/2020.

- ❖ *“Control Options for Unpaved Roadways:*
  - *Watering*
  - *Paving*
  - *Graveling*
  - *Use of chemical stabilizer.*
  - *Control of vehicle speed*
- ❖ *Control Options for Mud and Dirt Carry-Out onto Paved Surfaces:*
  - *Gravel entry ways*
  - *Covering the load*
  - *Washing vehicle wheels*
  - *Not overfilling trucks*
- ❖ *Control Options for Disturbed Areas:*
  - *Watering*
  - *Revegetation*
  - *Compaction*
  - *Wind Breaks*
  - *Application of a chemical Stabilizer*
  - *Controlling vehicle speed*
  - *Furrowing the Soil*
  - *Minimizing the areas of disturbance*
  - *Synthetic or Natural Cover for Slopes”*

✓ Response:

- ❖ Based on CDPHE/AQCD, APEN application review, fugitive dust control measures appropriate to the operation will be detailed in the CDPHE/APCD and applied as appropriate.





- ❖ Regardless, we expect to employ the following measures as part of our normal operating procedures:
  - Road watering and grading as needed to maintain an acceptable surface for haul trucks and other mining operations.
  - Place aggregate at all entrances and around the scale house facility to maintain an acceptable working surface for trucks and other mine equipment, as needed.
  - Seed topsoil stockpiles once they have reached their final volume.
  - Seed and reseed disturbed areas once mining and backfill/topsoil replacement are completed within each mining Stage.
- ✓ Since this is a sand and gravel operation, the level of generated fugitive dust will be less than what occurs at a typical earth moving construction site. In addition, due to the nature of the work surface, sand and gravel or sand, less fugitive dust will be generated.
- Comment, Hazard and Solid Waste:
  - ✓ *“The applicant must comply with all applicable hazardous and solid waste rules and regulations.”*
  - ✓ Response:
    - ❖ As stated in our June 26, 2020 response to the CDPHE, hazard and solid waste comments:
      - “No significant volumes of hazardous or toxic substances shall be onsite.”
      - “No toxic or other hazardous material will be onsite in reportable quantities.”
      - “We will contract with a commercial provider to handle and provide Port-a-Potty’s.”
    - ❖ In addition, all solid waste will be disposed of offsite at approved waste disposal facilities.
- Comment, Hazard and Solid Waste:
  - ✓ *“Applicable requirements may include, but are not limited to, properly characterizing all wastes generated from this project and ensuring they are properly managed and disposed of in accordance with Colorado’s solid and hazardous waste regulations.”*
  - ✓ Response:

We agree to comply with this requirement, as appropriate.
- Comment, Hazard and Solid Waste:
  - ✓ *“If this proposed project processes, reclaims, sorts, or recycles materials generated from industrial operations (including, but not limited to construction*



*and demolition debris and other recyclable materials), then it must register as an industrial recycling facility in accordance with Section 8 of the Colorado Solid Waste Regulations... ”.*

✓ Response:

- ❖ At this point in the operation, we do not plan to process, reclaim, sort, or recycle materials generated from industrial operations.
- ❖ In addition, based on our approved DRMS/MLRB mining and reclamation permit application, we do not have authority to dispose of off-site waste construction material (such as aged concrete, asphalt or excess excavated earthen material) within the DRMS/MLRB approved permit area. If, in the future, there is an opportunity to dispose of such material on the mine site, we will comply with CDPHE, MLRB and El Paso County rules and regulations.
- ❖ The current exception being, we intend to use broken concrete as armoring along the creek channel banks. The use of broken concrete was reviewed and approved by the DRMS during our DRMS/MLRB permit application review process.

➤ Comment, Water Quality:

- ✓ *“The applicant must comply with all applicable water quality rules and regulations...relating to both clean water and drinking water... ”*

✓ Response:

- ✓ We are not sure how to respond to the comment, it is quite vague. However, we agree to comply with all CDPHE/WQCD water quality requirements, where appropriate, to include “...clean water and drinking water...”

➤ Comment, Water Quality, Stormwater:

- ✓ *“Applicable clean water requirements may include, but are not limited to, obtaining a stormwater discharge permit if construction activities disturb one or more acre of land or if they are part of a larger common plan of development that will disturb one or more acres of land. In determining the area of construction disturbance, WQCD look at the entire plan, including disturbances associated with utilities, pipelines, or roads constructed to serve the facility.”*

✓ Response:

- ❖ As stated in our June 26, 2020 response to CDPHE/WQCD comments, “Ellicott Sand and Gravel will not begin operations until we have all appropriate water quality permits, to include Stormwater Discharge permits.
- ❖ These permits will be applied for once the El Paso County permit approval process is complete.” We are referring to the El Paso County SUP and the Plan of Development approvals.



- ❖ In addition, our approved DRMS/MLRB permit application states, “All stormwater contacting the disturbed area will be retained on site and allowed to evaporate or soak into the underlying sand. No stormwater will be retained in the mine area for more than 72 hours.”
- ❖ The approved DRMS/MLRB permit application, (page 8, Exhibit D) further states, “Isolation berms or ditches will be constructed around the active mining area to prevent off site stormwater from contacting the disturbed area.”
- Comment, Water Quality, Drinking Water:
  - ✓ *“Some projects may also need to address drinking water regulations if the proposed project meets the definition of a ‘Public Water System’ per the Colorado Primary Drinking Water Regulations (Regulation 11):  
A Public Water System means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves and average of 25 individuals daily at least 60 days per year. A public water system is either a community water system or a non-community water system. Such term does not include any special irrigation district. Such term includes:  
(a) Any collection, treatment, storage, and distribution facilities under control of the supplier of such system and used primarily in connection with such system.  
(b) Any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such system.  
If applicable, the project would need to meet all applicable requirements of Regulation 11 including, but not limited to, design review, approval; technical, managerial and financial review and approval; having a certified operator; and routine monitoring and reporting ...”*
  - ✓ Response:
    - ❖ The proposed operation’s use/need for potable water does not fit the definition of a Public Water System.
    - ❖ As stated in our August 28, 2020 response:
      - “The source of potable water may be purchased from a municipal water system and hauled to the site.
      - “Alternatively,...obtained from onsite domestic ground water well(s).”



- “The site may be operated for more than six continuous months. However, no more than 7 employees will be on the site at any one time.” (Letter of intent, page 10, item 16.)
- We understand from the Division of Water Resources (DWR) that the above referenced wells may not be used for industrial purposes. We addressed this issue further under the section titled, DWR comments, 12/8/2020.
- Comment, Asbestos and Lead-based Paint:
  - ✓ *“In Colorado there are regulations regarding the appropriate removal and handling of asbestos and lead-based paint as part of a demolition, renovation, or remodeling project. These regulations are presented in AQCC Number 8 (asbestos) and Number 19 (lead-based paint) ...  
These regulations may require the use of, or inspection by, companies or individuals that are certified to inspect or remove these hazards prior to renovation or demolition. APCD must also be notified of abatement or demolition activities prior to beginning any work in the case of asbestos...”*
  - ✓ Response:
    - ❖ There are no structures on the proposed mine site that will need to be removed. Therefore, no asbestos or lead-based paint should be encountered.
    - ❖ If, in the extremely unlikely event, such materials are found (say buried on the proposed mine site), we will comply with the AQCC Number 8 and Number 19 CDPHE regulations.



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **CDPW Response to Comments – 11-30-2020:**

**Colorado Division of Parks and Wildlife,**

**11/30/2020:**

**Response Date: 2-8-2021, and 4-29-2021**

- **Comment:**

*“Since a majority of the property is developed agricultural land, CPW comments will address potential impacts to Black Squirrel Creek... Within the Squirrel Creek Drainage, there are populations of Arkansas Carter ... downstream of that location. There should be minimal impacts to any riparian areas or stream beds, both during construction and after, and any stream bed should be handled as a stream crossing whether or not water is present at the time of construction. Minimize impact to these streams is a priority for CPW and avoidance is best whenever possible.”*

- **Response:**

- ✓ As stated in our approved DRMS/MLRB permit application, page 8, Exhibit D, “No U.S. Army Corp of Engineers 404 permit is necessary, as there are no water bodies on the site nor are there any wetlands that will be disturbed by mining or reclamation,”
- ✓ As stated in our approved DRMS/MLRB permit application, page 8, Exhibit D, “No mining will take place within the ephemeral drainages of Black Squirrel Creek or Big Springs Creek.”
- ✓ In our September 9, 2019 response to the DRMS adequacy comments, we stated, “There is no way to totally avoid a stream capture during a 100-year event. We have reached a conclusion that we need to increase the width of the setback in each stage and armor the inner and outer banks using the Urban Drainage Guidelines. This is intended to prevent a change to the ordinary flow channel and keep normal flows to the excavated areas and yet still allow for flood relief.”
  - ❖ We proposed and the DRMS approved our increase of the berm separating the pit areas from the creeks from 50 feet to 150 feet.
  - ❖ Based on our conversations with the Corps. of Engineers, the above proposed armoring activities will be outside the Ordinary High Water (OHW) line and therefore outside the jurisdiction Corps. and armoring can be constructed without a 404 permit.



- ✓ We submitted the plan for armoring the inside and outside banks of the areas along Black Squirrel Creek to DRMS, dated August 26, 2019 which was approved as part of the DRMS/MLRB permit application for the Schubert Ranch Resources Sand Pit.
  
- Comment:  
*“CPW recommends a ground disturbance buffer with minimal activities or operations within 300 feet of any lake, reservoir, wetland or stream.”*
- Response:  
As stated above, we will maintain a 150-foot setback from both creeks. In addition, as stated above, we will armor the inner and outer banks to control bank erosion during storm events.
  
- Comment:  
*“Erosion and sediment control precautions should be in place to avoid deposition into water ways.”*
- Response:  
As stated in our comments submitted by the El Paso County Conservation District (EPCCD), “We are aware of the need to prevent runoff erosion from storm water events and will install appropriate erosion and runoff control practices as necessary and appropriate.”
  
- Comment:  
*“Destruction of riparian vegetation and truck/heavy machinery stream crossing should be avoided:”*
- Response:
  - ✓ The need to cross drainages is limited to Stage 5, the second to the last Stage to be mined. It is roughly 21 acres in size and lies to the west of Black Squirrel Creek. It is estimated it will be 31-46 years before this stage is scheduled to be mined.



## ESTIMATED MINING TIMETABLE

Stage	ESTIMATED YEARS	ACRES ±			
		TOTAL AREA	TOTAL MINED	MINED 100%	MINED SLOPES
I	10-15	68.94	60.05	28.22	31.83
II	15-20	214.00	181.14	129.68	51.46
III	4-6	54.39	47.30	14.26	33.04
IV	2-5	24.32	19.00	4.20	14.80
V	2-4	20.81	17.46	3.32	14.15
VI	20-30	268.60	236.70	159.64	77.07
Drainage	LOM	82.81	0.00	0.00	0.00
<b>Totals</b>	<b>52-80</b>	<b>733.87</b>	<b>561.65</b>	<b>339.32</b>	<b>222.35</b>

Table from the DRMS/MLRB approved permit application.

- ✓ In addition, these are ephemeral drainageways which only flow during storm events. The storm event must be of sufficient intensity and duration to, cause the accumulation of runoff in the drainage channel.
- ✓ All the other Stages may be accessed off County roads and do not need to cross a drainageway.
  
- Comment:  
“...crossing riparian corridors and streams at a perpendicular angle, in order to reduce impact to natural resources, as well as spanning the corridors with structures located outside the riparian and stream zone.”
- Response:
  - ✓ We agree to use perpendicular stream crossing where operational constraints allow.
  - ✓ We will use best management practices in any stream crossings.
  - ✓ Given that Stage 5 is so far into the future, it is not logical to propose a type of stream crossing at this time since methods and technologies will improve with time.
  - ✓ Any stream crossing will require a revision to our MLRB permit and will need to be approved the DRMS at that time.
  
- Comment:  
“...avoiding treed areas of cottonwood and willow, ...”



- Response:
  - ✓ We should not impact cottonwood trees since we will maintain a 150-foot buffer along the drainages.
  - ✓ In addition, there are few, if any cottonwood trees of significant numbers or groves of willows.
  - ✓ We will do our best to not disturb the few cottonwood trees which may exist.
  - ✓ Willows, even if disturbed and given their nature, should resprout quickly.
  
- Comment:

*“During construction, stream crossing by construction vehicles should be avoided.”*
- Response:
  - ✓ This is not a commercial or residential development and no construction is planned.
  - ✓ Given the availability of access off adjacent County roads, we anticipate only one potential drainage crossing.
  - ✓ In addition, there are no perennial streams within the proposed mine permit area.
  
- Comment:

*“...any new service roads that are proposed for construction in conjunction with the project avoid crossing creeks or streambeds to avoid impacts to wildlife and habitat. If any new access or maintenance roads will be constructed that cross stream habitat, CPW would like to be consulted on best management practice and options for construction to minimize*
  
- Response:
  - ✓ As stated above, this is not a residential or commercial development. There will be mine access roads and internal pit roads which typically are very short term.
  - ✓ As we stated above, any stream crossings and other engineered structures which may be needed will require a permit revision with the DRMS. These revisions are noticed on the DRMS web site to allow for agency and public comments.





June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

● **Chapter 5: Use and Dimensional Standards Response:**

**Use and Dimensional Standards, Chapter 5:**

**Response Date: 2/8/2021, and 4-29-2021**

- *“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 use we are requesting, by way of this Special Use Application, is a Mineral and 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.
  
- *“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 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.
  - ✓ With the exception of 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,*
- 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 a number of 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,*
- Response:
  - ✓ We believe with the submittal of the El Paso County Planning Department required document, and addressing all local agency comments, we will follow all applicable local rules and regulations and licenses and permits.
  
