DELTA COUNTY PLANNING COMMISSION

Delta County Roubideau Room
320 W. 5th Street, Delta, CO 81416
Wednesday, August 24, 2022 @ 5:30 p.m.

Tom Kay, Chair
Tate Locke, Vice-Chair
Carl Holm, Director

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Instructions for Public Participation via Zoom:
The public can join the meeting remotely by registering in advance of the meeting at:
https://us02web.zoom.us/meeting/register/tZUpfuiuqDgsEtDfRLf9jxoLnISzt9Y4S0lP
After registering, you will receive a confirmation email containing information about joining the meeting.

REGULAR AGENDA

5:30 P.M. – **CALL TO ORDER**

ROLL CALL

DISTRICT 1	DISTRICT 2	DISTRICT 3
Cindy Watson	Layne Brones	Jacob Gray
Steve Schrock	Tate Locke, Vice Chair	Tom Kay, Chair
Steve Shea	Hardy Hutto	Kate Darlington
Michelle Roberts, Associate	Vacant, Associate	David Marek, Associate

A. MEETING MINUTES

1. Regular Planning Commission meeting of:
   a. July 27, 2022
   b. **August 10, 2022**.
   RECOMMENDATION: Approve the action minutes as presented.

B. PUBLIC HEARING ITEMS

Public Hearing Items are noticed and open for public comment.

1. PLN21-080/Delta Paving Gravel Pit
Continued from August 10, 2022; the Public Hearing was closed, Commissioner deliberation remains.
Consider a Conditional Use Permit (CUP) to expand an existing gravel mining operation and allow temporary use of a mobile asphalt mixing facility. The project is located at 8020 State Highway 65, Delta (Parcels: 345510202002, 345503400053, and 345510100028).

CERTIFICATION OF POSTING
On August 17, 2022 at 4:00 PM, Kim Henderson did post the above AGENDA as public notice of the August 10, 2022 meeting. The official notice is placed on the front entrance of the Delta County Courthouse located at 501 Palmer, Delta, Colorado and a courtesy copy is sent to the Delta County website at www.deltacounty.com.

RECOMMENDATION: Staff recommends that the Planning Commission (PC) recommend that the Board of County Commissioners (BoCC):

a. Find that PLN21-080 complies with the Delta County Master Plan and the Land Use Code (LUC) for a Conditional Use Permit (CUP) for a Mineral Extraction/Quarry that includes temporary use of a mobile asphalt mixing facility in the A-20 zone; and
b. Vacate Resolution No. 99-R-009 (Reception #524802), approving the Delta Paving Gravel Pit Agreement for a sand and gravel mine (pit) located at 8020 State Highway 65, subject to 9 conditions; and
c. Approve PLN21-080/Delta Paving Gravel Pit CUP to:
    1) Operate a sand and gravel mine (pit) at 8020 State Highway 65, Delta on three parcels totaling 170.771 acres: 345510202002 (41.62 Ac, new), 345503400053 (39.13 Ac, existing), and 345510100028 (92.021 Ac, existing); and
    2) Operate an asphalt plant at 8020 State Highway 65, Delta (Parcel: 345503400053)
    Subject to 21 conditions.

C. WORK SESSION

The public can attend and listen to the following Work Session Item, but will not be afforded the opportunity to speak on these items, unless the Commission, through the Chair, opens an item up for comment.

1. **Land Use Code Update – Work Session**
   Work Session to consider redline drafts of various sections/topics of the Delta County Land Use Code.
   RECOMMENDATIONS: Staff recommends that the Planning Commission continue Work Sessions on the LUC Update and provide direction to staff on:
    a. Chapter 2; Section 1 “Zoning Districts” (including Tables 2.a and 2.b), Section 3.A “Temporary Uses”, and Section 5.B “Use Specific Standards” (including standards for wireless communications and renewable energy)
    b. Chapter 3 “Lot Dimensions” (including subdivision of lots that do not meet the minimum lot size)
    c. Chapters 12 “Subdivision Regulations”

D. DEPARTMENT REPORT

1. September and October meeting schedule.

E. COMMISSIONER COMMENTS, REQUESTS AND REFERRALS

This is time set aside for the Commission to comment, request, or refer a matter that is not on the agenda for future consideration.

ADJOURNMENT

Next Meeting: Wednesday, September 14, 2022 at 5:30 pm in Delta, CO.

CERTIFICATION OF POSTING

On August 17, 2022 at 4:00 PM, Kim Henderson did post the above AGENDA as public notice of the August 10, 2022 meeting. The official notice is placed on the front entrance of the Delta County Courthouse located at 501 Palmer, Delta, Colorado and a courtesy copy is sent to the Delta County website at www.deltacounty.com.

DELTA COUNTY
PLANNING & COMMUNITY DEVELOPMENT

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DELTA COUNTY PLANNING COMMISSION MEETING MINUTES
DELTA COUNTY BOARD OF COUNTY COMMISSIONER'S ROOM
560 Dodge St., Delta, CO 81416
July 27, 2022

Chair Tom Kay called the meeting to order at 5:30 p.m. in the Delta County Board of County Commissioner's Room.

ROLL CALL

Planning Commission Members in Attendance:
Tom Kay
Cindy Watson
David Marek (Associate)
Layne Brones
Hardy Hutto

Absent Members:
Kate Darlington
Jacob Gray
Steve Shea
Steve Schrock
Tate Locke
Michelle Roberts (Associate)

With member(s) absent from District 3, David Marek is a voting member.

Staff in Attendance:
Delta County Community Development & Natural Resource Director, Carl Holm
Delta County Community Development Planner I, Kate Kelly
Delta County Community Development Planner I, Angie Kemp
Delta County Community Development Administrative Assistant, Kim Henderson
Delta County Community Development Code Compliance Officer, Everett Neil
Delta County Administrator, Robbie LeValley

A. MEETING MINUTES

1. Meeting Minutes
   a. July 13, 2022

RECOMMENDATION: Approve the action minutes as presented.

Layne Brones moved to approve the action minutes with the correction of the pronoun noted by Jacob Gray. Cindy Watson seconded the motion.

Motion carried unanimously

B. PUBLIC HEARING ITEMS

1. PLN21-080/Delta Paving Gravel Pit

Kilgore Companies, dba Elam Construction, Inc., is requesting to remove a restriction prohibiting use of an asphalt plant at an existing sand & gravel mine (pit) located at 8020 Highway 65, Delta (Parcels 345510202002, 345503400053, 345510100028).
RECOMMENDATION: Staff recommends that the Planning Commission (PC) continue PLN21-080 to August 10, 2022.

The Planning Commission continued PLN21-080/Delta Paving Gravel Pit to the August 10, 2022 Planning Commission Meeting.

2. PLN22-082/Ehlers

EcoGen Biosciences Production Center LLC requests rezoning the eastern 65.793 acres of Parcel #349517400013 located at 18668 B50 Road (Parcel A) from Rural Industrial/Commercial (RI/C) to Agricultural/35-acre (A-35).
RECOMMENDATION: Staff recommends that the Planning Commission (PC) recommend that the Board of County Commissioners (BoCC):

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a. Find that amending the 2021 Land Use Code, rezoning the subject property from Rural Industrial/Commercial (RI/C) to Agricultural "35" (A-35), meets the criteria of Chapter 8, Section 2.B of the Land Use Code; and
b. Rezone the east 65.793 acres of a 71.973-acre parcel (Parcel 349517400013/Account R024462) from Rural Industrial/Commercial (RI/C) to Agricultural "35" (A-35) required as a condition for approving a Boundary Line Adjustment (PLN22-082/Ehlers).

Planning Director, Carl Holm presented the project, and answered Commissioner questions.

Commission Member Michelle Roberts arrived at 5:34pm.
With member(s) absent from District 1, Michelle Roberts is a voting member.

Joseph Burnes (Transaction Agent for Applicant as well as buyer) participated via Zoom and answered questions about water allocation via UVWUA for continued operation of the Ag fields.

Hardy Hutto moved to approve PLN22-082/Ehlers rezone with Staff recommendations. Michelle Roberts seconded the motion.

Motion carried unanimously

C. WORK SESSION

1. Land Use Code Update -Work Session
Work Session to consider redline drafts of various sections/topics of the Delta County Land Use Code.
RECOMMENDATIONS: Staff recommends that the Planning Commission continue a Work Session from June 8th on the LUC Update and consider:
   a. Revised redline edits (PC comments June 8th) to Chapter 2, Section 1.A (Table 2.a) "Zoning Districts"
   b. Consider draft redline edits to Chapter 2: Section 2.A "Land Use by Zoning District"; Section 4.A "Permitted Use Standards"; Section 5.A "Limited Use Standards"; and Section 6 "Conditional Use Standards"
   c. Consider draft redline edits to Chapter 7 "Standard Application Review Process"
   d. Consider draft redline edits to Chapter 8 and 10 "Review Processes"
   e. Provide Direction on topic(s) and date for the next Work Session.

The Commissioners debated about waiting for more Commissioners to be in attendance, but decided to proceed since the work sessions are to provide direction, and nothing is final until the Commission holds a public hearing to consider certification of the entire LUC.

Commissioner Marek inquired about septic regulations, which led into a discussion about temporary residences (RVs), accessory dwelling units, short term rentals, and enforcement when used for other purposes. If a RV is not connected to a permanent wastewater treatment system, it is temporary and subject to the 90-day limit. However, the Commission requested that the LUC allow for temporary use longer than 90 days if the site is under construction, provided there are valid permits (plumbing, electrical, septic).

Director Holm presented major changes in Chapter 7 "Standard Application Review Process". The Planning Commission's discussion focused on Neighborhood Meetings as well and publication and notification for public hearings. There was general consensus accepting staff's draft language.

Director Holm presented recommendations for streamlining the process. For example, a Minor Plat is Administrative and a variance goes to the Board of Adjustment (BoA) before being reviewed by staff. The concept is to consolidate reviews where the BoA in this case would take action on the variance and the Minor Plat, avoiding a subsequent Administrative action. Also, the Director is recommending that the Planning Commission (PC) become a decision-making body on discretionary actions (preliminary plats, conditional uses) – the Board would hear appeals of a PC decision. This

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discussion includes having the PC consider variances or if that was required to be handled by the BoA. Staff was to research requirements of the BoA and consult with the County Attorney.

D. **DEPARTMENT REPORT**

None

E. COMMISSIONER COMMENTS, REQUESTS AND REFERRALS

None

ADJOURNMENT

The next meeting will be held on August 10, 2022 at 5:30pm in the Roubideau Room, 320 W. 5th St. Delta, CO.

Meeting adjourned at 6:52 p.m.

Respectfully submitted by:
Administrative Assistant, Kim Henderson

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DELTA COUNTY PLANNING COMMISSION MEETING MINUTES
DELTA COUNTY ROUBIDEAU ROOM
320 W. 5th Street., Delta, CO 81416
August 10, 2022

Chair Tom Kay called the meeting to order at 5:30 p.m. in the Delta County Roubideau Room.

ROLL CALL

Planning Commission Members in Attendance:

Tom Kay
Steve Schrock
Jacob Gray
Michelle Roberts (Associate) (via zoom)
Hardy Hutto
Tate Locke
Layne Brones

Absent Members:

Kate Darlington
Cindy Watson
Steve Shea
David Marek (Associate)

With member(s) absent from District 1, Michelle Roberts is a voting member.

Staff in Attendance:

Delta County Community Development & Natural Resource Director, Carl Holm
Delta County Community Development Planner I, Kate Kelly
Delta County Community Development Planner I, Angie Kemp
Delta County Community Development Administrative Assistant, Kim Henderson
Delta County Administrator, Robbie LeValley

A. MEETING MINUTES

1. Meeting Minutes
   a. July 27, 2022

RECOMMENDATION: Approve the action minutes as presented.

No action taken on this item.

B. PUBLIC HEARING ITEMS

1. PLN21-080/Delta Paving Gravel Pit

Consider a Conditional Use Permit (CUP) to expand an existing gravel mining operation and allow temporary use of a mobile asphalt mixing facility. The project is located at 8020 State Highway 65, Delta (Parcels: 345510202002, 345503400053, and 345510100028).

RECOMMENDATION: Staff recommends that the Planning Commission (PC) recommend that the Board of County Commissioners (BoCC):

a. Find that PLN21-080 complies with the Delta County Master Plan and the Land Use Code (LUC) for a Conditional Use Permit (CUP) for a Mineral Extraction/Quarry that includes temporary use of a mobile asphalt mixing facility in the A-20 zone; and
b. Vacate Resolution No. 99-R-009 (Reception #524802), approving the Delta Paving Gravel Pit Agreement for a sand and gravel mine (pit) located at 8020 State Highway 65, subject to 9 conditions; and
c. Approve PLN21-080/Delta Paving Gravel Pit CUP to:
   1.) Operate a sand and gravel mine (pit) at 8020 State Highway 65, Delta on three parcels totaling 170.771 acres: 345510202002 (41.62 Ac, new), 345503400053 (39.13 Ac, existing), and 345510100028 (92.021 Ac, existing); and
   2.) Operate an asphalt plant at 8020 State Highway 65, Delta (Parcel: 345503400053) subject to 21 conditions.

Planning Director, Carl Holm presented the project. Mr. Holm, and Planner I, Kate Kelly, answered Commissioner questions.

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Applicants Ben Langenfeld and Sydney Connor with Lewicki & Associates, as well as John Mueller, Jim Doody and Randy Winegardner with Elam Construction, made a presentation to the Planning Commission and answered Commissioner questions.

There was public comment from twenty-seven (27) neighbors who attended the hearing in person with two (2) members of the public who spoke via Zoom. Public comments were presented in support and opposition of the project. Issues raised through the public hearing included: health, traffic, odor, water, agreement/legal standing, noise, property value, dust and wildlife.

Commissioner Brones left the meeting at 8:35pm for an emergency.

Chair Kay closed the public hearing.

Hardy Hutto moved to continue PLN21-080/Delta Paving Gravel Pit to the August 24, 2022 meeting. Jacob Gray seconded the motion.

Chair Kay noted that the public hearing is closed so there will be no further public testimony. Commissioners will consider the information presented and deliberate at the next meeting.

Motion carried unanimously

C. **DEPARTMENT REPORT**
None

D. COMMISSIONER COMMENTS, REQUESTS AND REFERRALS
None

ADJOURNMENT

The next meeting will be held on August 24, 2022 at 5:30pm in the Roubideau Room, 320 W. 5th St. Delta, CO.

Meeting adjourned at 8:44 p.m.

Respectfully submitted by:
Administrative Assistant, Kim Henderson

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STAFF REPORT

Delta County Planning Commission

Delta County Roubideau Room
320 W. 5th Street, Delta, CO 81416

Wednesday, August 24, 2022 @ 5:30 p.m.

PLN21-080/Delta Paving Gravel Pit
(Elam Construction)

Continued from August 10, 2022

Consider a Conditional Use Permit (CUP) to expand an existing gravel mining operation and allow temporary use of a mobile asphalt mixing facility. The project is located at 8020 State Highway 65, Delta (Parcels: 345510202002, 345503400053, and 345510100028).

PROJECT INFORMATION:

Property Owner(s):	Grand Junction Concrete Pipe Co. Richard M. Frazier and Betsey A. Frazier
Applicant:	Jim Doody (Representative of Elam Construction)
Site Address:	8020 State Highway 65, Delta, CO 81416
Location:	Sections 3 & 10, Township 15S, Range 95W, 6th PM
Parcel ID/Acct:	345510202002, 345503400053, 345510100028
Parcel Size:	41.62-Acres, 39.13-Acres, 92.02-Acres
Zoning:	A-20

Report Prepared by: Kate Kelly, Planner I

RECOMMENDATIONS:

Staff recommends that the Planning Commission (PC) recommend that the Board of County Commissioners (BoCC):

a. Find that PLN21-080 complies with the Delta County Master Plan and the Land Use Code (LUC) for a Conditional Use Permit (CUP) for a Mineral

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Extraction/Quarry that includes temporary use of a mobile asphalt mixing facility in the A-20 zone; and

b. Vacate Resolution No. 99-R-009 (Reception #524802), approving the Delta Paving Gravel Pit Agreement for a sand and gravel mine (pit) located at 8020 State Highway 65, subject to 9 conditions; and
c. Approve PLN21-080/Delta Paving Gravel Pit CUP to:
    1. Operate a sand and gravel mine (pit) at 8020 State Highway 65, Delta on three parcels totaling 170.771 acres: 345510202002 (41.62 Ac, new), 345503400053 (39.13 Ac, existing), and 345510100028 (92.021 Ac, existing); and
    2. Operate an asphalt plant at 8020 State Highway 65, Delta (Parcel: 345503400053) Subject to 23 conditions.

A draft resolution is attached for the Planning Commission to consider findings and conditions to be presented to the Board of County Commissioners. As drafted, this resolution would replace and repeal all prior resolutions and/or agreements for this Delta Paving Gravel Pit.

SUMMARY:
Delta Paving Gravel Pit currently has an agreement (Resolution No. 99-R-009) (development permit) with Delta County to operate a sand and gravel mine (pit), including rock crushing and concrete production. This [County] permit was approved subject to nine (9) conditions, including Condition 9 stating that the site will *never* include an asphalt plant. In addition, there was a subdivision (Volk Minor) that included a plat note restricting use of Lot 2 (Parcel 345510202002) for ag or residential only, *unless the owner goes through the full subdivision process*. In addition to County entitlements, the site has existing permits (State and Federal) relative to access, floodplain, discharge, and emissions.

The project site consists of three (3) parcels located south of the Gunnison River (Town of Orchard City north of the River) with frontage along the eastern boundary of State Highway 65 and the northern boundary of State Highway 92 (8020 Highway 65, Delta). Access is taken from Highway 65 with a paved access road developed through Parcel 345510202002 (per condition 4 of the existing permit).

The Planning Commission (PC) held a duly noticed public hearing on August 10, 2022 (report **Attached**). Following a presentation by the applicants in regards to their application, the PC asked questions of the applicant in regards to the current operating permit and the proposed expansion and use of an asphalt plant. About 75 neighbors attended the meeting, mostly stating opposition of adding a mobile hot mix asphalt plant to the existing mining permit. Concerns/comments included: odor, noise, fugitive emissions/dust, traffic (Highway 65), habitat/wildlife, and water.

The PC closed the public hearing portion of the meeting, and the Chair noted that there would be no further public testimony, and voted unanimously to continue

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the matter to the next public hearing on August 24, 2022. The applicant did not get an opportunity for rebuttal, so staff asked them to supply comments in response to the neighbor comments/concerns (**Attached**).

What remains is for the PC to deliberate and provide a recommendation to the Board. Staff has presented information about the application relative to the applicable standards of review (Land Use Code), and responses to the issues that reside through the public hearing (see Discussion below). Staff finds that the project meets the current standards. In addition, the operation is subject to multiple other regulations/permits from other agencies. The Land Use Code was established to set forth clear expectations of what a property owner can do on their property.

In this case, there were County actions (prior to the Land Use Code) that included conditions that also set expectations for what can be done on this specific property. That said, the current Board of County Commissioners (Board) is not bound by actions of a prior Board. As such, this permit/condition can be amended should both parties agree.

This project is being processed as a Minerals Extraction/Quarry use, which is allowed in the A20 zone with a Conditional Use Permit (CUP). Key issues that staff identified include: noise, biological, odor, dust, traffic, lighting, and impact to irrigated Ag lands. Master Plan policies provide advisory direction including protecting agricultural lands, property rights, and encouraging business and industrial development. The Land Use Code was adopted with standards to implement the Master Plan. Currently, there are no specific findings for approving a Conditional Use Permit (CUP); however, LUC Chapter 2, Section 5.B(7) provides *specific use standards* for this type of use in addition to general standards (site design & environmental stewardship, public infrastructure & services).

Effectively this application requests to amend an existing development agreement/permit (Resolution 99-R-009) through the CUP process since the County no longer has Specific Development regulations. A number of documents have been submitted for this application, providing information relative to the issues noted above, as well as other requirements of the LUC and State relative to mining operations. Based on these documents, staff finds that the project has sufficiently addressed and meets the applicable County requirements. Options for the PC include:

1. Approve the application in whole or in part:
    a. Approve adding Pits 3 & 4 (Parcel 345510202002) and deny the asphalt plant
    b. Approve adding the asphalt plant and deny adding Pits 3 & 4 (Parcel 345510202002)
2. Deny the permit

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If any of the commissioners vote to deny the permit, in whole or in part, staff requests direction as to the basis (findings) for said action. In the case of a split vote, staff will present the Board with the majority and minority opinions from the PC.

DISCUSSION:

Background

Delta Paving Gravel Pit is an existing sand and gravel mine that has been operating in Delta County since 2001. Existing permits for mining aggregate include the ability to crush rock and mix concrete on site and to mine within the Gunnison River. The permittee and operator, Kilgore Companies, dba Elam Construction, Inc. submitted an application to expand their mining area and add a hot mix asphalt plant to the operation.

This project consists of three parcels totaling about 170.8 acres located on the east side of State Highway 65, north of State Highway 92, and directly south of the Gunnison River. Two parcels (Parcels 345510202002 & 345503400053, about 40 acres each) are owned by Grand Junction Concrete Pipe Company (GJCP) and one parcel (Parcel 345510100028, about 90 acres) is owned by Richard & Betsey Frazier (Frazier). There is a lease agreement (November 1998) between Frazier and Delta Paving LLC (now GJCP/Elam) to mine the northern 70+ acres. This was a 10-year agreement, but has been continued at the agreement of the parties.

The facility has been operating on about 131 acres (Parcel 345503400053/GJCP and Parcel 345510100028/Frazier) for over 20 years, but has not been actively mining for about 15 years; they do allow sales of aggregate to occur which results in trucks picking up purchased loads of material from the existing site. This process includes crushing, aggregate washing, and the ability to produce concrete.

Primary access is from State Highway 65, which has been paved (chip/slurry seal) per Condition 4 of the existing permit (Agreement). Condition 6 of the Agreement required the applicant to explore access to Highway 92; however, this option was not feasible as access would have to cross the Union Pacific Railroad, as well as the Bonafide Ditch. The applicants felt that with the weight of the trucks it would be best to keep the route strictly to Highway 65 so as not to damage the ditch or the railroad right-of-way. There is a permit from CDOT for the Highway 65 access based on production of 100,000 tons per year, and 30 peak hour truck trips/day.

The proposed permit area of the mine would add about 40 acres, but would impact 145 of the 170+ total acres, excluding the southern portion of the Frazier property. Of this permit area, 100 acres will be disturbed but only 67.5 acres will be mined for sand and gravel (removing the Gunnison River and riparian habitat along the River). The mining permit will impact part of an existing irrigated field

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on the Frazier property (Current Mining Permit) approximately 570-feet south of the exiting pond (Pit 2). Mining is proposed to occur through four phases (four pits) with processing of all four phases expected to last for a 20-year period. Reclamation will occur, converting the pits to groundwater lakes as soon as the next phase starts to minimize the overall impact of the mine.

The mobile asphalt facility is a temporary piece of equipment that would be centrally located on site (Parcel 345503400053), south of the Gunnison River outside of the undisturbed riparian corridor (map attached). There is an existing vegetation buffer north and west of this proposed asphalt site consisting of mature cottonwood trees and dense vegetation.

The majority of the property, specifically the mining area, is made up of previously disturbed land that is being used as the site's current mining and operating area. Approximately 15.6 acres within this area have been reclaimed as of 2022 as groundwater ponds. The remaining portions of the site are agricultural fields or undisturbed wooded and riparian areas along the river.

PC Hearing
The Planning Commission (PC) held a duly noticed public hearing on August 10, 2022.

Applicant Presentation
Ben Langenfeld (P.E.) and Sydney Connor (P.E.) (Lewicki & Associates, representing Elam Construction), Jon Mueller (Operations Manager for Elam Construction) and Jim Doody (Environmental Manager for Elam Construction) were in attendance. Ben and Sydney (Lewicki & Associates) made two presentations to the PC and the public reviewing aspects of the existing mining operation (permit) and explaining the current proposal to add the hot mix asphalt plant to the permit and amend the conditions, carrying forward several conditions that were in the original agreement.

The first presentation was on the sand & gravel permit and the proposed expansion of the pit; adding Pits 3 & 4. Topics discussed included:

- Groundwater lakes (water rights & Gunnison River),
- Concrete production (have the ability to produce but do not do so currently),
- Current mining operation in the River (15-acres) being replaced with mining proposed Pits 3 & 4 (34-acres),
- Access to State Highway 92 (will not be used),
- Reclaimed pond islands (condition of existing permit, mining has not completed fully so the ponds have not been inserted into the ponds),
- Economic impacts (Economic Impact Study has not been done),
- Current production levels (max 100,000 tons/year permitted but only 20% being excavated),
- CDOT Access Permit (Traffic Study),

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- Reclamation ponds and associated water (relation to the Gunnison River aquifer),
- Water rights (Bonafide Ditch)

The second presentation was on the hot mix asphalt plant and what that would look like being added to the site. Topics discussed included:

- Increased traffic to the site (asphalt production),
- Air quality (inspections, APENs),
- Timeframe (90 days of operation between April and November), requested flexibility depending on CDOT or County job specifications (Director review)
- Service area (20-mile radius),
- Generators (diesel fuel for the plant), and
- Mining period (20-year proposal vs no time limit on the current permit).

Addressing site selection, the applicants explained that they ventured out to see if there was another site that they could partner with to produce asphalt (a site with permits in place) and the closest they found was Benson Brothers. However, in order to partner with them to use their site they would need acceptance from Benson in order to do so.

Public Comment

About 75 people from the public appeared at the PC meeting on August 10, 2022; with a handful attending via Zoom. Neighbor comments included concerns for recreational activities along the Gunnison River, economic tradeoff, smell (asphalt and County gravel pits, Ellison specifically), noise from generators, dust, decreased property values, fugitive emissions (particles in the air), hours of operation, health effects, traffic on Highway 65 (traffic study), replat and existing access easement (20-year restriction), neighbor standing in regards to original agreement, reclamation, height of the silo for the plant (blocking views from the bluff), air quality monitoring devices, ponds (mosquitos), riparian rights, wildlife impacts (bald eagle, cranes, etc.), Ag land being taken out, and the augmentation plans in place.

Applicant Response to Comment

The applicant did not get an opportunity for rebuttal at the last meeting, so staff asked them to supply comments in response to comments made at the PC hearing on August 10th. Lewicki & Associates provided a Fact Sheet (**Attached**) in response to the following:

- Economic Tradeoff.
- Right to Quiet Enjoyment.
- Traffic Concerns.
- Health Concerns.
- Volk Easement (20-years of use)
- Reclamation Amounts
- Utilizing Other Plants

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- Silo height; concern it will be higher than the mesa.
- Air monitoring devices on bluff?
- No improvements have been made to current pit.
- Riparian Rights (islands); is this Government property? Property line is in the middle of the Gunnison River.
- Water/Augmentation Plan – Stagnant Water.
- Ambient Levels (Air Pollution).
- Traffic Study (CDOT).

Additional Information (Staff)

Staff is providing some additional information in response to comments/questions relative to this project:

- *Volk Minor Subdivision* - specifically the history and the relation between Lots 1 & 2 of that subdivision and Pits 3 & 4 of the expansion.
    - The Volk Minor Subdivision (#97-071), recorded on February 10, 1998 under Reception #511315, was recorded with a plat note stating; "*Lot 2 within this subdivision cannot be developed or used for anything other than agricultural use unless the owner goes through the full subdivision review process*."
    - Lot 2 of the Volk Minor Subdivision is Parcel 345510202002 (GJCP), which is the parcel where Pits 3 & 4 are proposed. Lot 1 is not a part of this project (located south of Lot 1).
    - It is not clear of the intent for this note or what was meant by "full subdivision process". Amending a plat note on a recorded (Final) Plat can be done through the Replat, which is now subject to Administrative (Director) review. The Minor Plat process is also now Administrative.
    - In 1999, changes in the Final Plat relative to the approved lot size triggered the Agreement (Resolution 99-R-009) between GJCP and Delta County. The plat note restricting Lot 2 was not included/addressed with the Agreement.
- *Existing Permit*. If the CUP is denied by the County, the existing Resolution (99-R-009) remains in effect and the current operations will continue as conditioned. Lot 2 would not be able to be mined as it is restricted by the Volk Subdivision Plat Note.
- *Condition #9*. Delta Paving Gravel Pit currently has an agreement (Resolution No. 99-R-009) (development permit) with Delta County to operate a sand and gravel mine (pit), including rock crushing and concrete production.
    - This [County] permit was approved subject to nine (9) conditions, including Condition 9 stating that the site will *never* include an asphalt plant.
    - In consultation with the County Attorney, staff noted that a future Boards are not bound by actions of previous Boards. Nothing in the records show standing other than an agreement between GJCP and the County (1999). No Court case was found documenting

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anyone else having standing in relation to this agreement. Therefore, the PC and the Board is able to consider this application under the current LUC as long as the parties (GJCP/County) to the agreement are willing to amend the agreement.
    - The PC asked whether or not the County could rescind an approved permit (agreement), if conditions changed and they no longer wanted to allow certain operations to occur on site. Entitlements run with the land, and may be conditionally approved meaning the County authorizes them to operate within the parameters of the permit conditions. Changes in circumstances or being out of compliance could trigger a need to review/amend the permit/conditions. In addition, if the application is not in compliance with approved conditions, the County would give them an opportunity to come back into compliance. If they did not come into compliance than the County would have the ability to revoke the permit; with the proper hearing process.
- *Asphalt Impacts*. County (Ellison) Gravel Pit was brought up as an example where there is an existing asphalt plant in operation. This is the only County pit that produces asphalt.
    - Staff noted that there have been no complaints/issues with this pit that we are aware of. Following up, the County Engineer confirmed in a memorandum (**Attached**) that there had been no complaints for the Ellison Pit, and that the reports for the gravel pits APENs (CDPHE) are conducted for each pit, yearly, by the County for compliance.
    - In hearings on other applications in the area (concrete batch plant & the solar farm), there was no comment received in regards to concerns with noise, smell, dust, etc. from the Ellison Pit.
- *Mosquito District*. Staff noted that this agency was not on the referral list for Review Agencies. Following the PC meeting, staff reached out to the Delta County Mosquito District in regards to the ponds, specifically the expansion of the mining operation and adding another 34+/- acres of ponds after reclamation is completed.
    - Terry Stalcup, District Manager, met with staff and explained the treatment of the current ponds on the site and what they would want to see as far as reclamation for the ponds. Mr. Stalcup submitted a memo along with pictures of the site (**Attached**). Mr. Stalcup confirmed that they are already treating the ponds that have been reclaimed on site; there is a shallow smaller pond that is treated weekly as the problem with the pond is that it is small, shallow, there is vegetation in the water along the shoreline and minimal fish in the pond; this is what causes a breeding ground for mosquitos. Mr. Stalcup stated that the bigger the pond, the better; also, when a pond has the steeper slopes along the shoreline, they allow for the minnows to reach the edge, helping eliminate the mosquito larvae, keeping the mosquito population at a minimum.

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He also stated that he sees no issues with the size of the ponds being proposed after reclamation, as long as they are well maintained and built correctly.

- *Riparian Area*. The current permit allows for the riparian area along the Gunnison River, including within the River, to be mined. However, the applicants are removing that area from their proposal as they do not wish to mine the islands of the River, and the riparian area would remain as a buffer/filter for runoff. This will help protect wildlife habitat and the River itself.
- *Floodplain*. Berms proposed along Highway 65, within the floodplain/floodway, will require the applicant to work with the permitting agencies on a design that would work for the floodplain area.
- *Waters of the US*. A resident stated they have a background in surveying and questioned ownership of the River. Contrary to the assertion made, property lines extend to the center of the Gunnison River, making GJCP the owner of that land. However, surface water is owned by the State. In addition, "navigable" rivers (e.g., Gunnison River) are considered "Water of the US, meaning the underlying land owner cannot prevent use of that waterway (e.g., fishing, boating) similar to a prescriptive easement.
- *Groundwater Lakes*. One lake has been established through the existing Restoration Plan, under their State permit.
    - As the materials are removed, the depressions become wetlands with the high-water table in this area. The proposed restoration plan would include multiple groundwater lakes. For Pits 3 & 4, this would replace irrigated Ag lands with wildlife habitats and an environmental type of use.
    - The groundwater lakes ebb and flow with the Gunnison River water levels. A Court Decree established rights to this water for the lakes. These lakes would not negatively affect the wildlife habitat or viability of the River.
- *Timeframe*. "Temporary use" was used in relation to the hot mix asphalt plant being located on site, temporarily, when a project requires it. Existing, and proposed, conditions restrict operation to 90-days per calendar year, within the construction period of April to November. A 20-year period has been conveyed by the applicant as that is the operational life-expectancy of the pit based on estimated volumes being produced. Conditions require an Annual Plan to be provided describing what was done and what is expected for the upcoming year.
- *Air Quality*. Planning Staff has made attempts to contact the State (CDPHE, Air Quality Division) in regards to concerns revolving around asphalt plants. No response has been received as of yet. Staff has reached out to the Environmental Health Department to see if they have a direct contact for the Air Quality Division.
- *Access*. Staff also reached out to CDOT in regards to the traffic study and concerns for the existing permit and the proposed expansion of mining and adding an asphalt plant. Additional comment from CDOT was

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submitted on August 11, 2022 (**Attached**). Generally, staff interprets CDOT comments as possibly requiring improvements to the highway access, but not that they would oppose the project. However, CDOTs comments are not clear if they have an issue with this application or not, so staff followed up with specific questions. Staff will report on any response we receive prior to the meeting.

The PC mentioned the conditions that had been presented by staff and asked whether or not those could be amended. The permit can be amended at any point in time as long as the applicant/owner and the County agree. It was clarified by staff that they can add, remove, or amend conditions to their recommendations as they see fit. The County could add a condition to review the permit every five (5) years, which would address the question about changing circumstances.

Attachment(s):

- DRAFT BoCC Resolution with Conditions (Development Agreement)
- PC Staff Report from 8/10/22 (including all attachments)
- Applicant Response to Comments (dated 8/17/2022)
- CDOT Comments (dated 8/11/22)
    - County follow up email (8/17/22)
- County Engineering Memo - Ellison Pit (dated August 12, 2022)
- Mosquito District Comments (received 8/17/22)
- Public Comments (received after 8/10/22)

RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DELTA,
STATE OF COLORADO

RESOLUTION NO. 2022-R-___

APPROVING A CONDITIONAL USE PERMIT AMENDING AN EXISTING DEVELOPMENT AGREEMENT, TO EXPAND OPERATIONS AND INCLUDE THE ABILITY TO OPERATE A MOBILE HOT MIX ASPHALT PLANT LOCATED AT 8020 STATE HIGHWAY 65 APPROXIMATELY 1.32 MILES EAST OF DELTA AND ABUTTING THE TOWN OF ORCHARD CITY (PARCELS: 345510202002, 345503400053, AND 345510100028).

RECITALS

WHEREAS, Grand Junction Concrete Pipe Co is the property owner of record of the real property (41.62 acres) located on the east side of State Highway 65, Delta (Parcel 345510202002, Account: R017429); and

WHEREAS, Grand Junction Concrete Pipe Co is the property owner of record of the real property (39.13 acres) located at 8020 Highway 65, Delta (Parcel 345503400053, Account: R017430); and

WHEREAS, Richard M. Frazier and Betsey A. Frazier, as Trustees of the Richard M. Frazier and Betsey A. Frazier Revocable Trust are owners of record of the real property (92.021 acres) located east of State Highway 65 and long the north side of State Highway 92, Delta (Parcel 345510100028, Account: R025020); and

WHEREAS, on February 10, 1998 the Volk Minor Subdivision (#97-071) was recorded (Reception #511315) creating a 2-lot subdivision; and

WHEREAS, on April 19, 1999, a Letter of Agreement was entered into between Grand Junction Pipe and Supply Company and Delta County addressing revised acreage of Lot 2 (Parcel 345510202002) from 80-acres to approximately 41.62-acres without that revision following the appropriate process; and

WHEREAS, on May 10, 1999, the Board of County Commissioners adopted Resolution No. 99-R-009 approving a Development Agreement permitting the Delta Paving Gravel Pit to operate a sand and gravel mine on two parcels totaling about 131 acres (Parcel 345503400053 and 345510100028), subject to nine (9) conditions; and

WHEREAS, on January 5, 2021, Delta County Board of County Commissioners adopted the Delta County Land Use Code (LUC). Resolution No 2021-R-001 repealed regulations regarding land use and subdivision and adopted a new land use code (including zoning maps); and

WHEREAS, on October 19, 2021, Jim Doody (Applicant/Representative for Elam Construction) submitted a Land Use Application to amend an existing Development Agreement (Resolution No. 99-R-009) for a sand a gravel pit to include an Asphalt Plant (Elam Construction) located along the east side of State Highway 65 and the north side of State Highway 92; and

WHEREAS, the properties are zoned Agricultural/20-Acres ("A-20"); and

WHEREAS, pursuant to the Land Use Code, a Mineral Extraction/Quarry use is allowed in the A-20 zoning district with a Conditional Use Permit; and

WHEREAS, on November 1, 2021, a pre-application conference was held between the applicants and staff from Delta County to review preliminary materials to help identify potential issues and applicable review procedures; and

WHEREAS, on November 19, 2021, a letter was sent to the applicant summarizing the pre-application conference and process, identifying applicable fees, and providing a checklist of materials required for an application; and

WHEREAS, on April 13, 2022, Lewicki & Associates (Representing Elam Construction) submitted an application package (dated April 2022); and

WHEREAS, on May 31, 2022, Staff sent an email to Jim Doody (Elam) & Lewicki & Associates, explaining a list of items to be addressed so that the application could be deemed complete; and

WHEREAS, on June 14, 2022, Lewicki & Associates submitted a revised application packet addressing all staff comments, making the application complete; and

WHEREAS, on July 6, 2022, a Public Notice was sent to Adjoining Property Owners (within a ½-mile radius) and notice was posted on the property informing the public that on July 27, 2022 the Delta County Planning Commission would consider this matter; and

WHEREAS, on July 27, 2022, the Planning Commission continued the matter to August 10, 2022, per staff's recommendation with the applicant's concurrence; and

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WHEREAS, on August 3, 2022, the applicant held a neighborhood meeting at the site that was attended by staff; and

WHEREAS, on August 8, 2022, the applicant submitted requested revisions to the proposed conditions of approval as compiled by County Staff. These requests have been reflected in current conditions; and

WHEREAS, on August 10, 2022, the Planning Commission held a duly noticed public hearing to consider a Conditional Use Permit expanding an existing mining permit to also include temporary use of a mobile Asphalt mixing facility at 8020 State Highway 65, Delta [PLN21-080/Delta Paving Gravel Pit]; and

WHEREAS, on August 10, 2022, the Planning Commission held a duly noticed public hearing and voted unanimously to continue the application to the next regular meeting on August 24, 2022; and

WHEREAS, on August 15, 2022, staff sent a PC Follow Up letter to the Planning Commission members as well as the County Attorney; and

WHEREAS, on August 17, 2022, staff received a Fact Sheet from the applicants (Lewicki & Associates representing Elam Construction) addressing neighbor comments/concerns presented at the PC meeting; and

WHEREAS, on August 17, 2022, staff met with Terry Stalcup, District Manager, of the Delta County Mosquito District in regards to PC concerns about the expansion of groundwater ponds; and

WHEREAS, on August 24, 2022, the Planning Commission held a duly noticed public hearing continued from the August 10th meeting, and voted ___ to recommend Board of County Commissioners ___; and

WHEREAS, on ___, a Public Notice was sent to Adjoining Property Owners (within a ½-mile radius) and notice was posted on the property informing the public of the date, time and place for the Board of County Commissioners would consider this matter; and

WHEREAS, on ___, the Board of County Commissioners held a duly noticed public hearing to consider amending an existing mining permit to include the use of an Asphalt Plant run by Elam Construction [PLN21-080/Delta Paving Gravel Pit].

DECISION

NOW, THEREFORE, BE IT RESOLVED, having considered all the written and documentary evidence, the administrative record, and other evidence presented, the

Delta County Board of County Commissioners (BoCC) does hereby:

A. FIND that PLN21-080 meets standards of the 2018 Master Plan and the 2021 Delta County Land Use Code:
   1. The application package includes multiple documents that are required by the County as well as multiple state agencies for a mineral extraction/quarry use. Additional information has been submitted in responses to comments and questions by staff and referral agencies. Approval is subject to conditions, including a requirement to comply with the plans and documents submitted with this application (**Condition #1**).
   2. Chapter 2, Section 5.B, *Use Specific Standards*, requires minerals extraction/quarries to meet specific standards, in addition to all other applicable standards. A Reclamation Plan has been submitted that provides for reclamation of the subject property. Mining operations are within 2,000-feet of residences and livestock operations. A Noise Control Plan was submitted demonstrating how the project meets the required standards (see Finding #3. A Dust Control Plan was submitted (Finding #4). An Operational Hazard Mitigation and Risk Management Plan was submitted in accordance with Chapter 4, Section 7.J.
   3. Chapter 4, Section 7.C, *Noise*, states that any noise that is generated by development shall not exceed the thresholds set out in C.R.S. 25-12-103, *Maximum Permissible Noise Levels*. Properties surrounding the site include undeveloped or agricultural areas with residential areas just north (bluff) of the project site. A Nosie Control Plan was submitted with the application. This Plan concludes that levels will not exceed Colorado Noise Statue levels as measured at a distance of 25-feet from the property line. The crusher will be located a minimum of 800-feet from the property boundary, and 1200-feet from the nearest residence. Conditions limit the hours and duration (90-day period) that the crusher can operate.
   4. A Spill Prevention, Control, and Countermeasure Plan (SPCC) was submitted that serves as the Operational Hazard Mitigation and Risk Management Plan for this project.
   5. A mobile Asphalt Facility and mine are industrial uses that, by nature of the operation, create dust from materials such as sand, crushed rock, washed rock, concrete, and asphalt. Pursuant to Chapter 4, Section 7.F, *Dust Control*, the applicant submitted a Dust Control Plan. In addition, the operator has filed an Air Pollution Emission Notice (APEN) and Permit Application with the Colorado Air Quality Control Commission and will maintain dust control in conformance with the approved plan. The State is responsible to permit and inspect equipment to ensure it complies with applicable air quality standards. As conditioned, operation of the asphalt plant must be permitted through the state and would not operate for more than 90-days in any calendar year (**Condition #8**).
   6. Chapter 4, Section 7.B, *Stormwater Management, Grading, Erosion, and Sediment Control*, all Site Plans associated with a Conditional Use shall be accompanied by a Stormwater Management Plan. The primary

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potential pollutant to stormwater runoff is sediment, oil and grease, metals, and waste water during operations, which will be collected on site in a retention pond, leaving the pond via evaporation and infiltration to the aquifer.

7. Table 5.a, *Traffic Impact Study Scope*, identifies information required for a traffic study. A Level I Traffic Study was completed by Kimley-Horn & Associates. In addition to the required information, the study addresses the County Road access from State Highway 65, trip generation and ADTs for Highway 65 and an estimated truck route using Highway 65.
8. A Geologic and Soils report submitted for this development assesses soil suitability and site characteristics pursuant to Chapter 8, Section 2 of the Land Use Code.
9. A Drainage Report addresses the Relief Ditch and Broad Ax Ditch, along with an area of potential wetlands existing in the northern corner of the property. It also addressed the 100-year floodplain and floodway, and water quality. In addition, the application includes a biological and wildlife assessment report.
10. Projects are required to provide proof of an adequate water supply for the proposed use. Comments from UVWUA note that this project site has no irrigation water. An Augmentation Plan is filed with the State under Decree 2019CW3023.
11. The proposed location for the operation would be in an area of the site that is centrally located screened by a natural and mature setting provided by the mesa and surrounding cottonwood trees, just south of the Gunnison River and just outside of the undisturbed riparian corridor. There is no scenic byway located within ¼-mile of the subject property. Private views are not protected by the Land Use Code.
12. There is an existing permit allowing mining on 130 acres of the 170-acre site. The proposed amendment phases mining over four phases (1 – 4) with only one phase (Pit) open and operating at any one time to ensure that impacts from the mine are minimized. Reclamation will occur, converting all pits to groundwater lakes as soon as the next phase starts. Mining and processing are expected to occur for a 20-year period (all four phases). Reclamation will leave a final land use of open space consisting of multiple groundwater lakes surrounded by rangeland and wildlife habitat, with the potential to be used as agricultural land.
13. The Master Plan (advisory) and Land Use Code prioritize protection of agricultural lands and property rights. Protection of property rights is meant to afford property owners the ability to know what they can do on their property. It is not meant to protect property values of neighboring properties.
14. The A20 zone is intended for agricultural and rural residential uses. Table 2.b of the Land Use Code lists uses that are allowed by zoning district. Mineral Extraction/Quarry use is allowed in the A20 zone with a Conditional Use Permit. As such, the proposed use was considered as being allowed in this zoning designation. Conditions have been applied to

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reduce potential impacts. In addition to local regulations, the project is subject to approvals/permits from state and federal agencies including but not limited to CDOT, CDPHE, CPW, USFWS, USACE. These agencies provide additional oversight of this type of operation.

B. VACATE Resolution No. 99-R-009 repealing the Delta Paving Gravel Pit Agreement, permitting a sand a gravel pit located along the east side of State Highway 65 and the north side of State Highway 92 (Reception #: 524802, recorded 05/11/1999).

C. APPROVE PLN21-080 (Delta Paving Gravel Pit), a Conditional Use Permit for a sand and gravel mine located at 8020 Highway 65 (Parcels: 345510202002, 345503400053, and 345510100028), subject to conditions attached hereto and incorporated herein by reference as **Exhibit A**. Revisions to the existing permit (Resolution No. 99-R-009) include:
   1. Add Phase (Pits) 3 & 4 on Parcel 345510202002 (40+ acres) to the existing permitted operation on 130 acres (170 acres total);
   2. Remove restriction to allow use of a mobile Asphalt facility; and
   3. Remove use of Gunnison River for mining operations.

ADOPTED AS SET FORTH ABOVE on this __ day of ___, 2022.

BOARD OF COUNTY COMMISSIONERS
COUNTY OF DELTA
STATE OF COLORADO

ATTEST:

_____
Don Suppes, Chair

_____
Wendell Koontz, Vice Chair

_____
Teri Stephenson
Delta County Clerk & Recorder

_____
Mike Lane, Commissioner

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EXHIBIT A

Conditions of Approval
Delta Paving Gravel Pit (Elam Construction) (PLN21-080)
_____, 2022

1. PLN21-080 is for operating a sand and gravel pit, including operation of a mobile asphalt mixing facility and rock crushing on approximately 170 acres. Operation would occur in four phases with reclamation after each phase. Development and Operation of the Delta Paving Gravel Pit shall be in accordance with approved plans and supplemental documentation/permits to the satisfaction of the Director of Community Development and Natural Resources (Director), including but not limited to:
    a. Application Packet (Revised June 2022, original submission April 2022)
    b. CDRMS Permit Application (Draft)
    c. Spill Prevention, Control, and Countermeasure Plan (SPCC)
    d. Stormwater Management Plan (SWMP)
    e. Water Court Ruling
    f. Wetlands Evaluation
    g. Elam Construction Mining Plan
    h. Noise Control Plan
    i. Dust Control Plan
    j. Landscaping/Lighting Plan (also see Conditions 13 & 14)
    k. State Discharge Permit (CDPS)
    l. CDOT Permit/Traffic Study (See Condition #15)
    m. Floodplain Permit
    n. State Construction Permit
    o. State Air Permit (APEN)
    p. Reclamation Plan

    Any significant modification shall require an amendment to be considered by the Planning Commission and Board of County Commissioners.

2. No mining operation may occur on Parcel 345510202002 until/unless an Replat is approved by the County to remove the following condition of the Volk Minor Subdivision (#97-071) recorded on February 10, 1998 under Reception #511315: *Lot 2 is restricted from being developed for uses other than agricultural use unless the owner goes through the full subdivision review process.* [Planning]

3. A Wetlands Delineation shall be conducted of the site. Development, including mining, shall not occur in any water ways or natural lakes. Any areas identified as wetlands will be protected from mining or other development, meeting all appropriate setbacks from said areas. There shall be no excavation activities within 100-feet of the Gunnison River and no

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excavation, construction, or other development shall occur within the floodway. [Planning]

4. The Owner/Operator shall submit a (revised) Floodplain Permit to County Environmental Health, if at any point there is to be work (operations) within the floodway or floodplain. This includes, but is not limited to, addition of a berm along Highway 65 where it may affect the floodplain. [EH]

5. If at any point discharge of dredged or fill material is released into a Water of the United States (Gunnison River), a Department of the Army Permit from the US Army Corps of Engineers shall be required. [USACE]

6. Owner/Operator shall not stock any reclaimed pond with non-native species at any time. [Planning]

7. The operation shall not exceed noise thresholds set by C.R.S. 25-12-103, *Maximum Permissible Noise Levels,* which limits industrial use to a sound level of 80 dB(A) at 25-feet from the property boundary during the hours of 7:00 am to 7:00 pm. Operations of the pit shall not exceed these levels. If noise levels exceed the threshold limits, noise mitigation techniques such as berms, stockpiling, or the use of hay bales will be implemented prior to continuing activity. [Planning]

8. Production of asphalt and/or concrete (including crushing) may only occur for a total of 90-days (cumulative days of operation) between April and November each year. Hours of operation will be from 7:00 a.m. through 7:00 p.m. Monday through Saturday. Pumping may be allowed through the night and on Sundays where pumps and motors are housed in a sound reducing building with a residential muffler. With prior administrative approval from the Planning Director, for large government projects that cannot meet these parameters, the Operator may be permitted to operate the mine and plants for extended hours, including Sundays and nighttime operations.

9. The current Construction Permit (Permit No. 93PO630) issued by the Colorado Department of Public Health & Environment, Air Pollution Control Division, regulates the production rate of the Asphalt Plant to not exceed 300,000 tons per year. If operations exceed this number, the Owner shall provide the County with proof of a revised permit to reflect accurate tons being produced. [Planning, CDPHE]

10. The Owner/Operator shall file a Relocation Notice to the Colorado Department of Public Health & Environment, Air Pollution Control Division, 10-days prior to the change in location of the Asphalt Plant. Copies of each notice relative to this property shall be provided to Delta County for their records. [Planning, CDPHE]

11. Dust suppression will be regulated by the Colorado Department of Public Health & Environment (CDPHE). All dust levels shall be maintained within the limits of the CDPHE Air Permit on file with the State for the project site. If any change in operation creates more dust than was is allowed, the Owner shall submit for a new Air Permit with CDPHE. [Planning, CDPHE]

12. Plants identified through the Colorado Noxious Weed Act (C.R.S. 35-5.5) and the Delta County Noxious Weed List as undesirable and designated for management within the County shall be removed. The Owner/Operator shall submit a Weed Management Plan addressing weed removal to the Director prior to beginning operation at this site. [Planning]

13. Prior to beginning operations in Phases 3 & 4, the Owner/Operator shall submit a Landscape Screening Plan for managing native trees and screening the operation from the north and west views, subject to review and approval by the Director. The application includes installing berms along Highway 65 that shall be vegetated with native trees and shrubs to prevent erosion and provide screening of future mining operations in Phase 3 & 4. Generally, existing trees between the pit and Highway 65 shall be retained to screen the processing area as viewed from Highway 65; and existing trees along the Gunnison River shall be retained to screen the processing area as viewed from properties to the north. Native trees that substantially interfere with the mining plan as approved by the Mine Land Reclamation Board may be removed. Any trees greater than six-inches (6") d.b.h. (diameter breast height) that are removed must be replaced with two (2) trees of the same species planted for every one (1) removed (2:1 ratio). [Planning]

14. Prior to beginning any construction activity within Phases 3 & 4, the applicant shall provide to the County a "Landscape/Vegetation Bond" in an amount that is at least equal to the cost of installing landscaping per the Landscape Screening Plan (contractor's estimate). Said bond shall be held by the County as a financial guarantee for success of the landscaping vegetation screening and noxious weed management until the applicant has demonstrated compliance with applicable Plans/Conditions as determined by the Director, but no less than 10 years.

15. Prior to beginning operations in Phases 3 & 4 or the usage of any asphalt plant onsite, the applicant shall provide proof of current access approval from CDOT, including any improvements required by said permit. The Owner/Operator shall submit a copy of the CDOT Access Permit to the County for our records. [CDOT]

16. A Truck Routing Plan shall be submitted to the Planning Department, for review and approval to address the use of semi-trailers, dump trucks, trash

hauling trucks, or comparable heavy trucks as they may be disruptive to nearby property owners and could potentially cause damage to surrounding roads. Said Plan will also need to address the type of vehicles that will be used for this operation, the frequency of arrivals/departments, approximate hours of truck traffic, and any hazardous materials/hazmat materials being transported. [CDOT]

17. Provide a lighting plan that identifies where lighting is located. Outdoor lighting shall be hooded or shielded (cut-off) so as to not cast light or glare onto adjacent properties or upwards in a manner that dilutes the night sky. Outdoor lighting shall be turned off except for emergency maintenance. [Planning]

18. A site-specific Geotechnical Investigation shall be conducted to characterize soil and bedrock engineering properties at the proposed silo, tank, and other heavily loaded structure locations. This shall assist with potential contamination of soil and the Gunnison River in the event of a tank failure. [Colorado Geological Survey]

19. Prior to beginning any construction activity, the applicant shall provide to the County a copy of the "Restoration Bond" required/held by the State. If the State does not require a bond, then said bond shall be held by the County as a financial guarantee until the facility is fully decommissioned and the site is restored. Restoration cost estimates shall be updated every five (5) years from the approval of this permit. At the conclusion of mining activities, there must be one island in the 16-acre pond and two islands in the 35-acre pond, subject to consultation with the Colorado Division of Wildlife on the size and offshore location of any islands that will be used for goose nesting and wildlife.

20. Currently, there is an Augmentation Plan (2019CW3023) for the site that includes the use of five (5) wells. If at any point the mining operation requires more water, new rights will be procured through the Colorado Division of Water Resources. [Planning, DWR]

21. An Annual Report shall be submitted to the County annually by December 31st, including:
    a. Summary of mining activity, including number of days and any traffic increase/decrease and compliance with applicable conditions.
    b. Planned mining or restoration activities as well as updated hazardous waste, emergency response, stormwater, noxious weed, noise and dust control plans for the upcoming year.
    c. Updated contact information for local and corporate responsible persons.

If ownership changes, the Use Permit shall remain in effect, provided the successor owner/operator assumes, in writing, all of the obligations of the Use Permit, Restoration Plan and outstanding Securities. Every five (5) years, the Annual Report shall include updated restoration cost estimates that shall be used to true-up the Restoration Bond if needed.

22. Approval is for five (5) years. At least 30-days prior to this date, the applicant shall apply to: 1) continue the operation as is; or 2) amend the operation. If no application is received, the County may consider expiring the permit (reclamation required) or adjusting the conditions to address issues raised during the initial 5-year time period.

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PC STAFF REPORT 8/10/22 (INCLUDING ALL ATTACHMENTS)

DELTA COUNTY
PLANNING & COMMUNITY DEVELOPMENT

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STAFF REPORT

Delta County Planning Commission

Delta County Administrative Building
560 Dodge Street, Delta, CO 81416

Wednesday, August 10, 2022 @ 5:30 p.m.

PLN21-080/Delta Paving Gravel Pit
(Elam Construction)

Consider a Conditional Use Permit (CUP) to expand an existing gravel mining operation and allow temporary use of a mobile asphalt mixing facility. The project is located at 8020 State Highway 65, Delta (Parcels: 345510202002, 345503400053, and 345510100028).

PROJECT INFORMATION:

Property Owner(s):	Grand Junction Concrete Pipe Co. Richard M. Frazier and Betsey A. Frazier
Applicant:	Jim Doody (Representative of Elam Construction)
Site Address:	8020 State Highway 65, Delta, CO 81416
Location:	Sections 3 & 10, Township 15S, Range 95W, 6th PM
Parcel ID/Acct:	345510202002, 345503400053, 345510100028
Parcel Size:	41.62-Acres, 39.13-Acres, 92.02-Acres
Zoning:	A-20

RECOMMENDATIONS:

Staff recommends that the Planning Commission (PC) recommend that the Board of County Commissioners (BoCC):

a. Find that PLN21-080 complies with the Delta County Master Plan and the Land Use Code (LUC) for a Conditional Use Permit (CUP) for a Mineral Extraction/Quarry that includes temporary use of a mobile asphalt mixing facility in the A-20 zone; and

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b. Vacate Resolution No. 99-R-009 (Reception #524802), approving the Delta Paving Gravel Pit Agreement for a sand and gravel mine (pit) located at 8020 State Highway 65, subject to 9 conditions; and
c. Approve PLN21-080/Delta Paving Gravel Pit CUP to:
    1. Operate a sand and gravel mine (pit) at 8020 State Highway 65, Delta on three parcels totaling 170.771 acres: 345510202002 (41.62 Ac, new), 345503400053 (39.13 Ac, existing), and 345510100028 (92.021 Ac, existing); and
    2. Operate an asphalt plant at 8020 State Highway 65, Delta (Parcel: 345503400053) Subject to 21 conditions.

A draft resolution is attached for the Planning Commission to consider findings and conditions to be presented to the Board of County Commissioners. As drafted, this resolution would replace and repeal all prior resolutions and/or agreements for this Delta Paving Gravel Pit.

SUMMARY:

On May 11, 1999, Resolution No. 99-R-009 was recorded to document approval of the Delta Paving Gravel Pit Agreement for a sand and gravel mine (pit) located along the southern bank of the Gunnison River (Town of Orchard City north of the River) with frontage along the eastern boundary of State Highway 65, and the northern boundary of State Highway 92 (8020 State Highway 65, Delta).

Staff met with representatives of Elam Construction (applicants) on November 1, 2021 to review and discuss the existing Agreement (permit) for Grand Junction Concrete Pipe Company (GJCP). Existing State and County permits allow gravel mining on two parcels: Parcel 345503400053 (GJCP, 39.13 Ac) and Parcel 345510100028 (92.021 Ac, Fraizer). Applicants expressed interest to operate an asphalt plant, and include plans for expanding the operation to a third parcel in the future (Phases 3 & 4): Parcel 345510202002 (GJCP, 41.62 Ac). As part of this application, the permit would remove mining in the Gunnison River and create a 100-foot setback from the river. Mobile equipment (concrete, asphalt, etc.) would be removed when there is not a project in this area. Currently, the operation is screened from view from Highway 65 with a row of mature trees.

This project is being processed as a Minerals Extraction/Quarry use, which is allowed in the A20 zone with a Conditional Use Permit (CUP). Key issues that staff identified include: noise, biological, odor, dust, traffic, lighting, and impact to irrigated Ag lands. Master Plan policies provide advisory direction including protecting agricultural lands, property rights, and encouraging business and industrial development. The Land Use Code was adopted with standards to implement the Master Plan. Currently, there are no specific findings for approving a Conditional Use Permit (CUP); however, LUC Chapter 2, Section 5.B(7) provides *specific use standards* for this type of use in addition to general standards (site design & environmental stewardship, public infrastructure & services).

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Effectively this application requests to amend an existing development agreement/permit (Resolution 99-R-009) through the CUP process since the County no longer has Specific Development regulations. The application includes a number of documents that provide information relative to the issues noted above, as well as other requirements of the LUC and State relative to mining operations. Based on these documents, staff finds that the project has sufficiently addressed and meets the applicable County requirements.

However, Resolution No. 99-R-009 included nine (9) conditions, including Condition #9 stating: "The placement and use of an asphalt plant shall never be allowed." In addition, a condition of the Final Plat for the Volk Subdivision restricts Lot 2 (Parcel 345510202002), planned for future phases, from *being developed for uses other than agricultural use unless the owner goes through the full subdivision review process*. If the County wants to approve the expansion, the owner will need to process a Replat to remove that condition (**Condition #2**). In addition, the County will need to amend the prior Agreement to remove Condition #9.

Mining, stormwater, air quality, wildlife and access (Highway 65, Highway 92) relative to this project are regulated by the State (CDPHE, CPW, CDOT). In addition, the federal government (USACE, USFWS) regulates activities within the river. The Town of Orchard City is located north of the River and the City of Delta is about 1.3 miles west. This project is located within the municipal Growth Management Area.

DISCUSSION:

Project Overview

Delta Paving Gravel Pit is an existing sand and gravel mine that has been operating in Delta County since 2001. The property is owned by Grand Junction Concrete Pipe Company (GJCP) and Richard/Betsey Frazier. The permittee and operator, Kilgore Companies dba Elam Construction, Inc. is proposing to expand their mining area and add a hot mix asphalt plant to the operation.

The subject property consists of three separate parcels totaling about 170.8 acres located on the east side of State Highway 65 and the north side of State Highway 92, directly south of the Gunnison River:

1) *Parcel 345510202002*; 41.62 acres owned by Grand Junction Concrete Pipe Co. Bordered by Highway 65 on the west and the Gunnison River on the north. Currently irrigated agricultural lands with a paved access road through the middle.
2) *Parcel 345503400053*; 39.13 acres owned by Grand Junction Concrete Pipe Co. Part of the existing permit/operation, including the Gunnison River. Access from Highway 65 via an easement through Parcel -002.
3) *Parcel 345510100028*; 92.021 acres owned by Richard and Betsey Frazier. Part of the existing permit/operation Bordered by Highway 92 on the south. The north west portion has been mined and has a lake that was

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created as part of the reclamation plan. The southern portion is currently irrigated agricultural lands, and about 20-30 acres (closest to Highway 92) is located outside the footprint of the proposed impact area.

The facility has been operating on about 131 acres (two parcels) for over 20 years, but has not been actively mining for about 15 years. Under the existing permit, they excavate, process, and sell construction materials. This process includes crushing, aggregate washing, and the production of concrete.

Primary access is from State Highway 65, which has been paved per a condition of their permit. Condition #6 of the Agreement required the applicant to explore access to Highway 92 (discussed below).

The proposed permit area of the mine would impact 145 of the 172+ total acres. Of this permit area, 100 acres will be disturbed but only 67.5 acres will be mined for sand and gravel (Phase/Pit 1 (25.8 Ac), Phase/Pit 2 (11.3 Ac), Phase/Pit 3 (14.4 Ac), and Phase/Pit 4 (16.1 Ac). The mining permit will impact part of an existing irrigated field on the Frazier property (Current Mining Permit) approximately 570-feet south of the exiting pond (Pit 2).

Mining is proposed to occur through four phases (four pits). The purpose of phasing is to ensure that impacts from the mine are minimized over time. Only one phase (pit) would be open (operating) at a time. Reclamation will occur, converting the pits to groundwater lakes as soon as the next phase starts to minimize the overall impact of the mine.

Right now, mining and processing for all four phases is expected to occur over a 20-year period. Following the completion of each pit (Phase), reclamation would convert the land into multiple groundwater lakes (wetland habitat) surrounded by rangeland and wildlife habitat. There will also be potential to use areas as agricultural land.

The mobile asphalt facility is a temporary piece of equipment that will be centrally located on site (Parcel 345503400053) in an already natural and mature setting provided by the mesa and surrounding cottonwood trees, just south of the Gunnison River and just outside of the undisturbed riparian corridor.

The majority of the property, specifically the mining area, is made up of previously disturbed land that is being used as the site's current mining and operating area. Approximately 15.6 acres within this area have been reclaimed as of 2022 as groundwater ponds. The remaining portions of the site are agricultural fields or undisturbed wooded and riparian areas along the river.

Properties around the subject property consist primarily of agricultural lands. Gunnison River borders the northern edge of the property, and then the elevation rises to a bluff. The Town boundary generally begins immediately north of the

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Gunnison River where multiple residential lots have been created along the top of the bluff (overlooking the subject property).

Elam Construction intends to use this quarry to serve the local construction market. The applicant believes that allowing asphalt production on the site will allow them to better serve nearby paving projects in the surrounding area such as those on Highway 92, 65, and 50. Removing Condition No. 9 in BoCC Resolution No. 99-R-009 as follows: *The placement and use of an asphalt plant shall never be allowed* intends to reduce truck travel miles for projects awarded to Elam Construction within 20-50 miles of this site. Their other facilities that allow mixing asphalt are located in Montrose and Grand Junction.

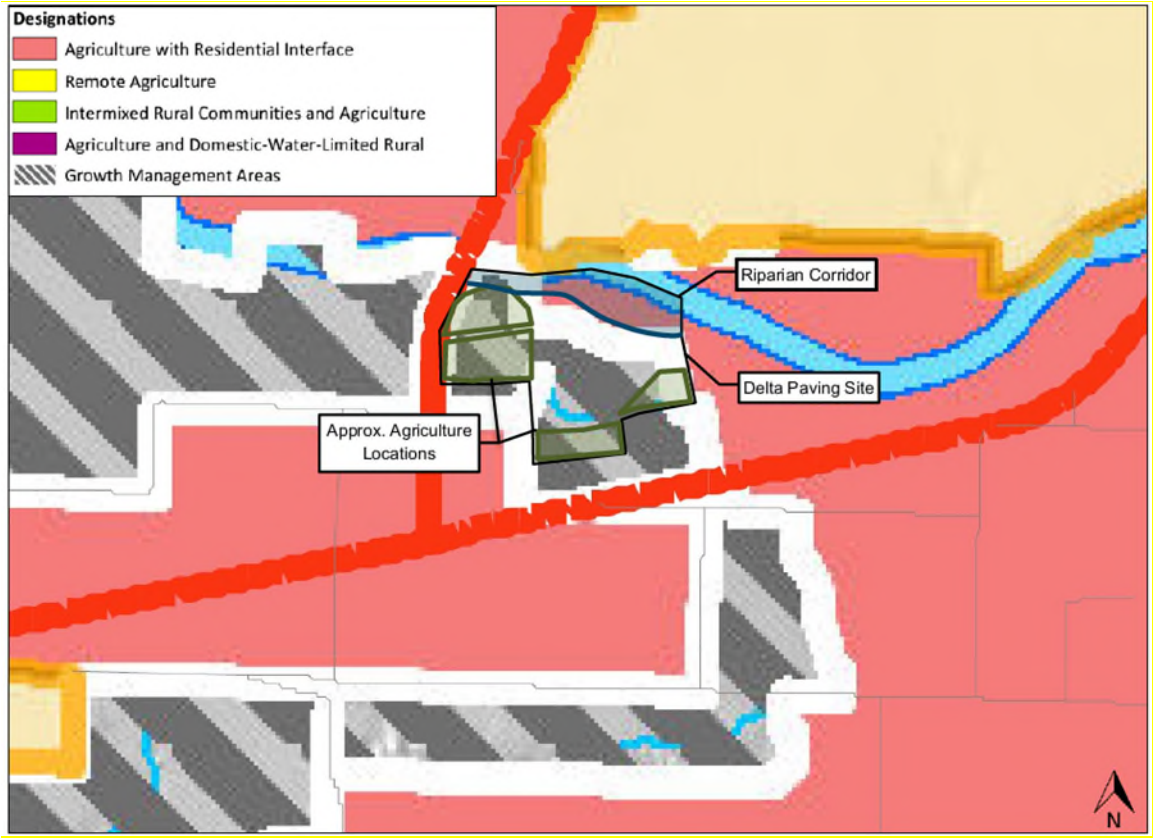
County has discretion to amend a prior permit (removing/revising/adding conditions). Limited County records do not indicate the purpose for this condition. However, staff finds that agreements, contracts, etc. can be amended upon mutual agreement of the parties. In this case, the parties consist of the applicant, property owner (if different), and the County.

The Delta County Master Plan (adopted 2018) indicates that the subject property contains areas designated to future land plans. The northeastern corner, though, is designated as Agriculture with Residential Interface; it is important to note that the gravel pit predates the Master Plan (and Land Use Code). The property is zoned A20, with lands immediately south (along Highway 65) zoned as Rural Industrial/Commercial (RI/C) reflecting the Highway 92 Overlay District (Ordinance 2006-10). Orchard City does not have zoning or land use regulations.

Generally, an Intergovernmental Agreement (IGA) addressing land use affords a municipality the ability to assume Lead for a project where they want to annex the property. There is currently no IGA with the Town of Orchard City relative to land use. That said the project was referred to the Town for comment.

In an IGA with the City of Delta, the site is designated as being part of their Growth Management Area. The existing agricultural fields located within the proposed project site are located within the Growth Management Area for the City of Delta. The majority of the areas designated as Agriculture with Residential Interface are within the Riparian Corridor, or were previously disturbed areas associated with the mine. The Riparian Corridor is made up of heavily vegetated undisturbed land with many areas that could be potential wetlands, and is almost entirely within the floodway – the application proposes to remove this area from the existing permit.

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Background

Parcel #345510202002 is Lot 2 of the Volk Minor Subdivision (#97-071) recorded on February 10, 1998 under Reception #511315. Originally, Lot 2 was to consist of approximately 80-acres. The Board of County Commissioners (BoCC) accepted the Final Plat for the Volk Minor Subdivision that was supposedly based on an approved Preliminary Plat. However, after the Final Plat was recorded, it was later brought to the attention of the BoCC that the subdivision had been mistakenly approved as the applicant had revised the acreage of Lot 2 significantly without that revision following the appropriate process. Lot 2 was reduced from 80-acres to approximately 41.62-acres.

The Final Plat was recorded with a restriction on Lot 2. Lot 2 cannot be developed or used for other than agricultural use unless the owner goes through the full subdivision review process. The Final Plat also notes that the Minor Subdivision is located within a floodplain and requires any development within the subdivision to apply for a Floodplain Permit. Staff reached out to Environmental Health (EH) in regards to any existing floodplain permits for either parcel located in the floodplain. EH has stated that they were unable to find an existing permit for any parcels involved in this application. Therefore, any work to be done within the floodplain will require a Floodplain Permit through EH (**Condition #4**).

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When Grand Junction Pipe and Supply Company (applicant/owner at the time) applied for a gravel pit operation to the Division of Minerals & Geology, there were disputes about the recordation of a Final Plat. On April 19, 1999, the BoCC and Grand Junction Pipe and Supply Company came to an agreement for the operation of the gravel pit on what was supposed to be Lot 2 of the Volk Minor Subdivision. This agreement was to help mitigate the possible negative impacts resulting from the pit. Along with this agreement there was also a $25,000 performance bond placed on the pit. Grand Junction Pipe and Supply Company agreed to the following conditions, and staff has assessed the status of compliance with these conditions:

1) Hours of operation will be from 6:00 a.m. through 6:00 p.m. Monday through Saturday only. The only operation which may be allowed to continue through the night and on Sundays will be pumping.
   STATUS: According to the applicant, this facility was last operated (mining) about 15 years ago. In 2015 there was some minor activity. Other than that, there has been occasional trucks picking up some material from existing stock piles. As such, staff cannot verify the hours were met. The applicant has stated that these hours would not need to change with the requested amendments; however, the documentation indicates hours of 7AM to 7PM versus the 6AM to 6PM as currently conditioned.
2) With respect to the nighttime and Sunday pumping, this Board would want you to use electrical motors for pumps, if power to run the pumps can be obtained at reasonable expenses from the existing power lines which cross Lot 2. Whether you use electrical or diesel, your pumps and motors must be house in a sound reducing building with a residential muffler.
   STATUS: See #1, the applicant has stated that this condition would not change with the requested amendments.
3) All of your lights must be hooded so that the neighbors on the ridge of the hill are not disturbed and the night sky is not illuminated.
   STATUS: Currently, there are not lights located on site.
4) For purposes of dust suppression, the access road from State Highway 65 through the field in Lot 2 of the Volk Minor Subdivision must be paved, with the road from the field to the processing area graveled. Dust suppression in compliance with the Aire Emission Permit which will be obtained from the Colorado Department of Public Health and Environment for the gravel mining operations on the volk Property must be maintained on all gravel roads, including internal haul roads to the stockpile and the processing area.
   STATUS: A site visit by Staff confirmed that this portion of the road is paved (chip seal).
5) Any trees larger than 6 inches in diameter that are removed must be replaced two (2) planted for every one (1) removed. You must maintain the existing trees between Lot 2 and the pit and processing area as viewed from Highway 65 as a buffer area. A representative of this Board and a representative of the State Forester or CSU Extension agent

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familiar with trees shall visit the site, identify and mark all Fremont Cottonwood Trees. All large, healthy Fremont Cottonwood Trees must be preserved; except that any trees which substantially interfere with the mining plan as approved by the Mine Land Reclamation Board may be removed if either transplanted or replaced two (2) trees for every one (1) removed in a different area.
STATUS: Staff cannot verify if there was removal and replacement, but there is a mature stand of trees on the site. This condition will be extended with the permit and staff recommends adding an annual report (inspection if needed) as a condition to ensure this condition is met. This condition is intended to help mitigate visual effects to a feasible extent.

6) With respect to the location of the access road, the first choice of this Board is on the south boundary of Lot 2, with the second choice being the middle of Lot 2 of the Volk Minor Subdivision. You have also agreed to contact the railroad to explore the feasibility of using the existing road through the Frazier property to access State Highway 92 and provide to this Board their written answer or documentation as to the answer of the railroad. Such road will not be required unless it is approved by the railroad and unless it can be installed as a reasonable cost. The preference of this Board is that there be two accesses to the gravel mining operation, one from State Highway 65 and one from State Highway 92.
STATUS: There is currently no access to Highway 92. Staff found no documentation in the record justifying no access as required by the condition.
7) You must consult with the Colorado Division of Wildlife on the size and offshore location of any islands that will be used for goose nesting and wildlife. At the conclusion of mining activities, there must be one island in the 16-acre pond and two islands in the 35-acre pond.
STATUS: There are no islands located in any of the existing ponds within the permit area.
8) The actual crushing operation may extend for no longer than three months during any calendar year.
STATUS: Staff cannot verify how this facility operated in the past. However, the applicant has indicated that they are not requesting changes to conditions other than Condition #9. This limitation can be extended to asphalt to mitigate noise and odor to an extent that is feasible and still operate this facility.
9) The placement and use of an asphalt plant shall never be allowed.
STATUS: There is currently no asphalt plant at this site.

This agreement applies to the operations on Lot 2 of the Volk Minor Subdivision and all other properties descried in the Lease Agreement recorded in Book 817 at Page 544 (the Frazier property); provided however, that with respect to the Frazier property compliance with this agreement is the responsibility of Grand Junction Pipe and their assignees and shall not constitute a covenant running with the land.

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Water Supply. An application for Underground Water Rights, Change of Water Rights, and Approval of a Plan for Augmentation was filed on July 26, 1999 (Decree Case No. 99CW128, **attached**). The decree ruling approved the augmentation plan as follows:

- Applicant shall have the right to divert water out of priority from and at the Delta Paving Pit Wells so long as adequate water is available and provided to augment depletions from such diversions, as set forth in the Plan for Augmentation. Pursuant to C.R.S. 37-92-305(8), the Division Engineer for Water Division 4 shall curtail all out of priority diversions from the Delta Paving Pit Wells the depletions from which are not so replaced as to prevent injury to vested water rights. The applicant and its assigns understand that a portion of the replacement water is a leased supply, and if such lease should expire, fail to be renewed, is terminated, or an alternative source of replacement water is not included in this decree by proper amendment prior to such expiration, curtailment of all out of priority diversions being augmented by the leased supply will occur.

On May 29, 2019, Kilgore Companies, LLC dba Elam Construction, Inc., filed a Decree (2019CW3023) to the Water Court, Division No. 4, to amend the water rights from the previous Decree (99CW128). The amounts of evaporation losses, product moisture losses, and the maximum rates for dewatering purposes and dust suppression changed. Judgement was made to allow the rights to continue for the Delta Paving Pit Wells on September 5, 2019.

Mining Permit/Existing. A Mining and Reclamation Permit (M-98-105, **attached**) was issued to the Delta Paving Gravel Pit on April 19, 2000 from the Colorado Division of Minerals and Geology. A Well Permit (#053787-F, **attached**) was issued on May 19, 2000. Conditions of the Well Permit is as follows:

- Average annual amount of groundwater to be appropriated shall not exceed 225.15 acre-feet with the total surface area of the groundwater ponds limited to 60 acres (these ponds are known as the Delta Paving Pit Wells Nos. 1 – 5), the use of ground water, in addition to evaporation (218.75 acre-feet/year), is limited to dust suppression (2.7 acre-feet/year), product moisture loss (3.7 acre-feet/year), aggregate washing, and dewatering. No other use of water is allowed unless a permit is approved.
- The owner shall mark the wells (ponds) in a conspicuous place with well permit number(s) and court case number(s) as appropriate.
- The provision of the Minimum Construction Standards in Rule 10 shall be waived for gravel pits except for Rules 10.1 and 10.2.1 regarding aquifer contaminants. The owner of the gravel pits shall take necessary means and precautions to prevent contaminants from entering the gravel pit wells.
- The boundaries of the groundwater ponds/gravel pits shall be more than 600-feet from any existing well not owned by the applicant.

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- No permanent pumping equipment shall be installed within the confines of the groundwater ponds/gravel pits, unless a separate written request for a variance has been approved by the State Board of Examiners of Water Well Construction and Pump Installation Contractors.

Irrigation. The applicant owns ten (10) shares, and has leased an additional two (2) shares, of the capital stock of the Bona Fide Ditch Company. Water produced under these twelve (12) shares will be used for augmentation.

Access. On September 10, 2003, an Agreement and Grant of Easement was recorded under Reception #571214 between Volk (Lot 2) and Grand Junction Concrete Pipe Co. This agreement was for the purpose of granting an easement from Mrs. Volk to Grand Junction Pipe over the Volk Property (Lot 1, Volk Minor), across and along the driveway, for ingress and egress from the Grand Junction Pipe Property. The term of this Agreement and of the Easement shall be twenty years, commencing on the effective date of said Agreement. The Easement and all rights and obligations of the parties under this Agreement shall automatically terminate at 12:00 noon on the day that is twenty years after the effective date of this Agreement. Mentioned in this Agreement is a Farm Lease that occurred between Grand Junction Pipe Company and David Volk for farming purposes. The Farm Lease does not appear to have been recorded.

Air Quality. A Construction Permit (Permit No. 93PO630) was issued on December 9, 2003 to Elam Construction, Inc. by the Colorado Department of Public Health and Environment, Air Pollution Control Division. This permit applies to a counterflow drum hot mix asphalt plant (portable equipment) that is currently housed in Grand Junction, CO. This is the proposed plant to be relocated to the project site. The applicant will need to file a Relocation Notice to CDPHE, Air Pollution Control Division, 10-days prior to the change in location (**Condition #10**).

The Construction Permit includes regulation by the Air Division relative to visible emissions, relocation of plant, operations, odor, gases and particulate matters (PM_{10}), maintenance of equipment, production rate (not to exceed 300,000 tons per year) (**Condition #9**), and APEN (Air Pollutant Emission Notice). Equipment like this is regulated and regularly inspected to ensure there are no toxic fumes that would be harmful to human and/or the environment.

APPLICATION:

Chapter 2, Section 5.B(7) of the LUC requires a mineral extraction/quarry use to meet standards for reclamation, noise, dust, and hazards. The following information/documents have been supplied by the Delta Paving Gravel Pit Conditional Use Permit. The following Exhibits are considered part of the Amendment to the Colorado Division of Reclamation, Mining, and Safety (CDRMS) Permit Application (Appendix 1):

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Mining Plan/Proposed (**Application Exhibit D, attached**):
Mining of the Delta Paving Gravel Pit will involve roughly 110-acres of total disturbance; the primary commodity being mined is sand and gravel for use in construction materials such as crushed rock, sand, washed rock, concrete, and asphalt. Mine access will remain the same from State Highway 65 directly west of the site.

Mining will be completed in four phases corresponding with each pit. Mining and Reclamation will be done concurrently to minimize total disturbance. There is sufficient topsoil and overburden on site to successfully reclaim the site to its final condition as groundwater lakes and rangeland. Only one loader and a scale will be located on the site full time, as most of the year the mine will not need to be running at full production. No permanent structures are proposed to be built on site. Elam Construction proposes to provide portable toilets and bottled water to employees on site during operations. All facilities will be removed once reclamation occurs and no explosives will be used at this site. A Weed Management Plan will be implemented for the site (**Condition #12**). Plants identified through the Colorado Noxious Weed Act (C.R.S. 35-5.5) and the Delta County Noxious Weed List as undesirable and designated for management within the County will be removed.

Berms will be constructed by Phase 3 & Phase 4 areas along State Highway 65 as topsoil and overburden is stripped from Phases 1 & 2. These berms will be vegetated to prevent erosion and provide screening (**Condition #13**).

Asphalt and concrete production will occur onsite *occasionally* depending on local contracts awarded to Elam. Asphalt operations do not occur when the weather is cold. County construction period for road projects is generally April through October (depending on weather conditions). Elam does not expect projects in this area every year and/or to be awarded contracts in this area every year, and noted that most CDOT projects include specific timelines for completing the work (typical is 90 days). However, defining *occasionally* for purposes of this permit could be April – October (each year) with a maximum of three (3) months crushing operations and use of the Asphalt Plant (**Condition #8**). The operators will not have night gravel mining operations where the crusher or asphalt facility will not be in operation except during the operational hours of 7 am to 7 pm. However, minor truck activity and repairs may occur after hours.

Traffic Study (**attached**):
A Level I Traffic Study was conducted by Kimley-Horn and Associates, Inc. The recommendation of the study indicates that the expansion of the site will generate minimal traffic during the operation hours; a total of 77 trucks is estimated to access the pit each day. Total daily trips are indicated to be 164 vehicle trips (33 peak hour vehicle trips, this includes employee traffic and truck traffic). The study indicates that the Average Daily Traffic (ADT) in 2021 along State Highway 65 was 7,035 vehicles, with the anticipated ADT for 2040 being

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7,700 vehicles. Based on the analysis of the study, Kimley-Horn believes that traffic improvements will not be necessary along State Highway 65.

This Traffic Study addresses traffic that is expected based on the proposed application. It is not clear what the traffic levels were at the time the mine was initially permitted (permitted conditions) or what they are today (existing conditions). These numbers would help understand how much of an increase, or decrease, in traffic there would be with this proposal. CDOT has requested information in regards to the change from existing traffic levels from the existing permit (**Condition #15**).

Truck Routing Plan:
The majority of the trucks entering and leaving the site on a daily basis will be dump trucks used for picking up and transporting materials sold by the mine. Dump trucks, typically with 13- and 24-ton capacities, will haul material off site such as road base, washed sand, crushed stone, and gravel. Additionally, concrete and asphalt trucks will contribute to the traffic in and out of the site. Traffic can be expected steadily throughout the day during mine operating hours, typically from 7:00 am to 7:00 pm between the months of April through October (**Condition #8**). The only hazardous material that will be transported to or from the site is diesel fuel.

Noise Control Plan:
The LUC requires a Noise Control Plan if a mining operation is within 2,000 feet of a residence or livestock operation. Properties immediately south (Harper), within 2,000 feet, include residences and are actively grazing livestock. Properties abutting to the north includes residences up on the bluff, which are within 2,000 feet.

The noise threshold for development set by the LUC refers to C.R.S. 25-12-103, *Maximum Permissible Noise Levels*. Industrial uses are limited to a sound level of 80 dB(A) at 25-feet from the property boundary during the hours of 7:00 am to 7:00 pm (prior condition establishes 6 am to 6 pm). It is not anticipated that the noise level from mining activities, such as crushing, will exceed these limits; primary concern for noise is from the crusher. The crusher will be located a minimum of 800-feet from the property boundary, and 1200-feet from the nearest residence, with physical noise barriers such as stockpiles between them. If noise levels exceed the threshold limits, noise mitigation techniques such as berms, stockpiling, or the use of hay bales will be implemented prior to continuing the activity causing the exceedance (**Condition #7**).

Dust Control Plan:
Dust will be regulated by the Colorado Department of Public Health & Environment (CDPHE). The dust levels will be maintained with the limits of the CDPHE Air Permit limits for the site (**Condition #11**). Due to mining below the water table, most of the material excavated will be wet and pose a lower risk of

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dust creation. The water used for dust control will be sourced from existing water sources on site.

Operational Hazard Mitigation and Risk Management Plan:
A Spill Prevention, Control, and Countermeasure (SPCC) Plan will serve as the Operational Hazard Mitigation and Risk Management Plan for the operation. The plan will be reviewed and updated, a minimum, every 5 years, or within 10 working days of any operational or administrative changes. The SPCC Plan includes information on the mitigation and management of hazards related to oil spills. This Plan includes:

- Emergency Contact information
- 24-Hour Emergency numbers to contact
- As-built facilities map identifying potential risks and hazards
- Mitigation techniques for storing and transporting hazardous materials
- Written response plan for the occurrence of oil spills

There are no other potential hazards (explosions, fire, gas, chemical, leaks, toxic gas emissions) that would require a hazard mitigation and risk management plan. To insure that primary containment is satisfactory to contain petroleum products, integrity testing shall be conducted on each vessel designated for testing in the SPCC Plan.

Fuel Management Plan:
The majority of natural vegetation exists in the northern portion of the site; this area will remain undisturbed during mining. The northern wooded area is made up of mature cottonwoods and willows with a shrubbery midstory. The understory is predominantly composed of saltgrass and dry, sparse shrubs. Typical rangeland vegetation exists near the outskirts of the property, which will also remain undisturbed. Emergency vehicle access will be from State Highway 65 at the west of the site.

Constraints Map:
Existing features include: Gunnison River, ditches, potential wetlands, forested areas, utility lines, structures, and ponds. Appropriate setbacks are maintained in the mining plan to protect these features. There are no groundwater recharge areas located at the site. Additionally, the site is not located along any scenic byways. The potential wetlands located on the site are limited to the riparian corridor along the Gunnison River. Mining has previously been permitted and approved to occur in this corridor, however, Elam Construction has committed to not mining these areas to protect the wetlands.

Drainage Report:
All surface drainages from stormwater or process water will be maintained within the disturbance boundaries through the topography of the site. This means that there are no downstream properties that can or will be impacted by surface drainages from the site. In the event of a storm, all water will be collected in the active pit where it will be left to evaporate or infiltrate for 24 hours. After 24 hours,

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it will be pumped out of the pit to the existing lake, acting as a settling pond for sediment to be removed from the water. From there, it can be safely discharged to an on-site drainage that returns the water to the Gunnison River.

Landscape/Lighting Plan:
There are existing trees and vegetation that mostly screen the existing operation. Screening of the expansion site is proposed through construction of berms along Highway 65 and existing cottonwood trees near the Gunnison River. The majority of the vegetation along the Gunnison River will be retained, consisting of mature cottonwoods, willows, and sparse shrubby and grassy areas which will serve as screening for the processing area. In the pre-application meeting, staff discussed planting vegetation along Highway 65 now, so it reaches a mature stage before starting operations in those areas (Phases/Pits 3 & 4). This is recommended to be included as **Condition #13**.

Lighting may be used on an as-needed basis for emergency repairs and maintenance when it is dark. Lighting must always be downcast and limited in use.

Visual Impacts and Mitigation:
The LUC establishes regulations for projects within ¼-mile of a designated scenic byway. Designated scenic byways in Delta County include; *West Elk Loop* (92/50 from Hotchkiss to Gunnison, 133 from Hotchkiss to Carbondale, 135 from Gunnison to 133) and *Grand Mesa* (Highway 65 from I-70 to Cedaredge). There is no scenic byway affected by this project.

The project site is visible from the ridge near the northern neighbors, but private views are not protected under the LUC. That said, Condition #5 of the existing permit for the operation requires managing landscape screening. There is existing mature vegetation (trees and shrubs) that provide screening from the processing area, which will be the location of the asphalt and concrete plants, crushers, screening deck, scale, scale house, and most other equipment. The pits and taller parts of the asphalt plant (maximum 25') will be visible despite the trees due to the elevation of the ridge. This western end of the site is also visible to the nearest neighbor to the south. The applicant stated they have been in communication with the property owner of this residence, and it has been agreed upon that no additional visual screening or renders need to be undertaken.

Proof of Water (Wells):
The Delta Paving site obtains its water from the existing gravel wells that are on site. The Water Court Ruling in Appendix 4 (**attached**) shows the water rights owned by Kilgore Companies, LLC dba Elam Construction, Inc. for these sources. The existing water rights are provided for evaporative loss and consumptive uses such as dust control and aggregate washing. The production of asphalt itself will not cause an increase in water consumption as asphalt production requires little to no water. If more water is needed for the mining

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operation, new water rights will be procured through the Colorado Division of Water Resources as needed (**Condition #20**).

Water Information (**Application Exhibit G, attached**):
The Delta Paving Gravel Pit is located within 200-feet of the Gunnison River. The Relief Ditch and Broad Ax Ditch traverse the site, and an area of potential wetlands exists in the north near the river. The Federal Emergency Management Agency (FEMA) has designated the northern portion of the site to be located within the 100-year floodplain. Minimum distance from the Gunnison River to excavation activities is 100-feet, with no excavation, construction, or other development occurring in the floodway (**Condition #3**).

Following reclamation of the site, pit pumping will cease. Permanent groundwater lakes will be left behind from the mining pits. The lakes will generate evaporative losses of groundwater, of which will require appropriate permits. Elam Construction will obtain the required augmentation plan and additional gravel well permits prior to the exposure of any groundwater at the site. A copy of these plans will be provided to the Division through a Technical Revision.

A new gravel well permit will need to be obtained for the new groundwater exposure associated with the additional mining areas.

Biological Assessment & Wildlife Report (**Application Exhibit H, attached**):
The project location is less than 350-feet south of Orchard City with the proposed pit sites being just south of the Gunnison River. With Highway 65 and Highway 92 to the west and south of the site, and developed lands in the area, wildlife habitats have been fragmented.

The affected land is within winter range and forage for bald eagles, but no nests were found to be present on or near the site. The western portion of the site is within the winter range for wild turkey. Black bear and mountain lion overall range is present on the affected land, typical of western Colorado. The affected area is within mule deer and white-tailed deer overall ranges. The northern area of the site near the Gunnison River is within otter overall range.

No migration corridors or big game winter ranges are present within the permit area. There are no federally listed threatened and endangered species and/or habitats that were identified at the project location.

The application includes removing permit approval to work in the Gunnison River. In addition, there will be a 100-foot buffer from the river to avoid impacting the riparian corridor. If any trees are impacted, recommended conditions require replacement of native trees at a 2:1 ratio. In addition, the operator is required to manage invasive weeds on the project site.

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Reclamation includes creating new ground water lakes that become wetland habitat (as demonstrated by the existing lake restoring the area of Pit #1). Mining will not take place in any water ways or natural lakes. Surface water controls will protect offsite drainages and fish habitats from sediment discharges. Elam Construction will not stock the reclaimed lake with non-native species at any time (**Condition #5**).

The property is generally fenced with agricultural fencing, which allows free movement of wildlife. No anti-climbing measures are necessary at the site other than fencing and mine gates for security.

Soils Information (**Application, Exhibit I, attached**):
A soil report was generated using the United States Department of Agriculture's NRCS Web Soil Survey (WSS). The WSS provides soil data and information produced by the National Cooperative Soil Survey. The majority of the site's soil (65%) is made up of Waterdog soil while the remaining portion of the site is made up of Montrose Silty Clay Loam. The parcels are considered Prime Farmland If Irrigated, however, the majority of the site will be groundwater ponds so this will not be necessary for the post mine land use.

Reclamation Costs (**Application Exhibit L, attached**):
The Delta Paving Gravel Pit will have a bond to cover the worst-case reclamation scenario. Prior to opening Phase I to mining, the operator/applicant will post the necessary bond. The worst-case reclamation scenario will occur when Phase I of the mining is nearly complete as it is the largest of the four pits. The remaining pits will be undisturbed at this point. All structures will need to be removed from the site.

Application
A SWMP was prepared for the Delta Paving Gravel Pit on October 10, 2012 by River City Consultants, Inc. The Plan states that the groundwater depth is unknown, however, given the proximity to the Gunnison River it is likely to be very shallow. The site drains to one of several on-site retention ponds. These retention ponds do not have an outlet and typically water leaves the pond via evaporation and infiltration to the aquifer. The retention pond is within the 100-year floodplain of the Gunnison River, so under high flow conditions this area may be flooded.

Potential pollutants include chemicals, nutrients & bacteria, oxygen demand, and elevated water temperatures. Potential pollutants shall be controlled by the following methods: Waste Management and Disposal, Non-stormwater Controls (A list of spill prevention, control, and counter measures have been developed as part of the Stormwater Pollution Prevention Plan), and Stormwater Controls.

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Wetlands Evaluation (**Application Appendix 5, attached**):
WestWater Engineering conducted a desktop wetland evaluation on February 3, 2022. All areas of the Parcels 345510202002, 345503402053, and 345510100028, were evaluated using desktop methodologies to evaluate aquatic resources based on existing aerial imagery and databases including Delta County GIS, Natural Resources Conservation Service (NRCS), U.S. Fish and Wildlife Service (USFWS), National Wetlands Inventory (NWI), and the Federal Emergency Management Agency (FEMA).

The 110-acre site disturbance area has been evaluate and determined to consist of approximately:

- 18 acres of *Waters of the United States* (WOUS) in combined wetland and open water area, consisting of wetlands and open water in the Relief Ditch (2.3 acres), lake (14.6 acres) and small pond (1.4 acres); and
- 60 acres of upland including the approximately 51.5 acres of agricultural field farmland; and
- 16 acres of riparian area of which will be mostly upland with dispersed WOUS areas, and
- 17 acres of alkali/saline impacted soils which may be upland or problematic wetlands depending on site specific data.

NWI identified potential WOUS, also known as jurisdictional wetlands (USACE, USFWS), of approximately 4.0 acres of various type wetlands and open water. Including the 14.6-acre lake, which was not listed in the NWI database, total NWI WOUS would be approximately 18.6 acres.

The Mining operation will not affect any irrigation facilities, specifically the irrigation ditches on and around the property, as all mining will take place with appropriate buffers to protect these features. The only sensitive lands on or near the subject property is the riparian corridor in the north section of the site along the Gunnison River. A Wetlands delineation will be conducted, and any areas identified will be protected from mining or other development with appropriate setbacks (**Condition #3**).

OTHER AGENCIES INVOLVED:
Planning Staff sent the Delta Paving CUP Application submitted by Elam Construction along with a summary to the Review Agencies for comment on July 5, 2022. Comments received during this comment period were: CDOT, Town of Orchard City, City of Delta, UVWUA, US Army Corps of Engineers (USACE), and the Colorado Geological Survey (**attached**).

CDOT: Since the Traffic Study shows that the thresholds for the right and left turn deceleration lanes are just one vehicle under the turn lane requirements, CDOT would like to see a heavy truck analysis or something in the report to address the slow stopping and accelerating vehicles turning into (ingress) and from (egress) the site from the Highway. CDOT may still require a left and right turn

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deceleration lanes if the gravel pit creates safety and operational issues on the Highway. They will need to submit an access permit application and traffic study to CDOT (**Condition #15**).

City of Delta: No comment.

Town of Orchard City: Request that the current "agreement" is kept that states an asphalt plant will never be allowed.

UVWUA: This acreage has no irrigation water delivered by the Uncompahgre Valley Water Users Association and is outside the Water Users Project boundaries. We have no objection to this project.

US Army Corps of Engineers: If the project causes a discharge of dredged or fill material into a water of the United States, a Department of the Army permit from us is required (**Condition #6**).

Colorado Geological Survey:
Sand & gravel mine expansion. No geologic conditions are present that would preclude approval of the proposed mine expansion. Provided the mine is operated and reclaimed in accordance with mining and reclamation plans approved by DRMS, CGS has no objection to approval.

Propose asphalt plant. The SPCC (Spill Prevention, Control, and Countermeasure) Plan (Lewicki & Associates, March 2022) discusses only diesel fuel storage. However, asphalt plants typically require large, heavy asphalt cement (oil) tank(s). CGS is concerned about contamination of soil and the Gunnison River in the event of tank failure, and recommends that the County require a site-specific geotechnical investigation to characterize soil and bedrock engineering properties at proposed silo, tank, and other heavily loaded structure locations (**Condition #18**). This information is needed to determine subgrade preparation requirements and to design foundations.

The proposed asphalt plant is not identified on the mining plans, but should be sufficiently outside of the 100-year flood hazard and wetlands limits to minimize risk of damage and undermining due to erosion and scour.

NEIGHBOR COMMENTS:
Planning Staff extended the required public notice parameter to Adjoining Property Owners (APOs). Under the LUC, a project requires notice sent to property owners within 200-feet, but staff used a ½-mile radius from the project site.

Staff has received numerous neighbor comments (**attached**) as well as petitions in opposition of the amendments being proposed. Many neighbor comments are simply that they do not want any mining operation in this area. Recognizing there

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is an existing permit, this could be interpreted as not wanting any change from the current use/permit.

The Land Use Code is a permissive document. If zoning allows the use, staff evaluates it against the standards and findings within the LUC. The Master Plan is advisory but is not regulatory. In that context, some concerns addressed by the LUC include: scenic impacts (byways), stormwater management (water quality, Gunnison River), odor management (air quality), agricultural operations, traffic impacts (State Highway), and noise. Other concerns, not regulated by the LUC, include: property values, views (private), and health risks (quality of life).

NEIGHBORHOOD MEETING:

On August 3, 2022, Kilgore (Elam) held a neighborhood meeting on site at 8020 Highway 65. County staff were in attendance and walked the site with Elam and Lewicki representatives before the general meeting. There were about 50 neighbors that attended the meeting; many of whom have also submitted written comments (noted above). The purpose of this meeting was for the application to clarify their project (address misperceptions noted in comment letters) and to answer questions/concerns of the community in a Q&A setting. The project team had planned to break out to be able to answer questions 1:1 but the group demanded to remain as one group.

Some points that staff took away from the meeting include:

- Define the term “occasional” for the times the hot plant would be onsite
- Define the radius of work area (impact to roads, hours of operations)
- Location (why this spot?)
- Flooding and proximity to the Gunnison River
- Odors (state requirements/permits)
- Property values
- Disruption to scenic byways

The general consensus being that neighbors did not want the plant, or pit, in this location and it should be moved elsewhere. Staff has attempted to address as much as possible in this report but, where we did not have answers, we asked for information from the applicant following the meeting.

It was confirmed that Elam would be amending the permitted area to remove the area within the Gunnison River from the mining operations; excavation activities are 100-feet from the river and no excavation, construction, or other development will occur in the floodway. They are proposing to remove Condition #9 of the current agreement, will be adding two more pits to the proposed operations (to be used at later dates through phasing), and truck traffic will not change as only one pit will be mined at a time, limiting traffic and impacts.

During the general meeting, staff addressed questions in regards to state required permits, home values, the Land Use Code and the Delta County Mater Plan, availability of the application packet and the conditions in the existing

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Development Agreement for the Site. Staff also addressed numerous individual questions (one on one) in regards to the process, the Planning Commission & Board and who is going to regulate (and how) all permits if the application is approved.

Staffed clarified the permits involved with this application: Land Use Code (County standards and zoning), Air Quality (CDPHE), Stormwater Permits (CDPHE), Mining Operations (CDPHE, DRMS), CDOT (State Highway Access Permits), discharge of materials into the river (Army Corp of Engineers, USACE), and Colorado Parks & Wildlife (Wildlife impacts/migration).

After about an hour of open discussion, a majority of the neighbors left the site and a smaller group (5-10 people) walked the site with those present from Elam and Lewicki & Associates (representing Elam). Staff did not participate in that tour.

The applicant has agreed to further address the following neighbor issues:

- "Agreement" and what that means
- Odor (LUC Standard). Winds are of concern as the prevailing wind travels south to north up the mesa towards residential areas.
- Noise (LUC Standard, State Requirements/Limits). How far will the sound travel from the site?
- Visual Impacts
    - Under the LUC, scenic impacts apply to property located with ¼-mile of a scenic byway. There is no scenic byway with ¼-mile of this project site. If there was, the LUC affords the ability to mitigate through alternative setbacks, building placement/design, and landscape techniques.
- Biological Assessment. Provide a detailed assessment to define the riparian edge of the Gunnison River and any wetland areas that require further review (USFWS, Federal Oversight) outside of Parks and Wildlife review.

Attachment(s):

- DRAFT BoCC Resolution with Conditions (Development Agreement)
- Delta Paving Gravel Pit CUP Application (dated June 2022)
    - Exhibits A – S
    - Appendices 1 – 5
    - Decree Case No. 99CW128
    - Well Permit #053787-F
- Review Agency Comments
- Public Comments (including Petition of Opposition)

RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DELTA,
STATE OF COLORADO

RESOLUTION NO. 2022-R-___

APPROVING A CONDITIONAL USE PERMIT AMENDING AN EXISTING DEVELOPMENT AGREEMENT, TO EXPAND OPERATIONS AND INCLUDE THE ABILITY TO OPERATE A MOBILE HOT MIX ASPHALT PLANT LOCATED AT 8020 STATE HIGHWAY 65 APPROXIMATELY 1.32 MILES EAST OF DELTA AND ABUTTING THE TOWN OF ORCHARD CITY (PARCELS: 345510202002, 345503400053, AND 345510100028).

RECITALS

WHEREAS, Grand Junction Concrete Pipe Co is the property owner of record of the real property (41.62 acres) located on the east side of State Highway 65, Delta (Parcel 345510202002, Account: R017429); and

WHEREAS, Grand Junction Concrete Pipe Co is the property owner of record of the real property (39.13 acres) located at 8020 Highway 65, Delta (Parcel 345503400053, Account: R017430); and

WHEREAS, Richard M. Frazier and Betsey A. Frazier, as Trustees of the Richard M. Frazier and Betsey A. Frazier Revocable Trust are owners of record of the real property (92.021 acres) located east of State Highway 65 and long the north side of State Highway 92, Delta (Parcel 345510100028, Account: R025020); and

WHEREAS, on February 10, 1998 the Volk Minor Subdivision (#97-071) was recorded (Reception #511315) creating a 2-lot subdivision; and

WHEREAS, on April 19, 1999, a Letter of Agreement was entered into between Grand Junction Pipe and Supply Company and Delta County addressing revised acreage of Lot 2 (Parcel 345510202002) from 80-acres to approximately 41.62-acres without that revision following the appropriate process; and

WHEREAS, on May 10, 1999, the Board of County Commissioners adopted Resolution No. 99-R-009 approving a Development Agreement permitting the Delta Paving Gravel Pit to operate a sand and gravel mine on two parcels totaling about 131 acres (Parcel 345503400053 and 345510100028), subject to nine (9) conditions; and

WHEREAS, on January 5, 2021, Delta County Board of County Commissioners adopted the Delta County Land Use Code (LUC). Resolution No 2021-R-001 repealed regulations regarding land use and subdivision and adopted a new land use code (including zoning maps); and

WHEREAS, on October 19, 2021, Jim Doody (Applicant/Representative for Elam Construction) submitted a Land Use Application to amend an existing Development Agreement (Resolution No. 99-R-009) for a sand a gravel pit to include an Asphalt Plant (Elam Construction) located along the east side of State Highway 65 and the north side of State Highway 92; and

WHEREAS, the properties are zoned Agricultural/20-Acres ("A-20"); and

WHEREAS, pursuant to the Land Use Code, a Mineral Extraction/Quarry use is allowed in the A-20 zoning district with a Conditional Use Permit; and

WHEREAS, on November 1, 2021, a pre-application conference was held between the applicants and staff from Delta County to review preliminary materials to help identify potential issues and applicable review procedures; and

WHEREAS, on November 19, 2021, a letter was sent to the applicant summarizing the pre-application conference and process, identifying applicable fees, and providing a checklist of materials required for an application; and

WHEREAS, on April 13, 2022, Lewicki & Associates (Representing Elam Construction) submitted an application package (dated April 2022); and

WHEREAS, on May 31, 2022, Staff sent an email to Jim Doody (Elam) & Lewicki & Associates, explaining a list of items to be addressed so that the application could be deemed complete; and

WHEREAS, on June 14, 2022, Lewicki & Associates submitted a revised application packet addressing all staff comments, making the application complete; and

WHEREAS, on July 6, 2022, a Public Notice was sent to Adjoining Property Owners (within a ½-mile radius) and notice was posted on the property informing the public that on July 27, 2022 the Delta County Planning Commission would consider this matter; and

WHEREAS, on July 27, 2022, the Planning Commission continued the matter to August 10, 2022, per staff's recommendation with the applicant's concurrence; and

DRAFT

WHEREAS, on August 3, 2022, the applicant held a neighborhood meeting at the site that was attended by staff; and

WHEREAS, on August 10, 2022, the Planning Commission held a duly noticed public hearing to consider a Conditional Use Permit expanding an existing mining permit to also include temporary use of a mobile Asphalt mixing facility at 8020 State Highway 65, Delta [PLN21-080/Delta Paving Gravel Pit]; and

WHEREAS, on August 10, 2022, the Planning Commission held a duly noticed public hearing and voted ___ to recommend Board of County Commissioners ___; and

WHEREAS, on ___, a Public Notice was sent to Adjoining Property Owners (within a ½-mile radius) and notice was posted on the property informing the public of the date, time and place for the Board of County Commissioners would consider this matter; and

WHEREAS, on ___, the Board of County Commissioners held a duly noticed public hearing to consider amending an existing mining permit to include the use of an Asphalt Plant run by Elam Construction [PLN21-080/Delta Paving Gravel Pit].

DECISION

NOW, THEREFORE, BE IT RESOLVED, having considered all the written and documentary evidence, the administrative record, and other evidence presented, the Delta County Board of County Commissioners (BoCC) does hereby:

A. FIND that PLN21-080 meets standards of the 2018 Master Plan and the 2021 Delta County Land Use Code:
    1. The application package includes multiple documents that are required by the County as well as multiple state agencies for a mineral extraction/quarry use. Additional information has been submitted in responses to comments and questions by staff and referral agencies. Approval is subject to conditions, including a requirement to comply with the plans and documents submitted with this application (**Condition #1**).
    2. Chapter 2, Section 5.B, *Use Specific Standards*, requires minerals extraction/quarries to meet specific standards, in addition to all other applicable standards. A Reclamation Plan has been submitted that provides for reclamation of the subject property. Mining operations are within 2,000-feet of residences and livestock operations. A Noise Control Plan was submitted demonstrating how the project meets the required standards (see Finding #3. A Dust Control Plan was submitted (Finding #4). An Operational Hazard Mitigation and Risk Management Plan was submitted in accordance with Chapter 4, Section 7.J.

3. Chapter 4, Section 7.C, *Noise*, states that any noise that is generated by development shall not exceed the thresholds set out in C.R.S. 25-12-103, *Maximum Permissible Noise Levels*. Properties surrounding the site include undeveloped or agricultural areas with residential areas just north (bluff) of the project site. A Nosie Control Plan was submitted with the application. This Plan concludes that levels will not exceed Colorado Noise Statue levels as measured at a distance of 25-feet from the property line. The crusher will be located a minimum of 800-feet from the property boundary, and 1200-feet from the nearest residence. Conditions limit the hours and duration (90-day period) that the crusher can operate.
4. A mobile Asphalt Facility and mine are industrial uses that, by nature of the operation, create dust from materials such as sand, crushed rock, washed rock, concrete, and asphalt. Pursuant to Chapter 4, Section 7.F, *Dust Control*, the applicant submitted a Dust Control Plan. In addition, the operator has filed an Air Pollution Emission Notice and Permit Application with the Colorado Air Quality Control Commission and will maintain dust control in conformance with the approved plan. The State is responsible to permit and inspect equipment to ensure it complies with applicable air quality standards. As conditioned, operation of the asphalt plant must be permitted through the state and would not operate for more than 90-days in any calendar year (**Condition #8**).
5. Chapter 4, Section 7.B, *Stormwater Management, Grading, Erosion, and Sediment Control*, all Site Plans associated with a Conditional Use shall be accompanied by a Stormwater Management Plan. The primary potential pollutant to stormwater runoff is sediment, oil and grease, metals, and waste water during operations, which will be collected on site in a retention pond, leaving the pond via evaporation and infiltration to the aquifer.
6. Table 5.a, *Traffic Impact Study Scope*, identifies information required for a traffic study. A Level I Traffic Study was completed by Kimley-Horn & Associates. In addition to the required information, the study addresses the County Road access from State Highway 65, trip generation and ADTs for Highway 65 and an estimated truck route using Highway 65.
7. A Geologic and Soils report submitted for this development assesses soil suitability and site characteristics pursuant to Chapter 8, Section 2 of the Land Use Code.
8. A Drainage Report addresses the Relief Ditch and Broad Ax Ditch, along with an area of potential wetlands existing in the northern corner of the property. It also addressed the 100-year floodplain and floodway, and water quality. In addition, the application includes a biological and wildlife assessment report.
9. Projects are required to provide proof of an adequate water supply for the proposed use. Comments from UVWUA note that this project site has no irrigation water. An Augmentation Plan is filed with the State under Decree 2019CW3023.

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10. The proposed location for the operation would be in an area of the site that is centrally located screened by a natural and mature setting provided by the mesa and surrounding cottonwood trees, just south of the Gunnison River and just outside of the undisturbed riparian corridor. There is no scenic byway located within ¼-mile of the subject property. Private views are not protected by the Land Use Code.
11. There is an existing permit allowing mining on 130 acres of the 170-acre site. The proposed amendment phases mining over four phases (1 – 4) with only one phase (Pit) open and operating at any one time to ensure that impacts from the mine are minimized. Reclamation will occur, converting all pits to groundwater lakes as soon as the next phase starts. Mining and processing are expected to occur for a 20-year period (all four phases). Reclamation will leave a final land use of open space consisting of multiple groundwater lakes surrounded by rangeland and wildlife habitat, with the potential to be used as agricultural land.
12. The Master Plan (advisory) and Land Use Code prioritize protection of agricultural lands and property rights. Protection of property rights is meant to afford property owners the ability to know what they can do on their property. It is not meant to protect property values of neighboring properties.
13. The A20 zone is intended for agricultural and rural residential uses. Table 2.b of the Land Use Code lists uses that are allowed by zoning district. Mineral Extraction/Quarry use is allowed in the A20 zone with a Conditional Use Permit. As such, the proposed use was considered as being allowed in this zoning designation. Conditions have been applied to reduce potential impacts. In addition to local regulations, the project is subject to approvals/permits from state and federal agencies including but not limited to CDOT, CDPHE, CPW, USFWS, USACE. These agencies provide additional oversight of this type of operation.

B. VACATE Resolution No. 99-R-009 repealing the Delta Paving Gravel Pit Agreement, permitting a sand a gravel pit located along the east side of State Highway 65 and the north side of State Highway 92 (Reception #: 524802, recorded 05/11/1999).

C. APPROVE PLN21-080 (Delta Paving Gravel Pit), a Conditional Use Permit for a sand and gravel mine located at 8020 Highway 65 (Parcels: 345510202002, 345503400053, and 345510100028), subject to conditions attached hereto and incorporated herein by reference as **Exhibit A**. Revisions to the exiting permit (Resolution No. 99-R-009) include:
    1. Add Phase (Pits) 3 & 4 on Parcel 345510202002 (40+ acres) to the existing permitted operation on 130 acres (170 acres total);
    2. Remove restriction to allow use of a mobile Asphalt facility; and
    3. Remove use of Gunnison River for mining operations.

DRAFT

ADOPTED AS SET FORTH ABOVE on this___day of____, 2022.

BOARD OF COUNTY COMMISSIONERS
COUNTY OF DELTA
STATE OF COLORADO

ATTEST:

_____
Don Suppes, Chair

_____
Wendell Koontz, Vice Chair

_____
Teri Stephenson
Delta County Clerk & Recorder

_____
Mike Lane, Commissioner

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EXHIBIT A

Conditions of Approval
Delta Paving Gravel Pit (Elam Construction) (PLN21-080)
_____, 2022

1. PLN21-080 is for operating a sand and gravel pit, including operation of a mobile asphalt mixing facility and rock crushing on approximately 170 acres. Operation would occur in four phases with reclamation after each phase. Development and Operation of the Delta Paving Gravel Pit shall be in accordance with approved plans and supplemental documentation to the satisfaction of the Director of Community Development and Natural Resources (Director), including but not limited to:
    a. Application Packet (June 2022)
        i. Elam Construction Mining Plan
        ii. Stormwater Management Plan (SWMP)
        iii. Geologic and Soils Report
        iv. Drainage Report
        v. Noise Mitigation and Dust Suppression
        vi. Level I Traffic Study (dated November 11, 2021)
        vii. Reclamation Plan

    Any significant modification shall require an amendment to be considered by the Planning Commission and Board of County Commissioners.

2. No mining operation may occur on Parcel 345510202002 until/unless an Administrative Replat is approved to remove the following condition of the Volk Minor Subdivision (#97-071) recorded on February 10, 1998 under Reception #511315: *Lot 2 is restricted from being developed for uses other than agricultural use unless the owner goes through the full subdivision review process.* [Planning]

3. A Wetlands Delineation shall be conducted of the site. Mining shall not occur in any water ways or natural lakes. Any areas identified as wetlands will be protected from mining or other development, meeting all appropriate setbacks from said areas. There shall be no excavation activities within 100-feet of the Gunnison River and no excavation, construction, or other development shall occur within the floodway. [Planning]

4. The Owner/Operator shall submit a Floodplain Permit to County Environmental Health, if at any point there is to be work (operations) within the floodway or floodplain. [EH]

5. Owner/Operator shall not stock any reclaimed pond with non-native species at any time. [Planning]

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6. If at any point discharge of dredged or fill material is released into a water of the United States (Gunnison River), a Department of the Army Permit from the US Army Corps of Engineers shall be required. [USACE]

7. The operation shall not exceed noise thresholds set by C.R.S. 25-12-103, *Maximum Permissible Noise Levels,* which limits industrial use to a sound level of 80 dB(A) at 25-feet from the property boundary during the hours of 7:00 am to 7:00 pm. Operations of the pit shall not exceed these levels. If noise levels exceed the threshold limits, noise mitigation techniques such as berms, stockpiling, or the use of hay bales will be implemented prior to continuing activity. [Planning]

8. Production of asphalt and/or concrete (including crushing) may only occur for a maximum of 90-days between April and October each year. Hours of operation will be from 7:00 a.m. through 7:00 p.m. Monday through Saturday. Pumping may be allowed through the night and on Sundays where pumps and motors are housed in a sound reducing building with a residential muffler.

9. The current Construction Permit (Permit No. 93PO630) issued by the Colorado Department of Public Health & Environment, Air Pollution Control Division, regulates the production rate of the Asphalt Plant to not exceed 300,000 tons per year. If operations exceed this number, the Owner shall provide the County with proof of a revised permit to reflect accurate tons being produced. [Planning, CDPHE]

10. The Owner/Operator shall file a Relocation Notice to the Colorado Department of Public Health & Environment, Air Pollution Control Division, 10-days prior to the change in location of the Asphalt Plant. Copies of each notice relative to this property shall be provided to Delta County for their records. [Planning, CDPHE]

11. Dust suppression will be regulated by the Colorado Department of Public Health & Environment (CDPHE). All dust levels shall be maintained within the limits of the CDPHE Air Permit on file with the State for the project site. If any change in operation creates more dust than was is allowed, the Owner shall submit for a new Air Permit with CDPHE. [Planning, CDPHE]

12. Plants identified through the Colorado Noxious Weed Act (C.R.S. 35-5.5) and the Delta County Noxious Weed List as undesirable and designated for management within the County shall be removed. The Owner/Operator shall submit a Weed Management Plan addressing weed removal to the Director prior to beginning operation at this site. [Planning]

13. Prior to beginning operation, the Owner/Operator shall submit a Landscape Screening Plan for managing native trees and screening the operation from

the north and west views, subject to review and approval by the Director. The application includes installing berms along Highway 65 that shall be vegetated with native trees and shrubs to prevent erosion and provide screening of future mining operations in Phase 3 & 4. Generally, existing trees between the pit and Highway 65 shall be retained to screen the processing area as viewed from Highway 65; and existing trees along the Gunnison River shall be retained to screen the processing area as viewed from properties to the north. Native trees that substantially interfere with the mining plan as approved by the Mine Land Reclamation Board may be removed. Any trees greater than six-inches (6") d.b.h. (diameter breast height) that are removed must be replaced with two (2) trees of the same species planted for every one (1) removed (2:1 ratio). [Planning]

14. Prior to beginning any construction activity, the applicant shall provide to the County a "Landscape/Vegetation Bond" in an amount that is at least equal to the cost of installing landscaping per the Landscape Screening Plan (contractor's estimate). Said bond shall be held by the County as a financial guarantee for success of the landscaping vegetation screening and noxious weed management until the applicant has demonstrated compliance with applicable Plans/Conditions as determined by the Director, but no less than 10 years.

15. Prior to beginning operation, a revised Traffic Study shall be submitted to CDOT to address heavy truck analysis, slow stopping and accelerating vehicles turning into the site from the highway (ingress/egress). Improvements required by CDOT shall be installed prior to beginning operations. The Owner/Operator shall submit a copy of the CDOT Access Permit to the County for our records. [CDOT]

16. A Truck Routing Plan shall be submitted to the Planning Department, for review and approval to address the use of semi-trailers, dump trucks, trash hauling trucks, or comparable heavy trucks as they may be disruptive to nearby property owners and could potentially cause damage to surrounding roads. Said Plan will also need to address the type of vehicles that will be used for this operation, the frequency of arrivals/departments, approximate hours of truck traffic, and any hazardous materials/hazmat materials being transported. [CDOT]

17. Provide a lighting plan that identifies where lighting is located. Outdoor lighting shall be hooded or shielded (cut-off) so as to not cast light or glare onto adjacent properties or upwards in a manner that dilutes the night sky. Outdoor lighting shall be turned off except for emergency maintenance. [Planning]

18. A site-specific Geotechnical Investigation shall be conducted to characterize soil and bedrock engineering properties at the proposed silo, tank, and other heavily loaded structure locations. This shall assist with potential contamination of soil and the Gunnison River in the event of a tank failure. [Colorado Geological Survey]

19. Prior to beginning any construction activity, the applicant shall provide to the County a "Restoration Bond" in an amount that is at least equal to the cost estimate for restoration. Said bond shall be held by the County as a financial guarantee until the facility is fully decommissioned and the site is restored. Restoration cost estimates shall be updated every five (5) years from the establishment and submittal of the Security. At the conclusion of mining activities, there must be one island in the 16-acre pond and two islands in the 35-acre pond, subject to consultation with the Colorado Division of Wildlife on the size and offshore location of any islands that will be used for goose nesting and wildlife.

20. Currently, there is an Augmentation Plan (2019CW3023) for the site that includes the use of five (5) wells. If at any point the mining operation requires more water, new rights will be procured through the Colorado Division of Water Resources. [Planning, DWR]

21. An Annual Report shall be submitted to the County annually by December 31st, including:
    a. Summary of mining activity, including number of days and any traffic increase/decrease and compliance with applicable conditions.
    b. Planned mining or restoration activities as well as updated hazardous waste, emergency response, stormwater, noxious weed, noise and dust control plans for the upcoming year.
    c. Updated contact information for local and corporate responsible persons.

    If ownership changes, the Use Permit shall remain in effect, provided the successor owner/operator assumes, in writing, all of the obligations of the Use Permit, Restoration Plan and outstanding Securities. Every five (5) years, the Annual Report shall include updated restoration cost estimates that shall be used to true-up the Restoration Bond if needed.

DRAFT

Lewicki & Associates
ENGINEERING | GEOLOGY | ENVIRONMENTAL

Jim Doody
556 Struthers Ave
Grand Junction, CO 81501
970-255-2098

June 14, 2022

Delta County Planning Department
295 W 6th Street
Delta, CO 81416
970-874-2110

RE: PLN21-080/Delta Paving Gravel Pit

Please accept this response on behalf of Elam Construction regarding the Conditional Use Permit Application for the Delta Paving Gravel Pit. Comments are provided for the Planning Department's notes as follows:

- *It appears the Table of Contents has some errors on it; please make sure the contents match what is included in the packet.*

Please refer to the revised Conditional Use Permit with the corrected Table of Contents.

- *Chapter 5.1. Traffic Study. This section mentions the Traffic Study that was conducted for the operation and states that the study is attached to this section. I did not see any Traffic Study attached to this packet. Please submit the study to the Permit Center (Planning) at your earliest convenience.*

Pleader refer to the revised Conditional Use Permit with the Traffic Study attached in section 5.

- *DRAFT 112c Amendment to the Colorado Division of Reclamation, Mining, and Safety dated November 2021.*
  - *Table of Contents seem to be incomplete. Again, please be sure that what is listed in the contents matches what is included with the packet.*
  - *NRCS Soil Report is in this section under Appendix I-1, not Appendix 6 as noted on the other Table of Contents.*
  - *Exhibit O - Owners of Affected Land and Mineral to be Mined. There is an incomplete sentence on this page. Please describe fully the purpose of this page.*
  - *Exhibit R - Proof of Filing with County Clerk. There is mention that the return receipt from the Delta County Clerk is attached; I did not see any sort of attachment. Please make sure that anything to be attached to the exhibits is attached correctly.*
  - *Same comment as above for RULE 1.6.2(1)(B). Mentions signed certification is attached; however, it is not included in the packet.*

Please refer to the revised Special Use Permit with the corrected Table of Contents and Exhibit O in Appendix 1. The DRMS permit provided with the initial Special Use Permit submittal in April 2022 was a draft which had not yet been submitted to the CDRMS. It was intended to provide information on permit requirements that overlap between the state and county, such as mining and reclamation plans. However, this means there are DRMS permit items included that are not required by the county. As such, these administrative items that are required by CDRMS were not completed at the

time and were not included in the draft permit submitted to the county. These include the items for Exhibit R and Rule 1.6.2(1)(B). Following the original county permit submittal, the CDRMS permit submittal had taken place and these items have since been completed. They are now attached in the revised Special Use Permit.

- *StormWater Managemfent Plan. Have you been in contact with Environmental Health in regards to the StormWater Permits? Floodplain permits?*

The applicant contacted Greg Rajnowski with the Delta County Environmental Health Department on June 9, 2022. Coordination with Mr. Rajnowski is ongoing to amend the existing floodplain and stormwater permits following planning approval. The revised floodplain and stormwater permits will be provided to the Planning Department after they have been approved.

    - *Appendix Items. Some of the appendix items do not have any information with them. Is there something missing? Are these intentionally left blank?*

The Stormwater Management Plan (SWMP) was provided in Appendix 3 to confirm the applicant has an existing stormwater permit in place and set the baseline for stormwater management practices at the operation. The SWMP will be amended with the Environmental Health Department and submitted in full to the county after the Special Use Permit is approved. The appendix items were omitted because they will be revised in the new SWMP. The Appendix items omitted are as follows:

- Appendix B CDPHE Certification and Permit – Will require new certification and permit.
- Appendix C Maintenance Activities and Corrective Actions – Will be modified to reflect new operating conditions.
- Appendix D Training Documentation – Will be provided in modified SWMP.
- Appendix E BMP Map – Will be modified to reflect new operating conditions.

Regards,



Ben Langenfeld
Lewicki & Associates, PLLC
benl@lewicki.biz
(720) 842-531, ex. 1

Attachments

Revised Conditional Use Permit:

- Revised Table of Contents
- Traffic Study attached in Section 5
- Revised DRMS Permit:
    - Revised Table of Contents
    - Revised Exhibit O
    - Revised Exhibit R to include proof of filing with County Clerk
    - Signed Certification Attachment

Delta Paving

Delta County Special Use Permit Application

Revised June 2022

Original Submission April 2022

By:

Elam Construction

Represented by:

Lewicki & Associates

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Property Description

The Delta Paving Gravel Pit is a sand and gravel mine that has been operating in Delta County since 2001. It is located northeast of the intersection of Colorado State Highway 92 and State Highway 65, and directly south of the city limits of Orchard City and the Gunnison River. The permittee and operator, Kilgore Companies dba Elam Construction, Inc. is proposing to expand their mining area and add a hot mix asphalt plant to further support the Delta County area with construction material products. The mine has been operating in this location for over 20 years, where they excavate, process, and sell construction materials. Currently, their processing includes crushing, aggregate washing, and the production of concrete.

The proposed permit and affected area of the expanded mine is 145 acres, which are accessed from State Highway 65. Of this permit area, approximately 67.5 acres will be mined for sand and gravel while 110 acres will be disturbed in total. Mining will occur in a phased manner in four separated pits across the property. Phasing will ensure that impacts from the mine are minimized over time, with only one phase being open at once. Reclamation will occur to convert the pits to groundwater lakes as soon as the next phase starts to minimize the overall impact of the mine. Construction materials mining and processing is expected to occur for approximately 20 years before reclamation. The site will be reclaimed following the completion of mining and will leave a final land use of open space consisting of multiple groundwater lakes surrounded by rangeland and wildlife habitat, with the potential to be developed as agricultural land. Elam Construction commits to minimizing their overall impact throughout their mining operations by mitigating dust, noise, visual impact, and other impacts through the methods outlined in this permit. More information on the mining and reclamation plans can be found in the draft CDRMS Permit Application in Appendix 1.

A new county permit is being pursued to account for an expansion of mining, and the addition of a hot mix asphalt plant to the site as mining, processing, and concrete production were previously permitted for. By expanding the mining area, Elam Construction will be able to serve the local construction market with quality materials for many more years to come. The allowance of asphalt production on the site will broaden their involvement in the local construction market by allowing them to support nearby paving projects such as those on Highway 92, 65, and 50 surrounding Delta and Orchard City. To allow the production of asphalt, the applicant requests the removal of the Approval Condition No. 9 on the prior permit, BoCC Resolution No. 99-R-009. This condition is as follows:

9) The placement and use of an asphalt plant shall never be allowed.

The majority of the Delta Paving site is made up of previously disturbed industrial land that is being used as the site's current mining and operating area. Approximately 15.6 acres within this area have been reclaimed as of 2022 as groundwater ponds. The remaining portions of the site are agricultural fields or undisturbed wooded and riparian areas along the river. The site is surrounded by agricultural and residential land. Refer to Figure 1 and Figure 2 which show the Delta Paving Gravel site and the surrounding area in their current conditions. More detailed

maps depicting the baseline conditions and surroundings, such as property owners, can be found in the draft DRMS permit Map C-1 – Current Conditions.

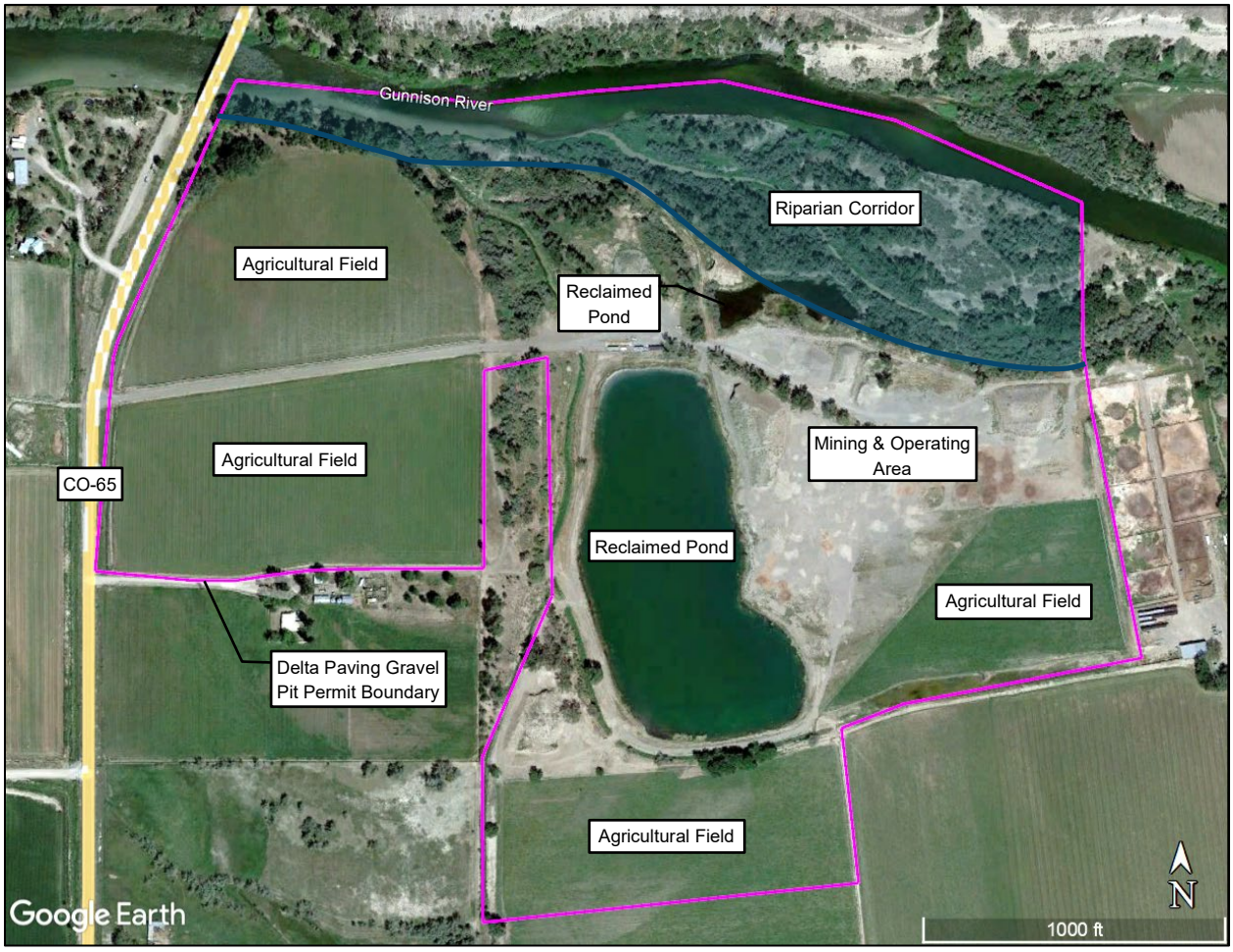


Figure 1. Delta Paving Aerial View

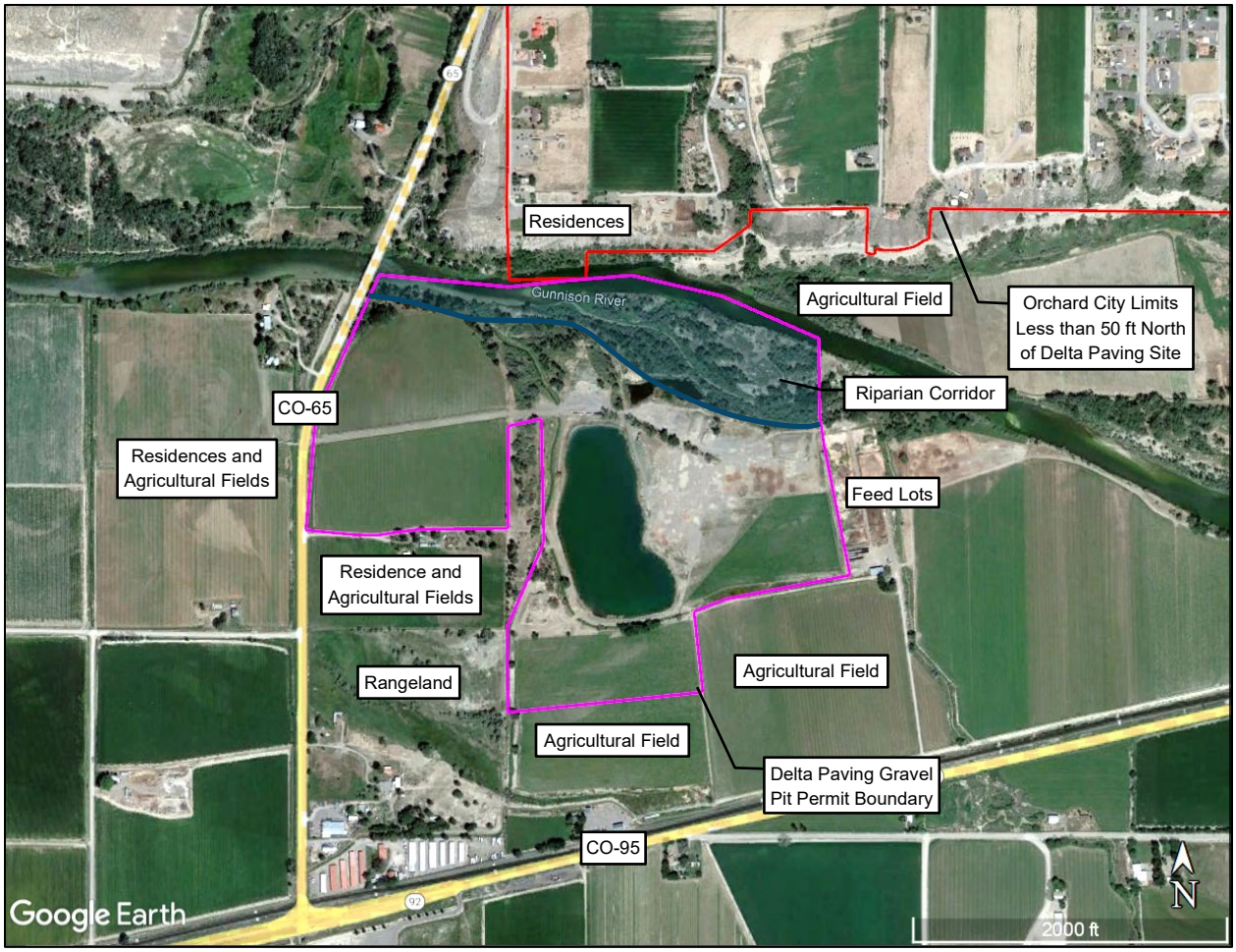


Figure 2. Delta Paving Vicinity Map

1. Legal Description

Parcel 1

Part of the NE 1/4, Section 10, T15S, R95W, 6th P.M., Delta County, Colorado, more particularly as follows:

Beginning at a point on the North line of the NE1/4 of said section 10 whence the North ¼ of said Section 10 bears N 89°23’29” W, 204.00 feet;

thence S 0°25’50” W 766.31 feet;

thence S 20°11’12” W 603.52 feet to the West line of the NE1/4 of said Section 10;

thence along said line S0°25’50” W 618.66 feet;

thence N 86°54’06” 1266.24 feet;

thence N 6°04’39” W 615.00 feet;

thence N 1°50’14” W 14.47 feet;

thence N 69°44’52” 222.01 feet;

thence N 80°04’24” E 803.21 feet;

thence East 481.83 feet, more or less to East line of said Section 10, thence North along the East line of said Section 10 to the NE corner of said Section 10; thence along the North line of said Section 10, N 89°23’29” W 1336.08 feet to the NW corner of the E1/2, NE1/4 of said Section 10;

thence S 0°23’41” W 269.82 feet;

thence N 74°40’21” W 61.54 feet;

thence N 64E26’44” W 456.07 feet;

thence N 58°10’57” W 128.15 to the North line of said Section 10;

thence N 89°23’29” W 567.85 feet along the North line of said Section 10 to the point of beginning.

Parcel 2

Lot 2, Volk Minor Subdivision, as recorded February 10, 1998, under Reception No. 511315, more specifically described as follows:

Part of the NE ¼ NW1/4 of Section 10 and part of the SE1/4 SW1/4 of Section 3 all in Township 15 South, Range 95 West of the 6th P.m. described as follows;

Beginning at the ¼ corner between Sections 3 and 10, Township 15 South, Range 95 West, 6th P.M.;

thence S 0°25'50" W 707.38 feet distance;

thence N 89°51'09" W 558.94 feet distance;

thence S 81°48'12" W 239.60 feet distance;

thence S 86°36'09" W 49.95 feet distance;

thence N 87°E07'47" W 417.91 feet, more or less, to the East right of way line of State Highway #65;

thence along said East right of way line N 0°08'00" E 170.36 feet distance;

N 4°03'00" E 391.80 feet distance;

thence 213.94 feet distance along the arc of a curve to the right having a radius of 691.22 feet and a long chord of which bears N 12°55'00" E 213.08 feet distance;

thence N 21°47'00" E 376.72 feet distance;

thence N 25°59'00" E 593.10 feet distance;

thence leaving said East right of way line S 85°35'24" E 788.96 feet distance, more or less, to the East line of said SE1/4 SW1/4;

thence S 0°26'27" E 869.12 feet distance, more or less, to the point of beginning.

Parcel 3

Part of S1/2, Section 3 and part of the N1/2, Section 10, Township 15 South, Range 95 West, 6th P.M. described as follows:

Beginning at the 1/4 corner between Section 3 and 10, Township 15 South, Range 95 West, 6th P.M.;

thence S 89°23’29” E 771.85 feet distance;

thence S 58°10’57” E 128.15 feet distance;

thence S 64°26’44” E feet distance;

thence S 74°40’21” E 43.54 feet distance;

thence N 0°23’41” E 269.82 feet distance;

thence S 89°23’29” E 668.04 feet distance;

thence N 0°04’06” E 604.01 feet distance to the Gunnison River;

thence along the Gunnison River the following:

N 72°36’ West 424.4 feet distance;

thence N 75°45’ W 300.00 feet distance;

thence N 79°30’ W 410.00 feet distance;

thence N 85°15’ W 400.00 feet distance;

thence S 88°05’09” W 512.94 feet distance;

thence leaving the Gunnison River S 0°26’27” E 869.12 feet distance, more or less, to the point of beginning.

County of Delta, State of Colorado

Legal Access

The Legal Access Agreement is attached to this section.

AGREEMENT AND GRANT OF EASEMENT

THIS AGREEMENT AND GRANT OF EASEMENT is entered into effective Sept. 9th, 2003, by and between Clara M. Volk, 786 Highway 65, Delta, CO 81416 ("Mrs. Volk") and Grand Junction Concrete Pipe Co., P.O. Box 1849, Grand Junction, CO 81502 ("Grand Junction Pipe").

RECITALS

A. Grand Junction Pipe owns the real property described on Exhibit A, attached hereto and incorporated herein by reference (the "Grand Junction Pipe Property"). The Grand Junction Pipe Property is described on Exhibit A in two parcels, which will be referred to in this Agreement as Parcel 1 and Parcel 2.

B. Mrs. Volk owns real property described as Lot 1, Volk Minor Subdivision, as recorded February 10, 1998, under Reception No. 511315, Delta County, Colorado (the "Volk Property"). The Volk Property is located immediately to the south and east of Parcel 1 of the Grand Junction Pipe Property.

C. There is a driveway existing on the Volk Property. The driveway starts at Highway 65, and runs in a generally easterly direction, immediately south of and parallel to the south boundary of Parcel 1 of the Grand Junction Pipe Property. It then turns and proceeds in a northerly direction, parallel to the east boundary of Parcel 1 of the Grand Junction Pipe Property. This north-south portion of the driveway extends to the south boundary of Parcel 2 of the Grand Junction Pipe Property. The approximate location of this existing driveway is shown on Exhibit B, attached hereto and incorporated herein by reference. This existing driveway will be referred to in this Agreement as the "Driveway".

D. Mrs. Volk desires to grant an easement to Grand Junction Pipe over and across the Driveway, on the terms set forth herein.

NOW, THEREFORE, the parties agree as follows:

1. Mrs. Volk hereby grants an easement (the "Easement") to Grand Junction Pipe over the Volk Property, across and along the Driveway, for ingress to and egress from the Grand Junction Pipe Property.

2. The term of this Agreement and of the Easement shall be twenty years, commencing on the effective date of this Agreement. The Easement and all rights and obligations of the parties under this Agreement shall automatically terminate at 12:00 noon on the day that is twenty years after the effective date of this Agreement.

3. The width of the Easement and uses of the Easement shall be as follows:

A. The width of the Easement shall be thirty-five (35) feet. The north boundary of the east-west portion of the Easement, from Highway 65 to the east boundary of Parcel 1 of the Grand Junction Pipe property, shall be the south boundary of Parcel 1 of the Grand Junction Pipe Property. The Easement over, across and along the remaining portion of the Driveway shall extend seventeen and one-half (17.5) feet on either side of the centerline of the remaining portion of the Driveway. The Easement ends at the south boundary of Parcel 2 of the Grand Junction Pipe Property.

B. Grand Junction Pipe and its invitees, employees, agents, and contractors shall be entitled to use the Easement to obtain access to the Grand Junction Pipe Property and other property adjacent to the Grand Junction Pipe Property that Grand Junction Pipe is leasing (the "Leased Property"), in connection with the use, development and mining of the Grand Junction Pipe Property and the Leased Property. Grand Junction Pipe shall control dust resulting from its use of the Easement by putting magnesium chloride or a similar dust control substance on the Driveway. The Easement may be used as a haul road to haul sand, gravel and related products from the Grand Junction Pipe Property and the Leased Property, provided, however, that Grand Junction Pipe must pave the Easement with blacktop before using it as a haul road. Grand Junction Pipe shall also be responsible for obtaining any access permit required by the State of Colorado for access to Highway 65 from the Easement. The maximum speed of vehicles using the Easement shall be fifteen (15) miles per hour.

C. Various gates exist on the Driveway. Those gates may remain open during the day, but the driver of the last of Grand Junction Pipe's vehicles to leave each day shall close the gates.

D. Mrs. Volk shall have the right to use and occupy the Easement area for purposes which are consistent with rights granted to Grand Junction Pipe in this Agreement and which will not interfere with Grand Junction Pipe's use of the Easement. Mrs. Volk shall not construct any buildings or structures in, over, or across the Easement area or plant any trees or shrubs on or in the Easement area.

4. The following additional provisions shall also apply to the grant of the Easement in this Agreement:

A. Grand Junction Pipe has previously entered into a Farm Lease with Mrs. Volk's son, David Volk, dated January 1, 2002, pursuant to which Grand Junction Pipe has leased the Grand Junction Pipe Property to David Volk for farming purposes. The Farm Lease was subsequently amended by a First Amendment thereto. The Farm Lease, as amended, shall be referred to herein as the "Farm Lease." During the time the Farm Lease is in effect, Grand Junction

Pipe shall not be required to make any payments to Mrs. Volk for the use of the Easement. However, after the expiration or termination of the Farm Lease, Grand Junction Pipe shall be required to make payments of $2,000.00 per year to Mrs. Volk as additional consideration for the continued use of the Easement by Grand Junction Pipe. The first annual payment shall be due one month after the date of expiration or termination of the Farm Lease, and additional annual payments shall be due on the same day of each year thereafter during the remaining term of the Easement.

B. If Mrs. Volk's real property taxes increase as a result of paving the haul road (see Paragraph 3.B., above), Grand Junction Pipe shall, upon request by Mrs. Volk, pay Mrs. Volk the amount by which the real property taxes for the Volk Property have increased because of such paving. Any request for such payment shall be accompanied by an itemization showing how the amount of the increase was calculated.

C. Grand Junction Pipe's obligations under this Paragraph 4 shall terminate upon the expiration of the term of this Agreement.

5. All provisions of this Agreement and Grant of Easement shall apply to and bind the parties hereto and their agents, heirs, successors and assigns.

6. The effective date of this Agreement shall be the last date that it is signed by any of the parties.

WHEREFORE, the parties have executed this Agreement and Grant of Easement effective as of the date set forth above.

MRS. VOLK:

Clara M. Volk

Clara M. Volk

GRAND JUNCTION PIPE:

GRAND JUNCTION CONCRETE PIPE CO.

By: _____

Marie Tipping, President

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 9th day of Sept, 2003, by Marie Tipping, President of Grand Junction Concrete Pipe Co.

WITNESS my hand and official seal.
My Commission Expires: JAN 6, 2007

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF DELTA)

The foregoing instrument was acknowledged before me this 9th day of Sept., 2003, by Clara M. Volk.

WITNESS my hand and official seal.
My Commission Expires: 06/05/04

Notary Public

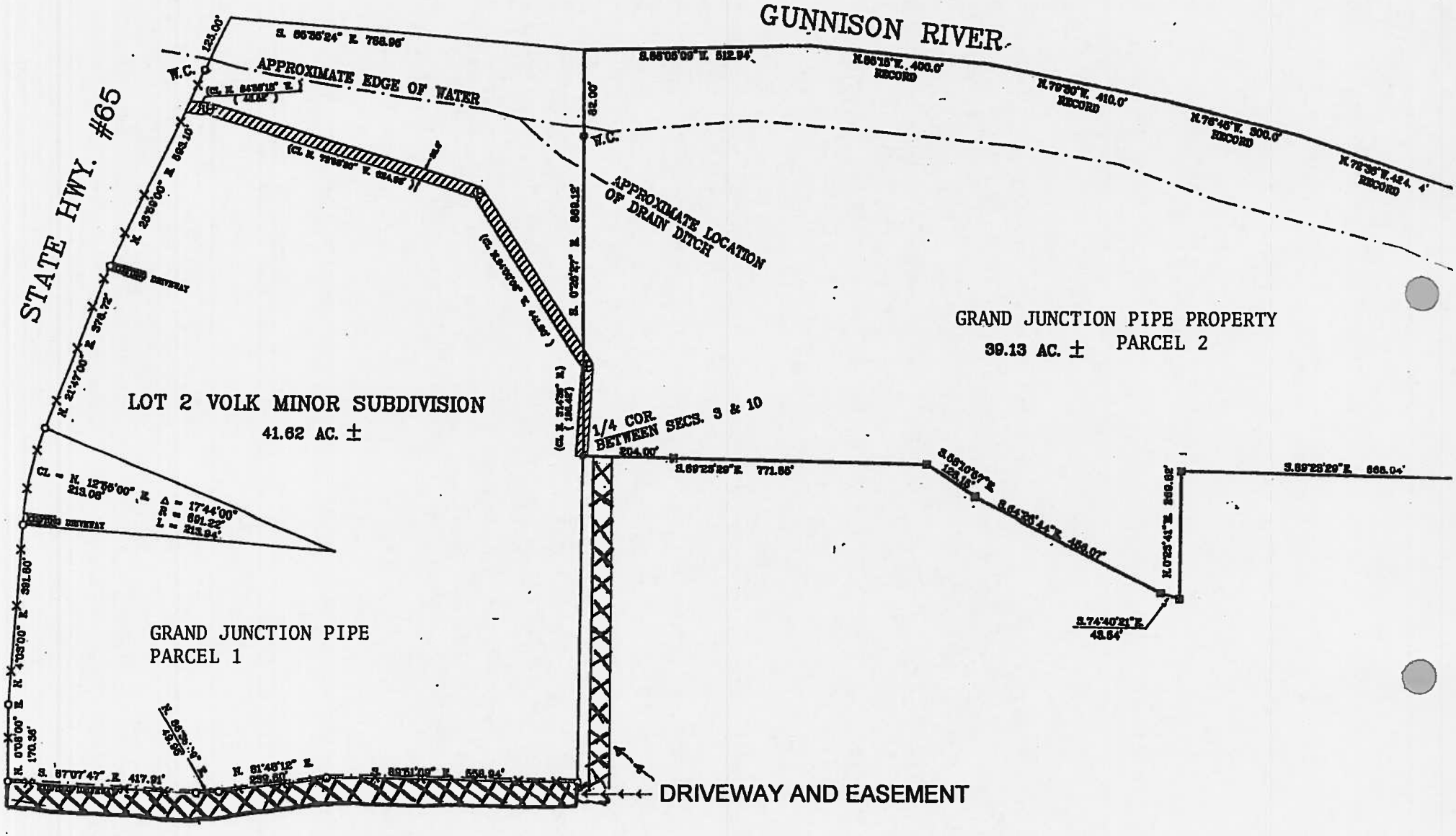

GUNNISON RIVER
STATE HWY. #65
APPROXIMATE EDGE OF WATER
APPROXIMATE LOCATION OF DRAIN DITCH
W.C.
W.C.
LOT 2 VOLK MINOR SUBDIVISION
41.62 AC. ±
GRAND JUNCTION PIPE PROPERTY
39.13 AC. ± PARCEL 2
GRAND JUNCTION PIPE
PARCEL 1
1/4 COR. BETWEEN SECS. 3 & 10
DRIVEWAY AND EASEMENT
VOLK PROPERTY

EXHIBIT B

EXHIBIT "A"

PARCEL 1.
LOT 2,
VOLK MINOR SUBDIVISION, AS RECORDED FEBRUARY 10, 1998 UNDER RECEPTION #511315,
MORE SPECIFICALLY DESCRIBED AS FOLLOWS:
PART OF THE NE1/4 NW/14 OF SECTION 10 AND PART OF THE SE1/4 SW1/4 OF SECTION 3 ALL IN TOWNSHIP 15 SOUTH, RANGE 95 WEST OF THE 6TH P.M. DESCRIBED AS FOLLOWS: BEGINNING AT THE 1/4 CORNER BETWEEN SECTIONS 3 AND 10, TOWNSHIP 15 SOUTH, RANGE 95 WEST 6TH P.M.; THENCE SOUTH 0°25'50" WEST 707.38 FEET DISTANCE; THENCE NORTH 89°51'09" WEST 558.94 FEET DISTANCE; THENCE SOUTH 81°48'12" WEST 239.60 FEET DISTANCE; THENCE SOUTH 86°36'09" WEST 49.95 FEET DISTANCE; THENCE NORTH 87°07'47" WEST 417.91 FEET DISTANCE, MORE OR LESS, TO THE EAST RIGHT OF WAY LINE OF STATE HIGHWAY #65; THENCE ALONG SAID EAST RIGHT OF WAY LINE NORTH 0°08'00" EAST 170.36 FEET DISTANCE; THENCE NORTH 4°03'00" EAST 391.80 FEET DISTANCE; THENCE 213.94 FEET DISTANCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 691.22 FEET AND A LONG CHORD OF WHICH BEARS NORTH 12°55'00" EAST 213.08 FEET DISTANCE; THENCE NORTH 21°47'00" EAST 376.72 FEET DISTANCE; THENCE NORTH 25°59'00" EAST 593.10 FEET DISTANCE; THENCE LEAVING SAID EAST RIGHT OF WAY LINE SOUTH 85°35'24" EAST 788.96 FEET DISTANCE, MORE OR LESS, TO THE EAST LINE OF SAID SE1/4 SW1/4; THENCE SOUTH 0°26'27" EAST 869.12 FEET DISTANCE, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 2.
PART OF THE S1/2, SECTION 3 AND PART OF THE NORTH 1/2, SECTION 10, TOWNSHIP 15 SOUTH, RANGE 95 WEST, 6TH P.M. DESCRIBED AS FOLLOWS:
BEGINNING AT THE 1/4 CORNER BETWEEN SECTIONS 3 AND 10, TOWNSHIP 15 SOUTH, RANGE 95 WEST, 6TH P.M.; THENCE SOUTH 89°23'29" EAST 771.85 FEET DISTANCE; THENCE SOUTH 58°10'57" EAST 128.15 FEET DISTANCE; THENCE SOUTH 64°26'44" EAST 456.07 FEET DISTANCE; THENCE SOUTH 74°40'21" EAST 43.54 FEET DISTANCE; THENCE NORTH 0°23'41" EAST 269.82 FEET DISTANCE; THENCE SOUTH 89°23'29" EAST 668.04 FEET DISTANCE; THENCE NORTH 0°04'06" EAST 604.01 FEET DISTANCE TO THE GUNNISON RIVER; THENCE ALONG THE GUNNISON RIVER THE FOLLOWING: NORTH 72°36' WEST 424.4 FEET DISTANCE; THENCE NORTH 76°45' WEST 300.00 FEET DISTANCE; THENCE NORTH 79°30' WEST 410.00 FEET DISTANCE; THENCE NORTH 85°15' WEST 400 FEET DISTANCE; THENCE SOUTH 88°05'09" WEST 512.94 FEET DISTANCE; THENCE LEAVING THE GUNNISON RIVER SOUTH 0°26'27" EAST 869.12 FEET DISTANCE, MORE OR LESS, TO THE POINT OF BEGINNING.

COUNTY OF DELTA,
STATE OF COLORADO.

Standards Report

1. Delta County Land Use Standards

The Delta Paving Gravel Pit will comply with all applicable Delta County land use standards. According to the Delta County Land Use Code, the following standards are applicable for the Delta Paving operation:

- Chapter 2, Section 6 *Conditional Use Approval Standards*

which requires compliance with:

- Chapter 2, Section 5(B) *Use Specific Standards*, Subsection 6(e) *Minerals Extraction/Quarry*
- Chapter 3, Lots, Buildings, and Structures
- Chapter 4, Site Design and Environmental Stewardship
- Chapter 5, Public Facilities, Infrastructure, and Services

Each of these items are addressed in this Standards Report.

2. Section 6 Conditional Use Approval Standards

2.1. Site Plan

Maps in the draft CDRMS Permit application serve as the site plan for this application. Refer to Appendix 1 for these maps. This site plan includes:

1) North Arrow
2) Dimensions
3) Parcels
4) Roads
5) Site Access
6) Easements
7) Utilities
8) Irrigation Ditches & Pipelines
9) Existing Features
10) Proposed Features

2.2. Other Requirements

Per this standard, compliance for the intended land use must be demonstrated for the following items:

2.2.1. Compatibility with the Master Plan and other Municipality Plans

The proposed conditional use will not frustrate the implementation of the Master Plan, any special area plan adopted by the County, or if the subject property is located within the UGA zoning district, the master plan or any special area plan adopted by the impacted municipality.

It is not the intention of the Delta Paving operation to frustrate the implementation of the Master Plan or any other municipality plans. The Delta County Master Plan, adopted in 2018, indicates that the subject property contains areas designated to future land use plans. The site is primarily designated as a Growth Management Area with the City of Delta, while the northeastern corner is designated as Agriculture with Residential Interface. It should be noted that the Delta Paving mining operation predates the Master Plan and the surrounding municipality's plans. However, Elam Construction values the input of Delta County and its surrounding municipalities in the future of their operations, and believes that the proposed uses align with the plans and goals of these entities. The land use designations from the Master Plan are shown in Figure 3, with the Delta Paving site outlined.

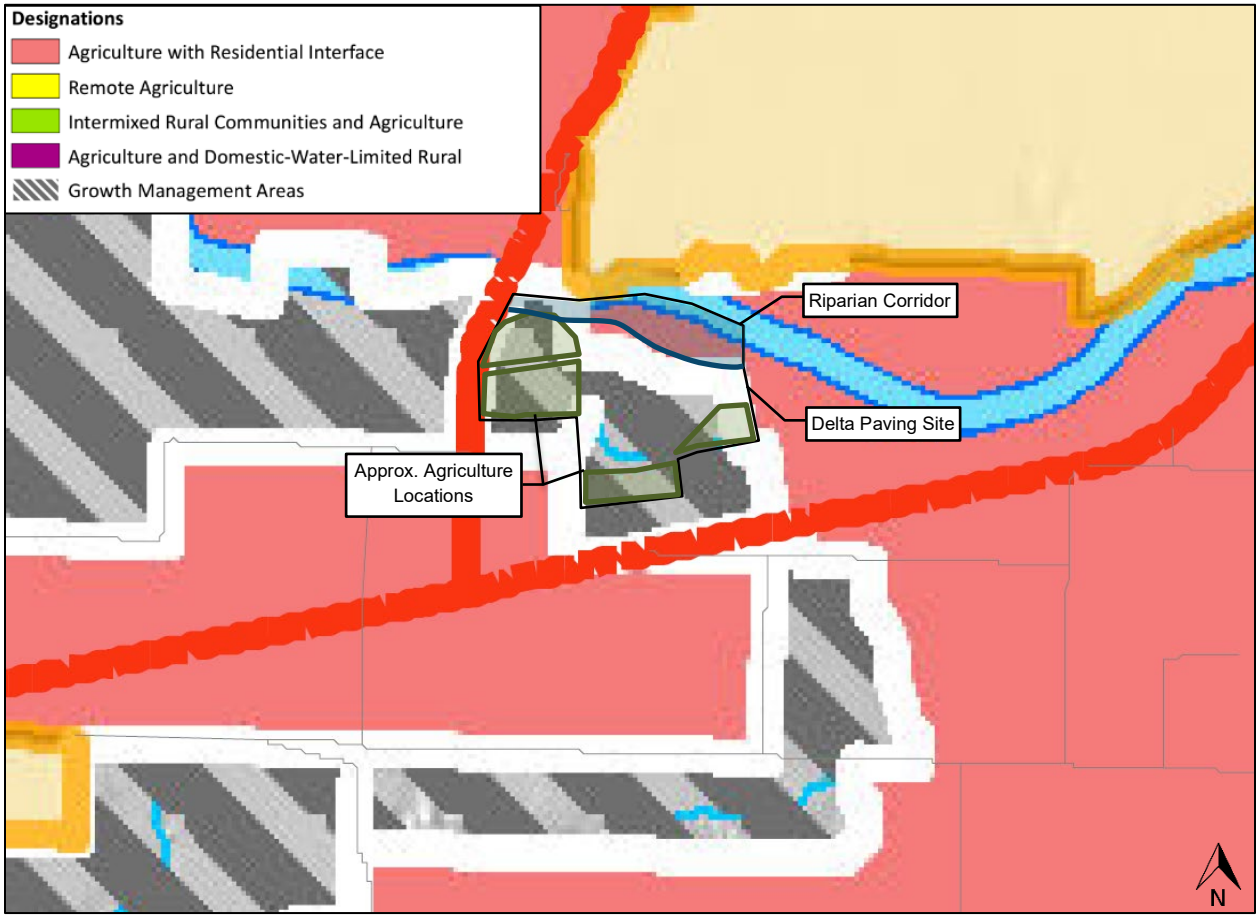


Figure 3. Delta County Master Plan Future Land Use Designations

As shown in the map, the existing agricultural fields at the site are within the Growth Management Areas for the City of Delta. The majority of the areas designated as Agriculture with Residential Interface are within the Riparian Corridor or are previously disturbed industrial

areas associated with the mine. The Riparian corridor is made up of heavily vegetated undisturbed land with many areas that could be potential wetlands, and is almost entirely within the floodway.

Municipal Growth Management Areas

As shown in Figure 3, the majority of the site is identified as being within the designated Growth Management Areas. This indicates that agreements have been made between the county and local municipalities regarding the future uses of these lands. These plans primarily relate to annexation or extensions of municipal infrastructure, particularly with the City of Delta. The Delta Paving operation should only impact the City of Delta in this sense as the Town of Orchard City does not identify any specific annexation locations. Both the Delta County and City of Delta plans for the Growth Management Areas are addressed below.

City of Delta's Comprehensive Plan, 2022

The city's future land use plan extends a couple of miles or more beyond its municipal boundaries, mostly designated as medium density residential. To accommodate this level of development, the plan includes a network of minor arterials and neighborhood commercial nodes.

The City of Delta identifies the majority of the Delta Paving site as part of its Comprehensive Plan to extend its municipal boundaries. While there are no site-specific plans defined in the Comprehensive Plan, the Delta Paving mining operation aligns with the overall goals of the city. Delta plans to annex its surroundings for residential uses, and to incorporate parks and open space in these areas, especially along the Gunnison River Front. While mining limits the residential uses of the land, it does support and create new open space along the Gunnison River Front as the mine is reclaimed. This will be beneficial to the City of Delta to maximize the resource usage at the site before putting it to use as open space. The timing of the mining operation and Delta Comprehensive plan are also ideal as Delta plans to implement these changes over the next 20 years, while the mine is expected to be nearly complete by this time.

Delta County Master Plan, 2018

The future conditions desired by Delta County in the Growth Management Areas as stated in the Master Plan are addressed as follows:

- *Encourage density and higher intensity business development by supporting municipal annexation to provide critical services and infrastructure.*

The Delta Paving mine will not interfere with municipal annexation, particularly with the City of Delta. While the mine does not directly promote density and higher intensity business development at its operation, it does support other goals in Delta's Comprehensive plan as discussed above. It also indirectly supports the development of new infrastructure and higher intensity business by supporting the local construction market with its aggregate products.

- *Engage with each municipality to review the growth management agreements and to revise as needed.*

Elam Construction values input from the City of Delta regarding their Growth Management Areas and will maintain communication with them during the life of mine to facilitate the annexation of the mine properties. It is their goal to align with the Master Plans of both Delta County and the City of Delta, especially during reclamation while converting the land to its final land uses.

- *Encourage municipalities to maintain and regularly update their comprehensive plans, master plans and corridor plans.*

The Delta Paving mine will not inhibit the City of Delta's implementation of its Comprehensive Plan or any adaptations of it.

- *Larger, undeveloped non-agricultural parcels in areas with adequate infrastructure are development opportunities.*

The proposed mine does not interact with any large, undeveloped non-agricultural parcels. Rather, it contains existing industrial land, smaller undisturbed areas on the river front, and existing agricultural parcels.

- *Strive for road and utility right of way standards in future developments that are consistent with the standards of each municipality.*

The Delta Paving mine will uphold the road and utility right of way standards at their site. Existing road and utility easements that exist at the property are maintained in the current mining and reclamation plans. The site access honors the road right of way, as discussed in the Traffic Study.

- *Explore mechanisms that encourage buildout of existing residential subdivisions and other residential vacant parcels.*

The Delta Paving mine supports this standard by not including residential development in its plans as it is not within any existing residential subdivision or contains any residential vacant parcels. Rather, it utilizes the maximum resources of the land, to then provide a valuable resource to any future residential development; that being open space and recreation. Even so, the residential potential of the land is already limited, regardless of the impacts from the mine. The site location in and of itself limits residential prospective as it is partially located within the floodway and floodplain, and has many areas that could be potential wetlands along the river. Open space and wildlife habitat could be a more beneficial use among surrounding residences, especially along the Gunnison River Front.

- *The full range of land uses, activities, structures, future innovations and infrastructure associated with agricultural enterprises are allowed and expected uses on agricultural lands as well as other types of businesses that are symbiotic with agricultural lands and support the long-term viability of the agricultural use.*
- *Design future developments on agricultural lands to maximize the agricultural land that remains intact and productive for the long-term.*

While the mine directly replaces agricultural lands, it provides the opportunity for open space, wildlife habitat, or new agricultural operations in the areas that are not mined out. The mine is

only temporary and makes use of the aggregate resources on site at the cost of existing agricultural lands; however, the benefits it provides to the community with its products and potential to improve the land are important when considering the agriculture land replaced.

In the medium term, the Delta Paving operation will maintain agricultural activity within each phase until mining reaches that phase. In the long term, with mining completed, phases will be reclaimed to open space and wildlife habitat along the Gunnison River, with areas being eligible to be converted back into agricultural land.

- *A new regulatory system is needed to address future conflicts that are likely to continue between rural residential, agricultural, industrial, and commercial uses. This regulatory system should identify what range of land uses are permitted and where different types of land uses are allowed. Property owners across the county will be encouraged to participate collaboratively in determining permitted land uses for their property based on new land use regulations that are fair, predictable and offer protection to property owners.*

While Elam Construction is not a direct stakeholder in the implementation of this goal, they do support the essence of it as they balance the land uses throughout the life of their mine. Agricultural land will be directly replaced by industrial areas and mining; however, it will not all occur at the same time, and is only temporary. Phased mining allows the existing agricultural operations to exist on the site for many years before being removed, while mined out portions are reclaimed to their final land uses. The mining and processing areas will always be minimized through concurrent reclamation, and portions of the site will remain as undisturbed wildlife habitat, particularly along the river front. The final reclamation of the site provides the opportunity for new open space and wildlife habitat to be developed, or for the removed agricultural operations to be replaced.

Agriculture with Residential Development Interface

The northeastern corner of the site is designated as Agriculture with Residential Development Interface in the Delta County Master Plan. This area of the site is primarily undisturbed wooded area along the river, which contains a plethora of potential wetlands. Additionally, most of it is located within the floodway which is not suitable for residential or agricultural development. There are currently no existing agriculture or residential uses within this area, and the mine intends to keep the majority of this area undisturbed.

The future conditions desired by Delta County in the Agriculture with Residential Development Interface as stated in the Master Plan are addressed as follows:

- *Larger, undeveloped non-agricultural parcels in areas with adequate infrastructure are development opportunities.*

The Delta Paving site does not contain any large, undeveloped non-agricultural parcels. However, it does make use of previously disturbed industrial parcels.

- *Design future development to reduce impacts on agricultural operations.*
- *Develop incentives for landowners to keep agricultural lands intact and productive.*

There are no existing agricultural operations within this area of the site, nor is there the potential for future agricultural operations. However, there is the potential for future agricultural operations in other areas of the site under the Growth Management Area designation.

- *Explore mechanisms that encourage buildout of existing residential subdivisions and other residential vacant parcels.*

The residential potential of this area of the site is already limited, unrelated to the mining of the property, as the majority of it is potential wetlands and within the floodway. Therefore, the Delta Paving site is not significantly frustrating the implementation of this goal for these designated areas in the Master Plan.

- *The full range of land uses, activities, structures, future innovations and infrastructure associated with agricultural enterprises are allowed and expected uses on agricultural lands as well as other types of businesses that are symbiotic with agricultural lands and support the long-term viability of the agricultural use.*
- *Design future developments on agricultural lands to maximize the agricultural land that remains intact and productive for the long-term.*

As stated previously, no existing agricultural operations are located within this designated area of the site, however, there is potential for new agricultural land to be developed elsewhere following reclamation of the mine.

- *A new regulatory system is needed to address future conflicts that are likely to continue between rural residential, agricultural, industrial, and commercial uses. This regulatory system should identify what range of land uses are permitted and where different types of land uses are allowed. Property owners across the county will be encouraged to participate collaboratively in determining permitted land uses for their property based on new land use regulations that are fair, predictable and offer protection to property owners.*

Refer to the previous response to the same future condition under the Growth Management Areas section.

- *Encourage future higher impact commercial and industrial development to locate in proximity to similar existing operations and in locations with adequate road, water, utility, and sewer infrastructure, while mitigating impacts on surrounding agricultural and residential uses.*

The Delta Paving mine is directly supporting this goal in all areas of the site as it is expanding mining operations and industrial uses in an area which has already been impacted by these activities. The mine already contains the necessary infrastructure to support a mining operation, such as utilities, water, and road access which will not cause further impact on its surrounding areas. Elam Construction strives to mitigate its overall impacts to surrounding neighbors and land uses through the methods discussed in this permit.

Zoning

The entirety of the Delta Paving site is within the A20 zoning district and does not interfere with any UGA zoned areas. All proposed uses for the site are allowed for this zoning according to the Delta County Land Use Code. Figure 4 shows the Delta County Zoning map with the subject property identified.

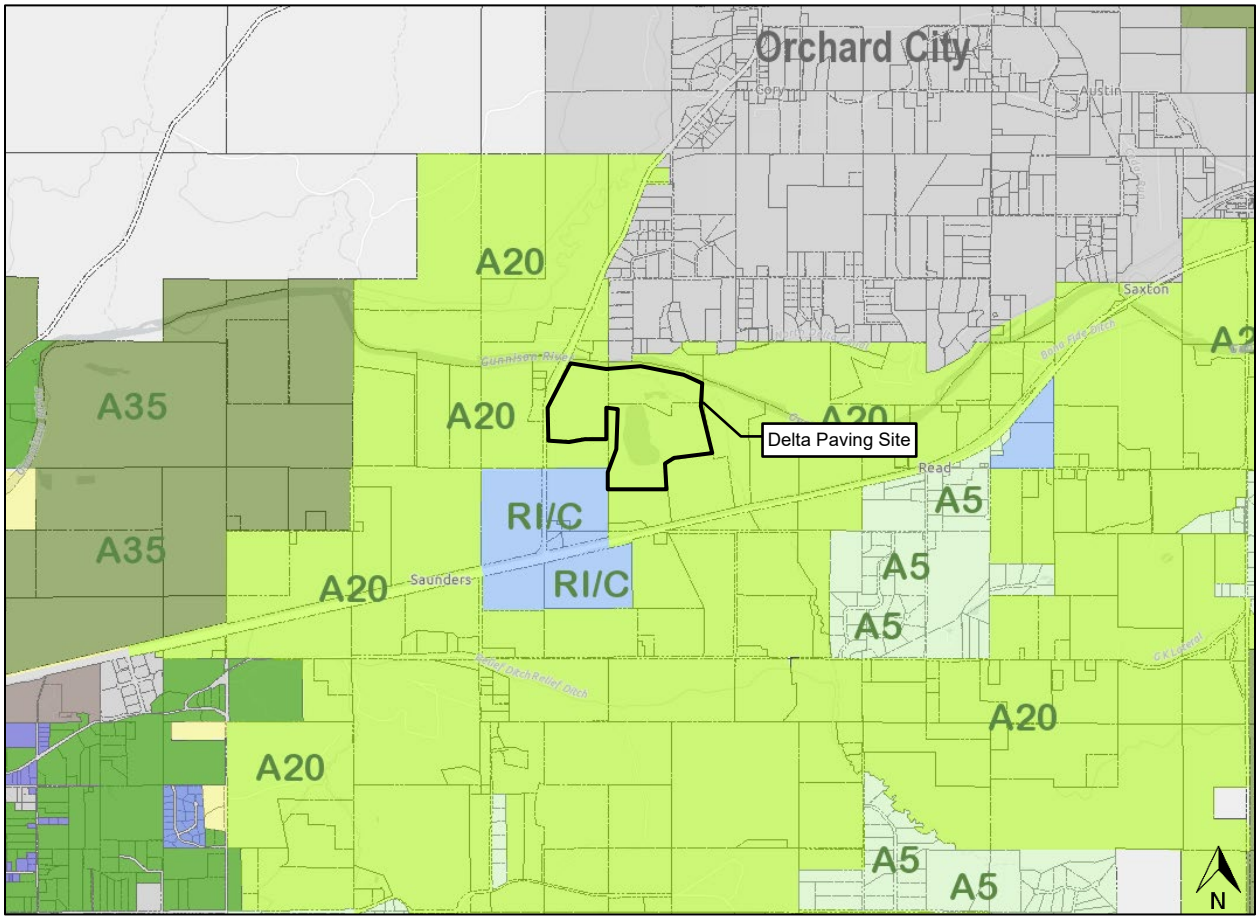


Figure 4. Delta County Zoning Map

2.2.2. Impacts to Irrigation Facilities, Sensitive Lands and Nearby Agriculture

The location, size, design, and operating characteristics of the proposed conditional use are such that the use will not create significant impacts on irrigation facilities, sensitive lands, or nearby agricultural operations

The mining operation will not affect any irrigation facilities, specifically the irrigation ditches on and around the property, as all mining will take place with appropriate buffers to protect these features. The only sensitive lands on or near the subject property is the riparian corridor in the north of the site along the Gunnison River. A wetlands delineation will be conducted, and any areas identified will be protected from mining or other development with appropriate setbacks.

The subject property contains agricultural operations which will be directly replaced by the mining operation. Two of these agricultural fields, on the east of the property, were permitted to be mined in the past, while the remaining two in the western expansion area were not previously permitted. Elam Construction recognizes the value of agricultural lands to the county and surrounding municipalities; however, the mine provides a direct tradeoff of agricultural land for natural resources, from one important industry to another. Construction materials are a valuable resource to the local community and construction market. Elam Construction can provide quality materials to help support these aspects of the community and help the county achieve their infrastructure goals. Additionally, the loss of agricultural land is only temporary and limited to the areas physically being mined out. It will also not occur all at the same time as phased mining allows agricultural operations to exist at the site for many more years to come. The remaining 35 acres disturbed by the mine are eligible to be converted to rangeland and serve as wildlife habitat, or even back to agricultural land. In the short term, the mine will benefit the community with the aggregate materials it provides, while in the long run it supports the overarching goals of the county by bringing new open space and wildlife habitat to an important area along the Gunnison River front.

2.2.3. General Impact Mitigation

The design, operation, location, and buffering of the use appropriately mitigates its impacts with regard to:

1) Risks associated with the use and storage of hazardous materials; or

2) Potentially hazardous conditions, such as projectiles leaving the subject property; and

3) Odors, dust, lighting, vibration, and noise.

The only hazardous material used, stored, and transported at the Delta Paving site is diesel fuel and oil. The risks associated with their materials are appropriately mitigated and managed through the methods described in the Spill Prevention, Control, and Countermeasure Plan (SPCC) provided in Appendix 2.

No potentially hazardous conditions associated with the intended land use have been identified.

Odors, dust, lighting, vibration, and noise will be properly mitigated to the full extent at the site. See the Dust Control Plan, Noise Control Plan, and Landscaping/Lighting plan within this permit for details on how these impacts will be mitigated at the mine. Vibrations are not expected to occur as no drilling or blasting is taking place at the mine. Odors will be mitigated by maintaining all facilities within the requirements of their respective air permits. Operations that typically generate odors, such as asphalt plants, are operated for temporary bursts of time to fulfill different jobs. Therefore, any impacts from odors will be mitigated through their limited timespan.

Overall, the total impact of the mine is not anticipated to increase significantly from what it has been for the past 20 years of operations. Phased mining ensures that only the smallest area necessary is open and disturbed for mining. Processing will take place in the current operating area, which is screened through surrounding vegetation and its location in the center of the site.

The visual impacts are the primary impacts that will be changed from the new mining areas and addition of an asphalt plant. These will be mitigated through screening methods such as vegetated berms or trees. More information on visual mitigation is provided in 4.6 Visual Impacts.

2.3. Section 5(B) Use Specific Standards, Subsection 6(c) Minerals Extraction/Quarry

The followings items are required under Chapter 2 Section 5(B) of the land of the Delta County Land Use Code:

2.3.1. Suitability of the Reclaimed Land Use

The entire subject property is zoned A20 according to the Land Use Code Map. The reclaimed land use of the Delta Paving site is private open space with multiple lakes surrounded by rangeland and wetlands serving as wildlife habitat. Open space is “allowed as-of-right” in the A20 zoning district, meaning the reclamation plan for Delta Paving is in line with the code.

2.3.2. Noise Control Plan

As the Delta Paving Gravel Pit is within 2,000 ft of a residence or livestock operation, a noise control plan is required that conforms with Chapter 4, Section(C). The Delta Paving Gravel pit commits to operating within the state noise limits. The noise threshold set by C.R.S. § 25-12-103, *Maximum Permissible Noise Levels* limits industrial uses to a sound level of 80 dB(A) at 25 ft from the property boundary during the hours of 7:00 am to 7 :00 pm. It is not anticipated that the noise level from mining activities, such as crushing, will exceed these limits. The primary cause for concern regarding noise is from the crusher. However, the fact that the crusher will be located a minimum of 800 ft. from the property boundary, and 1200 ft. from the nearest residence, with physical noise barriers such as stockpiles between them, the occurrence of noise exceedances is unlikely. Nonetheless, Elam Construction plans to take spot noise readings from the nearest property lines during crushing or other loud activities. If noise levels do exceed the threshold limits, noise mitigation techniques such as berms, stockpiling, or the use of hay bales will be implemented prior to continuing the activity causing the exceedance.

2.3.3. Dust Control Plan

Dust will be regulated by the Colorado Department of Public Health & Environment (CDPHE). Dust levels will be maintained within the CDPHE Air Permit limits for the various facilities at the Delta Paving site.

Dust generation is inherent of mining operations and will be produced from the Delta Paving operation from activities such as crushing, excavating materials, and hauling. Due to the nature of mining below the water table, most of the material excavated from the pit will be wet and pose a lower risk of excessive dust creation. Water will be applied directly to haul roads, excavation areas, and stockpiles as needed to control dust. Stockpiles may require additional watering to ensure the material stays wet. During very windy and dry conditions, additional watering may be required. Long term stockpiles will be vegetated to reduce water consumption from dust control

and to prevent erosion. Dust from the crushing and screening plant is controlled with water sprays at the entrance to the screen deck. The facilities manager will decide when and where dust mitigation is needed during operations. The water used for dust control will be sources from existing water sources on site. These gravel wells from historic mining have previously been permitted for and have supplied sufficient water for the operation in the past.

2.3.4. Operational Hazard Mitigation and Risk Management Plan

A Spill Prevention, Control, and Countermeasure (SPCC) plan provided in Appendix 2 that will serve as the Operational Hazard Mitigation and Risk Management Plan for the Delta Paving operation. This plan will be reviewed and updated, at a minimum, every 5 years, or within 10 working days of any operational or administrative changes. The SPCC plan includes information on the mitigation and management of hazards related to oil spills. This plan includes:

1) The emergency contact information including the name, address, and phone numbers of two responsible persons.
2) 24-Hour emergency numbers to contact if a spill occurs.
3) An as-built facilities map identifying potential risks and hazards.
4) Mitigation techniques for storing and transporting hazardous materials.
5) A written response plan for the occurrence of oil spills.

There are no other foreseeable potential hazards at the site such as explosions, fires, gas, chemical, or water tank or pipeline leaks or ruptures, toxic gas emissions, and natural disasters that would require a hazard mitigation and risk management plan. The mine has been operating for more than 20 years without any potentially hazardous situations such as these arising.

3. Lots, Buildings, and Structures

The *Lot Dimensions by Zoning District* applicable to the permitted property, zoned A20, are listed. In accordance with these standards, the Delta Paving Gravel Pit is:

- At a minimum 2.0-acre lot size, 150 ft. lot width, and 75 ft. lot frontage
    - Meets applicable standard for nonresidential use
    - 144.9 acres, 3,220 ft. lot width, 2,700 ft. lot frontage

The *Bulk Standards* applicable to the principal buildings, accessory buildings, and accessory structures on the permitted property are listed below. In accordance with these requirements, all buildings and structures at the Delta Paving Gravel Pit are:

- *Setback 25 ft. from all roadways, and 15 ft. from all other property boundaries*
    - The office, scale, and concrete and asphalt plant are a minimum of 500 ft. from all roadways and property boundaries
    - All plants (crushing, screening, concrete, asphalt) are portable.

- All excavation and other mine development are at a minimum of 25 ft. from all roadways and 15 ft. from property boundaries.

- *Within the height limitations set in Chapter 4*
  - No height limits apply to this operation.

4. Chapter 4. Site Design and Environmental Stewardship

4.1. Fuel Management Plan

The majority of the natural vegetation at the site exists in the north, which will remain mostly undisturbed during mining. The northern wooded area is made up of mature cottonwoods and willows with a shrubby midstory. The understory is predominantly composed of saltgrass and dry, sparse shrubs. Typical rangeland vegetation exists near the outskirts of the property, which will also remain undisturbed. Any natural vegetation that remains during mining and reclamation will not be routinely pruned aside from weed removal which will occur on an as needed basis. Other vegetation at the site consists of hay fields which will be mined through. An illustration of the type and location of retained vegetation in relation to the mining operation is shown in the Exhibit C and F Maps of the draft CDRMS permit application.

Emergency vehicle access will be from the site entrance off of State Highway 65 at the west of the site. Information on this roadway is provided in Table 1.

Table 1. Emergency Roadway Information

Width	30 ft.
Slope	0.32%
Type of Surface	Paved

4.2. Constraints Map

Features that constrain the Delta Paving mining operation, such as natural features and easements are mapped in the draft CDRMS permit's C-1 – Current Conditions Map. The features that exist at the site preceding mining include the Gunnison River to the north, ditches, potential wetlands, forested areas, utility lines, structures, and ponds. Appropriate setbacks are maintained in the mining plan to protect these features, which are defined in Map C-2 – Mining Plan. There are no groundwater recharge areas located at the site. Additionally, the site is not located along any scenic byways.

The potential wetlands located on the site are limited to the riparian corridor along the Gunnison River in the north of the property. Mining has previously been permitted and approved to occur in this corridor, however, Elam Construction has committed to not mining these areas to protect the wetlands. Refer to 4.9.2 Wetlands below for more information on wetland preservation methods during mining.

4.3. Stormwater Management, Grading, Erosion, and Sediment Control

4.3.1. Stormwater Management Plan

Delta Paving has a Stormwater Management Plan (SWMP) currently approved and in place with the Colorado Department of Public Health & Environment (CDPHE). The changes of operation associated with this application will minorly affect the current SWMP. However, the methods of handling stormwater and process water runoff will remain the same throughout the operation. Prior to enacting any changes that affect the current SWMP, such as the beginning of a new phase of mining, the plan will be updated. A copy of the current SWMP is provided in Appendix 3.

4.3.2. State Permits

Delta Paving currently has a Colorado Discharge Permit (CDPS) in place for discharging excess stormwater and groundwater, under permit number COG500444. This permit will not need to be altered to accommodate any discharges from the expanded operation as the discharge amounts and location are anticipated to remain the same as they have been in previous years.

4.3.3. Grading/Slope Map

The maps in the draft CDRMS permit application serve as the grading and slope map for the Delta Paving site. Please refer to Maps C-1, C-2, and F-1 for the grading plan throughout the life of the mine. Any slopes greater than 25% are pointed out. Section views are shown on Map C-3. The CDRMS enforces stringent requirements regarding slope stability for permanent slopes. All slopes at the Delta Paving site have been designed to follow these requirements ensuring the safety and stability of all slopes on the property, both during and after mining and reclamation.

4.4. Drainage Report

The Delta Paving site is located directly south of the Gunnison River. All surface drainages from stormwater or process water will be maintained within the disturbance boundaries through the topography of the site. This means that there are no downstream properties that can or will be impacted by surface drainages from the site. In the event of a storm, all water will be collected in the active pit where it will be allowed to evaporate or infiltrate for 24 hours. After 24 hours, it will be pumped out of the pit to the existing lake, acting as a settling pond for sediment to be removed from the water. From there, it can be safely discharged to an on-site drainage that returns it to the Gunnison River. The Stormwater Management Plan provided in Appendix 3 addresses how stormwater is handled at the site to maintain drainage and prevent erosion.

4.4.1. Drainage Study

The drainage study is provided in Exhibit G of the draft CDRMS permit application in Appendix 1. The following are provided in Exhibit G:

1) Identification of major drainage basins, sub basins, and drainage ways.

2) Calculations of the 5-year and 100-year storm event discharges for current conditions, during mining, and post reclamation.
3) Evaluation of the downstream impacts.
4) Proposed mitigation measures.

4.4.2. Drainage and Erosion Control Plan

The Drainage and Erosion Control Plan is addressed in Exhibit G of the draft CDRMS application in Appendix 1. The following are provided in Exhibit G:

1) Identification of stormwater improvements.
2) Identification of potential pollutant sources.
3) Proposed stormwater pollution prevention BMPs.

More information on drainage and erosion control can be found in the SWMP in Appendix 3.

4.5. Landscape/Lighting Plan

The landscaping and lighting plan is illustrated in the CDRMS Permit Maps; C-1, C-2, and F-1. Screening of the site will be achieved via the construction of berms along Highway 65 and the cottonwood trees near the Gunnison River. The majority of the vegetation along the Gunnison River will be retained, which consists of mature cottonwoods, willows, and sparse shrubby and grassy areas which will serve as screening for the processing area.

Lighting may be used occasionally on an as needed basis for emergency repairs and maintenance. It will always be downcast and limited in use.

No anti-climbing measures are necessary at the site other than fencing and mine gates for security.

4.6. Visual Impacts and Mitigation

Mining at the Delta Paving Gravel Pit will be completed in phases and in a manner to limit the visual impacts of the operation. Additionally, screening through the use of vegetation and berms will further lessen the visual impact of mining and processing. Reclamation will be completed as soon as mining in an area is complete and begun no later than 12 months after the opening of a new phase to limit the visible disturbed ground. Berms will be constructed and given ample time to become fully vegetated well before the beginning of the activity they are intended to block. For example, the berms along Highway 65 will be constructed during Phase 1 and 2 of mining, so they look the most natural when they are blocking the view of Phase 3 and 4 of mining.

Photos of the site were taken in the Fall of 2022 to capture the current conditions of the site and simulate how the mining operations will affect the view. Four key observation points were identified which best show visual impacts of the mine: one near the entrance of the mine on northbound CO-65, one near the Phase 3 pit on northbound CO-65, and two from atop the ridge to the north of the site facing both directions. These locations were chosen to show where the mine is the most visible and to demonstrate the effectiveness of the screening techniques. Additionally, the photos from the ridge best represent what the nearest neighbors will see.

The entire site will be the most visible from the ridge near the northern neighbors. Screening in this direction includes the existing vegetation that will be retained, which consists of the mature cottonwoods along the river and cottonwood galleries throughout the site. This vegetative screening will be most effective at screening the processing area which will be the location of the asphalt and concrete plants, crushers, screening deck, scale, scale house, and most other equipment. The pits and taller parts of the asphalt plant will be visible despite the trees due to the elevation of the ridge. To fully conceal the operation, a tall berm would have to be constructed that would unintentionally block the view of almost the entire valley, which could be considered an eyesore in and of itself.

The western portion of the site (Phase 3 and 4) is visible from SH-65. The use of vegetated berms along this edge of the property will be effective in hiding the majority of mining activities. These berms will be constructed well before each phase opens, so they have adequate time to become vegetated and be fully effective in screening the site.

This western end of the site is also visible to the nearest neighbor to the south. The applicant has been in communication with the property owner of this residence, and it has been agreed upon that no additional visual screening or renders need to be undertaken. This neighbor is identified in Figure 5 below.

The key observation point (KOP) locations are shown in Figure 5. The photos taken from these locations and their visual renders are provided below.

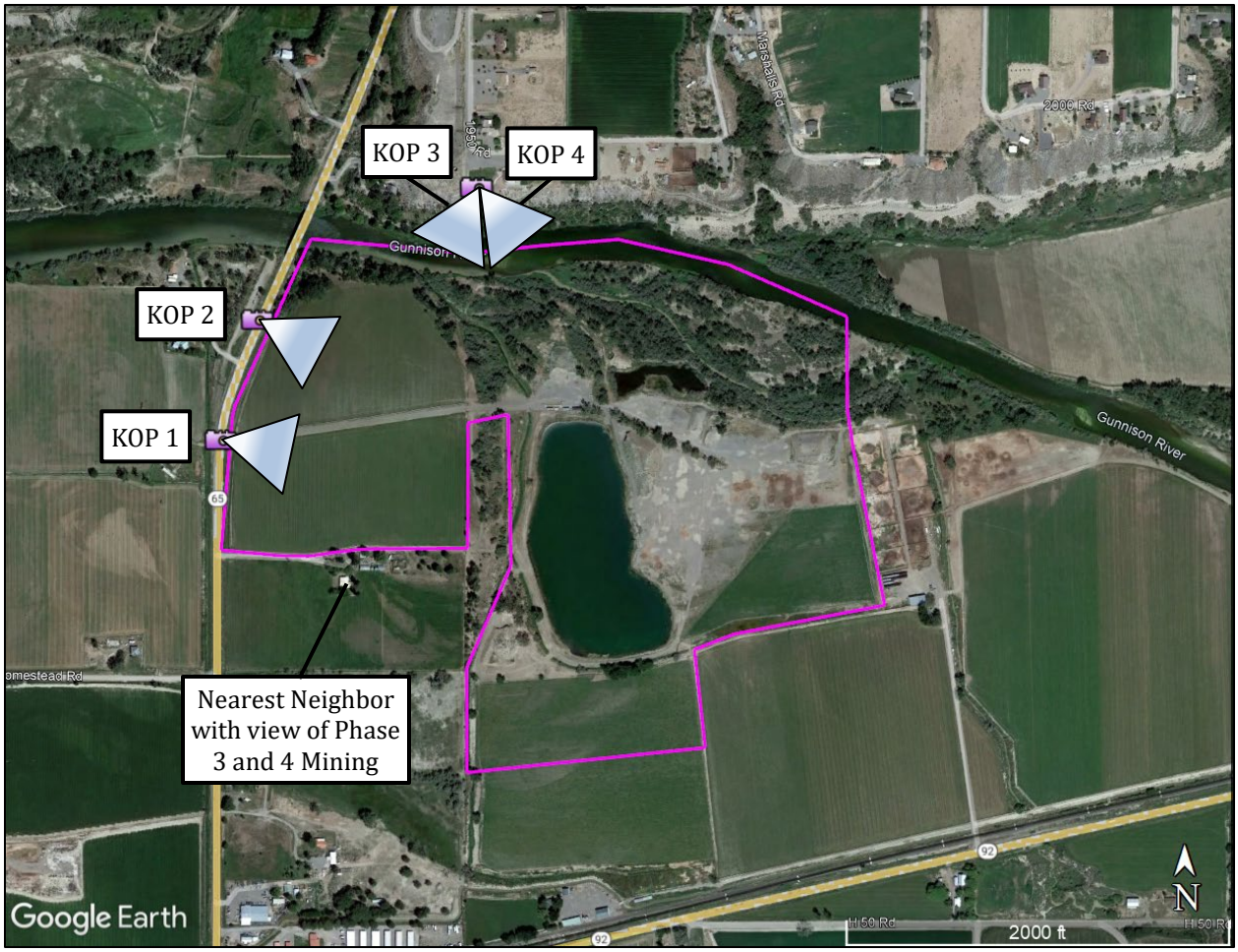


Figure 5. Delta Paving Key Observation Points

4.6.1. Photos & Visual Renders

Key Observation Point 1

The first key observation point is located on northbound CO-65 looking east at the site entrance. This KOP will be where the public can see the greatest amount of the mine while driving on CO-65. Currently, this KOP shows the site access road surrounded by irrigated fields. The operating and processing area, including the future Phase 1 and 2 locations, are not visible from this location. This location won't be affected visually until Phase 3 and 4 begin, where the majority of mining will be hidden by berms. The original photo is shown in Figure 6 while the renders are shown in Figure 7 through Figure 9.



Figure 6. KOP 1 Baseline Photo



Figure 7. KOP 1 Phase 3 Mining



Figure 8. KOP 1 Phase 4 Mining



Figure 9. KOP 1 Reclaimed

Key Observation Point 2

The second key observation point is located on northbound CO-65 looking east at the Phase 3 mining area. This KOP demonstrates the effectiveness of the berms located along the highway to hide mining. The processing area and other mining areas are not visible from this location. The screening berm for Phase 3 will be constructed during Phase 1 of mining, and will be fully vegetated by the time Phase 3 starts. It will then be flattened after all mining is completed at the site. The original photo is shown in Figure 10 while the renders are shown in Figure 11 and Figure 12.



Figure 10. KOP 2 Baseline Photo



Figure 11. KOP 2 Phase 3 & 4 Mining



Figure 12. KOP 2 Reclaimed

Key Observation Point 3

The third key observation point is located atop the ridge to the north of the site, facing west towards the Phase 3 and 4 areas. The entirety of the mine is visible from this vantage point. This location represents the view of the mine from the nearest neighbors to the north. The trees shown in the photo will remain during mining and will provide screening, more so in the spring and summer when they have foliage. The original photo is shown in Figure 13 while the renders are shown in Figure 14 through Figure 18.



Figure 13. KOP 3 Baseline Photo



Figure 14. KOP 3 Phase 1 Mining



Figure 15. KOP 3 Phase 2 Mining



Figure 16. KOP 3 Phase 3 Mining



Figure 17. KOP 3 Phase 4 Mining



Figure 18. KOP 3 Reclaimed

Key Observation Point 4

The fourth key observation point is located atop the ridge to the north of the site, facing the east of the site towards the current operating and processing area as well as the Phase 1 and 2 mining areas. This shows the rest of the view from atop the ridge. The renders include the plant surrounded by the maximum opacity of emissions permitted for within its air permit, at 30% opacity. The trees shown in the photos will remain during mining and will provide vital screening for the processing area and plant. The original photo is shown in Figure 19 while the renders are shown in Figure 20 through Figure 24.



Figure 19. KOP 4 Baseline Photo



Figure 20. KOP 4 Phase 1 Mining



Figure 21. KOP 4 Phase 2 Mining



Figure 22. KOP 4 Phase 3 Mining



Figure 23. KOP 4 Phase 4 Mining



Figure 24. KOP 4 Reclaimed

4.7. Preliminary Title Report

The Preliminary Title Report is attached to this section.

Land Title Guarantee Company
Customer Distribution

Order Number: **OE1015741** Date: **03/23/2022**

Property Address: **8020 HIGHWAY 65, DELTA, CO 81416**

None
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Land Title Guarantee Company

ONE Report

Date Ordered: **03/22/2022**
Order Number: **OE1015741**

This ONE Report is based on a limited search of the county real property records and is intended for informational purposes only. The ONE Report does not constitute any form of warranty or guarantee of title or title insurance and should not be used by the recipient of the ONE Report as the basis for making any legal, investment or business decisions. The recipient of the ONE Report should consult legal, tax and other advisors before making any such decisions. The liability of Land Title Guarantee Company is strictly limited to (1) the recipient of the ONE Report, and no other person, and (2) the amount paid for the ONE Report.

Effective Date:

03/20/2022

Address:

8020 HIGHWAY 65, DELTA, CO 81416

County:

Delta

Legal Description:

SEE DEED

Ownership:

GRAND JUNCTION CONCRETE PIPE CO.

Vesting Deed(s):

Delta county recorded 08/14/2001 under reception no. 546391

Encumbrances and Other Documents

NONE OF RECORD

QUIT CLAIM DEED

DELTA PAVING LIMITED LIABILITY COMPANY, also known as DELTA PAVING LLC, grantor,

whose address is County of Mesa, State of Colorado,

for the consideration of Ten Dollars and other good and valuable consideration, in hand paid,

hereby sells and quitclaims to

GRAND JUNCTION CONCRETE PIPE CO., grantee,

whose address is P.O. Box 1849, Grand Junction, CO 81502, County of Mesa, State of Colorado, the following real property in the County of Delta and the State of Colorado, to wit:

See Exhibit A, attached hereto and incorporated herein by reference

with all its appurtenances, including without limitation those appurtenances listed on Exhibit B, attached hereto and incorporated herein by reference.

This conveyance is made in connection with the dissolution of grantor, a Colorado limited liability company, and the division of the assets of grantor among the members of grantor according to their interests in grantor.

Signed this 26 day of July, 2001.

GRANTOR:

DELTA PAVING LIMITED LIABILITY COMPANY, also known as DELTA PAVING LLC

By: Ronald E. Tipping
Ronald E. Tipping, General Manager

State of Colorado)ss
County of Mesa)

The foregoing instrument was acknowledged before me this 26th day of July, 2001, by: Ronald E. Tipping as General Manager of Delta Paving Limited Liability Company, also known as Delta Paving LLC, grantor.

My commission expires: 4/5/05

WITNESS my hand and official seal.

Notary Public

NOTARY PUBLIC STATE OF COLORADO

546391 08/14/2001 02:26P B893 P219 LMcCracken
1 of 3 R 15.00 D 0.00 Delta Cty, CO Clerk & Rec

EXHIBIT "A"

PARCEL 1.
LOT 2,
VOLK MINOR SUBDIVISION, AS RECORDED FEBRUARY 10, 1998 UNDER RECEPTION #511315,
MORE SPECIFICALLY DESCRIBED AS FOLLOWS:
PART OF THE NE1/4 NW/14 OF SECTION 10 AND PART OF THE SE1/4 SW1/4 OF SECTION 3 ALL IN TOWNSHIP 15 SOUTH, RANGE 95 WEST OF THE 6TH P.M. DESCRIBED AS FOLLOWS: BEGINNING AT THE 1/4 CORNER BETWEEN SECTIONS 3 AND 10, TOWNSHIP 15 SOUTH, RANGE 95 WEST 6TH P.M.; THENCE SOUTH 0°25'50" WEST 707.38 FEET DISTANCE; THENCE NORTH 89°51'09" WEST 558.94 FEET DISTANCE; THENCE SOUTH 81°48'12" WEST 239.60 FEET DISTANCE; THENCE SOUTH 86°36'09" WEST 49.95 FEET DISTANCE; THENCE NORTH 87°07'47" WEST 417.91 FEET DISTANCE, MORE OR LESS, TO THE EAST RIGHT OF WAY LINE OF STATE HIGHWAY #65; THENCE ALONG SAID EAST RIGHT OF WAY LINE NORTH 0°08'00" EAST 170.36 FEET DISTANCE; THENCE NORTH 4°03'00" EAST 391.80 FEET DISTANCE; THENCE 213.94 FEET DISTANCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 691.22 FEET AND A LONG CHORD OF WHICH BEARS NORTH 12°55'00" EAST 213.08 FEET DISTANCE; THENCE NORTH 21°47'00" EAST 376.72 FEET DISTANCE; THENCE NORTH 25°59'00" EAST 593.10 FEET DISTANCE; THENCE LEAVING SAID EAST RIGHT OF WAY LINE SOUTH 85°35'24" EAST 788.96 FEET DISTANCE, MORE OR LESS, TO THE EAST LINE OF SAID SE1/4 SW1/4; THENCE SOUTH 0°26'27" EAST 869.12 FEET DISTANCE, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 2.
PART OF THE S1/2, SECTION 3 AND PART OF THE NORTH 1/2, SECTION 10, TOWNSHIP 15 SOUTH, RANGE 95 WEST, 6TH P.M. DESCRIBED AS FOLLOWS:
BEGINNING AT THE 1/4 CORNER BETWEEN SECTIONS 3 AND 10, TOWNSHIP 15 SOUTH, RANGE 95 WEST, 6TH P.M.; THENCE SOUTH 89°23'29" EAST 771.85 FEET DISTANCE; THENCE SOUTH 58°10'57" EAST 128.15 FEET DISTANCE; THENCE SOUTH 64°26'44" EAST 456.07 FEET DISTANCE; THENCE SOUTH 74°40'21' EAST 43.54 FEET DISTANCE; THENCE NORTH 0°23'41" EAST 269.82 FEET DISTANCE; THENCE SOUTH 89°23'29" EAST 668.04 FEET DISTANCE; THENCE NORTH 0°04'06" EAST 604.01 FEET DISTANCE TO THE GUNNISON RIVER; THENCE ALONG THE GUNNISON RIVER THE FOLLOWING: NORTH 72°36' WEST 424.4 FEET DISTANCE; THENCE NORTH 76°45' WEST 300.00 FEET DISTANCE; THENCE NORTH 79°30' WEST 410.00 FEET DISTANCE; THENCE NORTH 85°15' WEST 400 FEET DISTANCE; THENCE SOUTH 88°05'09" WEST 512.94 FEET DISTANCE; THENCE LEAVING THE GUNNISON RIVER SOUTH 0°26'27" EAST 869.12 FEET DISTANCE, MORE OR LESS, TO THE POINT OF BEGINNING.

COUNTY OF DELTA,
STATE OF COLORADO.

546391 08/14/2001 02:26P B893 P220 LMcCracken
2 of 3 R 15.00 D 0.00 Delta Cty, CO Clerk & Rec

EXHIBIT B

1. Well Permit No. 053787-F, issued by the Office of the State Engineer, Colorado Division of Water Resources on May 19, 2000, for the Delta Paving Pit Wells Nos. 1-5.

2. Water rights adjudicated for the Delta Paving Pit Wells Nos. 1-5 in Case No. 99CW128, District Court, Water Division No. 4, by decree entered on May 10, 2000.

3. Plan for augmentation and change of water rights approved in Case No. 99CW128, District Court, Water Division No. 4, by decree entered on May 10, 2000, for the Delta Paving Pit Wells.

4. All right, title and interest of Delta Paving Limited Liability Company under the Agreement and Grant of Easement between Stanley F. Volk and Clara M. Volk and Delta Paving Limited Liability Company, dated June19, 1998, and recorded in Book 805 at Page 544 of the records of Delta County.

5. All right, title and interest of Delta Paving Limited Liability Company under the Lease Agreement between the Richard M. Frazier and Betsey A. Frazier Revocable Trust and Delta Paving Limited Liability Company, dated November 19, 1998, and recorded in Book 817 at Page 544 of the records of Delta County.

6. Ten (10) shares of the capital stock of the Bona Fide Ditch Company.

546391 08/14/2001 02:26P B893 P221 LMcCracken
3 of 3 R 15.00 D 0.00 Delta Cty, CO Clerk & Rec

546392 08/14/2001 02:43P B893 P222 LMcCracken
1 of 3 R 15.00 D 0.00 Delta Cty, CO Clerk & Rec

ASSIGNMENT

This Assignment is made effective as of July 26, 2001, by Delta Paving Limited Liability Company ("Delta Paving"). For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Delta Paving hereby assigns, transfers, conveys and releases to Grand Junction Concrete Pipe Co. ("Grand Junction Pipe"), whose address is P.O. Box 1849, Grand Junction, CO 81502, the following:

1. All right, title and interest of Delta Paving under the Lease Agreement between the Richard M. Frazier and Betsey A. Frazier Revocable Trust and Delta Paving Limited Liability Company, dated November 19, 1998, and recorded in Book 817 at Page 544 of the records of Delta County.

2. Well Permit No. 053787-F, issued by the Office of the State Engineer, Colorado Division of Water Resources on May 19, 2000, for the Delta Paving Pit Wells Nos. 1-5.

3. Water rights adjudicated for the Delta Paving Pit Wells Nos. 1-5 in Case No. 99CW128, District Court, Water Division No. 4, by decree entered on May 10, 2000.

4. Plan for augmentation and change of water rights approved in Case No. 99CW128, District Court, Water Division No. 4, by decree entered on May 10, 2000, for the Delta Paving Pit Wells.

5. All right, title and interest of Delta Paving Limited Liability Company under the Agreement and Grant of Easement between Stanley F. Volk and Clara M. Volk and Delta Paving Limited Liability Company, dated June19, 1998, and recorded in Book 805 at Page 544 of the records of Delta County.

6. Ten (10) shares of the capital stock of the Bona Fide Ditch Company.

The interests hereby conveyed are subject to all liabilities and obligations of Delta Paving and Delta Paving makes this conveyance subject to, and on the condition that, Grand Junction Pipe assume such obligations from the date hereof.

546392 08/14/2001 02:43P B893 P223 LMcCracken
2 of 3 R 15.00 D 0.00 Delta Cty, CO Clerk & Rec

This Assignment is made in connection with the dissolution of Delta Paving, a Colorado limited liability company, and the division of the assets of Delta Paving among the members of Delta Paving according to their interests in Delta Paving.

This Assignment shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties.

Effective as of the day and year first above written.

ASSIGNOR:

DELTA PAVING LIMITED LIABILITY COMPANY

By: _____
Ronald E. Tipping, General Manager

Accepted:

GRAND JUNCTION CONCRETE PIPE CO.

By: _____
Marie Tipping, President

State of Colorado)
ss
County of Mesa)

The foregoing was acknowledged before me this 8th day of August, 2001, by Ronald E. Tipping, as General Manager of Delta Paving Limited Liability Company.

Witness my hand and official seal.
My commission expires: 9/6/02

_____
Notary Public

546392 08/14/2001 02:43P B893 P224 LMcCracken
3 of 3 R 15.00 D 0.00 Delta Cty, CO Clerk & Rec

State of Colorado)
ss
County of Mesa)

The foregoing was acknowledged before me this 8th day of August, 2001, by Marie Tipping, as President of Grand Junction Concrete Pipe Co.

Witness my hand and official seal.
My commission expires: 4/16/02

Notary Public

4.8. Proof of Water

The Delta Paving site obtains its water from the existing gravel wells that are on site. The Water Court Ruling in Appendix 4 shows the water rights owned by Kilgore Companies, LLC dba Elam Construction, Inc. for these sources. The existing water rights provide 218.75 acre-feet for evaporative loss and up to a total of 2,100 gallons per minute from the gravel wells for consumptive uses such as dust control and aggregate washing. Table 2 outlines the currently owned water rights and their uses.

Table 2. Existing Delta Paving Water Rights

Water Usage	Acre-Feet per Year	Gallons Per Minute (gpm)
Evaporation Losses	218.75	--
Product Moisture Loss	3.7	--
Dust Suppression	2.7	300
Pit Dewatering	--	800
Aggregate Washing	--	1,000

The 218.75 acre-feet can account for the evaporative losses of up to 79 acres of groundwater exposure, which is more than adequate to account for the maximum 74.3 acres of actual groundwater exposure at the site. In the past, the various consumptive use rights have been more than enough to supply the water needed for operations at the Delta Paving operation. The expansion of mining will only cause a slight increase in production to occur to account for asphalt production, so it is not anticipated that the water usage will be massively changed. The production of asphalt itself will not cause an increase in water consumption as asphalt production requires little to no water. If more water is needed for the mining operation, new water rights will be procured through the Colorado Division of Water Resources as needed.

4.9. Biological Assessment & Wildlife Report

4.9.1. Wildlife

According to the most up to date data from the Colorado Parks and Wildlife (CPW) habitat and range mapping, there is no critical habitat, critical winter range, calving areas, or big game migration corridors present on the subject property, thus negating the requirement for a wildlife report. Nonetheless, the applicant has been in communication with the CPW officer for the area, Stuart Sinclair, on the impacts of the mine on wildlife. General information on the wildlife present at the site is provided in Exhibit H of the draft CDRMS Application, in Appendix 1.

4.9.2. Wetlands

A formal wetlands delineation has not been completed for the site at this time, however a desktop evaluation of the aquatic resources present has identified areas where wetlands would potentially exist. This Wetlands Evaluation is provided in Appendix 5. The potential wetlands

align most closely with the National Wetlands Inventory (NWI) identified areas which are shown in relation to the mining operation in the draft DRMS maps. Elam Construction commits to not mining within the riparian corridor, shown in Figure 25, to protect these potential wetlands until a wetlands delineation can be completed to identify the specific locations of existing wetlands. This delineation will take place as soon as weather facilitates proper water measurements, likely in the summer. A 100-foot buffer will be retained from any areas identified to be wetlands in the formal delineation to protect them from mining activities. It should be noted that the maps shown in the draft CDRMS permit show the maximum possible mining scenario, which does not currently account for any buffers from existing wetlands. However, mining is not expected to occur near the riparian corridor for a few years allowing time for the mining plan to be adjusted accordingly following a delineation.

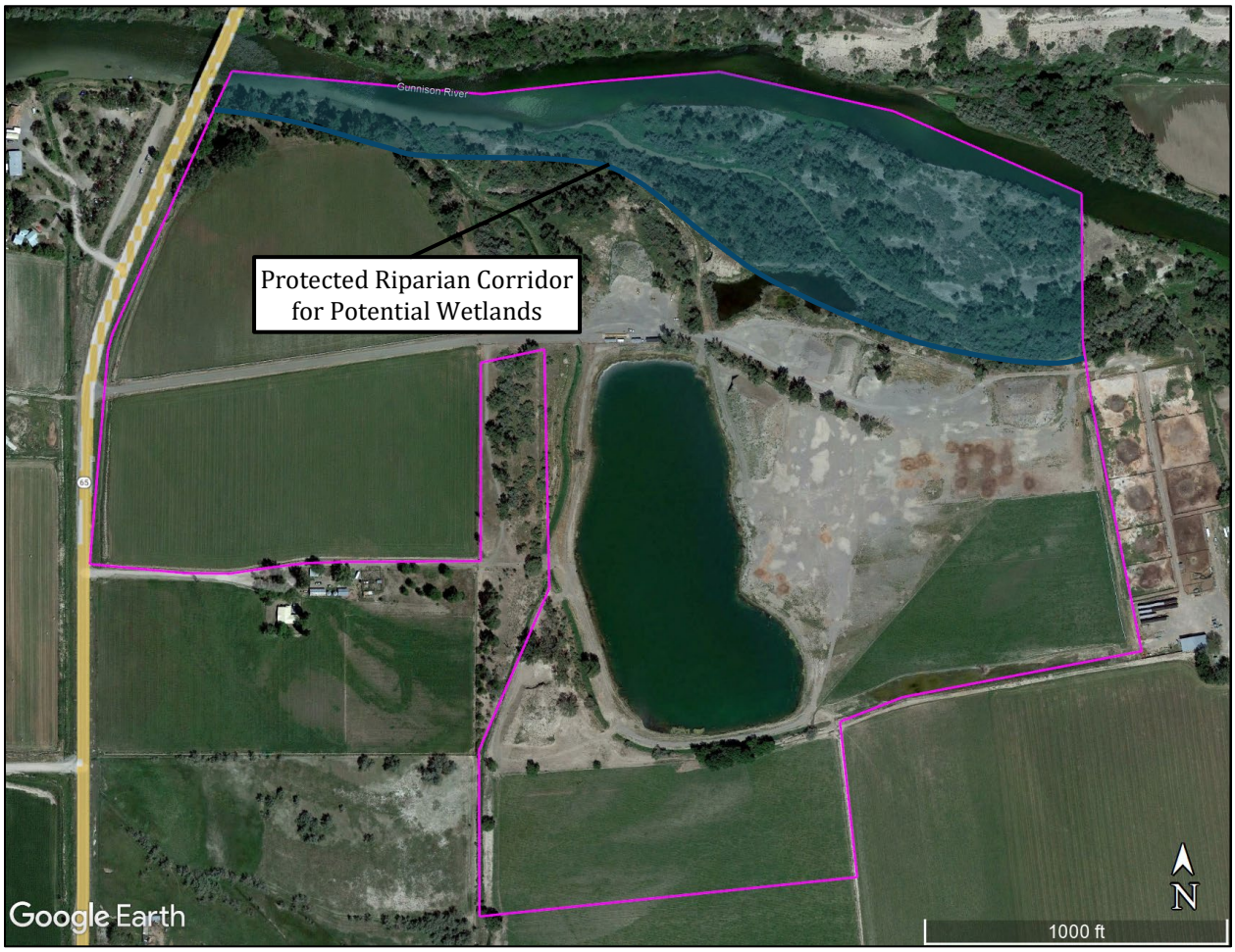


Figure 25. Potential Wetlands Location

4.10. Reclamation Plan

Detailed information on the reclamation plan is provided in the draft CDRMS application in Appendix 1. In general, reclamation will involve converting the site to its final land use as private open space with multiple groundwater lakes surrounded by rangeland serving as wildlife habitat. The areas that are not converted to lakes will be eligible to become new agricultural land. The pits will be reclaimed at the same time as mining progresses, so as soon as a new phase starts, the previous phase will be reclaimed. Reclamation of the pits will require regrading of the mining slopes, topsoiling, revegetation, and allowing the pits to fill with groundwater. All berms will be flattened after the final phase has been reclaimed. The disturbed ground outside the pits will also be regraded, topsoiled, and vegetated as rangeland. Mining is expected to be completed after approximately 16 years, while reclamation will take an anticipated 23 years to complete.

The areas of land for each reclaimed use are shown in Table 3 and illustrated in

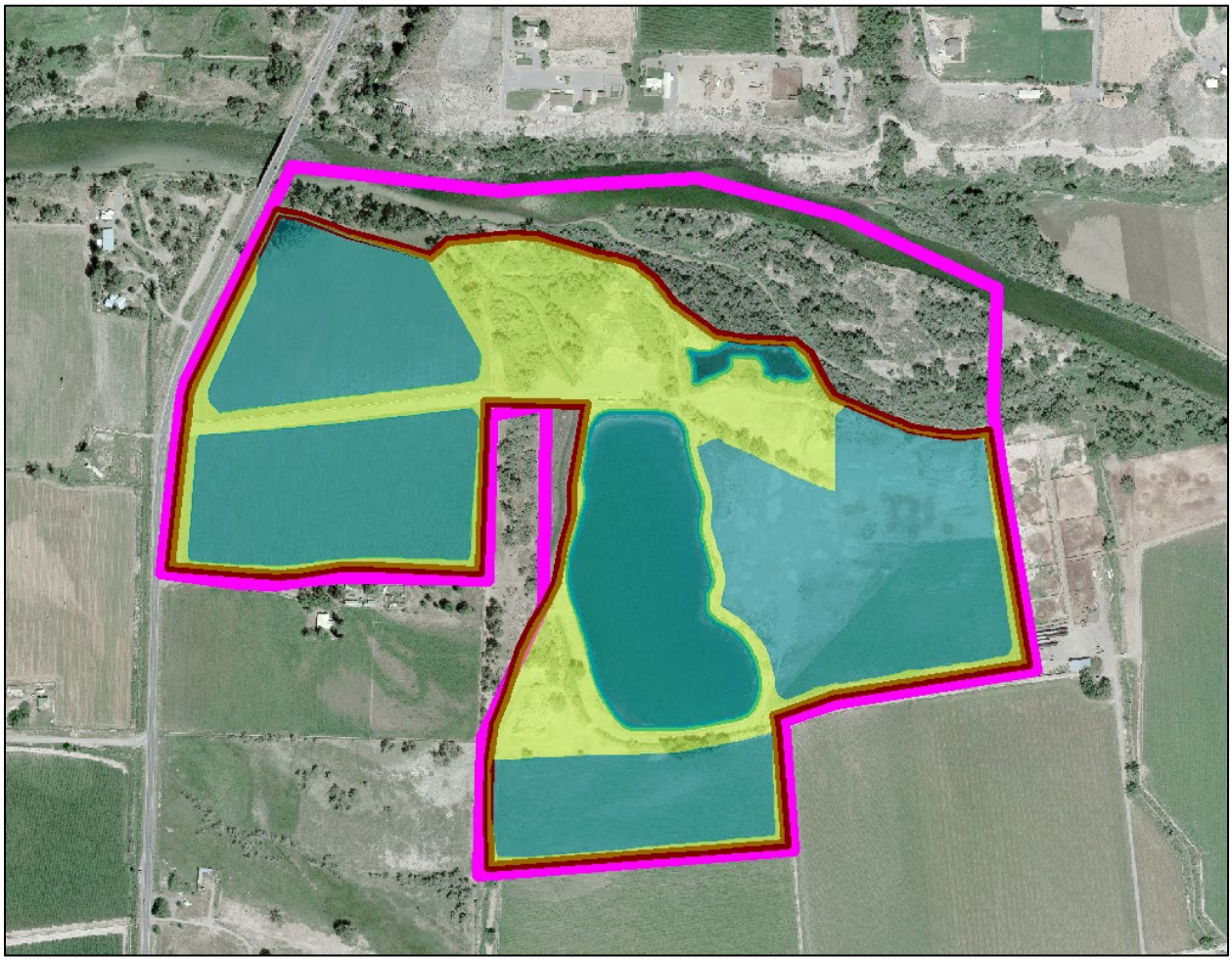


Figure 26.

Table 3. Reclamation Areas

Description	Area (Acres)
Access Roads	1.0
Rangeland	34.7
Groundwater Lakes	74.3
Disturbed Area Total	110.0
Undisturbed Area	34.8
Total Affected (Permit) Area	**144.8**

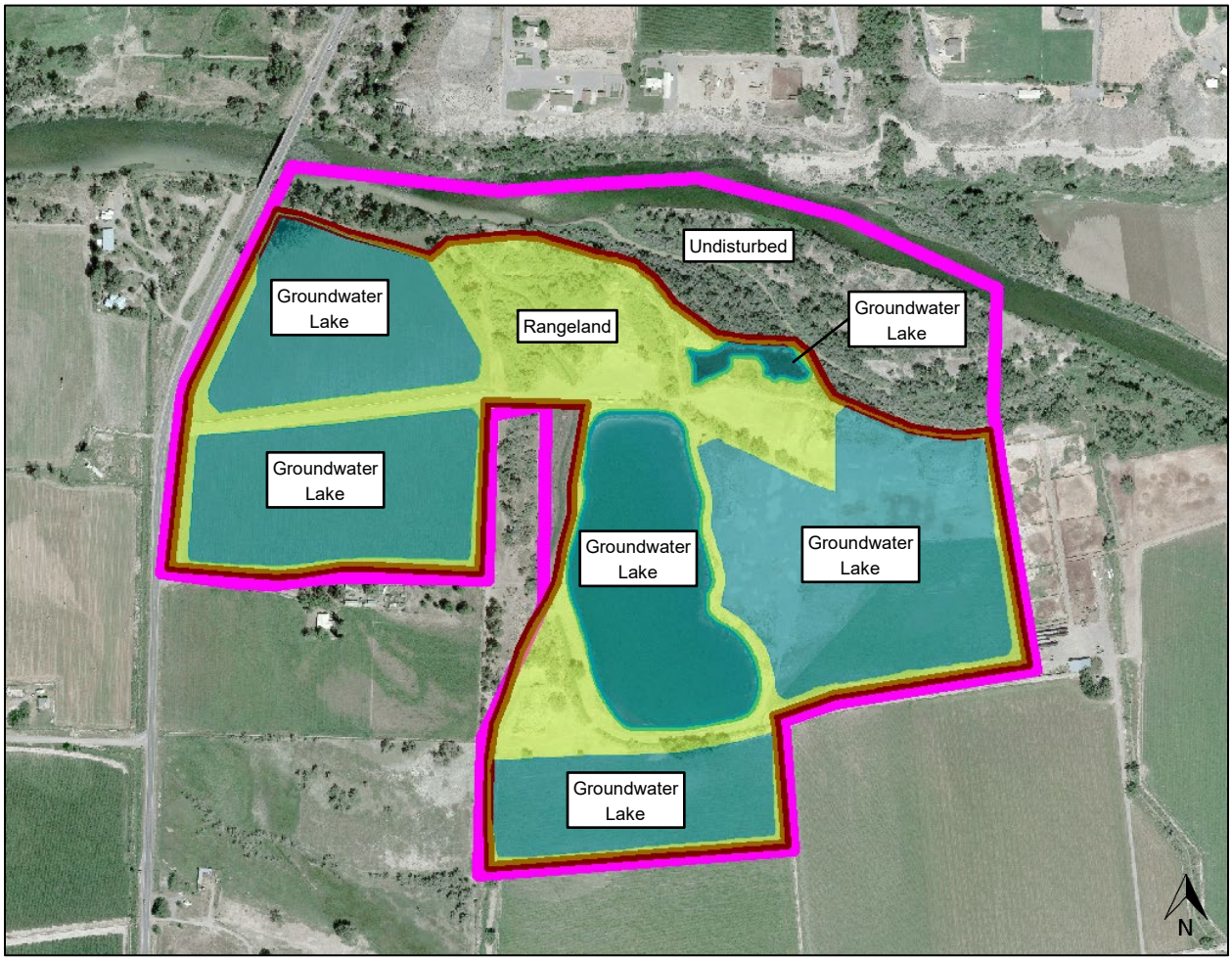


Figure 26. Aerial Reclamation Map

5. Chapter 5. Public Facilities, Infrastructure, and Services

5.1. Traffic Study

In accordance with Chapter 5 Section 1, a Level I traffic study was conducted for the Delta Paving operation. This study, performed by Kimley Horn, is attached to this section. As indicated in the study, traffic from the Delta Paving Pit does not impact more than 20 percent of any surrounding road's capacity, thus negating the need for a Level II or III study. The traffic study concludes that no traffic improvements are required at the site entrance along State Highway 65.

Kimley»Horn

November 11, 2021

Elam Construction, Inc.
556 Struthers Avenue
Grand Junction, CO 81501

Attn: Mr. Ben Langenfeld, P.E.
Lewicki & Associates

Re: Delta Paving Gravel Pit - Level 1 Traffic Impact Study
East Side of SH-65, North of SH-92
Delta County, Colorado

Dear Mr. Langenfeld:

The purpose of this letter report is to document the results of a Level 1 traffic analysis prepared for Delta Paving Gravel Pit located along the east side of SH-65, just north of SH-92 in Delta County, Colorado. This traffic study identifies project traffic generation characteristics for purposes of identifying the SH-65 access intersection requirements. Specifically, the project includes three lots for mineral extraction/quarry services. Haul roads internal to the site are used for transporting material from the three lots. The gravel pit area and location are shown in attached **Figure 1**.

Regional access to the Delta Paving Gravel Pit is provided by US Highway 50 (US-50) and Interstate 70 (I-70). Primary and direct access to Delta Paving Gravel Pit is provided by SH-65. SH-65 provides one lane of travel in each direction, northbound and southbound, and has a posted speed limit of 55 miles per hour through the study area. The existing access intersection along SH-65 operates with assumed stop control on the westbound private access, as a STOP sign wasn't observed to be present at the access in the Google Earth Streetview photograph of August 2018 but may be present today.

The project site is currently used for production of construction materials. To the north, south, and west of the site are residences and vacant land used for agricultural purposes. East of the site is agricultural land and livestock operations. The City of Delta is located approximately three miles southwest of the site.

Average daily traffic (ADT) along SH-65 within the site vicinity was obtained from the Colorado Department of Transportation (CDOT) Online Transportation Information System (OTIS). The 2020 ADT along SH-65 was 7,000 vehicles per day. Accounting for a 20-year growth factor of 1.1, also provided on CDOT OTIS, the annual growth rate along SH-65 is 0.5 percent per year. Therefore, the 2021 ADT along SH-65 is 7,035 vehicles. The anticipated 2040 ADT would be 7,700 vehicles per day.

Trip Generation

Site-generated traffic estimates are determined through a process known as trip generation. The number of employees anticipated as well as the number of truck trips in and out daily and per hour were estimated for the gravel pit operations. Based on available information, it

is anticipated that five employees will be assigned to the site, which equates to five vehicles entering the gravel pit in the morning peak hour and five vehicles exiting the pit during the afternoon peak hour if all employees drive alone. It was also estimated that 77 trucks will access the pit each day, with 154 total trips in and out. During the peak hours, it is conservatively estimated that 14 trucks would enter, and 14 trucks would exit during each of the AM and PM peak hours. It is important to note the truck trip generation also includes the volume adjustment for two (2) passenger car equivalents (PCE) per truck, as this truck volume would be made by 13-ton trucks with lengths less than 40 feet. The following **Table 1** provides the trip generation estimate for the Delta Paving Gravel Pit.

Table 1 – Delta Paving Gravel Pit Traffic Generation

Type	Vehicles Trips						
	Daily	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Employees (5)	10	5	0	5	0	5	5
Gravel Trucks	154	14	14	28	14	14	28
Total Vehicles	**164**	**19**	**14**	**33**	**14**	**19**	**33**
Total PCE	**308**	**33**	**28**	**61**	**28**	**33**	**61**

As shown in the table, the Delta Paving Gravel Pit project is expected to generate approximately 164 daily trips with 33 of these trips occurring during the morning and afternoon peak hours. This volume of daily traffic of 164 trips are expected to be the highest volume generated during use of the gravel pit. When considering passenger car equivalents (PCE), the morning and afternoon peak hour trip generation is 61 PCE trips.

Trip Distribution and Traffic Assignment

Distribution of project traffic on the street system for the Delta Paving Gravel Pit was based on the area street system characteristics, existing traffic patterns, existing location compared to nearby population areas, and the proposed access system for the project. The directional distribution of traffic is a means to quantify the percentage of site-generated traffic that approaches the site from a given direction and departs the site back to the original source. It was assumed that the majority of traffic generated to the gravel pit will be coming from and departing to the south (75 percent), while the remaining proportion (25 percent) of traffic generated will be coming from the north. Attached **Figure 2** illustrates the anticipated trip distribution. The project traffic assignment for vehicles and passenger car equivalents is shown in attached **Figure 3** and **Figure 4**, respectively.

CDOT Turn Bay Length Analysis

It is anticipated that the gravel pit project traffic on the east leg of the SH-65 Access would require a CDOT access permit in association with this project. SH-65 is categorized as an R-A roadway with a 55 miles per hour speed limit, as such turn lanes requirements are to be designed per the State Highway Access Code (SHAC). According to the State Highway Access Code for category Regional Highway (R-A) roadways the turn lane warrants are as follows:

- A left turn deceleration lane with taper and storage length is required for any access with a projected peak hour left ingress turning volume greater than 10 vph. The taper length will be included within the required deceleration length.

- A right turn deceleration lane and taper length is required for any access with a projected peak hour right ingress turning volume greater than 25 vph. The taper length will be included within the required deceleration length.

- A right turn acceleration lane and taper length is required for any access with a projected peak hour right turning volume greater than 50 vph when the posted speed on the highway is greater than 40 mph. The taper length will be included within the required acceleration length.

Based on the traffic volume projections, turn lane requirements at the project access intersections along SH-65 are as follows:

- A southbound left turn lane is not warranted based on projected project vehicle volume of 5 vph and passenger car equivalent traffic volumes being 9 southbound left turns during the peak hour and the threshold being 10 vph.

- A northbound right turn lane is not warranted based on projected project vehicle volume of 14 vph and passenger car equivalent traffic volumes being 24 northbound right turns during the peak hour and the threshold being greater than 25 vph.

- A northbound acceleration lane along SH-65 from the project access westbound right turn is not warranted based on projected project vehicle volume of 5 vph and passenger car equivalent traffic volumes being 9 westbound right turns during the peak hour and the threshold being 50 vph.

Recommendations

The Delta Paving Gravel Pit is anticipated to generate minimal traffic during the operation hours, with a total of 164 daily vehicle trips. Of these, 33 peak hour vehicle trips are anticipated. Based on the analysis presented in this report, Kimley-Horn and Associates, Inc. believes Delta Paving Gravel Pit will be incorporated into the existing roadway network and will not require any traffic improvements along SH-65, other than possibly installing a R1-1 "STOP" sign for the exiting access approach to SH-65.

If you have any questions or require anything further, please feel free to call me at (303) 228-2300.