- *“state,” (licenses, permits, rules and regulations)*
- Response:
  - ✓ We have committed to supply 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.
    - ❖ For the permit to be issued by the DRMS/MLRB, we only need to submit the Financial and Performance Warranties.
  - ✓ 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”.
  - ✓ 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.
    - Request 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.
- ✓ 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 demonstrate 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.

➤ **“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 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 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...”.

➤ *“(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.



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

5/18/2018



➤ **Response:**

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

You will note this notice is not signed. It is from the Schubert Ranch Sand Pit Permit Application. Please also note the mine permit application has been approved by the DRMS. They are not able to approve a mine permit application unless the applicant provides proof of notice all the required parties. The County Clerk and Recorder is a party specified in regulation which must be noticed, and the applicant must provide the DRMS proof of such notice.



**EXHIBIT R**

**PROOF OF FILING WITH COUNTY CLERK AND RECORDER**

December 3 2018

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

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

Dear Mr. Broerman:

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

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

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

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

Yours truly,  
Environment, Inc.

Stevan L. O'Brian

enclosure

RECEIVED THIS \_\_\_ DAY OF \_\_\_\_\_  
MINED LAND RECLAMATION BOARD application for the referenced mine.

By \_\_\_\_\_  
El Paso County Clerk and Recorders Office





- “(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:

ELLCOTT AND AND GRAVEL LLC.  
PROOF OF PUBLICATION  
FBRUARY 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

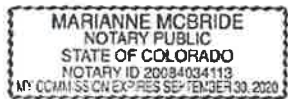
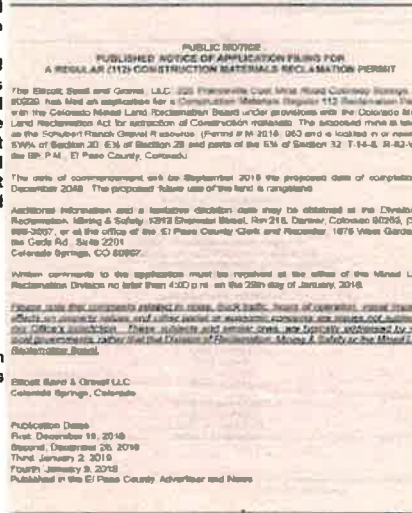
I, Karen M. Johnson, do solemnly swear that I am General Manager of the El Paso County Advertiser and News, that the same is a weekly newspaper printed, in whole or in part, and published in the County of El Paso, state of Colorado, and has a general circulation therein; that said newspaper has been 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.*
- 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.
- *“(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?”*  
(From 11/25/2020 PCD PM Letter of Intent Comments.)



- Response:
  - ✓ 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 6 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 2 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



RPM, Inc., 25049 E. Alder Dr., Aurora, CO 80016 Phone: (303) 854-7499 Email: hlhumphries2@comcast.net

three well logs taken across the property, the sand and gravel resource, excluding contaminants such as clay, shale and sandstone) vary in extent from 56 feet to 88 feet of actual thickness. (The depth of the in-place resource varies in depth from 77 feet to 100 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.



WR-66-72

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

COLORADO DIVISION OF WATER RESOURCES

101 Columbine Bldg., 1846 Sherman St.  
Denver, Colorado 80203

WELL COMPLETION AND PUMP INSTALLATION REPORT

PERMIT NUMBER 6969-F



WELL OWNER Schubert Ranches Inc S-W % of the S-E % of Sec. 20

ADDRESS RT-2 Colhan, 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 (Coarse)	
100	102	Clay & shale	
TOTAL DEPTH <u>102</u>			

Use additional pages necessary to complete log.

\_\_\_\_\_ in. from \_\_\_\_\_ to \_\_\_\_\_ ft.

\_\_\_\_\_ in. from \_\_\_\_\_ to \_\_\_\_\_ ft.

CASING RECORD: Plain Casing

Size 16" & kind Steel from 0 to 59 f

Size \_\_\_\_\_ & kind \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ f

Size \_\_\_\_\_ & kind \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ f

Perforated Casing

Size 16 & kind Steel from 59 to 102 f

Size \_\_\_\_\_ & kind \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ f

Size \_\_\_\_\_ & kind \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ f

GROUTING RECORD

Material Clay

Intervals 0 - 25

Placement Method pour

GRAVEL PACK: Size 9/16

Interval \_\_\_\_\_

TEST DATA

Date Tested May, 1973

Static Water Level Prior to Test 34

Type of Test Pump Surber

Length of Test 24 hrs.

Sustained Yield (Gallons) 840

Final Pumping Water Level Bottom



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 9/16 to 3/4 Interval \_\_\_\_\_

TEST DATA  
 Date Tested Jan 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. Hamacher  
 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, 1976

Bonnie Dolores Hamacher  
 Notary Public



WRA-20-72

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

COLORADO DIVISION OF WATER RESOURCES

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

RECEIVED

JUL 11 1972

WELL COMPLETION AND PUMP INSTALLATION REPORT

PERMIT NUMBER 9642-F-P

WATER RESOURCES STATE ENGINEER COLO.

WELL OWNER Buddy B. Babcock NE % of the NE % of Sec. 32

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

DATE COMPLETED 2-18, 1972 HOLE DIAMETER

30 in. from 0 to 26 ft.

\_\_\_\_\_ in. from \_\_\_\_\_ to \_\_\_\_\_ ft.

\_\_\_\_\_ in. from \_\_\_\_\_ to \_\_\_\_\_ 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 - horris	
94	96	Shale	

TOTAL DEPTH 96

Use additional pages necessary to complete log.

CASING RECORD:

Plain Casing

Size 16" & kind Steel from 0 to 56

Size \_\_\_\_\_ & kind \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ f

Size \_\_\_\_\_ & kind \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ f

Perforated Casing

Size 16" & kind Steel from 56 to 96

Size \_\_\_\_\_ & kind \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ f

Size \_\_\_\_\_ & kind \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ f

GROUTING RECORD

Material 9

Intervals \_\_\_\_\_

Placement Method \_\_\_\_\_

GRAVEL PACK: Size 9/16

Interval \_\_\_\_\_

TEST DATA

Date Tested 2-19, 1972

Static Water-Level Prior to Test 29

Type of Test Pump Turbine

Length of Test 24

Sustained Yield (Metered) 480

Final Pumping Water Level Bottom



Custom Soil Resource Report

### Map Unit Legend

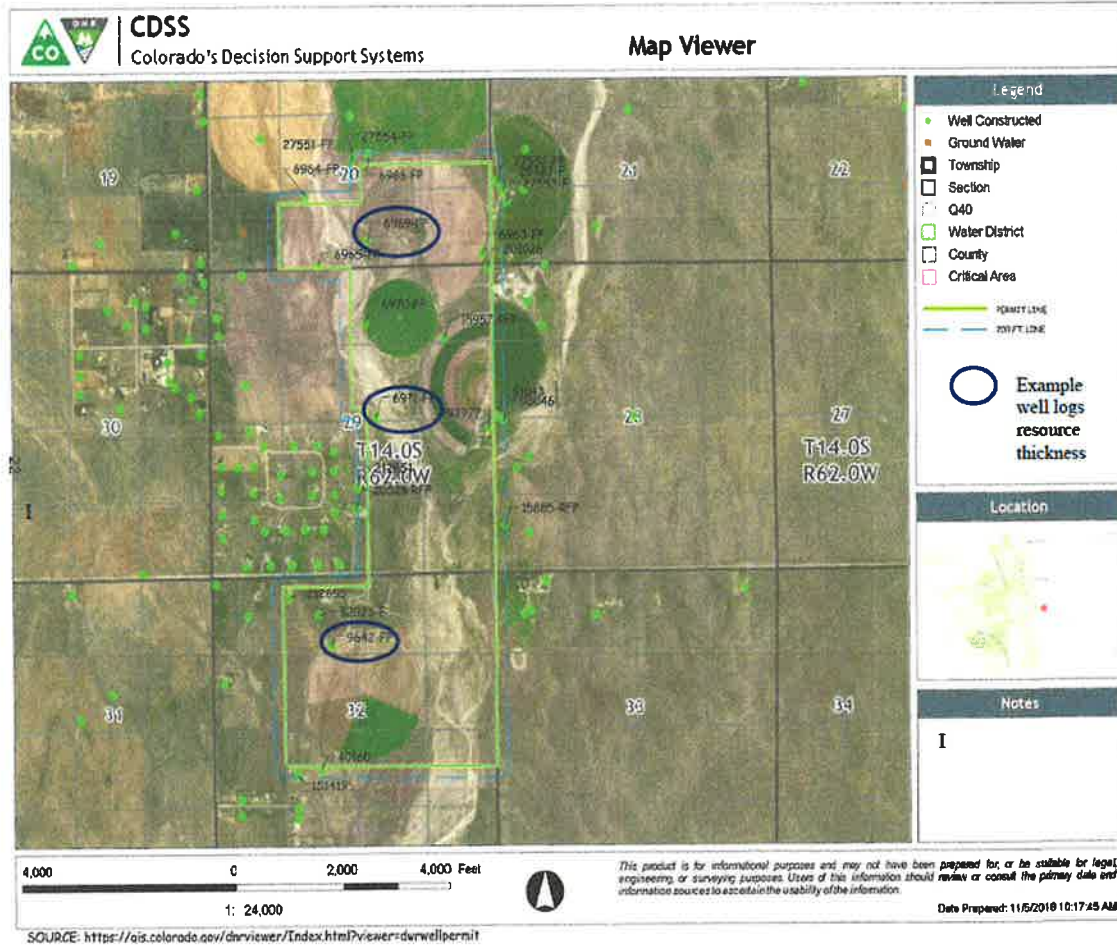
Map Unit Symbol	Map Unit Name	Acres In AOI	Percent of AOI
5	Bijou loamy sand, 1 to 8 percent slopes	26.5	3.6%
6	<i>Sand</i> Bijou sandy loam, 0 to 3 percent slopes	52.9	7.3%
28	<i>Fair</i> Ellicott loamy coarse sand, 0 to 5 percent slopes	406.4	55.7%
78	<i>Fair</i> Sampson loam, 0 to 3 percent slopes	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 100 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 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 long 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



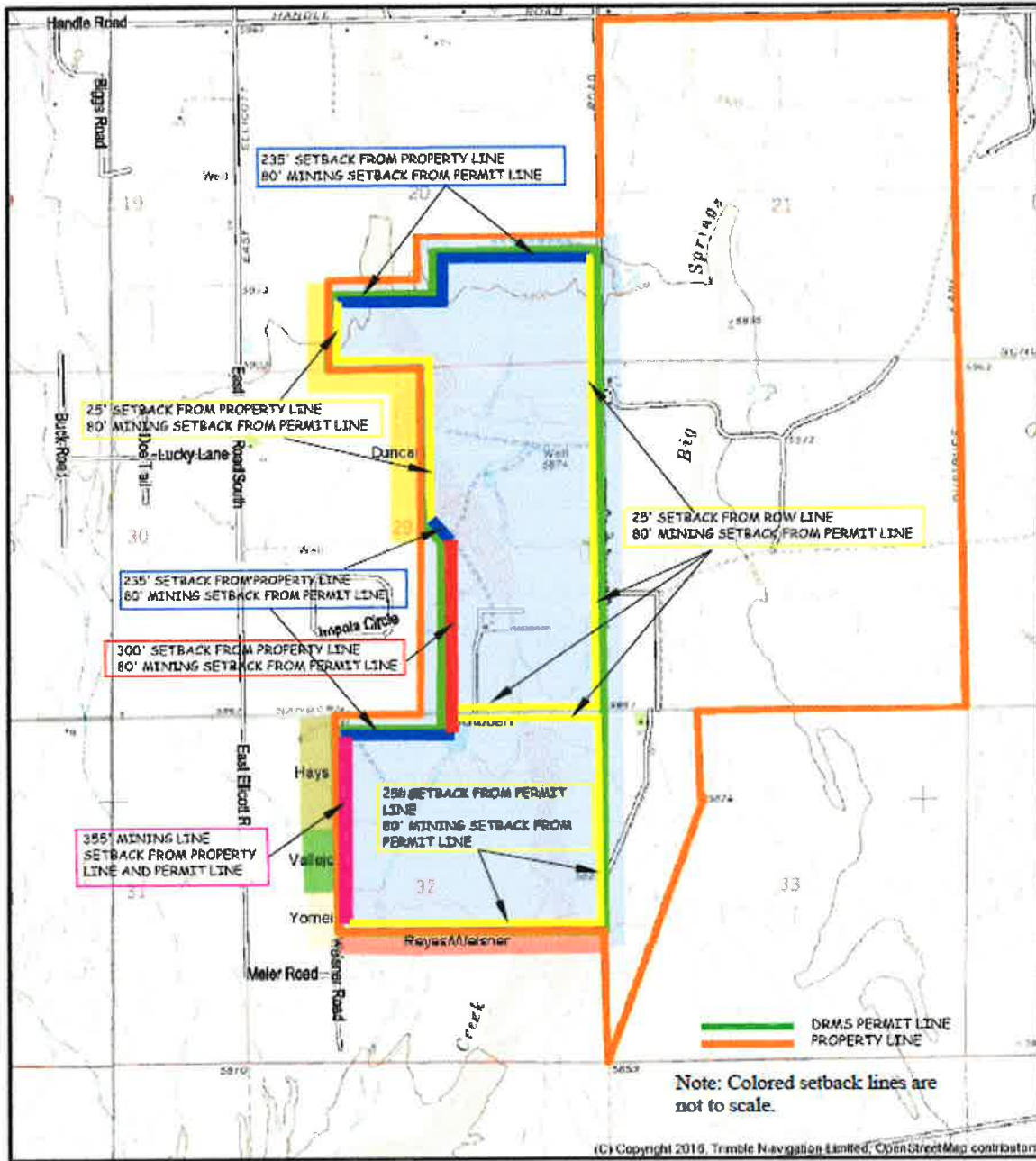
trees on the southern end of the area. Wildlife resources on the affected lands are limited by the existing ground cover consisting of seasonal grasses, shrubs, and weeds. Ground cover in this area averages 25% or less, with some areas having little or no cover, only exposed sand.”