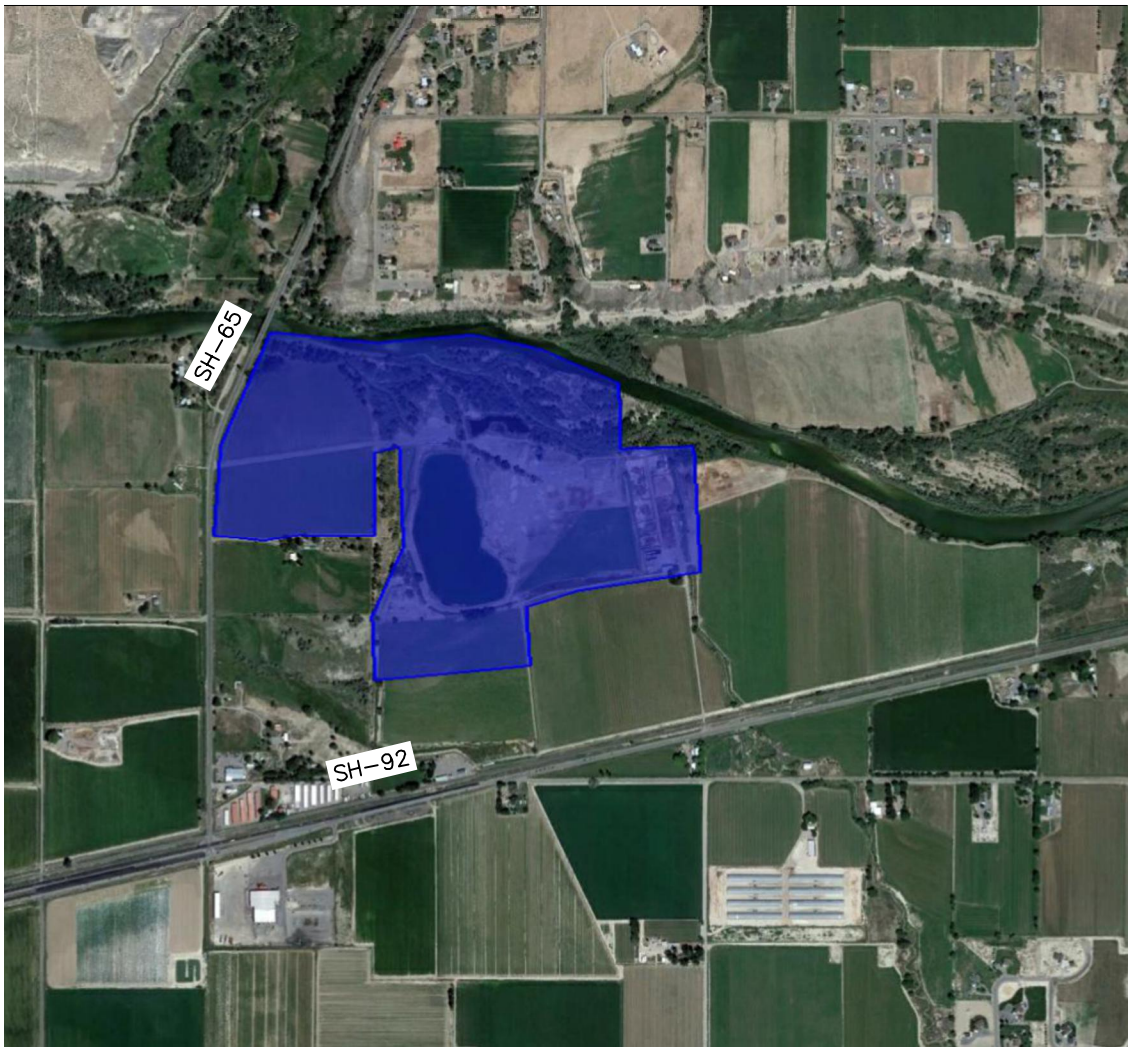
Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

Curtis D Rowe

Curtis D. Rowe, P.E., PTOE
Vice President

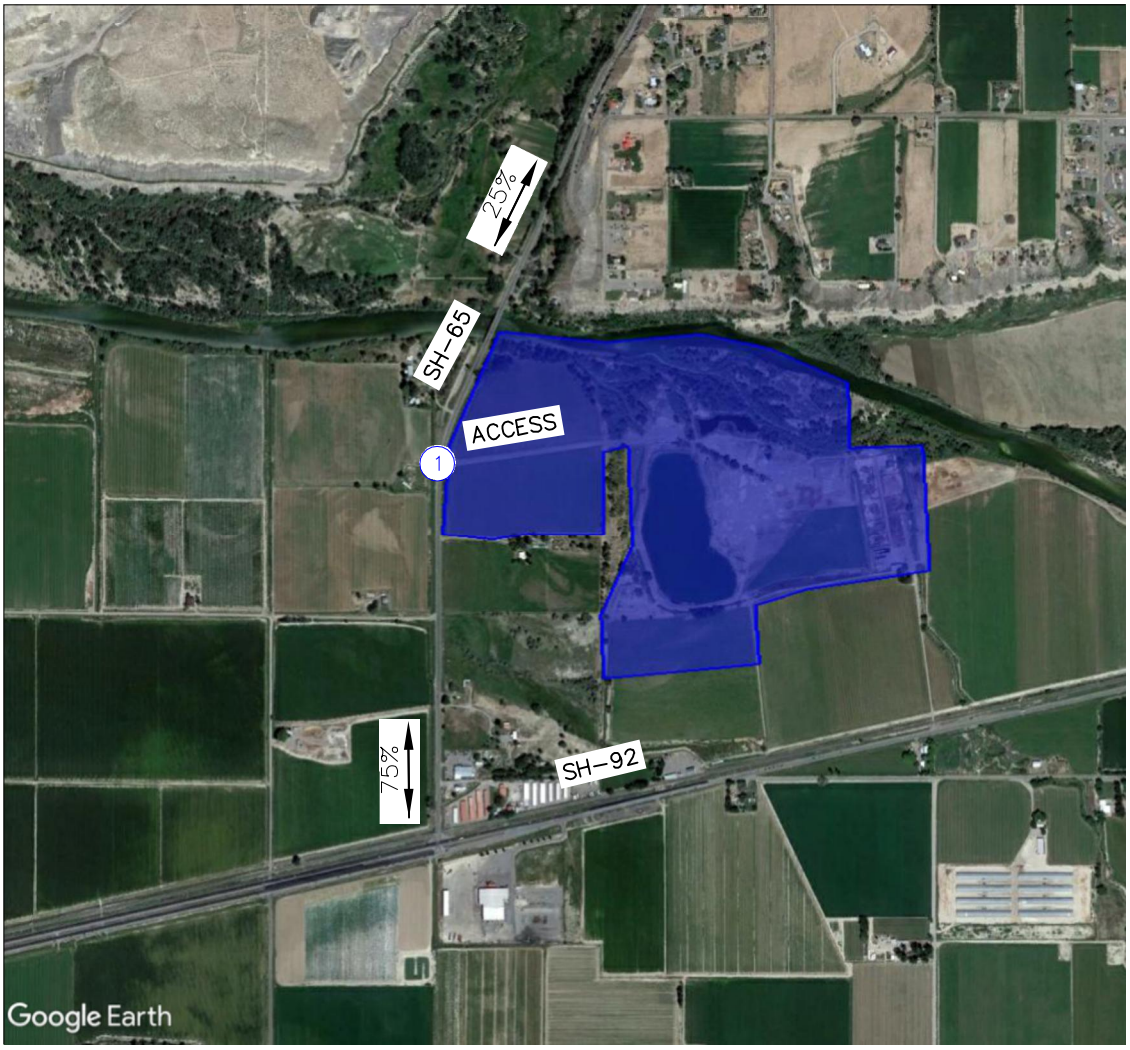


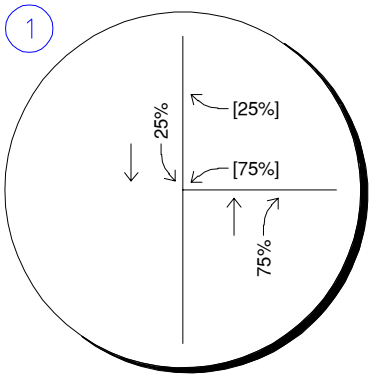


DELTA PAVING GRAVEL PIT
DELTA COUNTY, COLORADO
VICINITY MAP

FIGURE 1

Kimley»Horn
NORTH
NTS 196330000





LEGEND

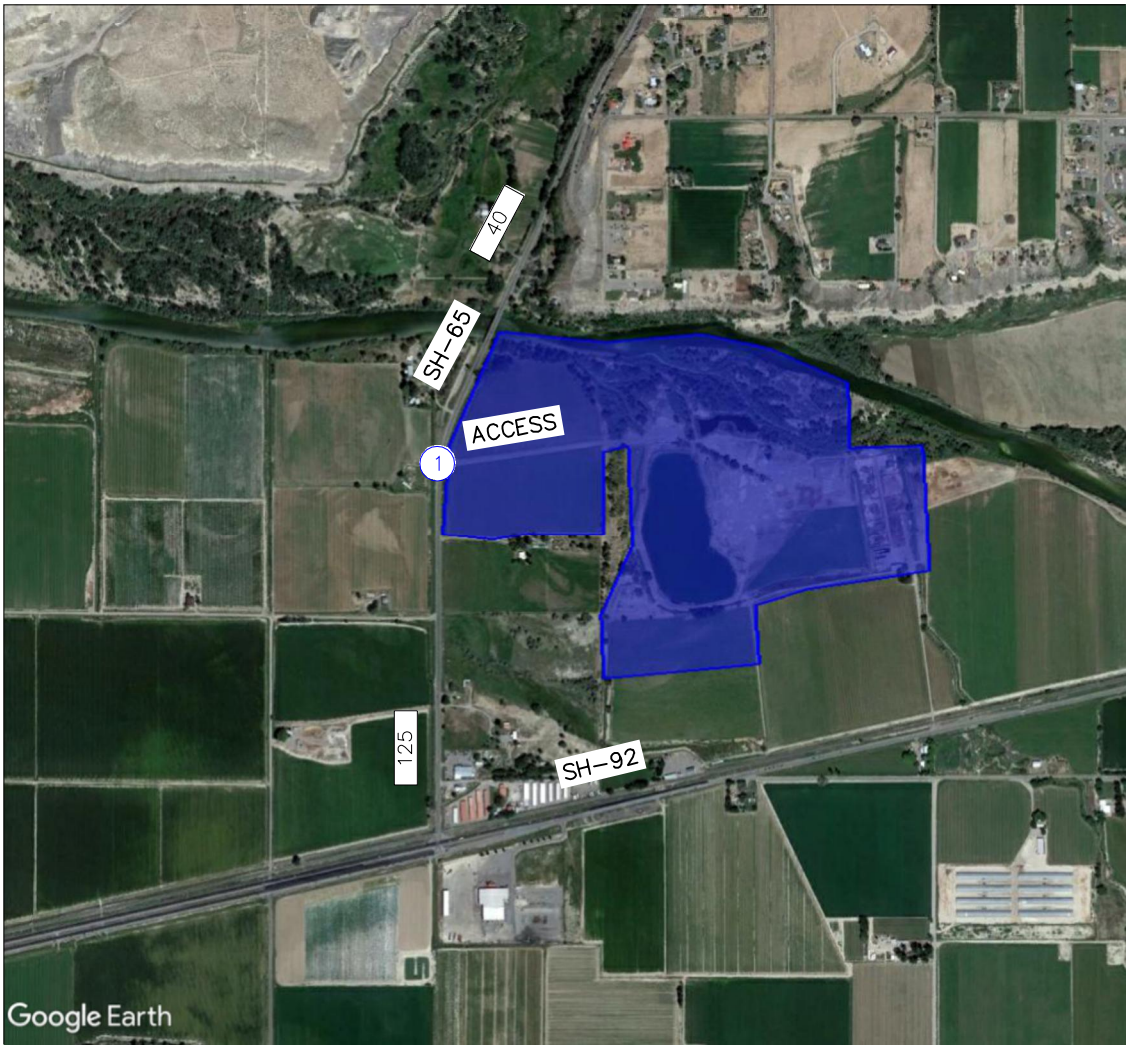
(X)	Study Area Key Intersection
XX%	External Trip Distribution Percentage
XX%(XX%)	Entering(Exiting) Trip Distribution Percentage

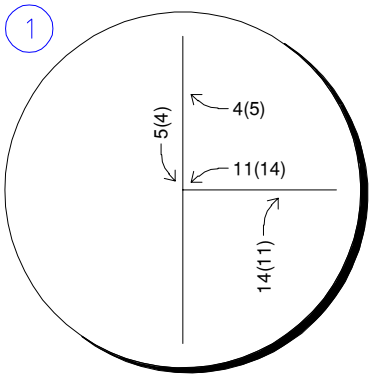
DELTA PAVING GRAVEL PIT
DELTA COUNTY, COLORADO
PROJECT TRAFFIC DISTRIBUTION

FIGURE 2

Kimley»Horn

Kimley»Horn
NORTH
NTS 196330000





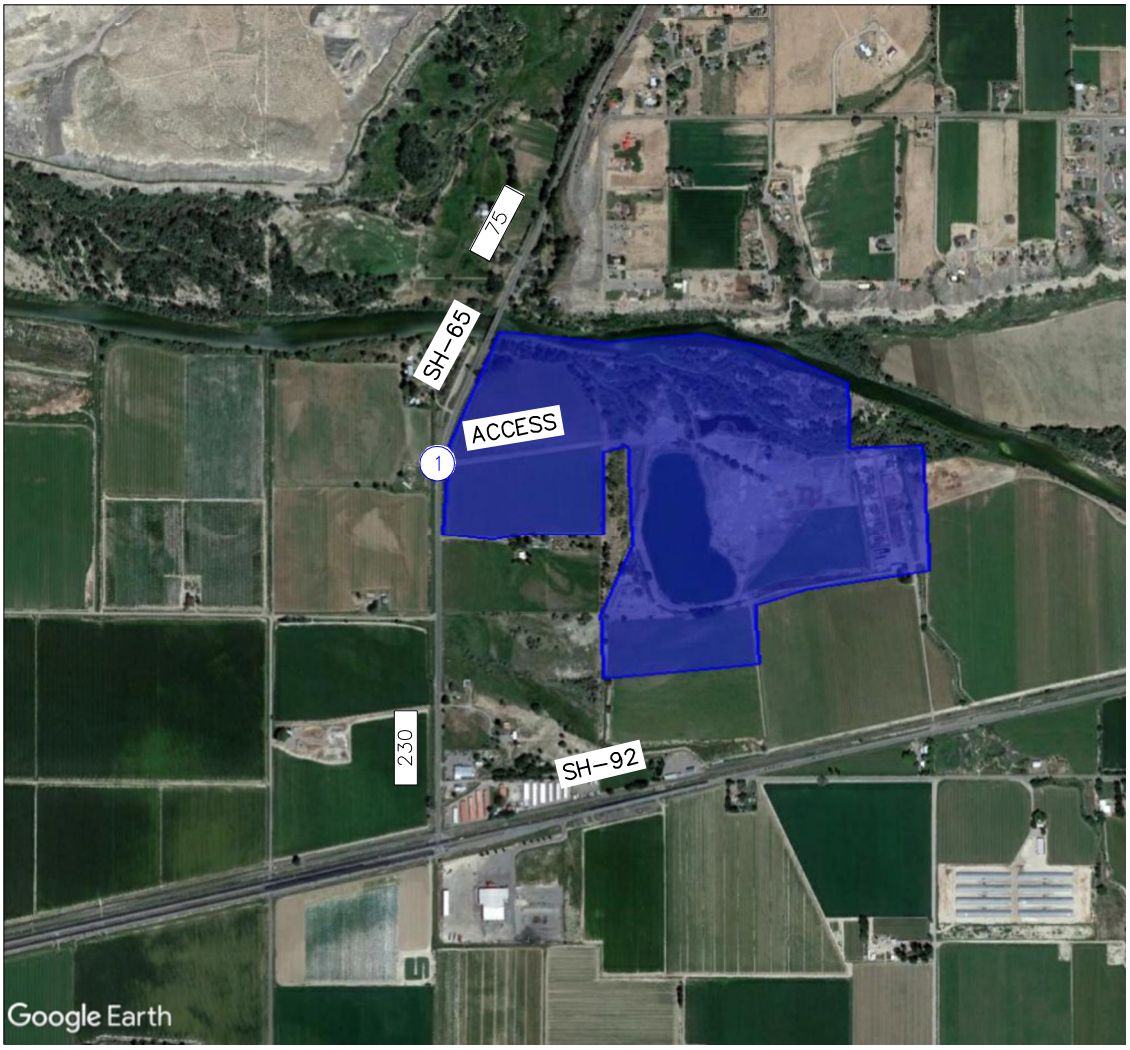
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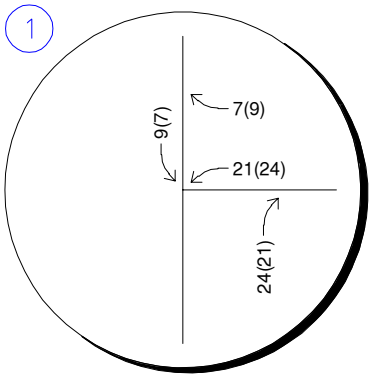
(X)	Study Area Key Intersection
XXX(XXX)	Weekday AM(PM) Peak Hour Traffic Volumes
XX,X00	Estimated Daily Traffic Volume

DELTA PAVING GRAVEL PIT
DELTA COUNTY, COLORADO
PROJECT TRAFFIC ASSIGNMENT–VEHICLES

FIGURE 3

Kimley»Horn





LEGEND

(X)	Study Area Key Intersection
XXX(XXX)	Weekday AM(PM) Peak Hour Traffic Volumes
XX,X00	Estimated Daily Traffic Volume

DELTA PAVING GRAVEL PIT
DELTA COUNTY, COLORADO
PROJECT TRAFFIC ASSIGNMENT–
PASSENGER CAR EQUIVALENTS

FIGURE 4

5.2. Truck Routing Plan

The majority of the trucks entering and leaving the site on a daily basis will be dump trucks used for picking up and transporting materials sold by the mine. Dump trucks, typically with 13- and 24-ton capacities, will haul material off site such as road base, washed sand, crushed stone, and gravel. Additionally, concrete and asphalt trucks will contribute to the traffic in and out of the site. Concrete and asphalt trucks usually carry around 16 tons. These trucks will be hauling material to surrounding towns and roads for various construction jobs. Approximately 75% of traffic will be coming and going from the south towards Highway 92, while the remaining 25% will be from the north towards Orchard City. Traffic can be expected steadily throughout the day during mine operating hours, typically from 7:00 to 7:00 pm between the months of May through November. It can be anticipated that 164 trips will occur daily, both in and out of the site, with 33 of them during peak traffic hours. More information on truck routing and their impact is provided in the traffic study.

The only hazardous material that will be transported to or from the site is diesel fuel. Refer to the SPCC attached in Appendix 2 for information on the handling of diesel fuel on the site.

5.3. Geologic & Soils Report

5.3.1. Site Characteristics

The Delta Paving Gravel Pit does not contain within its boundaries or immediate environs any areas that may be subject to avalanches, landslides, rockfalls, radioactivity, mudflow, debris fan, unstable and potentially unstable slopes, and seismic affects. Additionally, no development will occur on areas that have the potential for ground subsidence, expansive soils, corrosive rock, mudflow areas, over faults, or on steep slopes.

5.3.2. Soils Suitability

Two soil types exist at the site, which provide an average of 5 inches of material suitable for use in reclamation. Both soil types are considered prime farmland if irrigated, however, this will not be necessary for the intended reclamation of the site as groundwater lakes and rangeland. A soil report generated by the United States Department of Agriculture's NRCS Web Soil Survey is provided in the draft CDRMS Permit Application in Appendix I-1.

Soil Type Descriptions

701 — Montrose silty clay loam, 0 to 2 percent slopes
Map Unit Setting

National map unit symbol: k2f9
Elevation: 4,500 to 5,800 feet
Mean annual precipitation: 6 to 9 inches
Mean annual air temperature: 50 to 55 degrees F
Frost-free period: 140 to 180 days
Farmland classification: Prime farmland if irrigated

Map Unit Composition

Montrose and similar soils: 80 percent
Minor components: 20 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Montrose

Setting

Landform: Stream terraces
Landform position (three-dimensional): Tread
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Alluvium derived from shale

Typical profile

Ap - 0 to 4 inches: silty clay loam
Bt - 4 to 13 inches: silty clay
Btz - 13 to 36 inches: silty clay
C - 36 to 65 inches: silty clay loam

Properties and qualities

Slope: 0 to 2 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Well drained
Capacity of the most limiting layer to transmit water (Ksat): Moderately low to moderately high (0.07 to 0.21 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Calcium carbonate, maximum content: 15 percent
Gypsum, maximum content: 4 percent
Maximum salinity: Very slightly saline to moderately saline (2.0 to 8.0 mmhos/cm)
Sodium adsorption ratio, maximum: 8.0
Available water supply, 0 to 60 inches: High (about 9.6 inches)

Interpretive groups

Land capability classification (irrigated): 4e
Land capability classification (nonirrigated): 6e
Hydrologic Soil Group: C
Ecological site: R034BY104UT - Desert Clay (Shadscale)
Hydric soil rating: No

Minor Components

Fruita

Percent of map unit: 10 percent
Landform: Stream terraces
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY106UT - Desert Loam (Shadscale)
Hydric soil rating: No

Briny, rarely flooded

Percent of map unit: 5 percent
Landform: Flood plains
Down-slope shape: Concave

Across-slope shape: Concave
Ecological site: R034BY006UT - Alkali Flat (Greasewood)
Hydric soil rating: Yes

Killpack

Percent of map unit: 5 percent
Landform: Stream terraces
Landform position (three-dimensional): Riser
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY117UT - Desert Shallow Clay (Mat Saltbush)
Hydric soil rating: No

795 — Waterdog, occasionally flooded - Riverwash complex, 0 to 2 percent slopes

Map Unit Setting

National map unit symbol: k2g2
Elevation: 4,500 to 5,800 feet
Mean annual precipitation: 6 to 9 inches
Mean annual air temperature: 50 to 55 degrees F
Frost-free period: 140 to 180 days
Farmland classification: Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season

Map Unit Composition

Waterdog, occasionally flooded, and similar soils: 50 percent
Riverwash: 30 percent
Minor components: 20 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Waterdog, Occasionally Flooded

Setting

Landform: Flood-plain steps
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Alluvium

Typical profile

A - 0 to 4 inches: loam
Cg1 - 4 to 14 inches: sandy loam
Cg2 - 14 to 22 inches: sandy loam
Cg3 - 22 to 60 inches: very gravelly coarse sand

Properties and qualities

Slope: 0 to 2 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Very poorly drained
Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high (0.71 to 2.13 in/hr)
Depth to water table: About 0 to 7 inches
Frequency of flooding: NoneOccasional
Frequency of ponding: None
Calcium carbonate, maximum content: 14 percent

Maximum salinity: Slightly saline to moderately saline (4.0 to 8.0 mmhos/cm)
Sodium adsorption ratio, maximum: 1.0
Available water supply, 0 to 60 inches: Low (about 3.5 inches)

Interpretive groups

Land capability classification (irrigated): 6w
Land capability classification (nonirrigated): 6w
Hydrologic Soil Group: B/D
Ecological site: R034BY011UT - River Floodplain (Fremont Cottonwood)
Hydric soil rating: Yes

Description of Riverwash

Interpretive groups

Land capability classification (irrigated): 8
Land capability classification (nonirrigated): 8
Hydric soil rating: No

Minor Components

Water

Percent of map unit: 10 percent
Hydric soil rating: Unranked

Briny, rarely flooded

Percent of map unit: 10 percent
Landform: Flood-plain steps
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY006UT - Alkali Flat (Greasewood)
Hydric soil rating: Yes

Appendix 1 – CDRMS Permit Application (Draft)

Delta Paving Gravel Pit

112c Amendment to the Colorado Division of Reclamation, Mining, and Safety

April 2022

By:

Elam Construction

Represented by:

Lewicki & Associates

Table of Contents

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EXHIBIT S ..... PERMANENT MAN-MADE STRUCTURES

RULE 1.6.2(1)(B)

RULE 6.5: GEOTECHNICAL STABILITY EXHIBIT

INTRODUCTION

The Delta Paving Gravel Pit is located to the northeast of the intersection of Colorado State Highway 92 and State Highway 65 just south of Orchard City, Colorado. The pit is located directly to the south of the Gunnison River. The permittee and operator of this project is Kilgore Companies dba Elam Construction. The Delta Paving Gravel Pit has been mined by several different companies since 1999 under the Colorado Division of Reclamation, Mining, and Safety (CDRMS) permit # M-1998-105. Mining at the site is currently ongoing and portions of the site are partially reclaimed. The final land use of the property is multiple groundwater lakes surrounded by rangeland. The purpose of this amendment is to expand the permit boundary to include the parcel between the current site and CO-65 and address the mining and reclamation of the site. Additionally, the use of concrete, asphalt, and wash plants will be included in the operation. The expansion area being added is currently agricultural fields with a site access haul road to the current mining area through the center. The new permit and affected area will be approximately 145 acres.

The Delta Paving Gravel Pit currently has approximately 60 acres of disturbance and 15.6 acres of groundwater ponds previously reclaimed. Two portions in the southeast of the original permit area are currently being used as agricultural fields. The area in the north by the Gunnison River is currently undisturbed as woodlands and wetlands. This area was included in the original mining plan but will not be mined in the future as it is partially within the floodway.

The land being added to the permit is directly to the west of the current site. Directly to the north is the Gunnison River, to the west is CO-65, and to the south is a residence, open agricultural fields, and a few agriculture-related structures. The area added in the west is currently being used as agricultural fields with a haul road through the center for access to the Delta Paving site to the east. The northern portion of the site is wooded area near the river.

The site will consist of four mining areas with access from Colorado State Highway 65. Construction sand and gravel mining and processing will occur on site. Asphalt and concrete will be produced on site as well.

EXHIBIT A LEGAL DESCRIPTION

The site is located near the town of Orchard City, Colorado in Delta County Colorado. A legal description is shown on Map C-1 which is included in Exhibit C. A general location map is shown in Exhibit B which indicates the mine entrance coordinates.

1. Legal Description

The Delta Paving Gravel Pit is located directly south of Orchard City, Colorado in part of the North (N½) half of Section 10, Township 15 South, Range 95 West, 6th Principal Meridian (PM), Delta County, Colorado and a part of the South half (S½) of Section 3, Township 15 South, Range 95 West, 6th PM, Delta County, Colorado. The mine is situated at an approximate elevation of 4990 feet.

More particularly as follows:

Parcel 1

Part of the NE 1/4, Section 10, T15S, R95W, 6th P.M., Delta County, Colorado, more particularly as follows:

Beginning at a point on the North line of the NE1/4 of said section 10 whence the North ¼ of said Section 10 bears N 89°23’29” W, 204.00 feet;
thence S 0°25’50” W 766.31 feet;
thence S 20°11’12” W 603.52 feet to the West line of the NE1/4 of said Section 10;
thence along said line S0°25’50” W 618.66 feet;
thence N 86°54’06” 1266.24 feet;
thence N 6°04’39” W 615.00 feet;
thence N 1°50’14” W 14.47 feet;
thence N 69°44’52” 222.01 feet;
thence N 80°04’24” E 803.21 feet;
thence East 481.83 feet, more or less to East line of said Section 10, thence North along the East line of said Section 10 to the NE corner of said Section 10; thence along the North line of said Section 10, N 89°23’29” W 1336.08 feet to the NW corner of the E1/2, NE1/4 of said Section 10;
thence S 0°23’41” W 269.82 feet;
thence N 74°40’21” W 61.54 feet;
thence N 64E26’44” W 456.07 feet;
thence N 58°10’57” W 128.15 to the North line of said Section 10;
thence N 89°23’29” W 567.85 feet along the North line of said Section 10 to the point of beginning.

Parcel 2

Lot 2, Volk Minor Subdivision, as recorded February 10, 1998 under Reception No. 511315, more specifically described as follows:

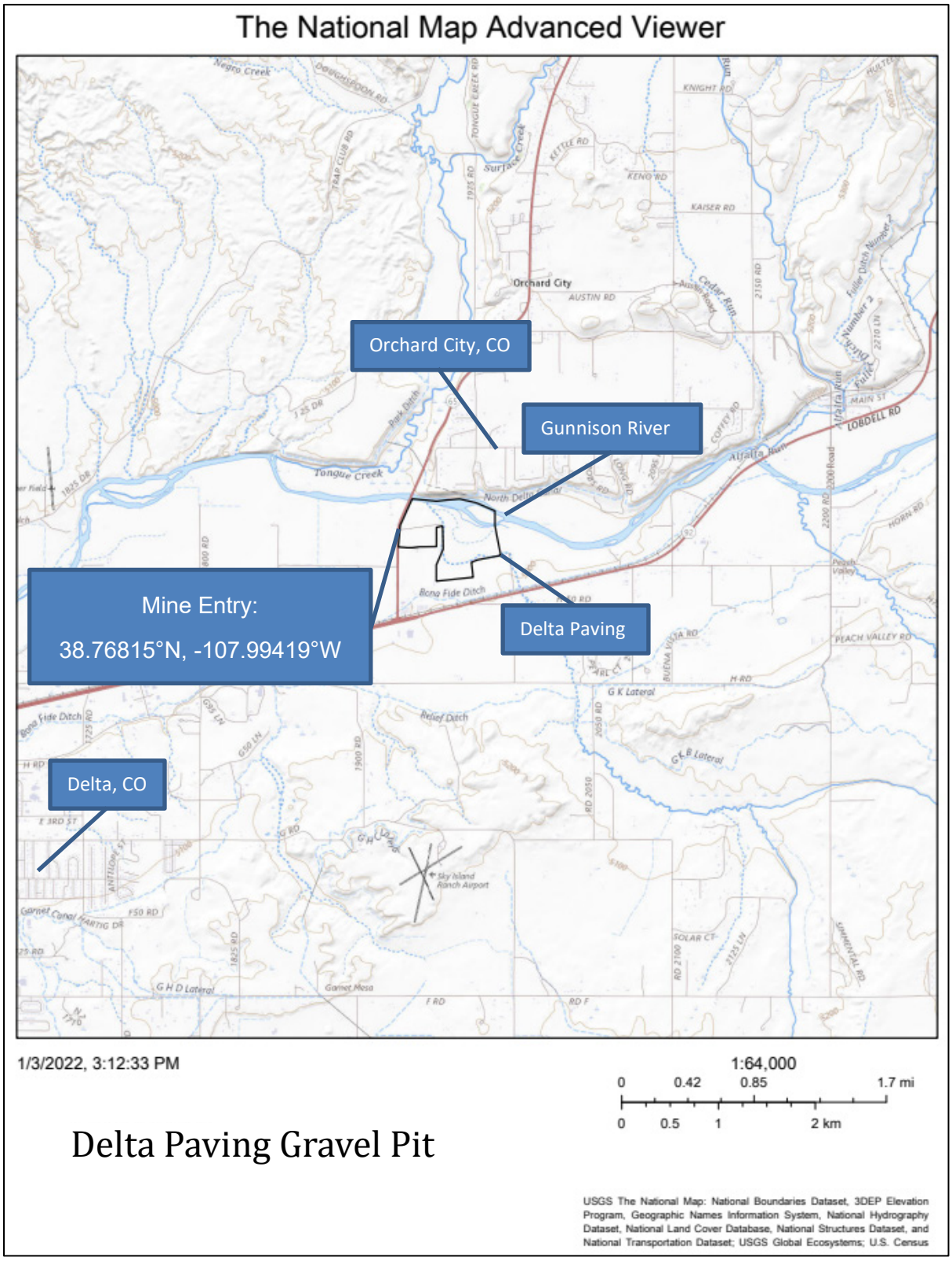
Part of the NE ¼ NW1/4 of Section 10 and part of the SE1/4 SW1/4 of Section 3 all in Township 15 South, Range 95 West of the 6th P.m. described as follows;

Beginning at the ¼ corner between Sections 3 and 10, Township 15 South, Range 95 West, 6th P.M.;
thence S 0°25'50" W 707.38 feet distance;
thence N 89°51'09" W 558.94 feet distance;
thence S 81°48'12" W 239.60 feet distance;
thence S 86°36'09" W 49.95 feet distance;
thence N 87°E07'47" W 417.91 feet, more or less, to the East right of way line of State Highway #65;
thence along said East right of way line N 0°08'00" E 170.36 feet distance;
N 4°03'00" E 391.80 feet distance;
thence 213.94 feet distance along the arc of a curve to the right having a radius of 691.22 feet and a long chord of which bears N 12°55'00" E 213.08 feet distance;
thence N 21°47'00" E 376.72 feet distance;
thence N 25°59'00" E 593.10 feet distance;
thence leaving said East right of way line S 85°35'24" E 788.96 feet distance, more or less, to the East line of said SE1/4 SW1/4;
thence S 0°26'27" E 869.12 feet distance, more or less, to the point of beginning.

Parcel 3

Part of S1/2, Section 3 and part of the N1/2, Section 10, Township 15 South, Range 95 West, 6th P.M. described as follows:
Beginning at the 1/4 corner between Section 3 and 10, Township 15 South, Range 95 West, 6th P.M.;
thence S 89°23’29” E 771.85 feet distance;
thence S 58°10’57” E 128.15 feet distance;
thence S 64°26’44” E feet distance;
thence S 74°40’21” E 43.54 feet distance;
thence N 0°23’41” E 269.82 feet distance;
thence S 89°23’29” E 668.04 feet distance;
thence N 0°04’06” E 604.01 feet distance to the Gunnison River;
thence along the Gunnison River the following:
N 72°36’ West 424.4 feet distance;
thence N 75°45’ W 300.00 feet distance;
thence N 79°30’ W 410.00 feet distance;
thence N 85°15’ W 400.00 feet distance;
thence S 88°05’09” W 512.94 feet distance;
thence leaving the Gunnison River S 0°26’27” E 869.12 feet distance, more or less, to the point of beginning.
County of Delta, State of Colorado

EXHIBIT B INDEX MAP



Delta Paving Gravel Pit

EXHIBIT C PREMINE AND MINE PLAN MAPS

Map C-1 Current Conditions

Map C-2 Mining Plan

Map C-3 Cross Sections

PROPERTY OWNERS						
PARCEL NUMBER	ACCOUNT NUMBER	NAME	ADDRESS	CITY	STATE	ZIP
345503300057	R025503	WILSON CONSTANCE LYNN	36 ROAD 2380	AZTEC	NM	97410
345503300060	R022890	BURKEY JAMES C	462 34 1/4 ROAD	PALISADE	CO	81526
345503300059	R022889	BURKEY JAMES C	463 34 1/4 ROAD	PALISADE	CO	81526
345503408006	R020795	DOUDY MARVIN G	8260 1950 ROAD	AUSTIN	CO	81410
345503400039	R011121	LONG DANIEL R TRUSTEE	8366 MARSHALLS ROAD	AUSTIN	CO	81410
345502300050	R018313	LONG DANIEL R TRUSTEE	8367 MARSHALLS ROAD	AUSTIN	CO	81410
345510100025	R024042	FRAZIER RICHARD M & BETSY A REVOCABLE TRUST	20687 PEARL COURT	DELTA	CO	81416
345510100017	R017590	FRAZIER RICHARD M	20688 PEARL COURT	DELTA	CO	81416
345510100028	R025020	FRAZIER RICHARD M REVOCABLE TRUST	20689 PEARL COURT	DELTA	CO	81416
345510200022	R021969	HARPER DONALD D	PO BOX 132	DELTA	CO	81416
345510202003	R024247	LANCE ETHANS S (1/2) INT	7864 HIGHWAY 65	DELTA	CO	81416
345510200023	R025237	GRAND HEADWATERS LLC	929 PEARL STREET, SUITE 300	BOULDER	CO	80302
345510200024	R025238	GRAND HEADWATERS, LLC	930 PEARL STREET, SUITE 300	BOULDER	CO	80302
345503310003	R025240	DUNN BRIAN R	PO BOX 194	AUSTIN	CO	81410
345503311002	R023908	DUNN BRIAN R	PO BOX 195	AUSTIN	CO	81410
345503300061	R023907	DUNN BRIAN R	PO BOX 196	AUSTIN	CO	81410

STRUCTURE OWNERS		
NUMBER	STRUCTURE	OWNER
1	FENCES	GRAND JUNCTION CONCRETE PIPE CO
2	HIGHWAY CO-65	CDOT
3	GRAVEL DRIVEWAY	GRAND HEADWATERS LLC
4	GRAVEL DRIVEWAY	DUNN BRIAN R
5	OVERHEAD ELECTRIC LINES AND POLES	DELTA-MONTROSE ELECTRIC ASSOCIATION
6	RELIEF DITCH	RELIEF DITCH COMPANY
7	BROAD AX DITCH	NO OWNER
8	FEED LOTS & ASSOCIATED BUILDINGS	FRAZIER RICHARD M REVOCABLE TRUST
9	RESIDENCE, AGRICULTURE RELATED BUILDINGS, AND GRAVEL DRIVEWAY	LANCE ETHAN S

R017676 R020794 R011128 R011130 R011126 R020443 R020444 R0111
R025503 R011110 R022889 R020795 R011115 R011114 R011123 R011124
R023909 R011121 R023907 R023908 R025240 R025238 R025237 R017429
R011270 R021969 R024247 R025020 R017590

STRUCTURE 1 STRUCTURE 2 STRUCTURE 3 STRUCTURE 4 STRUCTURE 5 STRUCTURE 6 STRUCTURE 7 STRUCTURE 8 STRUCTURE 9
ORCHARD CITY TOWN LIMITS
GUNNISON RIVER
RELIEF DITCH
OVERBURDEN STOCKPILE
BROAD AX DITCH
CULVERT
SITE ACCESS
RECLAIMED POND: approx 0.98 acres
SCALE AND SCALE HOUSE
NPDES DISCHARGE PT
PRODUCT STOCKPILES
FEED LOTS
PRE-MINE LAND: IRRIGATED FIELDS
RECLAIMED POND: approx. 14.7 acres
SECONDARY PROPERTY ACCESS NOT USED FOR MINING TRAFFIC
CO-65
TOPSOIL STOCKPILE
PRE-MINE LAND: AGRICULTURAL FIELDS
DRMS PERMIT AND AFFECTED AREA: 144.9 acres
CO-92
Well 053787-F No. 1
Well 053787-F No. 2
Well 053787-F No. 3
Well 053787-F No. 4
Well 053787-F No. 5
Well 96594
Well 109201

COLORADO LICENSED JAMES A. LEWICKI 47151 PROFESSIONAL ENGINEER 08/18/22

C-1 Current Conditions Map

Delta Paving Gravel Pit

DRMS Permit Number: M-1998-105 — Elam Construction

Mine Entry Location:	Latitude: 38.76815	Longitude: -107.99419
State: CO	County: Delta	Nearest Town: Delta
Section: 19	Township: 15S	Range: 95W PM: 6th
Major Watershed:	Gunnison River	MRA ID: ----

Map Scale: 1": 200'

0 200 400

Map Georeferencing Information:	Datum: NAD83	Projection: CO CENTRAL
Survey Source: ----	Drawn by: SAC	Date: ----
Imagery Source: Google	Checked by: ----	Date: ----
Survey Date: ----	Approved by: ----	Date: ----
Imagery Date: ----		

File Name: Delta Paving 220119

Lewicki & Associates
3375 West Powers Circle Littleton, CO USA 80123 (303)-346-5196 info@lewicki.biz

LEGEND

BOUNDARIES
- State or territorial
- County or equivalent
- Incorporated city or equivalent

BUILDINGS AND RELATED STRUCTURES
- Building
- Well (other than water) — Well Name
- Fence

LAND SURVEYS
- Public Land Survey System
- Range or Township line / Range or Township labels — R1E T2N
- Section line / Section numbers — 1-36
- Mining claim or property boundary

ROADS AND RELATED FEATURES
- Highway
- Light duty road, paved
- Light duty road, gravel
- Unimproved road
- Gate on road
- Railroad

RIVERS, LAKES, SHORELINES, AND CANALS
- Perennial stream/ditch
- Perennial river
- Perennial lake/pond
- Waterwell — Well Name
- Drainage Directions
- Drainage Basin
- Floodplain & Floodway

DRAINAGE BASINS
- Basin 1: Area (acres) 62.6; Composite Curve Number 80
- Basin Destination 1

VEGETATION
- Agricultural Fields
- Rangeland
- Woodlands & Trees
- Wetlands (NWI 1983)
- Soils (NRCS) — Soil ID

TRANSMISSION LINES AND PIPELINES
- Power transmission line; pole; tower
- Power transmission line, buried
- Telephone/data line, above ground
- Telephone/data line, buried
- Pipeline (non-water), above ground
- Pipeline (non-water), buried

MINING FEATURES
- DRMS Permit Boundary
- 200' Offset of DRMS Permit Boundary
- Fixed Structures
- Mobile Structures
- Mining Phases
- Berm/windrow
- Disturbed Area

BASELINE CONTOURS
- Index — Approximate of indefinite
- Intermediate — Approximate of indefinite
- Supplementary

DETAIL 1: DRAINAGE BASINS

3
39.2 | 79

1
62.6 | 80

2
28.8 | 88

DETAIL 2: WELLS WITHIN 600'

Well 053787-F No. 2
Well 053787-F No. 1
Well 053787-F No. 3
Well 053787-F No. 4
Well 96594
Well 109201
Well 053787-F No. 5

600' FROM PERMIT BOUNDARY

MIN. 12.5' FROM POWERLINES
MIN. 100' FROM RIVER
RELIEF DITCH
MIN. 15' FROM IRRIGATION EASEMENT
PIT DEWATERING TRENCH
GENERAL MINING DIRECTION
PHASE 3
10' MIN. MAINTAINED ON EACH SIDE OF ACCESS ROAD
CULVERT
SCALE AND SCALE HOUSE
PROCESSING AND STOCKPILING AREA
MINING SLOPES 2H:1V
NPDES DISCHARGE PT
SITE ACCESS
PIT DEWATERING TRENCH
PHASE 4
GENERAL MINING DIRECTION
RECLAIMED LAKE USED AS SETTLING POND
CULVERT
CO-65
SECONDARY PROPERTY ACCESS NOT USED FOR MINING TRAFFIC
TOPSOIL STOCKPILE AREA
RELIEF DITCH
MIN. 15' FROM IRRIGATION EASEMENT
PHASE 2
GENERAL MINING DIRECTION
MINING SLOPES 2H:1V
PERMIT AND AFFECTED AREA: 144.9 acres
MIN. 30' FROM ADJACENT PROPERTIES
CULVERT
MIN. 30' FROM EXISTING POND
MINING SLOPE 3H:1V ADJACENT TO LAKE
PHASE 1
GENERAL MINING DIRECTION
PIT DEWATERING PUMP LOCATION (TYP.) WATER PUMPED TO SETTLING POND SEE DETAIL 3
PRODUCT STOCKPILES (TYP.)
FEMA FLOODWAY BOUNDARY (NO MINING WITHIN THIS ZONE)
MIN. 15' FROM IRRIGATION EASEMENT
FEED LOTS
CULVERT
TOTAL DISTURBED AREA 110.6 acres
OVERBURDEN STOCKPILE AREA
BROAD AX DITCH
GUNNISON RIVER

COLORADO LICENSED
KEVIN E. LEWICKI
61351
PROFESSIONAL ENGINEER
10/18/22

C-2 Mining Plan

Delta Paving Gravel Pit

DRMS Permit Number: M-1998-105		**Elam Construction**
Mine Entry Location:	Latitude: 38.76815	Longitude: -107.99419
State: CO	County: Delta	Nearest Town: Delta
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Survey Source: ----	**Drawn by:** SAC	Date: ----
Imagery Source: Google	**Checked by:** ----	Date: ----
Survey Date ----	**Approved by:** ----	Date: ----
Imagery Date ----		

File Name: Delta Paving 220119

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3375 West Powers Circle
Littleton, CO USA 80123
(303)-346-5196
info@lewicki.biz

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- Perennial river
- Perennial lake/pond
- Waterwell — Well Name
- Drainage Directions
- Drainage Basin
- Floodplain & Floodway

DRAINAGE BASINS

Basin 1 | Area (acres) 62.6 | Composite Curve Number 80 | Basin Destination 1

VEGETATION
- Agricultural Fields
- Rangeland
- Woodlands & Trees
- Wetlands (NWI 1983)

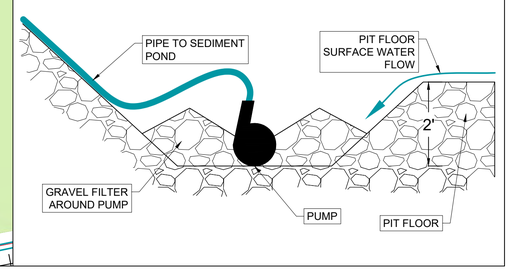
TRANSMISSION LINES AND PIPELINES
- Power transmission line; pole; tower
- Power transmission line, buried
- Telephone/data line, above ground
- Telephone/data line, buried
- Pipeline (non-water), above ground
- Pipeline (non-water), buried

MINING FEATURES
- DRMS Permit Boundary
- Fixed Structures
- Mobile Structures
- Mining Phases
- Berm/windrow
- Disturbed Area

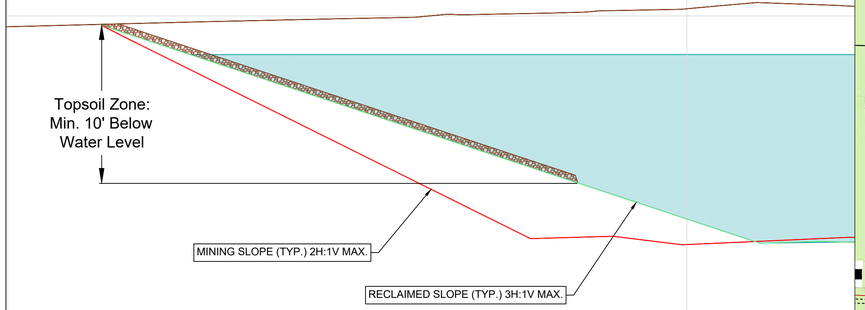
BASELINE CONTOURS
- Index — Approximate of indefinite — 5280
- Intermediate — Approximate of indefinite — 5281
- Supplementary — 5281

POST-MINING CONTOURS
- Index — Approximate of indefinite — 5280
- Intermediate — Approximate of indefinite
- Dump

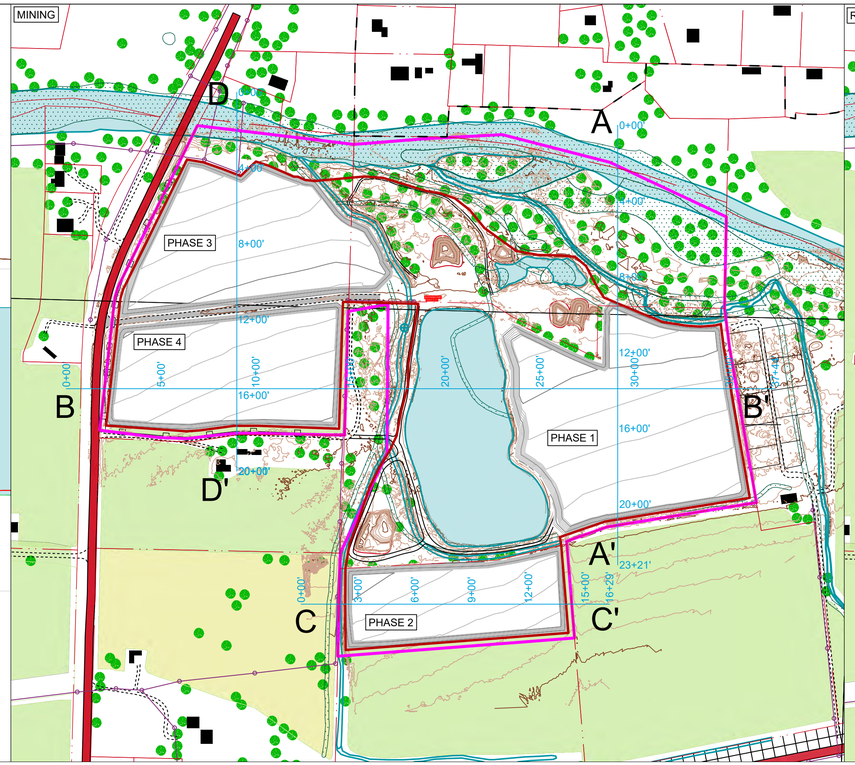
DETAIL 3: PIT DEWATERING PUMP



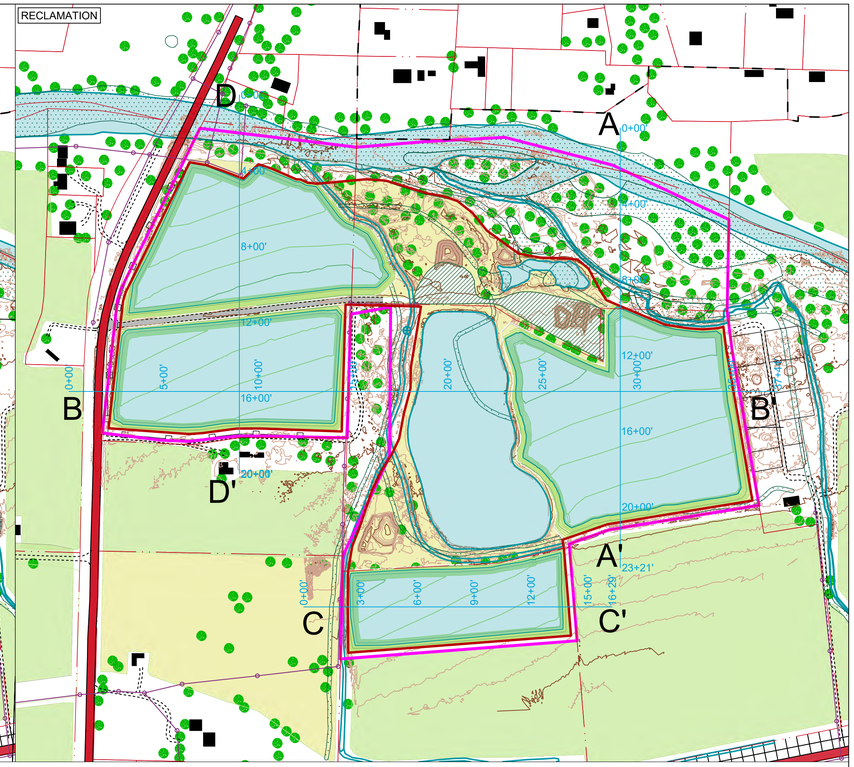
DETAIL 1



MINING



RECLAMATION

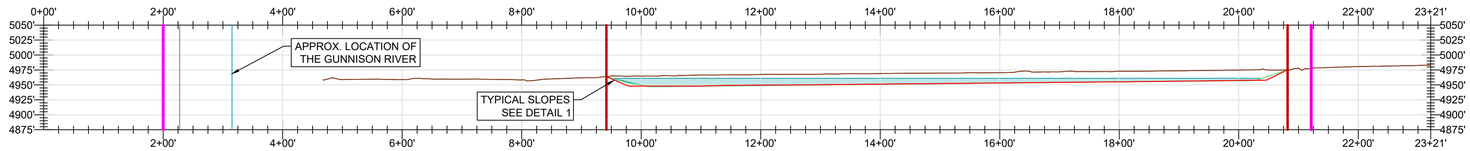


LEGEND

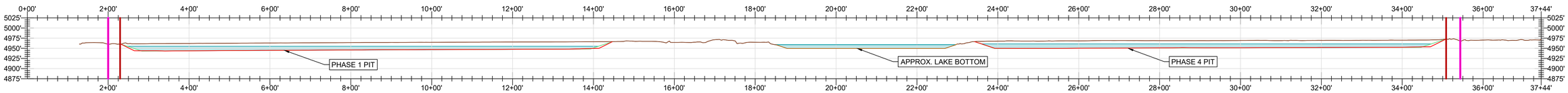
MINING FEATURES
- DRMS Permit Boundary
- Disturbance Limit

CROSS SECTIONS
- Baseline Topography
- Mining
- Reclamation
- Anticipated Lake Level
- Property Boundary

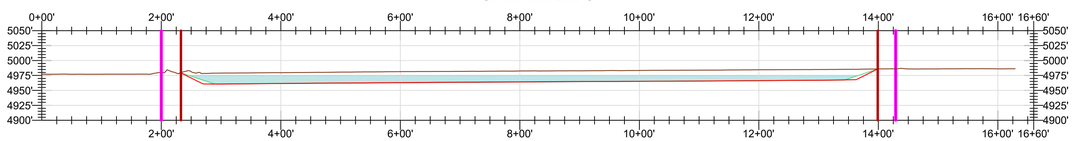
Cross Section A



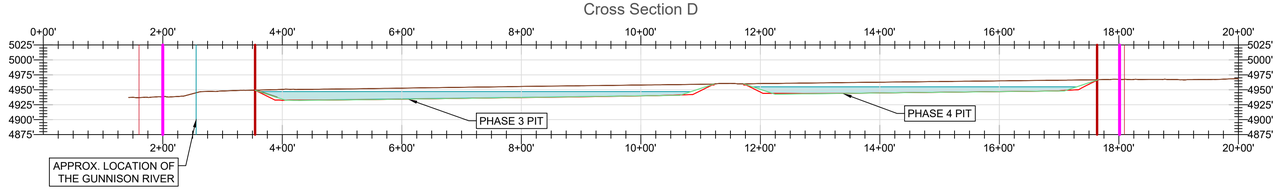
Cross Section B



Cross Section C



Cross Section D



C-3 Cross Sections

Delta Paving Gravel Pit

DRMS Permit Number: M-1998-105 — **Elam Construction**

Mine Entry Location:	Latitude: 38.76815	Longitude: -107.99419
State: CO	County: Delta	Nearest Town: Delta
Section: 10	Township: 15S	Range: 90W PM: 6th
Major Watershed:	Gunnison River	**MSHA ID:** ----

Map Scale: 1": 400'

0 400 800

Map Georeferencing Information: **Datum:** NAD83 **Projection:** CO CENTRAL

Survey Source: ----	**Drawn by:** SAC	Date: ----
Imagery Source: Google	**Checked by:** ----	Date: ----
Survey Date ----	**Approved by:** ----	Date: ----
Imagery Date ----		

File Name: Delta Paving 220119

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KEVIN E. LEWICKI
47151
PROFESSIONAL ENGINEER
04/18/22

EXHIBIT D MINING PLAN

1. General Mining Plan

The property boundary has been surveyed on site and the permit area will be surveyed prior to any additional acreage to the site disturbance. Map C-2 shows the mining plan. Mine access will remain the same from Colorado State Highway 65 directly west of the site. Mining of the Delta Paving Gravel Pit will involve roughly 110 acres of total disturbance. The primary commodity to be mined is sand and gravel for use in construction materials such as crushed rock, sand, washed rock, concrete, and asphalt. Fill dirt may be incidentally produced during the operation.

The sand and gravel deposit averages 15 feet in thickness within the alluvial deposit. It is overlain by approximately 5 inches of topsoil and 3 feet of overburden. All mining will be to the bottom of the gravel deposit with 2H:1V slopes on the perimeter. Highwall mining with a near vertical slope will progress to the halfway point of the final mining slope. This allows for the remaining highwall material to be knocked down to the final mining slope with a dozer after mining is complete in an area. However, the slopes adjacent to the previously reclaimed groundwater lake in the west of the phase 1 pit will be mined to a 3H:1V slope. Refer to Map C-3 for cross sections that demonstrate the mining slopes.

Mining will be completed in four phases corresponding with each pit. Mining and reclamation will be done concurrently as mining progresses to minimize the total disturbance. There is sufficient topsoil and overburden on site to successfully reclaim the site to its final condition as groundwater lakes and rangeland. Reclamation will include regrading of the site, topsoiling, and revegetation.

Dozers and scrapers will be used to strip topsoil and overburden from the areas to be mined to be stored in the designated stockpiles. Any stockpile to be in place longer than 90 days will be seeded to prevent erosion. Sand and gravel will be extracted using loaders, excavators, dozers, and trucks. Excavated material will be hauled to the center of the site for processing. Processing of material will include screening, washing, crushing, and the production of concrete and asphalt.

The pits will require dewatering as groundwater is located approximately five feet below the surface. The active mining pit will be dewatered using pumps. Groundwater from the pit will be pumped to a drainage ditch to be transported to the Gunnison River. An NPDES discharge permit will be in place for any discharges of stormwater or process water. Any groundwater exposed from mining will have associated gravel well permits and appropriate augmentation plans as needed.

No blasting will take place at the Delta Paving Gravel Pit. No refuse, acid, or toxic producing material are expected to be encountered in this operation. If these materials are encountered, at

least two feet of inert material will be placed over the area and mining will move to a different area.

2. Mining Timetable

Mining operations at the Delta Paving Gravel Pit are expected to take at least 16 years to complete, based on an annual average production of 100,000 tons. Actual production rates will fluctuate based on market conditions. An approximate mining timetable based on this production and the phased mining plan is shown in Table D-1.

Table D-1 Mining Timetable

Description	Time Required
Initial stripping of new mining area for Phase 1 (east portion of site)	1 month
Mine and reclaim Phase 1 according to approved plans. Reclamation occurs as mining has reached its maximum extents in an area.	4 years
Initial stripping of new mining area for Phase 2 (southern portion of the site)	1 month
Mine and reclaim Phase 2 according to approved plans. Reclamation occurs as mining has reached its maximum extents in an area.	4 years
Initial stripping of new mining area for Phase 3 (northwest portion of the site)	1 month
Mine and reclaim Phase 3 according to approved plans. Reclamation occurs as mining has reached its maximum extents in an area.	4 years
Initial stripping of new mining area for Phase 4 (western portion of the site)	1 month
Mine and reclaim Phase 4 according to approved plans. Reclamation occurs as mining has reached its maximum extents in an area.	4 years
Total	16 years

3. Mine Facilities and Operation

The site will contain the following facilities and equipment:

Facilities:

- Portable hot mix asphalt (HMA) plant
- Concrete batch plant
- Portable wash plant
- Portable crushing & screening unit
- Gradation screen/conveyor (portable)
- Portable toilet

- Mine office (portable)
- Scale
- Portable fuel storage

Equipment:

- Front-end loaders
- Bulldozers
- Scrapers
- Haul trucks (off highway)
- Water trucks
- Graders
- Excavators

Only a loader and scale will be located on the site full time, as most of the year the mine will not need to be running at full production. No permanent structures will be built within the mining area. All production facilities and equipment will be portable. Elam Construction will provide portable toilets and bottled water to employees on site during operations. Any fuel stored on site will have full secondary containment that can carry 110% of the fuel tank volume. All facilities will be removed during reclamation. Explosives will not be used at the site.

4. Topsoil and Overburden Handling

Topsoil ranges from 4 to 6 inches overlying 0 to 5 feet of overburden. Topsoil and overburden will be stripped with appropriate earthmoving equipment as deemed suitable for the operation such as front-end loaders, dozers, excavators, and water trucks. Topsoil and overburden will be stockpiled separately onsite in either designated stockpiles, berms, or directly placed to create final reclamation slopes. These materials will be directly placed in the designated stockpile areas or berms which can be seen on Map C-2. Stockpiles to be in place longer than 90 days will be seeded with the permanent seed mix to prevent erosion (see Exhibit E for seed mix). Berms will be constructed by the Phase 3 and 4 areas along CO-65 as topsoil and overburden is stripped from Phase 1 and 2. These berms will be vegetated to prevent erosion and provide screening. An average of 5 inches of topsoil and 3 feet of overburden were assumed to determine the overall material balance shown in Table D-2.

Table D-2 Topsoil and Overburden Material Generated During Mining

Material Generated (CY)	
Topsoil	45,300
Overburden	326,100

The presence of the multiple lakes created during reclamation means that there will be more topsoil and overburden generated by stripping activities than needed for reclamation. This is

because the lakes make up the majority of the site and do not need to be topsoiled entirely. Excess material will be used to achieve the final grading shown in the reclamation map in Exhibit F. Overburden will be used in backfilling and grading the pit slopes to their final reclaimed state. Topsoil will be used to augment the replaces topsoil on all disturbed areas of the site outside of the reclaimed lakes, and on the topsoil zone of the pit slopes. This topsoil zone will be the area from the top of the pit slope to 10 feet vertically below the reclaimed lake water level, as seen on Map F-1. Details pertaining to reclamation can be found in Exhibit E and the maps in Exhibit F.

5. Water Information, Rights, and Augmentation

All water rights issues such as availability of water for this operation, consumption rates, dust control, etc. is presented in Exhibit G – Water Information.

6. Schedule of Operations

Mining operations will occur as dictated by demand with an average annual production of 100,000 tons. Mining, screening, and processing will be conducted on site with portable equipment throughout the year. Asphalt and concrete production will occur onsite at various times of the year. Product will be sold from these activities throughout the year. The operator will not have night gravel mining operations, although minor truck activity and repairs may occur after hours.

7. Delta County Impacts and Environmental Impacts

All county impacts and concerns are addressed in the Delta County conditional use permit.

EXHIBIT E RECLAMATION PLAN

1. General Reclamation Plan

The total disturbed area to be reclaimed under this permit is 110 acres out of the 145-acre permit area. The reclamation plans of the Delta Paving Gravel Pit involve converting the site to its ultimate post mining land use as private recreation and wildlife habitat with multiple groundwater lakes surrounded by rangeland and wetlands. Reclamation will occur contemporaneously as portions of the site are mined. Final reclamation will occur after all mining activities have been completed. The pre-mine land use is predominantly irrigated fields with woodlands and wetlands to the north of the site along the Gunnison River. The remaining land use is previously disturbed industrial land used as a processing and operating area by the operator. Pursuant to Rule 6.4.5.2(b), the applicant evaluated the post-mine land use in regard to adopted state and local land use plans for this area and adjacent land uses. The proposed post-mine land use of private recreation and wildlife habitat with groundwater lakes and rangeland is compatible with the general character of the area.

The permit and affected area of the site are 145 acres, not all of which will be disturbed and require reclamation. Table E-1 below summarize the final land uses within the affected area upon completion of reclamation.

Table E-1 Reclamation Areas

Description	Area (Acres)
Access Roads	1.0
Rangeland	34.7
Groundwater Lakes	74.3
Disturbed Area Total	110.0
Undisturbed Area	34.8
Total Affected (Permit) Area	**144.8**

After each phase of mining is completed, backfilling and grading of that area will commence. All mining slopes will be backfilled and graded using a grader to a maximum 3H:1V slope from the mining crest to 10 feet below the groundwater surface level. The slopes will be compacted for stabilization and to prevent erosion. The dewatering pump will be removed from the pits as well as any other permanent and portable facilities. All berms will be flattened after all phases of mining are complete. The disturbed area surrounding the lakes and the topsoil zone on the pit slopes be topsoiled and revegetated as the final steps of reclamation. Topsoil will be replaced from the stockpiled material in a single five-inch lift. Revegetation will be completed using a native seed mix recommended by the Natural Resource Conservation Service.

There will be more than enough overburden and topsoil stockpiled from on-site materials to fulfill reclamation needs as the groundwater lakes take up the majority of the reclamation area. Table

E-2 shows the volumes of topsoil and overburden required for reclamation and the material volumes that will be stripped and stockpiled.

Table E-2 Reclamation Volumes

	Material Available on Site			Requirements for Reclamation	
Phase	Phase Area (acres)	Topsoil Stripped (CY)	Overburden Stripped (CY)	Topsoil Required (CY)	Overburden Backfill Required (CY)
1	25.8	17,240	124,170	4,060	21,300
2	11.3	7,590	54,670	2,430	18,800
3	14.4	9,660	69,560	2,600	20,190
4	16.1	10,790	77,660	2,900	19,800
Totals	67.6	45,290	326,080	11,990	80,090

2. Topsoil Replacement

Approximately 4 to 6 inches of topsoil will be stripped and stockpiled prior to mining. After backfilling and grading is completed during reclamation, topsoil will be replaced to an average depth of 5 inches in all disturbed areas outside of the lakes and on the topsoil zone of the lake slopes. It will be directly placed by loaders and haul trucks. All topsoiled areas will be disced to aid in root penetration.

3. Haul Roads and Access

All internal haul roads will be graded and seeded to fit the post mine land use. The access haul road from CO-65 will be left in place to provide access to the processing site.

4. Reclamation Timetable and Sequence

The sequence and timing of reclamation can be seen in Table E-3 below. The reclamation schedule is dependent on the rate of mining which will fluctuate due to market demands. The operator will reclaim the site concurrently with the progression of mining to limit the total disturbance.

Table E-3 Reclamation Timetable

Description	Time Required
Develop and mine phase 1	5 years
Develop and mine phase 2 while reclaiming previous phases	5 years

Develop and mine phase 3 while reclaiming previous phases	5 years
Develop and mine phase 4 while reclaiming previous phases	5 years
Backfill, topsoil, and revegetate remainder of the site that is unreclaimed	1 year
Vegetation monitoring	2 years
Total	23 years

5. Revegetation Plans

Seed will be placed in all areas to be vegetated following grading, topsoiling, and discing of the soil. Areas outside of the lake slopes will be seeded with a Rangeland Seed Mix, while the slopes around the lakes will be seeded with a Wetland Seed Mix. The recommended mixes to be used are as follows:

5.1. Rangeland Seed Mix

Species	Pounds of pure live seed per acre (drilled)
Blue Gamma	0.4
Galleta grass	0.5
Indian ricegrass	1.5
Sand Dropseed	0.1
Sainfoin	1.0
Total	**3.5**

5.2. Wetland Seed Mix

Species	Pounds of pure live seed per acre (drilled)
Slender Wheatgrass	3.0
Basin Wildrye	1.5
Inland Saltgrass	1.0
Alkali Sacaton	1.0
Timothy	1.0
Redtop Grass	1.0
Carex Seed	1.0
Common Reedgrass	0.5
Canadian Reedgrass	0.5
Total	**10.5**

Broadcast seeding will be done at double the drill rate. Mulch will be placed at roughly 4000 pounds per acre.

6. Post Reclamation Site Drainage

The site will drain internally following reclamation. All water that enters the site will drain to the groundwater lakes across the site. Refer to map F-1 for the post reclamation drainage of the site.

7. Revegetation Success Criteria

Revegetation will be deemed adequate when erosion is controlled, the vegetation cover matches neighboring wildlife habitat areas, and when it is considered satisfactory according to Division standards. This will be monitored in the two years following the completion of reclamation.

8. Monitoring Reclamation Success

Measures will be employed for the control of any noxious weed species. The objective of this weed management plan is to control undesirable plants on the Delta Paving property. Plants identified through the Colorado Noxious Weed Act (C.R.S 35-5.5) and the Delta County Noxious Weed List as undesirable and designated for management within the county will be removed. These plants identified as noxious weeds will be managed by control measures. A Weed Control Plan will be utilized as follows:

1) Each April, a weed survey will be taken of the permit area.
2) If any patches or plants have been identified, they will be sprayed by backpack sprayer or 4-wheeler using chemicals approved for use by the weed control staff of Delta County.
3) After reclamation, weed surveys and spraying will continue until the perennial cover and production of the site have met DRMS requirements and bond release has been obtained.

The Division and Delta County staff will be consulted regarding any weed infestation areas and any control measures prior to their initiation. The plan does not contemplate total weed removal on the property. Rather, the goal is to prevent the spread of weeds into uninfected areas as is the primary goal of the Delta County Weed Management Plan. Past experience has shown that some initial weed cover in the first year following the retopsoiling is beneficial to the reclamation effort in rangeland sites. Weeds tend to provide shade for new grasses, are a means of holding snow on the seedbed longer, and protect seedlings from wind and water erosion until the planted species have firmly taken hold.

During all phases and areas of the mining operation the permit area will be monitored closely every year, through which the operator may determine if any additional weeds have grown. If any new species of weeds are found, Delta County and the Division will be consulted in order to formulate the best plan for the new infestation.

EXHIBIT F RECLAMATION MAPS

Map F-1 Reclamation Plan

MIN. 12.5' FROM POWERLINES

MIN. 100' FROM RIVER

RELIEF DITCH

MIN. 15' FROM DITCH

POST MINE LAND USE:
GROUNDWATER LAKE
16.0 acres

RECLAIMED LAKE
0.97 acres

BROAD AX DITCH

GUNNISON RIVER

10' MAINTAINED ON EACH
SIDE OF ACCESS ROAD

SITE ACCESS

RECLAIMED LAKE
14.6 acres

CULVERT

TOTAL DISTURBED AREA
110.6 acres

POST MINE LAND USE:
INDUSTRIAL
approx. 3.8 acres

FEED LOTS

POST MINE LAND USE:
GROUNDWATER LAKE
14.6 acres

MIN. 30' FROM
ADJACENT PROPERTIES

TOTAL NEW GROUNDWATER EXPOSURE:
62.9 acres
TOTAL GROUNDWATER EXPOSURE:
78.5 acres

POST MINE LAND USE:
GROUNDWATER LAKE
22.6 acres

CULVERT

CULVERT

CO-65

Well 96594

MIN. 30' FROM EXISTING POND

Well 109201

SECONDARY PROPERTY ACCESS
NOT USED FOR MINING TRAFFIC

CULVERT

RELIEF DITCH

MIN. 15' FROM DITCH

PERMIT AND AFFECTED AREA:
144.9 acres

CULVERT

STOCKPILED MATERIAL USED IN RECLAMATION

ALL SLOPES RECLAIMED TO 3H:1V
ENTIRE SITE GRADED, TOPSOILED, AND VEGETATED

POST MINE LAND USE:
GROUNDWATER LAKE
9.7 acres

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F-1 Reclamation Plan

Delta Paving Gravel Pit

DRMS Permit Number: M-1998-105		**Elam Construction**
Mine Entry Location:	Latitude: 38.76815	Longitude: -107.99419
State: CO	County: Delta	Nearest Town: Delta
Section: 10	Township: 15S	Range: 95W PM: 6th
Major Watershed:	Gunnison River	**MRHA ID:** ----

Map Scale: 1": 200'

0 200 400

Map Georeferencing Information:	**Datum: NAD83**	**Projection: CO CENTRAL**
Survey Source: ----	**Drawn by:** SAC	Date: ----
Imagery Source: Google	**Checked by:** ----	Date: ----
Survey Date ----	**Approved by:** ----	Date: ----
Imagery Date ----		

File Name: Delta Paving 220119

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LEGEND

BOUNDARIES
- State or territorial
- County or equivalent
- Incorporated city or equivalent

BUILDINGS AND RELATED STRUCTURES
- Building
- Well (other than water) — Well Name
- Fence

LAND SURVEYS
- Public Land Survey System
- Range or Township line
- Range or Township labels — R1E T2N
- Section line
- Section numbers — 1-36
- Mining claim or property boundary

ROADS AND RELATED FEATURES
- Highway
- Light duty road, paved
- Light duty road, gravel
- Unimproved road
- Gate on road
- Railroad

RIVERS, LAKES, SHORELINES, AND CANALS
- Perennial stream/ditch
- Perennial river
- Perennial lake/pond
- Waterwell — Well Name
- Drainage Directions
- Drainage Basin
- Floodplain & Floodway

DRAINAGE BASINS

Basin 1 (62.6 acres, 80 Composite Curve Number); Basin Destination 1

VEGETATION
- Agricultural Fields
- Rangeland
- Woodlands & Trees
- Wetlands (NWI 1983)

TRANSMISSION LINES AND PIPELINES
- Power transmission line; pole; tower
- Power transmission line, buried
- Telephone/data line, above ground
- Telephone/data line, buried
- Pipeline (non-water), above ground
- Pipeline (non-water), buried

MINING BOUNDARIES
- DRMS Permit Boundary
- Disturbed Area

BASELINE CONTOURS
- Index — Approximate of indefinite
- Intermediate — Approximate of indefinite
- Supplementary

RECLAMATION CONTOURS
- Index — Approximate of indefinite
- Intermediate — Approximate of indefinite
- Dump

EXHIBIT G WATER INFORMATION

1. General

The Delta Paving Gravel Pit is within 200 feet of the Gunnison River. The Relief Ditch and Broad Ax Ditch traverse the site, and an area of potential wetlands exists in the north near the river. The northern portion of the site is within the 100-year floodplain and partially within the floodway. Mining will not be taking place within the floodway, and appropriate setbacks are maintained from all waterways, as can be seen Map C-2. Groundwater is located roughly four to five feet below the natural grade as part of the shallow aquifer of the Gunnison River. Multiple groundwater wells are located on site, supplying the water for consumptive use at the Delta Paving operation. Elam construction is committed to protecting the hydrological balance and water quality at the site.

2. Water Quality Protection

The primary concerns surrounding water quality protection at the Delta Paving site are the potential impacts to the surface and groundwater from sediment, hydraulic fluids, and diesel fuel. Sediment will be controlled through the use of stormwater retention within the disturbance area through the life of the mine. The site will be graded in a manner that maintains all surficial flows within the disturbed area, in turn containing all sediment and unwanted discharges from leaving the site. Hydraulic fluids and diesel fuels will be contained within vehicles or with adequate storage methods that follow best practices of maintenance; these practices including regular inspections of vehicles, hydraulic lines, and any other potential spill sources. Diesel fuel will be stored on-site in double walled tanks with secondary containment. Fuel storage will be stored away from exposed groundwater and other waterways. Spill kits will be located near all fueling areas to clean up inadvertent spills as soon as possible. An SPCC plan will be in place to prevent oil discharges and establish a response procedure in the event of spills.

3. Floodplain

The majority of the site is within the 100-year floodplain while the northern portion of the site is within the floodway as reported by the Federal Emergency Management Agency. These boundaries are shown in the Exhibit C and F maps. The minimum distance maintained from the Gunnison River to excavation activities is 100 feet. Additionally, no excavation, construction, or other development will occur in the floodway. No permanent elevation of grades will take place within the 100-year floodplain. All topsoil and overburden stockpiles will be temporary during mining and will be removed during reclamation. Overall, the downstream flood impacts should remain the same or be reduced from activity at the site as the removal of material results in more storage space for flood water below the existing grade.

In the event of flooding at the site, equipment from the active mining floor will be removed, and the pit pump will be disabled allowing the pit to fill with water. The flooded pit will be pumped only after the flood has subsided. All fuel will be stored at least one foot above the base flood elevation and in sufficient secondary containment with 110% carrying capacity.

4. Wetlands

The National Wetlands Inventory aerial-based mapping indicates the presence of wetlands within the permit area. These wetlands are mostly associated with the vegetated banks in the north of the site and the various irrigation ditches crossing the property. The areas indicated in the north are likely to be actual wetlands based on previous permitting, however, no mining will take place in these potential wetland zones. Some potential wetlands crossing the mining area are those associated with the Relief Ditch and a historical irrigation ditch that has since been rerouted. Their locations crossing the mining area is the probable result of low GIS accuracy, as these areas are already disturbed with no vegetation with a small area of irrigated fields. Therefore, it is highly unlikely that the mining operation will disturb any wetlands. Nonetheless, Elam Construction commits to conducting a wetlands survey prior to disturbing any potential wetlands.

5. Aquifers

The only identified aquifer located at the site is the shallow alluvial aquifer of the Gunnison River. The depth to this aquifer varies throughout the year but is typically four to five feet below surface. According to the U.S. Geological Survey's Ground Water Atlas of the United States[1], the underlying bedrock aquifer is the Dakota Glen Canyon Aquifer. This aquifer is located approximately 2,000 feet below the surface at the Delta Paving Site so it will not be reached or affected from the mining operation.

6. Surface Water

The mining operation will impact surface water in the area through the stormwater runoff that enters the site. Maps C-1, C-2, and F-1 show the drainage patterns and how they are affected throughout the life of the mine. The maps include information on the drainage basins currently, during mining, and post reclamation as well as the drainage directions throughout these stages. The primary concern for surface water protection at the site is preventing the discharge of sediment, oil, and/or hydraulic fluids from the operation areas. Oils and hydraulic fluids are stored on site following the standard best management practices. These practices include the use of secondary containment at fluid storage and transfer points, spill kits, and employee training regarding safe handling practices. Sediment is trapped onsite using controls and best

[1] https://pubs.usgs.gov/ha/ha730/ch_c/

management practices by directing and controlling surface water runoff that enters the disturbed areas. More information on sediment and surface water control is provided below.

6.1. Surface Water Handling

There are three drainage basins that collect all stormwater runoff on and around the Delta Paving site. These can be seen in Maps C-1, C-2, and F-1 The first is approximately 63 acres and includes the areas in the east of the site that contain the reclaimed lake, currently disturbed area, irrigated fields, and part of the vegetated area in the north. This basin is isolated from offsite surface water, and all water within this area drains to the existing lake in the center of the site. Water collected in the lake is then pumped to the permitted outfall location in the Relief Ditch. The pump allows for the water discharge rate to be controlled preventing erosion of the drainage ditch.

The second drainage basin is approximately 29 acres encompassing the southern portion of the permit area and the connected fields to the south. All water within this area drains to the northwest of the fields where it eventually infiltrates into the native soil. The third drainage basin is approximately 40 acres of irrigated fields and vegetated banks in the west of the permit area. Water within this basin drains to the northwest where it can infiltrate into the soil. The surface drainage patterns will not be affected in these two basins until Phase 2 and 3 of mining.

6.1.1. Mining

During all phases of mining, and for each drainage basin, surface water runoff will drain to the active mining pit. For Drainage Basin 1, some runoff will collect in the reclaimed lake. Map C-2 shows the anticipated drainage patterns during mining. The site road will be graded to drain into the pit area. Grading of the site to drain internally ensures that no sediment laden water flows enter the river or any other natural waterways. There is more than enough storage within the pits to contain the 5-year and 100-yr storm events.

Water collected within the pit will be routed to the pit dewatering pump to be pumped to the existing lake, which acts as a sediment pond. Process water from the processing area will drain to the existing lake. This sediment pond will allow for suspended solids to settle so clean water can be discharged to the permitted discharge location in the Relief Ditch. As the water is being discharged into the drainage canal via a pump, the discharge rate can be controlled to prevent erosion of the ditch.

6.1.2. Post Reclamation

The drainage patterns during mining will be retained following reclamation of the site. Any surface water runoff will collect in the reclaimed ponds where it can either infiltrate into the groundwater aquifer or evaporate. There is enough storage capacity above the anticipated lake level and the top of the lake to store the 5-year and 100-year storm events. More on those calculations is provided below.

6.2. Disturbed Area Runoff

During all stages of mining, there is enough water storage capacity to contain the 5-year and 100-year 24-hour storm events and prevent erosion from surface water discharge. The expected rainfall from these events at the Delta Paving Site is provided in Table G-1 below.

Table G-1 Area Storm Events (from NOAA[2])

Event Probability	Event Rainfall (inches)
5-YR 24-HR	1.18
100-YR 24-HR	2.07

The peak runoff was generated from these values for the three drainage basins during all stages of mining. Prior to mining, no water is discharged from the disturbed area in Drainage Basin 1 as the existing lake has the capacity to store the entire storm runoff. Drainage Basin 2 and 3 discharge water in their current conditions as no mining disturbance has taken place within them. During mining, the pits have enough storage to contain the entire discharge from the storm event. Following reclamation, there is enough storage capacity between the reclaimed lake water level and the top of the lake to store the entire runoff volume in each drainage basin. Therefore, mining and reclamation will not create any additional drainage from the site.

The discharge volumes from these storm events are calculated in Appendix G-1 at the end of this exhibit. Table G-2 summarizes the runoff volumes and storage volumes for each drainage.

[2] National Oceanic and Atmospheric Administration

Table G-2 Drainage Calculations

Drainage Basin 1						
Site Condition	Area (ac)	Curve Number	5-Yr 24-Hr Runoff (ac-ft)	100-Yr 24-Hr Runoff (ac-ft)	Discharge Flow Rate (gpm)*	Lake Storage Capacity (ac-ft)
Base	62.5	80	0.75	3.129	0	64.5
Mine	62.5	84	1.23	4.138	1000-3000	451.6
Reclamation	62.5	85	1.40	4.493	0	87.2
Drainage Basin 2						
Site Condition	Area (ac)	Curve Number	5-Yr 24-Hr Runoff (ac-ft)	100-Yr 24-Hr Runoff (ac-ft)	Discharge Flow Rate (gpm)*	Lake Storage Capacity (ac-ft)
Base	28.7	88	0.86	2.418	15,980	N/A
Mine	28.7	88	0.87	2.446	1000-3000	179.6
Reclamation	28.7	92	1.29	3.111	0	19.8
Drainage Basin 3						
Site Condition	Area (ac)	Curve Number	5-Yr 24-Hr Runoff (ac-ft)	100-Yr 24-Hr Runoff (ac-ft)	Discharge Flow Rate (gpm)*	Lake Storage Capacity (ac-ft)
Base	39.2	79	0.41	1.820	11,100	N/A
Mine	39.2	87	1.06	3.108	1000-3000	579.0
Reclamation	39.2	95	2.36	5.058	0	31.2

* The Discharge Flow Rate is calculated from the peak discharge of the 100-Yr 24-Hr storm event.

7. Groundwater

Groundwater is located approximately four to five feet below the surface at the Delta Paving site. This is evident from Elam's experience of mining at the site and the water levels experienced in the reclaimed lakes onsite. Five gravel well permits are approved for the operation and are located in various locations on site that correspond with historical mining plans. An additional two wells are located just outside the permit area; one to the east of the site, and one to the southwest. These well locations are shown in Map C-1. Table G-3 identifies each well.

Table G-3 Wells Within 600' of Permit Area

Applicant/Well ID	Permit ID	Total Depth (feet)	Purpose	Distance from nearest mining area (ft)
Delta Paving Pit Well No. 1	053787-F	25	Industrial Uses	245
Delta Paving Pit Well No. 2	053787-F	25	Industrial Uses	370
Delta Paving Pit Well No. 3	053787-F	25	Industrial Uses	350
Delta Paving Pit Well No. 4	053787-F	25	Industrial Uses	0
Delta Paving Pit Well No. 5	053787-F	25	Industrial Uses	0
Lance, Eldon S.	96594	80	Domestic Stock	295
Frazier, Richard M.*	109201	30	Stock	340

*Mr. Frazier is the landowner for the majority of the Delta Paving property

7.1. Groundwater – Mining

Mining activities will expose groundwater throughout the life of the mine. Pit dewatering will take place in the active pit to bring the groundwater table below the operating floor. This allows mining equipment to safely and effectively extract the material at the site. The pit pump will be active throughout the entire mining season, typically mid-April to early-November, depending on weather. It will be turned off during flood events or when temperatures drop below freezing.

Pit dewatering will intercept groundwater from the alluvial aquifer of the Gunnison River that enters the pit to be routed back to the Gunnison River via the Relief Ditch after settling in the sediment pond. The typical pump setup within each pit and discharge point are mapped on Map C-2. The pit pump will be a mobile pump with a diesel generator. The generator has an onboard fuel tank which will have secondary containment. The pump will typically be located two feet below the active mining floor at the lowest point of the pit. It will be surrounded by a gravel filter. This configuration minimizes the sediment being pumped out of the pit.

Pumped water will be transported to the reclaimed lake which acts as a settling pond to prevent sediment from being discharged back into the river. This system of dewatering is proven to successfully return the water from the mining operations to the Gunnison River while trapping sediment on site.

7.2. Groundwater – Reclamation

Following reclamation of the site, pit pumping will cease. Permanent groundwater lakes will be left behind from the mining pits, as can be seen on Map F-1. The lakes will generate

evaporative losses of groundwater, of which will require appropriate permits. The Gunnison River in this location is currently over-appropriated, thus requiring and augmentation plan for water usage at the site. Elam Construction will obtain the required augmentation plan and additional gravel well permits prior to the exposure of any groundwater at the site. A copy of these plans will be provided to the Division through a Technical Revision.

8. Water Related Permits

Elam Construction is applying for all necessary permits that have not already been acquired for water handling at the Delta Paving Gravel Pit. This includes their current discharge permit with the Colorado Department of Public Health and Environment and their gravel well permit for their existing groundwater exposure with the Colorado Division of Water Resources. The same discharge permit will be used for removing water from the site in the future. A new gravel well permit will need to be obtained for the new groundwater exposure associated with the additional mining areas.

9. Water Consumption and Source

Water for dust control will be the primary consumptive use at the Delta Paving site. Water will also be used for aggregate washing, evaporative losses, and concrete/asphalt production. This water will be sourced from the groundwater lakes associated with the gravel well permits. Table G-4 summarizes the estimated water consumption for the operation throughout the year.

Table G-4 Water Consumption

Month	Aggregate Washing (ac-ft)	Concrete/Asphalt Production (ac-ft)	Dust Control (ac-ft)	Evaporative Depletions (ac-ft)	Water Removed from Mining (ac-ft)	Total (ac-ft)
Jan	0.00	0.00	0.00	6.53	0.00	6.5
Feb	0.00	0.00	0.00	7.62	0.00	7.6
Mar	0.00	0.00	0.00	11.97	0.00	12.0
Apr	0.41	0.43	0.55	19.60	0.23	21.0
May	0.43	0.45	0.57	26.13	0.24	27.6
Jun	0.41	0.43	0.55	31.57	0.23	33.0
Jul	0.43	0.45	0.57	32.66	0.24	34.1
Aug	0.43	0.45	0.57	29.39	0.24	30.8
Sep	0.41	0.43	0.55	21.77	0.23	23.2
Oct	0.43	0.45	0.57	15.24	0.24	16.7
Nov	0.00	0.00	0.00	8.71	0.00	8.7
Dec	0.00	0.00	0.00	6.53	0.00	6.5
Total	**2.95**	**3.07**	**3.96**	**217.72**	**1.65**	**227.7**

Appendix G-1 Hydrology Calculations

Hydrograph Summary Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2022

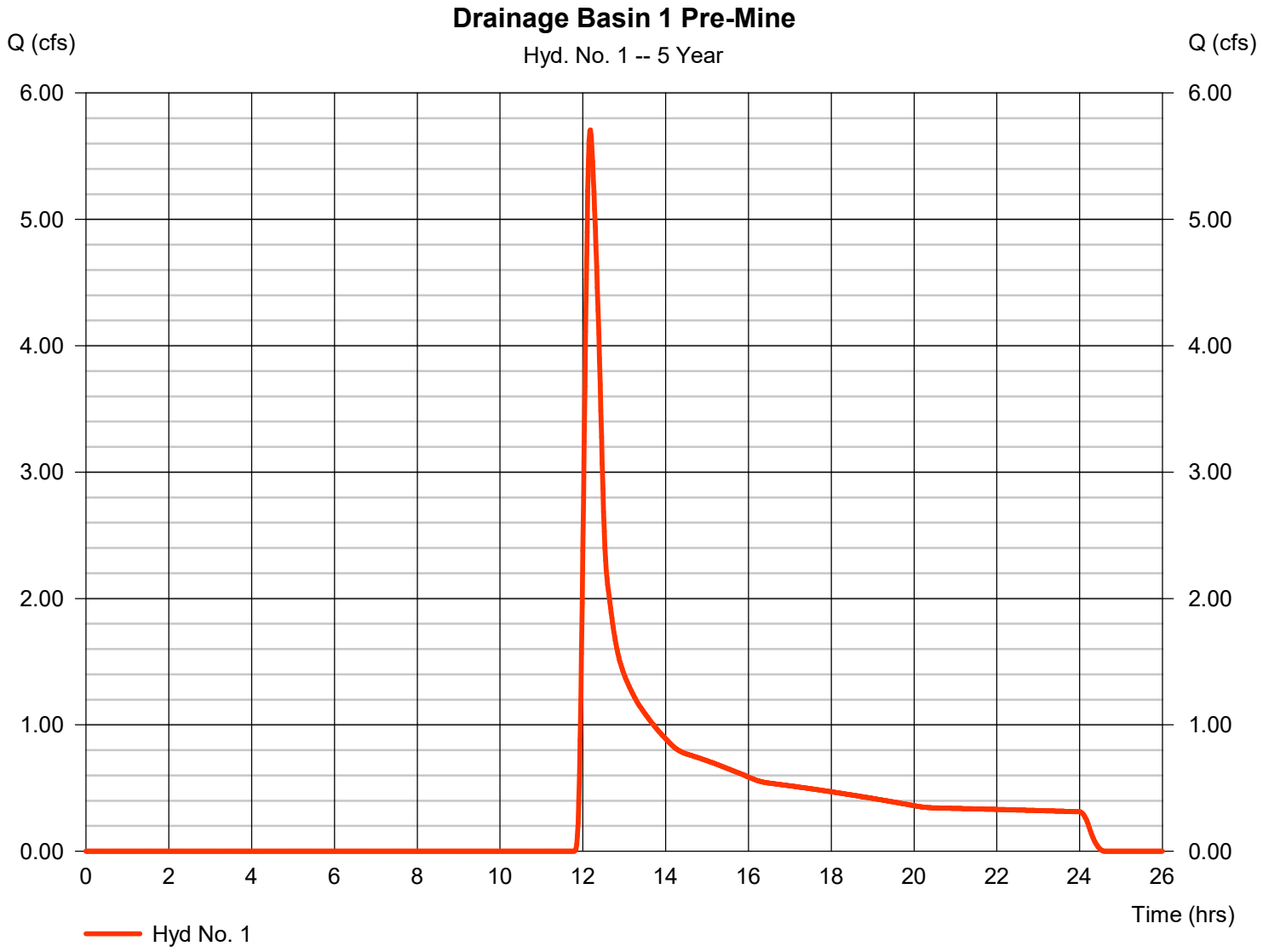
Hyd. No.	Hydrograph type (origin)	Peak flow (cfs)	Time interval (min)	Time to Peak (min)	Hyd. volume (cuft)	Inflow hyd(s)	Maximum elevation (ft)	Total strge used (cuft)	Hydrograph Description
1	SCS Runoff	5.708	1	731	32,715	------	------	------	Drainage Basin 1 Pre-Mine
2	SCS Runoff	14.04	1	727	53,616	------	------	------	Drainage Basin 1 Mining
3	SCS Runoff	22.81	1	721	60,995	------	------	------	Drainage Basin 1 Reclamation
4	SCS Runoff	11.94	1	725	37,360	------	------	------	Drainage Basin 2 Pre-Mine
5	SCS Runoff	13.44	1	723	37,789	------	------	------	Drainage Basin 2 Mining
6	SCS Runoff	24.87	1	720	56,261	------	------	------	Drainage Basin 2 Reclamation
7	SCS Runoff	3.284	1	728	17,871	------	------	------	Drainage Basin 3 Pre-Mine
8	SCS Runoff	12.35	1	728	46,060	------	------	------	Drainage Basin 3 Mining
9	SCS Runoff	52.96	1	716	102,579	------	------	------	Drainage Basin 3 Reclamation

Hydrograph Report

Hyd. No. 1

Drainage Basin 1 Pre-Mine

Hydrograph type	= SCS Runoff	Peak discharge	= 5.708 cfs
Storm frequency	= 5 yrs	Time to peak	= 12.18 hrs
Time interval	= 1 min	Hyd. volume	= 32,715 cuft
Drainage area	= 62.550 ac	Curve number	= 80
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= User	Time of conc. (Tc)	= 23.00 min
Total precip.	= 1.18 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

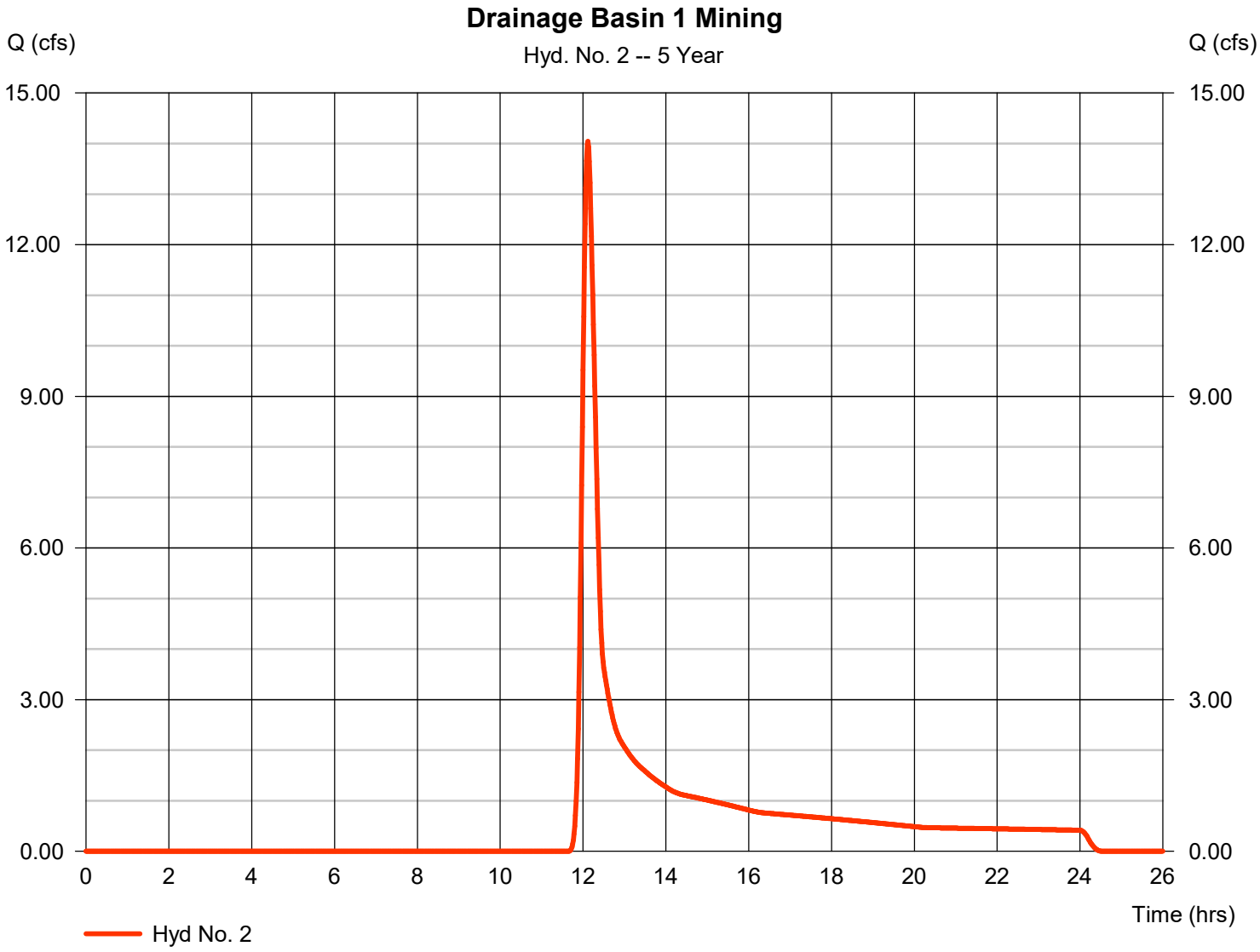


Hydrograph Report

Hyd. No. 2

Drainage Basin 1 Mining

Hydrograph type	= SCS Runoff	Peak discharge	= 14.04 cfs
Storm frequency	= 5 yrs	Time to peak	= 12.12 hrs
Time interval	= 1 min	Hyd. volume	= 53,616 cuft
Drainage area	= 62.550 ac	Curve number	= 84
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= User	Time of conc. (Tc)	= 20.00 min
Total precip.	= 1.18 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

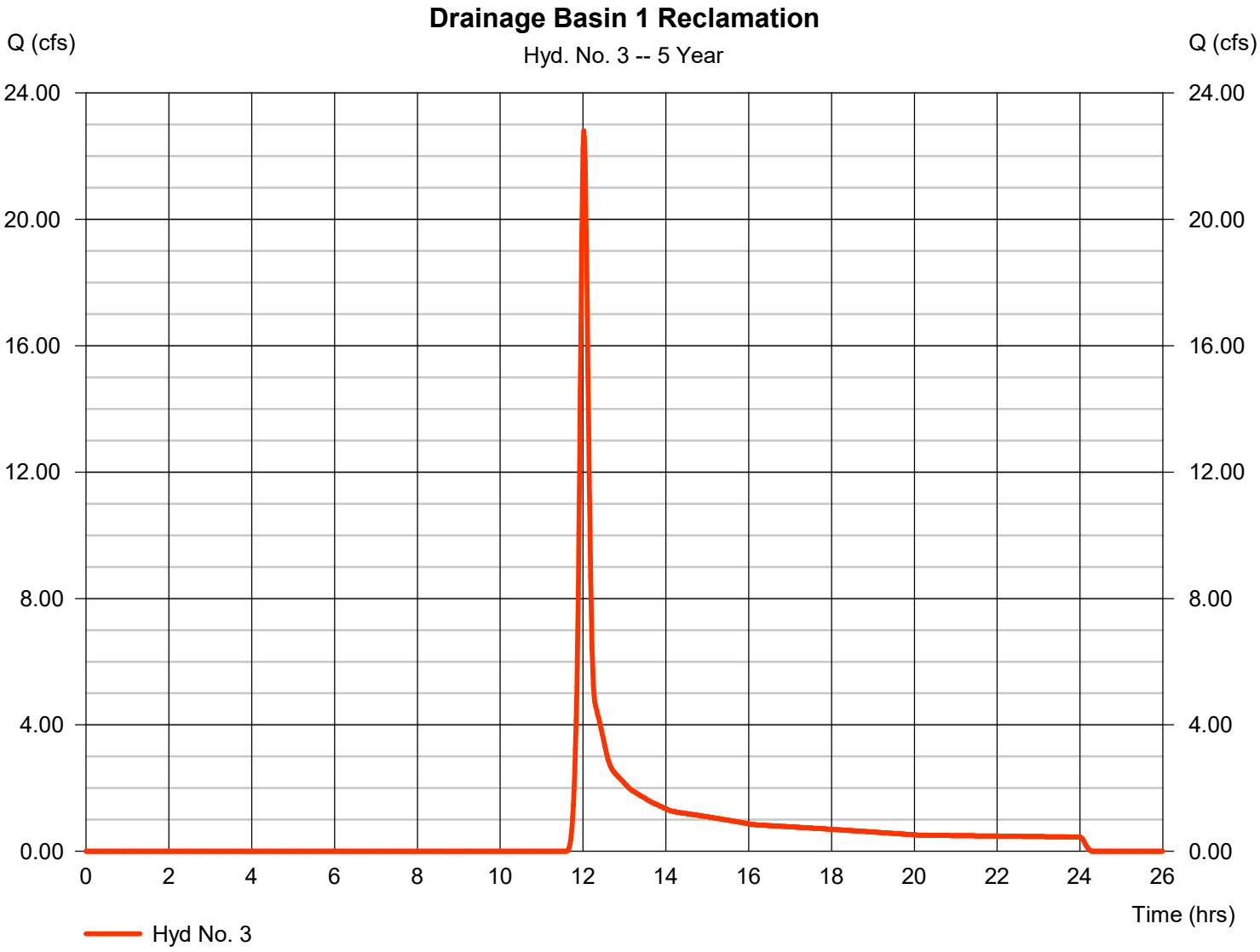


Hydrograph Report

Hyd. No. 3

Drainage Basin 1 Reclamation

Hydrograph type	= SCS Runoff	Peak discharge	= 22.81 cfs
Storm frequency	= 5 yrs	Time to peak	= 12.02 hrs
Time interval	= 1 min	Hyd. volume	= 60,995 cuft
Drainage area	= 62.550 ac	Curve number	= 85
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
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Total precip.	= 1.18 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

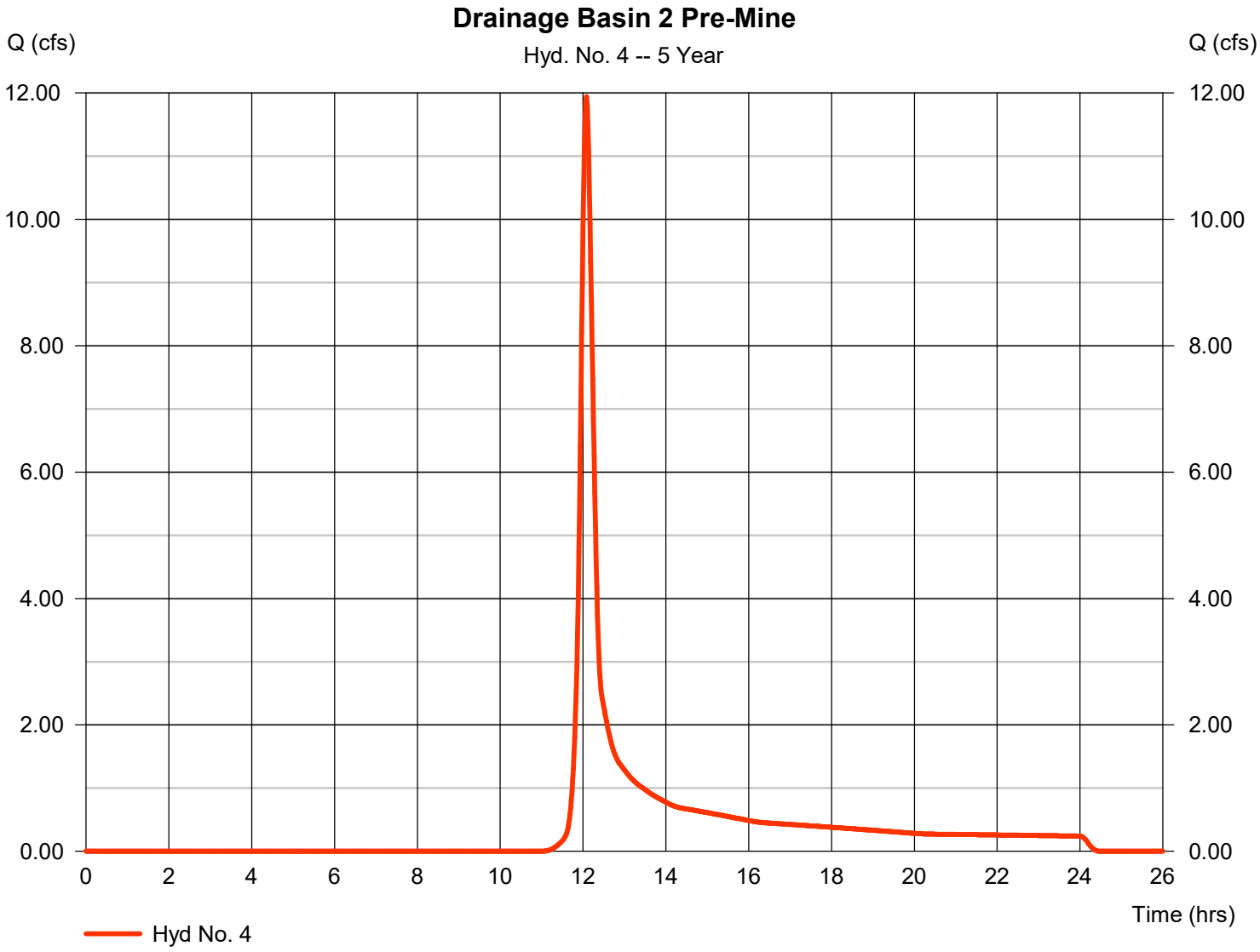


Hydrograph Report

Hyd. No. 4

Drainage Basin 2 Pre-Mine

Hydrograph type	= SCS Runoff	Peak discharge	= 11.94 cfs
Storm frequency	= 5 yrs	Time to peak	= 12.08 hrs
Time interval	= 1 min	Hyd. volume	= 37,360 cuft
Drainage area	= 28.720 ac	Curve number	= 88
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= User	Time of conc. (Tc)	= 17.00 min
Total precip.	= 1.18 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

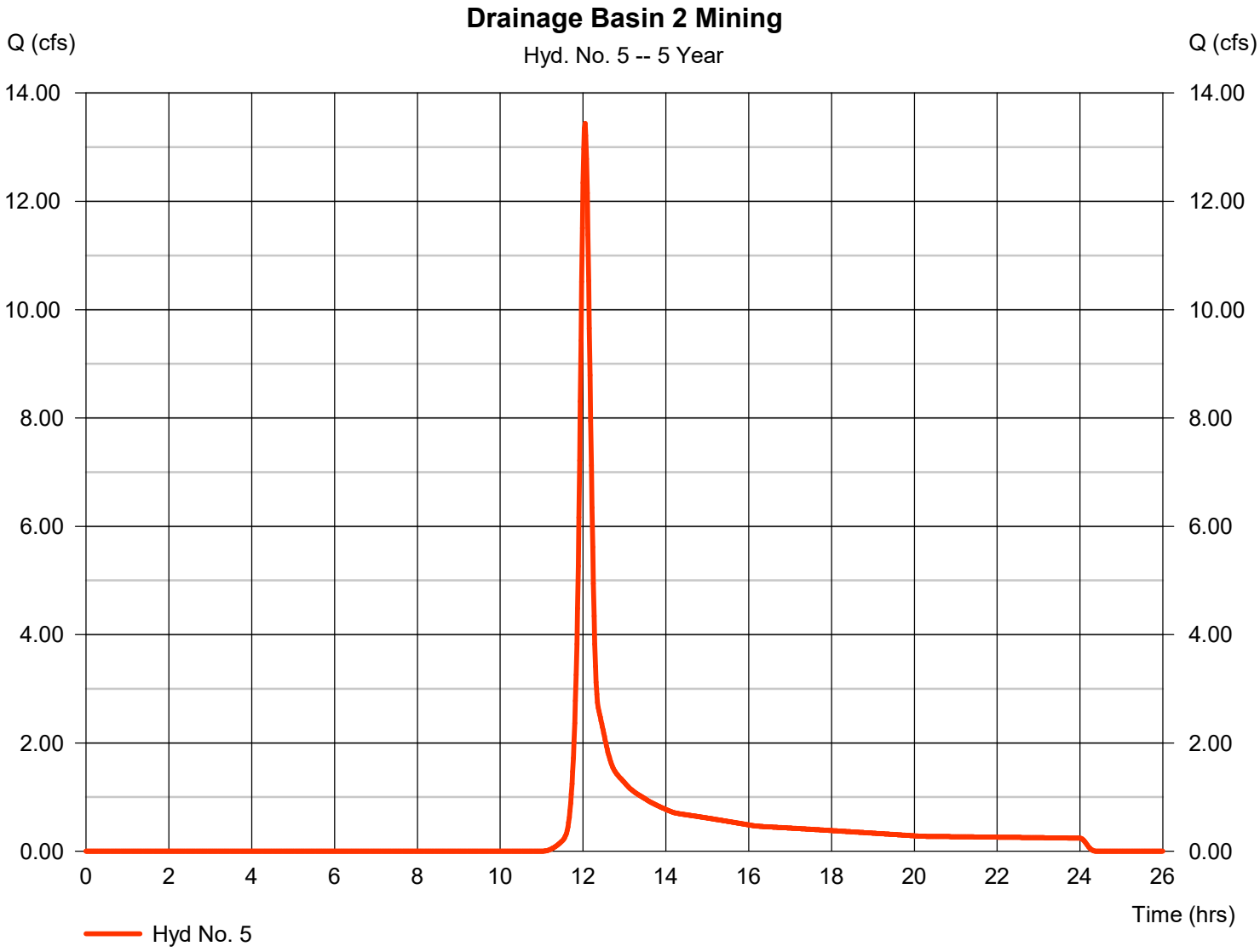


Hydrograph Report

Hyd. No. 5

Drainage Basin 2 Mining

Hydrograph type	= SCS Runoff	Peak discharge	= 13.44 cfs
Storm frequency	= 5 yrs	Time to peak	= 12.05 hrs
Time interval	= 1 min	Hyd. volume	= 37,789 cuft
Drainage area	= 28.720 ac	Curve number	= 88
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
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Total precip.	= 1.18 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

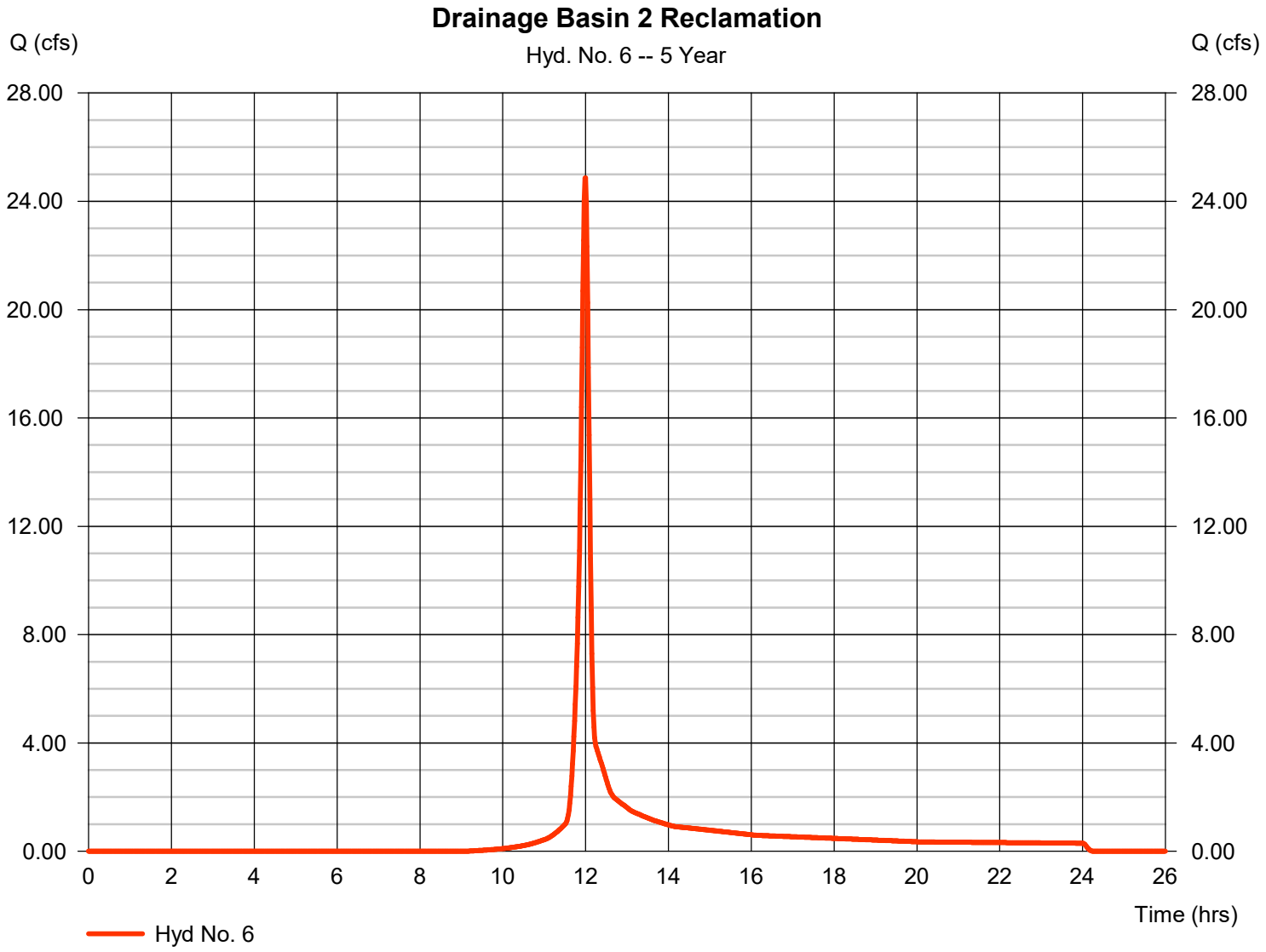


Hydrograph Report

Hyd. No. 6

Drainage Basin 2 Reclamation

Hydrograph type	= SCS Runoff	Peak discharge	= 24.87 cfs
Storm frequency	= 5 yrs	Time to peak	= 12.00 hrs
Time interval	= 1 min	Hyd. volume	= 56,261 cuft
Drainage area	= 28.720 ac	Curve number	= 92
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= User	Time of conc. (Tc)	= 10.00 min
Total precip.	= 1.18 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

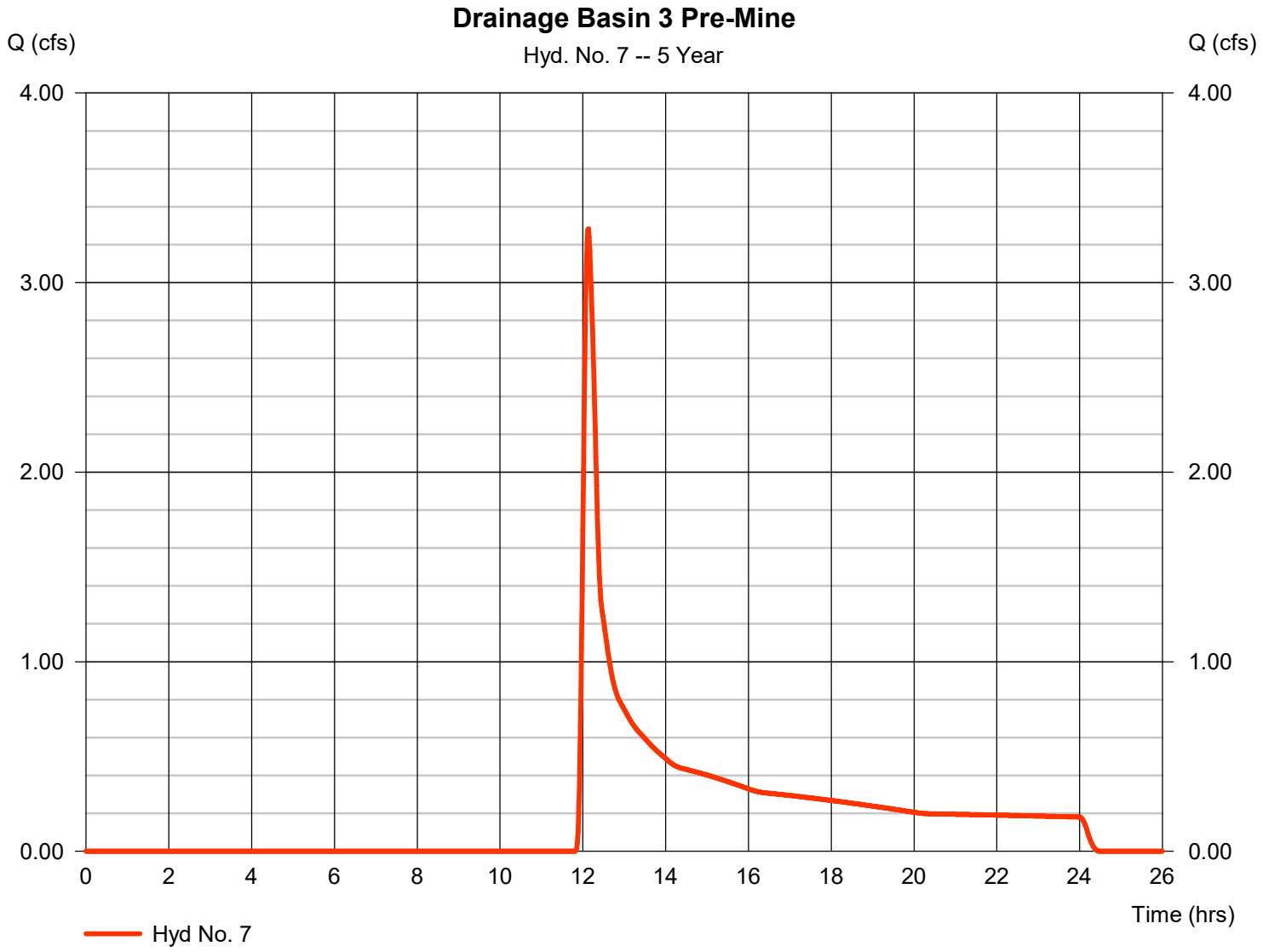


Hydrograph Report

Hyd. No. 7

Drainage Basin 3 Pre-Mine

Hydrograph type	= SCS Runoff	Peak discharge	= 3.284 cfs
Storm frequency	= 5 yrs	Time to peak	= 12.13 hrs
Time interval	= 1 min	Hyd. volume	= 17,871 cuft
Drainage area	= 39.170 ac	Curve number	= 79
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= User	Time of conc. (Tc)	= 17.00 min
Total precip.	= 1.18 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