- “Not a lot of wildlife have been observed on 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 song birds. 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 is 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.



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- “(7) *Buffering Required. The site and associated special use operations shall be adequately buffered from surrounding properties and uses.*”
- 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 200 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.



Quad Name: BIG SPRINGS Part of the S1/2N1/2SE1/4, S1/2SE1/4 and SE1/4SW1/4 of RANCH 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**

**Property 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 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 will be 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 6 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 a number of sources, to include 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, mid-way 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:**



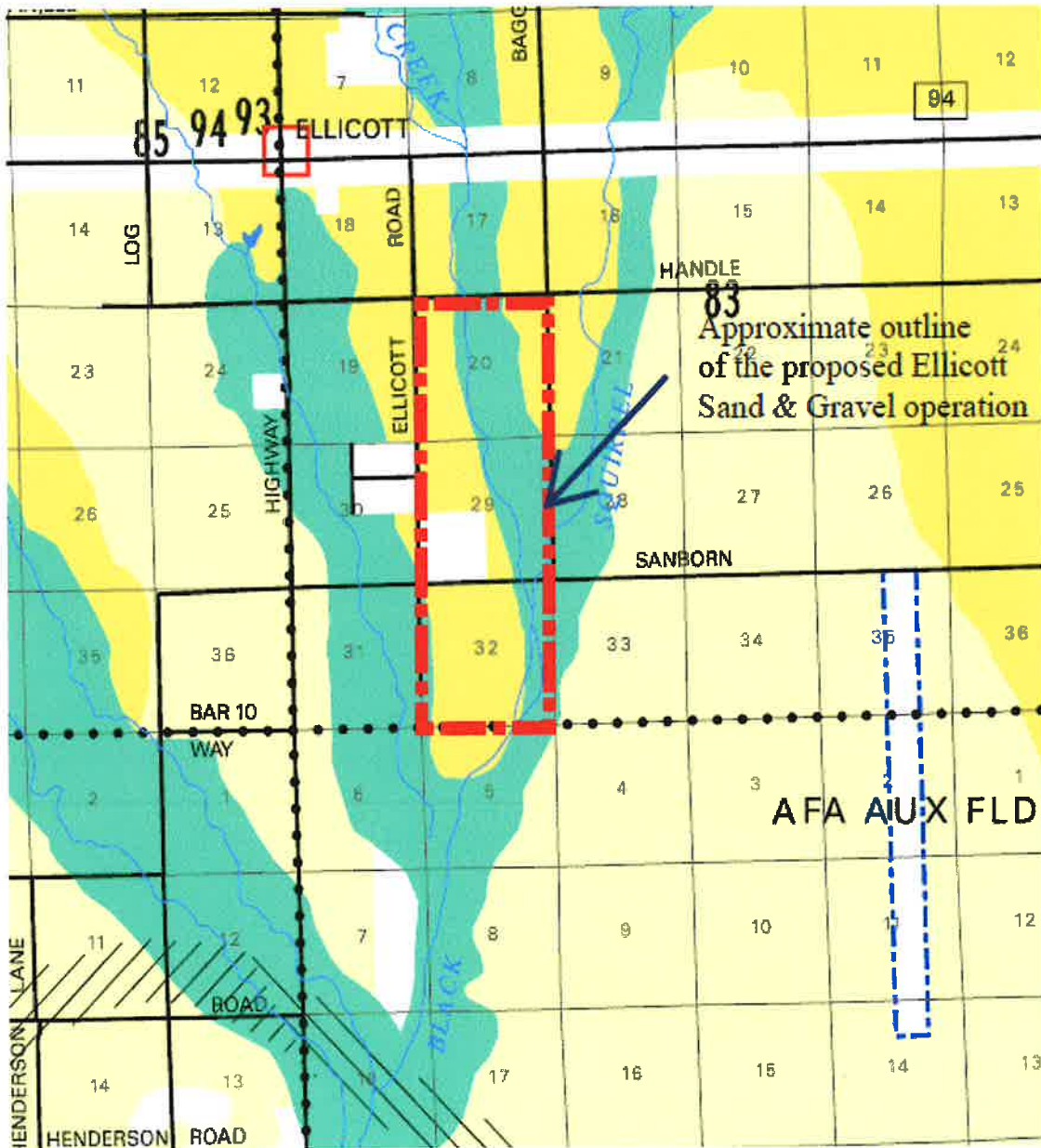


- ❖ We do not anticipate impacts from materials which might produce odors. This is a sand and gravel operation which will use water in its processing facility. In addition, we will secure portable toilets for use on-site. A commercial provider will service the portable toilets on a regular basis. In 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 somewhat. 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 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

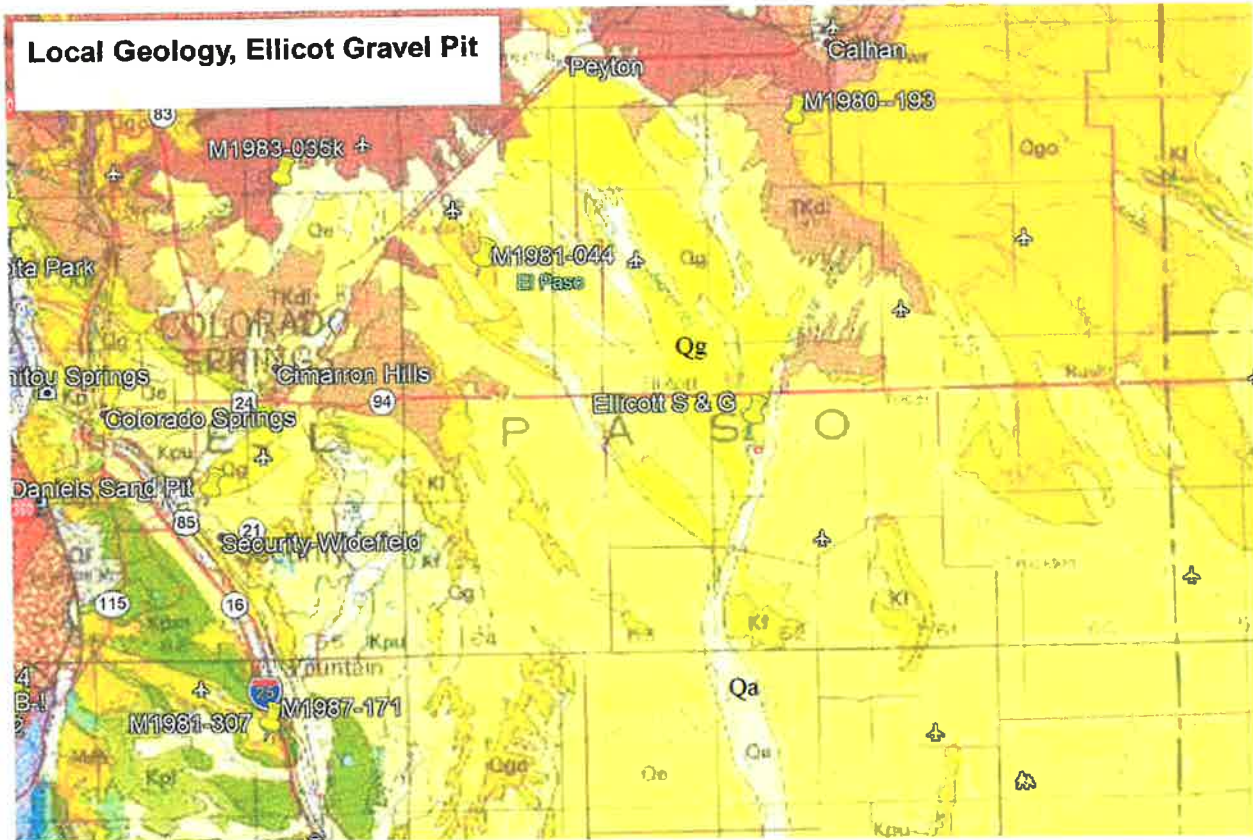
Qa	Qe		Qj	Qb	} Holoc
Qg		Qd			
Qgo	Qeo	Qdo			

### 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)—Includes 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 doposits 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 16 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 essentially a clay operation for providing other than sand and gravel.
  - ❖ The Daniels Sand Pit #2 is responsible for 75% of the sand sold locally. (Page 49, El Paso County Master Plan for Mineral Extraction, Feb 8, 1996)
    - However, it appears the Daniels Sand Pit #2 is nearing completion of mining given it has almost reached the limits of lands available for mining “land locked”.
    - *(The Schubert Ranch sand resource has the potential to replace a significant portion of the sand resource, upon closure of the Daniels Sand Pit #2.)*
  - ❖ Another site is also “land locked. Two sites are greater than 34 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 hour. 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 is needed 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 of the mine is approximately between 53 and 80 years. During this time period, the



site will be mined in a number of 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 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 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 10 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 strike, 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 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” **Attachment I**, 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 10 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 wild life 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 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 likely 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, likely 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 product.
  - 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, soil erosion should not occur on 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 a special 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.
  - ✓ 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



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- ❖ Portable screens (may be combined with the crusher)
- ❖ Portable conveyors/stacker
- ❖ Portable scale and scale house



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **DRMS Mine Permit Application, V2 Redline, PCD Manager:  
DRMS Mine Permit Application V2 Redlines, 7/13/2020, 11/25/2020, PCD Project  
Manager:  
Response Date: 2-8-2021, and 4-30-2021**

- Comments, 7/13/2020:  
*“What is the permit number?”* (on the Affidavit of Authority to Execute Financial Warranty Documents)
- Response:
  - ✓ We will provide a copy of the Affidavit of Authority to the County when the Financial Warranty and Affidavit are submitted to the DRMS. Typically, the Affidavit of Authority is not submitted to the State until the Financial Warranty is submitted.
- Comment:  
*“This should be included in the proposed structures in the LOI.”*
- Response:
  - ✓ This is not a permanent structure. It is portable and moves as mining goes from Stage to Stage and will be removed once mining is complete..
- Comments:  
*“Does the well permit support?”* (“...use up to 9-acre feet of water per year.”)
- Response:
  - ✓ We have changed the intended source of operational water. We will obtain our operational water from an off-site, commercial water provider.
- Comments, 11/25/2020:  
*“This is a decision letter, not a mining permit. Please upload the mining permit.”*
- Response:
  - ✓ As stated in an email from Ms. Nina Ruiz, 12-01-2020, the submittal of the actual DRMS/MLRB permit will be a condition of approval and will be provided once the reclamation financial warranty is provided to the DRMS and approved.



- Comment:  
*“Verify that the mine is far enough away from the road that goes through the mine. The road is referred to as a man-made object within the State statutes.”*
- Response: (We found no comment on page 64.)
  - ✓ The protection of Permanent, Man-made Structures includes public and private structures, to include roads which are addressed in the Mined Land Reclamation Rules and Regulations. The Regulations require the following:
    - ❖ Permanent, man-made structures within 200 feet of the mine site’s affected land:  
As part of the Mined Land Reclamation/Division of Reclamation, Mining and Safety permit application process, the applicant must demonstrate any of the three following actions in order to protect structures within 200 feet of the affected land:
      - “Provide a notarized agreement between the Applicant and the Person(s) having an interest in the structure, that the Applicant is to provide compensation for any damage to the structure; or
      - Where such an agreement cannot be reached, the Applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or
      - Where such structure is a utility, the applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have ‘no negative effect’ on their utility.” (C.R.S. 34-32.5. Colorado Land Reclamation Act for the Extraction of Construction Materials, Rule 6.3.12 Exhibit L – Permanent Man-Made Structures)
      - If none of the preceding are not available to the applicant, the operator must not affect lands within 200 feet of the permanent, man-made structure.
    - ❖ The County Road which splits Stage I from Stage II is Sanborn Road. From the 10-31-2019 2<sup>nd</sup> adequacy response to the DRMS adequacy comments:
      - The following discusses our intent to conduct an Geotech engineering slope stability analysis, to mine closer than 200 feet from the County roads.



As we have discussed ESG is not able to get the necessary drilling and investigation complete for the Geotechnical Stability Analysis on the banks completed in a timely manner for any Structures not owned by Schubert Ranch (only structure agreement returned) . Ellicott Sand & Gravel proposes to not mine within a minimum of 200 feet from any structure that does not have a signed agreement until a Geotechnical Stability Analysis can be completed and approved by the Division of Reclamation, Mining and Safety. To this extent I have revised Map Exhibit C-1 - Mining Plan and Map Exhibit F - Reclamation Plan to show a 200 foot setback on the South sides of Stages I and IV and the north sides of Stages II and III along Sanborn Road. Where appropriate I added a 200 foot setback to the east sides of Stages IV and VI along S. Baggett Road. I also revised pages 5 THRU 9 In the Exhibit D - Mining Plan text to note this proposed setback change and provided copies for the file.

Once we are able to get the Geotechnical Stability Analysis completed ESG will file a Technical Revision that includes the Geotechnical Stability Analysis, and the necessary exhibit changes to revise the setback and allow for mining closer then the 200 foot setback, should the analysis show that is possible. This Technical Revision will include new Mining and Reclamation Plan Map Exhibits.

- Comment:  
*"Please provide proof that this publication was actually posted."*
- Response:
  - ✓ Three public notices were "posted" as shown below:
  - ✓ Notice Sign at the proposed point of access, certification the notice was posted:





## NOTICE

This site is the location of a proposed construction materials operation. Ellicott Sand and Gravel LLC, whose address and phone number is 235 Franceville Coal Mine Road, Colorado Springs, CO 80929 (602) 558-0846, has applied for a Regular 112 Reclamation Permit with the Colorado Mined Land Reclamation Board known as the Schubert Ranch Sand Resource. Anyone wishing to comment on the application may view the application at the El Paso County Clerk and Records office, Citizens Service Center, 1675 West Garden of the Gods Rd., Suite 2201, Colorado Springs, CO 80907, and should send comments prior to the end of the public comment period to the Division of Reclamation, Mining & Safety, 1313 Sherman St, Room 215, Denver, CO, 80203

### Certification

I, Steve O'Brian, hereby certify that I posted a sign containing the above notice for the proposed permit area known as the Schubert Ranch Sand Resource on December  
3, 2018.

  
Signature

12/3/18  
Date



➤ Publication in a newspaper of general circulation:

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.

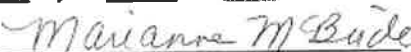
COUNTY OF EL PASO

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

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

The Ellicott Sand and Gravel, LLC, 238 Transwells Court, Mile Road, Colorado Springs, CO 80929, has filed an application for a Construction Materials Regular 112 Reclamation Permit with the Colorado Mine Land Reclamation Board under provisions with the Colorado Mine Land Reclamation Act for extraction of Construction materials. The proposed mine is located on the Schubert Ranch Gravel Resource (Permit # M-2018-063) and is located in or near the SW1/4 of Section 20, E1/4 of Section 29 and parts of the SW1/4 of Section 33, T-14-S, R-63-W, the 8th P.M., El Paso County, Colorado.

The date of commencement will be September 2018 the proposed date of completion December 2018. The proposed future use of the land is reclamation.

Additional information and a tentative decision date may be obtained at the Division Representative, Mining & Safety, 12913 Sherman Street, Rm 215, Denver, Colorado 80230, (303) 801-3367, or at the office of the El Paso County Clerk and Recorder, 1876 West Garden, the Code Rd., Suite 2201, Colorado Springs, CO 80907.

Written comments to the application must be received at the office of the Mine Land Reclamation Division no later than 4:00 p.m. on the 28th day of January, 2019.

*Please note that comments related to noise, truck traffic, hours of operation, dust, water effects on nearby waters and other social or economic concerns are issues not subject to the Office's jurisdiction. These subjects and other issues are generally addressed by local governments, either the Division of Reclamation, Mining & Safety or the Municipal Sanitation Board.*

**Ellicott Sand & Gravel LLC**  
Colorado Springs, Colorado

Publication Dates:  
First: December 10, 2018  
Second: December 26, 2018  
Third: January 2, 2019  
Fourth: January 9, 2019  
Published in the El Paso County Advertiser and News

- ✓ Certified mail to all adjacent property owners and owners of structures (MLRB Regulation) within 200 feet of the proposed affected land. Plus, we complied with the County requirement to mail certified notices to all adjoining property owners within 500 feet of the affected parcels. (Proof of notices previously sent El Paso County)



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Ellicott Fire Protection District (EFPD), 7/20/2020, 11/9/2020:**  
**Response Date: 2-8-2021, and 4-29-2021**

- Comment:

- ✓ *“If fuel (or other flammable liquids) storage over 660 gallons is brought on site a site plan and permit from the Fire Department will be required.”*

- ✓ Response:

We will comply with this comment.

- Comment:

- ✓ *“No Cistern Required at this time, the single portable building, will not require a fire protection water supply at this time.” “No Cistern will be required from us unless you plan on building a building larger than your scale house.”* (From the August 2020 EFPD comment.)

- ✓ Response:

We will comply with this comment in the event a building larger than the proposed scale house is to be built.

- Comment:

- ✓ *“After hours Emergency Access is requested.”*

- ✓ Response:

July 7, 2020 response:

- ❖ *“Site access will be available during normal business hours, 7 am until 7 pm, Monday through Friday, to exclude holidays.”*

- ❖ *A simple gate and signage will be installed to provide some level of site security. In the event of an emergency, and the site is not ‘open for business’, first responders have permission to cut the gate lock to gain access.” We request if a fire response occurs and the lock is cut and the site opened, the fire district contact Ellicott Sand and Gravel as soon as feasible. We will need to secure the mine site entrance with a new lock.*

- Comment:

- ✓ *“Site Visit Training every other year is requested.”*



- ✓ Response:
  - ❖ July 7, 2020 response: “We are open to the Fire Department making a site visit, provided they make arrangements with Ellicott Sand and Gravel for the site visit:
    - This is to be an active mining operation, subject to the regulations of the Mine Safety and Health Administration (MSHA). Outside of an emergency, visitors to a mine site must meet MSHA regulations.
    - Second, the mine will not always be active and could be unattended. As stated above, unless there is an emergency, persons not meeting MSHA regulatory requirements and entering the mine site could place the mine operator in violation of Federal MSHA regulations.”
  - ❖ As stated in our July 20, 2020 response, we are open to the Ellicott Fire Department’s (EFD) onsite training every other year. We request EFD notify Ellicott Sand and Gravel in advance of the requested training. We would like to know the scope of the training and if we may be of benefit to the EFD training exercise, and to arrange times and dates.
  
- Comment:
  - ✓ *“The Ellicott Fire Department has no objection to this project pending payment of fees.”*
  - ✓ Response:

Payment will be provided for the requested fee.



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **EPC Environmental Services, 6/15/2020, 11/9/2020:**  
**Response Date: 2-8-2021, and 4-29-2021**

- **Comment:**

- ✓ *“The El Paso County Environmental Division has completed its review of the Ellicott Sand and Gravel Special Use AL2014. Our review consisted of the following items: wetlands, federal and state listed threatened or endangered species, general wildlife resources and noxious weeds.*

*1. The applicant is hereby on notice that the U.S. Fish and Wildlife Service has regulatory jurisdiction over threatened and endangered species and migratory birds, respectively. It is the applicant’s responsibility, and not El Paso County’s to ensure compliance with all applicable laws and regulations, including but not limited to, the Endangered Species Act and the Migratory Bird Treaty Act.*

*It is strongly recommended that the applicant obtain the necessary approvals from all federal, state and county agencies as a part of their planning process...”*

- ✓ **Response:**

- ❖ We responded to this comment in our June 26, 2020, response to comments.
- ❖ We are resubmitting our response again for ease of review:
  - “We understand we must comply with the Endangered Species and Migratory Bird Act’s, as applicable.
  - During our Mined Land Reclamation Board application process, we requested a ‘Wildlife Statement’ from the Colorado Division of Parks and Wildlife (CDPW). The CDPW declined to comment on the proposed operation.
  - As part of the Special Use Process, we provided an assessment of Threatened or Endangered Species habitat. Based on that assessment, the “Conservation Status Handbook for El Paso County” indicates the proposed permit area does not lie in any of the listed endangered or threatened species area habitat, or the area around and adjacent to the permit area.



**RPM, Inc., 25049 E. Alder Dr., Aurora, CO 80016 Phone: (303) 854-7499 Email: hlhumphries2@comcast.net**

- According to the approved Mined Land Reclamation Board Permit Application, (Page 23, Exhibit H, Wildlife Statement):

“No raptor nests were observed on the mine during site inspections and in discussions with the landowner, they do not remember any being present in the past.” (New comment, not in previous response.)



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **El Paso County Public Health, Comment Date, 12/28/2020:  
Response Date: 2-8-2021, and 4-29-2021**

- Comment:

*“Water volume for dust control was estimated, but the source was not identified. Water used for dust control only does not require proving water quality sufficiency. Water for employees is planned to be either purchased offsite from an or from an onsite private well.”*

- Response:

- ✓ 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 obtained from Tim Kunan Drilling, 23945 Lucky Lane, Calhan, Colorado.”
- ✓ No water will be used for site reclamation, nor will the reclaimed areas be irrigated once reclamation is complete. The post mining land use will be non-irrigated rangeland. (Please see the Ellicott S & G, DRMS/MLRB approved permit application.)
- ✓ Potable water will either be purchased locally or obtained from on-site domestic ground water wells. (From the, Use and Dimensional Standards, Chapter 5: Response Date, 2/8/2020 document) The number of employees on-site at any one time should not exceed 6.

- Comment:

*Wastewater service is planned to be provided by portable toilets. The portable toilet service provider must have a current Pumper License issued by El Paso County Public Health. Each portable must have hand sanitizer dispensers installed and properly supplied. Portables are acceptable for this business operation because the office will be moved as different phases of mining are planned and the portables can be considered temporary.”*

- Response:

- ✓ We understand and will comply with the above provisions.



➤ Comment:

*“Earthmoving activity in excess on one acre, but less than twenty-five acres, requires a local construction Activity Permit from El Paso County Public Health. Go to <http://www.elpasocountyhealth.org/service/air-quality/construction-activity-application> for more information. Earthmoving activities greater than 25 acres require a Construction Activity Permit from the Colorado Department of Public Health and Environment, Air Pollution Control Division...”*

➤ Response:

- ✓ We suggest this provision is not applicable.
  - ❖ The combined mining operation Stages will affect approximately 561.6 acres of the 733.7 acres permitted, which exceeds the 25 acres, El Paso County limit.
  - ❖ Since this is a mining operation and not a residential or commercial development, the CDPHE, ACQD has a separate set of regulations for mineral extraction operations. We will be obtaining the appropriate air quality permits from the CDPHE, AQCD, in compliance with their regulatory process.

➤ Comment:

*“Water quality detention basins, if any are planned, must be designed to completely drain to help minimize mosquito breeding habitat and the potential for West Nile Virus.”*

➤ Response:

- ✓ No water quality detention basins are planned for the operation.
- ✓ Any storm water which ends up in the mine pits will infiltrate into the pit floor within a short period of time.
  - ❖ The mining operation is required to stay at least 10 feet above the prevailing ground water elevation.
  - ❖ Since the floor of an active and reclaimed mine pit will be sandy, we expect any storm water which enters a pit will infiltrate into the subsoils quickly.
- ✓ The high infiltration rate should discourage water ponding and mosquito breeding.





June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **El Paso County Conservation District, 7/9/2020, 11/9/2020:**

**Response Date: 2-8-2021, and 4-29-2021**

- Comment, 7/9/2020:

*“To Whom it May Concern:*

*The El Paso County Conservation District Board of Supervisors have no comments on this review at this time.*

*EPCCD Board President*

*Kenneth Barker”*

- Response:

✓ No response is required.

- Comments, 11/9/2020:

*According to NRCS soils survey, ...Due to the limitations on the above soil on the site, alternatives to mitigate the limitations of the soil will be required in your engineering design or construction techniques.”*

- Response:

We appreciate the recommendation, however, since this is a mining operation and not a residential or commercial development construction project, we do not expect concerns with site construction activities related to the soils. No permanent, on-site structures are planned.

- Comment:

*“According to the NRCS soils survey, ...are poor local roads and streets and shallow excavations due to frost action, depth to bedrock, shrink-swell, flooding, and unstable excavation walls. Due to the limitations on the above soil on the site, alternatives to mitigate the limitation of the soil will be required in your engineering design or construction techniques.*

- Response:

✓ We appreciate the recommendations. All internal roads associated with the mining operation will be temporary, with the exception of those to remain at the request of the landowner. These will be simple roads for ranch use and not be available to the public.



- ✓ The highwalls created by mining will also be temporary. “As mining ends on a section of the working face it is temporally graded to 2:1 so it is stable when there are no activities in the mine.” Page 6 of Exhibit D, the approved Mined Land Reclamation Board Permit Application.
- ✓ Once mining is completed in a Stage, the final slope will be 3H:1V or less. The DRMS evaluated the proposed post mining slopes during its permit review process. The DRMS found them acceptable for the proposed, post mining land use, rangeland.
  
- Comment:  
*We commend you on creating an Integrated Weed Control plan. It’s recommended that an integrated weed management program be reviewed and approved by the El Paso County Weed Inspector and/or Weed Advisory board, the County Extension Agent, NRCS, or a qualified weed management professional prior to the land use authority approval.”*
- Response:
  - ✓ In our August 28, 2020 response to comments, we supplied a copy of our DRMS approved noxious weed control plan.
  - ✓ Our DRMS/MLRB approved permit application includes the following statement from the Colorado State University Cooperative Extension Office, Weed Control Plan, “Recognizing the presence of state-listed and county-listed noxious weeds in the general vicinity of this project area; and understanding the destructive nature of these noxious weeds, the Colorado Division of Reclamation, Mining & Safety has required the operator to develop and implement a weed management plan that encompasses the total area.”
  - ✓ “The CSU Cooperative Extension office operates under cooperative agreement with the El Paso County government, and provides technical assistance regarding noxious weed management on public and private lands within the county.”
  - ✓ We will comply with the El Paso County noxious weed management rules and regulations, and implement our approved, Noxious Weed Control Plan, as appropriate.
  
- Comment:  
*Topsoil should be stripped to a depth of 6 inches and all stockpiles should have side slopes no steeper than 3:1 and seeded.*
- Response:
  - ✓ We will slope our topsoil stockpile to a 3H:1V slope or less.



- ✓ According to the approved DRMS/MLRB permit application, page 5, Exhibit D, “The salvageable soil depths vary from 4 to 15 inches but many of the soil types have 8 inches or less, so the average works out to be 5.5 inches. However, most of the Stage VI is area covered by irrigation sprinklers (and) is used for sod farming so little or no actual soil remains...” on the area.
- ✓ Exhibit E, pages 11 and 12 of the approved DRMS/MLRB permit application states, “There are sufficient amounts of soil on the site so the mined area can be resoiled to an average depth of 4 to 6 inches except on the sod farm areas. Additional growth medium (processing fines) will be salvaged during processing to supplement the topsoil if needed.”
  
- Comment:  
*“All disturbed areas should be seeded and mulched with weed free hay mulch at 4,000 lbs./acre.”*
- Response:  
We committed to applying 2 tons/acre of wheat straw mulch in our adequacy response to the DRMS, page 5, response to DRMS question number 11, response date, September 9, 2019.
  