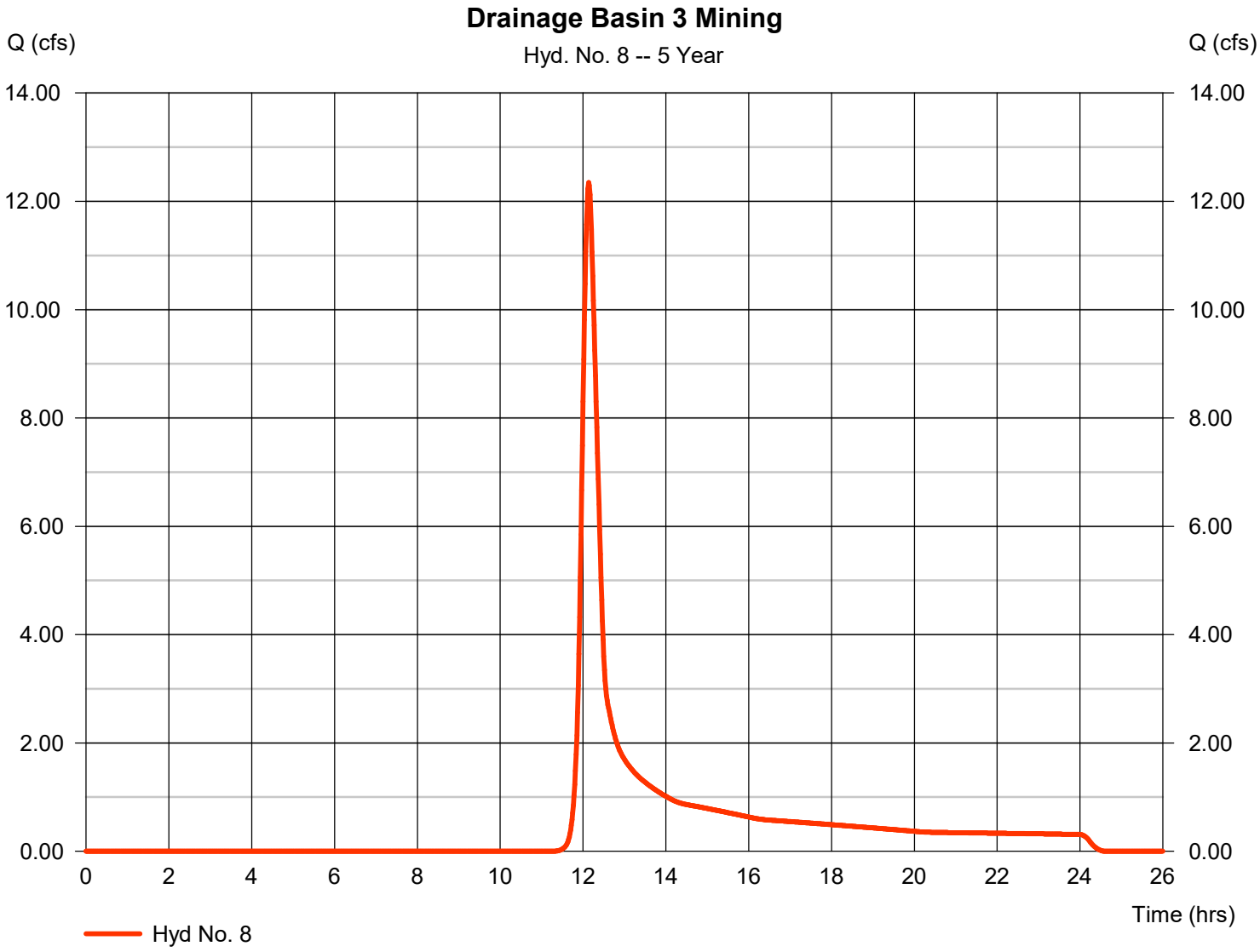


Hydrograph Report

Hyd. No. 8

Drainage Basin 3 Mining

Hydrograph type	= SCS Runoff	Peak discharge	= 12.35 cfs
Storm frequency	= 5 yrs	Time to peak	= 12.13 hrs
Time interval	= 1 min	Hyd. volume	= 46,060 cuft
Drainage area	= 39.170 ac	Curve number	= 87
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= User	Time of conc. (Tc)	= 22.00 min
Total precip.	= 1.18 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

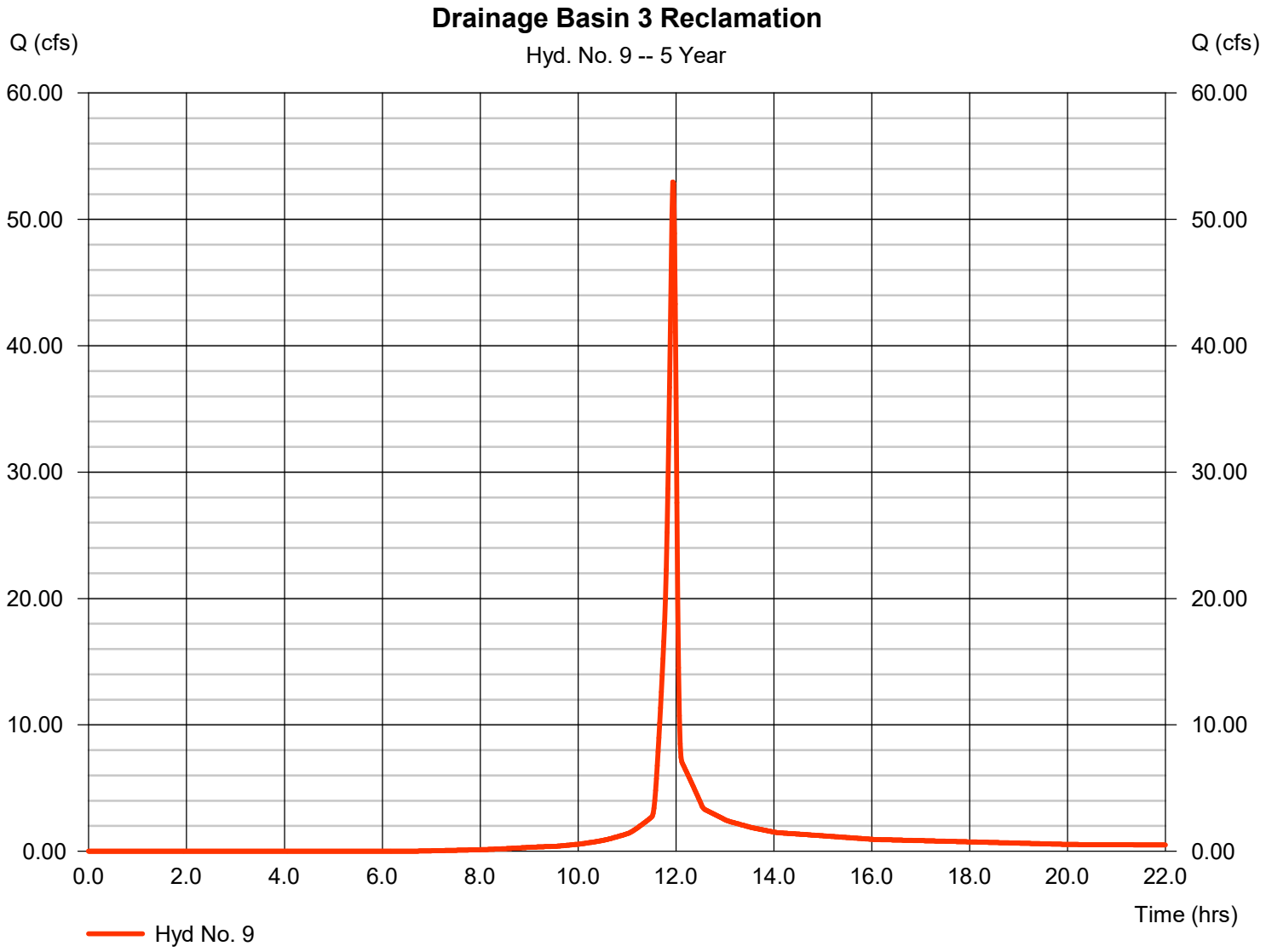


Hydrograph Report

Hyd. No. 9

Drainage Basin 3 Reclamation

Hydrograph type	=	SCS Runoff	Peak discharge	=	52.96 cfs
Storm frequency	=	5 yrs	Time to peak	=	11.93 hrs
Time interval	=	1 min	Hyd. volume	=	102,579 cuft
Drainage area	=	39.170 ac	Curve number	=	95
Basin Slope	=	0.0 %	Hydraulic length	=	0 ft
Tc method	=	User	Time of conc. (Tc)	=	4.00 min
Total precip.	=	1.18 in	Distribution	=	Type II
Storm duration	=	24 hrs	Shape factor	=	484



Hydrograph Summary Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2022

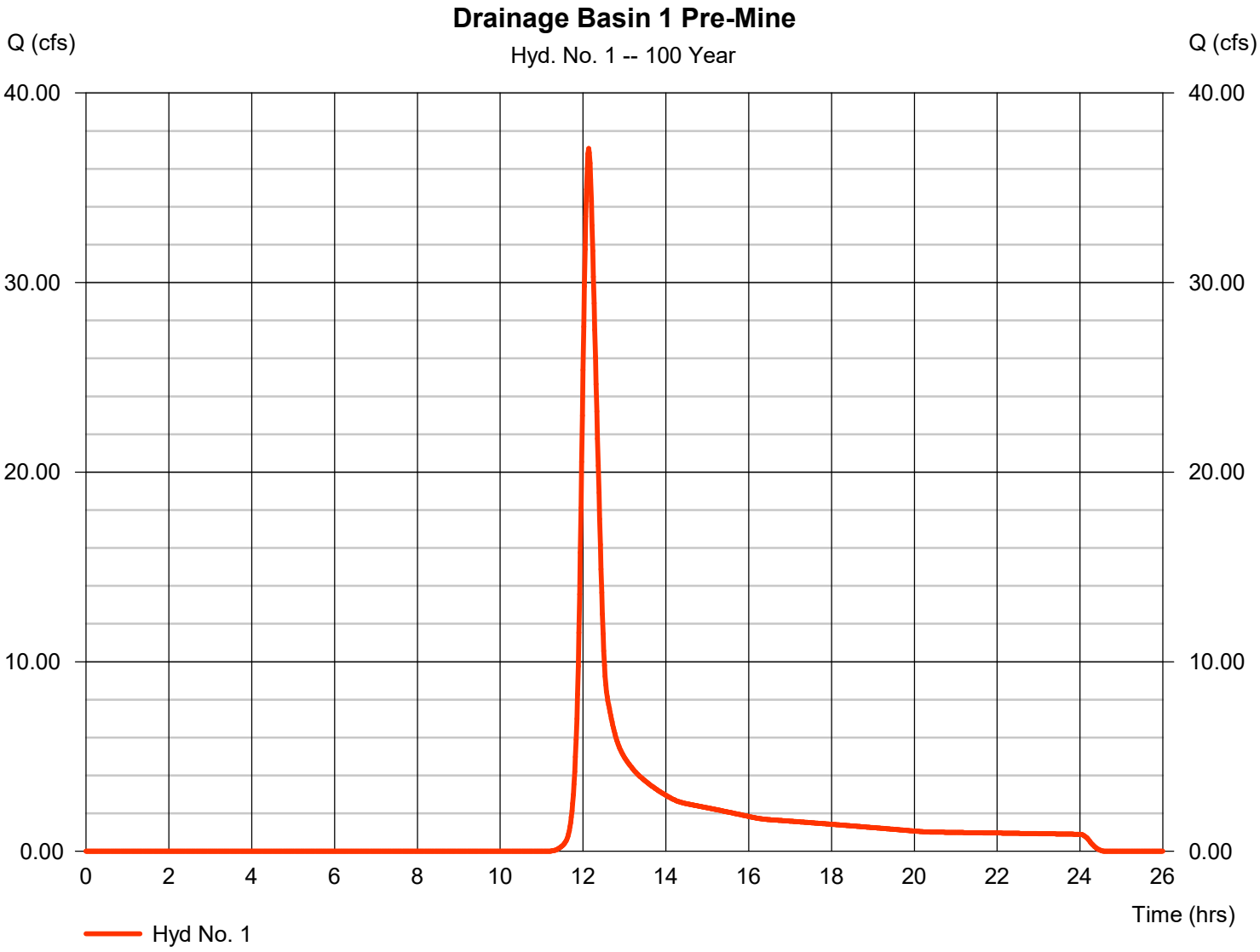
Hyd. No.	Hydrograph type (origin)	Peak flow (cfs)	Time interval (min)	Time to Peak (min)	Hyd. volume (cuft)	Inflow hyd(s)	Maximum elevation (ft)	Total strge used (cuft)	Hydrograph Description
1	SCS Runoff	37.07	1	728	136,284	------	------	------	Drainage Basin 1 Pre-Mine
2	SCS Runoff	56.30	1	726	180,244	------	------	------	Drainage Basin 1 Mining
3	SCS Runoff	80.50	1	721	195,700	------	------	------	Drainage Basin 1 Reclamation
4	SCS Runoff	35.52	1	724	105,328	------	------	------	Drainage Basin 2 Pre-Mine
5	SCS Runoff	39.61	1	722	106,539	------	------	------	Drainage Basin 2 Mining
6	SCS Runoff	59.06	1	719	135,522	------	------	------	Drainage Basin 2 Reclamation
7	SCS Runoff	24.67	1	725	79,271	------	------	------	Drainage Basin 3 Pre-Mine
8	SCS Runoff	39.56	1	727	135,375	------	------	------	Drainage Basin 3 Mining
9	SCS Runoff	109.07	1	716	220,336	------	------	------	Drainage Basin 3 Reclamation

Hydrograph Report

Hyd. No. 1

Drainage Basin 1 Pre-Mine

Hydrograph type	= SCS Runoff	Peak discharge	= 37.07 cfs
Storm frequency	= 100 yrs	Time to peak	= 12.13 hrs
Time interval	= 1 min	Hyd. volume	= 136,284 cuft
Drainage area	= 62.550 ac	Curve number	= 80
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= User	Time of conc. (Tc)	= 23.00 min
Total precip.	= 2.07 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

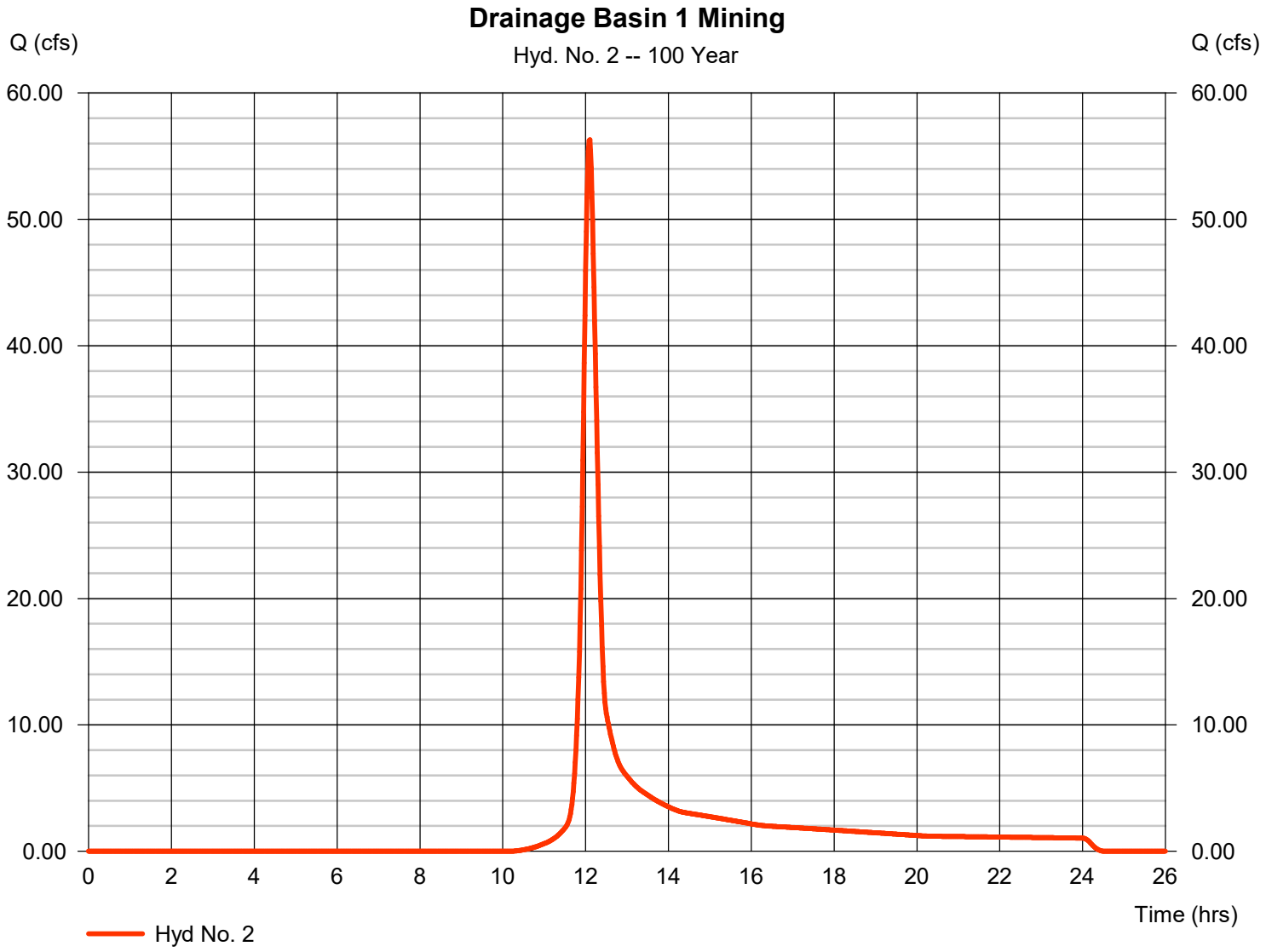


Hydrograph Report

Hyd. No. 2

Drainage Basin 1 Mining

Hydrograph type	=	SCS Runoff	Peak discharge	=	56.30 cfs
Storm frequency	=	100 yrs	Time to peak	=	12.10 hrs
Time interval	=	1 min	Hyd. volume	=	180,244 cuft
Drainage area	=	62.550 ac	Curve number	=	84
Basin Slope	=	0.0 %	Hydraulic length	=	0 ft
Tc method	=	User	Time of conc. (Tc)	=	20.00 min
Total precip.	=	2.07 in	Distribution	=	Type II
Storm duration	=	24 hrs	Shape factor	=	484

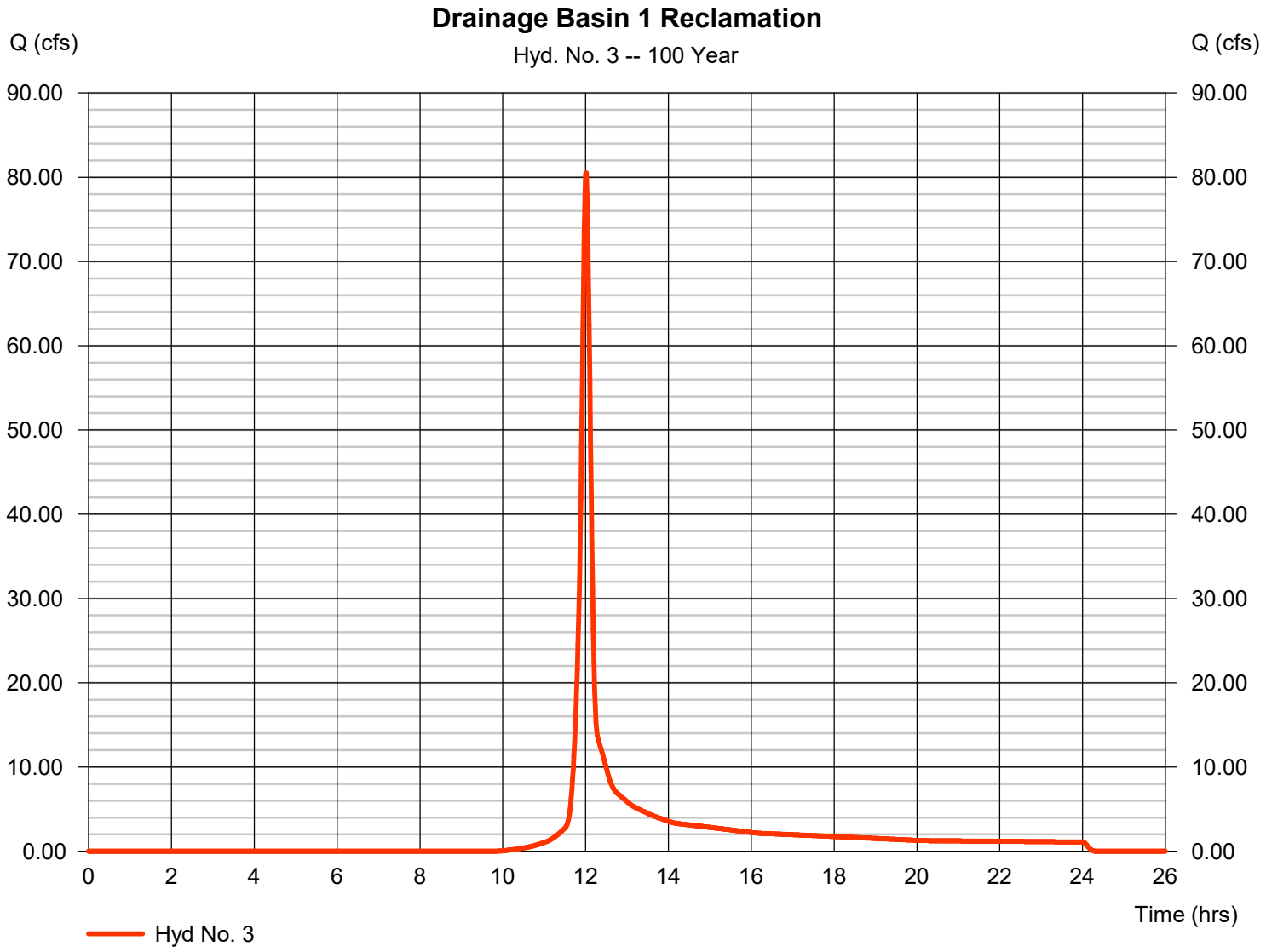


Hydrograph Report

Hyd. No. 3

Drainage Basin 1 Reclamation

Hydrograph type	=	SCS Runoff	Peak discharge	=	80.50 cfs
Storm frequency	=	100 yrs	Time to peak	=	12.02 hrs
Time interval	=	1 min	Hyd. volume	=	195,700 cuft
Drainage area	=	62.550 ac	Curve number	=	85
Basin Slope	=	0.0 %	Hydraulic length	=	0 ft
Tc method	=	User	Time of conc. (Tc)	=	11.00 min
Total precip.	=	2.07 in	Distribution	=	Type II
Storm duration	=	24 hrs	Shape factor	=	484

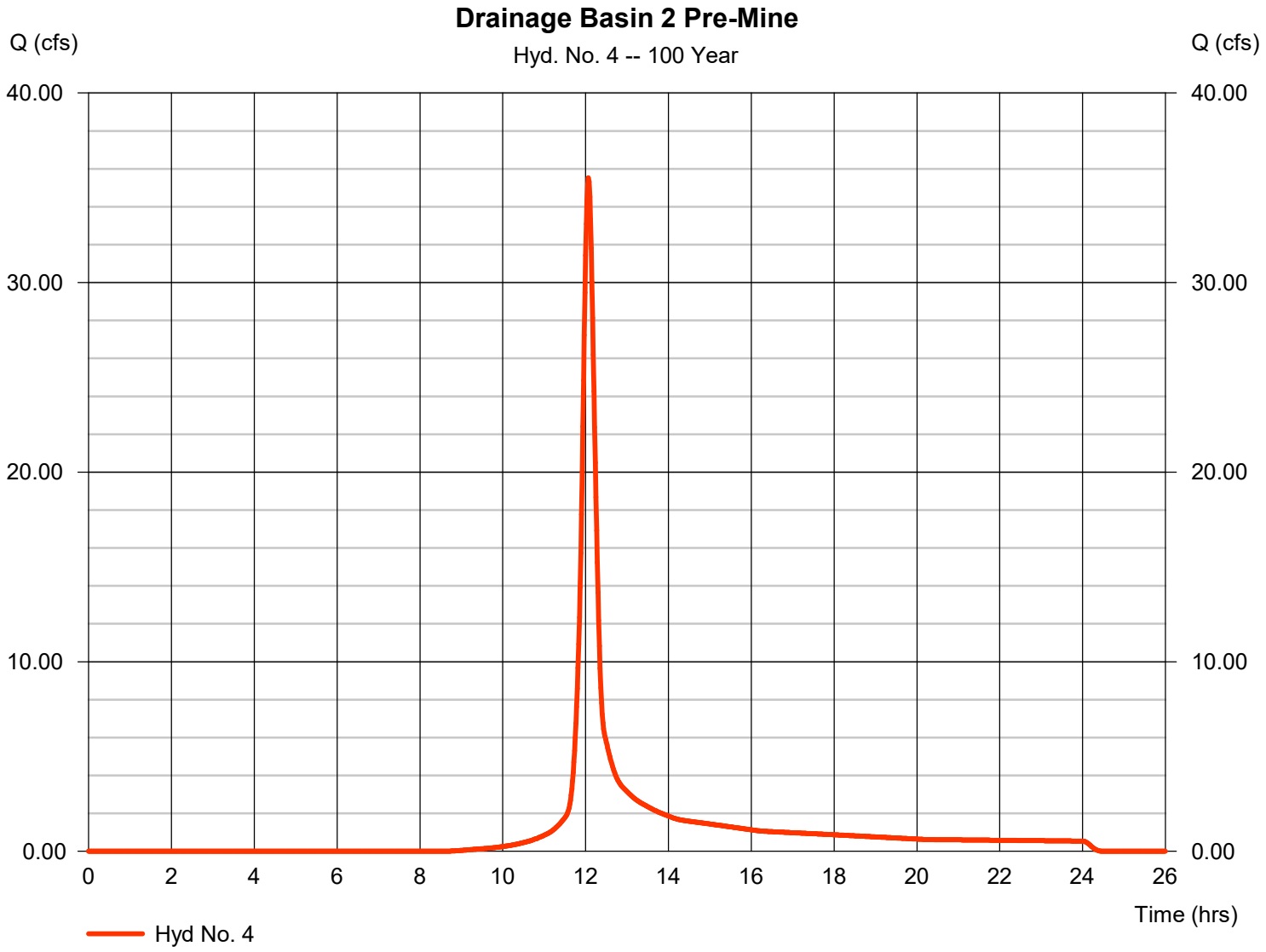


Hydrograph Report

Hyd. No. 4

Drainage Basin 2 Pre-Mine

Hydrograph type	= SCS Runoff	Peak discharge	= 35.52 cfs
Storm frequency	= 100 yrs	Time to peak	= 12.07 hrs
Time interval	= 1 min	Hyd. volume	= 105,328 cuft
Drainage area	= 28.720 ac	Curve number	= 88
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= User	Time of conc. (Tc)	= 17.00 min
Total precip.	= 2.07 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

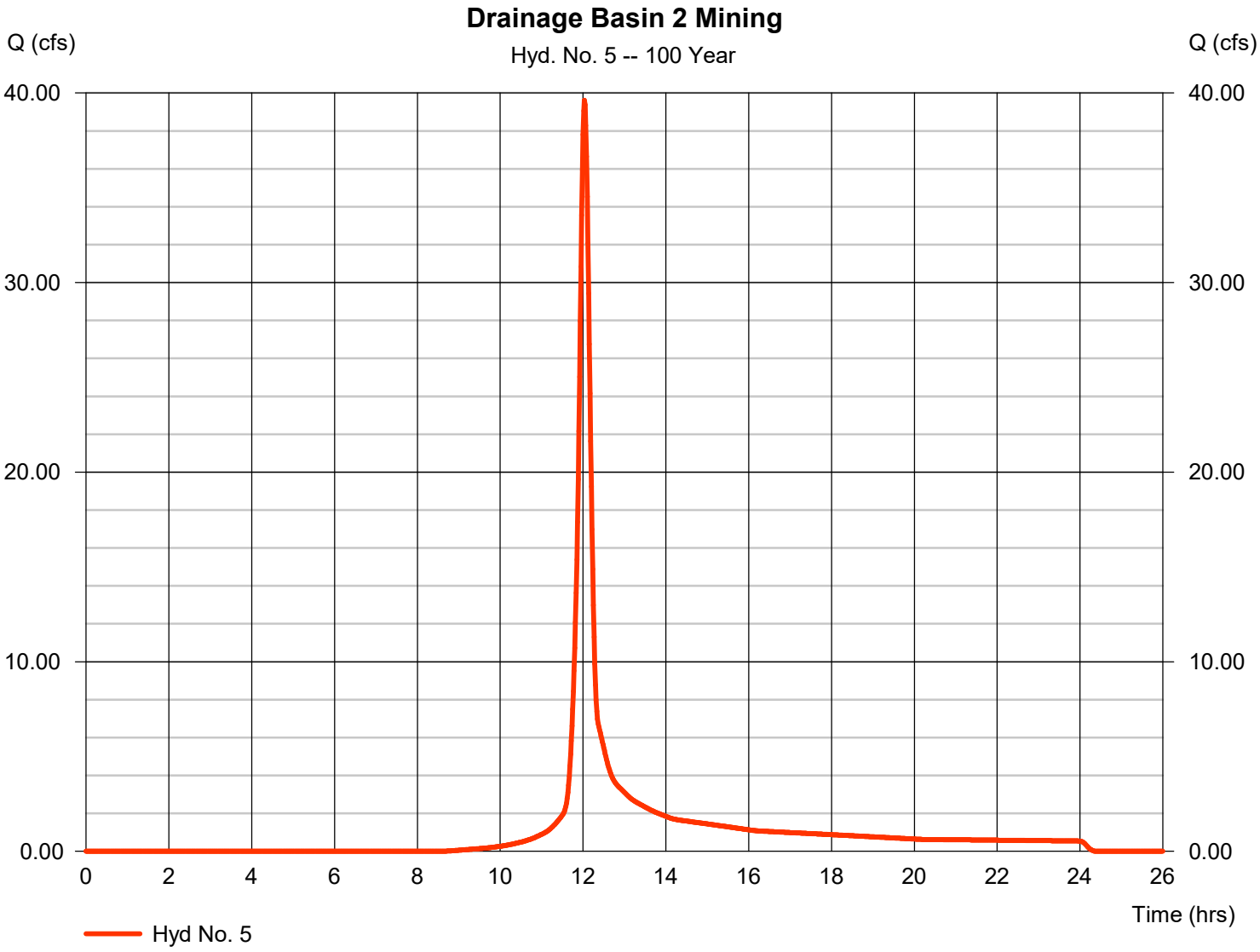


Hydrograph Report

Hyd. No. 5

Drainage Basin 2 Mining

Hydrograph type	=	SCS Runoff	Peak discharge	=	39.61 cfs
Storm frequency	=	100 yrs	Time to peak	=	12.03 hrs
Time interval	=	1 min	Hyd. volume	=	106,539 cuft
Drainage area	=	28.720 ac	Curve number	=	88
Basin Slope	=	0.0 %	Hydraulic length	=	0 ft
Tc method	=	User	Time of conc. (Tc)	=	14.00 min
Total precip.	=	2.07 in	Distribution	=	Type II
Storm duration	=	24 hrs	Shape factor	=	484

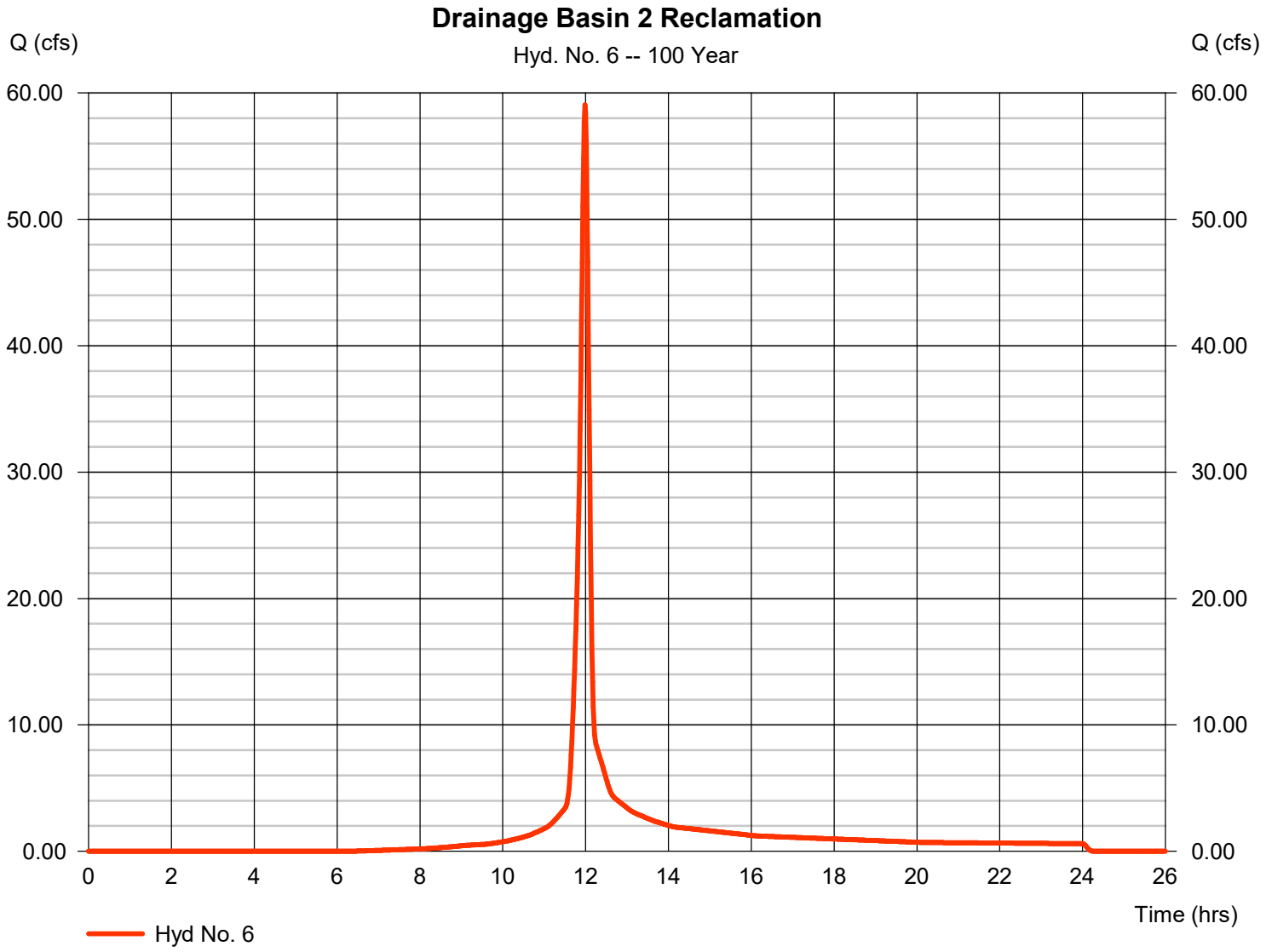


Hydrograph Report

Hyd. No. 6

Drainage Basin 2 Reclamation

Hydrograph type	=	SCS Runoff	Peak discharge	=	59.06 cfs
Storm frequency	=	100 yrs	Time to peak	=	11.98 hrs
Time interval	=	1 min	Hyd. volume	=	135,522 cuft
Drainage area	=	28.720 ac	Curve number	=	92
Basin Slope	=	0.0 %	Hydraulic length	=	0 ft
Tc method	=	User	Time of conc. (Tc)	=	10.00 min
Total precip.	=	2.07 in	Distribution	=	Type II
Storm duration	=	24 hrs	Shape factor	=	484

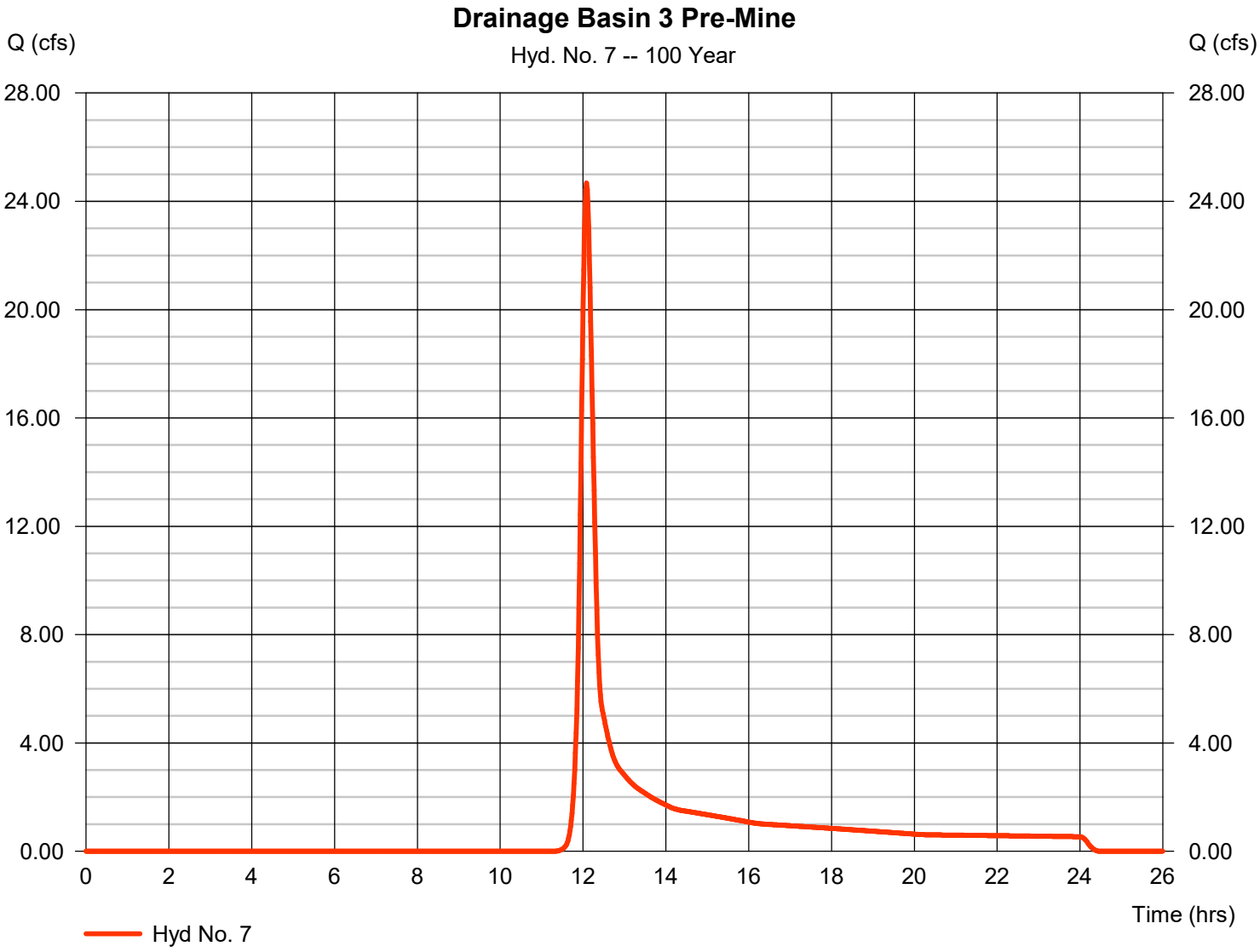


Hydrograph Report

Hyd. No. 7

Drainage Basin 3 Pre-Mine

Hydrograph type	= SCS Runoff	Peak discharge	= 24.67 cfs
Storm frequency	= 100 yrs	Time to peak	= 12.08 hrs
Time interval	= 1 min	Hyd. volume	= 79,271 cuft
Drainage area	= 39.170 ac	Curve number	= 79
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
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Total precip.	= 2.07 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

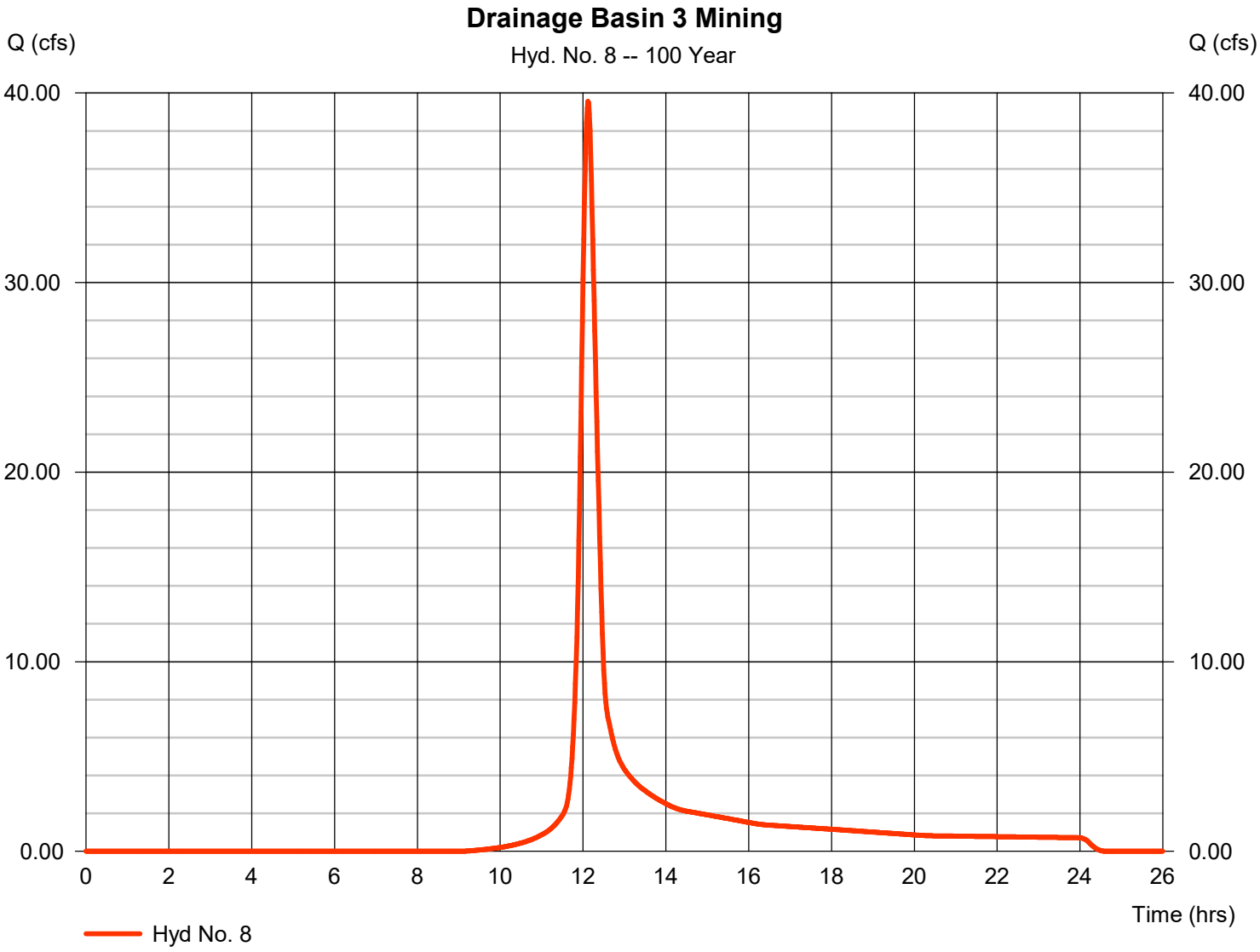


Hydrograph Report

Hyd. No. 8

Drainage Basin 3 Mining

Hydrograph type	=	SCS Runoff	Peak discharge	=	39.56 cfs
Storm frequency	=	100 yrs	Time to peak	=	12.12 hrs
Time interval	=	1 min	Hyd. volume	=	135,375 cuft
Drainage area	=	39.170 ac	Curve number	=	87
Basin Slope	=	0.0 %	Hydraulic length	=	0 ft
Tc method	=	User	Time of conc. (Tc)	=	22.00 min
Total precip.	=	2.07 in	Distribution	=	Type II
Storm duration	=	24 hrs	Shape factor	=	484

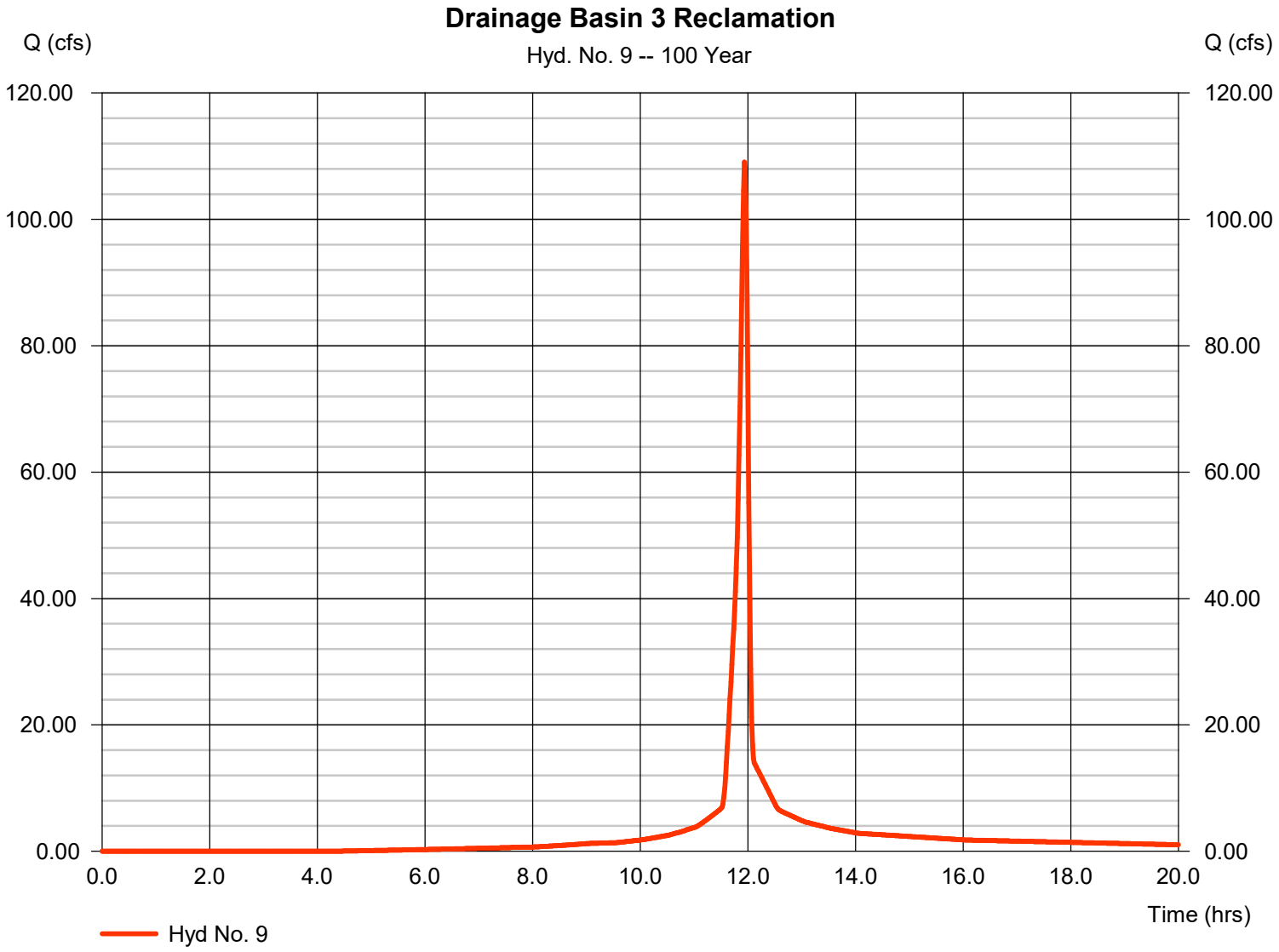


Hydrograph Report

Hyd. No. 9

Drainage Basin 3 Reclamation

Hydrograph type	=	SCS Runoff	Peak discharge	=	109.07 cfs
Storm frequency	=	100 yrs	Time to peak	=	11.93 hrs
Time interval	=	1 min	Hyd. volume	=	220,336 cuft
Drainage area	=	39.170 ac	Curve number	=	95
Basin Slope	=	0.0 %	Hydraulic length	=	0 ft
Tc method	=	User	Time of conc. (Tc)	=	4.00 min
Total precip.	=	2.07 in	Distribution	=	Type II
Storm duration	=	24 hrs	Shape factor	=	484



Hydraflow Rainfall Report

Return Period (Yrs)	Intensity-Duration-Frequency Equation Coefficients (FHA)			
	B	D	E	(N/A)
1	0.0000	0.0000	0.0000	--------
2	69.8703	13.1000	0.8658	--------
3	0.0000	0.0000	0.0000	--------
5	79.2597	14.6000	0.8369	--------
10	88.2351	15.5000	0.8279	--------
25	102.6072	16.5000	0.8217	--------
50	114.8193	17.2000	0.8199	--------
100	127.1596	17.8000	0.8186	--------

File name: SampleFHA.idf

Intensity = B / (Tc + D)^E

Return Period (Yrs)	Intensity Values (in/hr)											
	5 min	10	15	20	25	30	35	40	45	50	55	60
1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2	5.69	4.61	3.89	3.38	2.99	2.69	2.44	2.24	2.07	1.93	1.81	1.70
3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
5	6.57	5.43	4.65	4.08	3.65	3.30	3.02	2.79	2.59	2.42	2.27	2.15
10	7.24	6.04	5.21	4.59	4.12	3.74	3.43	3.17	2.95	2.77	2.60	2.46
25	8.25	6.95	6.03	5.34	4.80	4.38	4.02	3.73	3.48	3.26	3.07	2.91
50	9.04	7.65	6.66	5.92	5.34	4.87	4.49	4.16	3.88	3.65	3.44	3.25
100	9.83	8.36	7.30	6.50	5.87	5.36	4.94	4.59	4.29	4.03	3.80	3.60

Tc = time in minutes. Values may exceed 60.

Precip. file name: C:\Users\Sydney\Dropbox (GLA)\Elam\Delta Paving\AutoCAD\Hydrology\Precipitation.pcp

Storm Distribution	Rainfall Precipitation Table (in)							
	1-yr	2-yr	3-yr	5-yr	10-yr	25-yr	50-yr	100-yr
SCS 24-hour	0.80	0.95	0.00	1.18	1.38	1.65	1.86	2.07
SCS 6-Hr	0.53	0.63	0.00	0.79	0.93	1.13	1.30	1.47
Huff-1st	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Huff-2nd	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Huff-3rd	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Huff-4th	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Huff-Indy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Custom	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

EXHIBIT H WILDLIFE INFORMATION

1. Introduction

Given the location of the Delta Paving Gravel Pit less than 350 feet south of Orchard City, CO, the presence of highways to the north and south of the site, and the abundance of agricultural land in the area, wildlife habitat fragmentation has already occurred. Colorado Parks and Wildlife (CPW) habitat and range mapping has been used to develop this wildlife analysis. The CPW will be consulted as part of the amendment process.

2. Description of Significant Wildlife Resources on the Affected Land

The affected land is within winter range and forage for bald eagles, but no nests are present on or near the site. The western portion of the site is within the winter range for wild turkey. Black bear and mountain lion overall range is present on the affected land, typical of western Colorado. The affected area is within mule deer and white-tailed deer overall ranges. The northern area of the site near the Gunnison River is within otter overall range. No migration corridors or big game winter ranges are present within the permit area.

3. Seasonal Use of the Area

Bald eagles make use of the site as winter forage and overall winter range. All other significant wildlife resources are year-round in their usage.

4. Presence and Estimated Population of Threatened or Endangered Species

No federally listed threatened and endangered species and/or habitat were identified on the affected land.

5. Effect of Proposed Operation on Existing Wildlife

Impacts on wildlife use from the proposed project would include direct temporary elimination of potential habitat within the affected area during mining, and temporary localized displacement associated with additional noise and lighting from the proposed project. This localized loss of habitat would not disrupt regional migration or significant movement patterns and would not threaten the overall health and viability of a species. Additionally, critical habitat, winter range, and calving areas will not be affected as these resources are not present within the affected

area. Nearby lands are also disturbed for various uses, and as such the Delta Paving Pit disturbance will not be of a significant impact on area wildlife habitat.

The affected area will be fully reclaimed at the conclusion of mining which will restore some degree of wildlife habitat over time. Transformation of the bulk of the irrigated fields onsite into groundwater lakes will be a permanent change in overall habitat.

6. Impacts to Fish

Mining will not take place in any water ways or natural lakes. Surface water controls will protect offsite drainages and fish habitats from sediment discharges. Elam Construction will not stock the reclaimed lake with non-native species at any time.

EXHIBIT I SOILS INFORMATION

1. General

A soil report was generated using the United States Department of Agriculture's NRCS Web Soil Survey (WSS)[3] and is included in this exhibit as Appendix I-1 at the end of this exhibit. The WSS provides soil data and information produced by the National Cooperative Soil Survey. The majority of the site's soil (65%) is made up of Waterdog soil while the remaining portion of the site is made up of Montrose silty clay loam (see map C-1). These primary soil types that exist at the site are described as follows.

2. Suitability for Reclamation Revegetation

The two soil types provide an average of 5 inches of suitable material for revegetation. They are both considered prime farmland if irrigated, however, the majority of the site will be groundwater ponds so this will not be necessary for the post mine land use. The A-horizon of the soil profile was used as the basis for determining the topsoil stripping depth during mining operations.

3. Soil Type Descriptions

701 — Montrose silty clay loam, 0 to 2 percent slopes

Map Unit Setting

National map unit symbol: k2f9
Elevation: 4,500 to 5,800 feet
Mean annual precipitation: 6 to 9 inches
Mean annual air temperature: 50 to 55 degrees F
Frost-free period: 140 to 180 days
Farmland classification: Prime farmland if irrigated

Map Unit Composition

Montrose and similar soils: 80 percent
Minor components: 20 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Montrose

Setting

Landform: Stream terraces
Landform position (three-dimensional): Tread
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Alluvium derived from shale

Typical profile

Ap - 0 to 4 inches: silty clay loam

[3] https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm.

Bt - 4 to 13 inches: silty clay
Btz - 13 to 36 inches: silty clay
C - 36 to 65 inches: silty clay loam

Properties and qualities

Slope: 0 to 2 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Well drained
Capacity of the most limiting layer to transmit water (Ksat): Moderately low to moderately high (0.07 to 0.21 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Calcium carbonate, maximum content: 15 percent
Gypsum, maximum content: 4 percent
Maximum salinity: Very slightly saline to moderately saline (2.0 to 8.0 mmhos/cm)
Sodium adsorption ratio, maximum: 8.0
Available water supply, 0 to 60 inches: High (about 9.6 inches)

Interpretive groups

Land capability classification (irrigated): 4e
Land capability classification (nonirrigated): 6e
Hydrologic Soil Group: C
Ecological site: R034BY104UT - Desert Clay (Shadscale)
Hydric soil rating: No

Minor Components

Fruita

Percent of map unit: 10 percent
Landform: Stream terraces
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY106UT - Desert Loam (Shadscale)
Hydric soil rating: No

Briny, rarely flooded

Percent of map unit: 5 percent
Landform: Flood plains
Down-slope shape: Concave
Across-slope shape: Concave
Ecological site: R034BY006UT - Alkali Flat (Greasewood)
Hydric soil rating: Yes

Killpack

Percent of map unit: 5 percent
Landform: Stream terraces
Landform position (three-dimensional): Riser
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY117UT - Desert Shallow Clay (Mat Saltbush)
Hydric soil rating: No

795 — Waterdog, occasionally flooded - Riverwash complex, 0 to 2 percent slopes

Map Unit Setting

National map unit symbol: k2g2
Elevation: 4,500 to 5,800 feet
Mean annual precipitation: 6 to 9 inches
Mean annual air temperature: 50 to 55 degrees F
Frost-free period: 140 to 180 days
Farmland classification: Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season

Map Unit Composition

Waterdog, occasionally flooded, and similar soils: 50 percent
Riverwash: 30 percent
Minor components: 20 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Waterdog, Occasionally Flooded

Setting

Landform: Flood-plain steps
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Alluvium

Typical profile

A - 0 to 4 inches: loam
Cg1 - 4 to 14 inches: sandy loam
Cg2 - 14 to 22 inches: sandy loam
Cg3 - 22 to 60 inches: very gravelly coarse sand

Properties and qualities

Slope: 0 to 2 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Very poorly drained
Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high (0.71 to 2.13 in/hr)
Depth to water table: About 0 to 7 inches
Frequency of flooding: NoneOccasional
Frequency of ponding: None
Calcium carbonate, maximum content: 14 percent
Maximum salinity: Slightly saline to moderately saline (4.0 to 8.0 mmhos/cm)
Sodium adsorption ratio, maximum: 1.0
Available water supply, 0 to 60 inches: Low (about 3.5 inches)

Interpretive groups

Land capability classification (irrigated): 6w
Land capability classification (nonirrigated): 6w
Hydrologic Soil Group: B/D
Ecological site: R034BY011UT - River Floodplain (Fremont Cottonwood)
Hydric soil rating: Yes

Description of Riverwash

Interpretive groups

Land capability classification (irrigated): 8

Land capability classification (nonirrigated): 8
Hydric soil rating: No

Minor Components

Water

Percent of map unit: 10 percent
Hydric soil rating: Unranked

Briny, rarely flooded

Percent of map unit: 10 percent
Landform: Flood-plain steps
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY006UT - Alkali Flat (Greasewood)
Hydric soil rating: Yes

Appendix I-1 Soil Report

United States Department of Agriculture

NRCS

Natural Resources Conservation Service

A product of the National Cooperative Soil Survey, a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local participants

Custom Soil Resource Report for Ridgway Area, Colorado, Parts of Delta, Gunnison, Montrose, and Ouray Counties

Delta Paving Gravel Pit



November 2, 2021

Preface

Soil surveys contain information that affects land use planning in survey areas. They highlight soil limitations that affect various land uses and provide information about the properties of the soils in the survey areas. Soil surveys are designed for many different users, including farmers, ranchers, foresters, agronomists, urban planners, community officials, engineers, developers, builders, and home buyers. Also, conservationists, teachers, students, and specialists in recreation, waste disposal, and pollution control can use the surveys to help them understand, protect, or enhance the environment.

Various land use regulations of Federal, State, and local governments may impose special restrictions on land use or land treatment. Soil surveys identify soil properties that are used in making various land use or land treatment decisions. The information is intended to help the land users identify and reduce the effects of soil limitations on various land uses. The landowner or user is responsible for identifying and complying with existing laws and regulations.

Although soil survey information can be used for general farm, local, and wider area planning, onsite investigation is needed to supplement this information in some cases. Examples include soil quality assessments (http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/health/) and certain conservation and engineering applications. For more detailed information, contact your local USDA Service Center (https://offices.sc.egov.usda.gov/locator/app?agency=nrcs) or your NRCS State Soil Scientist (http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/contactus/?cid=nrcs142p2_053951).

Great differences in soil properties can occur within short distances. Some soils are seasonally wet or subject to flooding. Some are too unstable to be used as a foundation for buildings or roads. Clayey or wet soils are poorly suited to use as septic tank absorption fields. A high water table makes a soil poorly suited to basements or underground installations.

The National Cooperative Soil Survey is a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local agencies. The Natural Resources Conservation Service (NRCS) has leadership for the Federal part of the National Cooperative Soil Survey.

Information about soils is updated periodically. Updated information is available through the NRCS Web Soil Survey, the site for official soil survey information.

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How Soil Surveys Are Made

Soil surveys are made to provide information about the soils and miscellaneous areas in a specific area. They include a description of the soils and miscellaneous areas and their location on the landscape and tables that show soil properties and limitations affecting various uses. Soil scientists observed the steepness, length, and shape of the slopes; the general pattern of drainage; the kinds of crops and native plants; and the kinds of bedrock. They observed and described many soil profiles. A soil profile is the sequence of natural layers, or horizons, in a soil. The profile extends from the surface down into the unconsolidated material in which the soil formed or from the surface down to bedrock. The unconsolidated material is devoid of roots and other living organisms and has not been changed by other biological activity.

Currently, soils are mapped according to the boundaries of major land resource areas (MLRAs). MLRAs are geographically associated land resource units that share common characteristics related to physiography, geology, climate, water resources, soils, biological resources, and land uses (USDA, 2006). Soil survey areas typically consist of parts of one or more MLRA.

The soils and miscellaneous areas in a survey area occur in an orderly pattern that is related to the geology, landforms, relief, climate, and natural vegetation of the area. Each kind of soil and miscellaneous area is associated with a particular kind of landform or with a segment of the landform. By observing the soils and miscellaneous areas in the survey area and relating their position to specific segments of the landform, a soil scientist develops a concept, or model, of how they were formed. Thus, during mapping, this model enables the soil scientist to predict with a considerable degree of accuracy the kind of soil or miscellaneous area at a specific location on the landscape.

Commonly, individual soils on the landscape merge into one another as their characteristics gradually change. To construct an accurate soil map, however, soil scientists must determine the boundaries between the soils. They can observe only a limited number of soil profiles. Nevertheless, these observations, supplemented by an understanding of the soil-vegetation-landscape relationship, are sufficient to verify predictions of the kinds of soil in an area and to determine the boundaries.

Soil scientists recorded the characteristics of the soil profiles that they studied. They noted soil color, texture, size and shape of soil aggregates, kind and amount of rock fragments, distribution of plant roots, reaction, and other features that enable them to identify soils. After describing the soils in the survey area and determining their properties, the soil scientists assigned the soils to taxonomic classes (units). Taxonomic classes are concepts. Each taxonomic class has a set of soil characteristics with precisely defined limits. The classes are used as a basis for comparison to classify soils systematically. Soil taxonomy, the system of taxonomic classification used in the United States, is based mainly on the kind and character of soil properties and the arrangement of horizons within the profile. After the soil

scientists classified and named the soils in the survey area, they compared the individual soils with similar soils in the same taxonomic class in other areas so that they could confirm data and assemble additional data based on experience and research.

The objective of soil mapping is not to delineate pure map unit components; the objective is to separate the landscape into landforms or landform segments that have similar use and management requirements. Each map unit is defined by a unique combination of soil components and/or miscellaneous areas in predictable proportions. Some components may be highly contrasting to the other components of the map unit. The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The delineation of such landforms and landform segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, onsite investigation is needed to define and locate the soils and miscellaneous areas.

Soil scientists make many field observations in the process of producing a soil map. The frequency of observation is dependent upon several factors, including scale of mapping, intensity of mapping, design of map units, complexity of the landscape, and experience of the soil scientist. Observations are made to test and refine the soil-landscape model and predictions and to verify the classification of the soils at specific locations. Once the soil-landscape model is refined, a significantly smaller number of measurements of individual soil properties are made and recorded. These measurements may include field measurements, such as those for color, depth to bedrock, and texture, and laboratory measurements, such as those for content of sand, silt, clay, salt, and other components. Properties of each soil typically vary from one point to another across the landscape.

Observations for map unit components are aggregated to develop ranges of characteristics for the components. The aggregated values are presented. Direct measurements do not exist for every property presented for every map unit component. Values for some properties are estimated from combinations of other properties.

While a soil survey is in progress, samples of some of the soils in the area generally are collected for laboratory analyses and for engineering tests. Soil scientists interpret the data from these analyses and tests as well as the field-observed characteristics and the soil properties to determine the expected behavior of the soils under different uses. Interpretations for all of the soils are field tested through observation of the soils in different uses and under different levels of management. Some interpretations are modified to fit local conditions, and some new interpretations are developed to meet local needs. Data are assembled from other sources, such as research information, production records, and field experience of specialists. For example, data on crop yields under defined levels of management are assembled from farm records and from field or plot experiments on the same kinds of soil.

Predictions about soil behavior are based not only on soil properties but also on such variables as climate and biological activity. Soil conditions are predictable over long periods of time, but they are not predictable from year to year. For example, soil scientists can predict with a fairly high degree of accuracy that a given soil will have a high water table within certain depths in most years, but they cannot predict that a high water table will always be at a specific level in the soil on a specific date.

After soil scientists located and identified the significant natural bodies of soil in the survey area, they drew the boundaries of these bodies on aerial photographs and

identified each as a specific map unit. Aerial photographs show trees, buildings, fields, roads, and rivers, all of which help in locating boundaries accurately.

Soil Map

The soil map section includes the soil map for the defined area of interest, a list of soil map units on the map and extent of each map unit, and cartographic symbols displayed on the map. Also presented are various metadata about data used to produce the map, and a description of each soil map unit.

Custom Soil Resource Report
Soil Map



Map Scale: 1:9,110 if printed on A landscape (11" x 8.5") sheet.

N

Meters: 0 100 200 400 600

Feet: 0 400 800 1600 2400

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 13N WGS84

MAP LEGEND

Area of Interest (AOI)
- Area of Interest (AOI)

Soils
- Soil Map Unit Polygons
- Soil Map Unit Lines
- Soil Map Unit Points

Special Point Features
- Blowout
- Borrow Pit
- Clay Spot
- Closed Depression
- Gravel Pit
- Gravelly Spot
- Landfill
- Lava Flow
- Marsh or swamp
- Mine or Quarry
- Miscellaneous Water
- Perennial Water
- Rock Outcrop
- Saline Spot
- Sandy Spot
- Severely Eroded Spot
- Sinkhole
- Slide or Slip
- Sodic Spot
- Spoil Area
- Stony Spot
- Very Stony Spot
- Wet Spot
- Other
- Special Line Features

Water Features
- Streams and Canals

Transportation
- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background
- Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Ridgway Area, Colorado, Parts of Delta, Gunnison, Montrose, and Ouray Counties
Survey Area Data: Version 13, Sep 2, 2021

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Dec 31, 2009—Jul 7, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background

MAP LEGEND

MAP INFORMATION

imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
701	Montrose silty clay loam, 0 to 2 percent slopes	218.9	51.2%
760	Mesa clay loam, 0 to 2 percent slopes	7.5	1.8%
790	Briny clay loam, 0 to 3 percent slopes, rarely flooded	3.1	0.7%
795	Waterdog, occasionally flooded-Riverwash complex, 0 to 2 percent slopes	169.9	39.7%
801	Persayo-Badland complex, 25 to 75 percent slopes	28.1	6.6%
Totals for Area of Interest		**427.6**	**100.0%**

Map Unit Descriptions

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different management. These are called contrasting, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps. If included in the database for a given area, the contrasting minor components are identified in the map unit descriptions along with some characteristics of each. A few areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it

was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape.

The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The objective of mapping is not to delineate pure taxonomic classes but rather to separate the landscape into landforms or landform segments that have similar use and management requirements. The delineation of such segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, however, onsite investigation is needed to define and locate the soils and miscellaneous areas.

An identifying symbol precedes the map unit name in the map unit descriptions. Each description includes general facts about the unit and gives important soil properties and qualities.

Soils that have profiles that are almost alike make up a *soil series*. Except for differences in texture of the surface layer, all the soils of a series have major horizons that are similar in composition, thickness, and arrangement.

Soils of one series can differ in texture of the surface layer, slope, stoniness, salinity, degree of erosion, and other characteristics that affect their use. On the basis of such differences, a soil series is divided into *soil phases*. Most of the areas shown on the detailed soil maps are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management. For example, Alpha silt loam, 0 to 2 percent slopes, is a phase of the Alpha series.

Some map units are made up of two or more major soils or miscellaneous areas. These map units are complexes, associations, or undifferentiated groups.

A *complex* consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

An *association* is made up of two or more geographically associated soils or miscellaneous areas that are shown as one unit on the maps. Because of present or anticipated uses of the map units in the survey area, it was not considered practical or necessary to map the soils or miscellaneous areas separately. The pattern and relative proportion of the soils or miscellaneous areas are somewhat similar. Alpha-Beta association, 0 to 2 percent slopes, is an example.

An *undifferentiated group* is made up of two or more soils or miscellaneous areas that could be mapped individually but are mapped as one unit because similar interpretations can be made for use and management. The pattern and proportion of the soils or miscellaneous areas in a mapped area are not uniform. An area can be made up of only one of the major soils or miscellaneous areas, or it can be made up of all of them. Alpha and Beta soils, 0 to 2 percent slopes, is an example.

Some surveys include *miscellaneous areas*. Such areas have little or no soil material and support little or no vegetation. Rock outcrop is an example.

Ridgway Area, Colorado, Parts of Delta, Gunnison, Montrose, and Ouray Counties

701—Montrose silty clay loam, 0 to 2 percent slopes

Map Unit Setting

National map unit symbol: k2f9
Elevation: 4,500 to 5,800 feet
Mean annual precipitation: 6 to 9 inches
Mean annual air temperature: 50 to 55 degrees F
Frost-free period: 140 to 180 days
Farmland classification: Prime farmland if irrigated

Map Unit Composition

Montrose and similar soils: 80 percent
Minor components: 20 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Montrose

Setting

Landform: Stream terraces
Landform position (three-dimensional): Tread
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Alluvium derived from shale

Typical profile

Ap - 0 to 4 inches: silty clay loam
Bt - 4 to 13 inches: silty clay
Btz - 13 to 36 inches: silty clay
C - 36 to 65 inches: silty clay loam

Properties and qualities

Slope: 0 to 2 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Well drained
Capacity of the most limiting layer to transmit water (Ksat): Moderately low to moderately high (0.07 to 0.21 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Calcium carbonate, maximum content: 15 percent
Gypsum, maximum content: 4 percent
Maximum salinity: Very slightly saline to moderately saline (2.0 to 8.0 mmhos/cm)
Sodium adsorption ratio, maximum: 8.0
Available water supply, 0 to 60 inches: High (about 9.6 inches)

Interpretive groups

Land capability classification (irrigated): 4e
Land capability classification (nonirrigated): 6e
Hydrologic Soil Group: C
Ecological site: R034BY104UT - Desert Clay (Shadscale)
Hydric soil rating: No

Minor Components

Fruita

Percent of map unit: 10 percent
Landform: Stream terraces
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY106UT - Desert Loam (Shadscale)
Hydric soil rating: No

Briny, rarely flooded

Percent of map unit: 5 percent
Landform: Flood plains
Down-slope shape: Concave
Across-slope shape: Concave
Ecological site: R034BY006UT - Alkali Flat (Greasewood)
Hydric soil rating: Yes

Killpack

Percent of map unit: 5 percent
Landform: Stream terraces
Landform position (three-dimensional): Riser
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY117UT - Desert Shallow Clay (Mat Saltbush)
Hydric soil rating: No

760—Mesa clay loam, 0 to 2 percent slopes

Map Unit Setting

National map unit symbol: k2fc
Elevation: 4,500 to 5,800 feet
Mean annual precipitation: 6 to 9 inches
Mean annual air temperature: 50 to 55 degrees F
Frost-free period: 140 to 180 days
Farmland classification: Prime farmland if irrigated

Map Unit Composition

Mesa and similar soils: 85 percent
Minor components: 15 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Mesa

Setting

Landform: Stream terraces
Landform position (three-dimensional): Tread
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Alluvium derived from sandstone and shale

Typical profile

Ap - 0 to 12 inches: clay loam
Btk1 - 12 to 17 inches: clay loam
Btk2 - 17 to 30 inches: clay loam
Bk1 - 30 to 38 inches: very gravelly clay
Bk2 - 38 to 44 inches: very gravelly clay
BCk - 44 to 80 inches: extremely cobbly sandy loam

Properties and qualities

Slope: 0 to 2 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Well drained
Capacity of the most limiting layer to transmit water (Ksat): Very low to moderately low (0.00 to 0.07 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Calcium carbonate, maximum content: 50 percent
Gypsum, maximum content: 1 percent
Maximum salinity: Nonsaline to very slightly saline (0.5 to 2.0 mmhos/cm)
Sodium adsorption ratio, maximum: 3.0
Available water supply, 0 to 60 inches: Moderate (about 7.0 inches)

Interpretive groups

Land capability classification (irrigated): 3e
Land capability classification (nonirrigated): 6e
Hydrologic Soil Group: D
Ecological site: R034BY106UT - Desert Loam (Shadscale)
Hydric soil rating: No

Minor Components

Mack

Percent of map unit: 10 percent
Landform: Stream terraces
Landform position (three-dimensional): Tread
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY106UT - Desert Loam (Shadscale)
Hydric soil rating: No

Gyprockmesa

Percent of map unit: 5 percent
Landform: Stream terraces
Landform position (three-dimensional): Tread
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY009UT - Loamy Bottom (Basin Big Sagebrush)
Hydric soil rating: No

790—Briny clay loam, 0 to 3 percent slopes, rarely flooded

Map Unit Setting

National map unit symbol: k2fq
Elevation: 4,500 to 5,800 feet
Mean annual precipitation: 6 to 9 inches
Mean annual air temperature: 50 to 55 degrees F
Frost-free period: 140 to 180 days
Farmland classification: Not prime farmland

Map Unit Composition

Briny, rarely flooded, and similar soils: 90 percent
Minor components: 10 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Briny, Rarely Flooded

Setting

Landform: Drainageways
Down-slope shape: Concave
Across-slope shape: Concave
Parent material: Cretaceous source alluvium derived from shale

Typical profile

Az - 0 to 8 inches: clay loam
Bzg - 8 to 26 inches: silty clay loam
Czg1 - 26 to 42 inches: silty clay
Czg2 - 42 to 60 inches: silty clay loam

Properties and qualities

Slope: 0 to 3 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Poorly drained
Capacity of the most limiting layer to transmit water (Ksat): Very low to moderately low (0.00 to 0.01 in/hr)
Depth to water table: About 6 to 18 inches
Frequency of flooding: NoneRare
Frequency of ponding: None
Calcium carbonate, maximum content: 14 percent
Gypsum, maximum content: 4 percent
Maximum salinity: Strongly saline (30.0 to 50.0 mmhos/cm)
Sodium adsorption ratio, maximum: 100.0
Available water supply, 0 to 60 inches: Very low (about 2.8 inches)

Interpretive groups

Land capability classification (irrigated): 7s
Land capability classification (nonirrigated): 7s
Hydrologic Soil Group: D
Ecological site: R034BY006UT - Alkali Flat (Greasewood)
Hydric soil rating: Yes

Minor Components

Killpack

Percent of map unit: 5 percent
Landform: Strath terraces
Landform position (three-dimensional): Riser
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY117UT - Desert Shallow Clay (Mat Saltbush)
Hydric soil rating: No

Mesa

Percent of map unit: 5 percent
Landform: Drainageways
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY106UT - Desert Loam (Shadscale)
Hydric soil rating: No

795—Waterdog, occasionally flooded-Riverwash complex, 0 to 2 percent slopes

Map Unit Setting

National map unit symbol: k2g2
Elevation: 4,500 to 5,800 feet
Mean annual precipitation: 6 to 9 inches
Mean annual air temperature: 50 to 55 degrees F
Frost-free period: 140 to 180 days
Farmland classification: Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season

Map Unit Composition

Waterdog, occasionally flooded, and similar soils: 50 percent
Riverwash: 30 percent
Minor components: 20 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Waterdog, Occasionally Flooded

Setting

Landform: Flood-plain steps
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Alluvium

Typical profile

A - 0 to 4 inches: loam
Cg1 - 4 to 14 inches: sandy loam
Cg2 - 14 to 22 inches: sandy loam
Cg3 - 22 to 60 inches: very gravelly coarse sand

Properties and qualities

Slope: 0 to 2 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Very poorly drained
Capacity of the most limiting layer to transmit water (Ksat): Moderately high to high (0.71 to 2.13 in/hr)
Depth to water table: About 0 to 7 inches
Frequency of flooding: NoneOccasional
Frequency of ponding: None
Calcium carbonate, maximum content: 14 percent
Maximum salinity: Slightly saline to moderately saline (4.0 to 8.0 mmhos/cm)
Sodium adsorption ratio, maximum: 1.0
Available water supply, 0 to 60 inches: Low (about 3.5 inches)

Interpretive groups

Land capability classification (irrigated): 6w
Land capability classification (nonirrigated): 6w
Hydrologic Soil Group: B/D
Ecological site: R034BY011UT - River Floodplain (Fremont Cottonwood)
Hydric soil rating: Yes

Description of Riverwash

Interpretive groups

Land capability classification (irrigated): 8
Land capability classification (nonirrigated): 8
Hydric soil rating: No

Minor Components

Water

Percent of map unit: 10 percent
Hydric soil rating: Unranked

Briny, rarely flooded

Percent of map unit: 10 percent
Landform: Flood-plain steps
Down-slope shape: Linear
Across-slope shape: Linear
Ecological site: R034BY006UT - Alkali Flat (Greasewood)
Hydric soil rating: Yes

801—Persayo-Badland complex, 25 to 75 percent slopes

Map Unit Setting

National map unit symbol: k2fs
Elevation: 4,500 to 5,800 feet
Mean annual precipitation: 6 to 9 inches
Mean annual air temperature: 50 to 55 degrees F

Frost-free period: 140 to 180 days
Farmland classification: Not prime farmland

Map Unit Composition

Persayo and similar soils: 60 percent
Badland: 30 percent
Minor components: 10 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Persayo

Setting

Landform: Pediments
Down-slope shape: Convex
Across-slope shape: Convex
Parent material: Cretaceous source colluvium over residuum weathered from shale

Typical profile

A - 0 to 4 inches: loam
C1 - 4 to 13 inches: silty clay loam
C2 - 13 to 16 inches: silty clay loam
Cr - 16 to 59 inches: bedrock

Properties and qualities

Slope: 25 to 75 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Well drained
Capacity of the most limiting layer to transmit water (Ksat): Low to moderately high (0.00 to 0.28 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Calcium carbonate, maximum content: 10 percent
Gypsum, maximum content: 4 percent
Maximum salinity: Slightly saline to moderately saline (4.0 to 8.0 mmhos/cm)
Sodium adsorption ratio, maximum: 8.0
Available water supply, 0 to 60 inches: Very low (about 2.5 inches)

Interpretive groups

Land capability classification (irrigated): 8
Land capability classification (nonirrigated): 8
Hydrologic Soil Group: D
Ecological site: R034BY109UT - Desert Loamy Clay (Shadscale)
Hydric soil rating: No

Description of Badland

Interpretive groups

Land capability classification (irrigated): 8
Land capability classification (nonirrigated): 8
Hydric soil rating: No

Minor Components

Rock outcrop

Percent of map unit: 5 percent

Hydric soil rating: No

Briny, rarely flooded

Percent of map unit: 5 percent
Landform: Drainageways
Down-slope shape: Linear
Across-slope shape: Concave
Ecological site: R034BY006UT - Alkali Flat (Greasewood)
Hydric soil rating: Yes

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EXHIBIT J VEGETATION INFORMATION

1. Existing Vegetation Community

The native vegetation at the Delta Paving Gravel Pit is mostly limited to the area within 100 feet or so of the Gunnison River in the north of the site. This area consists of mature cottonwoods and willows with shrubby midstory dominated by tamarisks. The understory is predominantly made up of saltgrass and dry, sparse shrublands.

The majority of the existing permit area is disturbed ground with little to no vegetation aside from dispersed mature cottonwood galleries and reclaimed areas with typical rangeland vegetation from the reclamation seed mixture. The majority of the new mining areas added in this amendment are irrigated hay fields with no native vegetation.



Figure J-1 Typical vegetation found in the north of the site

2. Estimated Carrying Capacity

The final use for the site will be groundwaters lakes with surrounding rangeland. Since the lakes make up the vast majority of the site area, the rangeland is not anticipated to be used for grazing.

EXHIBIT K CLIMATE INFORMATION

The Delta Paving Gravel Pit is located 3 miles northeast of Delta, Colorado at an elevation of approximately 4980 feet. The area is classified as Tropical and subtropical steppe climate (BSk) under the Koppen Climate Classification system. This climate classification is associated with cooler, wetter winters and no significant precipitation difference between seasons. Table K-1 shows a summary of the climate for this area based on records from 1893-2001.

Table K-1 Climate Data of Delta, Colorado, approximately 1.5 miles southwest of the Delta Paving Gravel Pit

	Average Temperature (F)		Average Precipitation (in)	
	Maximum	**Minimum**	**Total precip.**	**Total snow**
January	38.7	12.2	0.48	4.6
February	47.0	19.0	0.43	2.7
March	57.4	26.1	0.56	2.0
April	67.6	33.8	0.61	0.5
May	77.5	41.9	0.75	0.0
June	87.9	48.5	0.48	0.0
July	93.1	54.8	0.72	0.0
August	90.1	53.1	1.12	0.0
September	82.4	44.1	0.94	0.0
October	69.9	33.4	0.93	0.2
November	53.4	22.8	0.53	1.5
December	40.6	14.6	0.44	3.7
Yearly (avg)	**67.1**	**33.7**	**8.01(0.67)**	**15.2(1.3)**

EXHIBIT L RECLAMATION COSTS

The Delta Paving Gravel Pit will have a bond to cover the worst-case reclamation scenario. Prior to opening Phase 1 to mining, the operator/applicant will post the necessary bond. The worst-case reclamation scenario will occur when Phase 1 of mining is nearly complete as it is the largest of the four pits. The remaining pits will be undisturbed at this point. Reclamation at this stage will include backfilling and grading the mining slopes. All disturbed areas will be topsoiled and vegetated. The pit will require dewatering to complete reclamation. All structures will need to be removed from the site. A detailed breakdown of the reclamation cost is shown in Table L-1.

Table L-1 Phase 2

Description	Material Quantity	Unit	Unit Cost	Cost
Removal of office, scale house, and scale	N/A	N/A	$1000	$1,000
Pit dewatering for a 22.6 acre lake 13 feet deep.	294	Acre-ft	$105	$30,870
Highwall backfilling from mining to final condition. 162 SQ. FT. over 4500 FT.	27,000	CY	$1.50	$40,500
Topsoiling to 5 inches deep the disturbed area of 22 acres total (both pit slopes and disturbed area outside of the pits).	14,800	CY	$1.50	$22,200
Discing of topsoil to a depth of 5 inches over 22 acres.	22	acres	$105	$2,310
Seeding of 22 acre disturbance area	22	acres	$400	$8,800
Mulching and crimping of mulch over 22 acre disturbance area	22	acres	$850	$18,700
Weed control management for two years.	N/A	N/A	$750	$750
Subtotal				$125,130
DRMS cost (28%)				$35,036
Total				**$160,166**

EXHIBIT M OTHER PERMITS REQUIRED

The following permits are necessary for the full operation of the Delta Paving Gravel Pit:

1. Delta County Conditional Use Permit
2. Colorado Air Pollution Control Division Fugitive Dust Permit and Air Pollution Emission Notice (APEN)
3. Water Quality Control Commission Discharge Permit
4. Colorado Division of Water Resources - Gravel Well Permit
    - Substitute Water Supply Plan
    - Augmentation Plan

EXHIBIT N RIGHT OF ENTRY

The surface and mineral owner of the property to be mined is Richard M. Frazier and Betsey A. Frazier Revocable Trust and Grand Junction Pipe Co. A copy of the lease with Kilgore Companies dba Elam Construction (the applicant) is attached to this exhibit as a right of entry.

(Refer to the Legal Access in Delta County Special Use Permit)

EXHIBIT O OWNERS OF AFFECTED LAND AND MINERAL TO BE MINED

The owner(s) of record of affected land (surface area) and owners of substance to be mined is Richard M. Frazier and Betsey A. Frazier Revocable Trust and Grand Junction Pipe Co.

EXHIBIT P MUNICIPALITIES WITHIN TWO MILES

The Delta Paving Gravel Pit is located within 350 feet to the south of Orchard City, Colorado, a statutory town in Delta County and approximately 1.3 miles to the northeast of Delta, Colorado, a home rule municipality of Delta County.

Town of Orchard City

9661 2100 Road

Austin, CO 81410

City of Delta

360 Main Street

Delta, CO 81416

EXHIBIT Q PROOF OF MAILING OF NOTICES TO THE BOARD OF COUNTY COMMISSIONERS AND SOIL CONSERVATION DISTRICT

Notices were filed with the Delta County Board of Commissioners and the Delta Conservation District in support of this permit application.

Board of County Commissioners

560 Dodge Street, Delta

Delta, Colorado 81416

Delta County Conservation District

690 Industrial Blvd.

Delta, Colorado 81416

EXHIBIT R PROOF OF FILING WITH COUNTY CLERK

A return receipt from the Delta County Clerk & Recorder is attached.

Delta County

Clerk and Recorder

501 Palmer Street, Suite 211

Delta, CO 81416

Lewicki & Associates
ENGINEERING | GEOLOGY | ENVIRONMENTAL

April 22, 2022

Delta County Clerk and Recorder
501 Palmer Street, Suite 211
Delta, CO 81416
(970) 874-5903

Dear Delta County Clerk:

Enclosed is a notice for an application to the Colorado Division of Reclamation, Mining, and Safety for a 112c construction materials permit application for the Delta Paving Sand and Gravel Pit. The applicant is Elam Construction, Inc. The Colorado Division of Reclamation, Mining, and Safety requires evidence that the application has been filed with your office. Please sign and date below certifying that the application has been filed. Return this page to the email address provided below.

The application was received on the following date:

Date: April 25, 2022

Recipient: Amanda B Deputy @ Delta County Clerk & Recorder

Regards,

Ben Langenfeld, P.E.
Lewicki & Associates, PLLC
benl@lewicki.biz
(720) 842-531, ex. 1

EXHIBIT S PERMANENT MAN-MADE STRUCTURES

The following is a list of man-made structures within 200 feet of the affected area. All of these structures are shown on Map C-1. Landowner boundaries can also be found on Map C-1. Proof of delivery of structure agreements is attached to this exhibit. In the event that a structure agreement is unobtainable, we will defer to the Geotechnical Stability Exhibit which indicates that all structures will be protected.

Table S-1. Permanent Structures within 200' of the Affected Area

Owner	Structures	General Location
Delta-Montrose Electric Association PO Box 910 Montrose, CO 81402	Overhead Powerlines and Poles	Along Co-65 to the west and onto the northwest corner of the permit area From the south to north traversing the center of the permit area
Colorado Dept of Transportation 2829 W. Howard Pl. Denver, CO 80204	Colorado State Highway 65; Fences; Dirt Road	West
Relief Ditch Company 21505 H75 Road Delta, CO 81416	Relief Ditch; Associated Structures & Culverts	Transverses center of permit area north to south
No Recorded Owner Found by the Applicant	Broad Ax Ditch; Culverts	Transverses northeast area of permit area
Lance, Ethan S 7864 Highway 65 Delta, CO 81416	Driveway; Portable & Permanent Man-made Structures	South
Frazier, Richard M & Frazier, Betsy A 20687 Pearl Court Delta, CO 81416	Feed Lots & Associated Structures	East
Grand Headwaters, LLC 329 Pearl Street, Suite 300 Boulder, CO 80302	Driveway; Portable Structure	West
Dunn, Brian R PO Box 194 Austin, CO 81410	Driveway	West

RULE 1.6.2(1)(B)

Prior to the submittal of the application, a sign was erected at the entrance to the site that contains the required information dictated by Rule 1.6.2(1)(b).

Please see attached sign certification.

NOTICE

THIS SITE IS THE LOCATION OF A PROPOSED CONSTRUCTION MATERIALS OPERATION. ELAM CONSTRUCTION, INC., WHOSE ADDRESS AND PHONE NUMBER ARE 556 STRUTHERS AVENUE, GRAND JUNCTION, CO 81501-3826 AND (970) 242-5370, HAS APPLIED FOR A RECLAMATION PERMIT WITH THE COLORADO MINED LAND RECLAMATION BOARD.

ANYONE WISHING TO COMMENT ON THE APPLICATION MAY VIEW THE APPLICATION AT THE DELTA COUNTY CLERK AND RECORDER'S OFFICE AT 501 PALMER STREET, SUITE 211 DELTA, CO 81416 AND SHOULD SEND COMMENTS PRIOR TO THE END OF THE PUBLIC COMMENT PERIOD TO THE DIVISION OF RECLAMATION, MINING, AND SAFETY, 1313 SHERMAN ST, ROOM 215, DENVER, COLORADO 80203.

Certification:

I, Jim Doody, hereby certify that I posted a sign containing the above notice for the proposed permit area known as the Delta Paving Sand and Gravel Pit, on 4/15/2022

SIGNATURE	4/15/2022 DATE

GEOTECHNICAL STABILITY EXHIBIT

There are no buildings or any structures outside the permit area which could be affected by the excavation. Sufficient buffers will be maintained to neighboring property lines.

From Table 2.5 in the SME Mining Reference Handbook, the backfill is best classified as sand and gravel, mixed grain size. This material has an internal angle of friction of approximately 45 degrees and no cohesion.

The Factor of Safety (FOS) for sand and gravel with a (3H:1V) 18.4 degree slope in loose sand material with an assumed internal angle of friction of 45 degrees can be approximated by evaluating the internal angle of friction as follows:

$$FOS = \frac{\text{Tangent of Internal Angle of Friction}}{\text{Tangent of Actual Angle of Failure Surface}}$$

$$FOS = \frac{\text{Tan } 45^\circ}{\text{Tan } 18.4^\circ} = \frac{1.0}{0.3326} = 3.0$$

The minimum safety factor in the permanent case is 1.5, therefore the 3H:1V slopes will be safe as the final condition.

Appendix 2 – Spill Prevention, Control, and Countermeasure Plan (SPCC)

Elam Construction

SPCC Plan – Delta Paving Gravel Pit

March 2022

Prepared by:



Lewicki & Associates

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INTRODUCTION

Purpose

The purpose of this Spill Prevention, Control, and Countermeasure (SPCC) Plan is to describe measures implemented by Elam Construction to prevent oil discharges from occurring, and to prepare Elam Construction to respond in a safe, effective, and timely manner to mitigate the impacts of a discharge.

This Plan has been prepared to meet the requirements of Title 40, *Code of Federal Regulations,* Part 112 (40 CFR part 112).

In addition to fulfilling requirements of 40 CFR part 112, this SPCC Plan is used as a reference for oil storage information and testing records, as a tool to communicate practices on preventing and responding to discharges with employees, as a guide to facility inspections, and as a resource during emergency response.

The Elam Construction management has determined that this facility does not pose a risk of substantial harm under 40 CFR part 112, as recorded in the "Substantial Harm Determination" included in this Plan.

This Plan provides guidance on key actions that Elam Construction must perform to comply with the SPCC rule:

Complete monthly and annual site inspections as outlined in the Inspection, Tests, and Records section of this Plan (Section 3.7) using the inspection checklists.

- Perform preventive maintenance of equipment, secondary containment systems, and discharge prevention systems described in this Plan as needed to keep them in proper operating conditions.
- Conduct annual employee training as outlined in the Personnel, Training, and Spill Prevention Procedures section of this Plan (Section 3.8) and document them on the log.
- If either of the following occurs, submit the SPCC Plan to the EPA Region 8 Regional Administrator (RA) and the Colorado Department of Public Health and Environment (CDPHE), along with other information as detailed in Section 5 of this Plan:
- The facility discharges more than 1,000 gallons of oil into or upon the navigable waters of the U.S. or adjoining shorelines in a single spill event; or
- The facility discharges oil in quantity greater than 42 gallons in each of two spill events within any 12-month period.
- Review the SPCC Plan at least once every five (5) years and amend it to include more effective prevention and control technology, if such technology will significantly reduce

the likelihood of a spill event and has been proven effective in the field at the time of the review. Plan amendments, other than administrative changes discussed above, must be recertified by a Professional Engineer on the certification page in Section 1.2 of this Plan.

- Amend the SPCC Plan within 10 days whenever where is a change in facility design, construction, operation, or maintenance that materially affects the facility's spill potential. The revised Plan must be recertified by a Professional Engineer (PE).

Review the Plan on an annual basis. Update the Plan to reflect any "administrative changes" that are applicable, such as personnel changes or revisions to contact information, such as phone numbers. Administrative changes must be documented in the Plan review log, but do not have to be certified by a PE.

PART 1: PLAN ADMINISTRATION

1.1 Management Approval and Designated Person (40 CFR 112.7)

Elam Construction is committed to preventing discharges of oil to navigable waters and the environment, and to maintaining the highest standards for spill prevention control and countermeasures through the implementation and regular review and amendment to the Plan. This SPCC Plan has the full approval of the Elam Construction management. Elam Construction has committed the necessary resources to implement the measures described in this Plan.

The Facility Manager is the Designated Person Accountable for Oil Spill Prevention at the facility and has the authority to commit the necessary resources to implement this Plan.

Authorized Facility Representative (facility response coordinator): _____

Signature: _____

Title: _____

Date: _____

1.2 Professional Engineer Certification (40 CFR 112.3(d))

The undersigned Registered Professional Engineer is familiar with the requirements of Part 112 of Title 40 of the *Code of Federal Regulations* (40 CFR part 112) and has visited and examined the facility, or has supervised examination of the facility by appropriately qualified personnel. The undersigned Registered Professional Engineer attests that this Spill Prevention, Control, and Countermeasure Plan has been prepared in accordance with good engineering practice, including consideration of applicable industry standards and the requirements of 40 CFR part 112; that procedures for required inspections and testing have been established; and that this Plan is adequate for the facility. [40 CFR 112.3(d)]

This certification in no way relieves the owner or operator of the facility of his/her duty to prepare and fully implement this SPCC Plan in accordance with the requirements of 40 CFR part 112. This Plan is valid only to the extent that the facility owner or operator maintains, tests, and inspects equipment, containment, and other devices as prescribed in this Plan.

1.2.1 Required Improvements

The Professional Engineer's certification of this plan is contingent on the following facility improvements being implemented for compliance with SPCC regulations 40 CFR 112:

1) **All stored lubricants and solvents must be in spill containment.**
2) **A diesel tank should be located adjacent to each diesel tank on site.**

Name: _____

State and Registration #: _____

1.3 Location of SPCC Plan (40 CFR 112.3(e))

In accordance with 40 CFR 112.3(e)(2), a complete copy of this SPCC Plan is maintained at the Delta Paving site in Delta, CO of Delta County.

1.4 Plan Review (40 CFR 112.3 and 112.5)

1.4.1 Changes in Facility Configuration

In accordance with 40 CFR 112.5(a), Elam Construction will periodically review and evaluate this SPCC Plan for any change in the facility design, construction, operation, or maintenance that materially affects the facility's potential for an oil discharge, including, but not limited to:

- commissioning of containers;
- reconstruction, replacement, or installation of piping systems;
- construction or demolition that might alter secondary containment structures; or
- changes of product or service, revisions to standard operation, modification of testing/inspection procedures, and use of new or modified industry standards or maintenance procedures.

Amendments to the Plan made to address changes of this nature are referred to as technical amendments, and must be certified by a PE. Non-technical amendments can be done (and must be documented in this section) by the facility owner and/or operator. Non-technical amendments include the following:

- change in the name or contact information (i.e., telephone numbers) of individuals responsible for the implementation of this Plan; or
- change in the name or contact information of spill response or cleanup contractors.

Elam Construction must make the needed revisions to the SPCC Plan as soon as possible, but no later than six months after the change occurs. The Plan must be implemented as soon as possible following any technical amendment, but *no later than six months* from the date of the amendment. The Facility Manager is responsible for initiating and coordinating revisions to the SPCC Plan.

1.4.2 Scheduled Plan Reviews

In accordance with 40 CFR 112.5(b) and the Delta County Land Use Code, Elam Construction reviews this SPCC Plan at least once every five years. Revisions to the Plan, if needed, are made within six months of the five-year review. A registered Professional Engineer certifies any technical amendment to the Plan, as described above, in accordance with 40 CFR 112.3(d). This Plan is dated March 23, 2022. The next plan review is therefore scheduled to take place on or prior to March 25, 2027.

1.4.3 Record of Plan Reviews

Scheduled reviews and Plan amendments are recorded in the Plan Review Log. This log must be completed even if no amendment is made to the Plan as a result of the review. Unless a technical or administrative change prompts an earlier review of the Plan, the next scheduled review of this Plan must occur by March 23, 2027.

1.5 Facilities, Procedures, Methods, or Equipment Not Yet Fully Operational (40 CFR 112.7)

Bulk storage containers at this facility have never been tested for integrity since their installation. Section 4.2.6 of this Plan describes the inspection program to be implemented by the facility following a regular schedule, including the dates by which each of the bulk storage containers must be tested.

1.6 Cross-Reference with SPCC Provisions (40 CFR 112.7)

This SPCC Plan does not follow the exact order presented in 40 CFR part 112. Section headings identify, where appropriate, the relevant section(s) of the SPCC rule. Table 1-2 presents a cross-reference of Plan sections relative to applicable parts of 40 CFR part 112.

Table 1-1: Plan Review Log

By	Date	Activity	PE certification required?	Comments

Table 1-2: SPCC Plan Cross-Reference with CFR

Provision	Plan Section	Page
112.3(d)	Professional Engineer Certification	4
112.3(c)	Location of SPCC Plan	5
112.5	Plan Review	5
112.7	Management Approval	3
112.7	Cross-Reference with SPCC Rule	8
112.7(a)(3)	Site Plan and Facility Diagram	12 and Appendix A
112.7(a)(4)	Spill/Discharge Notification	40
112.7(a)(5)	Part 5: Discharge Response	34
112.7(b)	3.4 Potential Discharge Volumes and Direction of Flow	12
112.7(c)	3.5 Containment and Diversionary Structures	14
112.7(d)	3.6 Practicability of Secondary Containment	14
112.7(e)	3.7 Inspections, Tests, and Records	14
112.7(f)	3.8 Personnel, Training and Discharge Prevention Procedures	21
112.7(g)	3.9 Security	23
112.7(h)	3.10 Tank Truck Loading/Unloading	23
112.7(i)	3.11 Brittle Fracture Evaluation	25
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112.8(c)(1)	4.2.1 Construction	28
112.8(c)(2)	4.2.2 Secondary Containment	28
112.8(c)(3)	4.2.3 Drainage of Diked Areas	28
112.8(c)(4)	4.2.4 Corrosion Protection	28
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112.8(c)(8)	4.2.8 Overfill Prevention System	32
112.8(c)(10)	4.2.10 Visible Discharges	32
112.8(c)(11)	4.2.11 Mobile and Portable Containers	32
112.8(d)	4.3 Transfer Operations, Pumping and In-Plant Processes	32
112.20(e)	Certification of Substantial Harm Determination	42

PART 2: GENERAL FACILITY INFORMATION

Name:	Elam Construction – Delta Paving Gravel Pit
Address:	8020 Highway 65 Delta, CO 81416
Type:	Construction Materials Mining and Processing Facility
Date of Initial Operations:	1999
Owner/Operator:	James Doody Elam Construction 556 Struthers Ave Grand Junction, Colorado 81501 Work: (970) 255 – 2098 Cell: (970) 712 – 6634
Primary contact:	Jon Mueller 556 Struthers Ave Grand Junction, Colorado 81501 Work: (970) 242 – 5370 Cell: (970) 261 – 5782

2.1 Facility Description (40 CFR 112.7(a)(3))

2.1.1 Location and Activities

The Delta Paving Gravel Pit is located directly south of Orchard City and approximately 3 miles northeast of the city center of Delta, Colorado in Delta County. It is aggregate quarry that extracts sand and gravel to produce asphalt, concrete, and other construction materials on site. All construction materials produced on site are sold and shipped offsite. Oil storage consists of diesel fuel for the plants and onsite off-highway equipment. Small quantities of oil and grease are also stored on site for equipment maintenance purposes.

2.1.2 Oil and Fuel Storage

The capacities of oil containers present at the site are listed below and are also indicated on the facility diagram in the facility layout. All containers with a capacity of 55 gallons or more are included.

Table 2-1: Oil Containers

ID	Content	Size	Location	Secondary Containment
DB 1	Diesel	500 gallons	North of Processing Area	Double walled
DB 2	Diesel	500 gallons	North of Processing Area	Double walled

Other Containers:

1. Various other tanks associated with mobile equipment used for the sole purpose of motive power. These tanks are not regulated under the SPCC rule. See **40 CFR 112.1(d)(2)(ii)(B)**

2.2 Evaluation of Discharge Potential

2.2.1 Distance to Navigable Waters and Adjoining Shorelines and Flow Paths

The nearest navigable water is the Gunnison River, which is directly north of the site. Stormwater discharged are contained onsite and collected in the active mining pit before being discharged offsite via an existing drainage that leads to the Gunnison River.

2.2.2 Discharge History

Table 2-1 summarizes the facility's discharge history. No known discharges have occurred as of March 23, 2022.

Table 2-2: Oil Discharge History

Description of Discharge	Corrective Actions Taken	Plan for Preventing Recurrence
No Discharges		

PART 3: DISCHARGE PREVENTION - GENERAL SPCC PROVISIONS

The following measures are implemented to prevent oil discharges during the handling, use, or transfer of oil products at the facility. Oil-handling employees have received training in the proper implementation of these measures.

3.1 Compliance with Applicable Requirements (40 CFR 112.7(a)(2))

Diesel tanks (DB1 and DB2) have double walls with leak detection equipment. All other chemical tanks are stored within a building where leaks can be visually inspected at any time.

3.2 Facility Layout Diagram (40 CFR 112.7(a)(3))

The Facility Layout, located in Appendix A, presents a layout of the facility and the location of storage tanks and drums. As required under 40 CFR 112.7(a)(3), the facility diagram indicates the location and content of any ASTs.

3.3 Spill Reporting (40 CFR 112.7(a)(4))

The discharge notification form will be completed upon detection of a discharge by the Environmental Manager and prior to reporting a spill to the proper notification contacts.

3.4 Potential Discharge Volumes and Direction of Flow (40 CFR 112.7(b))

Table 3-1 presents expected volume, discharge rate, general direction of flow in the event of equipment failure and means of secondary containment for different parts of the facility where oil is stored, used, or handled. The Facility Layout shows the tank locations in plan view.

Table 3-1: Potential Discharge Volumes and Direction of Flow

Potential Event	Maximum volume released (gallons)	Maximum discharge rate	Direction of Flow	Secondary Containment
Failure of aboveground tank (collapse or puncture below product level)	2,000	Gradual to instantaneous	South	Double walled tank
Tank overfill	1 to 120	60 gal/min	Varies	None; Land-based spill response capability (spill kit)
Pipe failure	100	50 gal/min	Varies	None; Land-based spill response capability (spill kit)
Leaking pipe or valve packing	100	1 gal/min	Varies	None; Land-based spill response capability (spill kit)
Diesel dispenser hose/ connections leak	1 to 150	30 gal/minute	Varies	None; Land-based spill response capability (spill kit)
Transfer Overflow Failure	1 to 10,000	30 gal/min	Varies	None, Land-based spill response capability (spill kit)
Leak or failure of drum	1 to 55	Gradual to instantaneous	Varies	Storage building walls

3.5 Containment and Diversionary Structures (40 CFR 112.7(c))

Methods of secondary containment at this facility include a combination of structures (e.g., concrete berm, building walls) and land-based spill response (e.g., sorbents) to prevent oil from reaching the nearest drainage. The capacities of the containment are shown in Table 2-1.

- For bulk storage container (refer to Section 4.2.2 of this Plan):
    - Diesel tank DB1
    - Diesel tank DB2
- In transfer areas and other parts of the facility where a discharge could occur:
    - **Drip pans.** Fill ports for all ASTs are equipped with drip pans to contain small leaks from the piping/hose connections.
    - **Sorbent material.** a Spill cleanup kit of at least 90 gallons or more that include absorbent material, booms, and other portable barriers are located in the Storage Building as shown on the Facility Layout. The spill kit is located within proximity of the chemical storage and handling areas for rapid deployment should a spill occur.

3.6 Practicability of Secondary Containment (40 CFR 112.7(d))

The Elam Construction management has determined that secondary containment is practicable at this facility.

3.7 Inspections, Tests, and Records (40 CFR 112.7(e))

As required by the SPCC rules, Elam Construction performs the inspections, tests, and evaluations listed in the following Table 3-2. The table summarizes the various types of inspections and tests performed at the facility. The inspections and tests are described later in this section, and in the respective sections that describe different parts of the facility (e.g., Section 4.2.6 for bulk storage containers).

Table 3-2: Inspection and Testing Program

Facility Component	Action	Frequency/Circumstances
Aboveground container with all sides visible	Test container integrity by conducting visual inspection. Inspect outside of container for signs of deterioration and discharges.	Following a regular schedule (monthly, annual, and during scheduled inspections) and whenever material repairs are made.
Container supports and foundation	Inspect container's supports and foundations.	Following a regular schedule (monthly, annual, and during scheduled inspections) and whenever material repairs are made.
Liquid level sensing devices (overfill)	Test for proper operation.	Monthly
Diked area, lined berms and site berms	Inspect for signs of deterioration, discharges, or accumulation of oil inside diked areas. Visually inspect content for presence of oil.	Monthly; after large storm events Prior to draining
All aboveground valves, piping, and appurtenances	Assess general condition of items, such as flange joints, expansion joints, valve glands and bodies, catch pans, pipeline supports, locking of valves, and metal surfaces.	Monthly
Buried piping	Inspect for deterioration. Integrity and leak testing.	Whenever a section of buried line is exposed for any reason. At the time of installation, modification, construction, relocation, or replacement.

Note: If any above ground container is added to the site at a later date, where all sides are not visible, alternative testing requirements will be needed and the plan will need to be modified.

3.7.1 Daily Inspection

A Elam Construction employee performs a complete walk-through of the facility each day during normal operation. This daily visual inspection involves: looking for tank/piping damage or leakage, stained or discolored soils, or excessive accumulation of water in the containment. All types of secondary containment should be visually checked for damage.

3.7.2 Monthly Inspection

The checklist provided is used for monthly inspections by Elam Construction personnel. The monthly inspections cover the following key elements:

- Observing the exterior of aboveground storage tanks, pipes, and other equipment for signs of deterioration, leaks, corrosion, and thinning.
- Observing the exterior of portable containers for signs of deterioration or leaks.
- Observing tank foundations and supports for signs of instability or excessive settlement.
- Observing the tank fill and discharge pipes for signs of poor connection that could cause a discharge, and tank vent for obstructions and proper operation.
- Verifying the proper functioning of overfill prevention systems.
- Checking the inventory of discharge response equipment and restocking as needed.
- Check all types of secondary containment on site for damage.

All problems regarding tanks, piping, containment, or response equipment must immediately be reported to the Facility Manager. Visible oil leaks from tank walls, piping, or other components must be repaired as soon as possible to prevent a larger spill or a discharge to navigable waters or adjoining shorelines. Pooled oil is removed immediately upon discovery. The Monthly Inspection Checklist is included in this section and the inspection will be conducted during normal operation of the site.

Written monthly inspection records are signed by the Facility Manager and maintained with this SPCC Plan for a period of five years.

Monthly Inspection Checklist

This inspection record must be completed *each month* except the month in which an annual inspection is performed or during normal site closure. Provide further description and comments, if necessary, on a separate sheet of paper and attach to this sheet. *Any item that receives “yes” as an answer must be described and addressed immediately.

Monthly Inspection Checklist

	Y*	N	Description & Comments
Storage tanks			
Tank surfaces show signs of leakage			
Tanks are damaged, rusted or deteriorated			
Tank supports are deteriorated or buckled			
Tank foundations have eroded or settled			
Level gauges or alarms are inoperative			
Vents are obstructed			
Precipitation present in secondary containment			
Secondary containment is damaged or stained			
Site berms are Damaged			
Piping			
Valve seals, gaskets, or other appurtenances are leaking			
Pipelines or supports are damaged or deteriorated			
Joints, valves and other appurtenances are leaking			
Buried piping is exposed			
Loading/unloading and transfer equipment			
Connections are not capped or blank-flanged			
Security			
Fencing, gates, or lighting is non-functional			
Pumps and valves are locked if not in use			
Response Equipment			
Response equipment inventory is complete			

Date: _____ Signature: _____

3.7.3 Annual Inspection

Facility personnel perform a more thorough inspection of facility equipment on an annual basis. This annual inspection complements the monthly inspection described above and is performed in March of each year using the checklist provided. The Annual Inspection Checklist is included in this section.

The annual inspection is preferably performed after a large storm event to verify the imperviousness and/or proper functioning of drainage control systems such as the site berms, concrete containment, lined berms and control valves.

Written annual inspection records are signed by the Facility Manager and maintained with this SPCC Plan for a period of five years.

Annual Inspection Checklist

This inspection record must be completed *each year*. Provide further description and comments, if necessary, on a separate sheet of paper and attach to this sheet. *Any item that receives "yes" as an answer must be described and addressed immediately.

Annual Inspection Checklist

	Y*	N	Description & Comments
Storage tanks			
Tank surfaces show signs of leakage			
Tanks are damaged, rusted or deteriorated			
Tank supports are deteriorated or buckled			
Tank foundations have eroded or settled			
Level gauges or alarms are inoperative			
Vents are obstructed			
Precipitation present in secondary containment			
Secondary containment is damaged or stained			
Piping			
Valve seals, gaskets, or other appurtenances are leaking			
Pipelines or supports are damaged or deteriorated			
Joints, valves and other appurtenances are leaking			
Buried piping is exposed			
Loading/unloading and transfer equipment			
Connections are not capped or blank-flanged			
Secondary Containment			
Site berm is not preventing discharge			
Concrete Bunker is damaged or stained			
Security			
Fencing, gates, or lighting is non-functional			
Pumps and valves are locked if not in use			

	Y*	N	Description & Comments
Response Equipment			
Response equipment inventory is complete			

Date: _____ Yr: _____ Signature: _____

Annual reminders:

- Hold SPCC Briefing for all oil-handling personnel (and update briefing log in the Plan);
- Check contact information for key employees and response/cleanup contractors and update them in the Plan as needed;
- Conduct changes to this SPCC, as needed.

3.7.4 Periodic Integrity Testing

In addition to the above monthly and annual inspections by facility personnel, Tank integrity is verified with the leak detection system.

3.8 Personnel, Training, and Discharge Prevention Procedures (40 CFR 112.7(f))

The Facility Manager is the facility designee and is responsible for oil discharge prevention, control, and response preparedness activities at this facility.

The Elam Construction management has instructed oil-handling facility personnel in the operation and maintenance of oil pollution prevention equipment, discharge procedure protocols, applicable pollution control laws, rules and regulations, general facility operations, and the content of this SPCC Plan. Any new facility personnel with oil-handling responsibilities are provided with this same training prior to being involved in any oil operation.

Annual discharge prevention briefings are held by the Facility Manager for all facility personnel involved in oil operations. The briefings are aimed at ensuring continued understanding and adherence to the discharge prevention procedures presented in the SPCC Plan. The briefings also highlight and describe known discharge events or failures, malfunctioning components, and recently implemented precautionary measures and best practices. Facility operators and other personnel will have the opportunity during the briefings to share recommendations concerning health, safety, and environmental issues encountered during facility operations.

Records of the briefings and discharge prevention training are kept on the Training Form and maintained with this SPCC Plan for a period of five years.

Record of Annual Discharge Prevention Training Form

Briefings will be scheduled and conducted by the facility owner or operator for operating personnel at regular intervals to ensure adequate understanding of this SPCC Plan. The briefings will also highlight and describe known discharge events or failures, malfunctioning components, and recently implemented precautionary measures and best practices. Personnel will also be instructed in operation and maintenance of equipment to prevent the discharge of oil, and in applicable pollution laws, rules, and regulations. Facility operators and other personnel will have an opportunity during the briefings to share recommendations concerning health, safety, and environmental issues encountered during facility operations.

Briefings and Training

Date	Subjects Covered	Employees in Attendance	Instructor(s)

3.9 Security (40 CFR 112.7(g))

The site has locked access gates during non-hours of operation. Security cameras may be in use at the entrance to the site.

3.10 Tank Truck Loading/Unloading Rack Requirements (40 CFR 112.7(h))

The potential for discharges during tank truck loading and unloading operations is addressed at each facility using site berms. The Elam Construction management is committed to ensuring the safe transfer of material to and from storage tanks. The following measures are implemented to prevent oil discharges during tank truck loading and unloading operations.

3.10.1 Secondary Containment (40 CFR 112.7(h)(1))

All drums and tanks have secondary containment. The containment consists of structures directly around the tanks and the site berm which is the end of the flow path. The plant has sufficient capacity to collect all tank capacity plus precipitation. All loading areas have drip pans to be used during the disconnection of transfer hoses.

3.10.2 Loading/Unloading Procedures (40 CFR 112.7(h)(2) and (3))

All suppliers must meet the minimum requirements and regulations for tank truck loading/unloading established by the U.S. Department of Transportation. Elam Construction ensures that the vendor understands the site layout, knows the protocol for entering the facility and unloading product, and has the necessary equipment to respond to a discharge from the vehicle or fuel delivery hose.

The Facility Manager or their designee supervises oil deliveries for all new suppliers, and periodically observes deliveries for existing, approved suppliers.

Vehicle filling operations are performed by facility personnel trained in proper discharge prevention procedures. The truck driver or facility personnel remain with the vehicle at all times while fuel is being transferred. Transfer operations are performed according to the minimum procedures outlined in Table 3-3. This table is also posted next to the loading/unloading point.

Table 3-3: Fuel Transfer Procedures

Stage	Tasks
Prior to loading/ unloading	☐ Visually check all hoses for leaks and wet spots. ☐ Verify that sufficient volume (ullage) is available in the storage tank or truck. ☐ Secure the tank vehicle with wheel chocks and interlocks. ☐ Ensure that the vehicle's parking brakes are set. ☐ Verify proper alignment of valves and proper functioning of the pumping system.
During loading/ unloading	☐ Driver must stay with the vehicle at all times during loading/unloading activities. ☐ Periodically inspect all systems, hoses and connections. ☐ When loading, keep internal and external valves on the receiving tank open along with the pressure relief valves. ☐ When making a connection, shut off the vehicle engine. When transferring Class 3 materials, shut off the vehicle engine unless it is used to operate a pump. ☐ Monitor the liquid level in the receiving tank to prevent overflow. ☐ Monitor flow meters to determine rate of flow. ☐ When topping off the tank, reduce flow rate to prevent overflow.
After loading/ unloading	☐ Make sure the transfer operation is completed. ☐ Close all tank and loading valves before disconnecting. ☐ Securely close all vehicle internal, external, and dome cover valves before disconnecting. ☐ Make sure the hoses are drained to remove the remaining oil before moving them away from the connection. Use a drip pan. ☐ Cap the end of the hose and other connecting devices before moving them to prevent uncontrolled leakage.

3.11 Brittle Fracture Evaluation (40 CFR 112.7(i))

There are no field constructed tanks on site.

3.12 Conformance with State and Local Applicable Requirements (40 CFR 112.7(j))

All bulk storage tanks at this facility are registered with the state and local authorities if required and have current certificates of registration and special use permits required by the local fire code. All above ground tanks are strictly for the concrete processing operation. No off-site trucks are loaded from these tanks. For this reason, the above ground tanks do not fall under the rules of the Colorado Division of Oil and Public Safety.

PART 4: DISCHARGE PREVENTION – SPCC Provisions for Onshore Facilities (Excluding Production Facilities)

4.1 Facility Drainage (40 CFR 112.8(b))

All secondary containment structures do not drain offsite. The facility drainage paths are outlined on the Facility Plan.

Record of Containment Stormwater Pumping

This record must be completed when rainwater from containment areas is pumped out of the containment. Discharge of water which is free of an oil sheen, can be to the sediment settling pond or onsite in a high infiltration area. Any contaminated stormwater needs to be disposed of in a safe way such as pumped into a portable tank and removed off site for proper disposal.

Date	Diked Area	Oil Sheen	Time	Signature

4.2 Bulk Storage Containers (40 CFR 112.8(c))

Table 4-1 summarizes the construction, volume, and content of bulk storage containers at the site.

Table 4-1: List of Bulk Containers

Tank	Location	Type (Construction Standard)	Capacity (gallons)	Content	Discharge Prevention & Containment
DB1	North of Processing Area	Steel tank (above ground)	500	Off-highway diesel	Double walled; concrete berm
DB2	North of Processing Area	Steel Tank (above ground)	500	Off-highway diesel	Double waled; concrete berm

4.2.1 Construction (40 CFR 112.8 (c)(1))

All oil tanks used at this facility are constructed of steel, in accordance with industry specifications as described above. The design and construction of all bulk storage containers are compatible with the characteristics of the oil product they contain, and with temperature and pressure conditions.