- Comment:  
*“All disturbed areas should be reseeded between the planting dates of Nov. 1-April 30<sup>th</sup>. Grasses seed should be drilled at a depth of ¼ to ½ inch deep and if broadcasted, double the rate.*
- Response:
  - ✓ According to our approved MLRD/MLRB permit application, page 14, Exhibit E, the following seeding schedule will be followed:
    - ❖ “The grass seed mixture will be planted from early fall thru mid-spring (November 1 to April 30). The time of planting will be controlled by when the resoiled areas are ready for planting. If fall is convenient, the seeding will be done before the first freeze (about the time Winter wheat is planted). If spring planting is called for, it will be done in March or April, weather permitting after the last frost. Both methods assure there will be adequate residual ground moisture available for the newly planted seeds.”
    - ❖ We agree if seed is to be broadcast, the seeding rate will be doubled.
    - ❖ We agree the grass species should be planted ¼ to ½ inch deep, dependent upon the grass species.



➤ Comment:

*“Please feel free to utilize the attached native shotgun mix that will work best on your sandy foothill range site.”*

**EL PASO COUNTY CONSERVATION DISTRICT**  
**SHOTGUN MIX**

Non irrigated  
PLS Rate per acre

Common Name	Recommended Cultivar	% of seed mix	Drill	Broadcast
Bluestem, Big Native	Kaw, Bison, Champ	20.0 %	5.5	11.
Grama, Blue Native	Lovington, Hachita, Alma	10.0%	1.5	3
Green Needlegrass Native	Lodorm	10.0%	5.0	10
Wheatgrass, Western Native	Amba, Barton	20.0%	8	16
Grama, Sidecoats Native	Vaughn, Butte, El Reno, Niner	10.0%	4.5	9
Switchgrass Native	Blackwell, Greenville	10%	2	4
Prairie Sandreed Native	Goshen, Pronghorn	10.0%	3.5	7.0
Yellow Indiangrass Native	Cheyenne, Hot, Llano	10.0%	5.0	10

El Paso County Conservation District 719-500-4706  
5610 Industrial Pl. Suite 100 www.epccd.org  
Colorado Springs, CO 80916

✓ Response:

- ❖ We want to thank the El Paso County Conservation District for providing the above seed mix. However, the following seed mix was provided by the El Paso County, NRCS office, (Mr. Greg Langer), to be used by Ellicott Sand and Gravel. It was approved by the CDRMS as part of its permit application review process:

- NRCS Grass Seeding Planned and Applied Worksheet, dated 3/28/2018:



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

**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: 0, P <sub>2</sub> O <sub>5</sub> : 0, K <sub>2</sub> O: 0	A Nutrient Management Plan is not required for the establishment of vegetative conservation practices.	
Planned weed control activities	Description: Tillage Date(s): mowing as needed	Attach WIN-PST Soil-Pesticide Interaction Risk Report for all chemical suppression activities	
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, Sideoats	N <i>Bouteloua curtipendula</i>	Vaughn	10.0	682.50	0.91
Sand dropseed	N <i>Sporobolus cryptandrus</i>	Common	1.5	6.53	0.01
Bluestem, Little	N <i>Schizachyrium scoparium</i>	Camper	10.0	502.50	0.67
Wheatgrass, Western	N <i>Panicopyrum smithii</i>	Amiba	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>	Lodorm	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>Desmodium illinoense</i>		0.5	23.63	0.03
			100.0		
<b>Shrubs (add shrub seed to grass - forb seed mix)</b>					
Four-wing saltbush	N <i>Atriplex canescens</i>			750.00	1.00
Winterfat	N <i>Krascheninnikovia lanata</i>			15.00	0.02
				765.00	
				Grasses, Forbs	6044.25
				Total lbs PLS	6809.25
				Seed Rate (Pounds PLS per acre)	9.08

† Certified Seed is required for all NRCS cost share programs  
 ‡ Complete a Tree and Shrub Establishment 612 Job Sheet for bare-root shrub plantings

**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

- Species not in the NRCS Grass Seeding Planned and Applied Worksheet but listed on the El Paso County Conservation District Shotgun Mix worksheet:



- Big bluestem
  - Blue grama
  - Species not listed on the El Paso County Conservation District Shotgun Mix but listed on the NRCS Grass Seeding Planned and Applied Worksheet:
    - Sand dropseed
    - Little bluestem
    - Sand bluestem
    - Indian ricegrass
    - Purple prairie clover
    - Four-wing saltbush
    - Winterfat
  - We believe the 3/28/2018 seed mix, provided by the NRCS, is a more robust seed mix and appears to have been tailored to the characteristics of the soils, regional environmental conditions and post mining land use, non-irrigated rangeland.
- Comment:

*“Vehicle tracking control stations need to be installed at all entrances and exit points on the site. The station should consist of a pad of 3 to 6-inch rock or vehicle control pad/mat to strip mud from the tires prior to vehicles leaving the construction site to prevent spread of noxious weeds.”*
- Response:
  - ✓ We take seriously the need to control noxious weeds on site and to prevent the spread offsite. However, the proposed operation is not a construction operation where surface materials (topsoil and overburden) are excavated and hauled offsite, having the potential to spread noxious weed seed form site to site.
  - ✓ Since it is a mining operation, all weed seed which has the potential to be in removed topsoil and overburden are retained on-site.
  - ✓ The proposed materials exported are sand and gravel. These products are removed from the mining face once the topsoil and overburden are removed and placed in stockpiles for site reclamation.
  - ✓ The mineable products are excavated with a front-end loader and taken to the on-site processing facility to be crushed, washed and screened (as needed), and then placed into various product stockpiles.
  - ✓ Upon sale, aggregate products are loaded into highway haul trucks for transport offsite. The highway haul trucks will be operating on a loadout surface of sand



and/or gravel and will not come into contact with areas where noxious weed species may occur.

- ✓ Therefore, we do not see a need to employ additional methods to control offsite transport of noxious weeds.
- ✓ We do, however, have an approved noxious weed control program and it will be implemented to control noxious weeds on our mine site.

➤ Comment:

*“The channels of many of the major streams are not stable and undergo substantial shifts in alignment during flood events. Upstream development increases the magnitude and frequency of local flooding. Floods that exceed the computed 100-year storm do regularly occur. The district does not support development proposals that are located in or near drainages or development in wetlands.”*

➤ Response:

- ✓ As stated in our approved DRMS/MLRB permit application, page 8, Exhibit D, A “...U.S. Army Corp of Engineers 404 permit is not necessary, as there are no water bodies on the site nor are there any wetlands that will be disturbed by mining or reclamation,”
- ✓ As stated in our approved DRMS/MLRB permit application, page 8, Exhibit D, “No mining will take place within the ephemeral drains of Black Squirrel Creek or Big Springs Creek.”
- ✓ In our September 9, 2019 response to the DRMS adequacy comments, we stated, “There is no way to totally avoid a stream capture during a 100-year event. We have reached a conclusion that we need to increase the width of the setback in each stage and armor the inner and outer banks using the Urban Drainage Guidelines. This is intended to prevent a change to the ordinary flow channel and keep normal flows to the excavated areas and yet still allow for flood relief.”
  - ❖ We proposed and the DRMS approved our increase of the berm separating the pit areas from the creeks from 50 feet to 150 feet.
  - ❖ Based on our conversations with the Corps. of Engineers, the above proposed armoring activities will be outside the Ordinary High Water (OHW) line and therefore outside the jurisdiction Corps. jurisdiction and can be constructed without a 404 permit.
  - ❖ We submitted the plan for armoring the inside and outside banks of the areas along Black Squirrel Creek to DRMS, dated August 26, 2019 which was approved as part of the DRMS/MLRB permit application for the Schubert Ranch Resources Sand Pit.



- Comment:  
*Silt fences or other forms of erosion barriers need to be planned and installed as a temporary sediment control device used on construction sites to protect water quality.”*
- Response:  
We are aware of the need to prevent runoff erosion from storm water events and will install appropriate erosion and runoff control practices as necessary and appropriate.
  
- Comment:  
*“The El Paso County CD board strongly recommends that Low Impact Development (LID) techniques be implemented for economic and conservation benefits.”*
- Response:
  - ✓ According to USDA/NRCS guides, LID is intended to, “...minimizes the number of impervious surfaces and mitigates the impact of necessary impervious surfaces.” ([nrcs.usda.gov/wps/portal/nrcs/mt/water/resources/nrcs144p2\\_057448/](http://nrcs.usda.gov/wps/portal/nrcs/mt/water/resources/nrcs144p2_057448/))
  - ✓ It appears to us the intent of LID is to apply the principals of LID to residential and commercial development and associated roadways.
    - ❖ Since this is a mining operation and does not have any paved roads or parking lots or structures which could concentrate and/or prevent storm events form infiltrating into area soils, we believe the techniques and practices do not apply.
    - ❖ We also stated in this response that there are no wetlands, that need to be protected. In addition, and since there will be a 150 buffer between the crest of a pit and an adjacent drainageway. Thus, they will not be impacted.
    - ❖ This is an agricultural/rangeland area, no forests will be impacted.
  - ✓ Further, the subsurface soils and areas where mining will occur, are sands and gravels which are conducive to infiltration. Such soil typically promotes storm water infiltration and not runoff. Also, once a pit is opened, the affected areas and pits, will retard runoff and allow for infiltration. The excavated area will slope into the property so all runoff is directed into the disturbed area, where it will soak into the underlying sand.





June 3, 2021

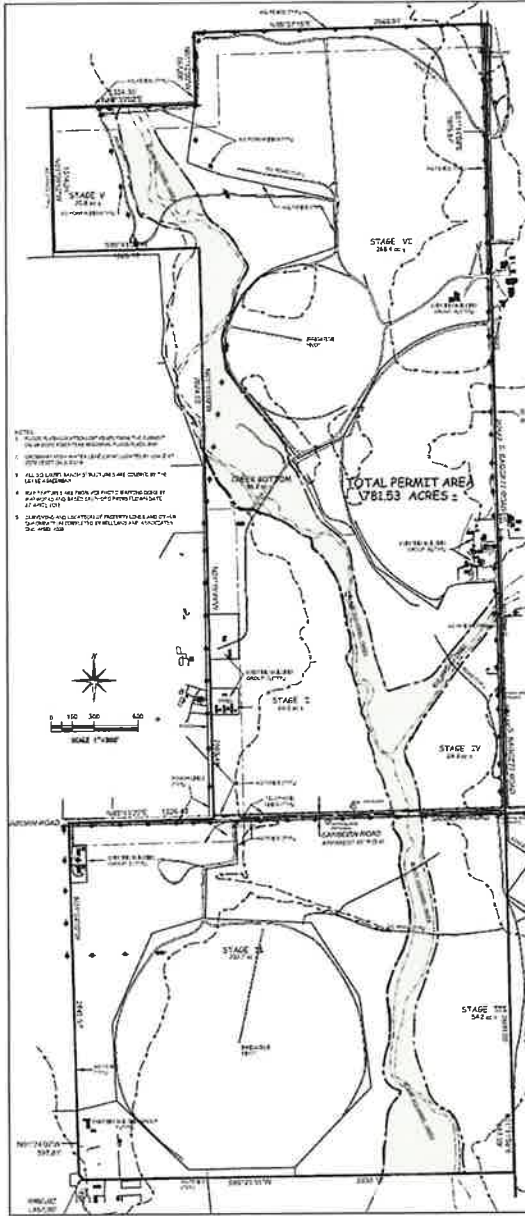
Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **ESG County Plot Plan, V2 Redline, 11-25-2020, PCD Project Manager:**
  - Available as a hardcopy.



MAY 14, 2021 - 12:27 PM

SITE DEVELOPMENT PLAN AND USE BY SPECIAL USE - EA#1881-FILE#AL2014 ELLICOTT SAND AND GRAVEL LLC



NOTES: 1. TOTAL PERMIT AREA IS 781.53 ACRES... 2. ALL STAGES... 3. STAGE VI... 4. STAGE V... 5. STAGE IV... 6. STAGE III... 7. STAGE II... 8. STAGE I...

NOTES: 1. THIS DEVELOPMENT CHECKLIST ARE ACCORDING TO THE PERMITS... 2. STAGING CONCEPT... 3. EROSION CONTROL... 4. DRAINAGE... 5. EXISTING UTILITIES... 6. EXISTING BUILDINGS... 7. EXISTING ROADWAY... 8. EXISTING UTILITIES... 9. EXISTING UTILITIES... 10. EXISTING UTILITIES... 11. EXISTING UTILITIES... 12. EXISTING UTILITIES... 13. EXISTING UTILITIES... 14. EXISTING UTILITIES... 15. EXISTING UTILITIES... 16. EXISTING UTILITIES... 17. EXISTING UTILITIES... 18. EXISTING UTILITIES... 19. EXISTING UTILITIES... 20. EXISTING UTILITIES... 21. EXISTING UTILITIES... 22. EXISTING UTILITIES... 23. EXISTING UTILITIES... 24. EXISTING UTILITIES... 25. EXISTING UTILITIES... 26. EXISTING UTILITIES... 27. EXISTING UTILITIES... 28. EXISTING UTILITIES... 29. EXISTING UTILITIES... 30. EXISTING UTILITIES...

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1 APPLICATION FOR A USE BY SPECIAL REVIEW FOR SCHUBERT RANCH SAND RESOURCE SAGEBRUSH ROAD ELLICOTT, COLORADO

Table with 2 columns: DATE, COMMENTS

ELLICOTT SAND AND GRAVEL LLC

215 Eastview E. Coal Mine Road | Colorado Springs CO 80921 phone: (303) 554-0846

Table with 2 columns: DATE, COMMENTS



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Mountain View Electric Association (MVEA), 6/16/2020, 11/5/2020:**

**Response Date: 2-8-2021, 4-29-2021**

- Comment, 6/16/2020:
  - ✓ *MVEA has no objection to the Special Use of this sand & gravel location.*
- Response:
  - ✓ No comment is required.
- Comment:
  - ✓ *MVEA has existing facilities near and within this parcel. If there is any damage, removal, or relocation of facilities it will be at the expense of the applicant.*
- Response:
  - ✓ As part of the DRMS/MLRB mine permit application process, the applicant must identify all public utilities within 200 feet of the proposed affected area. Any utilities which may be within 200 feet of the proposed affected area, have been addressed during the DRMS/MLRB permit review process, to the satisfaction of the DRMS/MLRB.
- Comment, 11/5/2020:
  - ✓ *“Thank you for the opportunity to review this project. No additional comments at this time...”*
- Response:
  - ✓ No response needed.



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Wetlands Analysis:**

- *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.)



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Wildlife Analysis:**

- From the 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).

Review of the Conservation Status Handbook for El Paso County indicate that the propose permit area does not lie in one 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.

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 farm yards 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 have been observed on 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 song birds. 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 is 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.

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, over night 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 long periods of time.



➤ **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 wild life 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.

➤ ***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.
  - ❖ We found no listing 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 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 long periods of time.” (Ellicott Sand and Gravel, DRMS approved Permit Application.)



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Natural Features Analysis:**

- *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”.





June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Noxious Weed Plan:**

**1. INTRODUCTION**

Ellicott Sand & Gravel LLC (hereinafter referred to as the Operator) of the Schubert Ranch Sand Resource, encompassing a parcel of land shown on the vicinity map and located in Parts or the S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 20, and The E $\frac{1}{2}$ E $\frac{1}{2}$  and NW $\frac{1}{4}$ NE $\frac{1}{4}$  and parts of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 29 and The E $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , & SE $\frac{1}{4}$ NW $\frac{1}{4}$ , and parts of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  & NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Section 32, Township 14 South, Range 62 West, 6th P.M. El Paso County, Colorado, Containing 733.7 acres more or less. Construction materials mining operations will occur across all, or part, of the rangeland area on this 733.7 acre mine. The site currently has areas that have been used as a ranch yard complex, an creek bottom and undisturbed areas used as rangeland or irrigated sod grass and hay production.

Recognizing the presence of state-listed and county-listed noxious weeds in the general vicinity of this project area; and understanding the destructive nature of these noxious weeds, the Colorado Division of Reclamation, Mining & Safety has required the operator to develop and implement a weed management plan that encompasses the total project area.

The CSU Cooperative Extension office operates under cooperative agreement with the El Paso County government, and provides technical assistance regarding noxious weed management on public and private lands within the county. Ellicott Sand & Gravel LLC will do biennial checks on the active mine for any noxious weeds on site. On the area outside the active mine area the landowners will be responsible for weed control. Implementation of this plan will begin in the spring after mining starts and will continue until the state determines that reclamation is complete.

It is not possible to totally eradicate the noxious weeds from the mine since much of the surrounding property is not owned by Ellicott Sand & Gravel LLC, nor managed for noxious weed control. These uncontrolled areas are the seed sources for the infestation occurring on the mine. For this reason the Operator will be continually working to control noxious weeds throughout the life of the mine and until reclamation is done.

**2. OVERVIEW OF APPROACH TO WEED MANAGEMENT**

Weed control is part of the over all property management activities done by Schubert Ranch as part of their good farming/ranching practices. This plan is based on controlling the undesirable plant species and communities, rather than on simply eliminating weeds. Preventive programs are implemented to



keep the management area free of species that are not yet established there, but which are known to be pests elsewhere in the area. Priorities are set to reduce or eradicate weeds that have already established on the property, according to their actual and potential impacts on the land management goals for the property, and according to the ability to control them now versus later. Actions will be taken only when careful consideration indicates leaving the weed unchecked, would result in more damage than controlling it with best available methods.

The plan follows the adaptive management approach:

- First, weed species are identified through inventory of the property and by gathering information from other sources.
- Second, land management goals and weed management objectives are established for the property.
- Third, priorities are assigned to the weed species and weed patches based on the severity of their impacts, while considering the ability to control them.
- Fourth, methods are considered for controlling them or otherwise diminishing their impacts and, if necessary, re-order priorities based on likely impacts on target and non-target species.
- Fifth, An Integrated Weed Management (IWM) plan is developed based on this information.
- Sixth, the IWM plan is implemented in the spring or fall as recommended by the CSU Cooperative Extension local office.
- Seventh, the results of management actions are monitored and evaluated in light of weed management objectives for the management area.
- Finally, this information is used to modify and improve weed management objectives, control priorities, and IWM plans, thereby starting the cycle again.

The premise behind a weed management plan is that a structured, logical approach to weed management, based on the best available information, is cheaper and more effective than an ad-hoc approach where one deals with weed problems as they arise.



**3. NOXIOUS WEEDS TO BE WATCHED FOR AT THE Perrino PIT.**

- |  |   |
|--|---|
| 1. Leafy spurge ( <i>Euphorbia esula</i> )             | a. Spotted knapweed ( <i>Acrotilon repens</i> )       |
| 2. Canada thistle ( <i>Cirsium arvense</i> )           | b. Musk thistle ( <i>Carduus nutans</i> )             |
| 3. Russian knapweed ( <i>Acrotilon repens</i> )        | c. Purple loosestrife ( <i>Lythrum salicaria</i> )    |
| 4. Yellow toadflax ( <i>Linaria vulgaris</i> )         | d. Showy milkweed ( <i>Aisclapias speciosa</i> )      |
| 5. Saltcedar ( <i>Tamarix</i> sp.)                     | e. Russian Olive ( <i>Elaeagnus angustifolia</i> )    |
| 6. Hoary cress ( <i>Cardaria draba</i> )               | f. Bursage, skeltonleaf ( <i>Ambrosia tomentosa</i> ) |
| 7. Perennial pepperweed ( <i>Lepidium tatifolium</i> ) | g. Bursage, wollyleaf ( <i>Ambrosia greyi</i> )       |
|  | h. Field bindweed ( <i>Convolvulus arvensis</i> )     |
|  | i. Jointed goatgrass ( <i>Aegilopa cylindrica</i> )   |
|  | j. Diffuse knapweed ( <i>Centaurea diffusa</i> )      |

The first 7 species are listed as Priority 1 or 2 for control in El Paso County and the remaining 10 are on the State noxious weed list and should be looked for on the mine and controlled if needed.

**4. NUISANCE WEEDS THAT SHOULD BE ADDRESSED**

- a. Russian thistle, common name tumbleweed
- b. Kosha

**5. CONTROLLING ABOVE LISTED WEEDS**

All of the above weeds can be controlled or eradicated by using mechanical, biological, or chemical control depending on species. The Operator will have a qualified weed control agent observe the mine for possible noxious weeds and advise the Operator on how noxious species should be treated. Initially it may require semi-annual spraying or mowing to control the problem weeds and digging the woody species, but eventually we expect to revert to an annual control program to maintain the site. Records of weed control activities, including dates work was done; methods used; area sprayed and types/quantities of chemical used if any, will be kept at the Corporate office in Colorado Springs, Colorado for review.



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Approved State Mining Permit:**

- Comments, 11/25/2020:
  - ✓ *“This is a decision letter, not a mining permit. Please upload the mining permit.”*
- Response:
  - ✓ As stated in an email from Ms. Nina Ruiz, 12-01-2020, the submittal of the actual DRMS/MLRB permit will be a condition of approval.



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Approved Reclamation Plan:**

- From Page 119, **Reclamation Plan, V2 Redline, PCD Manager, 11-25-2020**  
(Following is the approved reclamation, Exhibit E, from the Ellicott Sand & Gravel, Schubert Ranch Sand Resource, Application for a Regular 112 Construction Materials Mined Land Reclamation Permit as originally submitted and along with revisions based on the DRMS Application adequacy review.)



**EXHIBIT E**

**RECLAMATION PLAN AND TIMETABLE**

*RECLAMATION PLAN*

The proposed future use of this site is to return it to its existing use of rangeland and agriculture. Mining will create a series of dry depressions along Black Squirrel Creek that have flat floors which are approximately 70 feet below the surface. This makes the reclamation plan very simple in that the mined area will have 3h to 1v slopes from the surface to the mined floor that will be shaped, resoiled and then revegetated with grass seed once mining is complete. Review of the **RECLAMATION PLAN MAPS** in this application packet depicts how we believe the site will look once mining is complete.

As mining progresses the slopes along the working face of the mining area will be temporally graded 2:1 to stabilize them until it is time for resumption of mining or they are final graded for final reclamation. By creating the temporary slopes as mining progresses, we are reducing the amount of work necessary to reclaim the site if mining stopped prematurely. The exterior slope will be graded 3h to 1v, resoiled and seeded as soon as practical after they are mined.

Since the working face slopes around in the mined area will be steeper than their final slopes, only minor amounts of cut/fill slope work will be necessary as mining ends. Five Hundred feet of the working face will be left nearly vertical and will need to be cut/fill sloped if mining ended early. This sloping plan will also insure, that if mining ceases before the resource is exhausted, only a minor amount of work would have to be done to finish reclamation on the disturbed area. The placement of the soil stockpiles around the perimeter of the mined area or direct placement on the final slopes as stripping takes place helps reduce the cost to reclaim the site if mining ended midway thru the site. It also means that the topsoil, only has to be handled once and reclamation will run concurrent with mining.

There are sufficient amounts of soil on the site so the mined area can be resoiled to an average depth of 4 to 6 inches



**RECLAMATION PLAN**

**EXHIBIT E (CONT)**

except on the sod farm areas. Additional growth medium (processing fines) will be salvaged during processing to supplement the topsoil if needed. All topsoil encountered will be saved from the stripping process and the operator will not haul additional soils onto the site for revegetation. Existing soils in place have been capable of producing a sparse cover of grasses suitable for grazing purposes when not abused. The vegetation information was obtained from site visits and data provided in the vegetation information obtained from the El Paso County NRCS soil report found in **EXHIBIT I - SOILS**. The report describes the current cover in the terms of yearly production for a typical range site and is not site specific. It will serve as background information as reclamation progresses. Our site specific investigations suggest the range quality is on the average side.

As outlined in the **MINING PLAN**, up to six stages will be mined creating 561.7 acres  $\pm$  of mined area in the permitted area. This will be reclaimed concurrently with mining. The plan calls for having no more than 40.0 acres  $\pm$  disturbed at any-one-time. As mining progresses across the property some parts of the property will remain undisturbed while other areas will be either stripped, mined, partially reclaimed or totally reclaimed. The **MINING PLAN MAP - EXHIBIT C-1** shows how the pit will look when approximately 38% is stripped, mined and partially reclaimed. The **RECLAMATION PLAN MAP - EXHIBIT F** shows how the area will look when reclamation is complete. The mined areas will be returned to at least their present vegetative condition when reclamation is complete.

Careful analysis of the growth medium and salvaged soil will permit the operator to carry out a soil additive program and to monitor the prescribed seeding plan. We will be able to determine if the plan requires revision. In some case ages manure will be used to add organic matter to the soil at a rate of 4000 lbs per acres. Under normal weather conditions, an adequate moisture reserve will be present for the establishment of the proposed seed mixture. No irrigation is planned for this site because we will be attempting to create a diverse dryland site that is non-water dependent. If the owners wish to use some of the mined area for irrigated agriculture, it is their responsibility to develop those areas after mining ends. No



**RECLAMATION PLAN**

**EXHIBIT E (cont)**

revegetation will take place on access roads as they will be used by the owners to access their property.

***REVEGETATION PROGRAM***

The revegetation program to be implemented by the Ellicott Sand & Gravel LLC is detailed below. The topsoiling plan presented above and this revegetation program is devised after careful review of the existing soil conditions and present vegetation, both on the site and in the NRCS report prepared by Mr. Greg Langer. *"Revegetation will be carried out in such a way so as to establish a diverse, effective and long-lasting vegetative cover that is capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizers."* The plan is designed to create a vegetative cover that is at least equal in extent to the cover of the natural vegetation before mining. The use of species native to the area is included. The seed mix below was prepared by Greg Langer of the El Paso County NRCS office in Colorado Springs. Since the intended use of the reclaimed land as rangeland and agriculture any slopes created will be commensurate with this final land use.

Seed will be drilled wherever possible, when drilling is not possible, the seed will be broadcast. The revegetation plan provides for the greatest probability of success in plant establishment and vegetative development by considering environmental factors such as seasonal patterns of precipitation, temperatures and wind.

The roads will remain on the site to provide access for planting crews and for the supervision and inspection of the reclamation plan. The roads will provide the owner's with access to the surrounding property when reclamation is complete.

***SEEDBED PREPARATION***

When mining on an area is complete, reclamation will begin. The stockpiled soils will be spread, smoothed of large clods, worked until moderately fine. On the areas where seed is broadcast the surface will be left fairly rough to trap the seed and keep it from being affected by wind.





**SEEDING TIME**

The grass seed mixture will be planted from early fall thru mid-spring (November 1 to April 30). The time of planting will be controlled by when the resoiled areas are ready for planting. If fall planting is convenient, the seeding will be done before the first freeze (about the time Winterwheat is planted). If spring planting is called for, it will be done in March or April weather permitting after the last frost. Both periods assure there will be adequate residual ground moisture available for the newly planted seeds.

**GRASSES**

The following seed mix was developed by the El Paso County NRCS office to be used by Ellicott Sand & Gravel LLC.

***Non-Irrigated grass seed recommendation***

<u>Seed</u>	<u>Rate PLS/acre</u>
Sideoats grama (Vaughn)	0.91
Sand dropseed (common)	0.01
Little Bluestem (camper)	0.67
Western Wheatgrass (Arriba)	1.60
Sand Bluestem (Chet)	0.79
Prairie Sandreed(goshen)	0.32
Yellow indianguass (Cheyenne)	1.02
Switchgrass (blackwell)	1.12
Green needlegrass (lodorm)	0.48
Indian ricegrass (Nexpar)	1.11
Purple prairie clover	0.03
Four-wing saltbush	1.00
Winterfat	<u>0.02</u>
	9.08

Using this mixture, when drilled, will provide approximately 40 seeds per square foot. If the seed is broadcast, the amount will be doubled and spread on a rough surface. The seeded areas will then be dragged or raked thoroughly to set the seed.