4.2.2 Secondary Containment (40 CFR 112.8(c)(2))

The full complement of tanks and their respective secondary containment is shown in Table 2-1. Precipitation is not a concern for double walled tanks, or the berms and bins as they are well above the 110% volume requirement. Containers stored within a structure are protected from the elements. **These containments must be maintained in good condition and evaluated monthly, as shown on the monthly inspection sheet.**

4.2.3 Drainage of Diked Areas (40 CFR 112.8(c)(3))

No uncontaminated stormwater can discharge from the site without first passing through control structures. At these control structures, all stormwater is inspected and recorded prior to discharge.

4.2.4 Corrosion Protection (40 CFR 112.8(c)(4))

There are no underground storage tanks on site and all above ground tanks are elevated therefore, no cathodic protection is required on all above ground tanks.

4.2.5 Partially Buried and Bunkered Storage Tanks (40 CFR 112.8(c)(5))

This section is not applicable since there are no partially buried or bunkered storage tanks at this facility.

4.2.6 Inspections and Tests (40 CFR 112.8(c)(6))

Visual inspections of ASTs by facility personnel are performed according to the procedure described in this SPCC Plan. Leaks from tank seams, gaskets, rivets, and bolts are promptly corrected. Records of inspections and tests are signed by the inspector and kept at the facility for at least three years.

The scope and schedule of certified inspections and tests performed on the facility's ASTs are specified in STI Standard SP-001. The external inspection includes ultrasonic testing of the shell, as specified in the standard, or if recommended by the certified tank inspector to assess the integrity of the tank for continued oil storage.

Records of certified tank inspections are kept at the facility for at least five years. Shell test comparison records are retained for the life of the tanks.

Table 4-2 summarizes inspections and tests performed on bulk storage containers ("EE"

indicates that an environmentally equivalent measure is implemented in place of the inspection/test, as discussed in Section 3.1 of this Plan).

The recommendations for integrity testing are based on a) the knowledge of the tank history, b) the fact that all tanks are shop constructed, c) past tank performance, d) the visible condition of the tanks, and e) the quality and volume of secondary containment.

Table 4-2: Scope and Frequency of Bulk Storage Containers Inspections and Tests

	Tank ID							
Inspection/Test	**DB1**	**DB2**						
Visual inspection by facility personnel (as per checklist of Section 3.7)	M	M						
External inspection by inspector (as per STI Standard SP-001)	A	A						
Internal inspection by certified inspector (as per STI Standard SP-001)	EE	EE						
Tank tightness test meeting requirements of 40 CFR 280	EE	EE						

Legend: M: Monthly

A: Annual

EE: Inspection not required until 2027, given use of environmentally equivalent measure (refer to Section 3.1 of this Plan and Table 4-3).

* Or earlier, as recommended by the certified inspector based on findings from an external inspection.

† Internal inspection may be recommended by the certified inspector based on findings from the external inspection.

Rationale for the initial external shell testing of tanks is demonstrated in Table 4-3 below. Initial ultrasonic shell testing will be performed by a qualified person according to the protocol included in Appendix B. The report of the testing will be attached to this plan and will be available on site. Based on the results of this testing, the tanks will either be placed out of service or a new test period will be established.

Table 4-3 Rationale for Determination of Tank Shell testing per SP-001

Tank ID	DB1	DB2				
Tank Size (gallons)	500	500				
Liquid	Diesel	Diesel				
Shop Constructed	Yes	Yes				
Year Placed in Service	2022	2022				
Years used in plant	0	0				
Past leaks or other problems	No	No				
All Sides Visible	Yes	Yes				
Bottom Visible	Yes	Yes				
Visible Condition	Excellent	Excellent				
Type of Secondary Containment	Double walled	Double walled				
Secondary Containment Volume	550	550				
Containment % of Tank Size	110%	110%				
Leak Detection	Yes	Yes				
Visual Inspection Frequency	M	M				
Required Shell Test Inspection date	By Spring 2022	By Spring 2022				

4.2.7 Heating Coils (40 CFR 112.8(c)(7))

No heating coils exist on any tank at this site.

4.2.8 Overfill Prevention Systems (40 CFR 112.8(c)(8))

General secondary containment is provided in the event of overfills, as described in this Plan. Storage drums are not refilled, and therefore overfill prevention systems do not apply.

4.2.9 Effluent Treatment Facilities (40 CFR 112.8(c)(9))

Stormwater detention ponds are located onsite to trap effluent. These are inspected monthly and discharges from them are documented as part of the site's Stormwater Management Plan (SWMP).

4.2.10 Visible Discharges (40 CFR 112.8(c)(10))

Visible discharges from any container or appurtenance – including seams, gaskets, piping, pumps, valves, rivets, and bolts – are quickly corrected upon discovery.

4.2.11 Mobile and Portable Containers (40 CFR 112.8(c)(11))

All small and portable containers are kept in the Storage Building

4.3 Transfer Operations, Pumping, and In-Plant Processes (40 CFR 112.8(d))

Transfer operations at this facility include:

- The filling of mobile equipment.

All buried piping at this facility is cathodically protected against corrosion and is provided with a protective wrapping and coating. When a section of buried line is exposed, it is carefully examined for deterioration. If corrosion damage is found, additional examination and corrective action must be taken as deemed appropriate considering the magnitude of the damage. Additionally, Elam Construction conducts integrity and leak testing of buried piping at the time of installation, modification, construction, relocation, or replacement. Records of all tests are kept at the facility for at least three years.

Lines that are not in service or are on standby for an extended period of time are capped or blank-flanged and marked as to their origin.

All pipe supports are designed to minimize abrasion and corrosion and to allow for expansion and contraction. Pipe supports are visually inspected during the monthly inspection of the facility.

All aboveground piping and valves are examined monthly to assess their condition. Inspection includes aboveground valves, piping, appurtenances, expansion joints, valve glands and

bodies, catch pans, pipeline supports, locking of valves, and metal surfaces. Observations are noted on the monthly inspection checklist provided in this Plan.

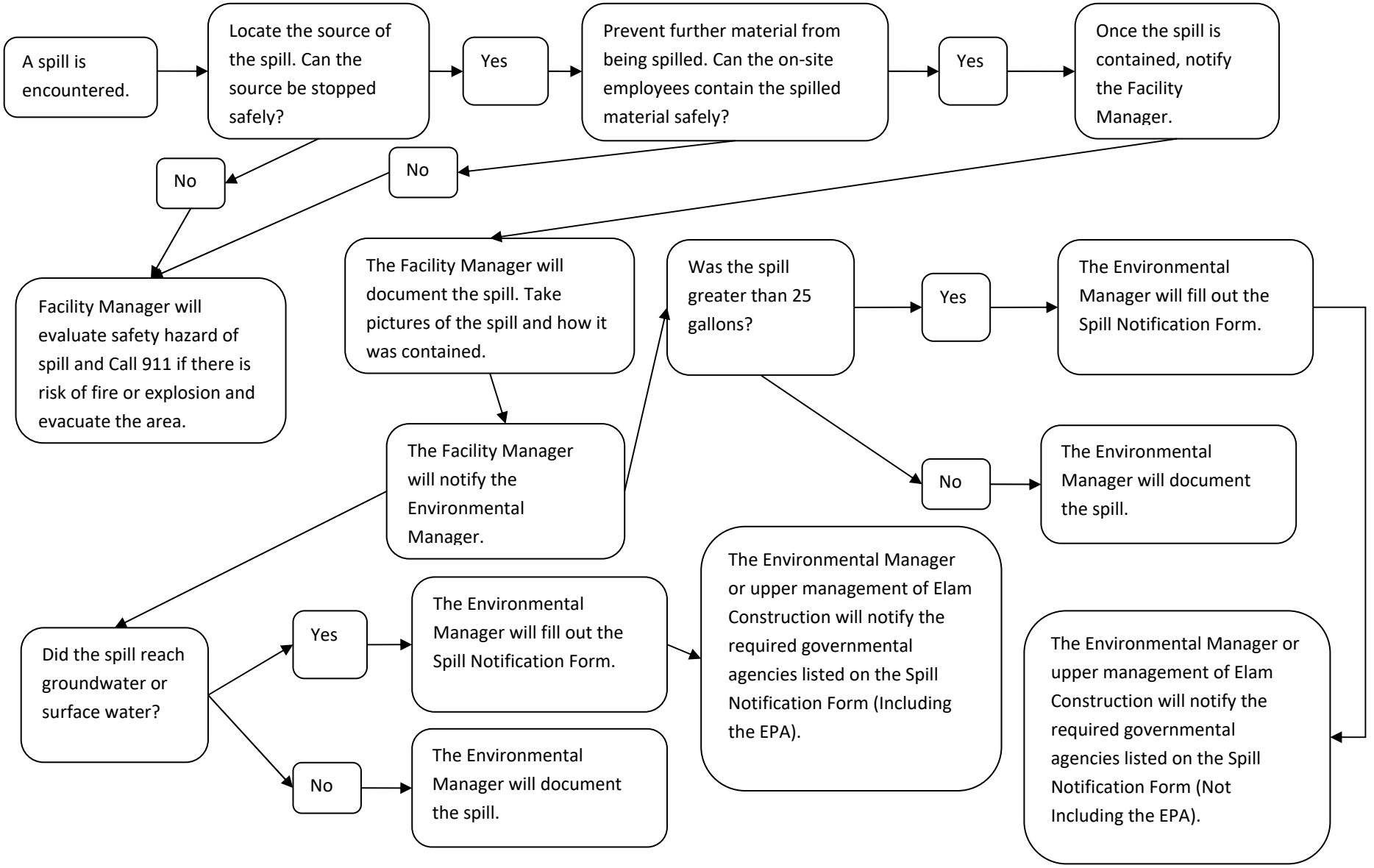
Warning signs are posted at appropriate locations throughout the facility to prevent vehicles from damaging aboveground piping and appurtenances. Most of the aboveground piping is located within areas that are not accessible to vehicular traffic (e.g., inside diked area). Brightly painted bollards are placed where needed to prevent vehicular collisions with equipment.

PART 5: DISCHARGE RESPONSE

This section describes the response and cleanup procedures in the event of an oil discharge. The uncontrolled discharge of oil to groundwater, surface water is prohibited by state and federal laws. Immediate action must be taken to control, contain, and recover discharged product.

This section describes the cleanup response and protocols to follow in the event of an oil or diesel spill. The uncontrolled discharge of oil or diesel to groundwater, surface water or soil is prohibited by State or Federal laws. It is imperative that action be taken to respond to a spill once it has occurred. In the event of an oil spill, depending on the volume and characteristics of the material released, the operator has defined spill response as either a “Minor Spill Response” or “Major Spill Response” (“Spill Emergency”). A list of Emergency Contacts is included.

5.1 Minor Spill Response



5.2 Response to a Major Discharge

Due to the secondary containment of the oil and fuel tanks on site, and the 3rd level of containment, which is the site berm, the possibility of a major discharge to any River is very unlikely. However, the possibility is addressed below.

A “major” discharge is defined as one that cannot be safely controlled or cleaned up by facility personnel, such as when:

- The discharge is large enough to spread beyond the immediate discharge area;
- The discharged material enters water;
- The discharge requires special equipment or training to clean up;
- The discharged material poses a hazard to human health or safety; or
- There is a danger of fire or explosion.

In the event of a major discharge from the site, the following guidelines apply:

- If there is a chance of an ignition or any other condition that would put the site personnel at risk, all workers must immediately evacuate the discharge site via the designated access road.
- If the Facility Manager is not present at the facility, the senior on-site person notifies the Facility Manager of the discharge and has authority to initiate notification and response. Certain notifications are dependent on the circumstances and type of discharge. For example, if oil reaches a sanitary sewer, the publicly owned treatment works (POTW) should be notified immediately. A discharge that threatens the Eagle River may require immediate notification to downstream users. The Facility Manager (or senior on-site person) must call for medical assistance if workers are injured.
- The Facility Manager (or senior on-site person) must notify the Fire Department or Police Department.
- The Facility Manager (or senior on-site person) must call the spill response and cleanup contractors listed in the Emergency Contacts list in this section.
- The Facility Manager (or senior on-site person) must immediately contact the CDPHE Colorado Office of Emergency Management: 303-273-1778 and the National Response Center (888-424-8802).
- The Facility Manager (or senior on-site person) must record the call on the Discharge Notification form in this section and attach a copy to this SPCC Plan.

- The Facility Manager (or senior on-site person) coordinates cleanup and obtains assistance from a cleanup contractor or other response organization as necessary.

If the Facility Manager is not available at the time of the discharge, then the next highest person in seniority assumes responsibility for coordinating response activities.

5.3 Waste Disposal

Wastes resulting from a minor spill response will be containerized in impervious bags, drums or buckets. The waste will be removed from the site by a licensed waste hauler within two weeks. Wastes resulting from a major spill response will be removed and disposed of by a cleanup contractor. Waste that is safe to mix with asphalt plant feed material can be conducted as well.

5.4 Spill Notification Forms and Discharge Notification

If a minor spill occurs and can be contained by site personnel, after the appropriate phone calls are made and the spill is contained, a Spill Notification Form shall be completed and submitted to the Facility Manager. This form is included in the following pages. The Spill Notification Form includes a checklist to document the proper notification of state and federal agencies. The form shall be filed and maintained for 3 years.

Any size discharge occurs, (i.e., one that creates a sheen, emulsion, or sludge) that affects or threatens to affect navigable waters or adjoining shorelines must be reported immediately to the National Response Center (1-800-424-8802). The Center is staffed 24 hours a day.

A summary sheet is included in this section to facilitate reporting. The person reporting the discharge must provide the following information:

- Name, location, organization, and telephone number
- Name and address of the party responsible for the incident
- Date and time of the incident
- Location of the incident
- Source and cause of the release or discharge
- Types of material(s) released or discharged
- QUANTITY of materials released or discharged
- Danger or threat posed by the release or discharge
- Number and types of injuries (if any)
- Media affected or threatened by the discharge (i.e., water, land, air)

- Weather conditions at the incident location
- Any other information that may help emergency personnel respond to the incident

5.5 Cleanup Contractors and Equipment Suppliers

Contact information for specialized spill response and cleanup contractors are provided in this section. These contractors have the necessary equipment to respond to a discharge of oil that affects the river, including floating booms and oil skimmers.

The 90+ Gallon Spill kit is located in the Storage Building as shown on the Facility Layout. The inventory of response supplies and equipment is typical of a large spill cut, which includes booms, pillow, socks, pads, overpack container with screw lid, bags, gloves and instructions. The inventory is verified on a monthly basis. Additional supplies and equipment may be ordered from the following sources:

Spill 911	(800) 474-5911
Creative Safety Supply	(866) 754-0160

<u>Contractors for Significant Spills and/or Significant Discharges</u>

Custom Environmental Services, Inc.
Arvada, CO 80002
Tel+1 (303) 423-9949
Tel+1 (800) 310-7445
Fax+1 (303) 423-1854
Environmental contractor incl. oil spill, HAZMAT and asbestos.

Custom Environmental Services, Inc.
Colorado Springs, CO 80907
Tel+1 (719) 598-1557
Tel+1 (800) 310-7445
Fax+1 (719) 598-2687

Environmental Restoration LLC
Commerce City, CO 80022
Tel +1 (303) 382-1258
Tel +1 (888) 814-7477
Fax +1 (303) 382-1285

Veolia ES Special Services
Henderson, CO 80640
Tel +1 (303) 371-7600
Tel +1 (800) 688-4005
Fax +1 (303) 371-7678

OURAY Environmental Services, LLC
Broomfield, CO 80021
Tel +1 (866) 897-2779
Tel +1 (303) 593-2087

Environmental Restoration LLC
Commerce City, CO 80022
Tel +1 (303) 382-1258
Tel +1 (888) 814-7477
Fax +1 (303) 382-1285

Emergency Contacts	
Spill Reporting	**Telephone #**
EPA	(800) 424-8802
Colorado Dept. of Health and Environment	(877) 518-5608
Colorado DRMS	(303) 866-3567
Local Health Department	(303) 441-1100
MSHA	(303) 231-5465
Local Emergency Agencies	**Telephone #**
Fire Department	911
Sheriff/Police	911
Boulder County	(303) 441-1564
Spill Response Contractors	**Telephone #**
Lewicki and Associates	(303) 346-5196
Adequate Heavy Equipment Kept Onsite for Rapid Spill Response	
Owner/Operator	**Telephone #**
Elam Construction	(303) 588-1119
Mark Steen	(303) 651-2985

Spill Notification/Documentation Form		
Part A: Basic Spill Data		
Spill Type: Major / Minor [ ] Major [ ] Minor		**Spill Date:**
Type of Spilled Substance:		**Spill Time:**
Quantity Spilled:		**Spill Duration:**
Facility Name:		**Location of Spill:**
Owner / Company Name:		**Release to : [ ] Containment [ ] River [ ] Pond [ ] Soil [ ] Air [ ] Ground water [ ] Other**
Nature of spill and any environmental or health effects:		**[ ] Injuries [ ] Fatality**
*Complete Part B if the spill is greater than 25 gallons		
Part B: Notification Checklist		
Spill of greater than 25 gallons of petroleum product:	**Notification Date and Time**	**Name of Person the Received Call**
Colorado Department of Public Health and Environment (877) 518-5608		
Local Health Department Unknown Location		
Colorado Division of Reclamation, Mining and Safety (303) 866-3567		
MSHA (303) 231-5465		
Spill reaches ground water or surface water:		
EPA National Response Center (800) 424-8802		
Form Completed By (Print Name):		**Sign and Date:**

The spill notification form must be submitted to the Facility Manager. A copy must be retained on-site and included with the SPCC Plan.

Substantial Harm Determination

Facility Name: Elam Construction – Delta Paving Gravel Pit

Facility Address: 8020 Highway 65
Delta, CO 81416

1. Does the facility transfer oil over water to or from vessels and does the facility have a total oil storage capacity greater than or equal to 42,000 gallons?

Yes _____ No _____

2. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and does the facility lack secondary containment that is sufficiently large to contain the capacity of the largest aboveground oil storage tank plus sufficient freeboard to allow for precipitation within any aboveground storage tank area?

Yes _____ No _____

3. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and is the facility located at a distance (as calculated using the appropriate formula in 40 CFR part 112 Appendix C, Attachment C-III or a comparable formula) such that a discharge from the facility could cause injury to fish and wildlife and sensitive environments?

Yes _____ No _____

4. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and is the facility located at a distance (as calculated using the appropriate formula in 40 CFR part 112 Appendix C, Attachment C-III or a comparable formula) such that a discharge from the facility would shut down a public drinking water intake?

Yes _____ No _____

5. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and has the facility experienced a reportable oil spill in an amount greater than or equal to 10,000 gallons within the last 5 years?

Yes _____ No _____

Certification

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete.

Signature:_____ Title: _____

Name:_____ Date:_____

Map C-1 Current Conditions

Map C-2 Mining Plan

APPENDIX B – ULTRASONIC SHELL TEST PROTOCOL

Elam Construction

Tank Thickness Testing Protocol

In addition to physical inspections conducted at intervals specified in Spill Prevention Countermeasure and Control Plans, external ultrasonic thickness (UT) measurements of the above ground storage tank (AST) shells shall be performed. External UT measurements of the tank shell are a form of non-destructive testing used to locate potential flaws or areas of localized corrosive attack and establish a general rate of shell corrosion on the interior surface of the tank shell.

To insure that primary containment is satisfactory to contain petroleum products, integrity testing shall be conducted on each vessel designated for testing in the SPCC Plan. The following protocol shall be followed in determining the wall thickness of those individual tanks specified for testing:

Field UT measurements are taken with a Hitachi HT300 Ultrasonic Digital Thickness Meter. The Ultrasonic Meter shall be set per manufacturer recommendations for the type of metal being tested. Field calibrations shall be performed prior to and during testing using the Zero Adjustment test piece attached to the meter at increments not to exceed 1 hour.

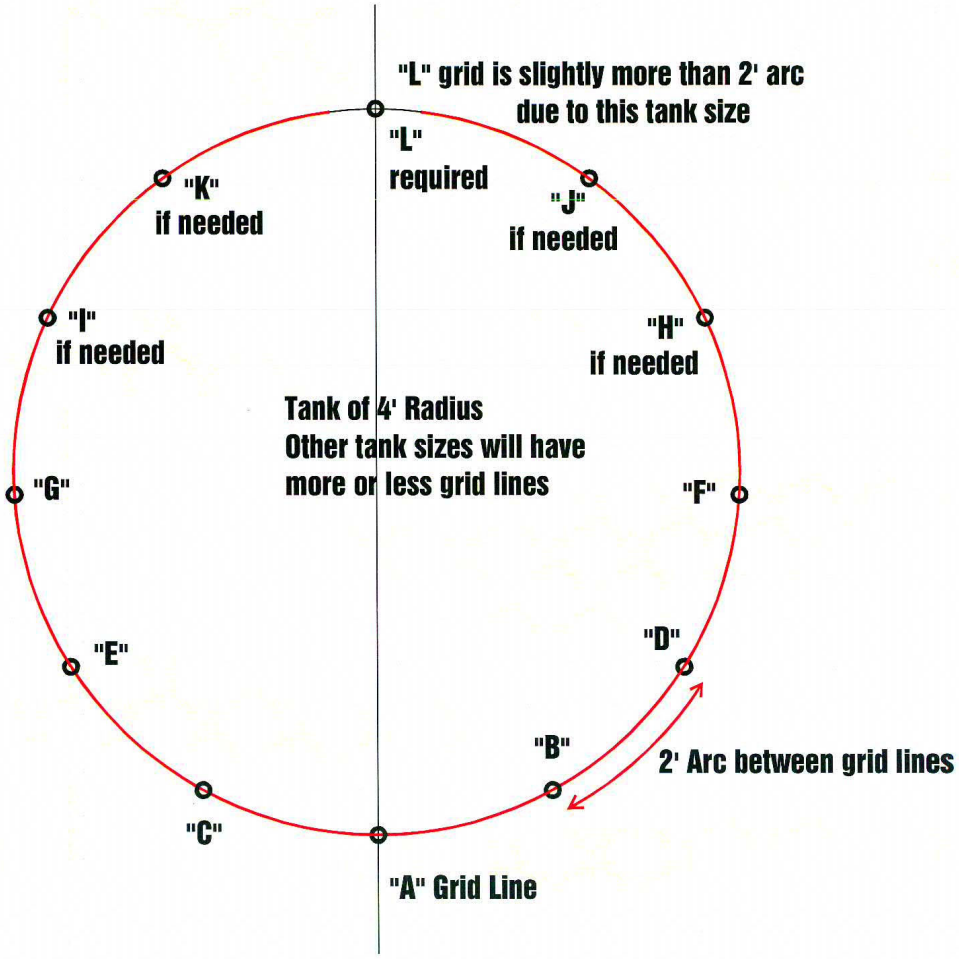
It is expected that the surface of the tanks will have a painted surface to prevent corrosion. The gage shall be adjusted to account for the painted surface. If the gage does not have an adjustment for paint, the gage shall be calibrated by measuring the known thickness of plate steel with and without paint coating. The gage shall be adjusted, if possible, to account for the painted surface. If no adjustment can be made to the meter, adjustment to the reading shall be noted on the field test form.

UT measurements shall be concentrated in areas of the shell where corrosion is most likely to be present. The areas of the shell for UT testing are divided into grid lines at approximate arc lengths of 2 feet apart, starting at the bottom of the tank. Where possible, measurements shall be along the longitudinal “A” grid or bottom of the tank. Additional measurements shall be taken along the “B” and “C-C” longitudinal grid line, which are 2 feet from the longitudinal “A” grid and on both sides of the “A” grid. In cases where the “A” grid is not accessible, measurements shall be taken as close to the “A” grid as possible on both sides of the “A” grid. Additional measurements shall be taken on the longitudinal grid line 2-feet away from the first grid line. By example only, grid “C” is the closest a measurement is taken to the preferred grid “A”. The next measurement shall be taken along grid “E”. See attached sketch of the grid lines. The number of measurements taken along any longitudinal grid line is in part determined by the total length of the tank and the number of suspected areas which exhibit signs of corrosion. Normally, these measurements are no greater than 3 feet apart. In addition to measurements taken along the longitudinal axis of the tank shell, two measurements shall be taken on both end plates of the tanks and the top of the tank.

Once test grid points are determined, the tester shall take four measurements within two inches of the specified grid point and record on the field test form. An average of these four measurements shall also be calculated and recorded on the field test form. The tester must be qualified and experienced in the use of the Hitachi HT300 Ultrasonic Digital Thickness Meter. If the tester encounters areas of thin wall thickness, additional readings may be taken to better identify the thin area. The test results will be passed on to the P.E. and the tester will work with the P.E. to determine if the tank should be removed from service, should be repaired, or can continue in service with a designated shell test interval. The SPCC Plan will be then modified accordingly.

For double walled tanks, all liquid will need to be removed from the tank and the testing

Tank Shell Test Grid Lines



Note: Longitudinal measurements along each grid line are no further than 3 feet apart.
Note: Grid lines H, I, J, and K are to be measured if visual inspection shows cause for the mesurement.

ULTRASONIC TANK TESTING FIELD FORM					
Company: Elam Construction	Location:		Tank Assignment:		
Inspector:	Tank Contents:	Shape/Orientation:	Date:		
Equipment Make/Model: Hitachi HT300 Ultrasonic Digital Thickness Meter			Calibration		
TANK SPECIFICATIONS					
Manufacturer:	Model/Description:	Manufacture Date:	Length	Diameter	Capacity
Tank Sketch:		Tank ID:	Material/Surface Coating:		
		Notes: Stationing for 1 foot square grids used during tank UT testing was established with letter designations (A thru CC) around the circumference of the tank and number designations (1-22 or the actual length of the tank) along the horizontal axis of the tank.			

TANK THICKNESS MEASUREMENTS

GRID	T1	T2	T3	T4	AVG

GRID	T1	T2	T3	T4	AVG

DATA SUMMARY SHELL WALL THICKNESS	
Overall Average Thickness	
Minimum Average Thickness	
Minimum Thickness Reading	

Appendix 3 – Stormwater Management Plan (SWMP)

Stormwater Management Plan

Grand Junction Pipe
Delta Paving Pit

(CDPHE WQCD Permit No. 500000 and Certification No. COG-500444)
(DRMS Permit No. M1998-105)

October 10, 2012

Prepared by:

River City Consultants, Inc.
Marc Kenney, PE# 41215, CPSWQ# 0623, CPESC# 5695
744 Horizon Court, Suite 110
Grand Junction, CO 81506
Phone: (970) 241-4722

Job Number: 1223-005

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I. Purpose

The purpose of this Stormwater Management Plan is to prevent the pollution of stormwater. This plan includes measures to reduce erosion and pollutant loads from the site. Potential pollutant sources, locations, and controls are discussed and the implementation, maintenance, and inspection of said controls.

II. Site

Grand Junction Pipe has a sand and gravel mining operation located in Delta County east of Highway 65, south of the Colorado River, and north of Highway 92.

III. Site Overview

A. Location

Access to the site is by Highway 65 north of Highway 92 and the railroad tracks. The legal description would be the north ½ of Section 10 and the south ½ of Section 3, Township 15 south, Range 95 west of the 6th Principal Meridian, Delta County, Colorado. The property use/zoning is Agricultural. The mining activities occur on parcel No. 3455-034-00-053, 3455-101-00-015, and 3455-101-00-018.

B. Description

The topography of the site is flat with an overall slope of 1-5% to the north towards the Gunnison River. Existing land use is mining. Current cover conditions are primarily gravel and packed dirt with some vegetated areas. There are no visible erosion issues on-site, adjacent to the site, and downstream of the site.

C. Adjacent Land

Land adjacent to the site is also zoned as Agricultural. Cover conditions adjacent to the site mostly consist of undeveloped desert and fallow irrigated land. The basins adjacent to the site ultimately drain north to the Gunnison River.

D. Soils

The surface soils for this site are being mined. Accordingly any hydrologic calculations should assume group D (high runoff potential). The soils being mined are mostly sand and gravel, which do not have a high potential for erosion. Erosion is not expected to be an issue on-site because the site will use retention and the majority disturbed surfaces will be compacted from traffic loads.

The depth to groundwater is unknown. However, given the proximity to the Gunnison River it is likely very shallow.

E. Receiving and Other Waters

The site drains to one of several on-site retention ponds. These retention ponds do not have an outlet and typically water leaves the pond via evaporation and infiltration to the aquifer. The retention pond is within the 100 year floodplain of the Gunnison River, so under high flow conditions this area may be flooded. The Delta County GIS website shows portions of the property within mapped 100 year floodplain. The site does not receive irrigation water. There are no known springs or wetlands on or adjacent to this site.

IV. Site Activities and Phasing

A. Site Activities

The Sand and Gravel Pit produces products such as sand, gravel, and washed sand and gravel. Specific activities occurring on-site are:

- Mining of sand and gravel.
- Groundwater dewatering activities.
- Screening and crushing of materials.
- Washing of sand and gravel.

B. SWMP Administrator

The SWMP Administrator will be in charge of the overall daily operations at the site and will have the authority to control all stormwater BMPs activities. The SWMP Administrator will be the responsible person in regards to Stormwater Pollution Prevention and Management.

Name: Mark Willis

Company & Title: Production Manager

Phone: 1-970-847-6908

V. Potential Pollutants

Generate general table with the following columns: pollutant; source(s); potential controls to manage pollutant; check box to be checked if present

Pollutant	Potential Sources	BMPs for Pollutant	Is Pollutant on-site
Sediment	Erosion of exposed soil, dust, streams, stockpiles, vehicle tracking, etc.	Street Sweeping, Sediment Basin, Silt Fence, Silt Berm, Check Dams, etc.	Yes
Chemicals	Poor storage and handling of materials, spills, illegal dumping, pesticide application, etc.	Spill Prevention, Control, and Counter Measures, SOPs for loading & cleanout	Potentially
Nutrients & Bacteria	Fertilizers, leaking sewer, decaying plant and animal waste, etc.	Proper handling and application of fertilizers; Spill Prevention, Control, and Counter Measures	Potentially
Oxygen Demand	Sediment, nutrients, organics, and other pollutants as particles and soluble phase	See BMPs for pollutants above	Potentially
Oil and Grease	Streets, highways, parking lots, equipment fueling & maintenance, illegal dumping, atmospheric deposition etc.	Street Sweeping, Spill Prevention, Control, and Counter Measures,	Yes
Litter/Trash	Human Activities	Waste Management and Disposal	Yes
Metals	Streets, highways, parking lots, building materials, recyclable materials, industrial activities, atmospheric deposition, etc.	Street sweeping, Spill Prevention, Control, and Counter Measures	Yes
Elevated Water Temperatures	Sunlight, removal of vegetation, impervious areas, shallow storage of water, etc.	Proper maintenance of BMPs	Potentially
Concrete Wash-out Waste Water	Washing out of concrete trucks and concrete tools	Installation of a concrete wash-out area	Yes

VI. Pollution Prevention Measures

Stormwater pollution prevention measures can be categorized as follows:

1. Preventing contact between stormwater and the pollutant.
2. Preventing transport of the pollutant by stormwater.
3. Treatment to remove pollutants from stormwater.

These measures are listed in order according to effectiveness and priority. Obviously if the stormwater does not come into contact with a pollutant, it can not become contaminated with the pollutant. Second, if the stormwater contacts the pollutant and the pollutant does not suspend or dissolve into the stormwater, the stormwater will remain uncontaminated. The best way to protect the soil surface and limit erosion is to preserve existing vegetative cover. Unfortunately, even with our best efforts stormwater will likely become contaminated with pollutants from the site. This is because by nature of the project portions of the site will be disturbed. Accordingly, efforts will be put in place to facilitate the removal of some of these pollutants from stormwater. This is especially true prior to discharge from the site, but most effective if done in series to ensure the pollutant levels never reach high levels and so the perimeter controls are not the only defense, but instead the last line of defense.

A. Waste Management and Disposal

Re-use and recycle whenever possible. Salvage and recycle bins and/or containers will be used if the supply of recyclable materials warrants their use. Recyclable materials should be covered (i.e., placed in bins/containers with lids) to prevent contact with stormwater.

Trash containers, dumpsters, and/or roll-offs will be located on-site. These containers must have lids to prevent contact between stormwater and trash. Further, these containers should not have holes to allow liquid trash to leak/spill on the ground. A local company specializing in the collection and disposal of waste material will be utilized. Their responsibilities will include supplying and resupplying the site with containers, removing full containers from the site, proper transport and disposal of waste material to a facility accepting said waste.

B. Non-stormwater Controls

Non-stormwater controls are a critical part of stormwater pollution prevention. The goal of non-stormwater controls is to prevent stormwater contact with potential pollutants. A list of spill prevention, control, and counter measures have been developed as part of the Stormwater Pollution Prevention Plan with this goal in mind.

Spill Prevention, Control, and Counter Measures to be used at this site include, but are not limited to:

Street Sweeping

Street Sweeping will remove tracked sediment and materials from internal and/or adjacent streets before they come into contact with stormwater or enter the storm drain system. Street sweeping should be performed any time visible amounts of soil or material is present on the streets. Swept up material shall be placed in the concrete waste pile and treated as such.

Equipment Storage, Fueling, and Maintenance

Equipment shall be well maintained and in good working condition. This means it should be free of leaks and kept clean. Equipment should be stored on compacted level ground.

Fueling of equipment shall occur in a designated area for said activity and shall follow applicable SOP and SPCC procedures. A spill kit shall be present and the operator shall be trained and knowledgeable in the spill kits use.

Spill Reporting, Containment, and Cleanup

All federal (e.g., EPA, OSHA), state, and local regulations and laws apply. Proper training, notification, PPE, procedures, handling, disposal, etc. are the responsibility of Grand Junction Pipe.

Material Safety Data Sheets (MSDSs) for all materials brought on-site shall be kept in a common binder. The binder is to be on-site at all times and everyone on-site is to know the location of the binder. MSDS sheets contain important handling, storage, transport, health and safety, and cleanup information about the materials.

In the event of a spill the proper authorities shall be notified immediately, work shall stop in the immediate area of the spill, and the MSDS for that material should be consulted for health and safety, containment, and cleanup procedures. The spill will be properly cleaned up by qualified personnel and disposed of properly. A paper trail will document the entire proceeding and all applicable regulations and/or laws will be followed and adhered to.

Material Storage and Handling

Covered storage shall be used whenever possible. Chemicals, paints, and other containerized materials will always be stored under cover and under the conditions noted on the MSDS and/or by the manufacture. All storage areas shall be outside of concentrated drainage pathways on compacted level ground.

Materials shall be handled and applied according to the MSDS and manufacture's recommendations. Every effort should be made to prevent spills, leaks, etc.

Education/Training

The purpose of this plan is not to hinder or interfere with work at this facility, but instead to improve, complement, and enhance the overall product. Everyone working on the site should read this plan to ensure "bottom-up" knowledge of the plan. Workers may have suggestions based on their experience at other sites and projects. These suggestions should be brought to the attention of the SWMP Administrator, who at their discretion may modify this plan accordingly. Training topics should include, but are not limited to, spill prevention and response, house keeping, and BMP maintenance.

A paper trail documenting all training shall be kept with this report.

Plan Enhancement

This plan is intended to be a "living document" and it is expected that it will be modified and updated as needed. The purpose of these changes is to continuously improve and tailor the plan to the site and to keep up with any changes that occur on-site. These modifications/updates will be documented in writing within the copy of the original plan located on-site. The SWMP Administrator will be the person responsible for documenting these changes.

C. Stormwater Controls (BMPs)

The main stormwater control/best management practice (BMP) for this facility is a retention pond. Other BMPs may be used by the SWMP Administrator if the need. Details for other BMPs can be found in CDOT Standards and Denver's Urban Drainage and Flood Control Manuals. If other BMPs are approved for use by the SWMP Administrator, they will be made part of this document.

VII. Inspection and Maintenance Procedures

BMPs will be inspected at least 4 time a year (as per the CDPHE permit) and after every runoff producing storm event. The optimal time to inspect BMPs is during rain events because the performance of the BMPs can be directly observed. Inspections will typically occur during business hours, but upon occasion happen outside of normal business hours for various reasons. Thus, inspections as a result of a runoff event may occur after a rain event and not during it.

The inspection will determine the stability and operation of the BMPs. The inspection will document compliance, non-compliance, concerns, issues, corrective actions, and changes/modifications. Repairs and adjustments to the system will be performed as soon as possible. It may be necessary to adjust the BMPs used and their placement to best fit the site, current conditions, and site activities. These adjustments may also be a result of BMP failure, potential failure, or improved methodology.

VIII. Access to Plan and Paper Trail

A copy of this plan shall be kept on-site at all times. The on-site copy of this plan shall be updated with changes and modifications by the SWMP Administrator. In addition to this plan the following materials shall also be kept on-site:

- A copy of the CDPHE Stormwater Discharge Permit and Certification;
- A BMP map depicting the general direction of runoff, BMPs, outfalls, sample locations, etc.
- Copies of completed SWPP Inspection Reports;
- Documentation of maintenance and corrective action activities; and
- Training (topics and sign-in sheets).

This plan and the materials above should be made available to the public for viewing upon request.

IX. References

1. 5-2-1 Drainage Authority Stormwater Management Plan (SWMP) template, April 29, 2009 version.
2. Certified Professional in Storm Water Quality (CPSWQ) Exam Review Study Guide, May 2006.
3. Certified Professional in Erosion and Sediment Control (CPESC) Exam Review Study Guide, February 2007.
4. New York Guidelines for Urban Erosion and Sediment Control, Urban Soil Erosion and Sediment Control Committee, Fourth Printing - April 1997.
5. Stormwater Management Manual, WRC Engineering under the direction of Mesa County Colorado, December 31, 2007.
6. Mesa County Colorado GIS Website, http://gis.mesacounty.us/interactive.aspx .
7. Natural Resources Conservation Service National Cooperative Soils Survey Website, http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx .
8. Drainage Criteria Manual, Urban Drainage and Flood Control District, Volumes 1, 2, & 3; Denver, Colorado 2001.

Appendix A

Stormwater Management Inspection Form

(Blank and Completed)

Please note this form is not intended to be a "print out" template. It is intended that the form will be electronically tailored to best represent the information gathered during inspections. An electronic version of this form can be obtained from River City Consultants, Inc. by calling them at 970-241-4722.

Stormwater Inspection Report

Project:	**Inspector Name & Title:**	**Date:**
Permit #:	**Comments:**	
Type of Inspection:	**7-Day** **Post-Storm**	
Has there been a deviation from the minimum inspection schedule? (explain)		
Location(s) of discharges from site:		

If any maintenance needs were identified during the last inspection, have they been addressed?

Yes, no, or partial

BMPs (Type & Location)	Does the BMP Need Maintenance?	Date Maintenance Completed	Comments (i.e. description of corrective action and measure to prevent future violations)
Each BMP must be listed here individually with brief description and location. Add rows to this table as required.	Yes or no.	After maintenance has been completed, fill in date here and any notes you might find helpful.	Either the BMP is in good condition and functioning properly, or it needs maintenance, or the design has proved insufficient for the location and needs to be replaced with something else. Explain that here. Any discharge of sediment or pollutants from the site needs to be described here including location and identification of which BMPs failed or were lacking and what was done to clean it up.

Location(s) where additional BMPs are needed (state suggested BMP type), if any:

Spills	State None, or describe spill(s) in detail (date of spill, material, amount spilled, who was notified, cleanup, transport pathway, amount clean up/captured, etc.)

Materials Handling	**List all areas designated for materials handling including dumpsters, portable toilets, and other areas maintained for materials handling along with a note describing their condition.**
Housekeeping	**Note any issues requiring attention & corrective action or state None.**
Is the site in compliance with the SWMP? Yes or No.	

The site is in compliance with the stormwater discharge permit to the best of my knowledge and belief.

Signature of Inspector _____

The site is **NOT** in compliance with the stormwater discharge permit to the best of my knowledge and belief.

Signature of Inspector _____

Appendix B

CDPHE Certification and Permit

(Will be provided after amended SWMP is approved)

Appendix C

Maintenance Activities and Corrective Actions

(Will be provided after amended SWMP is approved)

Appendix D

Training Documentation

(Will be provided after amended SWMP is approved)

Appendix E

BMP Map

(Will be provided after amended SWMP is approved)

Appendix 4 – Water Court Ruling

DISTRICT COURT, WATER DIVISION NO. 4 STATE OF COLORADO 1200 North Grand Avenue, Bin A Montrose, CO 81401-3146 (970) 252-4334 CONCERNING THE APPLICATION FOR WATER RIGHTS OF: KILGORE COMPANIES, LLC. IN DELTA COUNTY, COLORADO.	DATE FILED: September 30, 2019 10:23 AM CASE NUMBER: 2019CW3023 **COURT USE ONLY** Case Number: 2019CW3023 (12CW148; 06CW87; 99CW128) Division: Courtroom:

FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE AND JUDGMENT AND DECREE OF THE WATER COURT

The above entitled Application for Finding of Reasonable Diligence was filed on May 29, 2019, by Kilgore Companies, LLC dba Elam Construction, Inc., and was referred to the Water Referee for Water Division No. 4, State of Colorado, by the Water Judge of this Court in accordance with C.R.S. 37-92-101, *et. seq.*, known as the Water Right Determination and Administration Act of 1969.

The undersigned Referee, having made such investigations as are necessary to determine whether or not the statements in the Application are true, and having been fully advised of the subject matter of the Application, does hereby make the following determinations and Ruling as the Referee in this matter:

FINDINGS OF FACT

1. The statements in the Application are true, except as may be otherwise stated herein.

2. Name, Address, Telephone Number, and E-Mail Address of Applicant:

Kilgore Companies, LLC dba Elam Construction, Inc., ("Elam")
Attention: Russel A. Larsen
556 Struthers Ave.
Grand Junction, CO 81501
970-242-5370
russ.larsen@kilgorecompanies.com

3. No statements of opposition were filed in this matter and the time for filing statements of opposition has expired.

4. The Court has given due consideration to the Consultation Report/Recommendation of the Division Engineer dated September 4, 2019.

5. The structures that are the subject of this Application are the Delta Paving Pit Wells, consisting of Delta Paving Pit Well No. 1, Delta Paving Pit Well No. 2, Delta Paving Pit Well No. 3, Delta Paving Pit Well No. 4, and Delta Paving Pit Well No. 5 (collectively called "Delta Paving Pit Wells").

6. The conditional water rights which are the subject of this Application are described as follows:

A. Date of Decree: May 10, 2000.
Case No.: 99CW128.
Court: District Court, Water Division 4.

B. Subsequent Diligence Decrees: December 27, 2006, Case No 06CW87; May 6, 2013, Case No. 12CW148, Water Division 4.

C. Locations: See Figure 1. The Delta Paving Pit Wells are and will be located in the south half of Section 3 and the north half of Section 10, T. 15 S., R. 95 W., 6th P.M., at the following locations:

Delta Paving Pit Well No. 1:	2200 feet West of the East line and 200 feet North of the South line of said Section 3.
Delta Paving Pit Well No. 2:	1700 feet West of the East line and 300 feet North of the South line of said Section 3.
Delta Paving Pit Well No. 3:	1100 feet West of the East line and 400 feet North of the South line of said Section 3.
Delta Paving Pit Well No. 4:	1600 feet West of the East line and 800 feet South of the North line of said Section 10.
Delta Paving Pit Well No. 5:	2300 feet West of the East line and 1600 feet South of the North line of said Section 10.

D. Source: The Delta Paving Pit Wells are gravel pits located in alluvial deposits adjacent to the Gunnison River, and will intercept and withdraw groundwater tributary to the Gunnison River.

E. Appropriation Date: June 19, 1998.

G. Amounts: 218.75 acre feet per year for evaporation losses and 3.7 acre feet per year for product moisture losses from the Delta Paving Pit Wells. In addition, water will be pumped from the Delta Paving Pit Wells at the maximum rates of 800 g.p.m. for dewatering purposes, 300 g.p.m. for dust suppression purposes (2.70 acre feet per year), and 1,000 g.p.m. for aggregate washing purposes. The following amounts have previously been made absolute:

Evaporation Losses	53.58 acre feet
Dust Suppression	2.7 acre feet
Product Moisture Loss	3.7 acre feet
Dewatering	800 g.p.m.

H. Uses: Industrial uses, including but not limited to dewatering of the Delta Paving Pit Wells during mining, evaporation during mining activities and after completion of mining activities from the Delta Paving Pit Wells, dust suppression, product moisture losses through aggregate removal and processing, and aggregate washing, all in connection with the mining of sand, gravel, and related products from the lands on which the Delta Paving Pit Wells are located, and with the reclamation and use of such land during and after completion of such mining.

I. Well Permit: The State Engineer has issued Well Permit No. 053787-F for the Delta Paving Pit Wells.

7. Elam requests a finding that it has been reasonably diligent in this diligence period in the development of the remaining conditional portions of the Delta Paving Pit Wells water rights, as described above in Paragraph 6, and that the decrees for these conditional water rights be continued. Elam has provided a detailed outline in the Application of the work that has been done toward or for completion of the appropriation of the remaining conditional portions of the Delta Paving Pit Wells water rights. The Referee specifically finds that Elam has made a steady application of effort to complete the appropriation of the remaining conditional portions of the Delta Paving Pit Wells water rights in a reasonably expedient and efficient manner under all of the facts and circumstances and, accordingly, that Elam has been reasonably diligent in the preceding diligence period with respect to the development of the remaining conditional portions Delta Paving Pit Wells water rights.

8. Elam should be awarded the relief requested in the Application.

CONCLUSIONS OF LAW

9. To the extent they constitute legal conclusions, the foregoing Findings of Fact are incorporated herein.

10. All notices required by law have been properly made, including as required under C.R.S. §37-92-302(3). The Court has jurisdiction over the Application and over all entities or persons who had standing to appear, even though they did not do so.

11. The Application is complete, covering all applicable matters required pursuant to the Water Right Determination and Administration Act of 1969. C.R.S. §§37-92-101-602.

12. Elam has shown reasonable diligence in the development of the remaining conditional portions of the Delta Paving Pit Wells water rights described above in Paragraph 6 during this diligence period. Therefore, the Application should be granted and the remaining conditional portions of the Delta Paving Pit Wells water rights should be continued in full force and effect.

13. Elam has fulfilled all legal requirements for a decree for the requested water rights.

RULING OF THE REFEREE

AND JUDGMENT AND DECREE OF THE WATER COURT

14. The Findings of Fact and Conclusions of Law as set forth above are incorporated herein by reference and are hereby modified as necessary to constitute part of the Ruling and Final Judgment and Decree.

15. The remaining conditional portions of the Delta Paving Pit Wells water rights described in Paragraph 6 above are continued in full force and effect for all uses.

16. Applications for reasonable diligence for the conditional water rights decreed herein shall be filed by the owner or user of such right, at the times and in the manner specified by Section 37-92-301(4)(a), C.R.S., if such owner or user desires to maintain the same, or until a determination has been made that such conditional rights have been made absolute by reason of the completion of the appropriation. The applicant shall file an application for a finding of reasonable diligence in the same month six years from the date of the Water Judge's Order set forth in the judgment and decree of the Court confirming this Ruling.

17. Pursuant to Rule 9 of the Uniform Local Rules for All State Water Court Divisions, upon the sale or other transfer of the conditional water rights awarded herein, the transferee shall file with the water court having jurisdiction a notice of transfer which shall state:

A. The title and case number of the case in which the conditional decree was issued;

B. The description of the conditional water right transferred;

C. The name of the transferor;

D. The name and mailing address of the transferee; and

E. A copy of the recorded deed.

The owner of said conditional water rights shall also notify the Clerk of the Division 4 Water Court of any change in mailing address. The Clerk shall also place any notice of transfer or change of address in the case file for this case and Case No. 99CW128.

18. This Ruling shall be filed with the Water Clerk subject to judicial review. A copy of this Ruling shall be filed with the State Engineer and the Division Engineer for Water Division No. 4.

Dated: September 5, 2019.

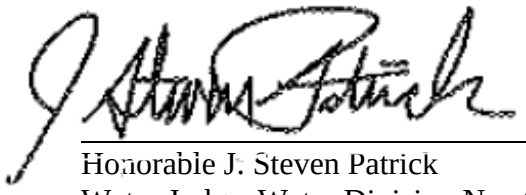
BY THE REFEREE:

S. Gregg Stanway
Water Referee, Water Division No. 4

No protest was filed in this matter. The foregoing Ruling is confirmed and approved and is made the Judgment and Decree of this court. THE MONTH AND CALENDAR YEAR FOR FILING AN APPLICATION FOR A FINDING OF REASONABLE DILIGENCE SHALL BE **SEPTEMBER, 2025**.

BY THE COURT

DATED September 30, 2019



Honorable J. Steven Patrick
Water Judge, Water Division No. 4



Figure 1. Delta Paving Pit Wells

0 1,000 2,000 Feet

1:12,000

N

Delta County, Colorado
Sections 3 & 10, T. 15 S., R. 95 W., 6th P.M.

Western Water & Land, Inc.
Applications in Earth Science

Appendix 5 – Wetlands Evaluation

WestWater Engineering
Consulting Engineers & Scientists

2516 FORESIGHT CIRCLE, #1 GRAND JUNCTION, COLORADO 81505 (970) 241-7076 -- FAX (970) 241-7097

February 3, 2022

Sydney Connor
Greg Lewicki and Associates via e-mail: sydney@lewicki.biz
3375 W Powers Circle
Littleton, CO 80123

RE: Delta Paving Wetland Evaluation
Delta County Gravel Pit

Ms. Connor,

In accordance with your request, WestWater Engineering (WestWater) wetland scientists conducted a desktop wetland evaluation for a gravel resource property located approximately 4 miles northeast of Delta, Colorado in an area immediately south of the Gunnison River and north of the intersection of State Highways 65 and 92 (Figure 1). All areas of the parcels listed in Table 1 were evaluated using desktop methodologies to evaluate aquatic resources based on existing aerial imagery and databases including Delta County GIS, Natural Resources Conservation Service (NRCS), U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory (NWI), and Federal Emergency Management Agency (FEMA).

Table 1. Survey Parcel Information

Delta County Parcel Number	Owner
3455-102-02-002	Grand Junction Concrete Pipe Co
3455-034-02-053	Grand Junction Concrete Pipe Co
3455-101-00-028	Richard M Frazier Revocable Trust

Desktop information was used to estimate the total surface acres of Waters of the United States (WOUS) including potential wetlands and open water within the approximately 111 ± acre proposed disturbance site area. Proposed expanded gravel pit areas 1-4 include agricultural fields currently in irrigated row crops and pasture. Potential wet meadow areas occurring in the agricultural fields will require a higher level of evaluation using field based methodology. The acres identified should be used only as a guideline in determining future actions of the site.

METHODS

WestWater scientists conducted literature and map reviews of the project area for the presence of potential WOUS, including wetlands and open water. Literature reviews for site aquatic resources (i.e., WOUS) included reviewing the following databases: USFWS NWI (USFWS 2022), FEMA (FEMA 2022), NRCS (NRCS 2022), and aerial imagery of Delta County using Delta County GIS (Delta County 2022).

FINDINGS

Based on the desktop wetland evaluation, WestWater estimates within the disturbance boundary there are approximately 18.3 acres of potential WOUS including approximately 2.3 acres for the Relief Ditch, 14.6 acres open water in the centrally-located lake, and 1.4 acres open water in small pond north of the lake. NRCS mapped soil units for the site (Figure 2, Table 2) indicate hydric rated soils mantle approximately 85.3 acres of the site including 58.3 acres Nicolaudette loam and 27.0 acres Fluvaquents). NWI wetlands (Figure 3, Table 3) shows approximately 4.0 acres of WOUS with disturbance boundary of proposed expanded gravel pit. NWI does not include the 14.6 acre lake most likely classified in Cowardin Code as a PABFh. NWI lists the small pond north of the lake as PABFh wetland type.

Table 2. NRCS Mapped Soil Units Site Disturbance Area

NRCS Symbol and Name	Acres	Hydric Rating
701 Montrose-Delta Complex	1.6	Non-Hydric
702 Daiser silty clay loam	6.3	Non-Hydric
791 Cynfeske clay	0.3	Non-Hydric
795 Nicolaudette loam	58.3	Hydric
797 Davstyne-Gabeluceroh loams	17.6	Non-Hydric
806 Fluvaquents-protected-Torrifluvents	27.0	Hydric

Table 3. NWI Wetlands Site Disturbance Area

Cowardin Code Wetland Type	Acres
PABFh Freshwater Pond Dike/Impounded	0.80
PEM1C Freshwater Emergent Wetland	0.45
PEM1Cx Freshwater Emergent Wetland Excavated	1.25
R3UBH Riverine	0.01
R4SBC Riverine	0.99
R5UBH Riverine	0.49

Riparian site areas located south of the Gunnison River and north of the lake and fringing the north and east agricultural field slated as Pit 3 may include WOUS in depression areas hydraulically connected with groundwater. The approximately 12.6 acre area south of the river includes the approximately 1.4 acre small pond and channel features in connection with river surface water. NWI identifies these channels as R5UBH with a total acreage of approximately 0.5 acres. The riparian area north and east of proposed pit 3 agricultural field is approximately 3.5 acres and includes portion of the Relief Ditch classified as a PEM1Cx NWI wetland.

Disturbed areas north and within proposed Pit 1 have areas of alkali/saline impacted soils and spoil piles from past mining activity could potentially qualify as problematic wetlands. Shallow groundwater and clayey hydric soils in this 16.8-acre area may be incapable of supporting vegetation due to high salt content in the soil epipedon. Upland and wetland determination in this area will require site specific data to determine if it is a difficult wetland situation with supportive wetland hydrology and hydric soil but lacking an indicator for the presence of hydrophytic vegetation.

FEMA floodplain mapping (FEMA 2022) for this area (panel 08029CO419D) indicates the entire site is within the 100-year floodplain except for: proposed Pits 2 and 4; approximately the lower ⅓ of proposed Pit 1 and; approximately lower ½ of proposed Pit 3. Floodway designations include riparian areas within the disturbance boundary south of the Gunnison River.

CONCLUSIONS

Potential WOUS in the approximately 111± acre site disturbance area is estimated to be approximately 18.3 acres of combined wetlands and open water in the Relief Ditch (2.3 acres), lake (14.6 acres) and small pond (1.4 acres). NWI identified potential WOUS of approximately 4.0 acres of various type wetlands and open water. Including the 14.6-acre lake, which was not listed in the NWI database, total NWI WOUS would be approximately 18.6 acres. The approximately 16.1 acres of riparian area and 16.8 acres of disturbed alkali/saline impacted soils near proposed Pit 1 have depression focused areas of wetland and open water thus cannot be considered solely upland. The potential problematic alkali/saline impacted area, may be wetland or upland depending on site specific wetland data collected during the growing season.

The site breakdown for wetland and upland area is approximately 18 acres of WOUS in combined wetland and open water area, 60 acres of upland including the approximately 51.5 acres of agricultural field farmland, 16 acres of riparian area of which will be mostly upland with dispersed WOUS areas, and 17 acres of alkali/saline impacted soils which may be upland or problematic wetlands depending on site specific data.

Please feel free to contact our office with any questions or if we can be of help in any way.

Sincerely,



Dean Goebel
Wetland Hydrogeologist/Environmental Scientist

REFERENCES

FEMA. 2022. Federal Emergency Management Agency. Map Service Center. Available online at https://msc.fema.gov/portal/home

Delta County. 2022. GIS Viewer. Available online at https://www.deltacounty.com/13/GIS

NRCS. 2022. Natural Resources Conservation Service. Available online at http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx. U.S. Department of Agriculture.

USFWS. 2022. National Wetlands Inventory. Available online at: http://www.fws.gov/wetlands/Wetlands-Mapper.html. U.S. Fish and Wildlife Service

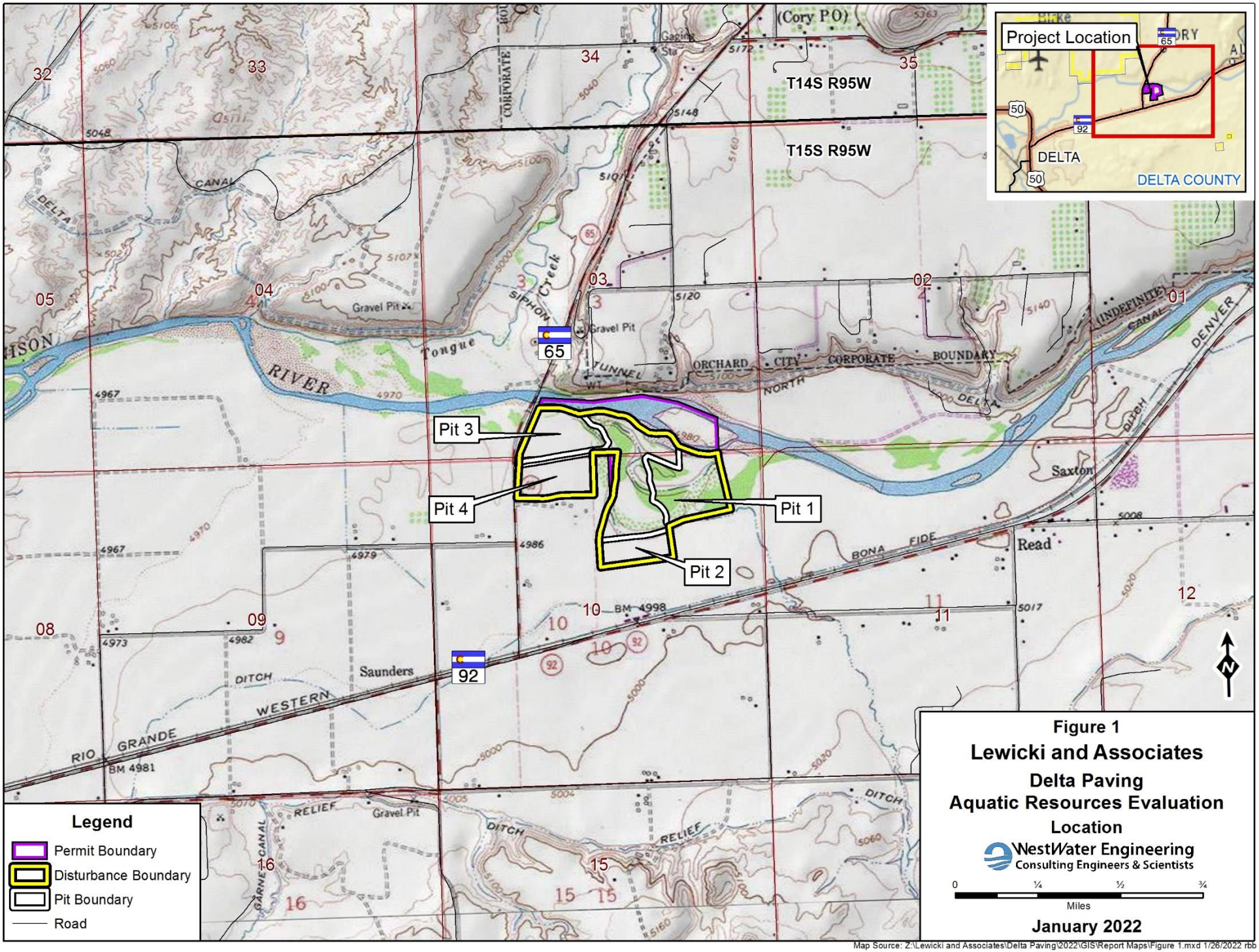


Figure 1

Lewicki and Associates

Delta Paving

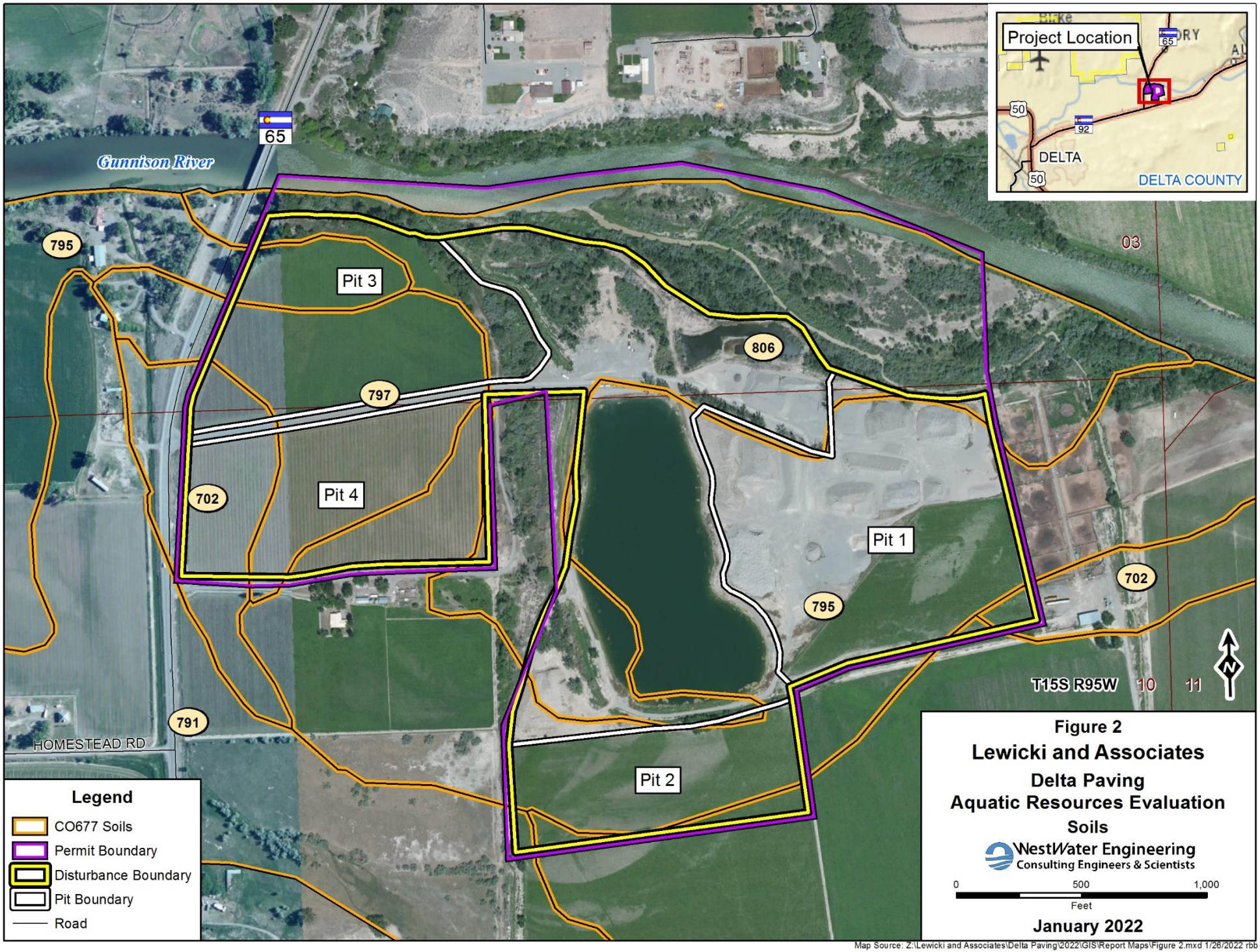
Aquatic Resources Evaluation

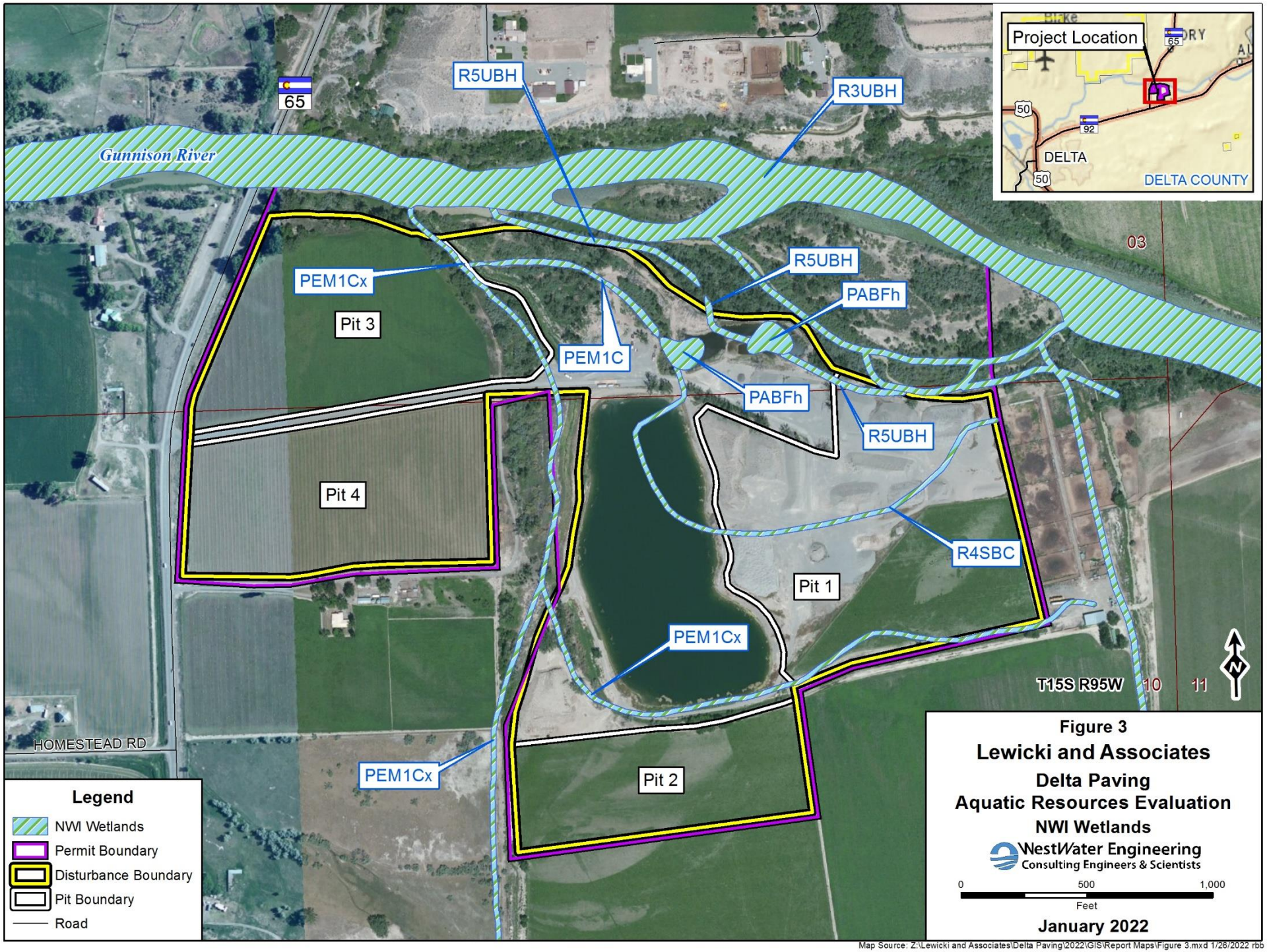
Location

WestWater Engineering
Consulting Engineers & Scientists

January 2022

Map Source: Z:\Lewicki and Associates\Delta Paving\2022\GIS\Report Maps\Figure 1.mxd 1/26/2022 rbb


Project Location
DELTA
DELTA COUNTY
Gunnison River
65
795
Pit 3
806
797
Pit 4
702
Pit 1
795
702
03
T15S R95W
10
11
791
HOMESTEAD RD
Pit 2
Legend
CO677 Soils
Permit Boundary
Disturbance Boundary
Pit Boundary
Road
Figure 2
Lewicki and Associates
Delta Paving
Aquatic Resources Evaluation
Soils
WestWater Engineering
Consulting Engineers & Scientists
0
500
1,000
Feet
January 2022
Map Source: Z:\Lewicki and Associates\Delta Paving\2022\GIS\Report Maps\Figure 2.mxd 1/26/2022 rbb



Map Source: Z:\Lewicki and Associates\Delta Paving\2022\GIS\Report Maps\Figure 3.mxd 1/26/2022 rbb

DATE OF MAILING
April 12, 2000

Filed in the District Court
Water Division 4
APR 12 2000
Kay Phillips, Clerk of Court

DISTRICT COURT, WATER DIVISION 4, COLORADO

Case No. 99 CW 128

RULING OF REFEREE AND DECREE

48

CONCERNING THE APPLICATION FOR WATER RIGHTS OF:

DELTA PAVING LIMITED LIABILITY COMPANY,

IN DELTA COUNTY, COLORADO

The above entitled Application for Underground Water Rights, Change of Water Rights, and Approval of a Plan for Augmentation (the "Application") was filed on July 26, 1999, and was referred to the undersigned as Water Referee for Water Division No. 5, State of Colorado, by the Water Judge of said Court in accordance with Article 92 of Chapter 37, Colorado Revised Statutes 1973, known as The Water Right Determination and Administration Act of 1969.

The undersigned Referee, having made such investigations as are necessary to determine whether the statements in the Application are true, having considered the Summary of Consultation Report of the Division Engineer for Water Division 4, and having become fully advised with respect to the subject matter of the Application, hereby enters and makes the following Findings of Fact, Conclusions of Law, and Ruling as the Referee in this matter:

FINDINGS OF FACT

General Findings

1. The statements in the Application are true.

2. The name and address of the Applicant is:

   Delta Paving Limited Liability Company
   Attn: Ronald E. Tipping, General Manager
   P. O. Box 1849
   Grand Junction, CO 81502

3. No statements of opposition to the Application were filed.

cc Starr + Boyd

Findings Re: First Claim for Relief
(Underground Water Rights)

4. General Project Description: Applicant is mining sand, gravel and related products from the Delta Paving Pits and from the property on which it is located. The property is located near the Gunnison River. During and after the mining of the property, groundwater will be exposed to the atmosphere and will be used for mining and reclamation purposes. The property will be mined to a maximum depth of approximately twenty-five feet, and will create five ponds with a total maximum surface area of 60 acres. These ponds will remain after the completion of mining activities.

5. Name of Structures: The Delta Paving Pit Wells, consisting of Delta Paving Pit Well No. 1, Delta Paving Pit Well No. 2, Delta Paving Pit Well No. 3, Delta Paving Pit Well No. 4, and Delta Paving Pit Well No. 5.

6. Other Wells: There are no other existing wells within six hundred feet of the Delta Paving Pit Wells.

7. Legal Description of Point of Structures:

The Delta Paving Pit Wells will be located in the south half of Section 3 and the north half of Section 10, T. 15 S., R. 95 W., 6th P.M., at the following locations:

Delta Paving Pit Well No. 1: 2200 feet West of the East line and 200 feet North of the South line of said Section 3.

Delta Paving Pit Well No. 2: 1700 feet West of the East line and 300 feet North of the South line of said Section 3.

Delta Paving Pit Well No. 3: 1100 feet West of the East line and 400 feet North of the South line of said Section 3.

Delta Paving Pit Well No. 4: 1600 feet West of the East line and 800 feet South of the North line of said Section 10.

Delta Paving Pit Well No. 5: 2300 feet West of the East line and 1600 feet South of the North line of said Section 10.

A map of the locations of the Delta Paving Pit Wells is attached hereto as Exhibit A.

8. Source: The Delta Paving Pit Wells are gravel pits located in alluvial deposits adjacent to the Gunnison River, and will intercept and withdraw groundwater tributary to the Gunnison River.

9. Appropriation Date: The appropriation date for the Delta Paving Pit Wells is June 19, 1998.

10. Amounts Claimed: Applicant claims 218.75 acre feet per year for evaporation losses and 3.7 acre feet per year for product moisture losses from the Delta Paving Pit Wells. In addition, water will be pumped from the Delta Paving Pit Wells at the maximum rates of 800 g.p.m. for dewatering purposes, 300 g.p.m. for dust suppression purposes (2.70 acre feet per year), and 1,000 g.p.m. for aggregate washing purposes. All amounts are claimed conditional.

11. Uses or proposed uses: Industrial uses, including but not limited to dewatering of the Delta Paving Pit Wells during mining, evaporation during mining activities and after completion of mining activities from the Delta Paving Pit Wells, dust suppression, product moisture losses through aggregate removal and processing, and aggregate washing, all in connection with the mining of sand, gravel, and related products from the lands on which the Delta Paving Pit Wells are located, and with the reclamation and use of such land during and after completion of such mining.

12. The Applicant has initiated a valid appropriation of the Delta Paving Pit Wells as of the date set forth in Paragraph 9, above. Water is available for appropriation under this priority. Applicant has established that water can and will be diverted, stored, and/or otherwise captured, possessed, and controlled and will be beneficially used, and that the appropriation can and will be completed with diligence and within a reasonable time.

13. The water which collects in the Delta Paving Pit Wells is not in storage, as defined in §37-92-103(10.5), C.R.S., and, in the administration of the water rights confirmed herein, statutes and other law relating to the storage of water, including without limitation §37-92-502(3), C.R.S., shall not be applicable.

Findings Re: Second Claim for Relief
(Plan for Augmentation and Change of Water Rights)

14. Names of structures to be augmented: Delta Paving Pit Wells, described in the Findings Re: First Claim for Relief, above.

15. Description of water rights to be used for augmentation:

A. The Applicant owns ten shares, and has leased an additional two shares, of the capital stock of the Bona Fide Ditch Company ("Ditch Company"), which has a total of 500 shares issued and outstanding. Water produced under these twelve shares will be used for augmentation. The Ditch Company owns the following decree:

(I) Bona Fide Ditch

A. Date Decree Entered: February 25, 1903
Civil Action No. 374, Delta County District Court

B. Type of water right: Surface (direct flow)

C. Legal description of point of diversion: The decreed point of diversion for the Bona Fide Ditch is described as follows: The headgate is situated on the left bank of the Gunnison River at a point whence the corner of Sections 1, 6, 7, and 12, in T. 15 S., R. 95 W., 6th P.M., bears South 55°40' E. 46.46 chains distant. The actual point of diversion is located in the SE1/4 NW1/4 SE1/4 of Section 1, T. 15 S., R. 95 W., 6th P.M., at a point approximately 3,500 feet East of the West line and 1,700 feet North of the South line of said Section 1.

D. Source: Gunnison River.

E. Appropriation Date: November 30, 1881.

F. Amount: 65 c.f.s.

G. Decreed and Historic Use: The Bona Fide Ditch was decreed for irrigation purposes. Applicant's twelve shares equate to a flow of 1.56 c.f.s., and have provided a full irrigation supply to 48.8 acres of land which will be removed from irrigation, as more fully described in Paragraph 16, below.

B. To the extent necessary to augment depletions when Applicant's water rights are out of priority, Applicant will also enter into a water supply contract with the United States Bureau of Reclamation to purchase water from Bureau of Reclamation facilities, or will purchase water from other sources. See Paragraph 16, below.

16. Statement of Plan for Augmentation:

A. The Delta Paving Pit Wells are five proposed gravel pits located on lands owned and leased by Applicant. Mining operations will be conducted when necessary, and could occur at any time of the year. Applicant estimates that a maximum of 125,000 tons of material will be mined each year until the gravel is mined out. The Delta Paving Pit Wells will intercept groundwater, and mining operations will result in the formation of five ponds with a total maximum exposed water surface area of 60 acres. Water will be pumped from these ponds and used on-site for dust suppression and aggregate washing. Depletions will occur from these dust suppression and aggregate washing operations. In addition, depletions will occur from evaporation from the ponds and from product moisture loss related to moisture in the mined material. During mining, the pits will be dewatered, with the water being discharged to the Gunnison River. However, these dewatering operations will not result in any depletions in addition to those described above. The amount of product mined and the mining operations period may vary from year to year. The augmentation plan described herein will allow for changes in the pond sizes, the scope of the mining operations, and the time period of the mining operations without the necessity of amending this augmentation plan.

B. There is water available for appropriation in the Gunnison River from May through August of each year. Thus, the water rights claimed for the Delta Paving Pit Wells will be in priority during those months, and no augmentation or replacement of depletions shall be required during those months. However, the Gunnison River is considered potentially over-appropriated during the months of September through December and January through April of each year (which months will be referred to herein as the "Call Period"). Thus, augmentation of depletions from the Delta Paving Pit Wells may be necessary during the Call Period. The plan for augmentation described herein provides for augmentation and replacement of depletions from the Delta Paving Pit Wells during the Call Period.

C. Water diversions and depletions from the Delta Paving Pit Wells, at full operation and buildout, will be as follows:

(I) . Water will evaporate from the exposed water surface areas of the Delta Paving Pit Wells. Net evaporative depletions from the Delta Paving Pit Wells from a total exposed water surface area of 60 acres will be 218.75 acre feet per year, of which 92.03 acre feet of depletions will occur during the Call Period. Exhibit C, attached hereto, details the calculation of the net evaporative depletions annually and during the Call Period from the Delta Paving Pit Wells.

(II) Water will be withdrawn from the Delta Paving Pit Wells as product moisture and for aggregate washing purposes during mining operations. The product mined from the Delta Paving Pit Wells will include product moisture in the amount of four percent (4%) of the material mined during the year, and water will be pumped from the Delta Paving Pit Wells at the maximum rate of 1,000 g.p.m. for aggregate washing purposes. Of the total amount of water withdrawn and diverted as product moisture and for gravel washing purposes, 3.7 acre feet per year will be depletions to the river system (based upon 125,000 tons of product mined per year and a moisture content of four percent (4%) of the product mined by weight). The remainder of the amount diverted will be discharged back into the Delta Paving Pit Wells or into the Gunnison River adjacent to the Pits. The Applicant anticipates that the diversions and depletions will occur primarily during the months of May through September of each year. However, depending on demands for gravel, such diversions and depletions could occur at any time during the year, both during and outside of the Call Period.

(III) Water will be withdrawn from the Delta Paving Pit Wells for dust suppression purposes during mining operations. Some of this water will be used for dust suppression in gravel crushing operations, and some will be used to suppress dust on roads. The total amount of water to be withdrawn and used for dust suppression purposes is anticipated to be 2.70 acre feet per year, calculated as follows:

(1) 0.79 acre feet per year for gravel crushing dust suppression, based upon application at a rate of 15 g.p.m. for 12 hours per day for 24 days during the year; and

(2) 1.91 acre feet per year for dust suppression on roads, based upon application at the rate of 6,000 gallons per day for 104 days per year.

The use of water for dust suppression purposes will be 100% consumptive. Applicant anticipates that water will be diverted through September of each year, and that water for gravel crushing dust suppression will be diverted in May or June of each year. However, depending on demands for gravel, such diversions and depletions could occur at any time during the year, both during and outside of the Call Period.

(IV) Evaporation losses from the Delta Paving Pit Wells will occur both during mining operations and after mining operations are completed. All other diversions and depletions will occur only while mining operations at the Delta Paving Pit Wells are ongoing. Once mining operations have been completed at the Delta Paving Pit Wells, these other diversions and depletions will cease.

D. Applicant is entitled to certain depletion credits in connection with the development of the Delta Paving Pit Wells, described as follows (these credits will be collectively referred to herein as the "Depletion Credits"):

(I) Applicant will remove 7.5 acres of phreatophytes from the area where mining activities will occur. All of said 7.5 acres will be under the free water surface of the water exposed during the mining activities. Consumptive use credits were calculated using the modified SCS-Blaney Criddle method for determining evapotranspiration. Credits are claimed from April through mid-November of each year in the amount of 25.74 acre feet per year, or 3.43 acre feet per acre. Exhibit D, attached hereto, shows the phreatophyte consumptive use credits spread over these months. The location of the 7.5 acres of phreatophytes is shown on Exhibit E.

(II) As indicated in Paragraph 15 above, Applicant owns ten shares and leases two shares of the stock of the Ditch Company. Applicant's mining activities will remove from irrigation 48.8 acres of grass hay which historically have been irrigated by the Bona Fide Ditch. The twelve shares of the Ditch Company controlled by Applicant have historically provided a full irrigation water supply to these 48.8 acres of land, resulting in an average historic consumptive use of 102.8 acre feet per year, or 2.11 acre feet per acre. The consumptive use was calculated using the modified SCS-Blaney Criddle method. Exhibit D, attached hereto, shows the irrigation consumptive use credits spread over the irrigation season (April through October). The location of the 48.8 acres of historically irrigated land is shown on Exhibit E.

E. Applicant will provide augmentation and replacement water necessary to meet the lawful requirements of senior appropriators, to the extent such appropriators will be deprived of water by Applicant's out-of-priority depletions from its activities at the Delta Paving Pit Wells (a "valid call"), in the following manner:

(I) To the extent there is a valid call during the Call Period (September through December and January through April of each year) Applicant will replace depletions from uses associated with the Delta Paving Pit Wells using the Depletion Credits. Applicant shall be entitled to an annual depletion credit of 2.11 acre feet for every acre of historically irrigated land which is removed from irrigation through Applicant's mining process, up to a maximum of 48.8 acres. Applicant shall also be entitled to an annual depletion credit of 3.43 acre feet for every acre of phreatophytes which is removed through Applicant's mining process, up to a maximum of 7.5 acres. The depletion credits for phreatophytes shall be credited against evaporation depletions. To the extent that the Depletion Credits are not adequate to offset the depletions from Applicant's operations at the Delta Paving Pit Wells

on a monthly basis during a valid call, Applicant will purchase water from Bureau of Reclamation facilities or other sources to replace any depletions which may occur, and/or take other actions to satisfy or remove the call with respect to its rights.

(II) Normally, there will be no valid call during the period from May through August of each year. Thus, Applicant generally will not be required to replace depletions during these months. However, to the extent a valid call is made during this period, Applicant will replace its depletions in the same manner as provided in 16.E(I), above.

F. The following procedures shall be followed for implementing this augmentation plan:

(I) Before any Depletion Credits are available for augmentation and replacement purposes, Applicant shall remove land from irrigation or remove phreatophytes, and shall report to the Division Engineer the number of acres and location of land removed from irrigation or from which phreatophytes have been removed. When such lands are identified to the Division Engineer, the Applicant shall have Depletion Credits available on a monthly basis in an amount equal to the depletion credits per acre shown on Exhibit D times the number of acres identified to the Division Engineer.

(II) When the Depletion Credits associated with Applicant's Ditch Company shares are used to replace depletions from uses associated with the Delta Paving Pit Wells, water from Applicant's Ditch Company shares which is needed to replace such depletions will not be diverted through the Ditch Company's headgate, but will be left in the Gunnison River.

(III) Water accounting and reporting sheets will be developed by the Applicant and approved by the Division Engineer and will be submitted on a schedule acceptable to the Division Engineer.

(IV) Applicant will install such measuring devices as may reasonably be required by the Division Engineer to facilitate the operation of this plan of augmentation and to assure compliance herewith.

G. The depletions from the Delta Paving Pit Wells, and the Depletion Credits to which Applicant is entitled, are summarized on Exhibit B, attached hereto.

H. Some of the Delta Paving Pit Wells are located on land owned by the Richard M. Frazier and Betsey A. Frazier Revocable Trust (the "Frazier Property"). Applicant has leased the Frazier Property from the Trust pursuant to a Lease Agreement dated November 19, 1998 (the

"Frazier Lease"). To the extent the water rights and plan for augmentation adjudicated pursuant to this Application relate to the Frazier Property, Applicant's interest in such portion of the water rights and augmentation plan shall cease upon termination or expiration of the Frazier Lease, and shall be assigned by Applicant to the lessors under the Frazier Lease.

17. Applicant seeks to change the water rights represented by the twelve shares of the Ditch Company which it owns or controls to allow the following uses in addition to irrigation uses: Industrial uses, including but not limited to dewatering of the Delta Paving Pit Wells during mining, evaporation during mining activities and after completion of mining activities from the Delta Paving Pit Wells, dust suppression, product moisture losses through aggregate removal and processing, and aggregate washing, all in connection with the mining of sand, gravel, and related products from lands on which the Delta Paving Pit Wells are located, and with the reclamation and use of such land during and after completion of such mining. Such uses may be made by direct use or by augmentation, replacement or exchange.

18. The above plan for augmentation and changes of water rights will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right.

CONCLUSIONS OF LAW

19. The Application herein is one contemplated by law, and this Court has jurisdiction over the subject matter of this proceeding.

20. Timely and adequate notice of the filing and of the contents of this Application was given as required by law, and this Court and the Referee have jurisdiction over all persons or entities affected hereby, whether they have appeared or not.

21. The Applicant has initiated a valid appropriation of the water rights for the Delta Paving Pit Wells as of the date claimed in the Application. Water is available for appropriation under this priority. Water can and will be diverted, stored, and/or otherwise captured, possessed, and controlled and will be beneficially used under the conditional water right for the Delta Paving Pit Wells, and the appropriation can and will be completed with diligence and within a reasonable time.

22. The plan for augmentation described in the Findings Re: Second Claim for Relief, above, meets the statutory criteria for a plan for augmentation as set forth in Sections 37-92-103(9), -302(1), and -305(8), C.R.S., and is one contemplated by law. If the plan for augmentation is operated and administered in accordance with the conditions hereof, such plan and the operation of

the Delta Paving Pit Wells under the plan will not cause material injury to any vested water rights or decreed conditional water rights on the Gunnison River, or its tributaries.

RULING

23. The Findings of Fact and Conclusions of Law set forth above are hereby approved and confirmed, and are incorporated into this Ruling by reference.

24. The application for underground water rights for the Delta Paving Pit Wells, set forth in the First Claim for Relief of the Application, is hereby approved. A conditional water right is hereby confirmed to the Delta Paving Pit Wells, in the following amounts and rates: 218.75 acre feet per year for evaporation losses; 3.7 acre feet per year for product moisture losses; 1,000 g.p.m. for aggregate washing purposes; 300 g.p.m. for dust suppression purposes (2.70 acre feet per year); and 800 g.p.m. for dewatering purposes. The award of said conditional water right is on the condition that said quantity of water be diverted and applied to beneficial use within a reasonable time. Such water right is subject to all earlier priority rights of others and to the integration and tabulation by the Division Engineer of such priority and in accordance with law.

25. The application for approval of the plan for augmentation set forth in the Second Claim for Relief of the Application is hereby approved. The Delta Paving Pit Wells may be constructed and may divert water in accordance with this Ruling of Referee and may be operated in accordance with this Ruling of Referee. Applicant shall have the right to divert water out of priority from and at the Delta Paving Pit Wells so long as adequate water is available and provided to augment depletions from such diversions, as set forth in the Plan for Augmentation described above. Pursuant to C.R.S. 37-92-305(8), the Division Engineer for Water Division 4 shall curtail all out of priority diversions from the Delta Paving Pit Wells the depletions from which are not so replaced as to prevent injury to vested water rights. The Applicant and its assigns understand that a portion of the replacement water is a leased supply, and if such lease should expire, fail to be renewed, is terminated, or an alternative source of replacement water is not included in this decree by proper amendment prior to such expiration, curtailment of all out of priority diversions being augmented by the leased supply will occur.

26. The application for change of water rights set forth in the Second Claim for Relief of the Application is hereby approved. The water rights represented by the ten shares of the capital stock of the Ditch Company owned by the Applicant and the two shares of the capital stock of the Ditch Company leased by Applicant are hereby changed to allow the following uses, in addition to the original irrigation uses: Industrial uses, including but not limited to dewatering of the Delta Paving Pit Wells during mining, evaporation during mining activities and after completion of mining activities from the Delta Paving Pit Wells, dust suppression, product moisture losses through

aggregate removal and processing, and aggregate washing, all in connection with the mining of sand, gravel, and related products from lands on which the Delta Paving Pit Wells are located, and with the reclamation and use of such land during and after completion of such mining. Such uses may be made by direct use or by augmentation, replacement or exchange.

27. Prior to constructing the Delta Paving Pit Wells or operating the Delta Paving Pit Wells under the plan for augmentation approved herein, Applicant shall file an application for a well permit for these Wells with the State Engineer's office, pursuant to §§37-90-137(11), which application shall be consistent with the terms of this Ruling. The State Engineer is ordered to issue a well permit for the Delta Pavings Pit Wells, pursuant to §37-90-137, C.R.S., within sixty days after Applicant files the well permit application with the State Engineer's office. Applicant or its successors shall have the right to reapply to the State Engineer for a new permit for any expired permit, which the State Engineer shall grant and issue within sixty days after application therefor, so long as this Ruling of Referee remains in effect.

28. The priority date awarded herein to the Delta Paving Pit Wells shall be June 19, 1998. The Application was filed herein in 1999, and the Delta Paving Pit Wells shall be administered as having been awarded on an application filed in 1999.

29. Applications for reasonable diligence shall be filed by the owner or user of the conditional water right awarded herein, at the times and in the manner specified by §37-92-301(4)(a), C.R.S., if such owner or user desires to maintain the same, or until a determination is made that such conditional right has been made absolute by reason of the completion of the appropriation. The date for filing the first application for a finding of reasonable diligence shall be set forth in the judgment and decree of the Court confirming this Ruling.

30. The Court shall retain jurisdiction in this matter with respect to the approval of the plan for augmentation and of the change of water rights for five years from the date the augmentation plan becomes operational. The date the augmentation plan becomes operational shall be the date that water is first exposed to the atmosphere from the Delta Paving Pit Wells after the well permit for the Pit Wells is issued. Such date shall be set forth in the first annual report filed by Applicant with the Division Engineer pursuant to Paragraph 31, below. In setting forth this period, the Referee finds that such period is necessary to assure that no injury shall occur to vested rights of others by the operation of the plan for augmentation and the change of water rights. Upon proper petition by any interested person, the Court shall reconsider its approval of the plan for augmentation and/or of the change of water rights and the question of injury to any water rights owned by such petitioner.

In the event that any person or party petitions the Court for reconsideration of its approval of the plan for augmentation or the question of injury to water rights, the Court shall order

appropriate notice to be given to all parties hereto. Such petition shall be made in good faith, under oath, and shall set forth with particularity the factual basis upon which the requested reconsideration is premised, together with proposed decretal language to effect the petition. The party filing the petition shall have the burden of going forward to establish the prima facie facts alleged in the petition.

31. Applicant shall install such measuring devices as may reasonably and legally be required by the Division Engineer to facilitate the operation of the plan for augmentation approved herein and to assure compliance herewith. The Applicant shall also provide accountings and supply calculations regarding the timing of depletions as required by the Division Engineer for the operation of the plan for augmentation. The Applicant shall also file an annual report with the Division Engineer by November 15 of each year summarizing diversions and replacements made under the plan for augmentation.

32. This Ruling shall be filed with the Water Clerk subject to judicial review. A copy of this Ruling shall be mailed by the Water Clerk by certified or registered mail to the Applicant, to the State Engineer, and to the Division Engineer for Water Division No. 4.

Dated: 4-12, 2000.

BY THE REFEREE:

Aaron Clay

Water Referee
Water Division No. 4
State of Colorado

No protest was filed in this matter. The foregoing Ruling is confirmed and approved, and is made the Judgment and Decree of this court. THE MONTH AND CALENDAR YEAR FOR FILING AN APPLICATION FOR A FINDING OF REASONABLE DILIGENCE SHALL BE May 2006.

Dated: 5/10, 2000

BY THE COURT

Water Judge

Mailed-A Copy of this Document to all parties in this case.

Dated 5-12-00

KP

Kay Phillips, Water Clerk

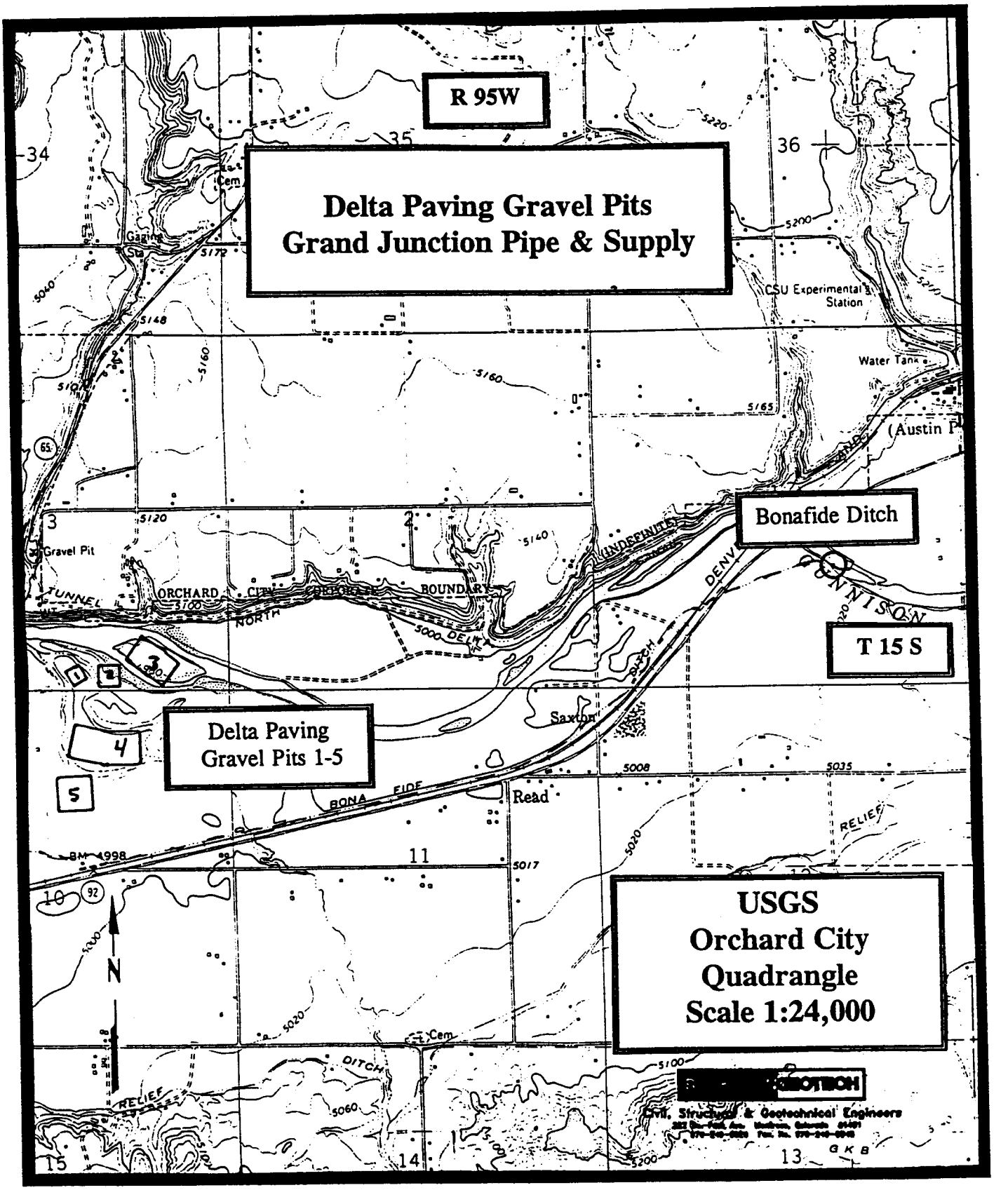

R 95W
Delta Paving Gravel Pits
Grand Junction Pipe & Supply
Bonafide Ditch
T 15 S
Delta Paving
Gravel Pits 1-5
USGS
Orchard City
Quadrangle
Scale 1:24,000
Gravel Pit
ORCHARD CITY
BOUNDARY
NORTH
Saxton
Read
CSU Experimental Station
Water Tank
BONA FIDE
DITCH
RELIEF
BM 4998
Cem
N

EXHIBIT A

Table 2

EXHIBIT B

Depletions from the Delta Paving Gravel Pits

Delta, Colorado

values in acre feet

Call period: September through April,
Mining period: May through August

Depletions *	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
1 Evaporative Depletions	5.7	7.1	11.3	20.5	27.3	34.0	34.8	30.5	21.2	13.4	7.41	5.5	218.7
2 Depletions from moisture in mined material (4%)	0.0	0.0	0.0	0.0	0.74	0.74	0.74	0.74	0.74	0.0	0.0	0.0	3.7
3 Dust Suppression: roads	0.0	0.0	0.0	0.0	0.4	0.4	0.4	0.4	0.4	0.0	0.0	0.0	1.9
gravel crushing	0.0	0.0	0.0	0.0	0.0	0.8	0.0	0.0	0.0	0.0	0.0	0.0	0.8
Total Depletions	5.7	7.1	11.3	20.5	28.5	35.9	36.0	31.6	22.3	13.4	7.4	5.5	225.1
Credits													
4 Credits for Phreatophyte removal	0.0	0.0	0.0	2.2	3.5	4.7	5.3	4.5	3.0	1.7	0.8	0.0	25.7
C.U. Credits for Phreatophyte removal Af/Acre	0.0	0.0	0.0	0.3	0.5	0.6	0.7	0.6	0.4	0.2	0.1	0.0	3.4
5 48.8 acres of Hay removed from irrigation	0.0	0.0	0.0	3.6	14.4	20.9	25.7	19.9	12.9	5.4	0.0	0.0	102.9
C.U. Credits for acreage retired from Irrigation Af/Acre	0.0	0.0	0.0	0.1	0.3	0.4	0.5	0.4	0.3	0.1	0.0	0.0	2.1
Total Credits	0.0	0.0	0.0	5.9	18.0	25.6	31.0	24.4	15.8	7.2	0.8	0.0	128.7
Net Depletions													
Depletions	5.7	7.1	11.3	14.6	10.5	10.3	5.0	7.2	6.4	6.3	6.6	5.5	96.5
Depletions September through April	5.7	7.1	11.3	14.6	0.0	0.0	0.0	0.0	6.4	6.3	6.6	5.5	63.5

1 Taken from Table 1
2 Based on 125,000 tons of material mined per year
3 Based on 6000 gal/day of water used
4 7.5 Acres of mixed Willows and Cottonwoods
5 Irrigation season: April 15 through October

Table 1

Evaporative Depletions from the Delta Paving Gravel Pits

East of Delta, Colorado
Elevation 4970 ft.

			Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec	TOTAL
1	Total Surface Area of Pit (acres)	60.0													
2	Annual Evaporation (in)	50.0													
3	Monthly Distribution (%)		0.03	0.04	0.06	0.09	0.12	0.15	0.15	0.14	0.10	0.07	0.04	0.03	1.00
4	Monthly Gross Evaporation (in)		1.50	1.75	2.75	4.50	6.00	7.25	7.50	6.75	5.00	3.50	2.00	1.50	50.00
5	Monthly Effective Precipitation (in)		0.36	0.34	0.50	0.40	0.53	0.44	0.53	0.65	0.77	0.81	0.52	0.41	6.25
7	Monthly Net Evaporation (in)		1.14	1.41	2.25	4.10	5.47	6.81	6.97	6.10	4.23	2.69	1.48	1.09	43.75
8	Net Evaporation of Gravel Pit (AF)		5.72	7.07	11.27	20.51	27.34	34.05	34.84	30.50	21.15	13.44	7.41	5.47	218.75
	Evaporation September through April		**5.72**	**7.07**	**11.27**	**20.51**	**0.00**	**0.00**	**0.00**	**0.00**	**21.15**	**13.44**	**7.41**	**5.47**	**92.03**

1 Taken from estimated surface area at build-out
2 Taken from NOAA Technical Report 33
3 Taken from General Criteria for Substitute Water Supply Plan, State Engineer's Office, February, 1996.
4 Calculated evaporation: monthly distribution X annual evaporation
5 Taken from NOAA , Climatology of the United States No. 81, 1961-1990, Delta Station multiplied by a factor of 0.7
6 Evaporation minus Precipitation
7 Pit surface area X monthly net evaporation / 12

CONSUMPTIVE USE CREDITS FOR THE
DELTA PAVING GRAVEL PITS

(values in acre feet)

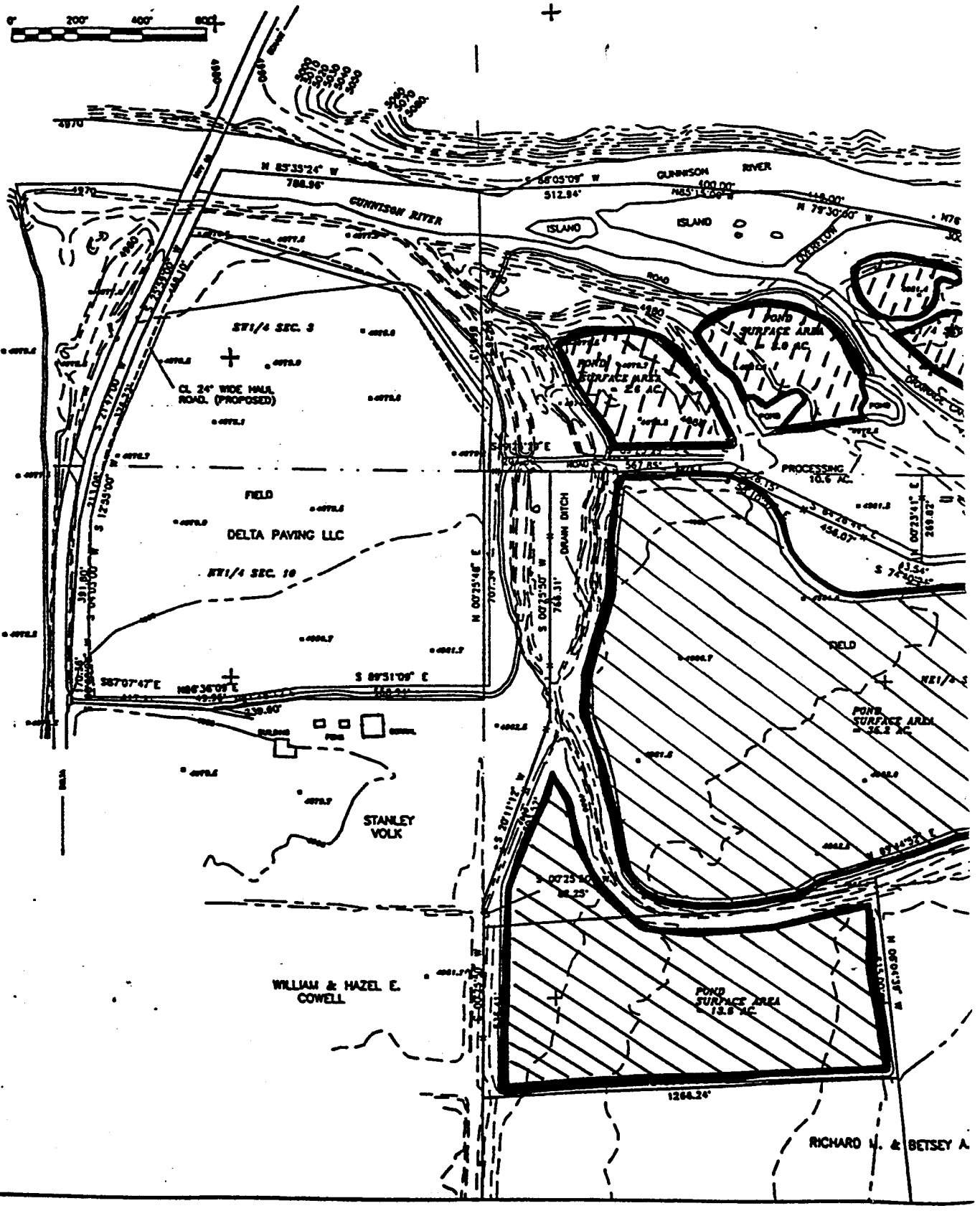
Credits	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Phreatophyte	0.0	0.0	0.0	2.2	3.5	4.7	5.3	4.5	3.0	1.7	0.8	0.0	25.7
Irrigation	0.0	0.0	0.0	3.6	14.4	20.9	25.7	19.9	12.9	5.4	0.0	0.0	102.8
Total Credits	0.0	0.0	0.0	5.8	17.9	25.6	31.0	24.4	15.9	7.1	0.8	0.0	128.5

EXHIBIT D

DELTA PAVI

P

S 1/2 SEC. 3 AND N. 1/2



GRAVEL PIT

OF

. 10, T 15 S, R 95 W 6TH PM

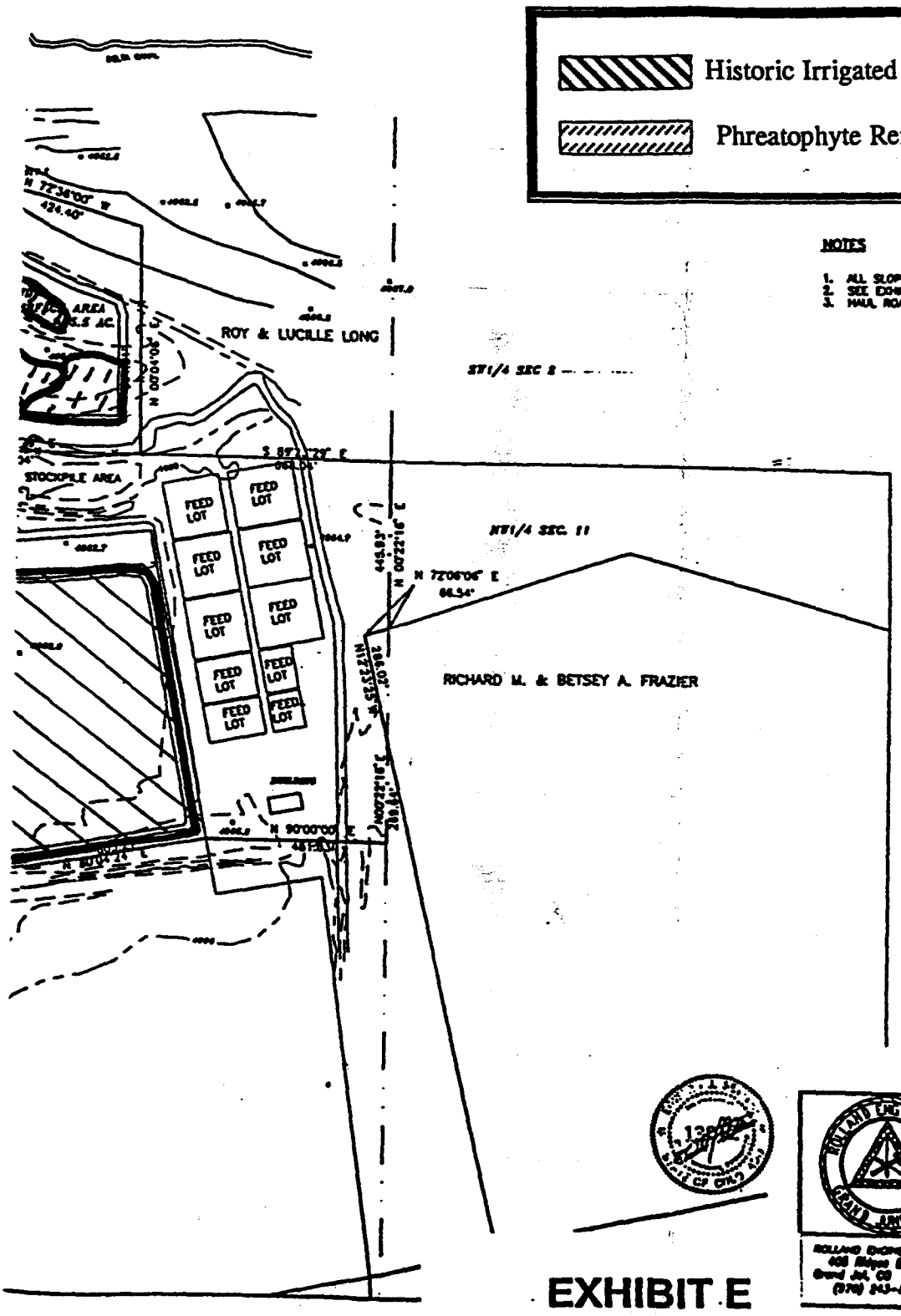


EXHIBIT E

ROLLAND ENGINEERING
405 Main Blvd
Grand Jct, CO 81505
(970) 243-8300

DELTA PAVING GRAVEL PIT
EXHIBIT F
RECLAMATION PLAN
GRAND JUNCTION PIPE & SUPPLY CO.
P.O. BOX 1849
GRAND JUNCTION, COLORADO 81502

Designed	Drawn	Proj. 8037	Sheet 1
Drawn LC	Date 10/27/98	Date 12/08/98	ID 1

Form No. GWS-25

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

LIC

WELL PERMIT NUMBER 053787 . F .

DIV. 4 WD 40 DES. BASIN MD

APPLICANT

DELTA PAVING LLC
% RONALD E TIPPING
P O BOX 1849
GRAND JUNCTION, CO 81502-

(970) 243-4604

APPROVED WELL LOCATION

DELTA COUNTY

1/4 SE 1/4 Section 3

Township 15 S Range 95 W Sixth P.M.

DISTANCES FROM SECTION LINES

0 Ft. from Section Line

0 Ft. from Section Line

PERMIT TO EXPOSE WATER IN A PIT

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT

CONDITIONS OF APPROVAL

1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
2) The construction of this well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
3) Approved pursuant to CRS 37-90-137 (2) and (11) on the condition that this well is operated in accordance with the Delta Paving LLC Augmentation Plan approved by the Division 4 Water Court in case no. 99CW128. If this well is not operated in accordance with the terms of said decree, it will be subject to administration including orders to cease diverting water.
4) The average annual amount of ground water to be appropriated shall not exceed 225.15 acre-feet with the total surface area of the ground water ponds limited to 60 acres. These ponds are known as the Delta Paving Pit Wells Nos. 1 - 5. CDMG No. M-98-105. Nos. 1 - 3 are located in the SE/4 of Section 3 and Nos. 4 & 5 are located in the NE/4 of Section 10.
5) The use of ground water, in addition to evaporation (218.75 acre-feet/year), is limited to dust suppression (2.7 acre-feet/year), product moisture loss (3.7 acre-feet/year), aggregate washing, and dewatering. No other use of water is allowed unless a permit therefor is approved.
6) The owner shall mark the wells (ponds) in a conspicuous place with well permit number(s) and court case number(s) as appropriate. The owner shall take necessary means and precautions to preserve these markings.
7) The provision of the Minimum Construction Standards in Rule 10 shall be waived for gravel pits except for Rules 10.1 and 10.2.1 regarding aquifer contaminants. The owner of the gravel pits shall take necessary means and precautions to prevent contaminants from entering the gravel pit wells.
8) The boundaries of the ground water ponds/gravel pits shall be more than 600 feet from any existing well not owned by the applicant.
9) No permanent pumping equipment shall be installed within the confines of the ground water ponds/gravel pits, unless a seperate written request for a variance has been approved by the State Board of Examiners of Water Well Construction and Pump Installation Contractors.
10) Permanent records of all diversions must be maintained by the well owner (recorded at least annually) and submitted to the Division Engineer upon request.
11) The owner shall submit plan and cross section drawings on 8-1/2" x 11" paper showing the extent of excavations, the maximum depths of the pits, and the initial static water levels. JD 5-19-2000

APPROVED
JD2

Hal D. Simpson
State Engineer

Jeff Deatz

Receipt No. 0459505

DATE ISSUED MAY 19 2000

EXPIRATION DATE MAY 19 2001

FORM NO. GWS-8/89

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
823 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

SEE INSTRUCTIONS ON REVERSE SIDE

GRAVEL PIT WELL PERMIT APPLICATION

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For Office Use only

Invoice # 439585 4/19/00 -- 2:23:00 PM Cashier ID: BI $ 60.00 Check Purchase- #165135

1. TYPE OF PERMIT

_X_ NEW PIT(S)

____ PIT(S)EXIST, CONSTRUCTED AFTER DEC. 31, 1980

____ REACTIVATION OF PRE JAN. 1, 1981 PIT(S)

2. OWNER

NAME(S) Delta Paving Limited Liability Company
Attn: Ronald E. Tipping, General Manager
Mailing Address P.O. Box 1849
City, St. Zip Grand Junction, CO 81502
Phone (970) 243-4604

GW ✓
Tab ✓
Diversion ✓

68-E Orchard City

M-98-105

PIT NAME
Delta Paving Pit Wells, consisting of Delta Paving Pit Wells Nos. 1, 2, 3, 4, and 5

3. ADDRESS OF LOCAL CONTACT (IF DIFFERENT THAN #2)

NAME (S) Same as above
Mailing Address
City, St. Zip

4. GENERAL LOCATION OF PIT(S): COUNTY Mesa

See Exhibit A for legal description of the Delta Paving Pit Wells

5. Total number of water surface acres (to be) exposed: Sixty (60) acres. Total Number of Pits: Five (5).

6. Estimated depth of pit: twenty-five (25) feet. Estimated depth to groundwater: Five (5) feet.

7. (a) Estimated date to begin excavation: May, 2000; to complete excavation: Summer, 2010.