Experience shows that on other operations the seeded area will have a heavy cover of weeds after the first year. The inclusion of winter wheat will reduce this probability. It will tend to shade the seedbed, retain snow in the winter and act as a



**RECLAMATION PLAN**

**EXHIBIT E (cont)**

wind break for the newly emerging grasses. The second year there are fewer weeds as the grasses start to take hold. By the third year the weeds are mostly gone and the grass has established itself so it will grow in future years.

***WEED CONTROL***

The revegetated areas will be monitored closely each spring for the first two years to determine if noxious weeds are invading the area. Ellicott Sand & Gravel, will implement a weed monitoring and control plan for the mine and have included a copy in the Appendix for your review. The operator will be responsible for weed control on the areas around and in the active mine area. The landowner will be responsible for weed control on the undisturbed area.

Weed control will be initiated if the problem becomes serious or if an excessive weed cover is still present at the end of the second year. In no way should this be taken to mean that we will try to eradicate all the weeds from the site. Total eradication of weeds from the site is not necessarily desirable, so we will be using controls on the noxious weeds and letting the rest grow in select areas for limited times as long as they do not hamper the grass growth. It may be necessary to control weeds by mowing after the first year, the feasibility of chemical weed control methods will be studied should other forms not work. Control of noxious weeds is important to the state so USDA Extension Service recommendations will be followed to control them.

***IRRIGATION***

No irrigation is planned for the revegetated area in the pit. It makes the vegetation dependent on water and does not promote a vegetation cover that is diverse and capable of self regeneration. The landowners may wish to use irrigation on areas they redevelop for agricultural purposes.

***RECLAMATION PERFORMANCE STANDARDS***

The operator intends to mine the property in compliance with the Reclamation Performance Standards of Rule 3. Grading will be done to create a final topography that is compatible with the



**RECLAMATION PLAN**

**EXHIBIT E (cont)**

intended final land use. Most slope areas will be created by backfilling to the final slope rate. These slopes will be 3:1 and we will attempt to retain the present drainage pattern across the property for those areas not mined. A sign that conforms to the requirements in Rule 3.1.12 (1996) will be in place at the entrance to this facility before mining begins.

The material used to create the slopes will be native material found on the site at this time. All surface runoff from reclaimed areas will be directed into the mine area.

All grading will be done in a manner to control erosion and to protect areas outside the affected lands from slides or other damage. All backfilling and grading will be completed as soon as feasible after mining is completed in any given area. All refuse will be hauled away or disposed of in a manner that will control unsightliness and protect the drainage system from pollution. There are no acid-forming or toxic materials involved in this operation. If petroleum products are stored at the site, it will be done as prescribed by applicable laws. Any storage tanks will be surrounded by a berm or be in self contained facilities adequate to retain any fluid spilled should a tank rupture. In addition, there is adequate absorbent materials on site to contain any spills that would occur outside the containment structure. There are no drill or auger holes on the land. Maximum slopes will be within the limits set forth in the Rules and Regulations of the Board and will be capable of being traversed by machinery.

The operator does not expect prevailing hydrologic conditions to be disturbed. Ellicott Sand & Gravel LLC will comply with applicable Colorado water laws and regulations (as the operator understands them) governing injury to existing water rights to minimize any disturbance which might occur to the prevailing hydrologic balance of the affected land and surrounding area and to the quality and quantity of water in surface and ground-water systems both during and after the mining operation and during reclamation. No groundwater will be exposed by mining. Any water used in the operation of the processing plants and for dust control will come from water sources described in WATER - EXHIBIT G.



**RECLAMATION PLAN**

**EXHIBIT E (CONT)**

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 there are no wetlands on the site that will be disturbed. 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. There will be no earthen dams on the mined area.

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.

Topsoil in the areas that are used as sod farm area (average 5 inches) is of good to fair quality, so when it is removed to reach the mineral deposit, it will be segregated and stockpiled. If the topsoil and overburden piles remain undisturbed for more than a year, a vegetative cover using 40.0 #'s-PLS of Western Wheatgrass, per acre of surface area of soil stockpiles. This works out to about 80 seeds/sq-ft, or other means will be employed to prevent erosion from wind and water and keep them free of contaminants so that they remain useful for sustaining vegetation when reclamation begins. The stockpiles will be located in areas where disturbances by ongoing mining operations will be at a minimum, i.e., along setbacks on the pit perimeter or mine floor. The topsoil will be handled as little as possible until it is replaced onto disturbed areas. The operator will take measures necessary to insure the stability of the replaced topsoil on graded slopes and spreading it as evenly as possible. Fertilizer and other soil amendments will be used as discussed in this plan.



**RECLAMATION PLAN**

**EXHIBIT E (cont)**

***RECLAMATION TIMETABLE***

Reclamation will begin once enough area has been opened so that any reclamation completed will not be disturbed as mining progresses. This may take 10 or more years depending on the economic conditions in the area and the amount of material mined. The operator anticipates approximately 95% of the total mined land will be reclaimed by the time mining is completed. A portion of the floor area will be complete, but the area under the plant site/stockpile area will still need work and grading of the final face area will be that last area to be reclaimed. Within one year after the stockpiles have been removed, all resoiling and revegetation will be complete. The area will then be monitored for success of revegetation until it is released by the Board. The operator estimates that, this will happen 3 to 5 years after mining is completed.

If revegetation problems occur before release, an analysis of the site will be made and the area will be revegetated again as necessary. The seed mixture and rates may be revised as needed to complete reclamation, if a modification is required, the Division will be notified prior to making the change. This gives us the most flexibility to complete reclamation successfully.

***RECLAMATION TIMETABLE***

Stage	Years	Acres ±			
		Total Area	Revegetation	Road	Undisturbed
I	3-5	68.94	58.95	1.11	8.88
II	3-5	214.04	178.18	2.97	32.89
III	3-5	54.39	46.17	1.13	7.09
IV	3-5	24.32	18.39	0.61	5.32
V	3-5	20.80	16.60	0.86	3.35
VI	3-5	268.41	234.34	2.37	31.70
Drainage	LOM	82.81	0	0	82.81
<b>Totals</b>		<b>733.71</b>	<b>552.63</b>	<b>9.05</b>	<b>172.04</b>



## Revisions to the Reclamation Plan based on DRMS Adequacy Comments:

- Adequacy Response dated 9/9/2019 as pertains to the Reclamation Plan:

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page 14. What is the source of the grass seed recommendations and why is blue grama not included?

The soils and vegetation information was provided by Greg Langer the NRCS District Conservationist for El Paso County. The copy of his recommended seed mix as shown on Page 57. I have no idea why he choose not to include Blue Grama.

13. Post-Reclamation site drainage: Rule 6.4.5(2)© requires the Applicant to explain how the reclamation plan meets the requirements of Rule 3.1.5(1). Appropriate final grading topography and Rule 3.1.6(1), disturbance to the prevailing hydrologic balance do not appear to be adequately addressed. The proximity of highwalls shown on the referenced Exhibit F Map which extend below the thalweg of the adjacent ephemeral drainage and which are in the 100-year floodplain is likely to have an significant impact on the hydrologic balance should a flood overtop the highwall crest. Please discuss how stream capture by the pit will be protected.

There is not way to stop a catastrophic flood from entering any mine that has a floor below the thalweg of an adjoining stream unless levies are built around the area to keep the flood water out. This is not practical nor do we believe we could obtain the necessary permits to build them in the flood plane. Urban Drainage has published guidelines that can be followed so mining can be compatible with mining in a flood plane. Using wider setbacks and armoring to protect the banks is proposed so that after a large flood event, the creek will remain in the original channel.

In this case there is no constant flowing stream to capture except in uncommon circumstances during extreme flooding. Mr. Doug Hollister the Division 10th Water Commissioner told me that in his ten-year with the Division that there has only been 2 times where water exited the Upper Black Squirrel Drainage basin. This suggests it is more, an unusual event when any large volumes of water flows within the defined banks let alone enters the flood plane area adjacent to the channel.

The interior bank grading is proposed at 3:1, that is shallower then what is required in the rules for above water areas and is consistent with the chosen reclamation plan of returning the mined areas to rangeland. No ground water will be intercepted so the hydrologic balance to the ground water table will not be impacted. During a catastrophic flood event (100 year or greater) the water that enters the excavated areas will actually help recharge the groundwater in the Upper Black Squirrel Creek Basin and allow the basin to capture more water then if it were to runoff the surface and exit the basin. Any water that remains in the holes after the 72 hours will be replaced as required from an approved source.

We foresee a time period where eventually the mined areas could be refilled with sediment if flooding were to occur on a frequent basis. The gardant of the slope into the



#### 6.4.5 EXHIBIT E – Reclamation Plan

11. **Revegetation commitment:** The Second paragraph commits to returning the mined areas to at least their present vegetative condition. Although this is a commendable goal, it is unlikely to be achieved in the five-year reclamation period sought by the DRMS. Please explain what additional methods will be used to establish a mature vegetative cover within five years.

The site is currently pasture areas covered with grasses, forbs and weeds or has been used as irrigated sod grass fields or hay production. Which is basically a sandy sparsely covered grass and weedy drainage basin. There is little or no topsoil on the sod farm areas and very little on the sandy Black Squirrel Creek/ Big Spring Creek banks. The NRCS recommended using 2 tons per acre of wheat straw mulch and no fertilizer so no supplemental additive will be used. Planting as explained, will take place in the first year after the seed bed is ready. Under normal conditions this gives 3 plus years after planting to establish vegetation on the revegetated area that is capable of matching surrounding areas as a stage is reclaimed. In some cast all but the final 20 acres in a stage will have been seed many years before mining ended in that stage. During this time remedial seeding and weed control will be done to improve the chances of successful and all livestock will be kept off of the seeded areas until it has been successfully revegetated.

12. **Seed Mix:** Exhibit J indicates a significant amount of Blue Grama is present in the area, but this species is not listed in the “Non-irrigated grass seed recommendation” table on



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There is not way to stop a catastrophic flood from entering any mine that has a floor below the thalweg of an adjoining stream unless levies are built around the area to keep the flood water out. This is not practical nor do we believe we could obtain the necessary permits to build them in the flood plane. Urban Drainage has published guidelines that can be followed so mining can be compatible with mining in a flood plane. Using wider setbacks and armoring to protect the banks is proposed so that after a large flood event, the creek will remain in the original channel.

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excavated area would be shallower than 3:1 slopes since when the sediment laden water enters the mined area it will slow down and begin to deposit that material until the flooding ends. The proposed armoring and widened setbacks are designed to keep the normal storm event flow in the original channel and prevent a 100 year flood from relocating the channel into the excavated areas..

#### **6.4.6 EXHIBIT F – Reclamation Plan Map**

14. Proposed topography: There are no adequacy issues with Exhibit F other than the concerns the proposed final topography has on potential groundwater exposure and stream capture discussed in comments under Exhibits C, D, E and G in this letter. Please make appropriate changes to Exhibit F based on responses to these other comments.

**I revised Map Exhibit F to show the new setbacks and bank armoring proposed.**

- Adequacy Response to the DRMS dated 10/31/2019:

No specific comments on the reclamation plan in this DRMS adequacy response.



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Emergency Safety Plan:**

- From the response to the Ellicott Fire Protection District, 7/20/2020, 11/9/2020.  
Response Date: 2-8-2021
  
- Ellicott Fire Protection District (EFPD): 7/20/2020, 11/9/2020
  - ✓ Comment:
    - ❖ *“If fuel (or other flammable liquids) storage over 660 gallons is brought on site a site plan and permit from the Fire Department will be required.”*
    - ❖ Response:  
We will comply with this comment.
  
  - ✓ Comment:
    - ❖ *“No Cistern Required at this time, the single portable building, will not require a fire protection water supply at this time.” “No Cistern will be required from us unless you plan on building a building larger than your scale house.” (From the August, 2020 EFPD comment.)*
    - ❖ Response:  
We will comply with this comment in the event a building larger than the proposed scale house is to be built.
  
  - ✓ Comment:
    - ❖ *“After hours Emergency Access is requested.”*
    - ❖ Response: (July 7, 2020 response)
      - “Site access will be available during normal business hours, 7 am until 7 pm, Monday through Friday, to exclude holidays.”
      - A simple gate and signage will be installed to provide some level of site security. In the event of an emergency, and the site is not ‘open for business’, first responders have permission to cut the gate lock, in order to gain access.” We request if a fire response occurs and the lock is cut and the site opened, the fire district contact Ellicott Sand and Gravel as soon as feasible.
  
  - ✓ Comment:
    - ❖ *“Site Visit Training every other year is requested.”*



- ❖ Response: (July 7, 2020 response)
  - “We are open to the Fire Department making a site visit, provided they make arrangements with Ellicott Sand and Gravel for the site visit:
  - This is to be an active mining operation, subject to the regulations of the Mine Safety and Health Administration (MSHA). Outside of an emergency, visitors to a mine site must meet MSHA regulations.
  - Second, the mine will not always be active and could be unattended. As stated above, unless there is an emergency, persons not meeting MSHA regulatory requirements and entering the mine site could place the mine operator in violation of Federal MSHA regulations.”
  - As stated in our July 20, 2020 response, we are open to the Ellicott Fire Department’s (EFD) onsite training every other year. We request EFD notify Ellicott Sand and Gravel in advance of the requested training. We would like to know the scope of the training and if we may be of benefit to the EFD training exercise, and also to arrange times and dates.

✓ Comment:

❖ *“The Ellicott Fire Department has no objection to this project pending payment of fees.”*

❖ Response:

We have made arrangements for the payment of the requested fee.



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Impact Mitigation Analysis:**

- Impact Mitigation Analysis (Air Quality, Traffic Congestion, Waiver Request) V2 Redlines,**

- 7/13/2020, 11/25/2020, PCD Manager:**

- Response Date: 2-8-2021, and 4-29-2021**

- Mitigation of Impacts to Adjacent Properties:
  - ✓ Comment, 7/13/2020, 11/25/2020:
    - ❖ *The air quality permit will be condition of approval and must be obtained” PCD Project Manager, (From CDPHE Comments Dated: 11/25/2020):*
  - ✓ Response:
    - ❖ We will provide the necessary APEN application form(s) to the CDPHE/AQCD prior to beginning any significant mining operations.
    - ❖ Based on an email from El Paso County Planning Dept, (12-10-2020), El Paso County will not require submittal of the Air Quality and DRMS/MLRB Permits prior to your processing our Special Use Permit. El Paso County will add the condition that we provide these documents prior to our initiation of on-site activities.
    - ❖ Specifically, we will provide a copy of the AQCD’s “issuance 1” permit as soon as the Agency provides us a copy.
    - ❖ In order to secure the”1 issuance” permit, we must certify our activity under the AQCD’s permitting process.
    - ❖ We will have to initiate some type of activity, such as installing the access road from Sanborn Rd. to the boundary of Stage 1.
    - ❖ Once the CDPHE/APCD provide the “Issuance 1 of a permit” document to Ellicott Sand and Gravel, we will forward copies to the El Paso County Planning Department.
  - ✓ We understand from the Nina Ruiz email, 12/16/2020, that supplying the “Issuance 1 of a permit” will suffice and the County “... found no contradictions in the ECM...” to such an approach.
  - ✓ Traffic Congestion – Please see Response to this comment in the Traffic Report Comments



RPM, Inc., 25049 E. Alder Dr., Aurora, CO 80016 Phone: (303) 854-7499 Email: hlhumphries2@comcast.net

- ✓ Waiver Request – Please see the Response to this comment in the Revised Letter of Intent.



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Impact Mitigation Analysis:**

**Impact Mitigation Analysis (Air Quality, Traffic Congestion, Waiver Request) V2  
Redlines,  
7/13/2020, 11/25/2020, PCD Manager:  
Response Date: 2-8-2021, and 4-29-2021**

- Mitigation of Impacts to Adjacent Properties:
  - ✓ Comment, 7/13/2020, 11/25/2020:
    - ❖ *The air quality permit will be condition of approval and must be obtained” PCD Project Manager, (From CDPHE Comments Dated: 11/25/2020):*
  - ✓ Response:
    - ❖ We will provide the necessary APEN application form(s) to the CDPHE/AQCD prior to beginning any significant mining operations.
    - ❖ Based on an email from El Paso County Planning Dept, (12-10-2020), El Paso County will not require submittal of the Air Quality and DRMS/MLRB Permits prior to your processing our Special Use Permit. El Paso County will add the condition that we provide these documents prior to our initiation of on-site activities.
    - ❖ Specifically, we will provide a copy of the AQCD’s “issuance 1” permit as soon as the Agency provides us a copy.
    - ❖ In order to secure the”1 issuance” permit, we must certify our activity under the AQCD’s permitting process.
    - ❖ We will have to initiate some type of activity, such as installing the access road from Sanborn Rd. to the boundary of Stage 1.
    - ❖ Once the CDPHE/APCD provide the “Issuance 1 of a permit” document to Ellicott Sand and Gravel, we will forward copies to the El Paso County Planning Department.
  - ✓ We understand from the Nina Ruiz email, 12/16/2020, that supplying the “Issuance 1 of a permit” will suffice and the County “... found no contradictions in the ECM...” to such an approach.
  - ✓ Traffic Congestion – Please see Response to this comment in the Traffic Report Comments



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- ✓ Waiver Request – Please see the Response to this comment in the Revised Letter of Intent.



June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

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

- *“Review 1 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 in error. There will be no off-site parking. All parking will occur within the proposed mine site and on 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.





June 3, 2021

Re: Responses to the following comments, EA Number EA1881, File Number AL2014:

- **Colorado Department of Public Health and Environment Comments, Air Quality, Water Quality, Solid Waste, Asbestos and Lead Based Paint**

**Date: 11/10/2020**

**Response to Comments, Date: 2-8-2021, and 4-29-2021**

- Colorado Department of Public Health and Environment, 11/10/2020:
  - ✓ Comment, Air Quality (From CDPHE Comments Dated 11/10/2020):
    - ❖ *“The applicant must comply with all relevant state and federal air quality rules and regulations...”*
  - ✓ Response:
    - ❖ As stated in our June 26, 2020 response:
      - “Ellicott Sand and Gravel will not begin operations until we have all appropriate air quality permits.”
      - We will comply with all “...relevant state and federal air quality rules and regulations...”.
- Air Quality, Air Pollution Emission Notices (APENs) and Permits (From CDPHE Comments Dated 11/10/2020):
  - ✓ Comment:
    - ❖ *Applicable requirements may include, but are not limited to, reporting emissions to the Air Pollution Control Division (APCD) by completing an APEN...While only businesses that exceed the Air Quality Control Commission (AQCC) reporting thresholds are required to report their emissions, all businesses – regardless of emission amount must always comply with applicable AQCC regulations.*
  - ✓ Response:

We agree to comply with above requirements, as applicable.
- Air Quality, APEN, (From CDPHE Comments Dated 11/10/2020):
  - ✓ Comment:
    - ❖ *In general, an APEN is required when uncontrolled actual emissions for an emission point or group of emission points exceed the ... (Table 1 APEN Thresholds)...This project may require a mining APRN.*



- ✓ Response:
  - ❖ We will provide the necessary APEN application form(s) to the CDPHE/AQCD prior to beginning any mining operations.
  - ❖ We propose to not begin the APEN application process until the El Paso County SUP and Develop Permit applications are approved.
  - ❖ Once the CDPHE/APCD provides the “Issuance 1 of a permit” document to Ellicott Sand and Gravel, we will forward copies to the El Paso County Planning Department. We understand from the Nina Ruiz email, 12/16/2020, that supplying the “Issuance 1 of a permit” will suffice and the County “... found no contradictions in the ECM...” to such an approach.
  
- ✓ Comment:
  - ❖ *It is important to note that even if a permit is not required, fugitive dust control measures include...must be followed at the site. Fugitive dust control techniques commonly included in the plan are ...” as follows: Unnumbered table form CDPHE comment, dated 11/11/2020.*
  - ❖ *“Control Options for Unpaved Roadways:*
    - *Watering*
    - *Paving*
    - *Graveling*
    - *Use of chemical stabilizer*
    - *Control of vehicle speed*
  - ❖ *Control Options for Mud and Dirt Carry-Out Onto Paved Surfaces:*
    - *Gravel entry ways*
    - *Covering the load*
    - *Washing vehicle wheels*
    - *Not overfilling trucks*
  - ❖ *Control Options for Disturbed Areas:*
    - *Watering*
    - *Revegetation*
    - *Compaction*
    - *Wind Breaks*
    - *Application of a chemical Stabilizer*
    - *Controlling vehicle speed*
    - *Furrowing the Soil*
    - *Minimizing the areas of disturbance*



○ *Synthetic or Natural Cover for Slopes”*

❖ Response:

- Based on CDPHE/AQCD, APEN application review, fugitive dust control measures appropriate to the operation will be detailed in the CDPHE/APCD and applied as appropriate.
- Regardless, we expect to employ the following measures as part of our normal operating procedures:
  - Road watering and grading as needed to maintain an acceptable surface for haul trucks and other mining operations.
  - Place aggregate at all entrances and around the scale house facility to maintain an acceptable working surface for trucks and other mine equipment, as needed.
  - Seed topsoil stockpiles once they have reached their final volume.
  - Seed and reseed disturbed areas once mining and backfill/topsoil replacement are completed within each mining Stage.
- ❖ Since this is a sand and gravel operation, the level of generated fugitive dust will be less than what occurs at a typical earth moving construction site. In addition, due to the nature of the work surface, sand and gravel or sand, less fugitive dust will be generated.

➤ Hazard and Solid Waste:

✓ Comment:

- ❖ *“The applicant must comply with all applicable hazardous and solid waste rules and regulations.”*

✓ Response:

- ❖ As stated in our June 26, 2020 response to the CDPHE, hazard and solid waste comments:
  - “No significant volumes of hazardous or toxic substances shall be onsite.”
  - “No toxic or other hazardous material will be onsite in reportable quantities.”
  - “We will contract with a commercial provider to handle and provide Port-a-Potty’s.”
- ❖ In addition, all solid waste will be disposed of offsite at approved waste disposal facilities.



- Hazard and Solid Waste:
  - ✓ Comment:
    - ❖ *“Applicable requirements may include, but are not limited to, properly characterizing all wastes generated from this project and ensuring they are properly managed and disposed of in accordance with Colorado’s solid and hazardous waste regulations.”*
  - ✓ Response:
    - ❖ We agree to comply with this requirement, as appropriate.
  
- Hazard and Solid Waste:
  - ✓ Comment:
    - ❖ *“If this proposed project processes, reclaims, sorts, or recycles materials generated from industrial operations (including, but not limited to construction and demolition debris and other recyclable materials), then it must register as an industrial recycling facility in accordance with Section 8 of the Colorado Solid Waste Regulations...”*
  - ✓ Response:
    - ❖ At this point in the operation, we do not plan to process, reclaim, sort, or recycle materials generated from industrial operations.
    - ❖ In addition, based on our approved DRMS/MLRB mining and reclamation permit application, we do not have authority to dispose of off-site waste construction material (such as aged concrete, asphalt or excess excavated earthen material) within the DRMS/MLRB approved permit area. If, in the future, there is an opportunity to dispose of such material on the mine site, we will comply with CDPHE, MLRB and El Paso County rules and regulations.
    - ❖ The current exception being, we intend to use broken concrete as armoring along the creek channel banks. The use of broken concrete was reviewed and approved by the DRMS during our DRMS/MLRB permit application review process.
  
- Water Quality:
  - ✓ Comment:
    - ❖ *“The applicant must comply with all applicable water quality rules and regulations...relating to both clean water and drinking water...”*



- ✓ Response:
  - ❖ We are not sure how to respond to the comment, it is quite vague. However, we agree to comply with all CDPHE/WQCD water quality requirements, where appropriate, to include "...clean water and drinking water..."
  
- Water Quality, Stormwater:
  - ✓ Comment:
    - ❖ *"Applicable clean water requirements may include, but are not limited to, obtaining a stormwater discharge permit if construction activities disturb one or more acre of land or if they are part of a larger common plan of development that will disturb one or more acres of land. In determining the area of construction disturbance, WQCD look at the entire plan, including disturbances associated with utilities, pipelines, or roads constructed to serve the facility."*
  - ✓ Response:
    - ❖ As stated in our June 26, 2020 response to CDPHE/WQCD comments, "Ellicott Sand and Gravel will not begin operations until we have all appropriate water quality permits, to include Stormwater Discharge permits.
    - ❖ These permits will be applied for once the El Paso County permit approval process is complete." We are referring to the El Paso County SUP and the Plan of Development approvals.
    - ❖ In addition, our approved DRMS/MLRB permit application states, "All stormwater contacting the disturbed area will be retained on site and allowed to evaporate or soak into the underlying sand. No stormwater will be retained in the mine area for more than 72 hours."
    - ❖ The approved DRMS/MLRB permit application, (page 8, Exhibit D) further states, "Isolation berms or ditches will be constructed around the active mining area to prevent off site stormwater from contacting the disturbed area."
  
- Water Quality, Drinking Water:
  - ✓ Comment:
    - ❖ *"Some projects may also need to address drinking water regulations if the proposed project meets the definition of a 'Public Water System' per the Colorado Primary Drinking Water Regulations (Regulation 11):*



*A Public Water System means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves and average of 25 individuals daily at least 60 days per year. A public water system is either a community water system or a non-community water system. Such term does not include any special irrigation district. Such term includes:*

*(a) Any collection, treatment, storage, and distribution facilities under control of the supplier of such system and used primarily in connection with such system.*

*(b) Any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such system.*

*If applicable, the project would need to meet all applicable requirements of Regulation 11 including, but not limited to, design review, approval; technical, managerial and financial review and approval; having a certified operator; and routine monitoring and reporting ...”*

✓ Response:

❖ The proposed operation’s use/need for potable water does not fit the definition of a Public Water System.

❖ As stated in our August 28, 2020 response:

- “The source of potable water may be purchased from a municipal water system and hauled to the site.
- “Alternatively,...obtained from onsite domestic ground water well(s).”
- “The site may be operated for more than six continuous months. However, no more than 7 employees will be on the site at any one time.” (Letter of intent, page 10, item 16.)
- We understand from the Division of Water Resources (DWR) that the above referenced wells may not be used for industrial purposes. We addressed this issue further under the section titled, DWR comments, 12/8/2020.

➤ Asbestos and Lead-based Paint:

✓ Comment:

❖ *“In Colorado there are regulations regarding the appropriate removal and handling of asbestos and lead-based paint as part of a demolition,*



*renovation, or remodeling project. These regulations are presented in AQCC Number 8 (asbestos) and Number 19 (lead-based paint)...*

*These regulations may require the use of, or inspection by, companies or individuals that are certified to inspect or remove these hazards prior to renovation or demolition. APCD must also be notified of abatement or demolition activities prior to beginning any work in the case of asbestos..."*

✓ Response:

- ❖ There are no structures on the proposed mine site that will need to be removed. Therefore, no asbestos or lead-based paint should be encountered.
- ❖ If, in the extremely unlikely event, such materials are found (say buried on the proposed mine site), we will comply with the AQCC Number 8 and Number 19 CDPHE regulations.