8. ATTACHMENTS: (Check which have been attached.)

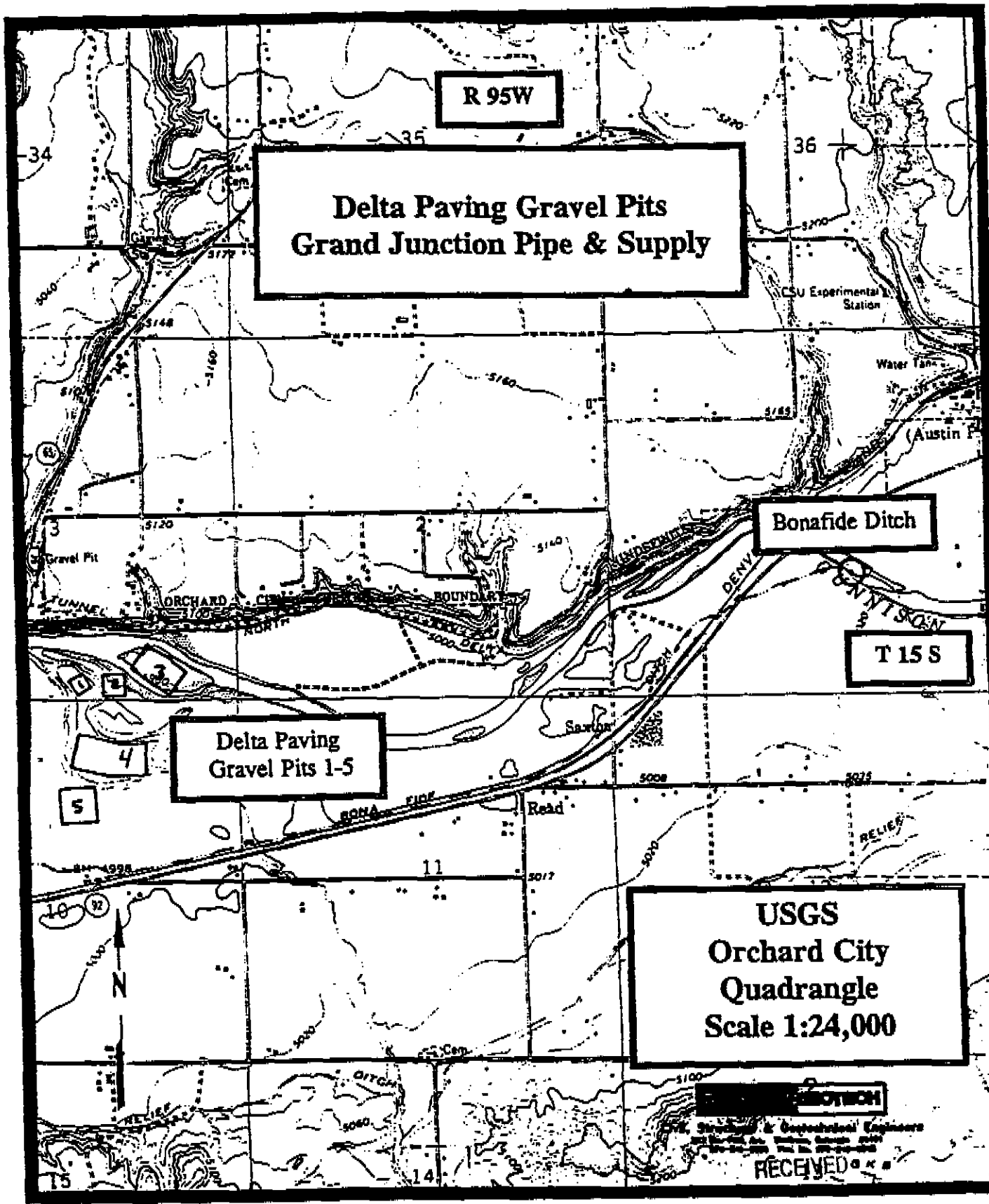
(a) _X_ Scaled map of pit area tied to a Section or 1/4 Corner (Required). (Attached as Exhibit B)
(b) _X_ Copy of the reclamation permit if applicable. (Attached as Exhibit C)
(c) ___ Copy of Pre 1/15/89 Water Conservancy Dist. or Water User Assoc. Augmentation Agreement if applicable.
(d) ___ Copy of proposed Augmentation or Temporary Supply Plan if applicable.
(e) _X_ Copy of Court approved Augmentation Plan if applicable. (Attached as Exhibit D)
(f) _X_ Other Exhibit A

9. Detailed description of the use and method of diversion of any water withdrawn from the pond.
See Exhibit A, attached hereto and incorporated herein by reference.

10. I (we) have read the statements made herein and know the contents thereof, and that they are true to my (our) knowledge. [Pursuant to Section 24-4-104(13)(a) C.R.S., the making of false statements herein constitutes perjury in the second degree and is punishable as a class 1 misdemeanor.]

Name/Title	Signature	Date
Ronald E. Tipping, General Manager	Ron Tipping	April 18, 2000

For Office Use Only
Court Case No. ____ Div. 4 Co. ____ WD 40 Basin ____ MD ____ Use ____



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EXHIBIT A

4. General Location of the Pit:

The Delta Paving Pit Wells will be located in the south half of Section 3 and the north half of Section 10, T. 15 S., R. 95 W., 6th P.M., at the following locations:

Delta Paving Pit Well No. 1: 2200 feet West of the East line and 200 feet North of the South line of said Section 3.

Delta Paving Pit Well No. 2: 1700 feet West of the East line and 300 feet North of the South line of said Section 3.

Delta Paving Pit Well No. 3: 1100 feet West of the East line and 400 feet North of the South line of said Section 3.

Delta Paving Pit Well No. 4: 1600 feet West of the East line and 800 feet South of the North line of said Section 10.

Delta Paving Pit Well No. 5: 2300 feet West of the East line and 1600 feet South of the North line of said Section 10.

8. Attachments.

The following documents are attached hereto:

- Scaled map of pit area (attached as Exhibit B).

- Copy of Reclamation Permit No. M-98-105 (attached as Exhibit C).

- Copy of Ruling of Referee approving an augmentation plan, Case No. 99 CW 128, District Court, Water Division No. 4 (attached as Exhibit D). The Ruling of Referee has been entered by the Water Referee for Water Division No. 4, and is awaiting approval by the Water Judge. Evidence of approval by the Water Judge will be submitted as soon as such approval is granted.

9. Detailed description of use and method of diversion:

A. Applicant will use the water described in this well permit application for industrial purposes, including but not limited to dewatering activities and evaporation from a maximum lake area of sixty (60) acres, dust suppression, aggregate washing, and product moisture losses through aggregate removal and processing. These activities will be conducted in connection with the mining of sand, gravel and related products from the lands on which the Delta Paving Pit Wells are located, and with the reclamation and use of the land during and after completion of the mining activities.

The total amount of water consumed annually at the Delta Paving Pit Wells and the maximum rates at which water will be pumped from the wells are summarized as follows:

Use	Annual Amount Consumed	Max. Pumping Rate
Evaporation	218.75 AF	N/A
Dewatering	N/A	800 gpm
Dust Suppression	2.70 AF	300 gpm
Product Moisture	3.70 AF	N/A
Aggregate Washing	N/A	1,200 gpm
TOTAL	225.15 AF	

Details regarding such amounts are set forth in the Ruling of Referee attached hereto as Exhibit D.

B. The pumping at the Delta Paving Pit Wells will be conducted using one or more temporary portable pumps placed on the rim or banks of the pits. A hose will be extended from the pump(s) to the water in the pits, to allow such water to be pumped from the pits for dewatering purposes and for dust suppression. No pumps will be permanently installed in or around the pits, nor will concrete rings or other permanent pumping structures be installed.

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STATE OF COLORADO

DIVISION OF MINERALS AND GEOLOGY
Department of Natural Resources

1313 Sherman St., Room 215
Denver, Colorado 80203
Phone: (303) 866-3567
FAX: (303) 832-8106

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DIVISION OF MINERALS & GEOLOGY
RECLAMATION MINING-SAFETY

Bill Owens
Governor

Greg E. Walcher
Executive Director

Michael B. Long
Division Director

August 9, 1999

Mr. Edward J. Settle
Grand Junction Pipe & Supply Co.
P.O. Box 1849
Grand Junction, CO 81502

RE: Delta Paving Gravel Pit, M-98-105, Permit Issuance - Construction Material Operation

Dear Mr. Settle:

On August 6, 1999 the Division of Minerals and Geology found Grand Junction Pipe & Supply Co. to have satisfied the applicable requirements of C.R.S. 34-32.5-101 et seq. for obtaining a mining and reclamation permit. Therefore, a permit is being issued. Two signed originals of the permit have been executed. We have kept one copy for our files and are enclosing one copy for your use. It is your responsibility to comply with all of the terms of the permit.

1. All of the original application materials, as amended and supplemented, are an integral part of your permit. They have been incorporated into the permit by reference. We presume that you have a copy of all of these materials; therefore, none have been enclosed with this mailing. We suggest that you keep a copy of the permit and the permit application at the mining operation as a reference for operating personnel, to help ensure compliance with the terms of the permit.

2. Changes in the mining and reclamation operations that differ from those described in the permit may require a modification to the permit. We suggest consulting the Construction Materials Rules and Regulations and/or contacting us to determine if a revision to the permit is necessary. Rule 1.10 pertains to Amendments, Rule 1.9 to Technical Revisions, and Rule 1.11 to Conversions.

3. On your permit anniversary date each year, August 6, you must submit an annual fee and an annual report to us. The annual fee for this permit is $550.00. Please consult the Act, Rules and Regulations, and your permit for specific annual report requirements applicable to your mine.

If you have any questions, please the contact the Division.

Sincerely,

MICHAEL B. LONG
Division Director

MBL/WHE/SME

Enclosure

EXHIBIT C

STATE OF COLORADO

DIVISION OF MINERALS AND GEOLOGY
Department of Natural Resources

1313 Sherman St., Room 215
Denver, Colorado 80203
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DIVISION OF MINERALS & GEOLOGY
RECLAMATION MINING·SAFETY

Bill Owens
Governor

Greg E. Walcher
Executive Director

Michael B. Long
Division Director

MINING AND RECLAMATION PERMIT
CONSTRUCTION MATERIAL MINING OPERATIONS

Permit Number: M-98-105
Type of Permit: 112c

Permit Date: August 6, 1999
(Anniversary date for annual report and fees purposes)

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

RECITALS

A. The Permittee, Grand Junction Pipe & Supply Co. desires to conduct a mining operation known as Delta Paving Gravel Pit, for the purpose of extracting gravel. The Permittee will not mine any secondary commodities.

B. On April 29, 1999 the Mined Land Reclamation Board (the "Board") approved the Permittee's application for this permit, fixed the amount of the financial warranty and directed that this permit be issued upon the filing with the Division of Minerals and Geology (the "Division") of performance warranty and financial warranty (or warranties) in the amount so fixed in form and substance approved by the Division. Said warranties have been filed with the Division.

C. If the Permittee desires to extract materials other than those listed in (A), a separate permit may be required.

D. On April 29, 1999 the Board made the following findings:

1. The application for this permit complies with the requirements of the Colorado Mined Land Reclamation Act for the Extraction of Construction Materials, C.R.S. 34-32.5-101 et seq., as amended, and with all applicable local, state and federal laws;

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2. The operation will not adversely affect the stability of any significant, valuable, and permanent man-made structure located within two hundred feet of the Affected Land, except where there is an agreement between the Operator and the persons having an interest in the structure that damage to the structure is to be compensated for by the Permittee; and;

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

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

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

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

GRANTS, CONDITIONS AND AGREEMENTS

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

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

1) The Permittee will be bound by all applicable requirements of the Act, and all applicable rules and regulations of the Board, as amended from time to time, the terms of the permit application, the terms of the performance warranty, and the terms of the financial warranty filed with the Division.

2) The Permittee will file with the Division its annual report and fees on each anniversary date of this permit.

3) If analyses of the mining and reclamation operation and the data collected through monitoring and experimentation by the Permittee or monitoring by the Division indicate that the operation will not be able to comply with the requirements of the Act and applicable rules and regulations of the Board, the Permittee hereby agrees to exercise its best efforts, after consulting

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with the Division, to modify the plans to correct such deficiencies in the future. Such modifications may require technical revisions or amendments to the permit.

4) The Board, or its authorized representative may enter upon the lands of the permitted operation at all reasonable times for the purpose of inspection to determine whether the provisions of the Act, Rules and Regulations, and permit have been complied with pursuant to C.R.S. 34-32.5-121.

5) This permit may be revoked or suspended for non-compliance with the Act or applicable rules or regulations promulgated by the Board, the permit, or by violation of a Board Order.

6) a) Pursuant to 34-32.5-118(5) of the Act, the Board has a right of entry to reclaim the lands affected by the operation, or to respond to an emergency as defined by C.R.S. 34-32.5-121(2)

b) The Board will enter the lands to perform reclamation only if the Board has determined:

i. that reclamation required by law to have been performed upon such lands has not been performed, and

ii. that financial warranty forfeiture proceedings described in the Act or similar provisions of subsequent laws, if any, have been initiated.

c) The Division, acting for the Board, will enter lands to respond to an emergency only where the Division determines that any of the conditions of Construction Material Rule 8.4.2. exist.

7) The additional conditions set forth in the attached rider, if any, are incorporated herein by reference.

/____/ a) Rider is attached.

/_XX_/ b) No rider is attached.

MINED LAND RECLAMATION BOARD
COLORADO DEPARTMENT OF NATURAL RESOURCES

MICHAEL B. LONG
Division Director

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Filed in the District Court
Water Division 4

APR 12 2000

Kay Phillips, Clerk of Court

DATE OF MAILING
April 12, 2000

DISTRICT COURT, WATER DIVISION 4, COLORADO

Case No. 99 CW 128

RULING OF REFEREE

CONCERNING THE APPLICATION FOR WATER RIGHTS OF:

DELTA PAVING LIMITED LIABILITY COMPANY,

IN DELTA COUNTY, COLORADO

The above entitled Application for Underground Water Rights, Change of Water Rights, and Approval of a Plan for Augmentation (the "Application") was filed on July 26, 1999, and was referred to the undersigned as Water Referee for Water Division No. 5, State of Colorado, by the Water Judge of said Court in accordance with Article 92 of Chapter 37, Colorado Revised Statutes 1973, known as The Water Right Determination and Administration Act of 1969.

The undersigned Referee, having made such investigations as are necessary to determine whether the statements in the Application are true, having considered the Summary of Consultation Report of the Division Engineer for Water Division 4, and having become fully advised with respect to the subject matter of the Application, hereby enters and makes the following Findings of Fact, Conclusions of Law, and Ruling as the Referee in this matter:

FINDINGS OF FACT

General Findings

1. The statements in the Application are true.

2. The name and address of the Applicant is:

   Delta Paving Limited Liability Company
   Attn: Ronald E. Tipping, General Manager
   P. O. Box 1849
   Grand Junction, CO 81502

3. No statements of opposition to the Application were filed.

EXHIBIT D

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Findings Re: First Claim for Relief
(Underground Water Rights)

4. General Project Description: Applicant is mining sand, gravel and related products from the Delta Paving Pits and from the property on which it is located. The property is located near the Gunnison River. During and after the mining of the property, groundwater will be exposed to the atmosphere and will be used for mining and reclamation purposes. The property will be mined to a maximum depth of approximately twenty-five feet, and will create five ponds with a total maximum surface area of 60 acres. These ponds will remain after the completion of mining activities.

5. Name of Structures: The Delta Paving Pit Wells, consisting of Delta Paving Pit Well No. 1, Delta Paving Pit Well No. 2, Delta Paving Pit Well No. 3, Delta Paving Pit Well No. 4, and Delta Paving Pit Well No. 5.

6. Other Wells: There are no other existing wells within six hundred feet of the Delta Paving Pit Wells.

7. Legal Description of Point of Structures:

The Delta Paving Pit Wells will be located in the south half of Section 3 and the north half of Section 10, T. 15 S., R. 95 W., 6th P.M., at the following locations:

Delta Paving Pit Well No. 1: 2200 feet West of the East line and 200 feet North of the South line of said Section 3.

Delta Paving Pit Well No. 2: 1700 feet West of the East line and 300 feet North of the South line of said Section 3.

Delta Paving Pit Well No. 3: 1100 feet West of the East line and 400 feet North of the South line of said Section 3.

Delta Paving Pit Well No. 4: 1600 feet West of the East line and 800 feet South of the North line of said Section 10.

Delta Paving Pit Well No. 5: 2300 feet West of the East line and 1600 feet South of the North line of said Section 10.

A map of the locations of the Delta Paving Pit Wells is attached hereto as Exhibit A.

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8. Source: The Delta Paving Pit Wells are gravel pits located in alluvial deposits adjacent to the Gunnison River, and will intercept and withdraw groundwater tributary to the Gunnison River.

9. Appropriation Date: The appropriation date for the Delta Paving Pit Wells is June 19, 1998.

10. Amounts Claimed: Applicant claims 218.75 acre feet per year for evaporation losses and 3.7 acre feet per year for product moisture losses from the Delta Paving Pit Wells. In addition, water will be pumped from the Delta Paving Pit Wells at the maximum rates of 800 g.p.m. for dewatering purposes, 300 g.p.m. for dust suppression purposes (2.70 acre feet per year), and 1,000 g.p.m. for aggregate washing purposes. All amounts are claimed conditional.

11. Uses or proposed uses: Industrial uses, including but not limited to dewatering of the Delta Paving Pit Wells during mining, evaporation during mining activities and after completion of mining activities from the Delta Paving Pit Wells, dust suppression, product moisture losses through aggregate removal and processing, and aggregate washing, all in connection with the mining of sand, gravel, and related products from the lands on which the Delta Paving Pit Wells are located, and with the reclamation and use of such land during and after completion of such mining.

12. The Applicant has initiated a valid appropriation of the Delta Paving Pit Wells as of the date set forth in Paragraph 9, above. Water is available for appropriation under this priority. Applicant has established that water can and will be diverted, stored, and/or otherwise captured, possessed, and controlled and will be beneficially used, and that the appropriation can and will be completed with diligence and within a reasonable time.

13. The water which collects in the Delta Paving Pit Wells is not in storage, as defined in §37-92-103(10.5), C.R.S., and, in the administration of the water rights confirmed herein, statutes and other law relating to the storage of water, including without limitation §37-92-502(3), C.R.S., shall not be applicable.

Findings Re: Second Claim for Relief
(Plan for Augmentation and Change of Water Rights)

14. Names of structures to be augmented: Delta Paving Pit Wells, described in the Findings Re: First Claim for Relief, above.

15. Description of water rights to be used for augmentation:

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A. The Applicant owns ten shares, and has leased an additional two shares, of the capital stock of the Bona Fide Ditch Company ("Ditch Company"), which has a total of 500 shares issued and outstanding. Water produced under these twelve shares will be used for augmentation. The Ditch Company owns the following decree:

(I) Bona Fide Ditch

A. Date Decree Entered: February 25, 1903
Civil Action No. 374, Delta County District Court

B. Type of water right: Surface (direct flow)

C. Legal description of point of diversion: The decreed point of diversion for the Bona Fide Ditch is described as follows: The headgate is situated on the left bank of the Gunnison River at a point whence the corner of Sections 1, 6, 7, and 12, in T. 15 S., R. 95 W., 6th P.M., bears South 55°40' E. 46.46 chains distant. The actual point of diversion is located in the SE1/4 NW1/4 SE1/4 of Section 1, T. 15 S., R. 95 W., 6th P.M., at a point approximately 3,500 feet East of the West line and 1,700 feet North of the South line of said Section 1.

D. Source: Gunnison River.

E. Appropriation Date: November 30, 1881.

F. Amount: 65 c.f.s.

G. Decreed and Historic Use: The Bona Fide Ditch was decreed for irrigation purposes. Applicant's twelve shares equate to a flow of 1.56 c.f.s., and have provided a full irrigation supply to 48.8 acres of land which will be removed from irrigation, as more fully described in Paragraph 16, below.

B. To the extent necessary to augment depletions when Applicant's water rights are out of priority, Applicant will also enter into a water supply contract with the United States Bureau of Reclamation to purchase water from Bureau of Reclamation facilities, or will purchase water from other sources. See Paragraph 16, below.

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16. Statement of Plan for Augmentation:

A. The Delta Paving Pit Wells are five proposed gravel pits located on lands owned and leased by Applicant. Mining operations will be conducted when necessary, and could occur at any time of the year. Applicant estimates that a maximum of 125,000 tons of material will be mined each year until the gravel is mined out. The Delta Paving Pit Wells will intercept groundwater, and mining operations will result in the formation of five ponds with a total maximum exposed water surface area of 60 acres. Water will be pumped from these ponds and used on-site for dust suppression and aggregate washing. Depletions will occur from these dust suppression and aggregate washing operations. In addition, depletions will occur from evaporation from the ponds and from product moisture loss related to moisture in the mined material. During mining, the pits will be dewatered, with the water being discharged to the Gunnison River. However, these dewatering operations will not result in any depletions in addition to those described above. The amount of product mined and the mining operations period may vary from year to year. The augmentation plan described herein will allow for changes in the pond sizes, the scope of the mining operations, and the time period of the mining operations without the necessity of amending this augmentation plan.

B. There is water available for appropriation in the Gunnison River from May through August of each year. Thus, the water rights claimed for the Delta Paving Pit Wells will be in priority during those months, and no augmentation or replacement of depletions shall be required during those months. However, the Gunnison River is considered potentially over-appropriated during the months of September through December and January through April of each year (which months will be referred to herein as the "Call Period"). Thus, augmentation of depletions from the Delta Paving Pit Wells may be necessary during the Call Period. The plan for augmentation described herein provides for augmentation and replacement of depletions from the Delta Paving Pit Wells during the Call Period.

C. Water diversions and depletions from the Delta Paving Pit Wells, at full operation and buildout, will be as follows:

(I) Water will evaporate from the exposed water surface areas of the Delta Paving Pit Wells. Net evaporative depletions from the Delta Paving Pit Wells from a total exposed water surface area of 60 acres will be 218.75 acre feet per year, of which 92.03 acre feet of depletions will occur during the Call Period. Exhibit C, attached hereto, details the calculation of the net evaporative depletions annually and during the Call Period from the Delta Paving Pit Wells.

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(II) Water will be withdrawn from the Delta Paving Pit Wells as product moisture and for aggregate washing purposes during mining operations. The product mined from the Delta Paving Pit Wells will include product moisture in the amount of four percent (4%) of the material mined during the year, and water will be pumped from the Delta Paving Pit Wells at the maximum rate of 1,000 g.p.m. for aggregate washing purposes. Of the total amount of water withdrawn and diverted as product moisture and for gravel washing purposes, 3.7 acre feet per year will be depletions to the river system (based upon 125,000 tons of product mined per year and a moisture content of four percent (4%) of the product mined by weight). The remainder of the amount diverted will be discharged back into the Delta Paving Pit Wells or into the Gunnison River adjacent to the Pits. The Applicant anticipates that the diversions and depletions will occur primarily during the months of May through September of each year. However, depending on demands for gravel, such diversions and depletions could occur at any time during the year, both during and outside of the Call Period.

(III) Water will be withdrawn from the Delta Paving Pit Wells for dust suppression purposes during mining operations. Some of this water will be used for dust suppression in gravel crushing operations, and some will be used to suppress dust on roads. The total amount of water to be withdrawn and used for dust suppression purposes is anticipated to be 2.70 acre feet per year, calculated as follows:

(1) 0.79 acre feet per year for gravel crushing dust suppression, based upon application at a rate of 15 g.p.m. for 12 hours per day for 24 days during the year; and

(2) 1.91 acre feet per year for dust suppression on roads, based upon application at the rate of 6,000 gallons per day for 104 days per year.

The use of water for dust suppression purposes will be 100% consumptive. Applicant anticipates that water will be diverted through September of each year, and that water for gravel crushing dust suppression will be diverted in May or June of each year. However, depending on demands for gravel, such diversions and depletions could occur at any time during the year, both during and outside of the Call Period.

(IV) Evaporation losses from the Delta Paving Pit Wells will occur both during mining operations and after mining operations are completed. All other diversions and depletions will occur only while mining operations at the Delta Paving Pit Wells are ongoing. Once mining operations have been completed at the Delta Paving Pit Wells, these other diversions and depletions will cease.

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D. Applicant is entitled to certain depletion credits in connection with the development of the Delta Paving Pit Wells, described as follows (these credits will be collectively referred to herein as the "Depletion Credits"):

(I) Applicant will remove 7.5 acres of phreatophytes from the area where mining activities will occur. All of said 7.5 acres will be under the free water surface of the water exposed during the mining activities. Consumptive use credits were calculated using the modified SCS-Blaney Criddle method for determining evapotranspiration. Credits are claimed from April through mid-November of each year in the amount of 25.74 acre feet per year, or 3.43 acre feet per acre. Exhibit D, attached hereto, shows the phreatophyte consumptive use credits spread over these months. The location of the 7.5 acres of phreatophytes is shown on Exhibit E.

(II) As indicated in Paragraph 15 above, Applicant owns ten shares and leases two shares of the stock of the Ditch Company. Applicant's mining activities will remove from irrigation 48.8 acres of grass hay which historically have been irrigated by the Bona Fide Ditch. The twelve shares of the Ditch Company controlled by Applicant have historically provided a full irrigation water supply to these 48.8 acres of land, resulting in an average historic consumptive use of 102.8 acre feet per year, or 2.11 acre feet per acre. The consumptive use was calculated using the modified SCS-Blaney Criddle method. Exhibit D, attached hereto, shows the irrigation consumptive use credits spread over the irrigation season (April through October). The location of the 48.8 acres of historically irrigated land is shown on Exhibit E.

E. Applicant will provide augmentation and replacement water necessary to meet the lawful requirements of senior appropriators, to the extent such appropriators will be deprived of water by Applicant's out-of-priority depletions from its activities at the Delta Paving Pit Wells (a "valid call"), in the following manner:

(I) To the extent there is a valid call during the Call Period (September through December and January through April of each year) Applicant will replace depletions from uses associated with the Delta Paving Pit Wells using the Depletion Credits. Applicant shall be entitled to an annual depletion credit of 2.11 acre feet for every acre of historically irrigated land which is removed from irrigation through Applicant's mining process, up to a maximum of 48.8 acres. Applicant shall also be entitled to an annual depletion credit of 3.43 acre feet for every acre of phreatophytes which is removed through Applicant's mining process, up to a maximum of 7.5 acres. The depletion credits for phreatophytes shall be credited against evaporation depletions. To the extent that the Depletion Credits are not adequate to offset the depletions from Applicant's operations at the Delta Paving Pit Wells

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on a monthly basis during a valid call, Applicant will purchase water from Bureau of Reclamation facilities or other sources to replace any depletions which may occur, and/or take other actions to satisfy or remove the call with respect to its rights.

(II) Normally, there will be no valid call during the period from May through August of each year. Thus, Applicant generally will not be required to replace depletions during these months. However, to the extent a valid call is made during this period, Applicant will replace its depletions in the same manner as provided in 16.E(I), above.

F. The following procedures shall be followed for implementing this augmentation plan:

(I) Before any Depletion Credits are available for augmentation and replacement purposes, Applicant shall remove land from irrigation or remove phreatophytes, and shall report to the Division Engineer the number of acres and location of land removed from irrigation or from which phreatophytes have been removed. When such lands are identified to the Division Engineer, the Applicant shall have Depletion Credits available on a monthly basis in an amount equal to the depletion credits per acre shown on Exhibit D times the number of acres identified to the Division Engineer.

(II) When the Depletion Credits associated with Applicant's Ditch Company shares are used to replace depletions from uses associated with the Delta Paving Pit Wells, water from Applicant's Ditch Company shares which is needed to replace such depletions will not be diverted through the Ditch Company's headgate, but will be left in the Gunnison River.

(III) Water accounting and reporting sheets will be developed by the Applicant and approved by the Division Engineer and will be submitted on a schedule acceptable to the Division Engineer.

(IV) Applicant will install such measuring devices as may reasonably be required by the Division Engineer to facilitate the operation of this plan of augmentation and to assure compliance herewith.

G. The depletions from the Delta Paving Pit Wells, and the Depletion Credits to which Applicant is entitled, are summarized on Exhibit B, attached hereto.

H. Some of the Delta Paving Pit Wells are located on land owned by the Richard M. Frazier and Betsey A. Frazier Revocable Trust (the "Frazier Property"). Applicant has leased the Frazier Property from the Trust pursuant to a Lease Agreement dated November 19, 1998 (the

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STATE ENGINEER
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"Frazier Lease"). To the extent the water rights and plan for augmentation adjudicated pursuant to this Application relate to the Frazier Property, Applicant's interest in such portion of the water rights and augmentation plan shall cease upon termination or expiration of the Frazier Lease, and shall be assigned by Applicant to the lessors under the Frazier Lease.

17. Applicant seeks to change the water rights represented by the twelve shares of the Ditch Company which it owns or controls to allow the following uses in addition to irrigation uses: Industrial uses, including but not limited to dewatering of the Delta Paving Pit Wells during mining, evaporation during mining activities and after completion of mining activities from the Delta Paving Pit Wells, dust suppression, product moisture losses through aggregate removal and processing, and aggregate washing, all in connection with the mining of sand, gravel, and related products from lands on which the Delta Paving Pit Wells are located, and with the reclamation and use of such land during and after completion of such mining. Such uses may be made by direct use or by augmentation, replacement or exchange.

18. The above plan for augmentation and changes of water rights will not injuriously affect the owner of or persons entitled to use water under a vested water right or a decreed conditional water right.

CONCLUSIONS OF LAW

19. The Application herein is one contemplated by law, and this Court has jurisdiction over the subject matter of this proceeding.

20. Timely and adequate notice of the filing and of the contents of this Application was given as required by law, and this Court and the Referee have jurisdiction over all persons or entities affected hereby, whether they have appeared or not.

21. The Applicant has initiated a valid appropriation of the water rights for the Delta Paving Pit Wells as of the date claimed in the Application. Water is available for appropriation under this priority. Water can and will be diverted, stored, and/or otherwise captured, possessed, and controlled and will be beneficially used under the conditional water right for the Delta Paving Pit Wells, and the appropriation can and will be completed with diligence and within a reasonable time.

22. The plan for augmentation described in the Findings Re: Second Claim for Relief, above, meets the statutory criteria for a plan for augmentation as set forth in Sections 37-92-103(9), -302(1), and -305(8), C.R.S., and is one contemplated by law. If the plan for augmentation is operated and administered in accordance with the conditions hereof, such plan and the operation of

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the Delta Paving Pit Wells under the plan will not cause material injury to any vested water rights or decreed conditional water rights on the Gunnison River, or its tributaries.

RULING

23. The Findings of Fact and Conclusions of Law set forth above are hereby approved and confirmed, and are incorporated into this Ruling by reference.

24. The application for underground water rights for the Delta Paving Pit Wells, set forth in the First Claim for Relief of the Application, is hereby approved. A conditional water right is hereby confirmed to the Delta Paving Pit Wells, in the following amounts and rates: 218.75 acre feet per year for evaporation losses; 3.7 acre feet per year for product moisture losses; 1,000 g.p.m. for aggregate washing purposes; 300 g.p.m. for dust suppression purposes (2.70 acre feet per year); and 800 g.p.m. for dewatering purposes. The award of said conditional water right is on the condition that said quantity of water be diverted and applied to beneficial use within a reasonable time. Such water right is subject to all earlier priority rights of others and to the integration and tabulation by the Division Engineer of such priority and in accordance with law.

25. The application for approval of the plan for augmentation set forth in the Second Claim for Relief of the Application is hereby approved. The Delta Paving Pit Wells may be constructed and may divert water in accordance with this Ruling of Referee and may be operated in accordance with this Ruling of Referee. Applicant shall have the right to divert water out of priority from and at the Delta Paving Pit Wells so long as adequate water is available and provided to augment depletions from such diversions, as set forth in the Plan for Augmentation described above. Pursuant to C.R.S. 37-92-305(8), the Division Engineer for Water Division 4 shall curtail all out of priority diversions from the Delta Paving Pit Wells the depletions from which are not so replaced as to prevent injury to vested water rights. The Applicant and its assigns understand that a portion of the replacement water is a leased supply, and if such lease should expire, fail to be renewed, is terminated, or an alternative source of replacement water is not included in this decree by proper amendment prior to such expiration, curtailment of all out of priority diversions being augmented by the leased supply will occur.

26. The application for change of water rights set forth in the Second Claim for Relief of the Application is hereby approved. The water rights represented by the ten shares of the capital stock of the Ditch Company owned by the Applicant and the two shares of the capital stock of the Ditch Company leased by Applicant are hereby changed to allow the following uses, in addition to the original irrigation uses: Industrial uses, including but not limited to dewatering of the Delta Paving Pit Wells during mining, evaporation during mining activities and after completion of mining activities from the Delta Paving Pit Wells, dust suppression, product moisture losses through

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aggregate removal and processing, and aggregate washing, all in connection with the mining of sand, gravel, and related products from lands on which the Delta Paving Pit Wells are located, and with the reclamation and use of such land during and after completion of such mining. Such uses may be made by direct use or by augmentation, replacement or exchange.

27. Prior to constructing the Delta Paving Pit Wells or operating the Delta Paving Pit Wells under the plan for augmentation approved herein, Applicant shall file an application for a well permit for these Wells with the State Engineer's office, pursuant to §§37-90-137(11), which application shall be consistent with the terms of this Ruling. The State Engineer is ordered to issue a well permit for the Delta Pavings Pit Wells, pursuant to §37-90-137, C.R.S., within sixty days after Applicant files the well permit application with the State Engineer's office. Applicant or its successors shall have the right to reapply to the State Engineer for a new permit for any expired permit, which the State Engineer shall grant and issue within sixty days after application therefor, so long as this Ruling of Referee remains in effect.

28. The priority date awarded herein to the Delta Paving Pit Wells shall be June 19, 1998. The Application was filed herein in 1999, and the Delta Paving Pit Wells shall be administered as having been awarded on an application filed in 1999.

29. Applications for reasonable diligence shall be filed by the owner or user of the conditional water right awarded herein, at the times and in the manner specified by §37-92-301(4)(a), C.R.S., if such owner or user desires to maintain the same, or until a determination is made that such conditional right has been made absolute by reason of the completion of the appropriation. The date for filing the first application for a finding of reasonable diligence shall be set forth in the judgment and decree of the Court confirming this Ruling.

30. The Court shall retain jurisdiction in this matter with respect to the approval of the plan for augmentation and of the change of water rights for five years from the date the augmentation plan becomes operational. The date the augmentation plan becomes operational shall be the date that water is first exposed to the atmosphere from the Delta Paving Pit Wells after the well permit for the Pit Wells is issued. Such date shall be set forth in the first annual report filed by Applicant with the Division Engineer pursuant to Paragraph 31, below. In setting forth this period, the Referee finds that such period is necessary to assure that no injury shall occur to vested rights of others by the operation of the plan for augmentation and the change of water rights. Upon proper petition by any interested person, the Court shall reconsider its approval of the plan for augmentation and/or of the change of water rights and the question of injury to any water rights owned by such petitioner.

In the event that any person or party petitions the Court for reconsideration of its approval of the plan for augmentation or the question of injury to water rights, the Court shall order

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appropriate notice to be given to all parties hereto. Such petition shall be made in good faith, under oath, and shall set forth with particularity the factual basis upon which the requested reconsideration is premised, together with proposed decretal language to effect the petition. The party filing the petition shall have the burden of going forward to establish the prima facie facts alleged in the petition.

31. Applicant shall install such measuring devices as may reasonably and legally be required by the Division Engineer to facilitate the operation of the plan for augmentation approved herein and to assure compliance herewith. The Applicant shall also provide accountings and supply calculations regarding the timing of depletions as required by the Division Engineer for the operation of the plan for augmentation. The Applicant shall also file an annual report with the Division Engineer by November 15 of each year summarizing diversions and replacements made under the plan for augmentation.

32. This Ruling shall be filed with the Water Clerk subject to judicial review. A copy of this Ruling shall be mailed by the Water Clerk by certified or registered mail to the Applicant, to the State Engineer, and to the Division Engineer for Water Division No. 4.

Dated: 4-12, 2000.

BY THE REFEREE:

Aaron Ray

Water Referee
Water Division No. 4
State of Colorado

No protest was filed in this matter. The foregoing Ruling is confirmed and approved, and is made the Judgment and Decree of this court. THE MONTH AND CALENDAR YEAR FOR FILING AN APPLICATION FOR A FINDING OF REASONABLE DILIGENCE SHALL BE _____.

Dated: _____, 2000

BY THE COURT

_____

Water Judge

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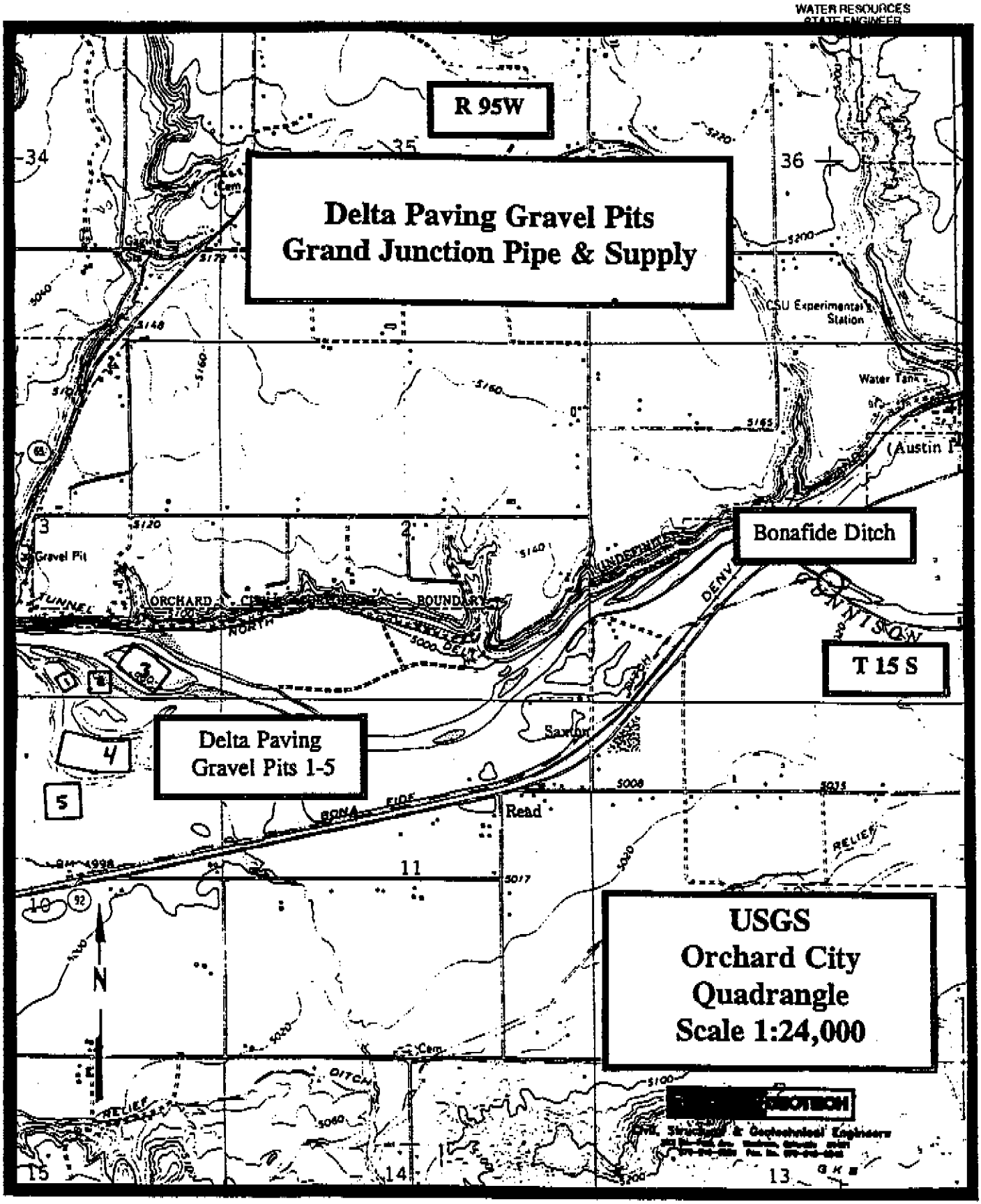


EXHIBIT A

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Table 2

Depletions from the Delta Paving Gravel Pits

Delta, Colorado

values in acre feet

EXHIBIT B

Call period: September through April,
Mining period: May through August

Depletions	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
1 Evaporative Depletions	5.7	7.1	11.3	20.5	27.3	34.0	34.8	30.5	21.2	13.4	7.41	5.5	218.7
2 Depletions from moisture in mined material (4%)	0.0	0.0	0.0	0.0	0.74	0.74	0.74	0.74	0.74	0.0	0.0	0.0	3.7
3 Dust Suppression: roads	0.0	0.0	0.0	0.0	0.4	0.4	0.4	0.4	0.4	0.0	0.0	0.0	1.9
gravel crushing	0.0	0.0	0.0	0.0	0.0	0.8	0.0	0.0	0.0	0.0	0.0	0.0	0.8
Total Depletions	5.7	7.1	11.3	20.5	28.5	35.9	36.0	31.6	22.3	13.4	7.4	5.5	225.1
Credits													
4 Credits for Phreatophyte removal	0.0	0.0	0.0	2.2	3.5	4.7	5.3	4.5	3.0	1.7	0.8	0.0	25.7
C.U. Credits for Phreatophyte removal Af/Acre	0.0	0.0	0.0	0.3	0.5	0.6	0.7	0.6	0.4	0.2	0.1	0.0	3.4
5 48.8 acres of Hay removed from irrigation	0.0	0.0	0.0	3.6	14.4	20.9	25.7	19.9	12.9	5.4	0.0	0.0	102.9
C.U. Credits for acreage retired from Irrigation Af/Acre	0.0	0.0	0.0	0.1	0.3	0.4	0.5	0.4	0.3	0.1	0.0	0.0	2.1
Total Credits	0.0	0.0	0.0	5.9	18.0	25.6	31.0	24.4	15.8	7.2	0.8	0.0	128.7
Net Depletions													
Depletions	5.7	7.1	11.3	14.6	10.5	10.3	5.0	7.2	6.4	6.3	6.6	5.5	96.5
Depletions September through April	5.7	7.1	11.3	14.6	0.0	0.0	0.0	0.0	6.4	6.3	6.6	5.5	63.5

1 Taken from Table 1
2 Based on 125,000 tons of material mined per year
3 Based on 6000 gal/day of water used
4 7.5 Acres of mixed Willows and Cottonwoods
5 Irrigation season: April 15 through October

Table 1

Evaporative Depletions from the Delta Paving Gravel Pits

East of Delta, Colorado
Elevation 4970 ft.

			Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec	TOTAL
1	Total Surface Area of Pit (acres)	60.0													
2	Annual Evaporation (in)	50.0													
3	Monthly Distribution (%)		0.03	0.04	0.06	0.09	0.12	0.15	0.15	0.14	0.10	0.07	0.04	0.03	1.00
4	Monthly Gross Evaporation (in)		1.50	1.75	2.75	4.50	6.00	7.25	7.50	6.75	5.00	3.50	2.00	1.50	50.00
5	Monthly Effective Precipitation (in)		0.36	0.34	0.50	0.40	0.53	0.44	0.53	0.65	0.77	0.81	0.52	0.41	6.25
7	Monthly Net Evaporation (in)		1.14	1.41	2.25	4.10	5.47	6.81	6.97	6.10	4.23	2.69	1.48	1.09	43.75
8	Net Evaporation of Gravel Pit (AF)		5.72	7.07	11.27	20.51	27.34	34.05	34.84	30.50	21.15	13.44	7.41	5.47	218.75
	Evaporation September through April		**5.72**	**7.07**	**11.27**	**20.51**	**0.00**	**0.00**	**0.00**	**0.00**	**21.15**	**13.44**	**7.41**	**5.47**	**92.03**

1 Taken from estimated surface area at build-out
2 Taken from NOAA Technical Report 33
3 Taken from General Criteria for Substitute Water Supply Plan, State Engineer's Office, February, 1996.
4 Calculated evaporation: monthly distribution X annual evaporation
5 Taken from NOAA , Climatology of the United States No. 81, 1961-1990, Delta Station multiplied by a factor of 0.7
6 Evaporation minus Precipitation
7 Pit surface area X monthly net evaporation / 12

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CONSUMPTIVE USE CREDITS FOR THE
DELTA PAVING GRAVEL PITS

(values in acre feet)

Credits	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Phreatophyte	0.0	0.0	0.0	2.2	3.5	4.7	5.3	4.5	3.0	1.7	0.8	0.0	25.7
Irrigation	0.0	0.0	0.0	3.6	14.4	20.9	25.7	19.9	12.9	5.4	0.0	0.0	102.8
Total Credits	0.0	0.0	0.0	5.8	17.9	25.6	31.0	24.4	15.9	7.1	0.8	0.0	128.5

EXHIBIT D

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Williams, Turner & Holmes, P.C.

ATTORNEYS AT LAW

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STATE ENGINEER
COLO.

April 18, 2000

Anthony W. Williams

J.D. Snodgrass

William D. Prakken

David J. Turner*

Mark A. Hermundstad*

Susan M. Corle

James M. Colosky, P.C.

Kirsten M. Kurath*

Thomas K. Snodgrass

Of Counsel:

Berndt C. Holmes

All Attorneys
Admitted in Colorado

*Also Admitted in Utah

Office of the State Engineer
823 Centennial Building
1313 Sherman Street
Denver, CO 80203

Via Federal Express

Re: Gravel Pit Well Permit Application for Delta Paving Pits

Dear Sirs:

Enclosed herewith please find a Gravel Pit Well Permit Application filed on behalf of Delta Paving Limited Liability Company ("Delta Paving") for a proposed gravel pit in Delta County, Colorado. Also enclosed is a check in the amount of $60.00 to cover the filing fee.

DELTA PAVING NEEDS TO START MINING AT THE DELTA PAVING PITS AS SOON AS POSSIBLE, SO WE REQUEST THAT YOU EXPEDITE THE PROCESSING OF THIS APPLICATION TO THE FULLEST EXTENT POSSIBLE. After the well permit is issued, please forward it to me at the address listed on this letter.

If you have any questions concerning the enclosed Application, please contact me.

Very truly yours,

WILLIAMS, TURNER & HOLMES, P.C.

Mark A. Hermundstad

Mark A. Hermundstad

/sr
Enclosures

xc: Ed Settle

GRAND JUNCTION OFFICE
200 N. 6th Street
P.O. Box 338
Grand Junction, Colorado
81502-0338
Phone 970/242-6262
Fax 970/241-3026
wthcn@aol.com

MOAB OFFICE
94 East Grand Avenue
Moab, Utah 84532-2830
Phone 435/259-4381

appropriate notice to be given to all parties hereto. Such petition shall be made in good faith, under oath, and shall set forth with particularity the factual basis upon which the requested reconsideration is premised, together with proposed decretal language to effect the petition. The party filing the petition shall have the burden of going forward to establish the prima facie facts alleged in the petition.

31. Applicant shall install such measuring devices as may reasonably and legally be required by the Division Engineer to facilitate the operation of the plan for augmentation approved herein and to assure compliance herewith. The Applicant shall also provide accountings and supply calculations regarding the timing of depletions as required by the Division Engineer for the operation of the plan for augmentation. The Applicant shall also file an annual report with the Division Engineer by November 15 of each year summarizing diversions and replacements made under the plan for augmentation.

32. This Ruling shall be filed with the Water Clerk subject to judicial review. A copy of this Ruling shall be mailed by the Water Clerk by certified or registered mail to the Applicant, to the State Engineer, and to the Division Engineer for Water Division No. 4.

Dated: 4-12, 2000.

BY THE REFEREE:

Aaron Ray

Water Referee
Water Division No. 4
State of Colorado

No protest was filed in this matter. The foregoing Ruling is confirmed and approved, and is made the Judgment and Decree of this court. THE MONTH AND CALENDAR YEAR FOR FILING AN APPLICATION FOR A FINDING OF REASONABLE DILIGENCE SHALL BE May 2006.

Dated: 5/12, 2000

BY THE COURT

Water Judge

Mailed-A Copy of this Document to all parties in this case.

Dated 5-12-00

KP.

Kay Phillips, Water Clerk

DELTA COUNTY COLORADO

Kim Henderson <khenderson@deltacounty.com>

Re: Invitation: Pre-Application Meeting (Grand Junction Pipe Co.) @ Mon Nov 1, 2021 9am - 10am (MDT) (Brian Killian - CDOT)

1 message

Killian - CDOT, Brian <brian.killian@state.co.us> Thu, Oct 21, 2021 at 8:03 AM
To: Kimberly Henderson <khenderson@deltacounty.com>
Cc: Kate Kelly <kkelly@deltacounty.com>, Kandis Aggen - CDOT <kandis.aggen@state.co.us>

Kimberly,

CDOT cannot make this meeting, but we have the following comments:

- GJ Pipe will need to submit a traffic study to CDOT and apply for a CDOT access permit. Have their engineer coordinate the traffic study methodology with me prior to starting the study.

Thanks,

Brian Killian
Region 3 Access Program Manager
Traffic & Safety

COLORADO
Department of Transportation

P 970-683-6284 | C 970-210-1101 | F 970-683-6290
222 S. 6th St, Room 100 Grand Junction, CO 81501
brian.killian@state.co.us | www.codot.gov | www.cotrip.org

On Wed, Oct 20, 2021 at 10:18 AM <khenderson@deltacounty.com> wrote:

> **You have been invited to the following event.**
>
> ## Pre-Application Meeting (Grand Junction Pipe Co.)

Delta County COLORADO
Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

Re: Referral Notice PLN21-080/Delta Paving Gravel Pit

1 message

Shay Coburn <shay@cityofdelta.net> Wed, Jul 6, 2022 at 4
To: Kim Henderson <khenderson@deltacounty.com>

Thanks, Kim! No comments from us.

On Tue, Jul 5, 2022 at 3:14 PM Kim Henderson <khenderson@deltacounty.com> wrote:

> Dear Review Agencies,
>
> Attached is the Referral Notice for PLN21-080/Delta Paving Gravel Pit. This application will be reviewed by the Planning Commission on Wednesday, July 27, 2022 at 5:30pm., at the Coun Administrative Building in Delta. Any comments or concerns will be appreciated and addressed.
>
> 2022.07.05_Referral Agency Notice.pdf
>
> Kindest Regards,
>
> Kim Henderson
> Administrative Assistant
> 295 W. 6th St.
> Delta, Co 81416
> 970-874-2110
>
> **NOTICE:** This email transmission from the County of Delta, and any documents, files, or previous email messages attached to it, are intended solely for the individual(s) to whom it is addressed and may contain information that is confidential, leg privileged, and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any unauthorized review, forwarding, printing, copying, distribution, or use of this transmission or the information it contains is strictly prohibited. A misdirected transmittal of this email does not constitute waiver of any applicable privilege. If you received this transmission in error, please immediately notify the sender and delete the original transmission and its attachments. Notwithstanding the foregoing, sender and receiver should be aware that all incoming and outgoing emails may be subject to the Colorado Open Records Act, C.R.S. 24-72-200.1 et seq. Thank you.

--

Shay Coburn
City of Delta
Community Development Manager
Mobile: 970-787-2332
Office: 970-874-7566

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Delta County COLORADO Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

Re: Referral Notice PLN21-080/Delta Paving Gravel Pit

1 message

Killian - CDOT, Brian <brian.killian@state.co.us> Thu, Jul 7, 2022 at 9:24 AM
To: Kim Henderson <khenderson@deltacounty.com>
Cc: Kandis Aggen - CDOT <kandis.aggen@state.co.us>

Kim,

Since the traffic study shows that the thresholds for the right and left turn deceleration lanes are just one vehicle under the turn lane requirements, CDOT would like to see a heavy truck analysis or something in the report to address the slow stopping and accelerating vehicles turning ingressing/egressing into the site from the highway. CDOT may still require a left and right turn deceleration lanes if the gravel pit creates safety and operational issues on the highway. They will need to submit an access permit application and traffic study to CDOT.

Please let me know if you have any questions.

Thanks,

Brian Killian
Region 3 Access Program Manager
Traffic & Safety

COLORADO
Department of Transportation

P 970-683-6284 | C 970-210-1101 | F 970-683-6290
222 S. 6th St, Room 100 Grand Junction, CO 81501
brian.killian@state.co.us | www.codot.gov | www.cotrip.org

On Tue, Jul 5, 2022 at 3:14 PM Kim Henderson <khenderson@deltacounty.com> wrote:

> Dear Review Agencies,
>
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>
> **2022.07.05_Referral Agency Notice.pdf**
>
> Kindest Regards,
>
> Kim Henderson
> Administrative Assistant
> 295 W. 6th St.
> Delta, Co 81416
> 970-874-2110

NOTICE: This email transmission from the County of Delta, and any documents, files, or previous email messages attached to it, are intended solely for the individual(s) to whom it is addressed and may contain information that is confidential, legally privileged, and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any unauthorized review, forwarding, printing, copying, distribution, or use of this transmission or the information it contains is strictly prohibited. A misdirected transmittal of this email does not constitute waiver of any applicable privilege. If you received this transmission in error, please immediately notify the sender and delete the original transmission and its attachments. Notwithstanding the foregoing, sender and receiver should be aware that all incoming and outgoing emails may be subject to the Colorado Open Records Act, C.R.S. 24-72-200.1 et seq. Thank you.

THE GUNNISON TUNNEL PROJECT
The Uncompahgre Valley Water Users Association
601 North Park Ave. * P.O. Box 69 * Montrose, CO 81402-0069
Phone: 970-249-3813 Fax: 970-249-6830

July 12, 2022

Delta County Planning & Community Development
560 Dodge Street
Dela, CO 81416

RE: PLN21-080/Delta Paving Gravel Pit Project

Dear Land Use Personnel:

Uncompahgre Valley Water Users Association has reviewed the project plan for PLN21-080/Delta Paving Gravel Pit Project located in Sections 3 & 10, T15S, R95W, 6th P.M. Delta County, Colorado.

This acreage has no irrigation water delivered by the Uncompahgre Valley Water Users Association and is outside the Water Users Project boundaries. We have no objection to this project.

Thank you for your attention in this matter.

Sincerely,

Cheryl A. DeJulio
Business Manager

Delta County COLORADO
Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

PLN21-080/Delta Paving Gravel Pit - Request for Review Agency Comment

1 message

SPA-RD-CO <SPA-RD-CO@usace.army.mil> Tue, Jul 19, 2022 at 9:38 AM
To: "planning@deltacounty.com" <planning@deltacounty.com>
Cc: SPA-RD-CO <SPA-RD-CO@usace.army.mil>

This e-mail is in response for your agency request for comment for the subject project. If the project causes a discharge of dredged or fill material into a water of the United States, a Department of the Army permit from us is required. Please let me know if you have any questions.

Respectfully,

Candace Knight

Regulatory Assistant

Northwestern Colorado Branch

U.S. Army Corps of Engineers

400 Rood Ave., Room 224

Grand Junction, CO 81501

970-243-1199 x. 1010

In response to COVID-19, Regulatory Division staff are teleworking from home or other approved location. We will do our best to administer the Regulatory Program in an effective and efficient manner. Priority will be given to health and safety activities and essential infrastructure. Action on your permit application or other request may be delayed during this emergency. We appreciate your patience over the next several weeks.

COLORADO GEOLOGICAL SURVEY

1801 Moly Road
Golden, Colorado 80401

Karen Berry
State Geologist

July 26, 2022

Kate Kelly
Delta County
Planning & Community Development
planning@deltacounty.com

Location:
38.7699, -107.9976

Subject: **Delta Paving Gravel Pit Expansion – PLN21-080**
Delta County, CO; CGS Unique No. DA-23-0001

Dear Delta County Planning & Community Development:

Colorado Geological Survey has reviewed the Delta Paving Gravel Pit Expansion CUP referral. I understand the applicant proposes to expand an existing sand and gravel extraction operation and to add a hot-mix asphalt plant.

Sand & gravel mine expansion. No geologic conditions are present that would preclude approval of the proposed mine expansion. Provided the mine is operated and reclaimed in accordance with mining and reclamation plans approved by DRMS, CGS has no objection to approval.

Proposed asphalt plant. The SPCC (Spill Prevention, Control, and Countermeasure) Plan (Lewicki & Associates, March 2022) discusses only diesel fuel storage. However, asphalt plants typically require large, heavy asphalt cement (oil) tank(s). CGS is concerned about contamination of soil and the Gunnison River in the event of tank failure, and recommends that the county require a site-specific geotechnical investigation to characterize soil and bedrock engineering properties at proposed silo, tank, and other heavily loaded structure locations. This information is needed to determine subgrade preparation requirements and to design foundations.

The proposed asphalt plant is not identified on the mining plans, but should be sufficiently outside of the 100-year flood hazard and wetlands limits to minimize risk of damage and undermining due to erosion and scour.

Thank you for the opportunity to review and comment on this project. If you have questions or require further review, please call me at (303) 384-2643, or e-mail carlson@mines.edu.

Sincerely,

Jill Carlson, C.E.G.
Engineering Geologist

Kate Kelly <kkelly@deltacounty.com>

Referral Notice PLN21-080/Delta Paving Gravel Pit

planning@kaycee.net <planning@kaycee.net> Thu, Aug 4, 2022 at 3:16 PM
To: Kate Kelly <kkelly@deltacounty.com>

Good afternoon,

The Board of Trustees position is the following:

The town supports the terms and conditions of the current Delta County Resolution 99-009.

Item nine specifically states "The placement and use of an asphalt plant shall never be allowed."

[Quoted text hidden]

Delta County COLORADO Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

Re: Referral Notice PLN21-080/Delta Paving Gravel Pit Response

1 message

Killian - CDOT, Brian <brian.killian@state.co.us> Wed, Aug 3, 2022 at 6:28 AM
To: Sydney Connor <Sydney@lewicki.biz>
Cc: Jim Doody <Jim.Doody@peakreadymix.com>, Ben Langenfeld <benl@lewicki.biz>, Kim Henderson <khenderson@deltacounty.com>, Kate Kelly <kkelly@deltacounty.com>, "Rowe, Curtis" <Curtis.Rowe@kimley-horn.com>, Karthik Vishwamitra - CDOT <karthik.vishwamitra@state.co.us>, Kandis Aggen - CDOT <kandis.aggen@state.co.us>, Mark Bunnell - CDOT <mark.bunnell@state.co.us>

Sydney,

CDOT is going to need more information than that. We have received a lot of calls regarding this from local citizens and need to ensure the safety of the highway system. Please provide a detailed analysis regarding what is the existing traffic volumes and how they plan on staying at existing traffic volumes or within the permitted volumes. When CDOT sees that information, CDOT may request additional information to ensure that the access to the gravel pit meets current CDOT standards.

Please let me know if you have any questions.

Thanks,

Brian Killian
Region 3 Access Program Manager
Traffic & Safety

COLORADO
Department of Transportation

P 970-683-6284 | C 970-210-1101 | F 970-683-6290
222 S. 6th St, Room 100 Grand Junction, CO 81501
brian.killian@state.co.us | www.codot.gov | www.cotrip.org

On Tue, Aug 2, 2022 at 8:43 PM Sydney Connor <Sydney@lewicki.biz> wrote:

> Brian,
>
> Please see the attached letter containing the response to your comments on the Delta Paving Gravel Pit permit application. The application was sent to CDOT for review from Delta County on 7/5/2022.
>
> We request that you provide written response no later than August 9 for the benefit of Delta County.
>
> Thank you,
>
> Sydney Connor

Lewicki & Associates

sydney@lewicki.biz

(719) 323-9867

Delta County COLORADO
Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

Elam Construction Asphalt Plant

1 message

KATHY L SPARACINO <SPARACINOK@msn.com> Thu, Jul 28, 2022 at 5:13 PM
To: "planning@DeltaCounty.com" <planning@deltacounty.com>

Attn: Kim Henderson

Ms. Henderson

Thank you for speaking with me on the telephone. As suggested by you, I am sending you information on the items we discussed.

1. I moved to Austin several years ago on the recommendation of my physician. It was suggested that I live in a place with cleaner air, less pollution, less traffic and fewer people. Having visited friends here, Delta County seemed the perfect place.

2. I used to live in Kremmling (Grand County) Colorado. The powers that be at the time were very excited to welcome Louisiana-Pacific to the community, a wood processing plant, creating jobs and revenue. After ten years of pollution and a sticky resin on everything, they were asked to leave. They had worked with the EPA in creating filters, screens and other cleansing devices but were unsuccessful. It destroyed my health and I was forced to move.

I would like to stress that even though it *sounds* like a good idea, an asphalt plant could become very disastrous. "Containment" often doesn't contain *everything.* Minute particulates that get missed by filters will affect breathing, especially in the ill and elderly. The very smell of asphalt is atrocious. Traffic will increase, creating more pollution. There will be more noise and disturbances. Overall, more trouble than it's worth. Our government is trying to REDUCE carbon emissions. Why would you do this in such a pristine area?

ONE SUGGESTION: If you must, put the plant outside town, on DOC property where the inmates could work and learn skills.

PLEASE DO NOT APPROVE AN ASPHALT PLANT IN DELTA.

Respectfully,
Katherine Sparacino

Kim Henderson <khenderson@deltacounty.com>

Fwd: Gravel pit & asphalt plant on 65

1 message

Kate Kelly <kkelly@deltacounty.com> Thu, Jul 14, 2022 at 12:47 PM
To: Kim Henderson <khenderson@deltacounty.com>

Can you save and print this comment out for the Gravel Pit

---------- Forwarded message ---------
From: **riley dunn** <brianrileydunn@gmail.com>
Date: Thu, Jul 14, 2022 at 12:44 PM
Subject: Gravel pit & asphalt plant on 65
To: <kkelly@deltacounty.com>

Delta county tourism billboard at the Cory Bridge. “Mountains, canyons, rivers and Asphalt plants. Right at the beginning/end of delta county’s scenic byway.
Riley

--
Kate Kelly
Planner I
295 W 6th Street
Delta, CO 81416
970-874-2110

NOTICE: This email transmission from the County of Delta, and any documents, files, or previous email messages attached to it, are intended solely for the individual(s) to whom it is addressed and may contain information that is confidential, legally privileged, and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any unauthorized review, forwarding, printing, copying, distribution, or use of this transmission or the information it contains is strictly prohibited. A misdirected transmittal of this email does not constitute waiver of any applicable privilege. If you received this transmission in error, please immediately notify the sender and delete the original transmission and its attachments. Notwithstanding the foregoing, sender and receiver should be aware that all incoming and outgoing emails may be subject to the Colorado Open Records Act, C.R.S. 24-72-200.1 et seq. Thank you.

RECEIVED

July 15, 2022

Delta County Planning & Community Development
295 W. 6th Street
Delta, CO 81416

RE: Case PLN21-080/Delta Paving Gravel Pit (CUP)

Hello Delta County Planning,

This is Tom. Some 20 years ago Ron Tipping of Grand Junction Pipe & Supply came to our home here on Iris Road overlooking the Gunnison River, and sat down at the dining room table to talk about his desire to create a gravel pit down below us. We all listened. He said that if we would not object as a homeowners group, that he would agree to forego a hot mix asphalt plant.

So that's what happened. We did not object. He in turn agreed there would be no hot asphalt mixing plant with it's accompanying clean air issues, that is, particulates and smell.

The Delta County Commissioners signed off on that plan. Gravel yes. Asphalt no.

So now Elam, or Kilgore Companies, buys out Tipping. They knew very well the permit that accompanied that buyout included no asphalt plant. They did not have to buy this property. They were not forced to do so.

But now they want to change horses in the middle of the stream. We, the homeowners, and the Commissioners, made them a deal.

A deal is a deal.

As you may know, I'm a private property rights activist if there ever was one.

But in my opinion, once a deal is publicly debated and then the parties come to an agreement, as what happened 20 years ago, then that's the deal.

Kilgore Companies should be happy with a gravel pit. Ron Tipping waived the next step industrial usage, the hot mix asphalt plant, which, as you know, would affect a lot of homeowners.

Signed: Thomas E. Chapman

Thomas E. Chapman
19942 Iris Road
Austin, CO 81410
970-812-2318

Kim Henderson <khenderson@deltacounty.com>

Fwd: Casepln21-080delta paving gravel pit

1 message

matthew bouthillier <msbouthillier@gmail.com> Sat, Jul 16, 2022 at 2:02 PM
To: planning@deltacounty.com

Case pln21 080 delta paving location 8020 highway 65 delta Colorado

---------- Forwarded message ---------
From: **matthew bouthillier** <msbouthillier@gmail.com>
Date: Sat, Jul 16, 2022 at 3:48 PM
Subject: Casepln21-080delta paving gravel pit
To: kkelly@deltacounty.com <kkelly@deltacounty.com>

I would like to send comments on the hot batch paving plant to be added to the mine .the letter I received states I must include all documents and attachments with comments I am not sure what it is referring to. I would not have an issue with pits 2 and 4 on figure 1 included in packet but the location of pits 1 and 3 could pose a great water quality risk to the Gunnison river do to there close proximity to the river.I would be opposed to the addition of an asphalt production facility on any part of this parcel do to it's close proximity to a residential area.Production of bituminous asphalt has a very strong earthy odor similar to decaying organic mater or sewage.Given it's close proximity and the direction of the prevailing winds it would negatively impact the air quality ,quality of life and property values in the neighborhoods on Iris rd marshals rd Albion rd Irving rd and Ellen's way neighborhood as well as 2000 and 1950 rd. A better location for an asphalt plant would be near the existing concrete plant near the intersection of rt 92 and 65 as this is a commercial industrial area and will not effect quality of life in a residential area and is only a short drive to the mine. Thanks for your time Matthew bouthillier 8605503599

July 15, 2022

Delta County Planning and Community Development

295 W. 6th Bridge Street

Delta, Colorado 81416

Gravel Pit Comments

Re: Case/name PLN21-080/Delta Paving Gravel Pit (CUP) 8020 HWY 65, Delta Co

To whom it may concern,

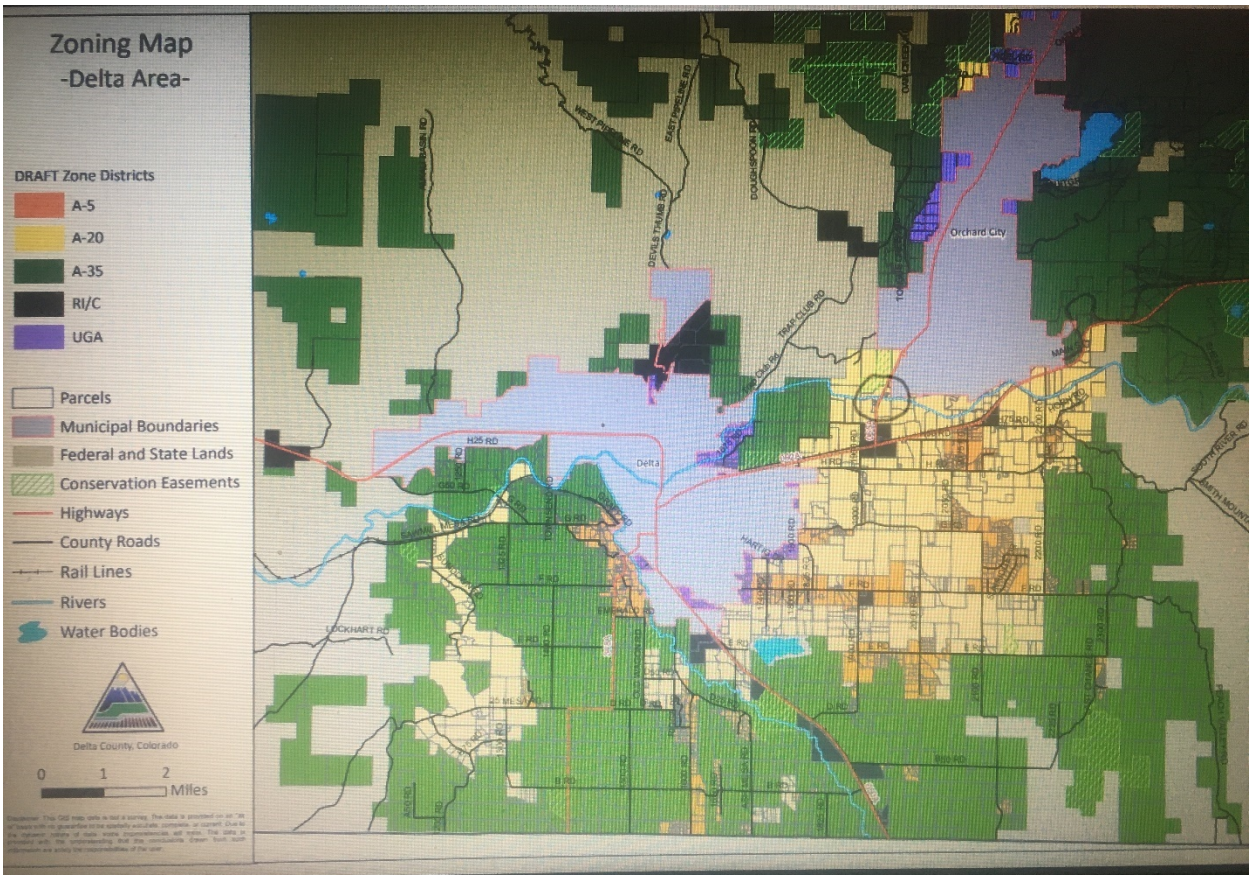
In Delta County's Master Plan, Land Use Code and County zoning map are, in countys own words, the regulations and reasons for the Rejection of this Gravel Mining and Asphalt Plant Application.

The Obvous Isues running contrary to Delta County Master Plan and County Codes are: 1) Zoning. 2) Negative Impact on Agriculture. 3) negative Impact on Tourism. 4) Noise impact on Numorus home owners. 5) Dust and health impact on Numorus home owners. 6) Odor impact on Numorus home owners. 7) The poor fit with the area, 8) The Drastic impact of Devaluation of property Values of the surrounding neighborhoods and on neighbors. Most of Whom are retires. (Retires account for 26% of the income for Delta county and many first came to Delta as tourists.)

Regarding the Land Use Code final adopted 1.5.2021. There are a few things stated that give pause.

To begin, the County Zoning Map shows the entire 110 acre Mine is well within the A-20 zone. There is not a spot of the proposed mine that comes even close to the border of an RI/C Zone. (see circled area) Additionally The mine abuts Orchard City. Out of courtesy, if not for legal reasons, have they been notified? Also please note from the map the proximity of the Hwy 92 / 65 intersection. There is a lot more traffic on both highways now than 23 years back. To be safe that intersection needs a major upgrade as well as the access onto Hwy 65.

c. Stewardship areas. Stewardship areas are those areas that are designated to protect irrigated agriculture, irrigation infrastructure, passive outdoor recreation activities, open space, wildlife, or environmental resources from development or disturbance. Grading, wells, fencing, retaining walls, landscaping, vegetation removal or disturbance, and other activities or construction that are consistent with such stewardship (e.g., thinning of vegetation for wildfire mitigation, irrigation infrastructure, habitat or wildlife migration corridor mitigation or restoration, weed control or invasive species control, nature trails, etc.) are allowed in stewardship areas subject to the standards of this Code.



The following excerpts have been copied directly from the Land use Code and go to hart and importance of Agriculture in all aspects of Delta county land use.

"B. Agricultural Operations and Prime Agricultural Soils 1. The agricultural resources of the County are essential to its economic base, and it is a central policy of this Code to support and protect the viability of agricultural operations in the County. The standards of this are intended to ensure that new development does not compromise existing agricultural operations, allowing new development and agriculture to co-exist in the same landscape.

2. Impacts. a. Proposed development shall not adversely affect, or have the potential to limit the viability of, existing agricultural operations on surrounding and nearby property, including but not limited to their use of irrigation ditches, irrigated hay meadows, row crop operations, orchards, livestock operations, and historic stock drives. b. To the extent reasonably feasible, proposed development shall be designed to avoid impacts to prime agricultural soils on the subject property"

"The subject property is an example of the finest river bottom farm ground in Delta County and it includes irrigation."

Page 45e. Minerals Extraction/Quarry. In addition to all other applicable standards of this Code, minerals extraction/quarry uses shall meet the following standards: 1) The reclamation plan (however titled), if

required for an applicable state permit (see, e.g., Rule 3, Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials; Rule 3, Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations; and Rule 4, Rules and Regulations of the Colorado Mined Land Reclamation Board Pursuant to the Colorado Surface Coal Mining Reclamation Act) shall provide for reclamation of the subject property for a use that is permissible on the Subject Property under this Code;

The County Code map Calls for 20-A.

Page 46 2) 2) If the boundaries of the mining operation are within 2,000 ft. of a residence or livestock operation, a Noise Control Plan is required (see Chapter 4, Section 7(C), Noise)

How can they stop noise from echoing off the river bluff or be able to mitigate noise going strait up the river bluff to the homes above without encapsulating the entire mine. Also due to the extra humidity and variable breezes of a river Bottom, noise and odors (see odor management) are often amplified and carry further.

D. Odor Management 1. Generally. An odor management plan is required for intensive agriculture uses (See Chapter 2 Section 5), and may be required for other land uses that tend to generate offensive or noxious odors. Odor management plans shall meet the minimum requirements of this, and shall achieve compliance with 5 CCR 1001-4, Part A or Part B, as appropriate. 2. Odor management plans for other uses (not intensive agriculture) shall identify: (1) The location of odor-emitting activities or procedures; (2) The source or sources of the odors; (3) The timing of odor-emitting activities;

(4) The controls (e.g. administrative, structural, chemical, or mechanical) that will be used to mitigate odor impacts; and (5) The maintenance program that will be followed to ensure the effectiveness of the proposed controls. 3. Proposed odor controls shall be based on best available control technologies. 4. Odor management plans shall also provide for complaint tracking. Complaint records shall be provided to the County within three business days after request by the Director.

At this time we are unable get information from the applicants on the location of the proposed asphalt plant.

The winds that swirl off the bluffs adjacent will make it difficult to imposable to control Dust, Noise and Odors and the bluff itself will amplify these issues.

“G. Scenic Impacts 1. Generally. This applies to a subject property that is located within one-quarter mile from the right-of-way of a scenic byway. 2. Report Required. A scenic impacts report shall contain the following information: a. A graphic illustration of the impact of the proposed development on the views from designated scenic byways; b. An illustration of ground elevations, existing buildings and structures,

and vegetative cover before development (the “pre-development condition”), in plan view and elevation view, taking into account the elevation of the road and the distance to the scenic resource; c. An illustration of the proposed development (the “post-development condition”) in plan view, and in elevation view from the same vantage points that were used to illustrate the pre-development condition; d. A narrative that describes the measures that are proposed in order to mitigate the impact of the proposed development on the scenic resource.”

DELTA COUNTY REGULATION FOR SPECIFIC DEVELOPMENTS AS AMENDED Effective Date: February 21, 2017

Article VI Performance Standards

Page 17: Section 1. Scope The applicant and Board of County Commissioners shall use the performance standards contained herein and the Delta County Master Plan in designing, reviewing, evaluating and constructing new and expanding specific developments as listed in Article II, Section 4 in the unincorporated area of Delta County

Section 2. Performance Standards

A. Compatibility with Adjacent Land Uses – Comments received from surrounding property owners, other interested persons and existing land use shall be among the factors considered to determine compatibility. The specific development must be consistent with the Delta County Master Plan and Advisory Planning Committees’ addenda to the Delta County Master Plan. Density shall be computed using Section 2.7 C of the Delta County Subdivision Regulations and be compatible with surrounding land uses and densities.

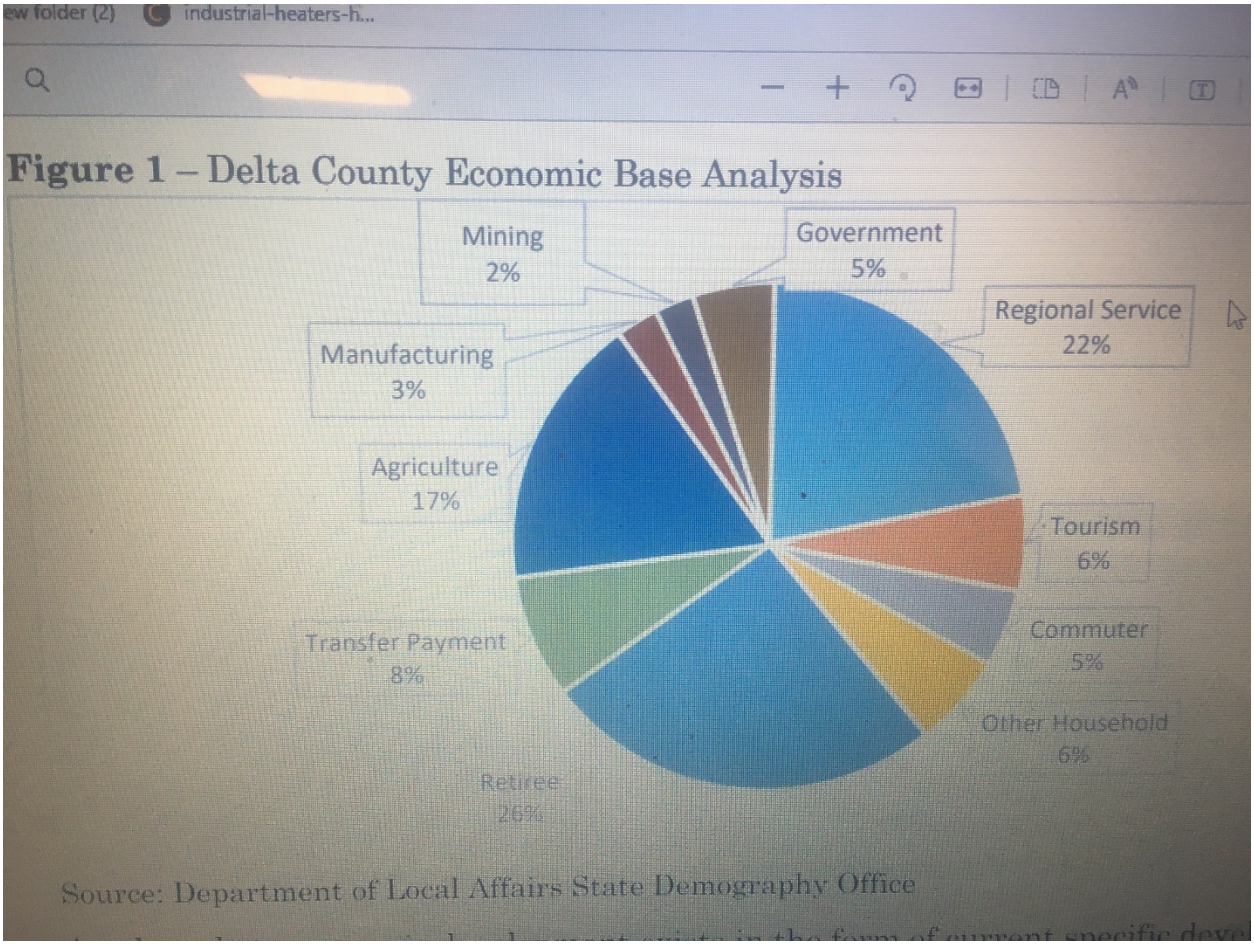
P. Scenic Views – 1. Developments within the view shed as defined by the West Elk Scenic Byway Corridor Management Plan for the West Elk Scenic Byway and within the view shed of Grand Mesa Scenic Byway shall be reviewed by the respective scenic byway committee.

While the Scenic Byway designation for Hwy 65 stops short of the proposed mine, crossing the Bridge over the Gunnison River on the way to and from Grand Mesa and points beyond is a Postcard crossing leading into Canyons Rivers Mountains. Are you now ready to Change that post card to a billboard of canyons rivers mountains, Gravel Mines and Asphalt Plants? If you look at the site as it is now it is also a Postcard for Agriculture in Delta county.

The Scenic Resource that will be impacted is the Entry and Return to and from Grand Mesa, Orchard City, Cedar Edge and All of the Mesas that access off HWY 65. This mine will be obvious on HWY 92 in both directions as well.

Canyons Rivers Mountains Gravel Pits and Asphalt Plants. The Bridge over The Gunnison River Is in daily use by Floaters, Fishermen, Kayakers and Stand Up Paddle boarders as both a take out and a put in. Guests to Delta County pull in just to visit the River. It is used by international Guests and tourists from the 50 states. The bridge is on the rout of national and international Bicycle tours and Races. It is crossed by numerous Motor cycle and classic car tours. We want them to stop and spend tourist dollars Not go eu and have lunch in Montrose.

Delta county Master Plan.



Page 8: Master plan excerpts; Regional services 22%, Tourism 6%, Commuter 5%, Other Household 6%, Retiree 26%, Transfer Payment 8%, Agriculture 17%, Manufacturing 3%, Mining 2%.

As You can see Agriculture is 8 times more valuable than mining and Tourism Brings in more Dollars to Delta County than mining by 3 times. The Hwy 65 bridge over the Gunnison River Should be a Postcard for that Agriculture and tourism. Additionally Retires add 13 times more to the Delta County economy than Mining. A lot of those Retires were first Tourists to Delta County. A large number of those Retires will be directly impacted through the devaluation of their properties in the neighborhoods around this proposed gravel pit. The industrial noise, dust and pollution will impact more than a mile up and down the Gunnison River. The pleasant down valley evening and morning breezes we all love to catch will now carry the smell of a 110 acre mine all the way through to Delta and it will no longer be pleasant. The daily up river winds will have an impact as far as Austin and up over the river bluff to the Orchard City offices. Where it settles it will taint gardens and fruit and lungs. But, That's the way the wind blows.

Back to the Delta county master plan, Page 9: VISION, GOALS AND STRATEGIES

• Agricultural Land and Business – Delta County will remain an agricultural county by protecting agricultural lands and operations and supporting agricultural innovation

• Land Use and Development – Delta County's land use processes will be fair, predictable, defensible and easily understood. Growth and development in the county supports the community's desired future while enhancing health, safety, welfare, quality of life, while fostering innovation

Page 11 reach out to the community?

Finally, county staff attended meetings with numerous organizations around the county to inform stakeholder groups about the planning process and seek their participation.

These groups included: • Delta Rotary • Paonia Rotary • Cedaredge Chamber of Commerce • Delta Chamber of Commerce • All-Chamber meeting • Delta Kiwanis • Western Slope Conservation Center • Town of Cedaredge • City of Delta • Town of Orchard City • Delta Board of Realtors • Delta County Economic Development • Valley Organic Growers Association • Farmers Union. • Conservation District

Page 12: The Role of the Planning Commission;

The Planning Commission took a very hands-on approach in drafting the Delta County Master Plan. To create the vision, goals, and strategies, they met every other week from September 2017 to early November 2017. These meetings included a series of information sharing discussions between the Planning Commission and numerous organizations and topic experts to help strengthen the collective understanding of the breadth and depth of issues and opportunities related to the emerging focus areas of the master plan including agriculture, land use, economic development, water, public infrastructure, and energy.

Specifically, the Planning Commission met with the following: • Delta County Assessor • Delta County Sheriff • Delta County Engineering • Delta County Road & Bridge • Delta County Local Government Designee • Delta County Public Health • Citizens for a Health Community • Western Slope Conservation Center • Solar Energy International • Arch Coal • Department of Local Affairs • State Demographer • Delta County Economic Development • Uncompahgre Development • Board of Realtors • North Fork Creative Coalition • Aaron Clay • Colorado Water District • Farm Bureau • Farmer's Union • Valley Organic Growers Association • Livestock Association

Page 13: The Public Involvement Process; From May 15th to May 25th, 2017, ten public events were held in five locations (Paonia, Cedaredge, Crawford, Hotchkiss, and Delta) around the community engaging nearly 300 people. The goal of these meetings was to introduce the planning process and collect community input on the following questions: • What do you love about living in Delta County and why? • What are your concerns and hopes for the future? • Looking forward 20 years, what story would Delta County have to tell about its success? The results of this community input became the basis for the draft community vision and goals

Page 13-14: Phase 2: Where Do We Want To Go? ; In mid- November 2017, the community was invited to provide feedback on the draft vision and goals. Three community meetings were held in Cedaredge, Hotchkiss, and Delta. Approximately 145 community members reviewed the vision and all the goals in an open house format followed by small group discussion that dove deeper into specific thematic Delta

County Master Plan 14 areas and goals. An online feedback forum was provided for two and a half weeks that collected feedback from 39 community members. All the feedback collected answered the following questions: • Do the vision and goals move the county in the right direction? • If we were successful in accomplishing our goals, what would that success look like on the ground? • As we explore strategies to accomplish these goals, what do we need to keep in mind? The community input was used by the Planning Commission and staff to finalize the vision, goals, and strategies in January 2018.

Page 16: KEY FINDINGS;

Agricultural Land and Business – Although the indicators show that this industry has faced some adverse economic conditions, agriculture is incredibly resilient and remains a significant component of the economy. Agriculture is one of the largest contributors to the county's economic base representing 17% of the total. Farm earnings have declined steeply since 2000 while employment has fluctuated moderately up and down, not declining steadily like earnings. There was a slight decrease in the acreage farmed and the average farm size between 1997 and 2012, but the number of farms and market value of products sold has increased according to the most recent Census of Agriculture data. Organic farms sold $2.4 million in products in 2012 according to the Census of Agriculture and there were 28 organic certified operations in Delta County as of 2018 according to the USDA.

Page 21: AGRICULTURAL LAND AND BUSINESS Agriculture is integrated throughout the county physically, it is a key component of the economy representing 17% of the economic base. Equally important, the diversity and durability of agriculture is central to well-being and quality of life in Delta County. Parcels assessed as agriculture range in size from less than an acre to hundreds of acres and the majority of agricultural parcels have a portion that is irrigated. While agriculture is a type of business operating throughout the county, homes and rural neighborhoods are also part of the agricultural landscape throughout Delta County. Most who farm or ranch live onsite and many properties interspersed throughout agricultural areas are assessed residential, often in subdivisions or clusters of parcels.

Page 22: Figure 9 – Farms in Delta County by Size, 2012

Farms by size, Number	
1 to 9 acres	215
10 to 49 acres	521
50 to 179 acres	330
180 to 499 acres	110
500 to 999	31
1,000 acres or more	43

Source: 2012 Census of Agriculture

Page 23: Delta County residents strongly desire to protect agriculture as a cornerstone industry that contributes to residents' well-being in countless ways. Although the indicators show that this industry has faced some adverse economic conditions, agriculture is incredibly resilient and remains a significant

component of the economy. Working agriculture is highly valued by residents and there is growing optimism about the future possibilities for agricultural enterprises. From a policy perspective, it is critical to maintain the agricultural land base by clearly articulating in land use regulations that agricultural uses and operations are a primary use in agricultural areas. Occupants of neighboring areas and future development near agricultural operations can expect that agriculture is allowed and encouraged. Site design standards are needed in future development proposed near agricultural lands to reduce impacts on agricultural operations. Creating incentives for agricultural land conservation that are viable and attractive options for owners could yield permanent agricultural land conservation.

Page 26: 10 key industries; Based on analysis by the State Demographer, Delta County's economy is driven by ten key industries as identified in figure 13. Retirees contribute 26% of the economic base through earnings and employment associated with expenditures made by retirees on local resident services. Agriculture is the third largest industry representing 17% of the economic base, but may actually play a stronger role in the overall economy. The category of regional services collectively represents a 22% share of the base economy, but this category is comprised of construction, communications, trade and transportation, professional and business, finance and insurance, and education and health, and the individual compositions of each sub-industry are not specifically delineated. Transfer payments (also known as Regional Service 22% Tourism 6% Commuter 5% Other Household 6% Retiree 26% Transfer Payment 8% Agriculture 17% Manufacturing 3% Mining 2% Government 5% Delta County Master Plan 27 public assistance) contribute 8% of the economic base while tourism and other household (household income from dividends, interest and rents) each contribute 6%. Government and commuters (residents who live in Delta County but commute outside the county for work) each account for 5% of the economic base while mining and manufacturing contribute a combined 5% of the economic base

Page 49: 2.2 AGRICULTURAL LAND AND BUSINESS;

VISION

Delta County will remain an agricultural county by protecting agricultural lands and operations and supporting agricultural innovation.

CORE VALUES

Agriculture is strongly supported throughout the county. Residents feel that agriculture connects them to their community and contributes to the quality of life. Agricultural lands set the backdrop to the county's landscape, bringing green open areas to what would otherwise be dry desert, while supporting wildlife, strengthening the local economy and providing locally produced food. Agricultural operations and businesses remain one of the top employing industries in the county, employing 15.3% of the county's working population. Agriculture attracts revenue from outside the county as it provides the largest number of direct basic jobs (jobs that bring outside money into the local economy). The total acreage of designated farm land in 2012 was 250,761. The average farm size totaled 202-acres; the median farm acreage was 38. The market value of agricultural products in 2012 was $55,639,000—a 28% increase over the previous 21 years. Delta County's agricultural industry is one of the most diverse in the state. The county has a mix of traditional agriculture and organic agriculture, with the highest

concentration of organic farms in Colorado. Agritourism and value-added agricultural production bring a greater depth to the agricultural industry. Delta County's wine industry is growing, as are agricultural activities and events that bring visitors to the county. The county produces livestock including cattle, goats, elk, pigs and sheep; hay and alfalfa; row crops such as hemp, field corn, sweet corn, hops, soybeans, onions and potatoes; fruit & vegetables including grapes, peaches, apricots, cherries, apples, pears, and berries; eggs and poultry; and dairy just to name a few. Agricultural operations range in scale from high-acreage ranches and farms to small two- or three-acre farms. Both large and small producers are having success in agriculture with the increased value of locally grown food sold directly to market. Access to locally grown healthy foods supports not only the county's economy, but potentially helps to address health equity and reduce chronic illness among residents. Protecting agricultural lands, especially those lands with quality soil, irrigation and that remain largely intact (acreage) is a high priority. Protection of agricultural lands means ensuring the economic viability of agricultural producers. Agricultural producers expressed concerns that future land use and development regulations not impair their ability to adapt and innovate so they can remain economically viable.

Page 50, GOALS AND STRATEGIES

Goal 2.1 – Maintain the character, integrity of agricultural land including irrigated and potentially irrigatable agricultural land, and the functionality of agricultural areas for agricultural business operations.

Strategy 2.1.5 – Support and facilitate the voluntary conservation of agricultural lands and associated water.

Page 55, 2.4 ECONOMIC DEVELOPMENT ; CORE VALUES

The county has always had and continues to have a strong agricultural and natural resource base. In the face of recent decline and ongoing uncertainty in the natural resources extraction sector, residents see growing opportunities in many other economic sectors. It is broadly recognized that Delta County's economic advantage is tied to its community and natural resources. Outdoor recreation on public lands is one of the county's greatest assets both for attracting visitors and as a major contributor to quality of life. To become more competitive, Delta County must continue to invest in its community, agricultural and recreational assets.

Local values include a fierce sense of independence, strong support for private property rights, a reluctance for regulation but growing acknowledgement that reasonable thoughtful regulation is necessary, connection to outdoor recreation, personal connection to healthy local food, valuing community input, protection of the region's clean air and clean water and preservation of natural resources. Economic development efforts need to improve predictability for future businesses looking to grow or relocate; foster the entrepreneurial spirit and support home-based business and cottage industry; and promote, strengthen, preserve and build upon the county's strongest assets.

The county has a great opportunity to diversify outside of the traditional economic sectors moving forward to the next generation of economic development, particularly in the areas of creative industries, outdoor recreation services and equipment, information and technology, manufacturing, retail trade, wholesale trade, professional services and tourism.

Page 59, 2.5 LAND USE AND DEVELOPMENT

Areas that have special characteristics such as productive agricultural land, wildlife habitat, historic resources, access to outdoor recreation, or natural hazards deserve careful consideration. Revisions to the land use and development standards and procedures are needed to promote long-term economic viability for landowners while protecting the foundational characteristics of the land.

The intent of this Master Plan is to rationally plan for growth while also protecting property rights, addressing impacts on neighboring properties and protecting the most important land and economic resources.

Page 60: Strategy 5.1.0 – Identify productive and potentially productive agricultural lands, including those that are or could be irrigated, and establish site planning and design standards and incentives that keep agricultural lands intact in future developments.

Strategy 5.1.1 – Identify valuable wildlife habitat, natural and cultural landmarks and natural hazards and avoid or minimize impacts on these features in site planning and design of future development.

Strategy 5.1.2 – Identify existing developed residential neighborhoods and rural residential areas and apply consistent countywide standards for uses and physical development parameters

Page 69: COUNTY RECREATION & TOURISM

Community members countywide have identified recreation and access to recreation assets as critical to the quality of life available in the county. Recreation is an economic asset, not just in terms of jobs created through recreation and tourism, but also in how recreational assets serve as a key factor in creating healthy communities and attracting people to the community who will visit, stay, and prosper.

To summarize, Delta's own Plan and Code emphasize the need to: 1. Protect Agriculture land especially that with irrigation. This is that land, flat irrigated river bottom. 2. To protect views, This farm land as you cross the Cory Bridge is highly visible and is the Postcard for Canyons Rivers Mountains and Farms Tourism Retirement in Delta. It represents all that Delta County Is.

To reject this Gravel mine in this location would be: 1) to showcase Delta County Agricultural heritage, 2) to enhance outdoor and recreational opportunities, 3) to Protect homes and investments of the numerous folks, retired, new families and native residents, that built and made a life here based on their belief in the integrity of the Delta County Planning Commission and the Delta County Commissioners.

Thank you for your consideration of my concerns.

Riley Dunn

8041 Hwy 65

Delta Co 81416

970-270-3556

Kim Henderson <khenderson@deltacounty.com>

Kilgore Companies dba Elam Construction

1 message

Jenna Childress <hinkleyjeffj@gmail.com> Mon, Jul 18, 2022 at 8:54 PM
To: planning@deltacounty.com

I"ve worked in the ready-mix concrete industry for 38+ years. I know the air poor quality that goes with gravel pits,asphalt plants and ready-mix concrete plants. There are people within 1/4 to 1/2 mile from your site with asthma. One woman has had a double lung transplant. The prevailing winds from wsw/w will move dust from roads, asphalt plant and ready mix plant right over these people's homes. Just a side note, when a bulk cement tractor trailer arrives to pneumatically unload bulk cement, if ready mix plant fills before bulk cement trailer is unloaded and cement driver is not aware of full cement silo, excess cement (powder) fills the sky. As for the crusher, I can hear Benson Bros. crusher which is about 3/4 mile from my house. A crusher at proposed pit will be apprx.300-500 yards from my house. There is an immense safety factor concerning entrance and exit of 60,000-80,000 lb. trucks on hwy. 65. There will be accidents at this location. We get terrible dust from Benson Bros. when wind blows from w/nw. In summarizing. There will be too much air and noise pollution, especially for not so healthy people! Thank you Jeff Hinkley 8451 Marshalls Road

Delta County COLORADO
Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

case/name PLN21-080/DELTA PAVING GRAVEL PIT (CUP)

1 message

Nancy Giordano <nanc.giordano@gmail.com> Mon, Jul 18, 2022 at 1:15 PM
To: planning@deltacounty.com

Monday, July 18, 2022

To Whom it May Concern:

This is to inform you that Joseph B. Giordano and myself Nancy Y. Giordano will be attending the hearing w/ the Planning Commision,
on Wednesday, July 27,2022 at 5:30 p.m. regarding the above referenced.

Nancy & Joe Giordano
8282 1950 Rd, Austin, CO 81410
970-778-5882

PETITIONS NEED TO BE DELIVERED TO: KATE KELLY, PLANNER 1
295 W. 6TH STREET
DELTA, CO 81416
BY: 3:00PM WEDNESDAY JULY 20, 2022

OR

DROPPED AT: 8041 HWY 65 (SHOP) BY 1:00PM WEDNESDAY JULY 20, 2022

WE THE CITIZENS OF DELTA COUNTY PETITION THE DELTA COUNTY PLANNING COMMMISION TO OPPOSE CASE/NAME PLN21-080/ DELTA PAVING GRAVEL PIT (CUP). PROJECT LOCATION 8020 HIGHWAY 65 DELTA CO 81416 BY KILGORE COMPANIES dba ELAM CONSTRUCTION, INC.

THIS PROJECT WILL CREATE EXCESSIVE VEHICLE TRAFFIC, NOISE, AIR POLLUTION, AND ODOR IN NEARBY RESIDENTIAL HOMES. THIS PROJECT WILL DESTROY SEVERAL ACRES OF VALUABLE FARM LAND. WE ALSO FEEL THAT EXISTING HOMES IN THE GENERAL VICINITY WILL BE FINANCIALLY AFFECTED.

THANK YOU FOR YOUR CONSIDERATION

NAME	ADDRESS	PHONE NO	SIGNATURE
Kathryn A. Wiening	20308 Fox Ridge Dr. Austin	970 216-2245	Kathryn A. Wiening
Charles E. Wiening	20308 Fox Ridge Dr. Austin	970-778-1514	Charles E. Wiening
Duard L. Van Den Berg	20286 Fox Ridge Dr. Austin	970-946 8533	Duard L Van Den Berg
Ronald B Lyman	20287 " " " "	970-835-3963	Ronald B Lyman
Donnalee Lyman	" " " " "	970-417-7457	Donnalee Lyman
Willa D. Sorensen	20286 " " " "	970-835-4281	Willa D. Sorensen
Charlene Fortney	20259 Fox Ridge Dr.	970-260-3682	Charlene Fortney
David Miller	20280 Fox Ridge Dr	970-399-7217	David Miller
James M Kent	20275 Fox Ridge Dr	970-835-3481	James M Kent
Cheri A. Kent	20275 Fox Ridge Dr	970-835-3481	Cheri A. Kent
WILMER KEITH FORTNEY	20259 FOX RIDGE DR. Austin	970-270-0749	Wilmer Keith Fortney
Craig Otzenberger	20341 Fox Ridge Dr. Austin	208-324-8587	Craig Otzenberger
Jeannie Otzenberger	20341 Fox Ridge Dr., Austin	208-324-8587	Jeannie Otzenberger
Zane Goodson	20302 Fox Ridge Dr. Austin	303-234-2401	Zane Goodson
Corie Goodson	20302 Fox Ridge Dr. Austin	303-234-2401	Corie Goodson
TONI CHATTO	20280 FOX RIDGE DR. AUSTIN	970-399-7217	Toni Chatto
Lorna Anderson	20298 Fox Ridge Dr Austin	970-773-4598	Lorna Anderson
JB LOPEZ	20304 Fox Ridge Dr Austin, CO	970-596-2232	JB Lopez
Danielle Lopez	20304 Fox Ridge Dr Austin, CO	970-596-1847	Danielle Lopez
JOHN SPIRO	20325 FOX RIDGE DR AUSTIN, CO	970 835-3197	John Spiro

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THANK YOU FOR YOUR CONSIDERATION

NAME	ADDRESS	PHONE NO	SIGNATURE
DONNA SPIRO	20325 FOX RIDGE DR	970-835-3197	
Brandon Millholland	20262 Fox Ridge Dr	970-623-4329	
Don Anderson	20298 Fox Ridge Dr	970-201-3868	Don Anderson
Lyle Shaw	19549 Iris Road	970-261-0197	Lyle Shaw

Delta County COLORADO
Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

Comments re: PLN21-080/Delta Paving Gravel Pit

1 message

Jack Ditlove <jamaditl@gmail.com> Tue, Jul 19, 2022 at 10:03 AM
To: planning@deltacounty.com

Dear Sir or Madam:

We are submitting our comments with regard to the above.

We enjoy a **tremendous view** on the bluff above the gravel pit. There are rolling hills in the distance along with a grand view of the San Juan Range. Below us are green fields used to grow hay, corn and graze cattle. The Gunnison River runs along and we enjoy watching the bird life it supports along with rafters floating by. The bit of industry we see includes quiet businesses. My only complaint of them is the lights at night, but we can still see stars and the Milky Way.

We're not crazy about the gravel pit starting up again. It looks so nice in the reclaimed status it is in now. Allowing a hot mix asphalt plant would change this valley significantly. Smell, smoke, noise and a loss of quiet beauty along the river for rafters and fishermen. We're particularly concerned about the pollution to water and air.

In conclusion, the **tremendous view** that we were sold and are sold by local realtors, would be destroyed. This industrial complex would not only destroy that view but also the home values and sale ability of all of the homes along the bluff and in the surrounding area.

Thank you for taking the time to review our comments.

Jack & Mary Ditlove
8341 2000 Road
Austin, CO 81410
970 424-1509

Delta County
COLORADO
Canyons • Rivers • Mountains

Kate Kelly <kkelly@deltacounty.com>

Asphalt Plant

Just Jane <justjane306@gmail.com> Tue, Jul 19, 2022 at 10:43 AM
To: Kkelly@deltacounty.com

Please DO NOT
ALLOW A HOT ASPHALT PLANT, ALONG THE GUNNISON RIVER AND USING 110 ACRES

Vote NO
Concerned citizen of Delta County
Jane Everett, Cedaredge

7/19/2022

Delta County Planning and Community Development,

Delta County is the home of Canyons, Rivers, and Mountains, as stated on Delta County's Homepage. The Homepage also states under the **County Spotlights** and **Living Here** tabs, "The County boasts superb scenery, unending opportunities for outdoor activities, and award winning orchards and wineries." Asphalt Plants DO NOT fit into that vision. Between inadequate federal regulations, OSHA warnings, and harmful impacts to the community; adding an asphalt plant so close to the Gunnison River and within two miles of residential homes is just irresponsible. There are many concerns and valid questions to be asked.

The obvious concerns are outlined in a study completed in the Kunda Park area where the effect of an asphalt plant was studied. ("con" Asphalt Plants Arguments - Kunda Park Neighbours, n.d.)

- Pollutants
    - *Fugitive emissions such as, arsenic, benzene, formaldehyde, cadmium, polycyclic aromatic hydrocarbons and very fine condensed particulates, (released into the air as trucks are loaded and hauled).
    - Asphalt fumes have known toxins: formaldehyde, hexane, phenol, polycyclic organic matter, and toluene.
- Federal Regulations are inadequate
    - Blue Ridge Environmental Defense League proposes minimum health regulations and oversite.
        - Who will test emissions? The company, EPA, Delta County?
        - How often?
        - How far away from the plant will testing occur? (The wind blows east up the river and across the bluff carrying the toxins further then the two mile EPA minimum.)
- OSHA Warnings: (*Asphalt (Bitumen) Fumes*, n.d.)
    - Exposure to asphalt fumes can cause headaches, skin rashes, fatigue, reduced appetite, throat and eye irritation, and coughing.
- Health and Property Values – The Blue Ridge Environmental Defense League has completed two studies on the impact of asphalt plants on communities and has found:
    - 45% of residents reported deterioration of health
    - Property value loss of up to 56%
- Safety
    - Increased traffic on an already stressed highway 65
    - How many extra trucks will use the highway per day?
- Noise/Odor
    - Will there be 24/7 work weeks during high construction seasons?
    - Trucking sounds, odors, pollutants

If you are considering putting our community at risk by approving an asphalt plant so close to homes and the Gunnison River, please answer the following questions: (LaRotonda Kowalski, 2022)

- Will the plant be **completely** enclosed to advert "fugitive emissions?"
- Will the loading of the trucks be inside the enclosed facility?
- Will the trucks be covered while transporting the materials?
- Will the conveyor belts be enclosed within the facility to reduce "fugitive emissions?"
- Where will the stockpiles be stored?

- Will the plant be tested for toxic emissions? If so, by who?
- What are Colorado's SAFE levels for emissions? Is it enough to keep our community safe?
- What is the "acceptable risk" that Delta County is willing to expose our community to?
- How will an asphalt plant contribute to the quality of life of Delta County residents, children and businesses?
- How will the asphalt plant contribute to tourism and Delta County's Canyons, rivers, mountains mission statement?
- How will the asphalt plant be an asset to Delta County?
- Are there examples of similar asphalt plants having a positive impact on a community?
- How does Elam envision addressing potential negative impact such a facility could have on neighboring properties?
- Has there been a traffic analysis and where will the funds come from to repair roads deteriorated by the heavy loads and additional traffic?
- How tall are the proposed stacks?
- What measures are being taken to protect and prevent wells and the water table from being potentially contaminated and polluted?
- **Would you want to live close to or downwind from an asphalt plant?**

In conclusion, please remember what brings people to and through Delta County. "Canyons, rivers, mountains, scenery, and unending opportunities for outdoor activities…" If you add an asphalt plant to our landscape, there will be harmful impacts to our community for decades to come.

Lisa Hill

*"fugitive emissions" are the release of Hazardous Air Pollutants (HAP's) as the asphalt is moved and stored. This source of emissions is neither regulated nor monitored, and depending on the size of the asphalt operation, can release up to 50 tons of toxic air emissions annually. ("con" Asphalt Plants Arguments - Kunda Park Neighbours, n.d.)

References:

"con" asphalt plants arguments - Kunda Park neighbours. (n.d.). Kunda Park Neighbours. Retrieved July 17, 2022, from https://sites.google.com/site/kundaparkneighbours/web-sites-against-asphalt-plants

Asphalt (Bitumen) Fumes. (n.d.). United States Department of Labor. Retrieved July 17, 2022, from http://www.osha.gov/SLTC/asphaltfumes/index.html

LaRotonda Kowalski, S. (2022, February 3). *GUEST COLUMN: So many questions about the proposed asphalt plant in genoa township*. The Livingston Post. Retrieved July 17, 2022, from https://thelivingstonpost.com/guest-column-so-many-questions-about-the-proposed-asphalt-plant-in-genoa-township/

Beth G French
8556 Coffey Rd.
Austin, CO 81410
July 20, 2022

Delta County Planning & Community Development
560 Dodge Street
Delta, CO 81416
Via Hand Delivery

Re: Case/Name: PLN21-080/Delta Paving Gravel Pit (CUP)

I appreciate the opportunity to comment on the proposed expansion of the sand and gravel mine to include a hot asphalt plant. I am not in favor of this operation.

From a tourist aspect, Highway 65 north is part of the Colorado Scenic Byways and an asphalt plant is certainly not conducive to the intent of beautiful, natural flora and fauna. Further, the Gunnison River from Pleasure Park down to Delta is very popular to those enjoying rafting, kayaking, paddle boating, canoeing, and fishing. Many debark just west of the Hwy 65 bridge, within hearing, sight, and smell of the proposed plant. While our property is upriver at least a mile and half, I sympathize with the homeowners directly above the intended operation as it will surely impact not only their current views and enjoyment but likely also effect their property values negatively. Those living above the river or floating by on it will be subjected to unnatural noise and unpleasant odors.

In addition, I reject this proposition due to the potential for harmful chemicals leaching into farmland, groundwater, and the river. Despite "planned" mitigation, mistakes and oversights do happen.

Finally, twenty years is a very long time to wait for planned reclamation.

Please reconsider approving this expansion because of the numerous deleterious effects noted above.

Respectfully,

Beth

Beth G. French
Fourth generation inhabitant of Orchard City
970-250-4930

Delta County COLORADO
Canyons • Rivers • Mountains

Kate Kelly <kkelly@deltacounty.com>

Robert-Jeanie Brown's Comments on Kilgore Gravel Pit will be sent soon

Robert Brown <bobjnibrwn17@gmail.com> Wed, Jul 20, 2022 at 1:49 PM
To: kkelly@deltacounty.com

Ms. Kelly,

I'm Bob Brown. My wife and I own property impacted by Kilgore's application to expand the gravel pit near our home and install an Asphalt Plant. We strongly object to this and I have spent nearly every day since receiving the Public Notice last Wednesday to prepare our Comments on this project. I'm writing now as a heads up, to let you know that I still expect to get the Comments to your office by the 3 p.m. deadline today, but I have had some computer issues - which I believe are now resolved. Please be aware that our comments are on their way soon.

If I am wrong about the 3 p.m. deadline, please let me know by reply email.

Thank you.

Bob Brown

Kim Henderson <khenderson@deltacounty.com>

Case/Name: PLN21-080/Delta Paving Gravel Pit (CUP)

1 message

'DAun Mangus' via Planning <planning@deltacounty.com> Wed, Jul 20, 2022 at 8:48 AM
Reply-To: DAun Mangus <daunmangus@yahoo.com>
To: planning@deltacounty.com

Delta County Planning Commission
July 20,2022

Case/Name: PLN21-080/Delta Paving Gravel Pit (CUP)

To Whom It May Concern:

My name is D'Aun Mangus. I own property overlooking the proposed gravel pit and asphalt plant. My address is 8302 Marshalls Road, Austin, CO. I purchased this property on June 15, 2001. One of the main reasons for the purchase was the wonderful views.

I feel that expanding the gravel pit will not only impact the view, but will also create excessive noise and air pollution. In addition, to install an asphalt plant will further distract from the view and create an extremely offensive odor in the area.

There are other areas in Delta County where installing an asphalt plant will not have as serious of an impact on as many citizens as this location will create.

The project will cause excessive vehicle traffic on HWY 65, environmental issues, wildlife disturbance, and decrease property values.

I am aware of, and have read, Resolution NO. 99-R-009 adopted on the 10th day of May, 1999.

I am strongly opposed to this proposal and request the Delta County Planning Commission reject Case/Name: PLN21/Delta Paving Gravel Pit (CUP).

Sincerely,

D'Aun Mangus

Delta Planning Commission,

(Attn: Kate Kelly, Planner 1)

My name is Joel Robert Zdechlik and my wife and I live at 19936 Iris Road, Austin, Colorado, 81410.

I received the letter addressing the following project

Case/Name: PLN21-080 Delta Paving Gravel Pit.

Project Location: 8020 Highway65, Delta, Colorado 81416 (Parcels 345510202002, 345503400053, 345510100028.

Please put yourself in my position, as I purchased in this location in the Cory Estates for the 365 degree views of the beautiful landscape, a super quiet area and a great neighborhood. I have great concerns with this project due to environmental and loss of property values that could be associated with the plan.

1) The greatest concern is the asphalt plant that would be foul smelling, noisy and a polluter. In my opinion, an asphalt plant should be established in a conventional industrial area and make the least amount of impact as possible on a community and neighborhoods. Placing the plant in the proposed location would become an air and water polluter of the Gunnison River Basin and destroy the beautiful landscape of the surrounding areas. There was also an agreement approximately 20 years ago and signed off by the county commissioners and homeowners that an asphalt plant would not be placed on this site. What changed and how can Delta County go back on the agreement?

2) In the past the gravel pit was a small operation and has not been in operation for years. Now the plan is to operate a site four times the size and there which again will change the amount of noise and dust pollution by four times for the area.

3) The Gunnison River, various wetlands, aquatic animals, birds, and recreation areas are very close to this site. For the tourists and residents who use the river for recreation would be smelling the emissions and aroma of the plant as

they drift up the river for miles. This could destroy future visits to the area and Delta County businesses income would be greatly affected. Has there been a **current** environmental study plan completed for this site to protect these area assets?

4) Grand Mesa on Highway 65 is a national scenic bypass, and this site is first thing you see as at the gateway. As of today, it fits in perfectly, as it flows from beautiful agriculture land into an amazing drive for 50 miles. **What would be nicer than to turn off highway 92 and the gateway is now an asphalt plant spewing out emissions into the air and viewing the dust and noise of the site.**

5) My property value would almost surely be guaranteed to go down. I never heard from any realtor that there was a possibility of a new gravel pit and asphalt plant going in at the location when I purchased my property. I would have to move if the project would move forward due to health reasons of my wife with sensitivity to petroleum products. Would there be any compensation from the gravel company for the devaluing of property if I had to move?

Sincerely,

Joel R. Zdechlik

Phone: 303-994-6788

Email: jrzzeke@gmail.com

Delta County Planning Commission
Case/Name PLN21-080/Delta Paving Gravel Pit (VUP)

To Whom It May Concern:

My name is Marvin Gale Doudy and my wife's name is Donna Kay Doudy. Our address is 8260 1950 Rd. Austin, CO 81410. Our property goes to the middle of the Gunnison River adjacent to Elam Gravel Pit. Our house is on the bluff directly overlooking the existing gravel pit lake.

We are strongly opposed to the request of this proposal. To look out of our back yard and see a smoke stack and all that this proposal entails is unimaginable. The value of our property would be drastically reduced.

In 1999 we went through having to reach an agreement because of a mistake made of approving a plat that should not have been approved. Because of that, we (homeowners on the Cory Bench) agreed to the letter of agreement dated April 19, 1999 to Grand Junction Pipe (owners at the time of the Gravel Pit) from the Delta County Board of Commisoners Jim Ventrello, Ted Hayden and Donna Ferganchick. In that agreement 9 conditions were agreed to.

We feel strongly that these remain in effect with the property. When the property was sold, the purchasers should have understood the restrictions placed on this property. It is very disconcerting that we are placed into this position again..

We have lived with the agreement to date and that of the most important is #9. THE PLACEMENT AND USE OF AN ASPHALT PLANT SHALL NEVER BE ALLOWED.

Sincerely

Marvin Gale Doudy

Donna Kay Doudy

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THANK YOU FOR YOUR CONSIDERATION

NAME	ADDRESS	PHONE NO	SIGNATURE
Darrin R Hoggatt	20188 Iris Rd	218-390-3690	Darrin R Hoggatt
Darlene Hoggatt	20188 Iris Rd, Austin, CO	218-390-3758	Darlene Hoggatt
Sarah Thing	401 Iris Rd Austin	720-447-9319	

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THANK YOU FOR YOUR CONSIDERATION

NAME	ADDRESS	PHONE NO	SIGNATURE
MARVIN GALE DOUDY	8260 1950 Rd AUSTIN CO	970-835-3993	
DONNA K. DOUDY	8260 1950 Rd AUSTIN CO 81410	970-835-3993	
RICHARD H. GRANT	8460 1950 RD AUSTIN CO 81410	9284511992	
BARBARA A. GRANT	8460 1950 Rd. AUSTIN 81410	928-451-1992	
BRUCE A. SCHMIDT	8470 1950 Rd Austi, 81410	7323546434	
ROBERT S PRICE	2374 1950 ROAD AUSTIN CO 81410	970-275-5955	
Joe Capodice	8340 1950 Rd Austin Co 81410	970-835-3807	Joe Capodice
DORINDA CAPODICE	8340 1950 Rd., Austin, CO 81410	970-835-3807	Dorinda Capodice
Joe Giordano	8282 1950 RD Austin 81410	970-596-8816	
Nancy V Giordano	8282 1950 RD AUSTIN 81410	970-778-5882	
D'Ann Manguis	8302 Marshalls Rd Austin 81410	4703790546	
Jeff Hinkle	8451 Marshalls Rd Austin Co	970 901 2517	
Jennie K. Childress	8451 Marshalls Rd Austin Co	970 901-1560	
Richard Kirkpatrick	8310 Marshalls Rd Austin 81410	970-361 1919	
Richard Kirkpatrick	20239 IRIS Rd Austin 81410	970 361 1919	

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THANK YOU FOR YOUR CONSIDERATION

NAME	ADDRESS	PHONE NO	SIGNATURE
KELLY LEE	8222 Hwy 65	970-209-6639	
THOMAS CHAPMAN	19942 Iris Rd, Austin CO	970-812-2318	
DOROTHY DUNN	8041 HWY 65 DELTA	970-270-1008	Dorothy Dunn
RILEY DUNN	8041 HWY 65	970-270-3556	

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THANK YOU FOR YOUR CONSIDERATION

NAME	ADDRESS	PHONE NO	SIGNATURE
Kristine Zdechlik	20737 NOWhere ROAD Eckert, CO		Kristy A. Zdechlik
Lisa Zdechlik	220 SE Flintlock Ct. Cedaredge CO		Lisa D Zdechlik
Jenny DeTomasi	8448 Marshalls Rd Austin	970-257-2477	
Nick Lankin	21084 Fruitgrowers Rd	970-640-9708	
John Hassel	1457 E 5½ St	970 874 0888	
Robert Schmalz	552-1740 RD Delta	970-250-7094	Robert Schmalz
Philip S Knott	1325 (5537) Rd Delta	970-275-8285	Philip S Knott
Jeri Cabrera	601 Elizabeth Delta	970-275-4549	
Raymond Dawn	703 W 5th Delta	970-874-1164	Raymond Dawn
Ernest Baker	18219 B Rd. Delta Co	970 209 8868	Ernest Baker
Jim Gallegos	172 E 5th St Delta, CO	970-874-3141	
[illegible]	4088 5964 Rd Olathe CO	970 712-4014	
[illegible]	1440 CRAWFORD AVE DELTA	970 209 9972	
Alvin D. Sewell Jr.	25744 Cougar Mtn Rd.	970-712-2894	Alvin D Sewell Jr.
Joel Gallegos	1080 Crawford Ave Delta	970-314-4941	
Carolyn Burke	12828 [illegible] Rd. Hotchkiss	(720) 533-4607	

PETITIONS NEED TO BE DELIVERED TO: KATE KELLY, PLANNER 1
295 W. 6TH STREET
DELTA, CO 81416
BY: 3:00PM WEDNESDAY JULY 20, 2022

OR

DROPPED AT: 8041 HWY 65 (SHOP) BY 1:00PM WEDNESDAY JULY 20, 2022

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THIS PROJECT WILL CREATE EXCESSIVE VEHICLE TRAFFIC, NOISE, AIR POLLUTION, AND ODOR IN NEARBY RESIDENTIAL HOMES. THIS PROJECT WILL DESTROY SEVERAL ACRES OF VALUABLE FARM LAND. WE ALSO FEEL THAT EXISTING HOMES IN THE GENERAL VICINITY WILL BE FINANCIALLY AFFECTED.

THANK YOU FOR YOUR CONSIDERATION

NAME	ADDRESS	PHONE NO	SIGNATURE
Frank Ly Pat	21501 E K Rd	970 [illegible]	
Laurie Thornton	Lobo NE. 2nd. St	970-554-6784	Laurie Thornton
Sheryl Harris	19975 Surface Ck Rd	303-952-1188	Sheryl Harris
Lynn Denton	11600 Hwy 65	970-835-3389	Lynn Denton
Mary Key Mary Key	21943 HWY 65	970 596-8838	Mary Key
Diana McCully	16922 PRIMROSE LN, CED.	970 856-3867	Diana McCully
Carol Garbo	790 N Grand Mesa Dr. Cedaredge	970-856-9547	Carol Garbo
Mike Schmidt	Austin		Mike Schmidt
Judith Hughes	Austin	970 399-1415	Judith Hughes
Carol Keller	Austin - 20291 Iris Rd	970-250-9664	Carol Keller
Doug Keller	Austin 20291 Iris Rd	970 835 3000	Doug Keller
Kathryn LaPlante	20813 IRIS RD	970 210-1579	Kathryn LaPlante
William LaPlante	20813 IRIS ROAD, AUSTIN	970-835-8861	William LaPlante
Louise Barnard	8370 2000 Rd Austin Co	970-712-9348	Louise Barnard
Jim Barnard	8941 2100 Rd Austin Co	970-623-0229	Jim Barnard
LORRAINE NEUMANN	20305 FAIRVIEW AUSTIN CO,	970 835-3434	Lorraine Neumann
ERIC NEUMANN	20309 FAIRVIEW RD, Austin CO 81410	970-250-4003	Eric Neumann

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NAME	ADDRESS	PHONE NO	SIGNATURE
Colista Lich	676 Hwy 50 Delta 81416	6054155010	Colista Lich
Jaime Ogden	14785 Hwy 65 Delta CO 81416	970-930-328	Jaime Ogden
Linda Palmer	21435 Vacca Dr. Eckert, CO	970-778-6218	Linda Palmer
Randy Palmer	21435 Vacca Dr Eckert	970-250-0333	Randy Palmer
CHERIE KOSANOVICH	17202 Happy Hollow Rd Cedaredge	6026155009	Cherie Kosanovich
Hendrika Cegielski	1244 Ash Mesa Rd. Delta CO	970-874-68	Hendrika Cegielski
Ella Kelly	16808 Bull Mesa Rd Cedaredge CO	3034372278	Ella Kelly
Rodney L Teansky	1738 Dry Creek Circle Delta	970-209-9320	
Timothy Dudley	13279 Happy Hollow Rd. Eckert	970-270-7905	
Sandra Dudley	13279 Happy Hollow Rd Eckert	970-260-7129	
Vera Hoerr	780 Nu-Fir Ave Cedaredge	970-417-3634	
JOSEPH G. PECH	14348 SUNNYSLOPE DR. ECKERT	970-835-8762	Joseph G. Pech
Kristi Smythe	20401 2375 Rd Cedaredge 81413	970-856-3160	
Kristal Albritten	14131 2600 Rd Cedaredge 81413	970-260-3515	Kristal Albritten
Amanda L. Burrow	24413 Ute Trail Rd. Cedaredge 81413	970-985-2141	Amanda L. Burrow
Joann Thronburg	15808 2525 Rd. Cedaredge 81413	970-623-5626	Joann Thronburg
STACY MALMGREN	16408 Happy Hollow Cedaredge	3034359829	S Malmgren
RICHARD COBB	21669 Myers Rd - ECKERT	970-835-8355	Richard A. Cobb

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NAME	ADDRESS	PHONE NO	SIGNATURE
JACK S. DiThove	8341 2000 RD AUSTIN	970 424-1509	Jack S. DiThove
Mary C DiHave	8341 2000 Rd AUSTIN	970 4241509	Mary C. DiHave
CHARLES W. ELDER	8352 2000 RD AUSTIN	970-596-8328	Charles W Elder
Kimberly K Elder	8352 2000 Rd Austin	970-275-5828	
Rachel Smith	8352 2000 Rd Austin	970-901-8659	
AMES RAU	8365 2000 R.D. AUSTIN	303-330-4506	
Arleta Peck	8389 2000 RD AUSTIN	970-209-0903	Arleta Peck
Bruce W. Peck	8389 2000 RD Austin	970-209-1468	Bruce W. Peck
Alan Hart	4488 2000 Rd Austin	303-444-8000	Alan Hart
Marsha Thomas	20115 Iris Rd Austin	970-835-3883	Marsha Thomas
Mitch Thomas	20115 Iris Rd Austin	970 773 0602	
ERIC Kelly	20180 Iris Rd Austin	970 765-9223	Eric A Kelly
Jane Kelly	20180 Iris Rd AUSTIN	970-765-9223	Jane Kelly
Ela Darlene Johnson	8728 Saddle Ridge Austin	970-835-3447	Ela Darlene Johnson
Leonard W. JOHNSON	8728 " " "	" " "	Leonard William Johnson
Sharon Ten Napel	8662 Saddle Ridge Rd	970 985 5550	Sharon Ten Napel
Ed TenNapel	8662 Saddle Ridge Rd.	970 985 2912	Ed Ten Napel

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NAME	ADDRESS	PHONE NO	SIGNATURE
Kayln Pech	8389 2000 Road	3/818-2158	
Nikki Pech	8389 2000 Road	3/881-9710	
Richard Loeldon	8350 2035 Road	970-640-65[illegible]	
DENNIS SCROGGINS	1020 SE 3rd Cedaredge	970417 3320	
Jeannie Loucks	21777 Hamilton Rd Eckert Co	856-7500	
Kade Loucks	21777 Hamilton Rd Eckert Co	250-4800	
JOAN Woolley	14633 Hwy 65 Eckert Co	835 7889	
Elena Moorman	19587 Surface CREEK Rd	832-572-0[illegible]	
Gary Duckworth	18321 COYOTE Run Cedaredge	399-7519	
Kelly Beeson	21197 Lamborn Austin	970 261 0228	
ROBERT BEESON	21197 LANN: H & RD	970 (40253	
Bernie Sattler	285 S.W. 12th Cedaredge	970-5496037	
Barbara McCullough	13397 Happy Hollow Rd	970-835-3362	
Penelope A. Brooks	504 NE Hunters Grove Ln.	970-433-6425	
Ed Reese	17491 Surface Creek Rd Cedaredge	970 856 3635	
Dale Lindstrom	13713 Crossroads Lane, Delta	970-270-6746	
Janet Lindstrom	13713 Crossroads Lane, Delta	970-773-3344	
Terri Barraza	20114 Austin Rd Austin	970-318-1530	
Cathy Berlin	20114 Austin Rd Austin	970-318-[illegible]	
David Whitlock	1048 NE Indian Camp Rd Cedaredge	4803400190	

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THANK YOU FOR YOUR CONSIDERATION HELL NO !!

NAME	ADDRESS	PHONE NO	SIGNATURE
KEN CHRISTENSON	22423 Surface Cr. Rd	856 9692	
Donna Christenson	22423 Surface Cr Rd	856-9692	
Stan Davies	19975 Surface Cr. Rd	902-1882	
Anne L Smyer	510 N. E 4TH ST.	970-856-4780	
WILLIAM H. SMYER	510 N.E 4th St.	970-856-4780	
William E. Wells	PO 23074 Ute Trail	970-856-3611	
Tami L Lamb	790 N Grand Mesa Dr	970 856 9547	
Cynthia Mooreman	19587 Surface Creek Dr.	409-277-1649	
Catherine K. Brown	210 SE ELDORADO Ct Ced CO	970 856 3459	
Richard Henshaw	795 Barstow St. Delta Co.	303-335-7675	
Tera Peterson	1573 W. Main	970-778-7582	
Willow Moreland	310 SE. 2nd St, Cedaredge	970697-9900	
Odette Bock	16153 2600 Rd. Cedaredge	303-324-7023	
Maxine Healy	575 W Main Cedaredge	603-439-2280	

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NAME	ADDRESS	PHONE NO	SIGNATURE
Lisa Martinez	8530 Ellen's Way Austin	970-644-0339	Lisa Martinez
Rose Vershul	8591 Ellens Way Austin	303-810-(illegible)	Rose Vershul
Monique Garrett	8726 Marshalls Rd	970-596-5284	Monique Garrett
James Thomas	19711 Irving rd	970-835-6023	James Thomas
[illegible]	19716 Iris Rd	[illegible]	[illegible]
Michelle D. Isom Dean	8952 Marshalls Road	970-835-4217	Michelle D Isom Dean
Shirley Wood	19677 Irving Road Austin	970-216-8188	Shirley J. Wood
JOHN GRIFFIN	19684 IRVING RD AUSTIN	303 859 5256	
Patricia Sprague	19653 Irving Rd Austin	970-433-4983	Patricia Sprague
Charles A. Soper	8841 Marshalls Rd. Austin	970-210-5782	
Jenny Smith	8903 Marshalls RD Austin	719 851 2501	
Steven Kahn	8576 Marshalls Rd Austin	970-835-9909	Steven Kahn
Matt Jones	19664 Albion Rd	970-852-9215	Matt Jones
Pat Pieper	19673 Albion Rd Austin	918-223-5276	Pat Pieper
JERRY Campbell	19637 Albion Rd Austin	7066764081	
Margaret Chaney	19765 Iris Rd	970-835-3448	Margaret E Chaney
Ashley Sanchez	8437 Marshalls Rd Austin	9702348975	Ashley Sanchez
Debbie Campbell	8450 Marshalls Austin	9704243110	Debbie Campbell
Rick Campbell	" " "	"	Rick Campbell
Joel R Blechik	19936 Iris Rd Austin Colo	3039946788	Joel R Blechik

To the Delta County Planning Commission. (Submitted Wednesday morning 7-30 2022)

Comments submitted for the Planning Commission public hearing: Case/Name PLN21-080/Delta Paving Gravel Pit (CUP) to be held on July 27, 2022, Delta CO.

This proposed change is a huge one that will affect a lot of people and households.

With only one week to submit comments, though comments can still be submitted prior to the public hearing. Which is only two weeks to the first public hearing.

First the possible placement of a hot mix asphalt plant close to a lot of homes. There are a lot more houses then just the ones on the edge right above this site.

Just pass the edge there are houses a short distance away and as you go a little more north many more. With more new houses being built every year. I know because I lived here in the same home since 1980.

The prevailing winds travel in a direct line, especially strong in the springtime, from this proposed asphalt processing plant, to all the homes up here.

When this gravel pit was in full operation, there were times when clouds of dust would come up from this site, the noise and dust can be bad enough.

Now someone wants to put in a hot mix asphalt plant, which will affect dozens of families depending on when the wind is blowing from that direction, or maybe even when the wind isn't blowing, the fumes, smells and emissions will affect people.

I talked to two people during the time period when the first company and county were having hearings. They said you live anywhere close to an asphalt, the fumes will be bad.

They added that you and your neighbors will be unhappily surprised how strong the fumes can be and how far they can travel.

They also said don't believe it when a company says it won't be that bad or that you will hardly ever smell anything.

In the agreement by the county commissioners and first the company back then, in one part the commissioners state "The placement and use of an asphalt plant shall never be allowed" and in a letter sent to me from the owner of the company, that I still have and that was sent to other homeowners in this area.

It says, "The quality of life for all homeowners is an important issue to us." Which was made after the company agreed with the county not to have an asphalt plant.

The County Commissioners back then cared about the health impact an asphalt plant would have on the families here.

Do the current County Commissioners care about the health impacts having an asphalt plant would have on us and there are a lot more people living in this area now. That question won't be answered until the commissioners make A decision.

Does this company care about the impact on people living here, by asking the county to remove the restriction on placing an asphalt plant.

Under Colorado's nuisance law, if an individual, individuals or a company through their actions cause a health hazard or causes other types of nuisances that affect the well begin of people, they can be sued.

Colorado this year passed a law that gives the Air Quality Commission more authority and power to deal with air pollution emissions, then did the older nuisance law.

This law also gives Colorado the authority to regulate emission toxins more stringently then the EPA does at the Federal level.

Asphalt plants fall under this authority. There is a long list of information on what can cause the Air Commission TO step in. For this comment document I am only going to add a short version, so that this doesn't go on and on.

Included with this comment page, two pages of documents.

Randall Shepard

8383 Marshalls road Austin, Co 8140

970-417-0429

email rcs54@juno.com

SOME EXAMPLES THAT THE AIR QUALITY COMMISSION, STATE IS THE INTENT OF THE LAW.

Achieve and maintain levels of air quality that will protect human health and safety, prevent injury to plant and animal life, prevent damage to property, prevent unreasonable interference with the public welfare, preserve visibility, and protect scenic, aesthetic and historic values of Colorado;

Require the use of all available practicable methods to reduce, prevent, and control air pollution for the protection of the health, safety, and general welfare of the people of the state of Colorado. In order to achieve air purity consistent with this intent, it may be necessary, ultimately to control air pollutant emissions to such a degree of opacity so that the emissions are no longer visible;

Prevent significant degradation of Colorado's air resource;

Prevent odors and other air pollution problems which interfere with the comfortable enjoyment of life; and

As used in these regulations, effects on public welfare include, but are not limited to: effects on soils; water; crops; vegetation; manmade materials; animals; wildlife; weather; visibility; climate; damage to and deterioration of property; and hazards to transportation; as well as effects on economic values and on personal comfort and well being.

July 15, 2022

Delta County Planning and Community Development 295 W. 6th Bridge Street Delta, Colorado 81416

Attention Carl Holm, Director Delta County Planning

Gravel Pit Comments

Re: Case/name PLN21-080/Delta Paving Gravel Pit (CUP) 8020 HWY 65, Delta Co

As a close neighbor and 22-year resident I am adamantly opposed to this New 110-acre gravel mine and the asphalt plant that goes with it.

Opening a new pit in this location is a thumb of the nose at Agriculture and will also negatively impact a large variety of businesses throughout Delta County, not just close neighbors. In this letter I will address the impact on Agriculture, Businesses, Tourism, the people, and the Delta County regulations that apply adversely to approval of this Pit application.

To quote County Code, Section 5.) Agricultural, Natural, and Cultural Resources: A.) Purpose and Application of Section 1. The purpose of this Section is to ensure that areas with significant natural or cultural resources, wildlife use, or irrigation system infrastructure are developed or utilized in ways that take into account the long-term stewardship or management of the impacted resource.

"The aim here is to achieve co-existence between agriculture and development. How does this project achieve that? Even regarding the reclamation of this new mine, evaporative ponds do not restore the land to agricultural status. Conversely this permanently takes agricultural land out of production and turns it into a duck pond. In a drought, from an agricultural point of view, evaporative duck ponds are a bad idea.

The Expansion of this pit is equivalent to the opening of a new pit. If you visit or even look on google earth you will see the existing site is not visible from Hwy 65 and the view across the hay meadow to the Gunnison River is postcard Delta County agriculture.

This new pit will dramatically impact an important wildlife zone and riparian corridor. Per the expansion map, with the expansion you will be allowing the pit to cut off an important riparian corridor from the river and encroach closely on both sides of the remaining Riparian environment that runs north to south between the new pit and the old. Additionally, it is this riparian corridor that protects the view of the old pit from Hwy 65 and dramatically frames the view of the hay meadow in the foreground.

Delta County's Master Plan, Land Use Code and County zoning map are, in the county's own words, the regulations and reasons for the Rejection of this Gravel Mining and Asphalt Plant Application.

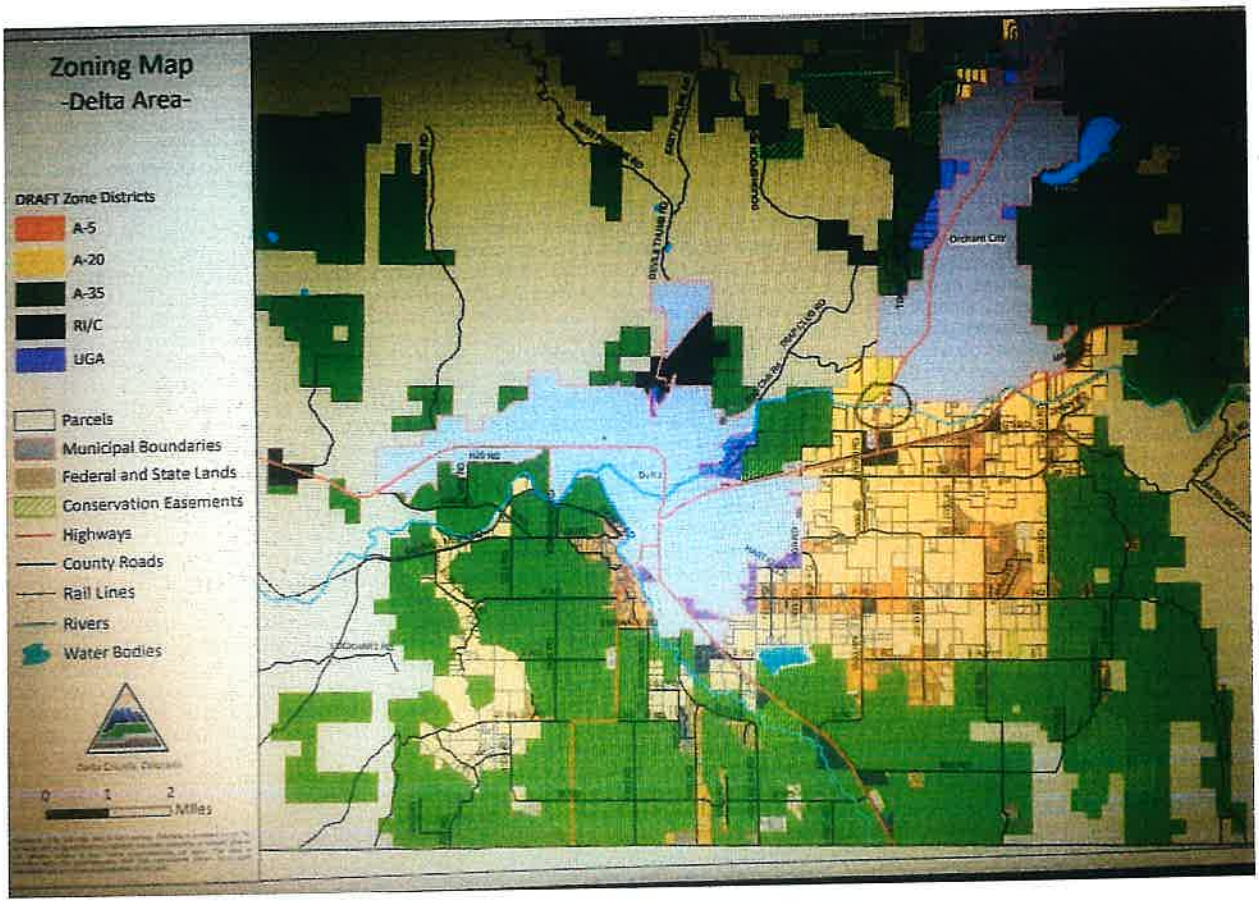
The Obvious Issues running contrary to Delta County Master Plan and County Codes are: 1) Zoning. 2) Negative Impact on Agriculture. 3) Negative Impact on Tourism. 4) Noise impact on Numerous home owners. 5) Dust and health impact on Numerous homeowners. 6) Odor impact on Numerous home owners. 7) The poor fit with this site, 8) The Drastic impact on Devaluation of property Values of the surrounding neighborhoods and on neighbors. Most of them are retired. (Retires account for 26% of the income for Delta County and many first came to Delta as tourists.)

Regarding the Land Use Code final adopted 1.5.2021. There are a few things that give pause.

To begin, the County Zoning Map shows the entire 110-acre Mine is well within the A-20 zone. There is not a spot of the proposed mine that comes even close to the border of an RI/C Zone. (See circled area) Additionally The mine abuts Orchard City. Out of courtesy, if not for legal reasons, have they been notified? Also please note from the map the proximity of the Hwy 92 / 65 intersection. There is a lot more traffic on both highways now than 23 years back. To be safe that intersection needs a major upgrade as well as the access onto Hwy 65.

c. Stewardship areas. Stewardship areas are those areas that are designated to protect irrigated agriculture, irrigation infrastructure, passive outdoor recreation activities, open space, wildlife, or environmental resources from development or disturbance.

You will notice from the map all of those stewardship concerns are within the proposed expansion of the mine.



The following excerpts have been copied directly from the Land use Code and go to the hart and importance of Agriculture in all aspects of Delta County land use.

"B. Agricultural Operations and Prime Agricultural Soils 1. The agricultural resources of the County are essential to its economic base, and it is a central policy of this Code to support and protect the viability of agricultural operations in the County. The standards of this are intended to ensure that new development does not compromise existing agricultural operations, allowing new development and agriculture to co-exist in the same landscape.

2. Impacts. a. Proposed development shall not adversely affect, or have the potential to limit the viability of, existing agricultural operations on surrounding and nearby property, including but not limited to their use of irrigation ditches, irrigated hay meadows, row crop operations, orchards, livestock operations, and historic stock drives. b. To the extent reasonably feasible, proposed development shall be designed to avoid impacts to prime agricultural soils on the subject property"

The subject property is an example of the finest river bottom farm ground in Delta County and it includes irrigation. The mine expansion will forever change the character of the land and will require rezoning.

Page 45e. Minerals Extraction/Quarry. In addition to all other applicable standards of this Code, minerals extraction/quarry uses shall meet the following standards: 1) The reclamation plan (however titled), if required for an applicable state permit (see, e.g., Rule 3, Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials; Rule 3, Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations; and Rule 4, Rules and Regulations of the Colorado Mined Land Reclamation Board Pursuant to the Colorado Surface Coal Mining Reclamation Act) shall provide for reclamation of the subject property for a use that is permissible on the Subject Property under this Code;

The County Code Map Calls for 20-A. Mining and Asphalt plants require RI/C zoning.

Page 46 2) If the boundaries of the mining operation are within 2,000 ft. of a residence or livestock operation, a Noise Control Plan is required (see Chapter 4, Section 7(C), Noise)

How can they stop noise from echoing off the river bluff only 200 feet away or be able to mitigate noise going straight up the river bluff to the homes above without encapsulating the entire mine? Also due to the extra humidity and variable breezes of a river Bottom, noise and odors (see odor management) are often amplified and carry further.

D. Odor Management 1. Generally. An odor management plan is required for intensive agriculture uses (See Chapter 2 Section 5), and may be required for other land uses that tend to generate offensive or noxious odors. Odor management plans shall meet the minimum requirements of this, and shall achieve compliance with 5 CCR 1001-4, Part A or Part B, as appropriate. 2. Odor management plans for other uses (not intensive agriculture) shall identify: (1) The location of odor-emitting activities or procedures; (2) The source or sources of the odors; (3) The timing of odor-emitting activities;

(4) The controls (e.g. administrative, structural, chemical, or mechanical) that will be used to mitigate odor impacts; and (5) The maintenance program that will be followed to ensure the effectiveness of the proposed controls. 3. Proposed odor controls shall be based on best available control technologies. 4.

Odor management plans shall also provide for complaint tracking. Complaint records shall be provided to the County within three business days after request by the Director.

At this time we are unable get information from the applicants on the location of the proposed asphalt plant.

The winds that swirl off the bordering bluffs will make it difficult to imposable to control Dust, Noise and Odors and the bluff itself will amplify these issues.

"G. Scenic Impacts 1. Generally. This applies to a subject property that is located within one-quarter mile from the right-of-way of a scenic byway. 2. Report Required. A scenic impacts report shall contain the following information: a. A graphic illustration of the impact of the proposed development on the views from designated scenic byways; b. An illustration of ground elevations, existing buildings and structures, and vegetative cover before development (the "pre-development condition"), in plain view and elevation view, taking into account the elevation of the road and the distance to the scenic resource; c. An illustration of the proposed development (the "post-development condition") in plain view, and in elevation view from the same vantage points that were used to illustrate the pre-development condition; d. A narrative that describes the measures that are proposed in order to mitigate the impact of the proposed development on the scenic resource."

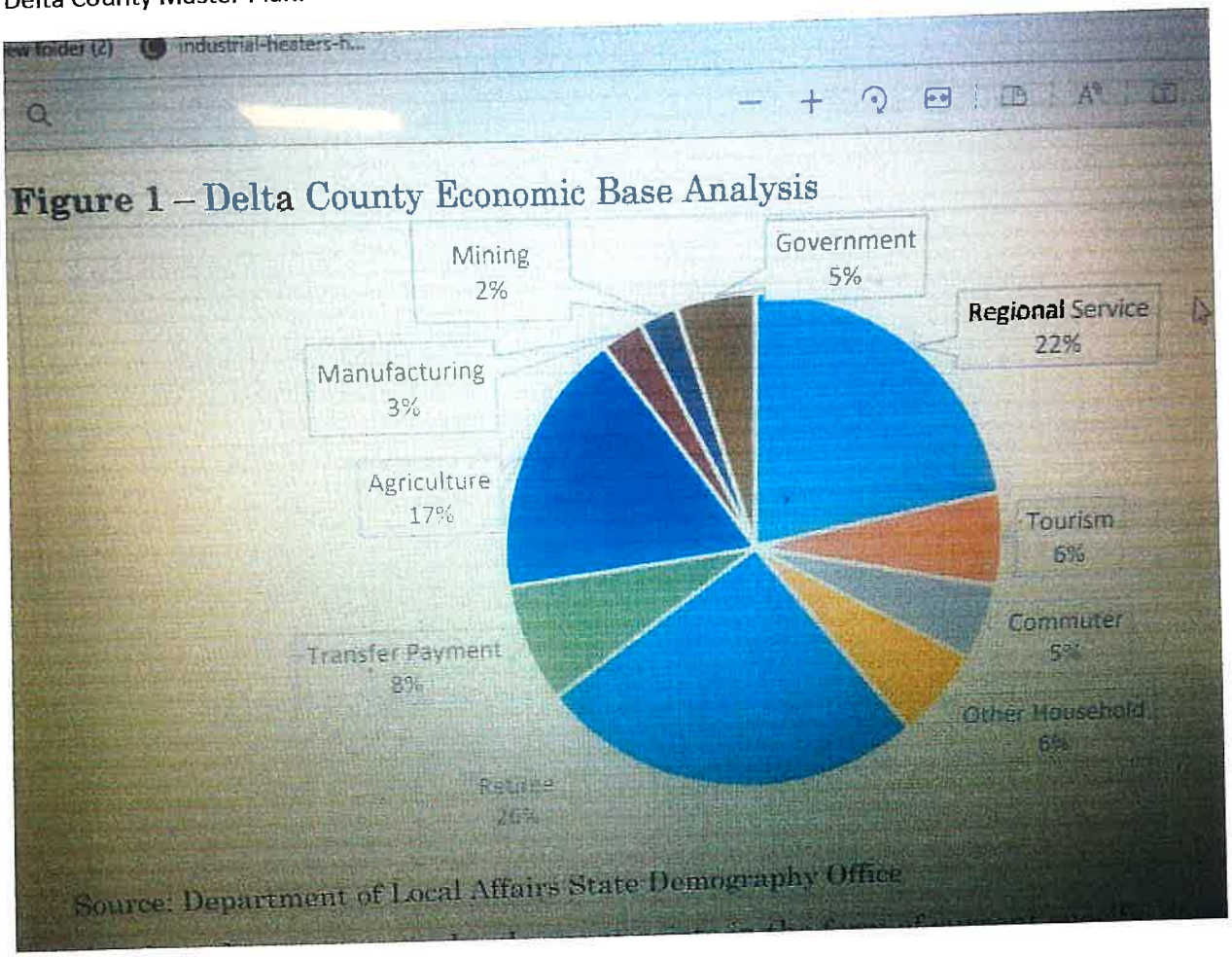
P. Scenic Views – 1. Developments within the view shed as defined by the West Elk Scenic Byway Corridor Management Plan for the West Elk Scenic Byway and within the view shed of Grand Mesa Scenic Byway shall be reviewed by the respective scenic byway committee.

While the Scenic Byway designation for Hwy 65 stops short of the proposed mine, crossing the Cory Bridge over the Gunnison River on the way to and from Grand Mesa and points beyond is a Postcard crossing leading into Canyons Rivers Mountains. Are you now ready to Change that postcard to a billboard for Gravel Mines and Asphalt Plants? If you look at the site as it is now you will also find a pastoral postcard for Agriculture in Delta County.

The Scenic Resource that will be impacted is the Entry and Return to and from Grand Mesa, Orchard City, Cedar Edge and All of the Mesas that access off HWY 65. This mine is less than 2000 feet from Hwy 92 and will be seen in both directions.

Canyons Rivers Mountains - Gravel Pits and Asphalt Plants? The boat access at The Gunnison River Cory Bridge is in daily use by Floaters, Fishermen, Kayakers, River Visitors and Stand-Up Paddle boarders. Guests to Delta County pull in just to visit the river. The Cory Bridge is crossed year-round by thousands of international guests and tourists from all 50 states. The Cory Bridge is on the rout of national and international Bicycle tours and Races. It is crossed by numerous Motor cycle and classic car tours. We want them to stop and spend tourist dollars, Not go yeu! and have lunch in Montrose.

Delta County Master Plan.



Page 8: Master plan excerpts; Regional services 22%, **Tourism 6%,** Commuter 5%, Other Household 6%, **Retiree 26%,** Transfer Payment 8%, **Agriculture 17%,** Manufacturing 3%, **Mining 2%.**

As You can see Agriculture is 8 times more valuable than mining and Tourism Brings in more Dollars to Delta County than mining by 3 times. The Hwy 65 bridge over the Gunnison River Should be a Postcard for that Agriculture and tourism. Additionally Retires add 13 times more to the Delta County economy than Mining. A lot of those Retirees came first as Tourists to Delta County. A large number of those Retirees will be directly impacted through large devaluations of their properties in the neighborhoods around this proposed gravel pit. The industrial noise, dust and pollution will impact more than a mile up and down the Gunnison River. The pleasant down valley evening and morning breezes we all love to catch will now carry the smell of a 110-acre mine with asphalt plant all the way through to Delta and it will no longer be pleasant. The daily up river winds will have an impact as far as Austin and up over the river bluff to the Orchard City offices. Where it settles it will taint gardens and fruit and lungs. But That's the way the wind blows.

Back to the Delta County master plan, Page 9: VISION, GOALS AND STRATEGIES

• Agricultural Land and Business – Delta County will remain an agricultural county by protecting agricultural lands and operations and supporting agricultural innovation

• Land Use and Development – Delta County's land use processes will be fair, predictable, defensible and easily understood. Growth and development in the county supports the community's desired future while enhancing health, safety, welfare, quality of life, while fostering innovation

Page 11 reach out to the community.

Finally, county staff attended meetings with numerous organizations around the county to inform stakeholder groups about the planning process and seek their participation.

These groups included: • Delta Rotary • Paonia Rotary • Cedaredge Chamber of Commerce • Delta Chamber of Commerce • All-Chamber meeting • Delta Kiwanis • Western Slope Conservation Center • Town of Cedaredge • City of Delta • Town of Orchard City • Delta Board of Realtors • Delta County Economic Development • Valley Organic Growers Association • Farmers Union. • Conservation District

Page 12: The Role of the Planning Commission;

The Planning Commission took a very hands-on approach in drafting the Delta County Master Plan. To create the vision, goals, and strategies, they met every other week from September 2017 to early November 2017. These meetings included a series of information sharing discussions between the Planning Commission and numerous organizations and topic experts to help strengthen the collective understanding of the breadth and depth of issues and opportunities related to the emerging focus areas of the master plan including agriculture, land use, economic development, water, public infrastructure, and energy.

Specifically, the Planning Commission met with the following: • Delta County Assessor • Delta County Sheriff • Delta County Engineering • Delta County Road & Bridge • Delta County Local Government Designee • Delta County Public Health • Citizens for a Health Community • Western Slope Conservation Center • Solar Energy International • Arch Coal • Department of Local Affairs • State Demographer • Delta County Economic Development • Uncompahgre Development • Board of Realtors • North Fork Creative Coalition • Aaron Clay • Colorado Water District • Farm Bureau • Farmer's Union • Valley Organic Growers Association • Livestock Association

Page 13: The Public Involvement Process; From May 15th to May 25th, 2017, ten public events were held in five locations (Paonia, Cedaredge, Crawford, Hotchkiss, and Delta) around the community engaging nearly 300 people. The goal of these meetings was to introduce the planning process and collect community input on the following questions: • What do you love about living in Delta County and why? • What are your concerns and hopes for the future? • Looking forward 20 years, what story would Delta County have to tell about its success? The results of this community input became the basis for the draft community vision and goals

Page 13-14: Phase 2: Where Do We Want To Go? ; In mid- November 2017, the community was invited to provide feedback on the draft vision and goals. Three community meetings were held in Cedaredge, Hotchkiss, and Delta. Approximately 145 community members reviewed the vision and all the goals in an open house format followed by small group discussion that dove deeper into specific thematic Delta

County Master Plan 14 areas and goals. An online feedback forum was provided for two and a half weeks that collected feedback from 39 community members. All the feedback collected answered the following questions: • Do the vision and goals move the county in the right direction? • If we were successful in accomplishing our goals, what would that success look like on the ground? • As we explore strategies to accomplish these goals, what do we need to keep in mind? The community input was used by the Planning Commission and staff to finalize the vision, goals, and strategies in January 2018.

A great effort by a lot of people to help us do the best and right thing for Delta County. Who are we to ignore them?

Page 16: KEY FINDINGS;

Agricultural Land and Business – Although the indicators show that this industry has faced some adverse economic conditions, agriculture is incredibly resilient and remains a significant component of the economy. Agriculture is one of the largest contributors to the county's economic base representing 17% of the total. Farm earnings have declined steeply since 2000 while employment has fluctuated moderately up and down, not declining steadily like earnings. There was a slight decrease in the acreage farmed and the average farm size between 1997 and 2012, but the number of farms and market value of products sold has increased according to the most recent Census of Agriculture data. Organic farms sold $2.4 million in products in 2012 according to the Census of Agriculture and there were 28 organic certified operations in Delta County as of 2018 according to the USDA.

Page 21: AGRICULTURAL LAND AND BUSINESS Agriculture is integrated throughout the county physically, it is a key component of the economy representing 17% of the economic base. Equally important, the diversity and durability of agriculture is central to well-being and quality of life in Delta County. Parcels assessed as agriculture range in size from less than an acre to hundreds of acres and the majority of agricultural parcels have a portion that is irrigated. While agriculture is a type of business operating throughout the county, homes and rural neighborhoods are also part of the agricultural landscape throughout Delta County. Most who farm or ranch live onsite and many properties interspersed throughout agricultural areas are assessed residential, often in subdivisions or clusters of parcels.

Page 22: Figure 9 – Farms in Delta County by Size, 2012

Farms by size, Number	
1 to 9 acres	215
10 to 49 acres	521
50 to 179 acres	330
180 to 499 acres	110
500 to 999	31
1,000 acres or more	43

Source: 2012 Census of Agriculture

Page 23: Delta County residents strongly desire to protect agriculture as a cornerstone industry that contributes to residents' well-being in countless ways. Although the indicators show that this industry has faced some adverse economic conditions, agriculture is incredibly resilient and remains a significant component of the economy. Working agriculture is highly valued by residents and there is growing optimism about the future possibilities for agricultural enterprises. From a policy perspective, it is critical to maintain the agricultural land base by clearly articulating in land use regulations that agricultural uses and operations are a primary use in agricultural areas. Occupants of neighboring areas and future development near agricultural operations can expect that agriculture is allowed and encouraged. Site design standards are needed in future development proposed near agricultural lands to reduce impacts on agricultural operations. Creating incentives for agricultural land conservation that are viable and attractive options for owners could yield permanent agricultural land conservation.

Page 26: 10 key industries; Based on analysis by the State Demographer, Delta County's economy is driven by ten key industries as identified in figure 13. Retirees contribute 26% of the economic base through earnings and employment associated with expenditures made by retirees on local resident services. Agriculture is the third largest industry representing 17% of the economic base, but may actually play a stronger role in the overall economy. The category of regional services collectively represents a 22% share of the base economy, but this category is comprised of construction, communications, trade and transportation, professional and business, finance and insurance, and education and health, and the individual compositions of each sub-industry are not specifically delineated. Transfer payments (also known as Regional Service 22% Tourism 6% Commuter 5% Other Household 6% Retiree 26% Transfer Payment 8% Agriculture 17% Manufacturing 3% Mining 2% Government 5% Delta County Master Plan 27 public assistance) contribute 8% of the economic base while tourism and other household (household income from dividends, interest and rents) each contribute 6%. Government and commuters (residents who live in Delta County but commute outside the county for work) each account for 5% of the economic base while mining and manufacturing contribute a combined 5% of the economic base

Page 49: 2.2 AGRICULTURAL LAND AND BUSINESS;

VISION

Delta County will remain an agricultural county by protecting agricultural lands and operations and supporting agricultural innovation.

CORE VALUES

Agriculture is strongly supported throughout the county. Residents feel that agriculture connects them to their community and contributes to the quality of life. Agricultural lands set the backdrop to the county's landscape, bringing green open areas to what would otherwise be dry desert, while supporting wildlife, strengthening the local economy and providing locally produced food. Agricultural operations and businesses remain one of the top employing industries in the county, employing 15.3% of the county's working population. Agriculture attracts revenue from outside the county as it provides the largest number of direct basic jobs (jobs that bring outside money into the local economy). The total acreage of designated farm land in 2012 was 250,761. The average farm size totaled 202-acres; the

median farm acreage was 38. The market value of agricultural products in 2012 was $55,639,000—a 28% increase over the previous 21 years. Delta County's agricultural industry is one of the most diverse in the state. The county has a mix of traditional agriculture and organic agriculture, with the highest concentration of organic farms in Colorado. Agritourism and value-added agricultural production bring a greater depth to the agricultural industry. Delta County's wine industry is growing, as are agricultural activities and events that bring visitors to the county. The county produces livestock including cattle, goats, elk, pigs and sheep; hay and alfalfa; row crops such as hemp, field corn, sweet corn, hops, soybeans, onions and potatoes; fruit & vegetables including grapes, peaches, apricots, cherries, apples, pears, and berries; eggs and poultry; and dairy just to name a few. Agricultural operations range in scale from high-acreage ranches and farms to small two- or three-acre farms. Both large and small producers are having success in agriculture with the increased value of locally grown food sold directly to market. Access to locally grown healthy foods supports not only the county's economy, but potentially helps to address health equity and reduce chronic illness among residents. Protecting agricultural lands, especially those lands with quality soil, irrigation and that remain largely intact (acreage) is a high priority. Protection of agricultural lands means ensuring the economic viability of agricultural producers. Agricultural producers expressed concerns that future land use and development regulations not impair their ability to adapt and innovate so they can remain economically viable.

Page 50, GOALS AND STRATEGIES

Goal 2.1 – Maintain the character, integrity of agricultural land including irrigated and potentially irrigatable agricultural land, and the functionality of agricultural areas for agricultural business operations.

Strategy 2.1.5 – Support and facilitate the voluntary conservation of agricultural lands and associated water.

Page 55, 2.4 ECONOMIC DEVELOPMENT; CORE VALUES

The county has always had and continues to have a strong agricultural and natural resource base. In the face of recent decline and ongoing uncertainty in the natural resources extraction sector, residents see growing opportunities in many other economic sectors. It is broadly recognized that Delta County's economic advantage is tied to its community and natural resources. Outdoor recreation on public lands is one of the county's greatest assets both for attracting visitors and as a major contributor to quality of life. To become more competitive, Delta County must continue to invest in its community, agricultural and recreational assets.

Local values include a fierce sense of independence, strong support for private property rights, a reluctance for regulation but growing acknowledgement that reasonable thoughtful regulation is necessary, connection to outdoor recreation, personal connection to healthy local food, valuing community input, protection of the region's clean air and clean water and preservation of natural resources. Economic development efforts need to improve predictability for future businesses looking to grow or relocate; foster the entrepreneurial spirit and support home-based business and cottage industry; and promote, strengthen, preserve and build upon the county's strongest assets.

The county has a great opportunity to diversify outside of the traditional economic sectors moving forward to the next generation of economic development, particularly in the areas of creative

industries, outdoor recreation services and equipment, information and technology, manufacturing, retail trade, wholesale trade, professional services and tourism.

Page 59, 2.5 LAND USE AND DEVELOPMENT

Areas that have special characteristics such as productive agricultural land, wildlife habitat, historic resources, access to outdoor recreation, or natural hazards deserve careful consideration. Revisions to the land use and development standards and procedures are needed to promote long-term economic viability for landowners while protecting the foundational characteristics of the land.

The intent of this Master Plan is to rationally plan for growth while also protecting property rights, addressing impacts on neighboring properties and protecting the most important land and economic resources.

Page 60: Strategy 5.1.0 – Identify productive and potentially productive agricultural lands, including those that are or could be irrigated, and establish site planning and design standards and incentives that keep agricultural lands intact in future developments.

Strategy 5.1.1 – Identify valuable wildlife habitat, natural and cultural landmarks and natural hazards and avoid or minimize impacts on these features in site planning and design of future development.

Strategy 5.1.2 – Identify existing developed residential neighborhoods and rural residential areas and apply consistent countywide standards for uses and physical development parameters

Page 69: COUNTY RECREATION & TOURISM

Community members countywide have identified recreation and access to recreation assets as critical to the quality of life available in the county. Recreation is an economic asset, not just in terms of jobs created through recreation and tourism, but also in how recreational assets serve as a key factor in creating healthy communities and attracting people to the community who will visit, stay, and prosper.

To summarize,

Delta's own Plan and Code emphasize the need to: 1.) Protect and promote Agriculture and Agriculture land especially that with irrigation. This is the best that land, beautiful, irrigated river bottom. 2.) To protect views, this farm land as you cross the Cory Bridge is highly visible and is Postcard Delta County Agriculture. This Meadow with the Cory Bridge over the Gunnison River is Classic Delta County. It frames our Canyons Rivers Mountains and enhances our Farms Tourism and Retirement in Delta County. It represents all that Delta County is.

Reject this Gravel mine, owned by an outside city corporation! Showcase Delta County's Agricultural heritage. Enhance outdoor and recreational opportunities. Keep tourists at our lunch counters and eating our farm products. Protect the homes and investments of Delta citizens, the retired, the new families and the native residents that have pulled together and built homes and made a life here in Delta County based on their belief in the integrity of the Delta County Planning Commission and the Delta County Commissioners.

Thank you for your consideration of my concerns. Riley Dunn 970-270-3556, 8041 Hwy 65 Delta CO

Riley Dunn Dorothy Dunn

P.O. Box 147
Delta, CO 81416
July 20, 2022

Delta County Planning Department
c/o Kate Kelly, County Planner I
295 W. 6th Street
Delta, CO 81416

RE: COMMENTS of ROBERT and JEANIE BROWN re
Case/Name: PLN21-080/Delta Paving Gravel Pit (CUP)
Location: 8020 Highway 65, Delta, CO 81416
(Parcels 345510202002, 345503400053, 345510100028)

To the Delta County Planning Commission,

We are Robert A. Brown and W. Jean Brown. We reside at 20294 Fox Ridge Drive, Austin, CO 81410 located about one half mile northeast of the lands involved in the above matter. Our home is one of many houses built on the bluff or ridge north of the Gunnison River with views overlooking the agricultural land to the south with the Gunnison River running through it. This picturesque setting inspired us to purchase a 2-acre lot in the Fox Ridge Estates Subdivision and to build a home on it. At the time we were aware of the existence of the gravel pit which raised some concerns, but we learned there were restrictions on its operation and this reassured us that it would not significantly impair our enjoyment of the lot.

On July 13, 2022, we received a Public Notice by mail advising us of an application by Kilgore Companies (Elam Construction) [herein "Kilgore"] seeking to significantly enlarge the operation of the gravel pit and to allow a hot mix asphalt plant on the site. The application acknowledges that the gravel pit has been in operation for over 20 years under a Development Agreement approved by the Delta County Board of County Commissioners in 1999. Per that Agreement executed by the Board, the operation of the pit was subject to a number of conditions imposed on the owner to mitigate the impact of the operation on the surrounding area. These conditions included:

- Restricting the crushing operation to 3 months in any calendar year;
- Limited days and hours of operation;
- Restrictions to reduce noise levels, suppress dust emissions, and hooded lights to protect "the neighbors on the ridge of the hill" from light pollution.
- Provisions to protect tree lines around the pit, both to preserve the trees themselves and to provide physical barriers to hide the operation from public view as much as possible. We understand this provision was to protect the agricultural integrity of the valley from what would otherwise be considered a land use incompatible with the surrounding farms.
- Importantly, of all these restrictions, the most significant one reached by the County and the owner was condition No. 9 which provides: "The placement and use of an asphalt plant shall never be allowed." [Emphasis added.] This could not be clearer in demonstrating that the request of the owner (now Kilgore) to remove this restriction would be a violation of the terms of the Agreement.

To prepare our Comments, I visited with a couple of the principal people who were involved in the negotiation and adoption of the Development Agreement. They confirmed that the conditions

agreed upon for approval of the gravel pit ...
including those with homes along the ridge to the north above the Gunnison River. It is also important to recognize that both State Highways 92 and 65 were and are gateways to designated "scenic byways" to take in the stunning features of the West Elk Wilderness Area, Black Canyon, the Curecanti National Recreation Area and the Grand Mesa National Forest), so setbacks from the highways to preserve a non-industrial setting in this area were important.

One "Whereas" Clause in the Preface to the County's Resolution approving the Agreement stated that it was in the "best interests of Delta County and its residents."

Under its Master Plan, the County has a duty to consider the impact of proposed land uses on neighboring residents and their property. In developing the conditions under the Development Agreement, the County satisfied its duty to balance the interests of the parties and to the community at large. It seems fair to conclude that should the County now alter the conditions imposed and take away the benefits established for residents in the neighborhood, this would be a breach of the County's duty to said residents, and could invite litigation seeking to enforce the original terms.

That the County considered the concerns of those living on the ridge to the north of the gravel pit, demonstrates that we are among those who are affected by any changes to the operation of the pit. Therefore, we offer the following to explain how we will be impacted by the uses Kilgore seeks in its application and to explain why we object to the entire project.

To be clear, we oppose <u>both</u> the expansion of the gravel pit and the installation and use of an asphalt plant at the subject site. Because the Development Agreement absolutely prohibits the installation of such a plant, further discussion of that issue should be unnecessary because Kilgore, as the new owner, should be bound by the conditions on the site agreed to by the former owner.

However, if the Commission believes that is not the case, then it seems to us that the concerns which initially led the County to provide that an Asphalt Plant would <u>never</u> be allowed on the pit site should <u>still apply</u>, and in fact, even more so, because the population on the ridge has increased substantially since 1999. Had the intent been to impose this condition on Delta Paving alone, the sentence would have read "<u>not</u> be allowed," but use of the word "<u>never</u>" reaches into the future to apply to any owner who acquires the property.

If the Commission decides to consider Kilgore's request anyway, we strongly oppose it on several grounds, including: health, odor, and significant impact on the value of our property.

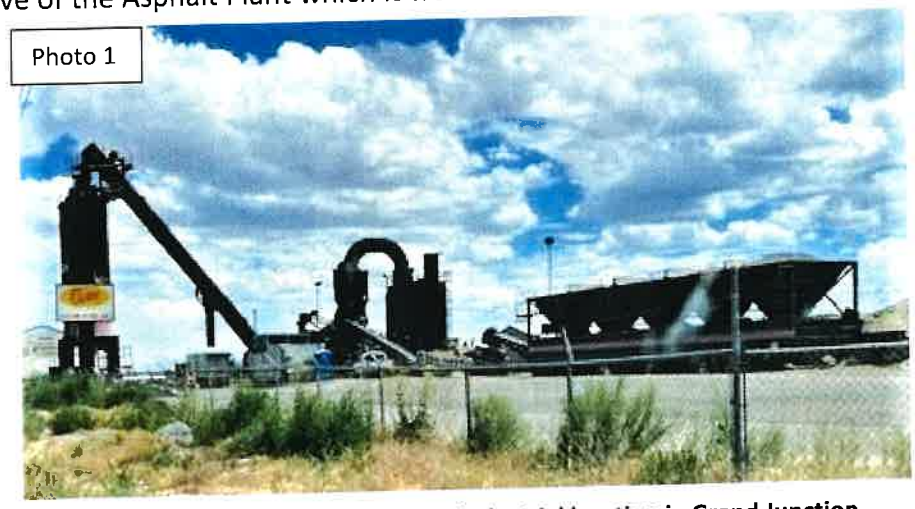
Unfortunately, Kilgore has only generally described the Asphalt Plant it wishes to install and states that it will be centrally located in the "processing area" of the site. Thus, our objections will necessarily be general. Given the short notice (less than a week) we have had to reply, we turned to the internet, which of course is full of disparate facts and opinions as to the dangers or safety of an Asphalt Plant. Because of the conflicting information, we believe, in order to protect ourselves, we should point out substantial concerns raised by various sources. Our research leads us to believe that our objections stated herein are reasonable and valid. Kilgore needs to address these concerns – especially those posing dangers to the health of those living in the area. In the long run, the burden must be placed on Kilgore to prove with a high degree of certainty that the Plant would not expose those of us living in the neighborhood to health risks and loss of enjoyment of our property.

<u>Hazardous Emissions</u>: A principal concern raised is that emissions from hot-mix plants include: benzene which is highly carcinogenic – a known cause of cancer. According to the online sources, the potential for harm depends on a variety of factors, and yet the American Cancer Society states that benzene can be unsafe at any level. With that in mind, and if Kilgore persists in seeking to establish an

Asphalt Plant on the site, we urge that the County require Kilgore to demonstrate that it would not be emitting benzene in any level dangerous to human health in the surrounding area - especially for those home owners who live on the ridge north of the Gunnison River in the path of prevailing winds. Hazardous emissions can be carried about 2 miles, and our home is about half a mile from the gravel pit.

Kilgore (Elam) operates the Roland Hot Plant (Photo 1 below). At this point, we believe it is representative of the Asphalt Plant which it would like to build at the subject gravel pit.

Photo 1



Elam's Roland Hot-Mix Plant <u>in an industrial location</u> in Grand Junction

<u>Elam acknowledges that this plant may emit hazardous substances</u>. In researching this Plant, we found online, Elam's Environmental Product Declaration for Asphalt Mixtures issued on April 19 2022. One would expect to find a listing of Regulated Hazardous Substances in this Declaration, but instead it simply states: "**<u>No SDS (Safety Data Sheet) declared, mix may include unknown regulated hazardous substances</u>.**"

The image of a plant of this size and complexity operating in the area of the subject gravel pit demonstrates just how incompatible it is with the many homes in the area as well as the surrounding agricultural, tourism and recreational environment presently existing there.

Even if the health concerns are addressed to the Commission's satisfaction (and we don't believe they should be), we still have major objections which militate against approval of the Asphalt Plant and mining in the extended gravel pit areas proposed by Kilgore.

<u>Odor</u>: We also object to placement of an Asphalt Plant on the subject gravel site because of the odor of the asphalt product. It doesn't need internet research to establish that fresh hot asphalt has a distinct and unpleasant odor (like burned tar). For that to be in the air and carried by the prevailing winds to those of us on the north ridge is a virtual certainty. For this to be produced all day, and possibly all night, is clearly objectionable – a condition we are sure the individual members of the Commission would not wish to have permeating their homes.

<u>Noise</u>: Of course the potential for noise from a plant running equipment for the heating, mixing and drying of the asphalt and operating loaders, conveyor belts, crushers and trucks to move the product during a given number of hours per day – and perhaps 24/7 – is also very objectionable to us.

<u>Traffic</u>: In addition, an analysis by Kimley-Horn addresses the impact of traffic on the subject area. It projects significant site-generated traffic by gravel trucks, i.e. "77 trucks accessing the pit <u>each day</u>, with 154 total trips in and out." [p. 2 of the Kimley>Horn report of 11-11-21]. If our math is accurate, over a 10-12 hour work day, this equates to a 13-ton truck (up to 40 feet in length) leaving or

entering the site every 4-5 minutes or so. The analysis report concludes that deceleration and acceleration lanes would not have to be installed on SH65. However, we believe that without dedicated lanes to allow these large trucks to access and leave the site, normal traffic on SH65 will almost certainly be impeded, especially by big trucks trying to turn south upon exiting the site. We are among those who drive SH65 daily so we're familiar with the traffic there. The constant daily use of the highway by these large trucks (especially loaded) will degrade the road surface which will require more tax dollars to repair the damage. We are also concerned about the impact of this truck traffic at the intersection of SH92 and SH65 with the railroad crossing – particularly for trucks with trailers trying to turn east onto SH92.

Tourism/Recreation: The application seeks approval of two Pit sites (#3 and #4) which would result in open pit mining immediately adjacent to SH 65 before it crosses the Gunnison River Bridge. Certainly expanding the actual mining operation into these two sites is not compatible with the area's present recreational use by those fishing, boating and rafting the river. The ongoing mining in those open pits will not help draw tourists or locals to enjoy the recreation available at that location, including use of the takeout at the bridge by rafters and fishermen. The potential for congested traffic between trucks exiting the gravel pit and those with boats and trailers utilizing the river take out is substantial.

Property Values: One of our most serious concerns is how the presence of an Asphalt Plant located at the subject site would affect the value of our home. While this is difficult to ascertain in the absence of a market analysis with the Plant in place, estimates from online sources suggest a loss of value of around 50% and that was confirmed by one local realtor. Given that our home, like most of the residents in this area, is a major asset, losing 50% of its value would be devastating to us. We acknowledge that the actual devaluation depends on many factors, but we can assure the Commission that had the Plant been in existence when we were looking for a lot with a grand view, we probably would not have purchased our lot and built a home at Fox Ridge Estates.

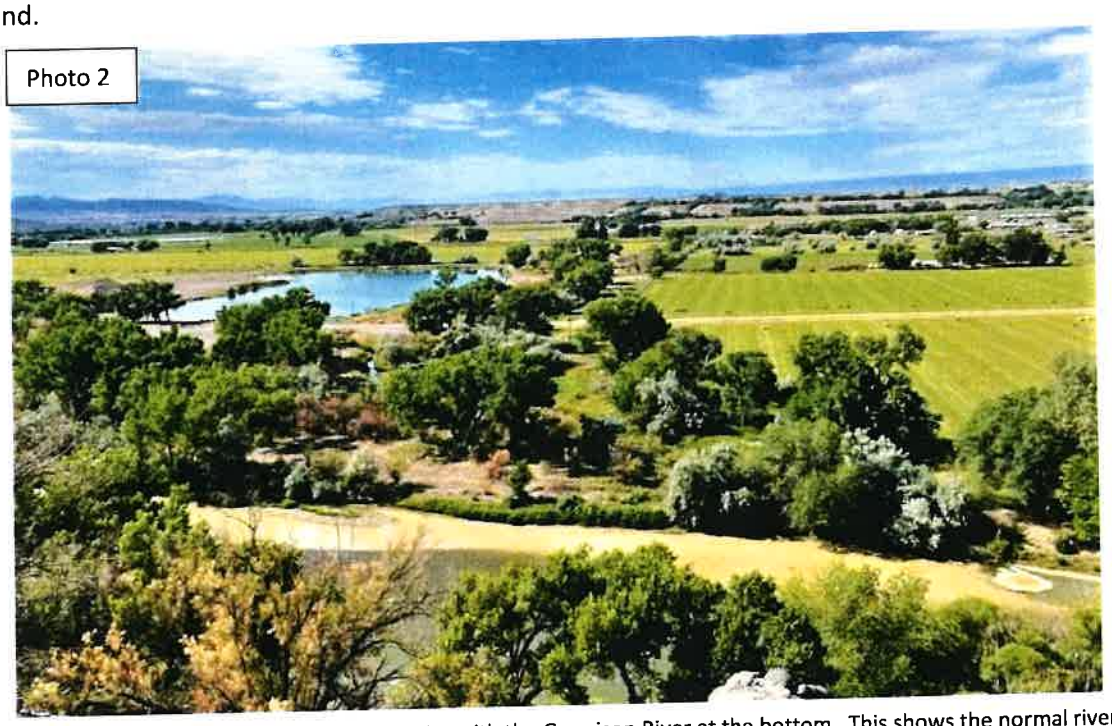
Growth Management Area: We acknowledge that Kilgore is relying on its understanding that the site is within a "growth management area" which was first envisioned under the County's 2018 Master Plan. This anticipates future plans by the City of Delta to extend its city limits to the east for various purposes, including industrial development between the south bank of the Gunnison River and SH 92 all the way to SH 65. Kilgore asserts that the City's plan would incorporate the subject pit site.

- At present the subject area remains zoned for agricultural use (A-20) under the County's 2021 Master Plan, and it seems very unlikely that the City of Delta will be seeking to annex the subject site (and the two miles of prime agricultural land between its present city limits and the subject site) within the reasonably foreseeable future.
- The focus of the growth management area provisions seems to center on the City of Delta. But attention should also be on the Town of Orchard City to the north. One provision under GMA policy is to "Explore mechanisms that encourage build out of existing residential subdivisions and other residential vacant parcels." The area along Iris Road in the Town of Orchard City - running east-west on the ridge north of the subject site – is prime property for residential development. Presently there are well over 100 homes on the ridge (between 1950 Road and 2100 Road) and more are planned. Having an Asphalt Plant within 1-2 miles of those residences poses a long term risk to the health and well-being of those homeowners.
- So we believe the County should be evaluating the merits of the application in light of existing conditions (the present situation for Orchard City which is more immediate than the distant future plans of Delta). We think it is premature to approve the subject site for a gravel pit business of the magnitude which Kilgore envisions. There are plenty of remote locations in Delta County, sufficiently removed from existing residential areas where an Asphalt Plant could be more safely operated.

Operation of the Gravel Pit: The hours of Kilgore's proposed operation are unclear to us, but we are aware that gravel pits and Asphalt plants do operate around the clock seven days a week in some areas. If that is Kilgore's intention for the subject site, we strongly object to approval of their application. The constant noise, odor and dust of such an operation would be nearly impossible to tolerate – especially during early morning and evening hours and especially overnight. Certainly the enjoyment of our home would be substantially diminished. We would no longer to be able to enjoy the peace and serenity we now experience sitting on our outside patio, having pleasant conversation and appreciating the view of the valley and the distant San Juans.

Water Issues: Another concern, especially if an Asphalt Plant is introduced to the site, it the potential for the plant operations to impact the Gunnison River itself and especially those who use it for recreation; as well as the ground water which supplies the existing pond (and would supply future reclamation ponds if Kilgore's application is approved). Photo 2 below shows the present site taken a few days ago, with the river in the foreground.

Photo 2



This is a portion of the present gravel pit site with the Gunnison River at the bottom. This shows the normal river flow (dark gray/brown) and the lighter sand colored water is from the Uncompahgre Valley Water Users being returned to the River as is runs adjacent to the gravel pit.

We encourage the Planning Commission to closely examine this Photo and carefully consider whether an Asphalt Plant should be placed in such a beautiful setting. We think not.

Potential water pollution: While we have not been able to obtain specific information about this issue, it seems reasonable to us that the Commission carefully consider how Kilgore's plan for expanded mining and for the Asphalt Plant could affect water in the area (both the river and the ground water). We believe that petroleum and, possibly sulfur, etc. is used by an Asphalt Plant to make the asphalt. Further, oil and detergents (such as Polyslip which prevents asphalt from sticking to truck beds) are used at the Plant for machinery and the heavy trucks driving and loading in the gravel pit itself. It seems to us that leaks of these liquids are likely to be deposited at the site and could make their way into the UVWUA return flow channel with the potential to contaminate the River to the peril of downstream users.

Even more likely is the potential for such materials to settle into the ground of the open gravel pits as the mining occurs over many years. Kilgore states that when its mining operation is completed it will reclaim the area as groundwater ponds, but that water may well be contaminated with pollutants which raise concerns about

the water's use for any purpose but a home for ducks. Not only the ground water which fills the ponds, but water in aquifers below the surface may someday be needed to assist in irrigation of farms (if any remain in the area in 20 years) as drought conditions get worse. So these water resources require protection.

Mosquitos: Another issue related to the reclamation ponds just discussed, is the issue of mosquitos. While the ponds may be considered "scenic," they are also breeding grounds for mosquitos. While this insect may have a place in the eco-system, we all understand what a nuisance they are, and most importantly, that they carry West Nile disease which brings with it serious illness and possibly death.

Summary

We are aware that others are submitting Comments as well, so we won't belabor this expression of our concerns with additional issues that apply.

We recognize that the County's Master Plan provides for, and in fact encourages, input from its residents, especially those impacted by specific applications regarding land use, and we appreciate the opportunity afforded us to state our positions, and we trust our concerns will be given careful consideration.

We are supportive of land use regulation and the need to balance competing interests. In this case we understand the applicant is in the business of developing gravel pits and in processing asphalt to surface roads and highways. As such Kilgore prefers a plant somewhere in the County. But we are at a loss to understand why it seeks to ignore the clear language in the Development Agreement that the "placement and use of an asphalt plant shall never be allowed" at this site. We believe that provision was written into the Agreement for the protection of all the residents in the neighborhood – including those of us living on the ridge to the north. For the many reasons we stated in this document, we believe that if an asphalt plant is to be built, it should be located in a more remote area which does not impact residents in their homes enjoying the rural lifestyle that Delta County affords. Likely Kilgore prefers the Asphalt Plant at the mining site to easily load gravel for processing the asphalt, rather than hauling it to a plant removed from the site which is obviously more expensive. However we would ask the Commission to weigh that additional expense against the enormous loss in home values suffered by us homeowners if the Plant is approved to be on the subject site.

While we will acknowledge that Elam as proprietor of the subject gravel pit operated it, for the most part, in accordance with the restrictions under the Development Agreement, it is clear that Kilgore's plan to expand the existing gravel pit would obviate the existing restrictions and alter the character of the operation. For example, expansion of the operation to extend open pit mining over to the east side of SH65 and to the east and south of the existing pit site no longer shelters the pit from public view, and this is important as it impacts the ascetics of the area. This is certainly not consistent with the County's master plan goal to preserve the agricultural and scenic attributes of our river valley. These are values deserve protection. They have been a strong attraction for visitors and tourists as well as the locals who enjoy the rural life style and the opportunities for recreation and enjoyment of life here. Your decision recommending against approval of Kilgore's application will assure that these benefits will continue for many years to come.

Thank you for considering our position on the issues before you.

Sincerely yours,

Robert A. Brown

W. Jean Brown

Delta County Planning Commission
Case/Name PLN21-080/Delta Paving Gravel Pit (CUP)

To Whom It May Concern:

R & S Kirkpatrick Trust owns a property overlooking the proposed gravel pit and asphalt plant. See Attachment A, Warranty Deed Dated October 13, 2015. Assessors Parcel No. 345503400028. Also see Attachment B Real Estate Property Tax Notice 2016 Taxes due in 2017 as proof of taxation by the County.

We also own a home on 20239 Iris Road, Austin CO, approximately One (1) mile Northeast of the proposed gravel pit and asphalt plant and will be in a direct line of the prevailing South West winds as it blows the odor from the proposed plant.

The first property mentioned was purchased because of the wonderful view overlooking the valley with a potential to build a home so as to take advantage of this view every day or to sell it and hopefully receive top dollar because of the location and especially the wonderful view. To now expand the gravel pit and further impact this view and to install an asphalt plant which will not only further distract from the view but will now add an extremely offensive odor as well as noise pollution to the area.

The previous owners accepted the County's agreement which is in the form of "RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DELTA, STATE OF COLORADO RESOLUTION NO. 99-B-009 Titled "RESOLUTION APPROVING DELTA PAVING GRAVEL PIT AGREEMENT" for allowing the existing gravel pit to become a reality. This document is dated May 10, 1999. Please review this document as you are developing your response for this variance request.

Please direct your attention to pages 2 and 3 of this document that includes nine (9) items the original owner agreed to so as to allow the existing gravel pit. It appears now the new owners want to circumvent most of the agreed to items which we oppose. Delta County Planning and the Commissioners, at that time, did a very good job of satisfying all parties concerns and I see no reason to not maintain these agreed to items. Please direct your attention to items #1, #8 and #9 there is zero wiggle room in these three (3) listed items.

Under the best of circumstances allowing this to move forward will not only impact the property values of everyone owning property on the ridge but will impact property values of all our surrounding neighbors because of the caustic odors and exhaust the asphalt plant will expel as well as the Noise Pollution it will create.

There are enough areas in Delta County where installing an asphalt plant will not have a serious impact to all the tax paying citizens that this location will create.

We are strongly opposed to this proposal and request the Delta County Planning Commission reject Case/Name PLN21-080/Delta Paving Gravel Pit (CUP).

Sincerely: R & S Kirkpatrick Trust

SSK

Shyree Sue Kirkpatrick

RLK

Richard L Kirkpatrick

Attachment "A"

RECEPTION#: 683465, 10/13/2015 at 02:39:58 PM, 1 OF 1, R $11.00
TERI A. STEPHENSON, DELTA COUNTY, CO CLERK AND RECORDER

WARRANTY DEED

THIS DEED, Made this 13 day of October, 2015 between

Shyree S. Kirkpatrick, Trustee of The Juanita Short Trust, dated January 15, 2009,

of the County of DELTA and State of COLORADO, and

R & S Kirkpatrick Trust, dated May 7, 2014

whose legal address is: P. O. Box 366, Delta, Colorado of the County of DELTA and State of COLORADO, grantees:

WITNESSETH, that the grantor, for and in consideration of the sum of $1.00 —, DOLLAR, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the grantee, their heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of DELTA and State of Colorado, described as follows:

Part of the W1/2 of the SE1/4 of Section 3, Township 15 South, Range 95 West of the 6th Principal Meridian, described as follows: Beginning at a point 66.0 feet North of the North line of the Southwest Quarter of the Southeast Quarter of said Section 3 whence the Northeast Corner of the Southwest Quarter of the Southeast Quarter of said Section 3 bears south 82°26' East, 500.9 feet; thence West 138.6 feet, more or less, along a line 66.0 feet north of and parallel to the North line of the SW1/4 of the SE1/4 of said Section 3; thence South 313.5 feet; thence East 138.6 feet; thence North 313.5 feet, more or less, to the point of beginning, and without warranty of any kind non-exclusive right to use existing road way serving said premises approximately 20 feet in width, the center line of which is described as follows: Beginning at a point whence the Southeast Corner of the NW1/4 of the SE1/4 of said Section 3 bears South 28°17' East, 63.5 feet; thence West 466.6 feet, thence East, 41.3 feet; thence North 29.7 feet; thence North 03°14' West, 32.1 feet; thence North 17°47' West, 245.0 feet; thence North 40°32' West, 180.0 feet; thence North 06°04' East, 100.00 feet; thence North 06°50' East, 141.0 feet; thence North 06°50' East 2.1 feet; thence North 57°08' East, 179.6 feet; thence North 00°10' East, 459.6 feet, more or less to South line of existing County Road.

Also known as street and number:
Assessors Account No. R011114 Assessors Parcel No. 345503400028

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the said grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the said grantee, their heirs and assigns forever. And the said grantor, for himself, his heirs, and personal representatives, does covenant, grant, bargain and agree to and with the grantee, their heirs and assigns, that at the time of the ensealing and delivery of these presents, is well seized of the premises above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, EXCEPT FOR TAXES FOR THE CURRENT YEAR, A LIEN BUT NOT YET DUE AND PAYABLE, EASEMENTS, RESTRICTIONS, COVENANTS AND RIGHTS-OF-WAY OF RECORD, IF ANY,

The grantor shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of the grantee his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof. The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, THE GRANTOR HAS EXECUTED THIS DEED ON THE DATE SET FORTH ABOVE.

Shyree S Kirkpatrick, Trustee

Shyree S. Kirkpatrick, Trustee of The Juanita Short Trust
dated January 15, 2009

STATE OF COLORADO)
ss

ACCOUNT# R011114
PARCEL # 345503400028
TAX DISTRICT # F6O

REAL ESTATE PROPERTY TAX NOTICE

2016 TAXES DUE IN 2017

Attachment "B"

DELTA COUNTY TREASURER
501 PALMER ST. SUITE 202
DELTA, CO 81416-1754
www.deltacounty.com

TAX AUTHORITY	MILL LEVY	TEMP MILL LEVY CREDIT	GENERAL TAX
DELTA COUNTY SCHOOL	22.86500	0.00000	165.78
DC SCHOOL DIST 50 - BOND	4.90000	0.00000	35.53
DELTA COUNTY	15.03800	2.17000	108.99
CORY CEMETERY DISTRICT	0.85200	0.00000	6.18
FIRE DISTRICT #3	4.10000	0.00000	29.73
GRAND MESA WATER CONS DIS	0.73900	0.00100	5.36
COLORADO RIVER WATER CONS	0.25300	0.00000	1.84
DELTA MOSQUITO CONTROL DI	2.90000	0.00000	21.03
DELTA COUNTY MEM HOSPITAL	0.98500	0.00000	7.14
DELTA COUNTY LIBRARY	3.00000	0.00000	21.75
DELTA COUNTY AMBULANCE DI	2.50000	0.00000	18.13
COUNTY ROAD & BRIDGE	0.50000	0.00000	3.63
ORCHARD CITY ROAD & BRIDG	0.50000	0.00000	3.63
TOTAL	NET LEVY--> 59.13200		428.72
		OCID	40.30
		GRAND TOTAL	469.02

VALUATION	ACTUAL	ASSESSED
LAND	25,000	7,250
NET TOTAL	25,000	7,250

MESSAGES

PROPERTY TAX PAYMENTS MAY ALSO BE MADE AT THE NORTH FORK COUNTY ANNEX BUILDING LOCATED AT 196 W. HOTCHKISS AVENUE, HOTCHKISS, COLORADO. CHECKS ARE THE PREFERRED METHOD OF PAYMENT AT THE HOTCHKISS OFFICE.

S B 25 -- In absence of State Legislative Funding,
your School General Fund mill levy would have been 98.0110

LEGAL DESCRIPTION OF PROPERTY

AUSTIN - ORCHARD CITY 81410 S: 3 T: 15S R: 95WTOTAL AC 1+- SEC 3 T15S R95W 6PM PT OF W2SE4 S 3BEG 66' N OF N /L OF SW4SE4 S 3 WH NE COR OF SW4SE4 S 3 BRS S82*2 6'E 500.9' W TO 138. 6' S 313.5' E 138.6' N313.5' TO BEG BK 440 PG 860 (R-343790) R-633413 R683465

pd 3/22/17
ck 18607

PROPERTY LOCATION: AUSTIN - ORCHARD CITY

UNPAID PRIOR YEAR TAXES:

No

Contact Treasurer's Office immediately if a message appears above.

PAYMENT	DUE DATE	AMOUNT
FIRST HALF	FEB 28, 2017	234.51
~~SECOND HALF~~	JUN 15, 2017	~~234.51~~
FULL PAYMENT	APR 30, 2017	469.02

R011114

SHORT L D
R & S KIRKPATRICK TRUST DATED MAY 7, 2014
PO BOX 366
DELTA, CO 81416-0366

Make Checks Payable To:
DELTA COUNTY TREASURER
POST DATED CHECKS OR PARTIAL PAYMENTS ARE NOT ACCEPTED.
DO NOT PAY THIS BILL IF YOUR MORTGAGE COMPANY WILL MAKE THIS PAYMENT.

Please see reverse side of this form for additional information

RETAIN TOP PORTION FOR YOUR RECORDS

Delta County COLORADO
Canyons • Rivers • Mountains

Kate Kelly <kkelly@deltacounty.com>

Robert-Jeanie Brown's Comments on Kilgore Gravel Pit will be sent soon

Robert Brown <bobjnibrwn17@gmail.com> Mon, Jul 25, 2022 at 11:43 AM
To: Kate Kelly <kkelly@deltacounty.com>
Cc: Kim Henderson <khenderson@deltacounty.com>, Riley Dunn <brianrileydunn@gmail.com>

Dear Ms. Kelly,

Thank you for your email about continuing the PC Hrg re the Kilgore application for an Asphalt Plant and expanding the Delta Paving gravel pit.

I read through the Agenda for 7/27/22 and the attached Staff Report. I found under "Other Agencies Involved" that various entities are seeking more information and that the PC Staff recommend that the applicants hold a neighborhood meeting prior to the PC Hearing.

I'm writing to clarify that the Staff is urging Kilgore to arrange a neighborhood meeting, which I think would be quite helpful for those of us opposing the project to get a better understanding of just what Kilgore seeks and the scope of their operation. I assume you anticipate that the meeting would be held before the August 10 hearing (not prior to the initial 7/27 date) and I trust Kilgore will have sufficient information to give notice of the meeting to at least those of us who have filed Comments, as well as the various entities seeking additional information.

I also gather that given this recommendation for a continuance, that those of us opposing the application need not attend the meeting on 7/27.

Would you please confirm my understanding about the "applicant's meeting", or clarify how that meeting would be called and notice given, if I'm incorrect.

Thank you very much.

Bob Brown

cc: Riley Dunn

[Quoted text hidden]

> [Quoted text hidden]
>
> **NOTICE:** This email transmission from the County of Delta, and any documents, files, or previous email messages attached to it, are intended solely for the individual(s) to whom it is addressed and may contain information that is confidential, legally privileged, and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any unauthorized review, forwarding, printing, copying, distribution, or use of this transmission or the information it contains is strictly prohibited. A misdirected transmittal of this email does not constitute waiver of any applicable privilege. If you received this transmission in error, please immediately notify the sender and delete the original transmission and its attachments. Notwithstanding the foregoing, sender and receiver should be aware that all incoming and outgoing emails may be subject to the Colorado Open Records Act, C.R.S. 24-72-200.1 et seq. Thank you.

Date: July 25, 2022
Attention: Delta County Planning Commission
Ms. Kate Kelly, Planner I
RE: PLN21-080/Delta Paving Gravel Pit (Kilgore Companies, dba Elam Construction, Inc.)

Dear Ms. Kelly,

I am writing to oppose the proposed gravel pit and hot mix asphalt plant paired with the 110-acre site along Highway 65 and the Gunnison River. Based on the Delta County Master Plan, this project does not align with Delta County's core values to maintain its agricultural status and tourism, not to mention the beauty it beholds. Who wants to pass a gravel/asphalt plant on the Scenic Highway to the Grand Mesa? I have been a Delta County resident for almost 30 years and would be saddened by the approval of this proposed project as I also live across from the bluff over the Gunnision River.

How will Kilgore Companies guarantee that chemicals and waste from the pits won't seep into the Gunnison River? How will Kilgore Companies guarantee that the steam being emitted into the atmosphere and blown daily by the river winds won't contribute to health issues with the neighboring communities? How will Kilgore Companies guarantee the property values of those affected won't dimmish to "nothing"?

Below is a Summary of Asphalt Plant Data from studies that have been accomplished across the country. While some of the numbers may be a little different from specific areas of the country, this data reflects generalized health concerns, fumes emitted by hot mix asphalt gravel pits, devalued property, along with the lack of testing by the Quality Air Commission for each state.

I hope the Delta County Planning Commission and the Delta County Commissioners consider all the underlying factors of Kilgore Companies' proposal and reject this project from entering Delta County. This project has too many environmental "red flags".

Thank you for your consideration,

Carol Keller
Orchard City (Delta County) Resident and Concerned Citizen
Carolia5677@gmail.com
970.250.9664

ASPHALT PLANT DATA

Asphalt plants mix gravel and sand with crude oil derivatives to make the asphalt used to pave roads, highways, and parking lots across the U.S. These plants release millions of pounds of chemicals to the air during production each year, including many cancer-causing toxic air pollutants such as arsenic, benzene, formaldehyde, and cadmium. Other toxic chemicals are released into the air as the asphalt is loaded into trucks and hauled from the plant site, including volatile organic compounds, polycyclic aromatic hydrocarbons (PAHs), and very fine condensed particulates. [EPA]

Asphalt Fumes are Known Toxins

The federal Environmental Protection Agency (EPA) states:

- "Asphalt processing and asphalt roofing manufacturing facilities are major sources of hazardous air pollutants such as:
    - formaldehyde
    - hexane
    - phenol
    - polycyclic organic matter
    - toluene
- Exposure to these air toxics may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation." [EPA]
- Asphalt fumes contain substances known to cause cancer, can cause:
    - coughing, wheezing or shortness of breath,
    - severe irritation of the skin
    - headaches
    - dizziness
    - nausea. [NJDHSS]
- Animal studies show PAHs affect reproduction, cause birth defects and are harmful to the immune system. [NJDHSS]
- US Department of Health and Human Services (DHHS) has determined that PAHs may be carcinogenic to humans. [DHHS]

Health Impacts & Loss of Property Value

Studies on the adverse impacts on property values and health for residents living near asphalt plants have been done in the last decade. A property value study documented losses of up to 56% because of the presence of a nearby asphalt plant. In another study, nearly half of the residents reported negative impacts on their health from a new asphalt plant. The door-to-door health survey found 45% of residents living within a half mile of the plant reported a deterioration of their health, which began after the plant opened. The most frequent health problems cited were high blood pressure (18% of people surveyed), sinus problems (18%), headaches (14%), and shortness of breath (9%).

Flawed Tests Underestimate Health Risks

In addition to smokestack emissions, large amounts of harmful "fugitive emissions" are released as the asphalt is moved around in trucks and conveyor belts and stored in stockpiles. A small asphalt plant producing 100 thousand tons of asphalt a year may release up to 50 tons of toxic fugitive emissions into the air. [Dr. R. Nadkarni] Stagnant air and local weather patterns often increase the level of exposure to local communities. In fact, most asphalt plants are not even tested for toxic emissions. The amounts of these pollutants that are released from a facility are estimated by computers and mathematical formulas rather than by actual stack testing, estimates that experts agree do not accurately predict the amount of toxic fugitive emissions released and the risks they pose. According to a NC state toxicologist, 40% of the

toxins from asphalt plant smokestacks even meet air quality standards—and for the other 60% of these emissions, the state lacks sufficient data to determine safe levels.

Delta County COLORADO
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Kate Kelly <kkelly@deltacounty.com>

Kilgore's proposed asphalt and gravel pit

Lucinda Stanley <lucindas@grandmesaconsultants.com> Wed, Jul 27, 2022 at 4:03 PM
To: "kkelly@deltacounty.com" <kkelly@deltacounty.com>

Good afternoon, Kate

The proposed paving gravel pit (PLN21-080) on 110 acres close to the Gunnison River and Hwy 65 is very concerning to myself and a few clients who have contacted me.

For several reasons:

- Location on a river that is recreational – having a plant close to the river would be very disturbing to the recreational use of the river, let alone any pollutants, smell or noise that is associated with this type of plant.
- Views – there are a number of residences that would have their views impaired by this plant
- Traffic flow – adding large construction vehicles at an already busy intersection with a railroad crossing would be cause for concern with congestion and accidents.
- Home values – Will definitely be affected by being close to this plant.
- Environment – I am not an expert on the environment but I have researched other plants and the rise of concern for the health to surrounding neighborhoods.

I am all for a land owner getting the most that they can get for their agricultural land as I personally know how tough it is to make a living in agriculture but this is not the highest and best use for this land.

Thank you for sharing my concerns.

Make it Your Best Day Yet!

Lucinda

Lucinda Stanley, CCIM

Grand Mesa Real Estate Services

300 Stafford Lane, Suite 30212, Delta, CO 81416

C - 970-201-2152 O – 970-512-3000

F – 970-826-7044

lucinda@grandmesaCre.com

www.GrandMesaRES.com

NOTICE: This information contained in this message is proprietary and/or confidential and may be priviledged. If you are not the intended recipient of this communication, you are hereby notified to: (i) delete the message and all copies; (ii) do not disclose, distribute or use the message in any manner, and (iii) notify the sender immediately.

Kim Henderson <khenderson@deltacounty.com>

RE: Hot Mix Asphalt plant/ Case : name PLN21-080/Delta Paving Gravel Pit(CUP)

1 message

wade pridgen <wadepridgen@outlook.com> Wed, Jul 27, 2022 at 1:46 PM
To: "planning@deltacounty.com" <planning@deltacounty.com>
Cc: sherry bennett <sherry.bennett614@gmail.com>

To the attention of; Delta County Board of Commissioners, Kate Kelly, Planner Delta County.

As tax paying citizens, we would like to strongly object to the removal of the restriction on the current permit.

We feel as a Resident of Delta County this would have a very negative impact on the land and the surrounding area.

As for the need for more asphalt material needed there is Currently a Company providing Asphalt for our area and surrounding areas.

See web address: https://united-gi.com/join-our-team/ (Tri county Pit)

To change the permit would impact our community in more ways than one.

Negative impacts : Taking Land currently used and for many years in Agriculture production / The degradation of air quality Dust health impacts of odor/

Wildlife in and around the very precious River the “Gunnison” by reducing Current vegetation buffer/ Property owners Values and Views

Negative impact on Tourisom / as well as many Enviromental concerns.

Current precedence :case DME's rejected a permit to put in a solar farm prior, County denied their permit on grounds it would negatively taking Current land out of Agricultural production. I feel very strongly that this should be one of many precedence’s to be adopted as a good example.

This Company located in Salt Lake City has pits all over the United States we do not need additional impact on our enviroment and Community to line the pockets of big Corporations at the expense of environment etc., there is no need for additional Asphalt material in our area. There are plenty of jobs available in our community.

Please consider the negative impact and please reject Big Corp/ Kilgore Companies, Elam Construction request to remove restrictions and expansion permit.

Just last year our State of Colorado tried to increase setback restrictions to Fossil fuel facilities, our Park services also Have setback restrictions to camping within ¼ mile of sensitive environments like here on the Gunnison.

The environment here is way to valuable to risk, they can build what they need in a less vulnerable location.

Thank you

Sherry Bennett

8341 2085 Rd

Austin Co,81410

719-482-4313

Wade Pridgen

P.O. Box 537

Hotchkiss, Co 81419

850-292-6029

Delta County COLORADO
Canyons • Rivers • Mountains

Kate Kelly <kkelly@deltacounty.com>

Asphalt/gravel

Arleta Pech <Arleta@arletapech.com> Thu, Jul 28, 2022 at 6:38 PM
To: "kkelly@deltacounty.com" <kkelly@deltacounty.com>

Dear Katie,
Please help us by stopping this Asphalt/gravel plant. The Bald Eagle nest along that stretch of the river. Both the Bald Eagle and Golden Eagle fish the Gunnison.
My granddaughter floats that river with her school. Tourists, fisherman, even the fall hunters.

Health, my home is right above the site on the Austin bluff. My husband only has 80% of his lungs, my son Kevin has severe asthma. The fumes will be devasting to the health of our family.

There are so many places in Delta County that could have NO impact on wildlife, homes, tourists.

Why don't they place this out by the correctional facility.

Arleta Pech
8389 2000 road
Austin, co 81410
970-209-0903

Arleta Pech
Arleta@arletapech.com
8389 2000 road
Austin, co 81410
303-902-2006
WWW.ARLETAPECH.COM

Delta County COLORADO
Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

asphalt plant and rock quarry oppositions comments

1 message

zach@gibsonscustomcabinets.net <zach@gibsonscustomcabinets.net> Mon, Aug 1, 2022 at 12:40 PM
To: planning@deltacounty.com

My name is Zach Gibson and im writing this email in regards to the proposed hot asphalt plant. I live on property that is adjacent to the proposed site of this plant. My address is 19589 highway 92. I was not ever notified by this proposal and heard about it by people in the community. I have many concerns with this project. One of my main concern is the pollution from this plant. I have a family that moved here from Sacramento Californian 3 years ago to get away from the air pollution and raise my family in a safe community. We love living here in Delta. I have done some research on hot mix asphalt plants that I will include.

The federal Environmental Protection Agency (EPA) states “Asphalt processing and asphalt roofing manufacturing facilities are major sources of hazardous air pollutants such as formaldehyde, hexane, phenol, polycyclic organic matter, and toluene. Exposure to these air toxics may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation.” [EPA]. According to one health agency, asphalt fumes contain substances known to cause cancer, can cause coughing, wheezing or shortness of breath, severe irritation of the skin, headaches, dizziness, and nausea. [NJDHSS] Animal studies show PAHs affect reproduction, cause birth defects and are harmful to the immune system. [NJDHSS] The US Department of Health and Human Services has determined that PAHs may be carcinogenic to humans

Health Impacts & Loss of Property Value. The Blue Ridge Environmental Defense League (BREDL), a regional environmental organization, has done two studies on the adverse impacts on property values and health for residents living near asphalt plants. A property value study documented losses of up to 56% because of the presence of a nearby asphalt plant. In another study, nearly half of the residents reported negative impacts on their health from a new asphalt plant. The door-to-door health survey found 45% of residents living within a half mile of the plant reported a deterioration of their health, which began after the plant opened. The most frequent health problems cited were high blood pressure (18% of people surveyed), sinus problems (18%), headaches (14%), and shortness of breath (9%

Flawed Tests Underestimate Health Risks. In addition to smokestack emissions, large amounts of harmful “fugitive emissions” are released as the asphalt is moved around in trucks and conveyor belts, and is stored in stockpiles. A small asphalt plant producing 100 thousand tons of asphalt a year may release up to 50 tons of toxic fugitive emissions into the air. [Dr. R. Nadkarni] Stagnant air and local weather patterns often increase the level of exposure to local communities. In fact, most asphalt plants are not even tested for toxic emissions. The amounts of these pollutants that are released from a facility are estimated by computers and mathematical formulas rather than by actual stack testing, estimates that experts agree do not accurately predict the amount of toxic fugitive emissions released and the risks they pose. According to Dr. Luanne Williams, a North Carolina state toxicologist, 40% of the toxins from asphalt plant smokestacks even meet air quality standards—and for the other 60% of these emissions, the state lacks sufficient data to determine safe levels.

In my opinion, these big companies come into a community and set up these types of plants and exploit the resources and the community for financial gain while the ones around it suffer from potential health problems and loss of value in our property with nothing to gain from this. It also would be something for someone like me who will live literally right next door to it to have to see and hear the operations every single day with all the noise, dust and air pollution. I also feel like it will cause a lot more traffic on highway 92 and highway 65 with trucks entering and exiting the area.

I lived in Sacramento California near McClellan air force growing up and we were in an agricultural area surrounding the base. In the 1980s a study was done and brought to life the fact that the base had contaminated the

water table in the area. Most of the people in that area relied on wells for their drinking water and to irrigate their crops. This study showed that the water wasn't fit to drink and they had to put in water taps to the city's water supply. The water contained many different chemicals that caused cancers and many other health problems that had been affecting people in the area for a long time. That was the small part of the problem. The EPA came in and started a clean up effort and has spend 500 million dollars so for with a projected 400 million still to go and says it will take another 50 years to clean it up. It is unknown how many people died, got cancer, or other health issues from this. This is just one of many examples of projects that have been done across our country without counting the cost or doing to proper research on projects that can hurt our environment or health until it's too late. The point of this is to show how sometimes we don't realize the effects of something like this or a hot mix asphalt plant until the damage is done and we realize what impact it had and spend a lot of money and time trying to clean it up. I don't wat to be one in 5, 10, 20 or 30 years later with health problems and contaminated water and soil to deal with while these companies move on and made their money and are gone from our community. I don't see any benefits for people living around or even in the whole area from this plant. Don't let Delta be the next town with an environmental disaster and ruin a town that produces a lot of agriculture and people from everywhere come to visit.

Delta County COLORADO
Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

(no subject)

1 message

Alida Franco <alidafranco@gmail.com> Wed, Aug 3, 2022 at 11:13 AM
To: planning@deltacounty.com

I was told there would be a public meeting on August 3rd regarding the asphalt plant but I don't see anyone here.

My comments are as follows. I would like to know how this will affect the Gunnison River as water is number one on my mind as well as others in the West.

Also, I would like to know where the placement of the plant is. If it's on Highway 65, well that would be a real negative tourist view as people head up Highway 65 to Grand Mesa. The county needs to think about that.

As an orchard City resident, I wish I had been informed of these hearings early on.

Alida Franco

Kim Henderson <khenderson@deltacounty.com>

Public Comment

1 message

Alida Franco <alidafranco@gmail.com> Wed, Aug 3, 2022 at 12:46 PM
To: planning@deltacounty.com

I attended the Public Meeting and urge the Planning Commission to vote NO on changing the agreement with Elam Construction to include an asphalt plant.

Alida Franco
20937 Vista Grande Dr.
Austin, CO 81410

Delta County COLORADO
Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

PLN21-080 *Comment

1 message

Carrie Derco <geogirl352@gmail.com> Wed, Aug 3, 2022 at 11:53 AM
To: khenderson@deltacounty.com, kkelly@deltacounty.com, akemp@deltacounty.com

Public Comment for PLN21-808 - Asphalt Plant on HWY 65

I am *not* in favor of adding the asphalt business to the existing gravel pit located adjacent to the Gunnison River. For the following reasons:

1. Asphalt is loaded with toxic components that will be in the air and no doubt leach into the Gunnison river, where citizens are encouraged to recreate.
2. Adding additional commercial business next to the river will ruin the view and create a least some toxicity to the River water. Who wants to swim, boat, or paddle board next to an asphalt plant - no one. The County recently put in a boat ramp upstream encouraging citizens to use and enjoy the River.
3. This property is nearly entirely within the current FEMA floodway of category A and AE. Permitting asphalt production in an area that is likely to flood and contaminate the 2nd largest river in the state would be irresponsible. With new floodway data coming in a couple years *this area will be designated as regulatory floodway,* this data really needs to be looked at more closely.
4. Due to the location next to the Gunnison River I suggest denial of this application due to location and recommend they find a location that is away from our major water source.

Sincerely,
Carrie Derco
15223 2600 RD Cedaredge CO
724-396-1811

Delta County COLORADO
Canyons • Rivers • Mountains

Kate Kelly <kkelly@deltacounty.com>

gravel pit

2 messages

cathy harper <fireban_don@yahoo.com> Wed, Aug 3, 2022 at 1:49 PM
To: Kate Kelly <kkelly@deltacounty.com>

To whom it May Concern

My Name is Cathy Harper I Live At 7534 Hwy 65 Delta< Co 81416

I Do Not want this To Happen Because ALL Chemicals And Can Cause CANCER And All The Noise It Will cost .
The Smell We have All the People that is on Oxygen

There is ALOT MOre Issue

I am going to be there on this Matter I DO NOT want this to Happen

Thank you

Cathy Harper

My Cell

405-420-4044

Kate Kelly <kkelly@deltacounty.com> Wed, Aug 3, 2022 at 1:50 PM
To: cathy harper <fireban_don@yahoo.com>

Thank you for your comment Cathy. I will add this to the folder.

Kate
[Quoted text hidden]
--
Kate Kelly
Planner I
295 W 6th Street
Delta, CO 81416
970-874-2110

Delta County COLORADO
Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

Case PLN21-080/Delta Paving Gravel Pit (CUP)

1 message

Dorothy Dunn <dotdunn@outlook.com> Wed, Aug 3, 2022 at 1:41 PM
To: "kkelly@deltacounty.com" <kkelly@deltacounty.com>
Cc: "planning@deltacounty.com" <planning@deltacounty.com>

Hi, Kate, I am wondering about how the Planning Commission meeting works. I understand that people that want to make comments have 3 minutes to speak. Is that correct? Can the person ask questions of the planning commission and/or the commissioners or does the person only get to speak with no dialog?

While I have your attention, I firmly believe this expansion of the existing sand and gravel mine (pit) is **not** a good idea and should **not** be allowed. The idea of a scenic byway having this industrial project so blatantly in the view of everyone traveling on it is obnoxious. And having the agreement of never having an asphalt batch plant be ignored is beyond my idea of trusting our planning process here in Delta County.

There are many retirees that will be affected by this expansion, myself included. Not only will we see our property value decrease (despite the comments made by Elam), the “occasional” use of a batch plant means Elam won’t be killing us outright but a little bit at a time. Did you see how many of the folks that attended the Elam meeting were on oxygen. Oh, so sorry but please continue to pay your taxes while you’re alive?

For a county that is considered so agricultural, that a Solar Plant couldn’t get approved, why in the world has this idea of making 110 acres of prime agricultural land into a gravel pit even being considered? According to your Zoning Map Delta Area that is on your website regarding “stewardship areas” shows this whole expansion is all in A-20 NOT as your letter stated RI/C. What’s with that?

Again, I am totally against this expansion. And please let me know if questions can be asked during the 3 minute speech time. Thank you for your time. Dorothy Dunn 8041 Hwy 65, Delta, CO 81416

Sent from Mail for Windows

Delta County COLORADO
Canyons • Rivers • Mountains

Kate Kelly <kkelly@deltacounty.com>

Elam Asphalt project

3 messages

T Chatto <chattotoni@gmail.com> Tue, Aug 2, 2022 at 8:11 PM
To: kkelly@deltacounty.com, "T. Chatto" <chattotoni@gmail.com>, "T. Chatto" <chattols@gmail.com>

Documents enclosed

2 attachments

1to_planning.doc
21K

Attachments.pdf
1182K

Kate Kelly <kkelly@deltacounty.com> Wed, Aug 3, 2022 at 7:35 AM
To: T Chatto <chattotoni@gmail.com>
Cc: "T. Chatto" <chattols@gmail.com>

Your comments have been received.

Regards,
Kate

On Tue, Aug 2, 2022 at 8:11 PM T Chatto <chattotoni@gmail.com> wrote:
> Documents enclosed

--
Kate Kelly
Planner I
295 W 6th Street
Delta, CO 81416
970-874-2110

T Chatto <chattotoni@gmail.com> Wed, Aug 3, 2022 at 7:49 AM
To: Kate Kelly <kkelly@deltacounty.com>

Thank you Kate. I will be at your meeting next week but do not care to speak. I'm going by invitation to the site today 11-1.
I'm planning to peek at the island property if I can.
Later, Toni
[Quoted text hidden]

[Quoted text hidden]

NOTICE: This email transmission from the County of Delta, and any documents, files, or previous email messages attached to it, are intended solely for the individual(s) to whom it is addressed and may contain information that is confidential, legally privileged, and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any unauthorized review, forwarding, printing, copying, distribution, or use of this transmission or the information it contains is strictly prohibited. A misdirected transmittal of this email does not constitute waiver of any applicable privilege. If you received this transmission in error, please immediately notify the sender and delete the original transmission and its attachments. Notwithstanding the foregoing, sender and receiver should be aware that all incoming and outgoing emails may be subject to the Colorado Open Records Act, C.R.S. 24-72-200.1 et seq. Thank you.

Delta County COLORADO
Canyons • Rivers • Mountains

Kate Kelly <kkelly@deltacounty.com>

PLN21-080/Delta Paving Gravel Pit Additional Comments

2 messages

Jack Ditlove <jamaditl@gmail.com> Wed, Aug 3, 2022 at 6:42 PM
To: planning@deltacounty.com
Cc: Jack Ditlove <jamaditl@gmail.com>

Dear Sir or Madam:

After attending the community meeting today and seeking additional information, I have the following comments to add.

In the event the hot asphalt plant is ALLOWED, as a community it would be prudent to ask for:

1. Burms be created to separate the pits from adjacent properties.
2. We ask for adherence to “hours of operation” ie 9-5
3. State regulations/permits be strictly adhered to regarding smell, pollutants, noise, traffic, etc. Hwy 65 at that section of road is 2 lane and dangerous. They may need to pay to widen the road.
4. The “portable unit” be to current standards/regulations. Don’t bring the old “smelly clunker” that we have to fight them about later.
5. As a gesture to the community, build a public park, as was promised in a past sale agreement.

Lastly, the above does little to help those on the bluff overlooking this area. I would suggest putting the building in an area that shrouds it from the north and northeast. I don’t know how you shroud smoke and smell. Ideas?

I am not in favor of the plant at all. The representatives of Kilgore Companies were not convincing of the intent of their employer.
“Occasional use” was too vague. A “mobile” unit is much like a motor home. Look around Delta - the blighted properties come
to mind. We don’t need that on a large scale.

Thanks for your hard work!

Blessings!

Mary Ditlove
8341 2000 Road
Austin, Colorado 81410
970 424-1509

Kate Kelly <kkelly@deltacounty.com> Thu, Aug 4, 2022 at 7:11 AM
To: Jack Ditlove <jamaditl@gmail.com>
Cc: Planning <planning@deltacounty.com>, Jack Ditlove <jamaditl@gmail.com>

Good Morning Mary,

Thank you for attending the meeting and thank you for your comments. I will add them to the file.

Kate
[Quoted text hidden]
--
Kate Kelly
Planner I
295 W 6th Street
Delta, CO 81416
970-874-2110

Kim Henderson <khenderson@deltacounty.com>

Meeting with kilgore,/elam

1 message

riley dunn <brianrileydunn@gmail.com> Wed, Aug 3, 2022 at 2:52 PM
To: kkelly@deltacounty.com, planning@deltacounty.com

At the meeting with Kilgore it came to my attention in elams own words that e reason for this site is to give them a bidding advantage on state projects in Delta County. Ie:Any improvements along 92 and 65. I'd like to know the reasoning behind sending profits to a corporate head not only out of the county but out of the state. Salt Lake City? Don't existing local gravel mines and asphalt plants deserve a level playing field and a chance to keep the profits in the county?

Mining industry revenues in Delta county amount to the lowest revenues (2%) for Delta county, according to Delta counties own pie chart, yet, are we Going to allow Kilgor/elam mining /asphalt to destroy the most visible billboard in the county for Farming & ranching (17%), tourism (6%and growing) Retirees (26% and growing). Our future is and identity . Thank you for your consideration of these points

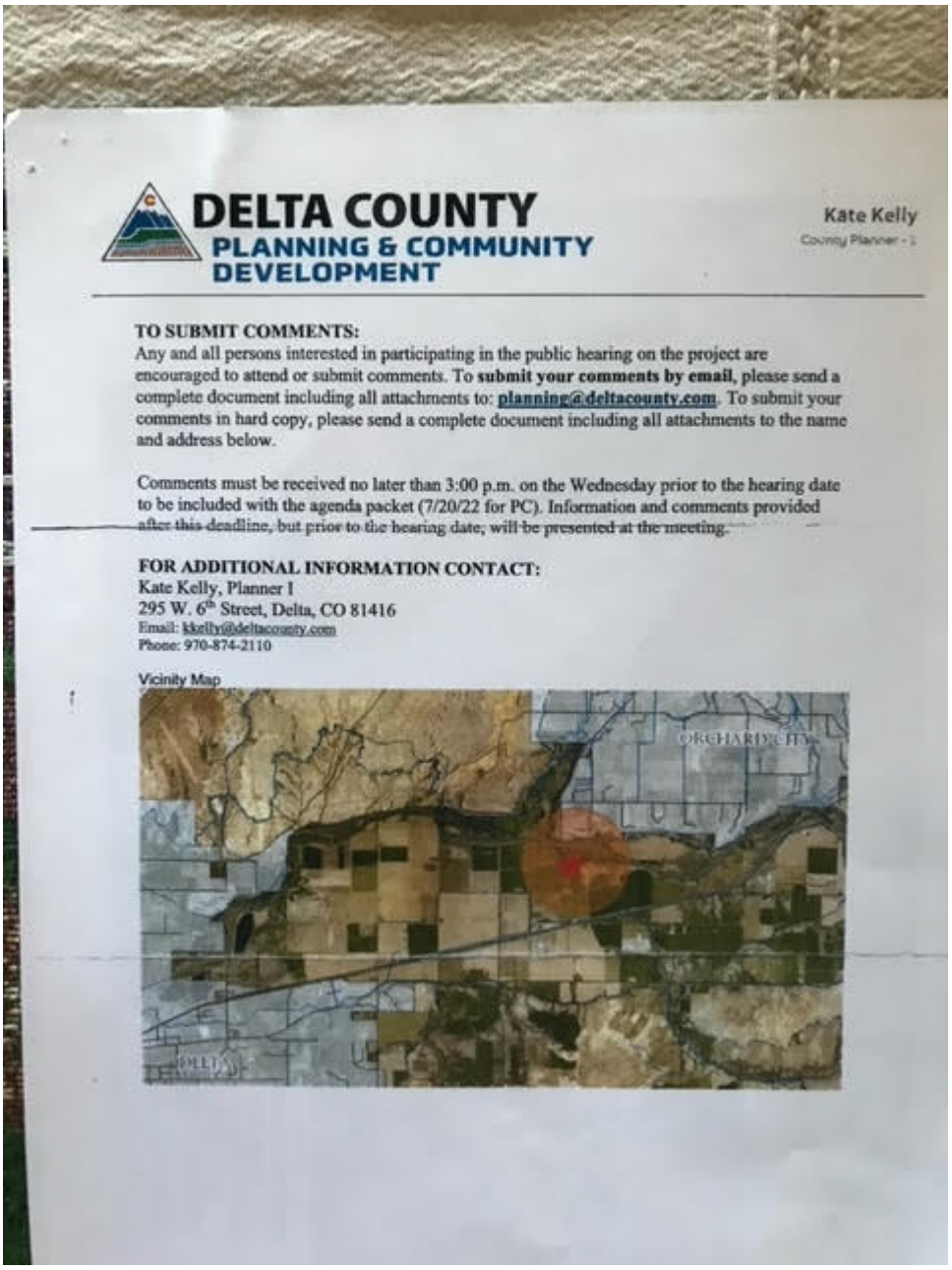
Delta County
COLORADO
Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

Gravel yard on Scenic Hwy 65

1 message

Drei Michels <drei02@hotmail.com> Wed, Aug 3, 2022 at 7:55 AM
To: "planning@deltacounty.com" <planning@deltacounty.com>



DELTA COUNTY
PLANNING & COMMUNITY DEVELOPMENT

Kate Kelly
County Planner - 1

TO SUBMIT COMMENTS:
Any and all persons interested in participating in the public hearing on the project are encouraged to attend or submit comments. To **submit your comments by email**, please send a complete document including all attachments to: **planning@deltacounty.com**. To submit your comments in hard copy, please send a complete document including all attachments to the name and address below.

Comments must be received no later than 3:00 p.m. on the Wednesday prior to the hearing date to be included with the agenda packet (7/20/22 for PC). Information and comments provided after this deadline, but prior to the hearing date, will be presented at the meeting.

FOR ADDITIONAL INFORMATION CONTACT:
Kate Kelly, Planner I
295 W. 6th Street, Delta, CO 81416
Email: kkelly@deltacounty.com
Phone: 970-874-2110

Vicinity Map



Dear Planning Community,

This expansion is and will be Detrimental to scenic byway. If it wasn't so close to scenic byway it would be fine. The other reason I am against this is because when they are finished with gathering the gravel it will be a huge hole that is not usable and we will fill up with water which in the long run will produce mosquitoes which is detrimental to an aging population. It will be and Eye sore for our community for years to come and for the rest of our lives and for future generations.

Sincerely,

Romuald "Drei" Michels III
RC Michels Consultant LLC
22949 U Rd.
Cedaredge, CO. 81413
970-623-5478
drei02@hotmail.com

08/02/2022

TO: Delta County Planning
c/o Kate Kelly, Planner 1
kkelly@deltacounty.com

From : Toni Chatto, PLS CO
chattols@gmail.com

Planning Dept,

I am a Professional Land Surveyor in Colorado and a neighbor of the Elam gravel pits and Asphalt Processing Project. I was alerted to the project by the county as an affected property. I have looked at many maps of the area. The S½ of Sec 3 and the N½ of Sec 10, T15S, R95W.

There was an island in the Gunnison River, roughly 15 Ac in size, which Elam is claiming to own from their exhibits. Is the Gunnison River PUBLIC and for the enjoyment of all? It is popular for recreation and boating.

The 39.13 acre parcel 345503400053 includes the island. The county's current 2019 GIS aerial shows the area during the drought and the island blends in. I would like the island for public use and not acquired by Elam Inc. Is there a recorded document from the US for the ownership of the island? Is it necessary? It is roughly half of the 39 acres and is substantial in size. That needs to be check into. River frontage is nice to have.

Regarding the PUBLIC NOTICE sent to me from the Delta County Planning Commission:

1) - Paragraph 2 says the reclamation will start about 20 years from now. Should there also be a maximum time? Many projects don't go as scheduled. Are we getting a park after this? How long does reclamation take to complete?

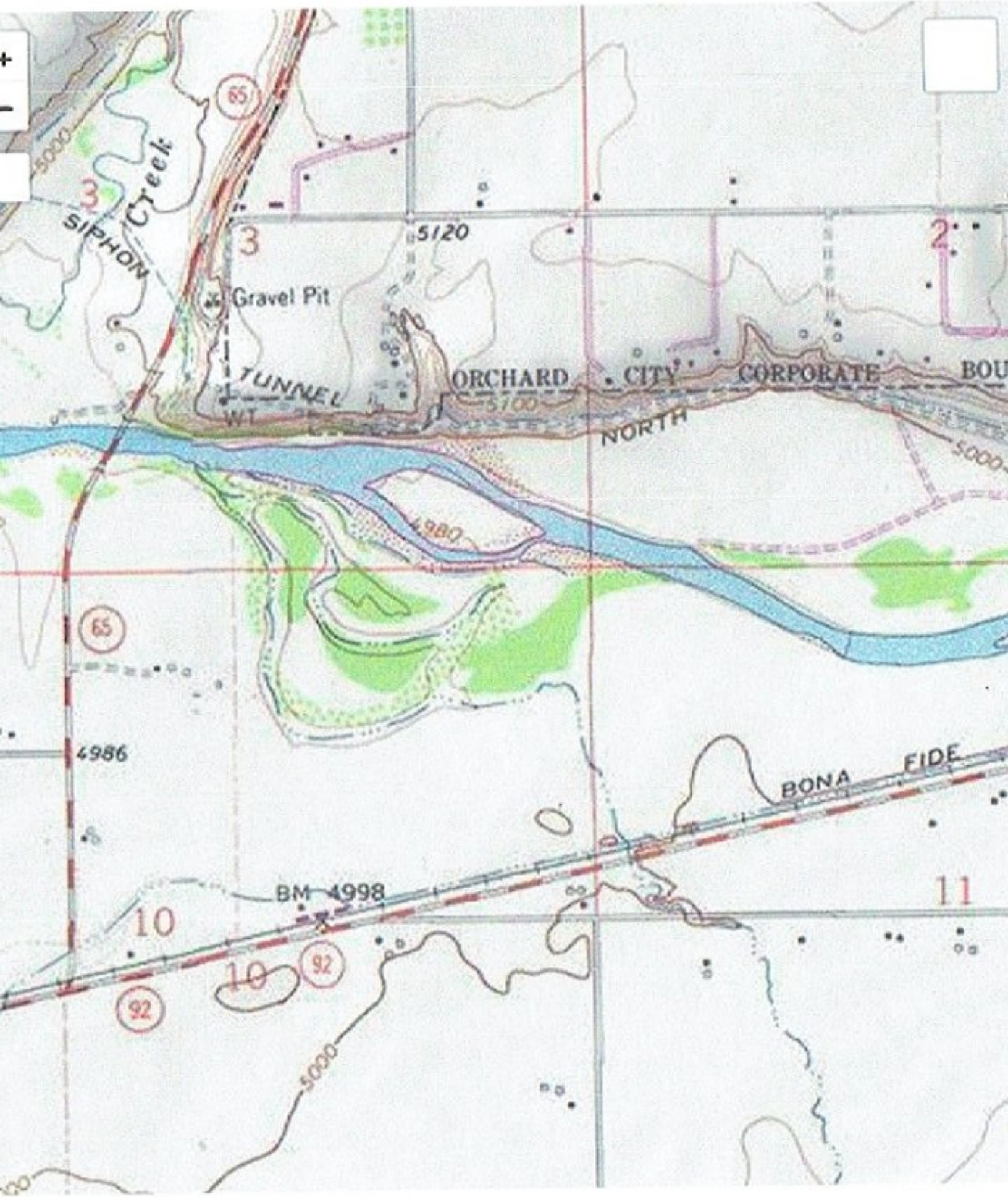
2) - Paragraph 3 says the site is zoned A-20. Agriculture 20 acres. The Rural - Heavy Industrial land use should not be classified as this. A-20 is defined as agricultural and uses supporting agriculture. Asphalt doesn't belong with this.

* DO NOT approve the Rural Heavy Industrial CONDITIONAL USE PERMIT.

Does the North property line actually go to the center of the river? It is implied on your GIS maps. Does the public have a right to use the river? Can this owner, at will, close the river to public access?

Sincerely, Toni Chatto

Green Mountain Topo Map in Delta County Colorado



Google Maps Gunnison River



Google Maps Gunnison River



This shows a tiny island and a larger one to the east. Joined together they form the complete island.

Delta County COLORADO
Canyons • Rivers • Mountains

Kate Kelly <kkelly@deltacounty.com>

Delta Paving Gravel Pit

1 message

Jack Ditlove <jamaditl@gmail.com> Fri, Aug 5, 2022 at 8:26 AM
To: Kate Kelly <kkelly@deltacounty.com>

Dear Kate:

After letting some of the newest information settle overnight, I wondered if it wouldn't be prudent for the Planning Commission to table this application until the agreement of 1999
was actually completed? It looks like no one made sure they complied with it completely.
And, item number 9 is quite disturbing.

Thank you.

Mary Ditlove
8341 2000 Road
Austin, CO

APPLICANT RESPONSE TO COMMENTS (DATED 8/17/2022)

Lewicki & Associates
ENGINEERING | GEOLOGY | ENVIRONMENTAL

August 17, 2022

Kate Kelly
Delta County Planning and Community Development
295 W 6th Street
Delta, CO 81416
(970) 874-2110

Delivered Via Email
RE: PLN21-080/Delta Paving Gravel Pit – Fact Sheet

Ms. Kelly:

The following information is provided on behalf of Elam Construction Inc. regarding the topics discussed in public comment at the Public Commission Hearing on August 10, 2022 for the Delta Paving Gravel Pit Conditional Use Permit (CUP) application.

The inclusion of the use of an asphalt plant to be used on the Delta Paving Gravel Pit makes an existing industrial operation more efficient and able to support the Delta County community in a more diverse way. Neither the addition of an asphalt plant nor the gravel pit expansion are going to increase the size and intensity of the existing gravel mining operation that has been taking place for more than twenty years. The operation is purposely permitted to be more intense than the market requires to ensure adequate infrastructure, but in reality, is a mostly low activity pit that sees occasional years of more intense activity before returning to a low ebb. Nothing in the CUP changes this.

The purpose of this application is to trade off mining within a riparian corridor for another area, and to add the ability to place an asphalt plant on the site. The asphalt plant is only intended to be used for large paving jobs from CDOT or the county in the Orchard City area. While unlikely, it's entirely possible that CDOT or the county never decides to pave in the area, meaning an asphalt plant would never be located on the Delta Paving site.

Brief responses to the topics discussed in public comment at the PC Hearing are provided below.

What is the economic tradeoff?

There is no direct economic tradeoff or loss in allowing the use of an asphalt plant at the Delta Paving Gravel Pit. Rather, it makes an existing industrial site in Delta County more valuable as it will be allowed to support the community in more diverse ways. The site has been an openly disturbed gravel pit for the past 20 years; adding an asphalt plant to this existing site does not constitute as a fundamental land use change since it was already an industrial use.

The Delta Paving Gravel Pit has been in place and operating for more than 20 years; it is an established land use and obvious industrial site. The proposed changes in the CUP do not change this fact. Because of the site's presence for the past 20 years, any impacts to neighboring property

values have already occurred. There will be no negation of tourism or recreation since the site is clearly marked as an active gravel pit making its presence known; a substantial sign announcing the operations presence is clearly visible to traffic on SH-65.



Figure 1 – Delta Paving Mine Sign along Highway 65 at Entrance

Right to Quiet Enjoyment

It should be noted that the Right to Quiet Enjoyment is a Landlord Tenant Right in Colorado Law. This law guarantees a tenant's right to peace and quiet within their home by disallowing landlords from entering a premise without sufficient warning. It does not specifically apply in this application to grant neighbors decisional power over land uses of their surrounding properties. Nonetheless, Elam Construction seeks to be a good neighbor and will diligently minimize impacts.

Elam Construction would like to re-emphasize that this is an existing gravel pit which will not be undergoing a fundamental land use change or increase in size and intensity. This means that any potential impacts, such as noise, that have been occurring for the past twenty years should be roughly the same. The gravel pit is a modest operation; the pit can go dormant for large periods of time, sometimes even years, until an occasional period with moderate activity. These periods of

inactivity helps to reduce the cumulative impacts of the mine. While the pit is dormant, there are almost no impacts to neighbors such as noise, dust, odor, etc. The pit's modest amount of activity is shown in the production data provided later in this letter.

The site has already implemented a few permanent impact reduction features such as retaining the natural vegetation of the site for screening and a paving the access road. The natural vegetation of the site helps with screening while a paved access road permanently reduces the dust produced from haulage. A paved access is a feature that is rare for a gravel mine of this size. Other non-permanent impact reduction strategies the mine implements include spraying water to reduce dust, constructing berms to reduce visibility and noise, and housing pumps and generators to muffle noises. Potential impacts and mitigation have been addressed extensively in the documents provided for the Conditional Use Permit.

Most nearby neighbors are approximately 1,500 ft. away on top of the mesa. The nearest neighbor, less than 100 ft. directly to the south, supports the CUP application. This distance in and of itself reduces the impacts carried to neighbors.

Traffic Concerns

- The construction traffic from a paving job along Highway 65 or 92 will be present regardless of whether the asphalt trucks are leaving from the Delta Paving site or not.
- Traffic is not anticipated to increase with the gravel pit expansion and addition of an asphalt plant. Truck traffic is driven by demand of aggregate materials, which has been low.
- A traffic study was performed in 2021 which addresses the requirements in the Delta County Land Use Code. Assuming a very high production maximum, this study estimates a peak of 164 trips per day. The study concludes that no improvements to the access are needed, according to CDOT code, even at this high production maximum.
- Elam Construction has an existing access permit which has been supplied to the county. This access permit sets a limit for the hourly trips in and out of the pit by construction vehicles. Elam will continue to operate under this permit, which is more restrictive than the project maximum traffic numbers analyzed in the traffic study.
- Asphalt should ideally be produced where the raw materials are mined. If gravel must be transported to a separate site for asphalt production, the amount of construction traffic on the roads is doubled for a paving job. There would be trucks travelling from the gravel pit to the HMA plant and then trucks travelling from the HMA plant to the paving job. This would effectively double truck traffic versus the asphalt being made at the gravel pit.

- The truck traffic data from 2016-2021 is provided in the table below. Traffic levels are not anticipated to increase significantly from these numbers. Also included are the total operating days out of the year to show how low activity the pit is.

Table 1 – 2018-2021 Pit Traffic Data

Year	No. of Operating Days	Max. Trips Per Day	Avg. Trips Per Day*	% of Daily Highway 65 Traffic (from max.)
2018	34	66	17	0.94%
2019	33	126	22	1.8%
2020	2	10	9	0.14%
2021	15	24	8	0.34%

*Averaged values are an average of operating days with greater than 0 trips.

- The total traffic on SH-65 measured at Orchard Grove by CDOT is estimated to be 7,000 average daily trips. The mine's projected maximum possible number of trips per day is 164 as estimated in the traffic study. This would only cause a 2.3% increase in total traffic at most. However, traffic is anticipated to be much less than this as depicted in the table above. The average daily trips would need to increase 5-10x from current levels to meet 164 trips per day.

Health Concerns

- Asphalt plant and gravel mining activities are thoroughly regulated by the Environmental Protection Agency (EPA) through the Colorado Department of Public Health & Environment (CDPHE) and their production permits. These permits require tracking and reporting of production from the pit to limit the potential pollutants leaving the site. More information on pollutant tracking is provided under the air monitoring devices section.
- The Mine Safety and Health Administration (MSHA) and the Occupational Safety and Health Administration (OSHA) regulations apply to the asphalt plant and gravel pit to ensure proper health and safety practices are maintained on site.
- There is no change to the scale or intensity of the gravel mining activities from the mine expansion or asphalt plant. Therefore, any potential health impacts will remain the same as they have been over the past 20 years.

Volk Easement (20-years of use); do you plan to use this easement at all?

- To clarify, this easement is along the small gravel road directly to the east of the agricultural fields, or Phase 4 mining area. This is only being used as site access for activities such as maintenance and reclamation. It is not being used as a haulage road by heavy trucks.
- The existing easement agreement is anticipated to be renewed in 2023 and used for the same activities as described above.

Reclamation amounts

- The current mining permit has a reclamation bond with the Colorado Division of Reclamation, Mining, & Safety (CDRMS) for $69,581. The bond is calculated to cover the cost of all aspects of reclamation such as seeding, grading, weed management, etc. This bond is periodically reviewed by CDRMS and updated whenever changes to the mining plan are made.
- Elam Construction has voluntarily proposed a reclamation bond increase to approximately $160,000 within their updated CDRMS permit. This increase is due to the changes in the mining areas and an increase in updated cost estimates of reclamation activities (seeding, grading, etc).
- Elam has successfully reclaimed pits throughout western Colorado. Two examples are shown below

Jaffee Pit (near Aspen)



Mining (2003 photo)



Reclaimed (2011 photo)

Snooks Bottom Gravel (Grand Junction)



Mining (2005 photo)



Reclaimed (2011 photo)

Utilizing other plants

- Ideally, asphalt plants should be located close to where the paving job is occurring. When longer distances are required to get from the plant to the paving jobs, more trucks are needed. This creates a larger impact on traffic than there already is with a paving job in general.
- As discussed in the traffic concerns, hauling material from a pit to a separate site with an asphalt plant effectively doubles the amount of construction traffic on the road. Refer to the following table showing the impacts on the surrounding roads from using an off-site plant.

Table 2 – Trip Estimate for Paving Job

Assumptions		
Asphalt Tons per Pave Job (large job)		20,000
Max trips from Delta Paving		154
Ton Capacity Asphalt Trucks		16
Paving Days @ Delta Paving Haulage Rate		17
	On-Site Asphalt Plant	**Off-Site Asphalt Plant**
Trips Per Day (Rock to HMA Plant)	0	154
Trips Per Day (HMA Plant to Pave Job)	154	154
Total Trips Per Day	154	308
% of Total Highway Traffic[1]	2.2%	4.4%
Total Trips Per Job	2500	5000

- The alternatives identified at the PC Hearing demonstrate why the Delta Paving site is the better location for an asphalt plant. The alternatives are:
    - West side of Delta at the closest Elam Pit - this would make all the construction traffic go through Delta to get any paving jobs in Orchard City.
    - Partner with another mine on top of the mesa - this would be highly visible and carry all potential impacts to the entire city of Orchard City.
    - Other alternatives along the river or on the mesa - these locations are not permitted and are not existing industrial areas.
- Any alternatives will require more trucks to do a job on Highway 65 or 92 than Delta Paving because they will not have the direct access and close proximity that this site has.

[1] Based on CDOT measurement of 7000 trips a day on SH-65

- Placing the plant at a different location will bring the exact same potential impacts to a different group of neighbors. The Delta Paving site is an existing disturbed industrial site which already has experience in mitigating these potential impacts as they have been for the past 20 years.

Silo height; concern it will be higher than the mesa

- The asphalt plant silo, which is the tallest part of the plant, will be 60 ft. maximum.
- The mesa is approximately 120 ft. which is 2x taller than the maximum silo.

Air monitoring devices on bluff?

- Air monitoring systems are inappropriate at a site with occasional activity and intermittent production and cannot differentiate sources (i.e. what is coming from the pit versus a nearby farm). Monitoring devices on the bluff would measure what the bluff receives, not what the pit or plants generate. They would not provide an accurate measurement of air impacts of the Delta Paving Gravel Pit.
- Air quality impacts are monitored through the CDPHE air permits via production. Limits are placed on production from the pit, asphalt plant, and processing equipment. Within the CDPHE air permit are emission factors that can be used to calculate how much fugitive dust or other pollutants are emitted based on production. The permit also puts a cap on the production which limits the total pollutants that can be produced from mining.
- The emission factors within the CDPHE air permit are based on the EPA's pollutant standards. These standards are determined through the extensive review of health studies on inhalable particles; particulate matter (PM) and PM-10[2]. These standards set limits on pollutant producing activities to protect public health. This includes the health of sensitive populations such as children, elderly, and asthmatics. Under the Clean Air Act, the EPA is required to re-evaluate their air quality standards, including PM's, every five years. This re-evaluation typically makes the standards more and more stringent over time. Similar standards and approaches are used for VOCs, NOx, and other gases.
- Elam Construction tracks their production out of the pit and through the processing equipment. This allows them to calculate and report the total pollutant production with the

[2] "What are the Air Quality Standards for PM?". United States Environmental Protection Agency. March 28, 2022. https://www3.epa.gov/region1/airquality/pm-aq-standards.html.

emission factors from the CDPHE permit. All pollutants associated with a plant and/or pit are calculated based on production and the emission factors. The ability to calculate the pollution based on the emission factors from actual production is more accurate than monitoring devices on the bluff would be.

No improvements have been made to current pit

- 15 acres of the site have been mined and reclaimed to be a groundwater pond. Reclamation of this pond includes regrading of slopes, replacement of topsoil, and replanting of native vegetation.
- The reclaimed pond in the center of the site shows revegetation and the frequent presence of waterfowl. Please refer to the following figure for evidence of this reclaimed pond.



Figure 2 – Reclaimed Lake with Revegetation

- Another improvement to the site is the paving of the access road to permanently get rid of dust production from entering and leaving the site. This is a very rare practice for small gravel pits such as this.

Riparian Rights (Islands); is this Government property? Property line is in the middle of the Gunnison River.

- According to the known property limits, the property boundary extends to the center of the Gunnison River. No record of government ownership of this river has been found. However, the Gunnison River is identified as waters of the United States. It is partly because of this designation that a wetlands delineation is occurring within the riparian corridor. This delineation will help to identify areas within the riparian corridor as wetlands which are connected waters of the United States. Elam Construction will stay out of any such areas with this designation.
- No activity has occurred near the river or island in question as part of the mining operations.
- The apparent disturbance of the island is likely due to fluctuating water levels with the seasons. Historic aerials from Google Earth are shown depicting the fluctuations in water over the seasons that impact the visibility of the island.



Figure 3 – Google Earth Aerial of Island in August 2019



Figure 4 – Google Earth Aerial of Island in June 2014

Water/Augmentation Plan – Stagnant Water

- Evaporative Loss
    - The Delta Paving Site already has water rights decreed for the gravel “wells”, or exposed groundwater. These rights account for both evaporation from groundwater exposure and for processing water. The water rights in place are very restrictive and can only be used for their intended purposes: evaporation and material processing.
    - The industrial water right permits require that the owner demonstrates there is an adequate supply of water for the industrial use. The most recent decree of adequacy was included with the application, proving that there is enough water supply for mining activities.
    - The industrial water rights serve as the augmentation water to make up for water lost to evaporation from the Gunnison River aquifer.
- Mosquitos
    - The ideal breeding grounds for mosquitos are in stagnant waters. The groundwater lakes are far from stagnant waters as they are just an exposure of the Gunnison River aquifer. Since the lakes are unlined, they allow the water to move freely through the aquifer. The groundwater in this aquifer moves at about 100,000+ gallons per day per foot. This movement roughly corresponds to the movement of the Gunnison River itself.

- Water movement (from moving aquifer) and wave action (from wind) will help to kill any mosquito larvae that may become present on the ponds. Additionally, reducing algae in the pond can help to decrease mosquito egg laying.

Ambient Levels (Air Pollution)

- The existing air pollution levels were calculated based on production and the current CDPHE air permit in place for the site. These values are shown in the following table. As shown in the table, actual pollutant levels from mining activities are a small fraction of the permitted levels. It is expected that pollutant levels will be similar to this in the future from the expansion and asphalt plant activities.

Table 3 – 2018-2021 Air Pollution Data

Year	Production (tons)	Particulate Matter	PM-10
2018	5,815.51	1.54	0.5
2019	6,274.52	1.67	0.5
2020	138.51	0.04	0.0
2021	986.69	0.26	0.1
Permitted		18.0	5.6

Traffic Study (CDOT)

- Refer to the information provided under the traffic concerns topic.

Regards,



Sydney Connor
Lewicki & Associates, PLLC
(719) 323-9867
sydney@lewicki.biz

CDOT COMMENTS (DATED 8/11/22) INCLUDING COUNTY FOLLOW UP EMAIL (8/17/22)

Delta County COLORADO
Canyons • Rivers • Mountains

Kate Kelly <kkelly@deltacounty.com>

Re: Gravel Pit on Hwy 65

6 messages

Kim Henderson <khenderson@deltacounty.com> Thu, Aug 11, 2022 at 10:23 AM
To: "Killian - CDOT, Brian" <brian.killian@state.co.us>
Cc: Kandis Aggen - CDOT <kandis.aggen@state.co.us>, Kate Kelly <kkelly@deltacounty.com>

Hi Brian,

The Planning Commission continued the item to August 24th.

Kindest Regards,

Kim Henderson
Administrative Assistant
295 W. 6th St.
Delta, Co 81416
970-874-2110

On Thu, Aug 11, 2022 at 10:05 AM Killian - CDOT, Brian <brian.killian@state.co.us> wrote:

> Kim,
>
> Just to confirm, did the gravel pit expansion on Hwy 65 get approved last night?
>
> **08.10.22 PC Pckt.pdf**
>
> Thanks,
>
> Brian Killian
> Region 3 Access Program Manager
> Traffic & Safety
>
> COLORADO
> Department of Transportation
>
> P 970-683-6284 | C 970-210-1101 | F 970-683-6290
> 222 S. 6th St, Room 100 Grand Junction, CO 81501
> brian.killian@state.co.us | www.codot.gov | www.cotrip.org

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Kate Kelly <kkelly@deltacounty.com> Thu, Aug 11, 2022 at 10:26 AM
To: "Killian - CDOT, Brian" <brian.killian@state.co.us>
Cc: Kim Henderson <khenderson@deltacounty.com>, Kandis Aggen - CDOT <kandis.aggen@state.co.us>

Brian,

There are a number of items the Planning Commission wanted clarification on. Also, there were numerous questions regarding traffic onto the Highway. Some did not think the Traffic Study that was done by the firm that completed the study was accurate, so they want more clarification on it. I have talked with the applicant and they stated they are working with you? Can you maybe fill me in on what exactly you are requiring them to do? What are any issues? Etc.

Much appreciated.

Kate
[Quoted text hidden]
--
Kate Kelly
Planner I
295 W 6th Street
Delta, CO 81416
970-874-2110

Killian - CDOT, Brian <brian.killian@state.co.us> Thu, Aug 11, 2022 at 10:27 AM
To: Kim Henderson <khenderson@deltacounty.com>
Cc: Kandis Aggen - CDOT <kandis.aggen@state.co.us>, Kate Kelly <kkelly@deltacounty.com>

Thanks! The pit owner contacted me and told me they don't plan on expanding anymore, however, they are still going through the planning process, so I assume this isn't completely over. I've received numerous calls about this from local citizens, FYI.

Brian Killian
Region 3 Access Program Manager
Traffic & Safety

COLORADO
Department of Transportation

P 970-683-6284 | C 970-210-1101 | F 970-683-6290
222 S. 6th St, Room 100 Grand Junction, CO 81501
brian.killian@state.co.us | www.codot.gov | www.cotrip.org

On Thu, Aug 11, 2022 at 10:23 AM Kim Henderson <khenderson@deltacounty.com> wrote:
[Quoted text hidden]

Killian - CDOT, Brian <brian.killian@state.co.us> Thu, Aug 11, 2022 at 1:19 PM
To: Kate Kelly <kkelly@deltacounty.com>
Cc: Kim Henderson <khenderson@deltacounty.com>, Kandis Aggen - CDOT <kandis.aggen@state.co.us>

Kate,

CDOT has been coordinating with the gravel pit traffic engineer and owners on what the CDOT requirements are for the potential gravel pit expansion. As of now, the gravel pit owners have told CDOT they do not plan on expanding. However, since they are continuing the Delta County approval process, CDOT assumes that they may still consider expansion.

If the gravel pit expansion were to move forward, CDOT would require the following:

- A detailed traffic study that analyses heavy truck traffic, peak hour traffic volumes, auxiliary lane warrants and meets the requirements of the State Highway Access Code (2-CCR-601-1).

- If traffic were to increase by more than 20% or if safety and operational issues are identified, CDOT will require the gravel pit owners to submit an access permit application.

Please let me know if you have any questions.

Thanks,

Brian Killian
Region 3 Access Program Manager
Traffic & Safety

COLORADO
Department of Transportation

P 970-683-6284 | C 970-210-1101 | F 970-683-6290
222 S. 6th St, Room 100 Grand Junction, CO 81501
brian.killian@state.co.us | www.codot.gov | www.cotrip.org

[Quoted text hidden]

Killian - CDOT, Brian <brian.killian@state.co.us> Thu, Aug 11, 2022 at 1:40 PM
To: Kate Kelly <kkelly@deltacounty.com>
Cc: Kim Henderson <khenderson@deltacounty.com>, Kandis Aggen - CDOT <kandis.aggen@state.co.us>

Kate,

Please see attached existing access permit for the gravel pit.

Thanks,

Brian Killian
Region 3 Access Program Manager
Traffic & Safety

COLORADO
Department of Transportation

P 970-683-6284 | C 970-210-1101 | F 970-683-6290
222 S. 6th St, Room 100 Grand Junction, CO 81501
brian.killian@state.co.us | www.codot.gov | www.cotrip.org

[Quoted text hidden]

ACC3_304177_065A_000.590RT.pdf
13758K

Kim Henderson <khenderson@deltacounty.com> Thu, Aug 11, 2022 at 1:57 PM
To: "Killian - CDOT, Brian" <brian.killian@state.co.us>
Cc: Kate Kelly <kkelly@deltacounty.com>, Kandis Aggen - CDOT <kandis.aggen@state.co.us>

Received, thank you.

Kindest Regards,

Kim Henderson
Administrative Assistant
295 W. 6th St.
Delta, Co 81416
970-874-2110

[Quoted text hidden]

Delta County COLORADO
Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

Fwd: Referral Notice PLN21-080/Delta Paving Gravel Pit Response

1 message

Carl Holm <cholm@deltacounty.com> Thu, Aug 18, 2022 at 2:48 PM
To: Kim Henderson <khenderson@deltacounty.com>

Carl P. Holm, AICP
Director of Community Development and Natural Resources
Phone (o): 970-874-2105
Email: cholm@deltacounty.com

---------- Forwarded message ---------
From: **Killian - CDOT, Brian** <brian.killian@state.co.us>
Date: Thu, Aug 18, 2022 at 1:26 PM
Subject: Re: Referral Notice PLN21-080/Delta Paving Gravel Pit Response
To: Carl Holm <cholm@deltacounty.com>
Cc: <Sydney@lewicki.biz>, <benl@lewicki.biz>, Kate Kelly <kkelly@deltacounty.com>, <Jim.Doody@peakreadymix.com>, <Curtis.Rowe@kimley-horn.com>, <karthik.vishwamitra@state.co.us>, Kandis Aggen - CDOT <kandis.aggen@state.co.us>, <mark.bunnell@state.co.us>

Carl,

Please see CDOT's responses in red below.

I also attached the traffic study that CDOT was sent via the County referral process.

Please let me know if you have any questions.

Thanks,

Brian Killian
Region 3 Access Program Manager
Traffic & Safety

COLORADO
Department of Transportation

P 970-683-6284 | C 970-210-1101 | F 970-683-6290
222 S. 6th St, Room 100 Grand Junction, CO 81501
brian.killian@state.co.us | www.codot.gov | www.cotrip.org

On Wed, Aug 17, 2022 at 3:44 PM Carl Holm <cholm@deltacounty.com> wrote:

> Hi All
>
> I'd like to try to clarify what the County is seeking.
>
> There is an existing gravel pit that includes crushing and concrete mixing.
> Pits 1 & 2 are permitted to operate on Parcel 345503400053 (39.13 Ac) and the northern approx 75 acres on Parcel 345510100028 (92.021 Ac).

There is an existing CDOT permit for access onto Highway 65 for this facility

County has an application to:
1. Add an asphalt mixing plant
2. Include Pits 3 &4 on Parcel 345510202002 (41.62 Ac)

Options includes:
- Approve both
- Deny both
- Approve Asphalt but not Pits 3&4
Approve Pits 3&4 but not asphalt

There were assertions that the traffic report is not complete/adequate based on communications to date deferring decisions to after the permit is considered (e.g. heavy truck traffic). I'd like to have responses to the following before the PC meeting (Wed 8/24) to try to avoid another continuance.

The question(s) that County requests are answered by CDOT in order to consider the permit (not after/if approved):
1. Does the traffic report adequately assess this project (as described above)? The traffic study attached meets CDOT's requirements for a level I traffic study, however, since the gravel pit DHV is over 10, CDOT will require a level II traffic study. The attached report also states that the gravel pit owners are required to obtain a CDOT access permit. From the current study attached, CDOT is going to require that a right turn decleration lane and a left turn deceleration lane be constructed at the access.

2. If Elam operates within the threshold set in the existing CDOT permit, does the use of the site matter for CDOT (asphalt, gravel pit, concrete)? If they are within the threasholds of the current permit, 11 DHV (design hourly volume), they can contiue to operate. Since the current permit is 11 DHV (which is lower than most gravel pits) CDOT would like assurance that they will still be at or under that number.

3 Is there some trigger where CDOT would restrict the use (e.g. no asphalt plant)...different from what is in place today? CDOT has no control over land use, so CDOT would not restrict any land use. If they increse traffic volumes by more than 20% or if safety and operational issues arise, CDOT will require an access permit and traffic study.

If CDOT finds that the traffic report suffices that the use can be permitted, is there recommended condition language from CDOT should the County desire to approve the permit (in whole or part)? Something like:
Within ## months of permit approval, Operator shall submit a Level III Traffic Impact Study, to the satisfaction of CDOT, that includes cost and mitigation analysis for use of heavy trucks entering/exiting Highway 65. Actual truck trips shall be monitored and reported in the Annual Report submitted to the County. If the operation exceeds ## truck trips within ## [timeframe], the owner/applicant shall ___ [e.g., threshold that will trigger needing improvements (accel/decel, turn pocket), threshold when permit needs to be amended, etc]
CDOT would prefer that they permit all uses up front and analyze the heavy truck traffic now to prevent any accidents or safety and operational issues on the highway when they start operating. CDOT appreciates the offer, but CDOT doesn't want to wait for something to happen, CDOT would rather mitigate any safety and operational issues now.

Thank you

Respectfully
Carl

Carl P. Holm, AICP
Director of Community Development and Natural Resources
Phone (o): 970-874-2105
Email: cholm@deltacounty.com

On Wed, Aug 17, 2022 at 2:52 PM Kate Kelly <kkelly@deltacounty.com> wrote:

---------- Forwarded message ---------
From: **Ben Langenfeld** <benl@lewicki.biz>
Date: Wed, Aug 17, 2022 at 2:37 PM
Subject: RE: Referral Notice PLN21-080/Delta Paving Gravel Pit Response
To: Killian - CDOT, Brian <brian.killian@state.co.us>
Cc: Sydney Connor <Sydney@lewicki.biz>, Jim Doody <Jim.Doody@peakreadymix.com>, Kim Henderson <khenderson@deltacounty.com>, Kate Kelly <kkelly@deltacounty.com>, Rowe, Curtis <Curtis.Rowe@kimley-

horn.com>, Karthik Vishwamitra - CDOT <karthik.vishwamitra@state.co.us>, Kandis Aggen - CDOT <kandis.aggen@state.co.us>

Brian

Thanks for the information.

We are trying to add the hot plant as part of the CUP application we have with Delta County. If the hot plant is approved, we will reach back out to CDOT about the access permit at that time.

Ben Langenfeld, P.E.

Lewicki & Associates

benl@lewicki.biz

Office: (720) 842-5321

Cell: (303) 960-5613

From: Killian - CDOT, Brian <brian.killian@state.co.us>
Sent: Wednesday, August 17, 2022 1:34 PM
To: Ben Langenfeld <benl@lewicki.biz>
Cc: Sydney Connor <Sydney@lewicki.biz>; Jim Doody <Jim.Doody@peakreadymix.com>; Kim Henderson <khenderson@deltacounty.com>; Kate Kelly <kkelly@deltacounty.com>; Rowe, Curtis <Curtis.Rowe@kimley-horn.com>; Karthik Vishwamitra - CDOT <karthik.vishwamitra@state.co.us>; Kandis Aggen - CDOT <kandis.aggen@state.co.us>
Subject: Re: Referral Notice PLN21-080/Delta Paving Gravel Pit Response

Thanks for the clarification. If the gravel pit stays at the volumes per the current permit, 11 DHV, then CDOT has no issues with the pit continuing current operations. However, I don't believe a hot plant was included in that permit and due to that, if a hot plant is planned for this location CDOT will need to see if the hot plant will trigger a new CDOT access permit and traffic study.

Thanks,

Brian Killian
Region 3 Access Program Manager
Traffic & Safety

COLORADO
Department of Transportation

P 970-683-6284 | C 970-210-1101 | F 970-683-6290

222 S. 6th St, Room 100 Grand Junction, CO 81501

brian.killian@state.co.us | www.codot.gov | www.cotrip.org

On Tue, Aug 16, 2022 at 2:54 PM Ben Langenfeld <benl@lewicki.biz> wrote:

> Brian
>
> I think there might be some confusion as to what is going on. Delta Paving Gravel Pit is an existing pit with an existing approved CDOT access permit to SH-65. We are applying to expand the area of the operation to include additional future gravel reserves. We are also applying to Delta County to allow an asphalt plant to be onsite when needed for area paving jobs.
>
> The intensity of operations, i.e. mining production and thus traffic generated, is not being increased for this application. We just do not see the production from this site increasing enough to come close to current permit limits.
>
> Are we correct to believe that as long as we are operating according to the use and limits of our current access permit, there is nothing else we need to get from CDOT?
>
> Ben Langenfeld, P.E.
>
> Lewicki & Associates
>
> benl@lewicki.biz
>
> Office: (720) 842-5321
>
> Cell: (303) 960-5613
>
> ---
>
> **From:** Killian - CDOT, Brian <brian.killian@state.co.us>
> **Sent:** Tuesday, August 16, 2022 12:58 PM
> **To:** Ben Langenfeld <benl@lewicki.biz>
> **Cc:** Sydney Connor <Sydney@lewicki.biz>; Jim Doody <Jim.Doody@peakreadymix.com>; Kim Henderson <khenderson@deltacounty.com>; Kate Kelly <kkelly@deltacounty.com>; Rowe, Curtis <Curtis.Rowe@kimley-horn.com>; Karthik Vishwamitra - CDOT <karthik.vishwamitra@state.co.us>; Kandis Aggen - CDOT <kandis.aggen@state.co.us>
> **Subject:** Re: Referral Notice PLN21-080/Delta Paving Gravel Pit Response
>
> Thanks Ben. I was told by Delta County that the Elam is continuing the expansion/hot plant approval process, so CDOT will wait to see if the pit expansion/hot plant is approved. If the County approves the pit expansion/hot plant, what is Elams plan? If they are no longer going to expand the pit or add a hot plant, why would they continue with the approval process?
>
> Thanks,
>
> Brian Killian
> Region 3 Access Program Manager
> Traffic & Safety

COLORADO
Department of Transportation

P 970-683-6284 | C 970-210-1101 | F 970-683-6290

222 S. 6th St, Room 100 Grand Junction, CO 81501

brian.killian@state.co.us | www.codot.gov | www.cotrip.org

On Tue, Aug 9, 2022 at 11:08 AM Ben Langenfeld <benl@lewicki.biz> wrote:

> Brian
>
> See the attached Delta Paving traffic information from Elam Construction
>
> Ben Langenfeld, P.E.
>
> Lewicki & Associates
>
> benl@lewicki.biz
>
> Office: (720) 842-5321
>
> Cell: (303) 960-5613
>
> ---
>
> **From:** Killian - CDOT, Brian <brian.killian@state.co.us>
> **Sent:** Wednesday, August 3, 2022 6:28 AM
> **To:** Sydney Connor <Sydney@lewicki.biz>
> **Cc:** Jim Doody <Jim.Doody@peakreadymix.com>; Ben Langenfeld <benl@lewicki.biz>; Kim Henderson <khenderson@deltacounty.com>; Kate Kelly <kkelly@deltacounty.com>; Rowe, Curtis <Curtis.Rowe@kimley-horn.com>; Karthik Vishwamitra - CDOT <karthik.vishwamitra@state.co.us>; Kandis Aggen - CDOT <kandis.aggen@state.co.us>; Mark Bunnell - CDOT <mark.bunnell@state.co.us>
> **Subject:** Re: Referral Notice PLN21-080/Delta Paving Gravel Pit Response
>
> Sydney,
>
> CDOT is going to need more information than that. We have received a lot of calls regarding this from local citizens and need to ensure the safety of the highway system. Please provide a detailed analysis regarding what is the existing traffic volumes and how they plan on staying at existing traffic volumes or within the permitted volumes. When CDOT sees that information, CDOT may request additional information to ensure that the access to the gravel pit meets current CDOT standards.
>
> Please let me know if you have any questions.

Thanks,

Brian Killian
Region 3 Access Program Manager
Traffic & Safety

COLORADO
Department of Transportation

P 970-683-6284 | C 970-210-1101 | F 970-683-6290

222 S. 6th St, Room 100 Grand Junction, CO 81501

brian.killian@state.co.us | www.codot.gov | www.cotrip.org

On Tue, Aug 2, 2022 at 8:43 PM Sydney Connor <Sydney@lewicki.biz> wrote:

> Brian,
>
> Please see the attached letter containing the response to your comments on the Delta Paving Gravel Pit permit application. The application was sent to CDOT for review from Delta County on 7/5/2022.
>
> We request that you provide written response no later than August 9 for the benefit of Delta County.
>
> Thank you,
>
> Sydney Connor
>
> Lewicki & Associates
>
> sydney@lewicki.biz
>
> (719) 323-9867

--
Kate Kelly
Planner I
295 W 6th Street
Delta, CO 81416

> *970-874-2110*
>
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2022.07.05_Referral Agency Notice (1).pdf
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COUNTY ENGINEERING MEMO – ELLISON PIT (DATED AUGUST 12, 2022)

DELTA COUNTY
ENGINEERING

Timothy McCracken
County Engineer

Memo

From: Tim McCracken

CC: File / Planning / Planning Commission

Date: August 12, 2022

Re: Gravel Pit complaints

Delta County operates an asphalt plant at the Ellison Gravel Pit located at 18830 G Road, approximately 1 mile east of the City of Delta. The asphalt plant stays at Ellison Gravel pit. The asphalt plant has an APEN (Air Pollutant Emission Notice), as do all Delta County Gravel pits (Nine total gravel pits, one is inactive) and the crusher equipment.

I have received two complaints regarding gravel pits. The first complaint was from Chuck Cherek on June 28, 2022. Chuck's complaint was about dust from the Whiting Pit located at 19665 G Road. Chuck asked if we could water the stockpiles at Whiting Pit. The second complaint was from Rebecca Lightfoot during her pre-application meeting (PLN22-120) on July 29, 2022. Rebecca's complaint was about a "Foul Smell" coming from the direction of Ellison Gravel Pit. (from west to east). Rebecca didn't specifically call out the Asphalt Plant as the cause of the smell.

Timothy McCracken
Delta County Engineer
Timothy C McCracken

Engineering Department
295 W. 6th Street
Delta, Colorado 81416
tmccracken@deltacounty.com
970.874.2035

MOSQUITO DISTRICT COMMENTS

(RECEIVED 8/17/22)

Delta County Mosquito Control District No. 1

970-874-4384 deltacountymcdno.1@gmail.com

Ship: 1558 H50 Road, Delta, CO 81416 Mail: P.O. Box 225, Delta, CO 81416

Reclaimed gravel pit ponds

Ponds should be fairly deep with steep edges to keep cattails and swamp grass from growing in shallow water. A large pond is better than a small one for a couple of reasons:

The wave action generated in a larger pond will kill mosquito larvae and hinder egg laying

The water will be colder slowing down mosquito growth and hindering egg laying

A large deep pond can support a larger variety of fish and aquatic creatures year round.

I have enclosed pictures of current ponds showing what to do and what not to do.

Elam (proposed site)

Pond #1 MAJOR PROBLEM - Small, shallow, vegetation in water along shoreline and minimal fish. We treat this pond weekly.

Pond #2 ZERO PROBLEM – Large, deep, clean shoreline and lots of fish. This pond never needs treatment.

Delta Sand & Gravel

Pond #1 MINOR PROBLEM – Small, shallow with vegetation in shallow end and no fish. Treatment occurs weekly on shallow end.

Pond #2 MAJOR PROBLEM – Small, shallow, loaded with vegetation and water level fluctuates. We treat this pond weekly.

Pond #3 ZERO PROBLEM – Large, deep, clean shoreline and lots of fish. This pond never needs treatment.

Terry Stalcup, District Manager

Delta County COLORADO PROPERTY INFORMATION MAP

Elam



Flow #1

Flow #2

Delta County COLORADO PROPERTY INFORMATION MAP

Delta Sand & Gravel



Item #1
Open Space

Photo #2
Looking East

Delta Sand Gravel
#3

PUBLIC COMMENTS (RECEIVED AFTER 8/10/22)

Kim Henderson <khenderson@deltacounty.com>

New Colorado pollution regulations bill. HB 22-1244 Signed 6-2-2022

1 message

riley dunn <brianrileydunn@gmail.com> Thu, Aug 11, 2022 at 7:20 AM
To: planning@deltacounty.com

Regarding last nightsGravel pit / asphalt quarry meeting, You guys managed it very well. Thanks,
One of the naysayers that was unable to attend dropped this into my In box last night. I don't see it's impact on your decision however going forward it's information that will impact a lot of these types of conversations and is Going to be an added Regulation for industry deal with.

Riley Dunn 970 270 3556 brianrileydunn@gmail.com

2022a_1244_signed.pdf
915K



HOUSE BILL 22-1244

BY REPRESENTATIVE(S) Kennedy and Gonzales-Gutierrez, Amabile, Bacon, Benavidez, Bernett, Boesenecker, Caraveo, Cutter, Exum, Froelich, Hooton, Jodeh, Kipp, Lindsay, Lontine, McCormick, Michaelson Jenet, Ricks, Sirota, Tipper, Titone, Valdez A., Weissman, Woodrow, Bird, Herod, Garnett;
also SENATOR(S) Gonzales, Buckner, Danielson, Donovan, Ginal, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Story, Winter, Fenberg.

CONCERNING MEASURES TO INCREASE PUBLIC PROTECTION FROM TOXIC AIR CONTAMINANTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Public health, safety, and welfare are endangered by the emission of toxic air contaminants into the ambient air;

(b) Coloradans are exposed to a multitude of toxic air contaminants

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Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

from numerous sources and background levels in the ambient air that may act cumulatively to produce adverse impacts to public health, and these impacts must be taken into account when regulating toxic air contaminants;

(c) The identification and regulation of toxic air contaminants should utilize the best-available scientific evidence gathered from the public, private industry, the scientific community, and global, federal, state, and local agencies;

(d) Emissions of toxic air contaminants should be monitored and controlled to levels that avoid, minimize, or mitigate harm to public health and the environment; and

(e) While there are federal and state programs in Colorado to control air pollutants subject to the national ambient air quality standards, there are no federal or state programs in Colorado to establish health-based ambient air quality standards for toxic air contaminants.

(2) The general assembly further finds and declares that it is the policy of the state to:

(a) Prioritize and protect the health and well-being of all Coloradans, with a particular focus on sensitive and vulnerable groups, such as children, infants, fetuses, the elderly, people with disabilities, and people in disproportionately impacted communities;

(b) Analyze public health risks from toxic air contaminant emissions from sources based on verified science and reporting of emissions data, including consideration of background levels in the ambient air;

(c) Consider regulations of toxic air contaminants in other states and jurisdictions in developing state regulations;

(d) Use a science-based, consistent, and transparent process for communicating and addressing risks from emissions of toxic air contaminants; and

(e) Meaningfully reduce exposure to toxic air contaminant emissions through state regulation.

(3) The general assembly therefore declares that the state should control and reduce the emissions of toxic air contaminants through the identification of toxic air contaminants, the reporting of emissions data, and the setting of protective health-based standards and effective emission control regulations.

SECTION 2. In Colorado Revised Statutes, 25-7-103, **amend** (11) introductory portion and (11)(a) as follows:

25-7-103. Definitions. As used in this article 7, unless the context otherwise requires:

(11) "Emission control regulation" means and includes any standard promulgated by regulation ~~which~~ THAT is applicable to all air pollution sources within a specified area and ~~which~~ THAT prohibits or establishes permissible limits for specific types of emissions in such area; ~~and also~~ any regulation ~~which~~ THAT by its terms is applicable to a specified type of facility, process, or activity for the purpose of controlling the extent, degree, or nature of pollution emitted from such type of facility, process, or activity; any regulation adopted for the purpose of preventing or minimizing emission of any air pollutant in potentially dangerous quantities; and ~~also~~ any regulation that adopts any design, equipment, work practice, or operational standard. Emission control regulations shall not include standards ~~which~~ THAT describe maximum ambient air concentrations of specifically identified pollutants or ~~which~~ THAT describe varying degrees of pollution of ambient air. Emission control regulations pertaining to hazardous air pollutants, as defined in subsection (13) of this section, AND TOXIC AIR CONTAMINANTS DESIGNATED PURSUANT TO SECTION 25-7-109.5, shall be consistent with the emission standards promulgated under section 112 of the federal act or ~~section~~ SECTIONS 25-7-109.3 OR 25-7-109.5 in reducing or preventing emissions ~~of hazardous air pollutants,~~ and may include application of measures, processes, methods, systems, or techniques, including, but not limited to, measures ~~which~~ THAT:

(a) Reduce the volume of, or eliminate emissions of, such pollutants through process changes, EMISSIONS LIMITATIONS, CONTROL TECHNOLOGIES, substitution of materials, or other modifications;

SECTION 3. In Colorado Revised Statutes, 25-7-109, **amend** (2)(c) and (2)(h) as follows:

25-7-109. Commission to promulgate emission control regulations. (2) Such emission control regulations may include, but shall not be limited to, regulations pertaining to:

(c) Sulfur oxides, sulfuric acids, ORGANIC SULFIDES, hydrogen sulfide, nitrogen oxides, carbon oxides, hydrocarbons, fluorides, and any other chemical substance;

(h) Hazardous air pollutants AND TOXIC AIR CONTAMINANTS, AS DEFINED IN SECTION 25-7-109.5 (1)(i).

SECTION 4. In Colorado Revised Statutes, **add** 25-7-109.5 as follows:

25-7-109.5. Toxic air contaminants - annual toxic emissions reporting program - monitoring program - health-based standards - emission control regulations - air toxics permitting program assessment - rules - definitions. (1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADVERSE HEALTH EFFECTS" MEANS THE DETRIMENTAL HEALTH EFFECTS FROM EXPOSURE TO EMISSIONS OF A TOXIC AIR CONTAMINANT, INCLUDING THE CUMULATIVE EFFECTS TO HEALTH FROM EXPOSURE TO THE COMBINED AIR EMISSIONS OF THE TOXIC AIR CONTAMINANT FROM MULTIPLE SOURCES, WHETHER THE EMISSIONS ARE EMITTED ROUTINELY, INTERMITTENTLY, OR ACCIDENTALLY.

(b) "COMMUNITY-LED MONITORING PROGRAMS" MEANS AIR MONITORING AND DATA COLLECTION, CONCERNING CONCENTRATIONS OF TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR, CONDUCTED BY LOCAL GOVERNMENTS, NONGOVERNMENTAL ORGANIZATIONS, OR COMMUNITY GROUPS THAT IS AT LEAST AS STRINGENT AS THE SECOND EDITION OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "COMPENDIUM OF METHODS FROM THE DETERMINATION OF TOXIC ORGANIC COMPOUNDS IN AMBIENT AIR".

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(d) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE

MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

(e) "HEALTH-BASED STANDARDS" MEANS THE CHRONIC EXPOSURE LIMITS FOR EACH PRIORITY TOXIC AIR CONTAMINANT REQUIRED TO PROTECT THE PUBLIC FROM ADVERSE HEALTH EFFECTS OF THAT PRIORITY TOXIC AIR CONTAMINANT, ALLOWING FOR AN AMPLE MARGIN OF SAFETY, REPRESENTED AS BENCHMARK NUMERICAL CONCENTRATIONS IN THE AMBIENT AIR.

(f) "PRIORITY TOXIC AIR CONTAMINANT" MEANS, AS DETERMINED BY THE COMMISSION BY RULE UNDER SUBSECTION (6)(a)(I) OF THIS SECTION, A TOXIC AIR CONTAMINANT THAT MAY POSE A RISK OF HARM TO PUBLIC HEALTH.

(g) (I) "SCIENTIFIC COMMUNITY" MEANS INDIVIDUALS WHO ARE PROFESSIONALLY OR ACADEMICALLY ENGAGED IN SCIENTIFIC RESEARCH ABOUT ADVERSE HEALTH EFFECTS FROM EXPOSURE TO TOXIC SUBSTANCES AND HAVE EXPERTISE IN FIELDS THAT INCLUDE PATHOLOGY, ONCOLOGY, EPIDEMIOLOGY, OR TOXICOLOGY.

(II) "SCIENTIFIC COMMUNITY" INCLUDES INDIVIDUALS WITH EXPERIENCE IN THE FIELDS OF ATMOSPHERIC PHYSICS, METEOROLOGY, OR AMBIENT MONITORING OR EXPERIENCE ASSESSING THE IMPACTS OF EMISSIONS OF TOXIC AIR CONTAMINANTS ON CONCENTRATIONS IN THE AMBIENT AIR.

(h) "SYNTHETIC MINOR SOURCE " HAS THE MEANING SET FORTH IN SECTION 25-7-114 (6).

(i) "TOXIC AIR CONTAMINANT" MEANS:

(I) A HAZARDOUS AIR POLLUTANT;

(II) A COVERED AIR TOXIC, AS DEFINED IN SECTION 25-7-141 (2)(b); OR

(III) ANY OTHER AIR POLLUTANT THAT THE COMMISSION DESIGNATES AS A TOXIC AIR CONTAMINANT PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(2) **Rules.** (a) THE COMMISSION SHALL PROMULGATE RULES THAT

ARE NECESSARY FOR THE PROPER IMPLEMENTATION AND ADMINISTRATION OF THIS SECTION.

(b) NOTWITHSTANDING ANY LIMITATION IN THIS ARTICLE 7 TO THE CONTRARY, THE COMMISSION MAY ADOPT RULES UNDER THIS SECTION THAT ARE MORE STRINGENT THAN THE CORRESPONDING REQUIREMENTS OF THE FEDERAL ACT AND THE REGULATIONS ADOPTED PURSUANT TO THE FEDERAL ACT.

(3) **Review of the list of toxic air contaminants - rules.** (a) THE DIVISION SHALL PUBLISH AN INITIAL LIST OF THE TOXIC AIR CONTAMINANTS DESIGNATED PURSUANT TO SUBSECTIONS (1)(i)(I) AND (1)(i)(II) OF THIS SECTION BY OCTOBER 1, 2022.

(b) BEGINNING NO LATER THAN SEPTEMBER 30, 2030, AND EVERY FIVE YEARS THEREAFTER, OR MORE FREQUENTLY IF THE COMMISSION DEEMS IT APPROPRIATE TO DO SO, THE COMMISSION SHALL, PURSUANT TO SUBSECTION (1)(i)(III) OF THIS SECTION, REVIEW THE LIST OF TOXIC AIR CONTAMINANTS AND DETERMINE WHETHER TO DESIGNATE ANY ADDITIONAL AIR POLLUTANTS AS TOXIC AIR CONTAMINANTS.

(c) THE COMMISSION MAY DETERMINE THAT AN EXPEDITED REVIEW IS APPROPRIATE BASED ON A REQUEST OF ANY PERSON IF, AS PART OF THE REQUEST, THE PERSON DEMONSTRATES TO THE COMMISSION'S SATISFACTION THAT NEW OR UPDATED SCIENTIFIC DATA RELATED TO THE ADVERSE EFFECTS OF AN AIR POLLUTANT WARRANTS EXPEDITED CONSIDERATION FOR DESIGNATION AS A TOXIC AIR CONTAMINANT. IF THE COMMISSION UNDERTAKES AN EXPEDITED CONSIDERATION OF AN AIR POLLUTANT FOR DESIGNATION AS A TOXIC AIR CONTAMINANT, THE COMMISSION'S NEXT REVIEW OF ADDITIONAL AIR POLLUTANTS MUST TAKE PLACE NO LATER THAN FIVE YEARS AFTER THE EXPEDITED CONSIDERATION.

(d) IN DETERMINING WHETHER ANY AIR POLLUTANT SHOULD BE DESIGNATED BY THE COMMISSION AS A TOXIC AIR CONTAMINANT, THE COMMISSION SHALL CONSIDER:

(I) INPUT FROM THE PUBLIC AND THE SCIENTIFIC COMMUNITY;

(II) EXISTING DATA CONCERNING EMISSIONS OF AIR POLLUTANTS, INCLUDING DATA REPORTED TO:

(A) THE DIVISION CONCERNING THE EMISSIONS OF TOXIC AIR POLLUTANTS; AND

(B) THE FEDERAL TOXIC RELEASE INVENTORY PURSUANT TO 42 U.S.C. SEC. 11023 OR PREPARED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S AIR TOXICS SCREENING ASSESSMENT (AIRTOXSCREEN) PROGRAM;

(III) INFORMATION SUBMITTED TO THE COMMISSION ABOUT THE TOXICITY OF AIR POLLUTANTS THAT IS PUBLICLY AVAILABLE AND PEER-REVIEWED RELATED TO:

(A) POTENCY;

(B) MODE OF ACTION;

(C) EXPOSURE PATTERNS;

(D) ADVERSE HEALTH EFFECTS; AND

(E) LEVELS OF EXPOSURE THAT MAY CAUSE OR CONTRIBUTE TO ADVERSE HEALTH EFFECTS, INCLUDING ADVERSE HEALTH EFFECTS ARISING FROM DISPROPORTIONATELY HIGH EXPOSURE OF PARTICULARLY VULNERABLE GROUPS, INCLUDING DISPROPORTIONATELY IMPACTED COMMUNITIES, INFANTS, CHILDREN, FETUSES, THE ELDERLY, AND PEOPLE WITH DISABILITIES; AND

(IV) IDENTIFICATIONS OF AIR POLLUTANTS AS TOXIC AIR CONTAMINANTS IN OTHER STATES.

(4) **Annual toxic emissions reporting program - study - rules.** (a) ON OR BEFORE JUNE 30 OF EACH YEAR, BEGINNING ON JUNE 30, 2024, ALL OWNERS AND OPERATORS OF SOURCES REQUIRED TO HAVE AN OPERATING PERMIT PURSUANT TO SECTION 25-7-114.3 AND SYNTHETIC MINOR SOURCES MUST SUBMIT AN ANNUAL TOXIC EMISSIONS REPORT TO THE DIVISION THAT REPORTS THE AMOUNT OF EACH TOXIC AIR CONTAMINANT EMITTED BY EACH SOURCE IN THE PRECEDING CALENDAR YEAR, BEGINNING WITH JANUARY 1, 2023, TO DECEMBER 31, 2023. THE DIVISION SHALL MAKE ANNUAL TOXIC EMISSIONS REPORTS SUBMITTED TO THE DIVISION PURSUANT TO THIS SUBSECTION (4)(a) AVAILABLE TO THE PUBLIC.

(b) IF THERE IS A CHANGE OF OWNERSHIP OR CONTROL OF THE STATIONARY SOURCE PRIOR TO JUNE 30 OF THE YEAR THAT AN ANNUAL TOXIC EMISSIONS REPORT MUST BE SUBMITTED, THE OWNER OR OPERATOR AS OF JUNE 30 OF THAT YEAR IS RESPONSIBLE FOR SUBMITTING THE ANNUAL TOXIC EMISSIONS REPORT REQUIRED UNDER SUBSECTION (4)(a) OF THIS SECTION.

(c) (I) THE DIVISION SHALL CONDUCT A STUDY AND PREPARE A REPORT THAT INCLUDES:

(A) AN ANALYSIS OF THE EXISTING REQUIREMENTS FOR REPORTING TOXIC AIR CONTAMINANTS TO THE DIVISION AND THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY;

(B) AN ASSESSMENT OF THE AVAILABILITY AND QUALITY OF TOXIC AIR CONTAMINANT DATA REPORTED TO THE DIVISION AND THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY, WITH THE REPORTING DATA BROKEN DOWN BY INDIVIDUAL TOXIC AIR CONTAMINANT, GEOGRAPHIC AREA, INDUSTRY SECTOR, AND WHETHER CATEGORIES OF STATIONARY SOURCES REPORTING THE DATA ARE SOURCES REQUIRED TO HAVE AN OPERATING PERMIT PURSUANT TO SECTION 25-7-114.3, SYNTHETIC MINOR SOURCES, OR MINOR SOURCES; AND

(C) AN IDENTIFICATION OF THE INFORMATIONAL GAPS IN THE REPORTING OF TOXIC AIR CONTAMINANTS TO THE DIVISION AND THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY.

(II) THE DIVISION SHALL PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO COMMENT ON THE REPORT. THE DIVISION SHALL ALSO CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM DISPROPORTIONATELY IMPACTED COMMUNITIES AND WORKERS AT STATIONARY SOURCES. IN FINALIZING THE REPORT, THE DIVISION SHALL INCLUDE IN THE REPORT A SUMMARY OF ANY COMMENTS RECEIVED FROM THE PUBLIC, DISPROPORTIONATELY IMPACTED COMMUNITIES, WORKERS AT STATIONARY SOURCES, AND THE SCIENTIFIC COMMUNITY AND IDENTIFY ANY SIGNIFICANT CHANGES MADE TO THE REPORT BASED ON THOSE COMMENTS. NO LATER THAN OCTOBER 1, 2024, THE DIVISION SHALL SUBMIT THE FINALIZED REPORT TO THE COMMISSION.

(III) NO LATER THAN APRIL 30, 2025, THE COMMISSION SHALL, BASED ON THE INFORMATIONAL GAPS IDENTIFIED IN THE REPORT, CONSIDER THE ADOPTION OF RULES THAT ENSURE ANNUAL REPORTS ON TOXIC AIR CONTAMINANTS ARE SUBMITTED TO THE DIVISION AND MAY REQUIRE ADDITIONAL TYPES OF INFORMATION TO BE INCLUDED IN ANNUAL TOXIC EMISSIONS REPORTS SUBMITTED TO THE DIVISION FOR OPERATIONS AND EMISSIONS OCCURRING IN CALENDAR YEAR 2025 AND EACH CALENDAR YEAR THEREAFTER.

(d) THE COMMISSION MAY ESTABLISH BY RULE A DE MINIMIS LEVEL OF EMISSIONS OF A TOXIC AIR CONTAMINANT BENEATH WHICH AN OWNER OR OPERATOR IS NOT REQUIRED TO REPORT ON THE EMISSIONS OF THE TOXIC AIR CONTAMINANT THROUGH AN ANNUAL TOXIC EMISSIONS REPORT SUBMITTED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION.

(5) **Toxic air contaminant monitoring program - reporting - rules.** (a) BEGINNING NO LATER THAN JANUARY 1, 2024, IN ADDITION TO THE FENCELINE MONITORING PROGRAM ESTABLISHED UNDER SECTION 25-7-141 (5) AND THE COMMUNITY-BASED MONITORING PROGRAM ESTABLISHED UNDER SECTION 25-7-141 (6), THE DIVISION SHALL DEVELOP AND BEGIN TO CONDUCT A MONITORING PROGRAM TO DETERMINE THE CONCENTRATIONS OF TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR OF THE STATE.

(b) THE PROGRAM SHALL INCLUDE THE INSTALLATION AND OPERATION OF AT LEAST SIX MONITORING SITES COVERING BOTH URBAN AND RURAL AREAS OF THE STATE. THE DIVISION SHALL ENSURE THAT AT LEAST THREE MONITORING SITES ARE INSTALLED AND OPERATING BY JANUARY 1, 2024, AND THAT AT LEAST THREE ADDITIONAL MONITORING SITES ARE INSTALLED AND OPERATING BY JULY 1, 2025. EACH MONITORING SITE MUST HAVE THE ABILITY TO DETECT TRENDS IN CONCENTRATIONS OF VARIOUS TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR OVER TIME AT THE SITE.

(c) AT A MINIMUM, A MONITORING SITE MUST MEASURE THE CONCENTRATIONS OF:

(I) THE TOXIC AIR CONTAMINANTS IDENTIFIED IN SECTION 2.3 OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "NATIONAL AIR TOXICS TRENDS STATION WORK PLAN TEMPLATE (REVISED APRIL 2019)". FOR THE MEASUREMENT OF A TOXIC AIR CONTAMINANT SPECIFIED IN THIS

SUBSECTION (5)(c)(I), THE MEASUREMENT MUST MEET THE REQUIRED MINIMUM DETECTION LIMIT SPECIFIED FOR THE MEASURED AIR POLLUTANT IN SECTION 3.1 OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "NATIONAL AIR TOXICS TRENDS STATION WORK PLAN TEMPLATE (REVISED APRIL 2019)" OR THE MOST RECENT VERSION.

(II) THE TOXIC AIR CONTAMINANTS IDENTIFIED IN TABLE 1.2-1 OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "TECHNICAL ASSISTANCE DOCUMENT FOR THE NATIONAL AIR TOXICS TRENDS STATIONS PROGRAM (REVISION 3)" FROM OCTOBER 2016 OR THE MOST RECENT VERSION. FOR THE MEASUREMENT OF A TOXIC AIR CONTAMINANT SPECIFIED IN THIS SUBSECTION (5)(c)(II) AND ALL OTHER TOXIC AIR CONTAMINANTS MEASURED UNDER THE MONITORING PROGRAM, THE DIVISION MUST SPECIFY A METHOD DETECTION LIMIT FOR EACH TOXIC AIR CONTAMINANT PURSUANT TO APPENDIX B OF 40 CFR 136.

(d) IN DETERMINING THE LOCATION OF ANY NEW MONITORING SITE, THE DIVISION SHALL:

(I) PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC MEETINGS WHERE MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO COMMENT ON THE DIVISION'S PROPOSED LOCATIONS FOR THE MONITORING SITES; AND

(II) GIVE PRIORITY TO LOCATIONS THAT ARE WITHIN A DISPROPORTIONATELY IMPACTED COMMUNITY.

(e) THE DIVISION MAY CHANGE THE LOCATION OF ANY MONITORING SITE AFTER FOLLOWING THE PROCEDURE AND REQUIREMENTS SPECIFIED IN SUBSECTION (5)(d) OF THIS SECTION.

(f) NO LATER THAN JULY 1, 2025, AND BY JULY 1 EACH YEAR THEREAFTER, THE DIVISION SHALL PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO COMMENT ON THE MONITORING PROGRAM. THE DIVISION SHALL ALSO CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM DISPROPORTIONATELY IMPACTED COMMUNITIES ON THE MONITORING PROGRAM.

(g) (I) NO LATER THAN OCTOBER 1, 2025, AND BY OCTOBER 1 EACH

YEAR THEREAFTER, THE DIVISION SHALL PREPARE AN ANNUAL REPORT THAT SUMMARIZES THE TOXIC AIR CONTAMINANT DATA COLLECTED BY THE MONITORING SITES IN THE PREVIOUS CALENDAR YEAR. THE DIVISION SHALL INCLUDE IN THE REPORT A SUMMARY OF ANY COMMENTS RECEIVED FROM THE PUBLIC, DISPROPORTIONATELY IMPACTED COMMUNITIES, AND THE SCIENTIFIC COMMUNITY DURING THE TWO PUBLIC MEETINGS HELD PURSUANT TO SUBSECTION (5)(f) OF THIS SECTION.

(II) ONCE THE REPORT IS FINALIZED, THE DIVISION SHALL:

(A) POST THE REPORT ON THE DIVISION'S WEBSITE IN BOTH ENGLISH AND SPANISH; AND

(B) SUBMIT THE FINALIZED REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO REPORT TO THE LEGISLATIVE COMMITTEES CONTINUES INDEFINITELY.

(h) THE DIVISION SHALL REPORT ON THE NEED FOR ANY ADDITIONAL MONITORING SITES FOR THE MONITORING PROGRAM, AND THE COSTS ASSOCIATED WITH ADDITIONAL MONITORING SITES, TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, DURING THE COMMITTEES' HEARINGS HELD PRIOR TO THE 2027 REGULAR SESSION OF THE GENERAL ASSEMBLY UNDER THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

(6) **Health-based standards - rules.** (a) THE COMMISSION SHALL ADOPT RULES THAT:

(I) NO LATER THAN APRIL 30, 2025, IDENTIFY UP TO FIVE PRIORITY TOXIC AIR CONTAMINANTS CONSIDERING:

(A) EXISTING DATA CONCERNING TOXIC AIR CONTAMINANTS GATHERED THROUGH DIVISION MONITORING PROGRAMS;

(B) DATA REPORTED TO THE DIVISION CONCERNING EMISSIONS OF TOXIC AIR POLLUTANTS;

(C) DATA REPORTED TO THE FEDERAL TOXICS RELEASE INVENTORY PURSUANT TO 42 U.S.C. SEC. 11023 AND DATA PREPARED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S AIR TOXICS SCREENING ASSESSMENT (AIRTOXSCREEN) PROGRAM;

(D) ANY OTHER RELEVANT DATA SUBMITTED TO THE COMMISSION DURING THE RULE-MAKING PROCESS CONCERNING THE AMOUNT OF EMISSIONS AND CONCENTRATIONS OF TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR OF THE STATE, INCLUDING DATA COLLECTED THROUGH COMMUNITY-LED MONITORING PROGRAMS; AND

(E) INPUT FROM THE SCIENTIFIC COMMUNITY; AND

(II) NO LATER THAN APRIL 30, 2026, PROPOSE HEALTH-BASED STANDARDS FOR PRIORITY TOXIC AIR CONTAMINANTS FOR APPROVAL BY THE GENERAL ASSEMBLY.

(b) IN DETERMINING THE HEALTH-BASED STANDARDS, THE COMMISSION SHALL:

(I) CONSIDER THE BEST AVAILABLE PEER-REVIEWED TOXICITY VALUES REGARDING THE LEVELS OF EXPOSURE TO PRIORITY TOXIC AIR CONTAMINANTS THAT MAY CAUSE OR CONTRIBUTE TO ADVERSE HEALTH EFFECTS;

(II) CONSIDER STANDARDS ADOPTED IN OTHER STATES TO REDUCE OR LIMIT CONCENTRATIONS OF TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR;

(III) CONSIDER THE EFFECTS OF EXPOSURE TO PRIORITY TOXIC AIR CONTAMINANTS ON VULNERABLE GROUPS OF THE STATE, INCLUDING DISPROPORTIONATELY IMPACTED COMMUNITIES, INFANTS, CHILDREN, FETUSES, THE ELDERLY, AND PEOPLE WITH DISABILITIES;

(IV) CONSIDER BOTH CANCER-RELATED HEALTH RISKS AND NON-CANCER-RELATED HEALTH RISKS.

(V) PROVIDE FOR A SUFFICIENT MARGIN OF SAFETY THAT ACCOUNTS FOR THE VARIOUS EFFECTS THAT DIFFERENT POPULATIONS MAY EXPERIENCE FROM EXPOSURE TO PRIORITY TOXIC AIR CONTAMINANTS;

(VI) CONSULT WITH THE SCIENTIFIC COMMUNITY THROUGH HOLDING AT LEAST ONE PUBLIC HEARING SPECIFICALLY FOR THIS CONSULTATION; AND

(VII) IDENTIFY THE EXCESS CANCER AND NON-CANCER RISK LEVELS FOR USE IN DETERMINING THE HEALTH-BASED STANDARDS.

(c) BEGINNING NO LATER THAN SEPTEMBER 30, 2029, AND AT LEAST ONCE EVERY FIVE YEARS THEREAFTER, THE COMMISSION SHALL:

(I) DETERMINE WHETHER TO IDENTIFY ANY ADDITIONAL PRIORITY TOXIC AIR CONTAMINANTS CONSIDERING THE DATA DESCRIBED IN SUBSECTION (6)(a)(I) OF THIS SECTION;

(II) DETERMINE WHETHER TO INCLUDE ACUTE EXPOSURE LIMITS FOR PRIORITY TOXIC AIR CONTAMINANTS IN THE DEFINITION OF HEALTH-BASED STANDARDS;

(III) DETERMINE WHETHER TO REVISE THE EXCESS CANCER AND NON-CANCER RISK LEVELS FOR USE IN DETERMINING THE HEALTH-BASED STANDARDS;

(IV) REVIEW EXISTING HEALTH-BASED STANDARDS TO ENSURE THAT THE STANDARDS SUFFICIENTLY PROTECT PUBLIC HEALTH; AND

(V) DETERMINE WHETHER TO PROPOSE REVISIONS TO THE GENERAL ASSEMBLY TO ANY EXISTING HEALTH-BASED STANDARDS IN ACCORDANCE WITH THE CONSIDERATIONS SET FORTH IN SUBSECTION (6)(b) OF THIS SECTION AND, IF A DETERMINATION IS MADE TO REVISE ANY EXISTING HEALTH-BASED STANDARD, THE COMMISSION MUST, WITHIN TWELVE MONTHS AFTER THE DETERMINATION, ADOPT RULES TO THAT EFFECT.

(d) NO MORE THAN TWELVE MONTHS AFTER THE COMMISSION MAKES THE DETERMINATION PURSUANT TO SECTION (6)(c)(I) OF THIS SECTION, THE COMMISSION SHALL PROPOSE TO THE GENERAL ASSEMBLY HEALTH-BASED STANDARDS FOR ANY ADDITIONAL PRIORITY TOXIC AIR CONTAMINANTS IN ACCORDANCE WITH SUBSECTION (6)(b) OF THIS SECTION.

(7) **Emission control regulations - rules.** (a) NO LATER THAN APRIL 30, 2026, THE COMMISSION SHALL ADOPT EMISSION CONTROL REGULATIONS TO REDUCE EMISSIONS OF EACH PRIORITY TOXIC AIR CONTAMINANT AND PRIORITIZE REDUCTIONS IN DISPROPORTIONATELY IMPACTED COMMUNITIES WITH MULTIPLE SOURCES OF EMISSIONS OF PRIORITY TOXIC AIR CONTAMINANTS.

(b) IN DETERMINING THE EMISSION CONTROL REGULATIONS, THE COMMISSION SHALL CONSIDER:

(I) ANY EMISSION CONTROL REGULATIONS ADOPTED FOR PRIORITY TOXIC AIR CONTAMINANTS IN OTHER STATES OR BY THE FEDERAL GOVERNMENT;

(II) THE EMISSION LEVELS OF A PRIORITY TOXIC AIR CONTAMINANT FROM DIFFERENT INDUSTRIES AND CATEGORIES OF SOURCES, INCLUDING SOURCES REQUIRED TO HAVE AN OPERATING PERMIT PURSUANT TO SECTION 25-7-114.3, SYNTHETIC MINOR SOURCES, AND MINOR SOURCES;

(III) THE DEGREE OF REDUCTION OF EACH PRIORITY TOXIC AIR CONTAMINANT THAT IS ACHIEVABLE AND TECHNICALLY AND ECONOMICALLY FEASIBLE, TAKING INTO ACCOUNT ENERGY, ENVIRONMENTAL, AND ECONOMIC IMPACTS AND OTHER COSTS PURSUANT TO THE REQUIREMENTS DESCRIBED IN SECTION 25-7-110.8;

(IV) THE ABILITY OF EMISSION CONTROL REGULATIONS TO REDUCE OR ELIMINATE THE EMISSIONS OF A PRIORITY TOXIC AIR CONTAMINANT, INCLUDING NON-EMITTING ALTERNATIVE PROCESSES AND CONTROL TECHNOLOGIES; AND

(V) THE AVAILABILITY, SUITABILITY, AND RELATIVE EFFICACY OF A LESS HAZARDOUS SUBSTITUTE FOR A PRIORITY TOXIC AIR CONTAMINANT.

(c) FOR NEW EMISSION SOURCES OF PRIORITY TOXIC AIR CONTAMINANTS, THE COMMISSION SHALL ADOPT EMISSION CONTROL REGULATIONS THAT ARE MORE STRINGENT THAN THOSE ADOPTED FOR EXISTING EMISSION SOURCES OF PRIORITY TOXIC AIR CONTAMINANTS. THE COMMISSION MAY ALSO ADOPT AN EMISSIONS THRESHOLD BELOW WHICH NEW EMISSION SOURCES SHALL NOT BE REQUIRED TO COMPLY WITH THE MORE STRINGENT EMISSION CONTROL REGULATIONS.

(d) BEGINNING NO LATER THAN SEPTEMBER 30, 2030, AND AT LEAST ONCE EVERY FIVE YEARS THEREAFTER, THE COMMISSION SHALL:

(I) ADOPT EMISSION CONTROL REGULATIONS FOR ANY ADDITIONAL PRIORITY TOXIC AIR CONTAMINANTS IDENTIFIED BY THE COMMISSION IN ACCORDANCE WITH SUBSECTION (6)(c)(I) OF THIS SECTION; AND

(II) DETERMINE WHETHER TO REVISE THE EXISTING EMISSION CONTROL REGULATIONS IN ACCORDANCE WITH THE CONSIDERATIONS SET FORTH IN SUBSECTION (7)(b) OF THIS SECTION.

(e) IN REVIEWING AND APPROVING AIR POLLUTION PERMITS UNDER SECTION 25-7-114.3, THE DIVISION SHALL INCLUDE ANY APPLICABLE EMISSION CONTROL REGULATIONS IN THE PERMIT.

(f) THE EMISSION CONTROL REGULATIONS ESTABLISHED UNDER THIS SUBSECTION (7) SHALL NOT APPLY TO ANY ELECTRIC GENERATING RESOURCE LOCATED WITHIN THE STATE WITH A CLOSURE DATE NO LATER THAN JANUARY 1, 2031, THAT HAS BEEN APPROVED BY EITHER THE PUBLIC UTILITIES COMMISSION CREATED IN SECTION 40-2-101 (1) AS PART OF AN ELECTRIC RESOURCE PLAN OR THE AIR POLLUTION CONTROL DIVISION AS PART OF A CLEAN ENERGY PLAN.

(8) **Air pollution regulation for sources of toxic air contaminants - assessment.** (a) NO LATER THAN DECEMBER 31, 2025, THE DIVISION SHALL CONDUCT AN ASSESSMENT TO DETERMINE THE NEEDS OF THE DIVISION TO ADMINISTER AN AIR PERMITTING PROGRAM TO REGULATE NEW, MODIFIED, AND EXISTING STATIONARY SOURCES THAT EMIT LEVELS OF PRIORITY TOXIC AIR CONTAMINANTS, REFERRED TO IN THIS SUBSECTION (8) AS THE "AIR TOXICS PERMITTING PROGRAM".

(b) THE ASSESSMENT MUST:

(I) EVALUATE AIR TOXICS PERMITTING PROGRAMS FOR NEW, MODIFIED, AND EXISTING STATIONARY SOURCES OF PRIORITY TOXIC AIR CONTAMINANTS IN OTHER STATES AND ON TRIBAL LANDS;

(II) EVALUATE AND MAKE RECOMMENDATIONS REGARDING THE SCOPE OF THE AIR TOXICS PERMITTING PROGRAM, INCLUDING THE TYPES OF PERMITS, STATIONARY SOURCES, INDUSTRIES, AND GEOGRAPHIC AREAS OF

THE STATE THAT WOULD BE IMPACTED BY THE PROGRAM;

(III) IDENTIFY PROCESSES AND REASONABLE TIMELINES FOR:

(A) THE NOTIFICATION TO ANY STATIONARY SOURCES THAT COULD BE SUBJECT TO THE AIR TOXICS PERMITTING PROGRAM;

(B) THE ASSESSMENT OF PUBLIC HEALTH RISKS ASSOCIATED WITH A STATIONARY SOURCE'S EMISSIONS OF PRIORITY TOXIC AIR CONTAMINANTS; AND

(C) THE ASSESSMENT AND IMPLEMENTATION OF STRATEGIES DESIGNED TO REDUCE EMISSIONS OF PRIORITY TOXIC AIR CONTAMINANTS FROM A STATIONARY SOURCE THROUGH PERMITTING; AND

(IV) IDENTIFY THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF AN AIR TOXICS PERMITTING PROGRAM FOR EXISTING STATIONARY SOURCES AND POSSIBLE FUNDING MECHANISMS.

(c) THE DIVISION SHALL PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO COMMENT ON THE ASSESSMENT. THE DIVISION SHALL ALSO CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM DISPROPORTIONATELY IMPACTED COMMUNITIES AND WORKERS AT STATIONARY SOURCES ON THE ASSESSMENT.

(d) IN FINALIZING THE ASSESSMENT, THE DIVISION SHALL INCLUDE IN THE ASSESSMENT A SUMMARY OF ANY COMMENTS RECEIVED FROM THE PUBLIC, WORKERS AT STATIONARY SOURCES, AND DISPROPORTIONATELY IMPACTED COMMUNITIES AND IDENTIFY ANY SIGNIFICANT CHANGES MADE TO THE ASSESSMENT BASED ON SUCH COMMENTS.

(e) THE DIVISION SHALL REPORT ON THE ASSESSMENT AND PROVIDE RECOMMENDATIONS TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, DURING THE COMMITTEES' HEARINGS HELD PRIOR TO THE 2026 REGULAR SESSION OF THE GENERAL ASSEMBLY UNDER THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

SECTION 5. In Colorado Revised Statutes, 25-7-109.3, **amend** (1), (2), (3)(a)(I), (4)(a)(I), and (4)(h)(III); and **repeal** (3)(b), (3)(b.1), (3)(f), and (3)(g) as follows:

25-7-109.3. Colorado hazardous air pollutant control and reduction program - rules - repeal. (1) The commission shall promulgate appropriate ~~regulations~~ RULES pertaining to hazardous air pollutants ~~as defined in section 25-7-103 (13) which~~ THAT are consistent with this section, SECTION 25-7-109.5, and the requirements of and emission standards promulgated pursuant to section 112 of the federal act, including any standard required to be imposed under section 112(r) of the federal act. The commission shall monitor the progress and results of the risk studies performed under section 112 of the federal act to show that Colorado's hazardous air pollutant control and reduction program is ~~consistent with~~ AT LEAST AS PROTECTIVE AS the national strategy.

(2) ~~Except as provided in section 25-7-114.4 (5),~~ The commission may ~~only~~ promulgate rules pertaining to hazardous air pollutants ~~as defined in section 25-7-103 (13)~~ in accordance with this section, SECTION 25-7-109.5, AND SECTION 25-7-114.4. In order to minimize additional regulatory and compliance costs to the state's economy, any program created by the commission pursuant to this section ~~must~~ MAY contain a provision that exempts FROM THE REQUIREMENTS OF THE PROGRAM those sources or categories of sources that it determines to be of minor significance. ~~from the requirements of the program.~~ Consistent with the provisions of section 25-7-105.1, the commission shall authorize synthetic minor sources of hazardous air pollutants by the issuance of construction permits or prohibitory or other rules. ~~Such permits or rules must only be as stringent as necessary to establish synthetic minor status.~~ The commission shall expeditiously implement this subsection (2) to ~~assure~~ ENSURE that all sources may be able to timely qualify as a synthetic minor source, thereby avoiding the costs of the operating permit program.

(3) (a) (I) As soon as adequate scientific, technological, and hazardous air pollutant emissions information is available, the commission may promulgate regulations for the control of hazardous air pollutants, INCLUDING utilizing Colorado GACT or Colorado MACT technology-based emission reduction requirements, as defined in section 25-7-103 (6.7) and (6.8).

(b) ~~This section shall only apply to sources emitting a hazardous air pollutant identified in the list established or amended pursuant to subsection (5) of this section which:~~

~~(I) Are not included in categories or subcategories of sources listed or proposed to be listed by the environmental protection agency under section 112 of the federal act and thus will not be required to comply with GACT or MACT under the federal act, as defined in section 25-7-103 (12.1) and (16.5); or~~

~~(II) Are included in categories or subcategories of sources listed or proposed to be listed under section 112 of the federal act and which have:~~

~~(A) Levels of emissions of hazardous air pollutants listed under section 112 (b) of the federal act which are below thresholds established under the federal act and thus will not be required to comply with GACT and MACT under the federal act and as defined in section 25-7-103 (12.1) and (16.5); except that this section shall not apply to a source included in a category or subcategory for which a lesser quantity emission rate has been proposed or adopted under section 112 of the federal act; or~~

~~(B) Hazardous air pollutant emissions above a threshold level of the substance listed under subparagraph (II) of paragraph (a) and paragraph (b) of subsection (5) of this section.~~

(b.1) ~~The commission may recognize similarities among regulated sources or apply, when appropriate, previous control requirements established by the commission in making a determination about the need for such regulation under this subsection (3). The commission shall also consider fundamentally different factors between sources in making these determinations.~~

(f) ~~This section shall not apply to sources subject to national emission standards for hazardous air pollutants (NESHAP) established by the administrator pursuant to the federal act, but only for those emissions for which a NESHAP is established.~~

(g) ~~This section shall not impose requirements on sources included in categories or subcategories of sources which are listed in section 112(n) of the federal act which are inconsistent with the timing of studies or~~

~~assessments conducted under or definitions set forth in section 112(n) of the federal act.~~

(4) (a) (I) ~~On or after the risk-based studies required under sections 112(k)(3), 112(o), and 112(f) of the federal act are completed and received by the commission,~~ The commission may adopt ~~regulations~~ RULES pertaining to those sources identified as emitting hazardous air pollutants regulated under this section, which may include additional emission reduction requirements to address any residual risk of health effects with respect to actual persons living in the vicinity of sources after installation of technology-based controls. Imposition of such requirements may be made PURSUANT TO SECTION 25-7-109.5 OR upon a determination by the commission that operation of sources without health-based controls does not or will not represent an inconsequential threat to public health. ~~Regulations~~ RULES as finally adopted pursuant to this subsection (4) may apply on a source-specific basis.

(h) **Temporary exceptional authority.** (III) This ~~paragraph (h) shall remain effective only until such time as the commission acts pursuant to its authority under paragraph (a) of this subsection (4)~~ SUBSECTION (4)(h) IS REPEALED, EFFECTIVE JULY 1, 2026.

SECTION 6. Appropriation. (1) For the 2022-23 state fiscal year, $3,135,853 is appropriated to the department of public health and environment. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) $1,792,791 for use by the air pollution control division for program costs, which amount is based on an assumption that the division will require an additional 13.1 FTE;

(b) $671,906 for use by the division of environmental health and sustainability for the toxicology and environmental epidemiology unit, which amount is based on an assumption that the division will require an additional 4.0 FTE;

(c) $73,928 for the purchase of legal services; and

(d) $597,228 for the purchase of information technology services.

(2) For the 2022-23 state fiscal year, $73,928 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of public health and environment under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 0.4 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of public health and environment.

(3) For the 2022-23 state fiscal year, $597,228 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of public health and environment under subsection (1)(d) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of public health and environment.

SECTION 7. Applicability. This act applies to conduct occurring on or after the effective date of this act.

SECTION 8. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED June 2nd 2022 at 3:50 pm
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

July 15, 2022

Don Suppes
Delta County Commissioner

RE: Case PLN21-080/Delta Paving Gravel Pit (CUP)

Hello Don,

This is Tom. Some 20 years ago Ron Tipping of Grand Junction Pipe & Supply came to our home here on Iris Road overlooking the Gunnison River, and sat down at the dining room table to talk about his desire to create a gravel pit down below us. We all listened. He said that if we would not object as a homeowners group, that he would agree to forego a hot mix asphalt plant.

So that's what happened. We did not object. He in turn agreed there would be no hot asphalt mixing plant with it's accompanying clean air issues, that is, particulates and smell.

The Delta County Commissioners signed off on that plan. Gravel yes. Asphalt no.

So now Elam, or Kilgore Companies, buys out Tipping. They knew very well the permit that accompanied that buyout included no asphalt plant. They did not have to buy this property. They were not forced to do so.

But now they want to change horses in the middle of the stream. We, the homeowners, and the Commissioners, made them a deal.

A deal is a deal.

As you know, I'm a private property rights activist if there ever was one.

But in my opinion, once a deal is publicly debated and then the parties come to an agreement, as what happened 20 years ago, then that's the deal.

Kilgore Companies should be happy with a gravel pit. Ron Tipping waived the next step industrial usage, the hot mix asphalt plant, which, as you know, would affect a lot of homeowners.

Thomas

P.S. Don, I'll send this same letter, sans your name, to the planning commission.

Delta County COLORADO
Canyons • Rivers • Mountains

Kate Kelly <kkelly@deltacounty.com>

August 10th Public meeting on Case PLN21-080

2 messages

Dorothy Dunn <dotdunn@outlook.com> Mon, Aug 15, 2022 at 1:01 PM
To: "kkelly@deltacounty.com" <kkelly@deltacounty.com>, "planning@deltacounty.com" <planning@deltacounty.com>

Hi, Kate, I am wondering when the minutes of this meeting will appear somewhere on the Delta County website. Also, where will I find these minutes as it seems all I can find is the agenda page but no minutes.

Also at this meeting there were many questions asked by the public but no answers were provided and I believe I did hear ever so often that the commissioners would get back to us but I cannot figure out how that will happen. Can you shed light on this?

My main question to you is how can the County/Planning and the powers that be, blatantly dismiss the issue of any previous agreements made about the property involved ie: regarding the condition of never having an asphalt batch plant and that Lot 2 would always remain in AG?

I would appreciate any answers you have.

Thank you. Dorothy Dunn 8041 Hwy 65, Delta email: dotdunn@outlook.com

Sent from Mail for Windows

Kate Kelly <kkelly@deltacounty.com> Mon, Aug 15, 2022 at 1:10 PM
To: Dorothy Dunn <dotdunn@outlook.com>
Cc: "planning@deltacounty.com" <planning@deltacounty.com>

Good Afternoon Dorothy,

Meeting minutes have to be approved by the Planning Commission. So at the next meeting on August 24th, the Planning Commission will approve the minutes and state any corrections needed. Once we have approved minutes, we can upload them to the site here: https://www.deltacounty.com/AgendaCenter/Delta-County-Planning-Commission-6. This is a screenshot of what the link for the minutes looks like.



There will be a check mark under the minutes next to the meeting date once approved and uploaded.

The Planning Commission continued this application to August 24, 2022 @ 5:30 PM. At this meeting, public comment will be closed and the Planning Commission will deliberate; this will include giving the applicant a chance to respond to neighbor questions, and even Planning Commission questions. Once all deliberation is done, the Planning Commission will make a motion for their recommendations to the Board of County Commissioners (date TBD).

As far as existing permits/agreements in place, Staff has reached out to the County Attorney for direction on this. This will be addressed at the meeting.

Regards,
Kate

[Quoted text hidden]

--

Kate Kelly
Planner I
295 W 6th Street
Delta, CO 81416
970-874-2110

Delta County COLORADO
Canyons • Rivers • Mountains

Kim Henderson <khenderson@deltacounty.com>

Re: Meeting with kilgore,/elam

1 message

riley dunn <brianrileydunn@gmail.com> Mon, Aug 15, 2022 at 3:02 PM
To: Kim Henderson <khenderson@deltacounty.com>, cholm@deltacounty.com
Cc: Kate Kelly <kkelly@deltacounty.com>, Planning <planning@deltacounty.com>

kilgore Gravel pit condition #9
Riley Dunn 8041 hwy 65
Having talked further with Bob Brown and Tom Chapman about condition #9 and on their recommendation consulting with an attorney, All are in agreement that this is a 3rd party agreement along the lines of a condition being attached to the property. I'm hoping this does not become an issue for litigation.

On Mon, Aug 15, 2022 at 2:39 PM riley dunn <brianrileydunn@gmail.com> wrote:

> Hwy 65 gravel mine and asphalt plant. Revenue comparison.
>
> Riley & Dorothy Dunn, 8041 Hwy 65, (We have 3 homes on 3 lots 200 Feet from the Gravel site.)
>
> Re: The Long term verses short term revenues and potential of the site for a proposed gravel mine / asphalt plant along hwy 65.
>
> In researching the area along Hwy 65 where the new gravel mine and asphalt plant are proposed it has come to my attention there has not been a comparison of short term long term revenue gains and uses for this site.
>
> In any location there will be short term gains for Elam and minimal short term revenue for the county. Mining is 2% of county revenue and is stagnant. This mine/asphalt plant will only contribute a small part of the 2%. No future use of the property at the end of gravel mining will produce any appreciable revenue. Make no mistake about the loss of the land and the farming value. Once the land is chopped up into large stagnant ponds with minimal land between even recreational use will be expensive to maintain and of minimal value. Agricultural use will be a non starter in strips of ground among the ponds.
>
> The future long term and much greater value to the county is for commercial and residential use due to the high visibility and great access to Hwys 92 and 65. This site shows a much better long term value for other uses than stagnant ground water ponds. The short term use of the location as a living billboard / post card may will equal the short term revenue from the mine . At no cost it is a billboard revenue driver for the county. Do not discount Marketing and Living Billboards on the future of Delta county tourism. (6% in 2018 and growing). We need to support local Restaurants, Wineries, sporting goods outlets, lodging, outfitters, guides, agriculture, organic outlets such as Homestead meats, artisans and our growing population of retires (26% of revenue and growing). A choice for Delta County.A Billboard to the future and an agricultural link to the past or industrial mines and asphalt plants. Stark but there it is.
>
> While there are multiple locations for Gravel mines and asphalt plants there is only one location with the visual impact of this location and we should preserve it.
>
> I have 40 years in tourism, guiding & outfitting in river running, fishing, hunting, Colorado Outward Bound, sailing in Belize & Central America. We retired here for the variety of outdoor activities. I am amazed at the lack of value placed on outdoor recreation in Delta county. A county with greater potential for outdoor tourism than most places I have lived and worked in. From Alaska to Central America. This county is the unbelievably under appreciated by its own tourism board.
>
> Riley Dunn 970-270-3556 brianrileydunn@gmail.com
>
> On Wed, Aug 3, 2022 at 2:54 PM Kim Henderson <khenderson@deltacounty.com> wrote:
>
> > Good Afternoon,
> >
> > Your comment has been received. Thank you.
> >
> > Kindest Regards,

Kim Henderson
Administrative Assistant
295 W. 6th St.
Delta, Co 81416
970-874-2110

On Wed, Aug 3, 2022 at 2:52 PM riley dunn <brianrileydunn@gmail.com> wrote:

> At the meeting with Kilgore it came to my attention in elams own words that e reason for this site is to give them a bidding advantage on state projects in Delta County. Ie:Any improvements along 92 and 65. I'd like to know the reasoning behind sending profits to a corporate head not only out of the county but out of the state. Salt Lake City? Don't existing local gravel mines and asphalt plants deserve a level playing field and a chance to keep the profits in the county?
>
> Mining industry revenues in Delta county amount to the lowest revenues (2%) for Delta county, according to Delta counties own pie chart, yet, are we Going to allow Kilgor/elam mining /asphalt to destroy the most visible billboard in the county for Farming & ranching (17%), tourism (6%and growing) Retirees (26% and growing). Our future is and identity . Thank you for your consideration of these points

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DELTA COUNTY
PLANNING & COMMUNITY DEVELOPMENT

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Delta, Colorado 81416
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STAFF REPORT

Delta County Planning Commission

Delta County Administrative Building
560 Dodge Street, Delta, CO 81416

Wednesday, August 24, 2022 @ 5:30 p.m.

Land Use Code Update

Continued Work Session to consider redline drafts of the Delta County Land Use Code:
Chapter 2, Section 1 "Zoning Districts" (including Tables 2.a and 2.b), Section 3.A "Temporary Uses", Section 5.B "Use Specific Standards" (including standards for wireless communications and renewable energy)
Chapter 3 "Lot Dimensions" (including subdivision of lots that do not meet the minimum lot size)
Chapter 12 "Subdivision Regulations"

RECOMMENDATION:
Staff recommends that the Planning Commission continue Work Sessions on the LUC Update and provide direction to staff on:

a. Chapter 2, Section 1 "Zoning Districts" (including Tables 2.a and 2.b)
b. Chapter 2, Section 3.A "Temporary Uses"
c. Chapter 2, Section 5.B "Use Specific Standards" (including standards for wireless communications and renewable energy)
d. Chapters 3 "Lot Dimensions" (including subdivision of lots that do not meet the minimum lot size)
e. Chapter 12 "Subdivision Regulations"

Report prepared by Carl Holm, Planning Director

DELTA COUNTY
PLANNING & COMMUNITY DEVELOPMENT

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SUMMARY:

The following is an overview of MINOR, Clean-Up changes being recommended to add clarity to the process(es) for the public as well as staff:

- Clean up Ordinance references
- Clarify Communal Living to align with other standards (density)
- Relocate subdivision related regulations to Chapter 12
- Clarify exemptions from subdivisions regulations
- Incorporate standards plat notes and signature blocks (from prior subdivision regulations, amended for current conditions)

The following is an overview of MAJOR changes being recommended that could streamline the process, and reduce the staff time on projects:

- Revisions to the Land Use Matrix (Table 2.b) that apply different intensity of uses with the appropriate zoning classification
- Further define temporary use of RVs
- Add standards for a manufactured home park (3+ units); from Resolution 97-R-035
- Further define Events (not just blanket “Special Events”)
- Further define Accessory Business Use of the Home (no employees, incidental use of space in the house)
- Add Cottage Industry (limited use of the residential property for commercial use)
- Add standards for Farmworker Housing (complete “reserved” section), including density
- Add standards for Renewable Energy Facilities
- Incorporate standards for Wireless Communication Facilities (from draft resolution not adopted with LUC)
- Amend Variation to Lot Size, Administrative review if meets criteria.
- Add process for phasing a plat and vacating a plat or right-of-way (from prior subdivision regulations).
- Further define clustered subdivision – Building Envelopes = 1 Ac or 25% of Stewardship Area, whichever is less.

Staff is seeking preliminary direction that will be integrated into a comprehensive update of the Land Use Code. These are the final topics for consideration at a Work Session. Once the Work Sessions are complete, staff will release and notice a redline draft for public review and comment. Public hearings will be scheduled at the Planning Commission and Board of County Commissioners.

DISCUSSION:

On June 8th, the Pc provided direction for Table 2.a including retaining the A-5 designation. This revised table is being provided as reference to Table 2.b that includes edits for the type/level of permit required in each zoning designation.

On July 27th, the PC had some discussion about temporary residences. Chapter 2, Section 3 reflects changes that are intended to take the PC discussion into account. While events have not been a significant issue yet, staff recommend changes to this

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section in response to some questions staff has received about events. This section amends the Accessory business use of the home and adds cottage industry as two different uses using language from the former Specific Development regulations.

Chapter 2 also includes use specific standards where there are certain uses that the County wants to identify standards that apply beyond the base stands of the LUC. Standards for mobile homes park have been added to reflect language from a resolution that had been repealed with the LUC, and to reflect the current process. Staff prepared draft language for farmworker housing to complete a section that was generally "reserved". New standards are included for renewable energy facilities and wireless communications. Staff took standards from the Wireless Communication Resolution and incorporated the pertinent regulations into the LUC (rather than have a separate resolution where about 2/3 reflects procedural steps that are in the LUC).

Chapter 12 has been completely changed. Appeal language was relocated to Chapter 9 and various regulations for subdivisions was moved or added to Chapter 12. Staff is recommended including language for phasing and vacating plats that was in the prior subdivision regulations. In addition, this chapter would include standards plat notes as signature blocks that were included with the prior subdivision regulations, amended to reflect current conditions. This Chapter cleans up terminology following meetings with local surveyors and lays out the process, including what is exempt.

Attached material: list, in order as attached/referenced

A. Draft redlines of:
   1. Chapter 2, Section 1 (including Table 2.a and 2.b)
   2. Chapter 2, Section 3.A
   3. Chapter 2, Section 5.B
   4. Chapters 3
   5. Chapter 12

PC Work Session – LUC Update

August 10, 2022

CHAPTER 2

Section 1. Establishment of Zoning Districts

A. Purpose and Establishment of Zoning Districts

1. **Purpose.**

    a. *Relationship to Master Plan*. This Code ~~is designed to bring Delta County's~~establishes land use regulations ~~into~~ that are consistency with the ~~2018~~ Delta County Master Plan. ~~The Master Plan identified a need to create a simple, clear, fair, and predictable set of regulations. The Master Plan~~ This Code is meant ~~also identified a need~~ to provide clarity and ~~assurances~~ fairness for residents and property owners, and more predictability for commercial activities in the County.

    b. *Land Use in General*. This Code is designed to clarify where commercial, industrial, agricultural, and residential uses are most appropriately located around the County.

    c. *Commercial Land Uses*. This Code identifies the range of commercial uses that are anticipated in the County, and further identifies zoning districts in which each type of commercial use is appropriate or may be appropriate if certain conditions are met. Generally, commercial uses are most appropriately located in the RI/~~R~~C zoning district and UGA ~~zoning districts~~overlay. However, most of the other zoning districts allow for multiple land uses and sufficient flexibility such that a wide range of commercial land uses may be located almost anywhere where adequate services can be provided, and standards of this Code can be met.

2. **Zoning Districts Established.** In order to carry out the provisions of this Code, the County is divided into the following zoning districts:

Commented [CH1]: Removed specific date so don't have to amend LUC if amend MP.
This section is to identify how LUC relates to MP, not what is in the MP (which could change). The last sentence is revised to state the intent once (reduce repetitiveness).

PC Work Session – LUC Update

August 10, 2022

TABLE 2.a ZONING DISTRICTS		
Abbreviation	Zoning District Name	Purposes
A-35	Agriculture (35-acre)	This zoning district is intended ~~for~~ to reflect lands with significant natural resources, including prime agricultural lands. ~~and rural residential uses~~ The intent is to retain irrigated lands on larger parcels (generally, 35 acres or more). It allows for the broadest range of agricultural and supporting uses.
A-20	Agriculture (20-acre)	This zoning district is intended for small-scale agricultural rural residential uses on parcels of land that are generally 20 acres or more. It allows for a broad range of agricultural and supporting uses as well as large-lot residential uses.
A-5	Agriculture (5-acre)	This zoning district is intended for ~~small-scale agricultural and~~ large-lot residential uses.
RES-2.5	Residential (2.5-acre)	This zoning district is intended for rural residential uses in areas that will not impact irrigated lands and there is an adequate water supply and access available.
RES-1	Residential (1-acre)	This zoning district is intended for residential uses in areas suitable for such density, including potential access to infrastructure and services (e.g., public water, sewer, fire hydrants, etc.).
RI/C	Rural Industrial / Commercial	This zoning district is intended to provide for rural industries that support farming and resource-based industries, or that otherwise benefit from locating outside of municipal boundaries (*e.g.*, minerals processing, oil and gas services, etc.)~~, as well as~~. In addition, the designation can be used for a range of commercial uses in areas near municipalities where there are sufficient services and infrastructure to accommodate them.
UGA	Urban Growth Area Overlay	This zoning ~~district~~ overlay applies to areas near incorporated municipalities~~, and provides a way for~~ where urban services (e.g., public water and sewer) are available, and have been identified as areas of potential growth by the municipality through an Intergovernmental Agreement (IGA) between the County and each City/Town. This overlay

Commented [CH2]: If the intent is to protect prime ag lands and natural resources, then it should be reflected through zoning.

Commented [CH3]: Borders between Ag and Residential, depending largely on water.

Commented [CH4]: Create Residential designations at different densities depending on site conditions.
Deleted "suitable for such density" and added criteria that defines what is "suitable"
"Suitable" is defined in RES-1 as access to infrastructure and services…

		highlights areas where the County ~~to~~ will work with the municipalities to achieve ordered urban and suburban growth (e.g., higher residential densities and commercial/service uses). Areas around municipalities that ~~are intended for new or continuing agricultural uses, or rural commercial/industrial development~~ include active agricultural operations should not be in the ~~zoned~~ UGA overlay.
P/QP	Public/Quasi-Public	This zoning designation reflects public lands (e.g., Forest, BLM, Park), public safety facilities (fire, medical, law), public schools, and utilities (water, wastewater, electricity, etc.)

Commented [CH5]: Per IGA, 1 acre minimum and no urban density in GMA.
Replace UGA zoning with RES-1 because UGA allowed 7500 sf lots, but held to 1 acre if no sewer so LDR is most similar. Could be RI/C depending on City's plans (see 1c above), or AG to create edges.

Commented [CH6]: Added clarification. While State and Federal agencies will do what they want with their land, Subsection C.5 LUC states that all lands are zoned. This designation can also apply to County or City/Town lands (e.g. fairgrounds, wastewater treatment facility, airport, etc.)

PC Work Session – LUC Update

August 10, 2022

CHAPTER 2

Section 2. Land Use by Zoning District

A. Interpretation of Land Use by Zoning District Tables

1. **Generally.** Table 2.b, below, *Land Use by Zoning District* describes which land uses are an Allowed ~~permitted~~ Use~~as of right without review~~, Permitted Use~~as of right after review~~, Limited Use~~permitted if certain conditions are met~~, or Conditional Use~~permitted after public hearing if certain conditions are met, and not allowed~~ in each zoning district.

2. **Legend.** ~~The following symbols are used in the tables in this Section~~ The following identifies symbols reflecting the different levels of review and a general overview of the processes as applicable [See Chapters 7 and 8 for more detail about the processes]:

    1. "A" means "A~~a~~llowed ~~as of right~~ Use." These uses ~~must~~ are allowed by-right if they comply with applicable standards of this Code~~, but do not require review for compliance before they are established~~. ~~However, they may require~~ A Development Application (ministerial) is required prior to establishment of the use to demonstrate compliance with applicable standards in the Land Use Code (proof of water, setbacks, etc.), ~~other types of permits (*e.g.*, well permits, septic permits, or access permits)~~and applicable encumbrances (e.g., easements, Plat notes, etc.).

    2. "P" means "~~allowed~~Permitted Use, with a Z~~z~~oning P~~p~~ermit." ~~These uses~~ Following Site Plan Review through the Development Application, Permitted Uses require a Z~~z~~oning P~~p~~ermit (ministerial) prior to establishment of the use. ~~Zoning permits are~~ Approval of a Site Plan shall be issued by the Director after administrative review ~~for~~ if the application is determined to be in compliance with the general requirements of this Code ~~prior to establishment of the use~~. ~~*See* Chapter 9, Section 1, *Approvals and Denials.* Other types of permits (*e.g.*, well permits, septic permits, or access permits) may also be required.~~

    3. "L" means "L~~l~~imited U~~u~~se, with a Zoning Permit." Following Site Plan Review through the Development Application, Limited U~~u~~ses require a Z~~z~~oning P~~p~~ermit ~~and sketch or site plan approval. Zoning permits are issued~~ that may be approved, conditionally approved, or denied by the Director a~~A~~fter administrative review for compliance with specific standards that pertain to the use, as well as the general requirements of this Code (discretionary). Applications for Limited Uses may be referred to specific referral agencies. If there is an "n" next to the L, then public notice of the application is required ~~pursuant to Chapter 7, Section 4, *Public Notice*. *See* Chapter 9, Section 1, *Approvals and Denials.* Other types of permits (*e.g.*, well permits, septic permits, or access permits) may also be required~~ before the action is taken. The Planning Department monitors compliance with conditions of approval.

    4. "C" means "C~~c~~onditional U~~u~~se, subject to a Conditional Use Permit." Following Site Plan Review through the Development Application, Conditional U~~u~~ses are subject to

Commented [CH7]: Don't need a separate description for what is provided in the next section.

Commented [CH8]: This section provides a general idea what each symbol means. Process is provided in Chapter 7.

Commented [CH9]: Introducing Dev App Ord requirements here. Allowed uses are still subject to DA-Site Plan Review in order to verify proof of water, access, septic, etc.

public hearing review for compliance with specific standards that pertain to the use, the general standards for all Conditional Uses, and the general requirements of this Code (discretionary). Applications for Conditional Use Permits will be referred to referral agencies. Public notices of hearings on the application are required ~~pursuant to Chapter 7, Section 4, *Public Notice*~~ before an action is taken. ~~Conditional use permits are issued by the Planning Department County after public hearing review and approval by the Board of County Commissioners~~The Planning Commission makes recommendations to approve, conditionally approve, or deny an application. The Planning Commission recommendation is forwarded to the Board of County Commissioners for final action. The Planning Department monitors compliance with conditions of approval. ~~*See* Chapter 9, Section 2, *Continuances and Withdrawal.* Other types of permits (*e.g.*, well permits, septic permits, or access permits) may also be required.~~

5. "—" means that the use is not allowed in the specified zoning district.

3. **Multiple Uses.** In instances where a proposed development will combine more than one listed use, each ~~listed~~ use shall be evaluated independently for compliance with applicable standards.

4. **Other Permits.** Whether or not land use permits are require by this Code, other types of permits or approvals may be required in order to establish the use (*e.g.*, right-of-way use permit, address, septic permits, and/or well permits, mobile home, electrical, plumbing permits through the State).

B. Land Use by Zoning District

The land uses that are allowed in each zoning district are set out in Table 2.b, Land Use by Zoning District. Section 4 of this Chapter includes *Use Specific Standards* for certain uses listed below. Chapter 14, Section 2 provides definitions of uses listed below.

TABLE 2.b
LAND USE BY ZONING DISTRICT

Land Use Category / Land Use	Zoning District A35	A20	A5	RI/C	~~UGA~~RES
AGRICULTURE LAND USE CATEGORY					
Agriculture, Agribusiness, Silviculture, Viticulture	A	A	A	A	A
INTENSIVE AGRICULTURE LAND USE CATEGORY[1]					
Small Animal Feeding Operation ("SAFO")	P[n]	P[n]	~~—~~ ~~L[n]~~	~~—~~ ~~L[n]~~	—
Medium Animal Feeding Operation ("MAFO")	L[n]	L[n]	~~—~~ ~~L[n]~~	~~—~~ ~~L[n]~~	—
Concentrated Aquatic Animal Production ("CAAP")	L[n]	L[n]	~~—~~ ~~L[n]~~	—	—
Large Animal Feeding Operations ("LAFO")	L[n]	~~—~~ ~~L[n]~~	—	—	—
RURAL RESIDENTIAL LAND USE CATEGORY					
Single Family Detached[2]	A	A	A	~~A~~P	A

Commented [CH10]: Permit type should reflect compatibility with zoning of site and other zones

Commented [CH11]: Yellow highlight = discussion. Focus Ag in primary Ag zone (A35). LAFO use has lo size restriction that suggests not in A20.

Accessory Dwelling Unit (ADU)	A	A	A	—	A
Duplex or Triplex[2]	~~A~~P	~~A~~P	~~A~~P	~~A~~P	~~A~~P
Manufactured Home Park (3+ units, including mobile homes and RVs)[1,2]	~~in~~C~~—~~	~~—~~C	C	—	L
Multifamily (4+ dwelling units)[1,2]	~~—~~L	~~—~~L	L	L	L
Assisted Living, Congregate Care, or Nursing Home	—	—	L	—	L
AGRICULTURAL SUPPORT AND RURAL INDUSTRIES LAND USE CATEGORY					
Farm Supply / Feed and Seed	L	L	L	A	A
~~Automobile Fueling or Service Station~~	~~—~~	~~—~~	~~—~~	~~A~~	~~A~~
Farmworker Housing (1 du/10 Ac)[1]	A	A	L	—	—
Farmworker Housing (more than 1 du/10 Ac)[1]	L	L	C	—	—
Kennel	A	A	A	A	L
Rural Light Industry with Retail	P	P	P	P	P
Rural Light Industry without Retail	A	A	A	A	A
Rural Medium Industry (*e.g.*, ~~hemp processing,~~ slaughterhouse, meat processing, sawmill)	L[n]	L[n]	C	P	C
Rural Heavy Industry (*e.g.*, explosives, rock crushing, tannery)	C	C	C	P	—
Veterinary Hospital or Clinic	A	A	A	A	A
COMMUNITY LAND USE CATEGORY[1]					
Place of Assembly (*e.g.*, churches, grange halls, etc.)	A	A	A	C	A
Schools and Child Care Centers	L	L	P	—	P
Cemetery	P	P	P	P	P
COMMERCIAL LAND USE CATEGORY					
Retail Sales and Services (also includes banks, real estate, etc.)	L	L	~~—~~L	P	~~—~~P
Office	L	L	L	A	~~A~~L
Restaurant	P	P	~~—~~P	P	~~—~~P
Automobile Fueling or Service Station	—	—	—	A	—
Storage Facility (Indoor/Outdoor)	—	—	L	L	L
Accessory Business Use of the Home[3]	A	A	A	A	A
Cottage Industry[3]	A	A	A	A	A
Cottage Industry, impact to neighboring property[3]	C	C	C	C	C
Sexually-Oriented Business[1]	—	—	—	L	—
RURAL RECREATION AND HOSPITALITY CATEGORY					
Bed and Breakfast	~~A~~P	P~~A~~	~~A~~L	~~C~~L	~~A~~L
Short-Term Rentals	P	P	L	C	L
Guest Ranch	P	P	P	C	L
Lodging (Inn, Hotel, Motel)	L	L	L	C	L
Resort or Conference Center Hotel	C	L	L	L	L

Commented [CH12]: Permitted Use better reflects Additional Residences - review

Commented [CH13]: Threshold from Mobile Home Park Reso (repealed)

Commented [CH14]: Move to Commercial

Commented [CH15]: Align with Specific Use Standards. Establish threshold for # of units when a permit is required. Below that is Allowed (reflect in Specific Use Standards, Section 7). Still need proof of water, access, etc

Commented [CH16]: # units TBD

Commented [CH17]: Confused with definition parameters. Hemp processing allowed as Ag use if not hazardous materials

Commented [CH18]: Relocated from Ag Support

Commented [CH19]: Clean up to reflect current practices. Reflects multiple interested parties asking about storage. Have been placing under Rural Industry, which distinguishes between indoor and outdoor…and retail.

Equestrian Facilities (training, arenas, horse boarding, etc.)	A	A	A	A	A
Outdoor Shooting Range[1]	~~L~~C	~~L~~C	C	C	—
Indoor Shooting Range[1]	~~P~~L	~~P~~L	L	L	L
Racetrack[1]	C	C	C	P	—
Paintball Course	L	L	L	—	—
Hunting, Fishing, or Watersports Club	A	A	~~A~~P	—	P
Campground/RV Park[1]	L	L	~~L~~C	—	~~L~~C
Parks, Passive Recreation, Open Space, or Golf Course	~~A~~L	~~A~~L	~~A~~C	~~A~~P	~~A~~C
Other Active Outdoor Recreation	L	L	L	P	P
Theater	—	P	P	—	A
Outdoor Theater[1]	C	P	P	—	C
UTILITIES, COMMUNICATIONS, MINERALS, ENERGY, TRANSPORTATION, AND DISPOSAL CATEGORY					
Water or Wastewater Treatment Plant	P	P	P	P	P
~~Wireless Communications Facility~~	~~*See* Wireless Communications Facility Resolution~~				
Renewable Energy Facility (Personal Scale)[1]	~~A~~L	~~A~~L	~~A~~L	~~A~~L	~~A~~L
Renewable Energy Facility (Commercial Scale)[1]	~~—~~	C	~~—~~	C	~~—~~
Truck Stop / Truck Wash	—	—	—	P	P
Airport, Airstrip, ~~Helicopter~~ Landing Pad (Other)[1]	L[n]	L[n]	L[n]	L[n]	L[n]
Salvage Yard[1]	C	C	~~—~~C	C	~~—~~C
Minerals Extraction / Quarry[1]	C	C	~~—~~C	C	~~—~~C
Oil and Gas Extraction & Support Services	(reserved)				
Waste Transfer Station[1]	—	—	—	C	—
Landfill[1]	C	C	C	—	—
Hazardous Waste Landfill[1]	C	—	—	—	—
WIRELESS COMMUNICATIONS FACILITIES[1]					
New Facilities, Private Property	C	C	C	C	C
New Facilities, Public Property	L	L	L	L	L
Eligible Existing Facilities	P	P	P	P	P
Building Mounted Facilities	P	P	P	P	P
Small Wireless Facilities	P	P	P	P	P

[1]- See Chapter 2, Section 5B; *Use Specific Standards*
[2]- See Chapter 3, Section 2; *Additional Residences and Communal Living*
[3]- See Chapter 2, Section 3; *Temporary Uses*

C. Uses ~~that are Not Allowed~~ Restricted by Ordinance in Any Zoning District

The following uses are ~~not allowed in any zoning district~~ specified in their operating ordinance(s) (Ordinances included in the Appendix):

Commented [CH20]: Standards from resolution integrated into Use Specific Standards. Different types of facilities reflected below.

Commented [CH21]: Definition sets threshold at 100 kw
Set Use Specific Standards (footprint) based on scale (personal, large, utility)

Commented [CH22]: Do not allow in residential zones, including A5.
Do not allow in A35 as the prime lands for Ag and/or open space.
A20 is marginal Ag lands. Otherwise, it is a commercial use.

Commented [CH23]: Intensives uses for residential zones, including A5.

Commented [CH24]: If not intent to create regulations and rely on State Statute only - DELETE?

Commented [CH25]: Not all are fully prohibited. For example, Junk/Rubbish has exemption if assessed as Ag. Revised to reflect Ordinance titles and distinguish the two ordinances. Add reference to Ordinances

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1. Commercial ~~Marijuana~~ Uses Cannabis ~~(*See Delta County Ordinance 2018-01*)~~; and

2. Personal Use Cannabis; and

~~6.~~3. Mobile Homes; and

~~7.~~4. ~~Outdoor~~ Accumulation of Rubbish (Junk) ~~Storage.~~

Commented [CH26]: LUC referenced personal use (2018-10), versus commercial use (2013-01)
Recommend omitting specific ordinance number so don't have to amend LUC if ordinance changes.

Commented [CH27]: Ordinance 2006-10
Recommend revising so applies for all mobile homes and limits pre-HUDs

Commented [CH28]: Ordinances 2003-06 and 2007-01
Amended to reflect Ordinance title

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CHAPTER 2

Section 3. Temporary Uses and Accessory Business Use of the Home

A. Purpose and Application of Section

1. **Purpose of Section.** The purpose of this Section is to establish standards for certain temporary uses and business uses of the home.

B. ~~Temporary~~ Use of Recreational Vehicle, or other similar structure as Dwelling Unit

1. **Construction (Temporary).** A recreational vehicle may be temporarily occupied as a dwelling unit during the period in which a dwelling unit is actively being constructed or installed on a subject property, provided that the occupant of the recreational vehicle is the owner of the property upon which the construction is occurring, or the contractor who is constructing the dwelling unit. ~~Hauling of water for temporary farm worker housing is allowed. Said use of the recreational vehicle shall terminate~~ the ~~earlier of~~. Said use of the recreational vehicle temporarily during construction shall require valid plumbing and/or plumbing permits as applicable, subject to a timeline to terminate the use such as:

    a. 90 days ~~after it is commenced~~ where a manufactured/modular unit is installed; or

    b. When construction of the dwelling unit is substantially complete and habitable.

2. **Farm Labor (Seasonal).** Use of recreational vehicles as seasonal farm labor housing shall be subject to requirements for an Allowed Use, including compliance with the timeline established in Section 2.D.2.a.2 above.

3. **Residence (Principal).** ~~A recreational vehicle, or other similar s~~Structures not otherwise intended for permanent living, such as a recreational vehicle, may be ~~considered~~ used as single-family detached residences (principal use) when connected to permitted, permanent, reliable infrastructure, including power, water, and either sewer or a permitted individual sewage disposal system.

~~2.~~4. **Manufactured Home Park.** Where any parcel of land includes three or more (3+) sites for mobile homes or recreational vehicles owned or leased as a residence on a parcel of land (other than the property owner), that parcel becomes a manufactured home park and is subject to the applicable regulations in Chapter 2, Section 4(B)(2) of this Code.

C. Farm Stands

Farm stands are an Allowed Use, provided that:

1. T~~t~~hey do not take direct access from a state highway or arterial road unless CDOT or ~~the Department of~~ County Roads and Bridges confirms that such access may be safely provided~~,~~; and

~~1.~~2. ~~provided that t~~The subject property is cleaned up and restored after the stand is removed.

Commented [CH29]: Address hauled water with cisterns. Chapter 5, Section 3)

Commented [CH30]: 90 days is not enough for constructing a home, but is enough for setting a modular home

Commented [31]: State (DOLA) monitors is 5+ units

Commented [32]: Align with standards from Reso 97-R-035 (pre-LUC).

Commented [CH33]: Reformatted for easier reading

D. Fireworks Stands

Fireworks stands are an Allowed Use provided that:

1. They do not take direct access from a state highway or arterial road unless the Department of Roads and Bridges confirms that such access may be safely provided;
2. A fire prevention and emergency response plan is provided and approved by the applicable fire protection district;
3. Fire restrictions are not in effect during the period that the fireworks stand is present; and
4. The subject property is cleaned up and restored after the stand is removed.

E. ~~Special~~ Events

1. **Generally.** The standards of this section apply to temporary ~~special~~ events that ~~are likely to attract more than 500 people at any one time to a subject property~~ that ~~is~~ are not already ~~put to~~ permitted to include such use (e.g., ~~a~~ commercial, community, wineries, or hospitality use) that would routinely attract large groups of people. Such events may include outdoor entertainment, cultural, religious, or charitable events, as well as flea markets, farmers' markets, craft shows, and comparable events. More specifically:

    a. *Special Event* applies in cases where there are no more than three (3) events per calendar year that do not exceed more than seven (7) consecutive days.

        1) Allowed Use if less than 150 people at any one venue at any one time, but must comply with standards of this section.

        2) Permitted Use for an event between 151 and 500 people.

        3) Limited Use if over 500 people.

    b. *Private Event* applies where people are invited by the property owner with no obligation or expectation to pay or donate money/services (e.g., family wedding on their property). Allowed Use.

    ~~a.~~c. *Public Event* applies to any event that does not meet the parameters of a special or private event. Limited Use required in each such case.

2. **Approval Standards**.

    ~~a. *Frequency and Duration*. No subject property shall host a temporary special event more than 75 days per year (including setup and teardown), and no individual event shall be longer than 30 days.~~

    ~~b.~~a. *Impact on Agriculture or Intensive Agriculture.* The location and nature of the special event shall be such that it will not adversely affect adjacent and nearby agriculture and intensive agriculture uses that involve livestock; or create a material risk of trespass onto or damage to agricultural fields, grazing areas, or livestock pens.

Commented [CH34]: 500 is a very large event and 75 days per year is excessive to allow everywhere. Standards are include but without any mechanism to enforce, except after-the-fact with complaints.

Commented [35]: "Special" means not a routine activity. Distinguish from routine activities (e.g., wineries)

~~c.~~b. *General Site Requirements*. The event shall be held on a site that is suitable for safely accommodating the expected level of attendance.

~~d.~~c. *Buildings and Structures*. ~~If existing buildings and structures are used, they~~ Buildings and structures (including temporary tents) to be used must be in a condition that is safe and appropriate for the intended level of use and occupancy.

~~e.~~d. *Access and Circulation.*

1) The street from which access is taken must have adequate capacity to serve the temporary special event. The County may require a Traffic Impact Study to evaluate available capacity. A traffic management plan may be required to ensure safe access and safe operation of adjacent roads.

2) Safe on-site vehicular and pedestrian circulation routes shall be identified and unobstructed emergency access shall be provided.

~~f.~~e. *Parking.*

1) The parking area available for the temporary special event shall be sufficient to accommodate the peak demands of the event, assuming four attendees per vehicle.

2) Fewer parking spaces may be allowed if the applicant demonstrates that the reduced number is justified based on the nature of the event, the provision of alternative transportation (*e.g.*, buses and vans), or the close association of the event with a permanent use that provides parking for attendees.

3) Parking may be provided in remote locations, provided that if parking is provided more than 800 ft. from the boundaries of the temporary special event, an appropriate level of shuttle service is provided between the event and the parking area.

4) Truck parking and loading areas shall be provided as necessary to service the event and provide for storage of trucks and trailers that will remain on-site. Trucks shall be routed away from local residential streets.

~~g.~~f. *Noise*. Noise controls may be required for temporary special events that are expected to generate high levels of noise or to operate after 9:00 p.m.

~~h.~~g. *Security and Fire Protection*. Adequate security and fire protection shall be provided for the proposed temporary special event. The County may require a fire prevention and emergency response plan that is approved by the applicable fire protection district.

h. *Sanitation*. Adequate restrooms (portable restrooms are acceptable for temporary use) shall be provided to serve the event. Trash containers and recycling bins shall be placed in convenient areas, including principal places of assembly, near food and beverage vendors, near restrooms, and at pedestrian entry and exit points.

i. *Food and Beverage.* Appropriate approvals and/or permits shall be obtained for food services and selling of alcohol.

j. *Cleanup and Restoration.*

1) The site of the temporary event and the adjoining right-of-way shall be cleared of all litter and debris from the event, including temporary signage, not more than two days after the last day of the event.

2) If grass parking was utilized, restoration/re-seeding may be required to control dust in impacted areas.

3) The County may require a refundable deposit for site clean-up and restoration.

F. Accessory Business Use of the Home

Accessory business use of the home ~~is allowed as-of-right.~~ (aka Home Business) includes any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit (subordinate to the residential use). In order to qualify as an Allowed Use, a Home Business shall:

1. Operate in its entirety within the dwelling unit and only by persons residing in the dwelling. There shall be no storage relative to the Home Business in another structure or outside the dwelling; and
2. Utilize access included as part of the dwelling. The use shall not have a separate, independent entrance from outside the building, unless otherwise required by State law or regulation; and
3. Be allowed one (1) unanimated, non-illuminated flat wall or window sign having an area of not more than one (1) square foot. The operator shall not display or create any evidence of the Home Business outside of the building; and
4. Utilize a maximum of twenty percent (20%) of the gross floor area of the dwelling, or 300 square feet, whichever is less. A garage shall not be utilized for, or in conjunction with, accessory business use of the home;
5. Be conducted by the owner or occupant of the dwelling. Home Business shall not employ, for a fee or otherwise, any person in the conduct of the Home Business who does not reside in the dwelling unit; and
6. Clearly be incidental and secondary to the use of the dwelling for dwelling purposes and shall not materially change the character of the residential use or of the neighborhood by excessive noise, lights, traffic, or other disturbances.

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G. Cottage Industry

Cottage Industry is a Home Business that utilizes an accessory structure or land associated with the residence, and includes a limited number of employees. In order to qualify as an Allowed Use, a Cottage Industry shall:

1. Utilize a maximum of one accessory structure, and may not exceed 2,000 square feet; and
2. Be limited to a maximum of five (5) employees, including the owner/operator; and
3. Be subordinate to the residential use. The Cottage Industry shall not be the primary use of the property and the business owner must reside in a dwelling on the property; and
4. Limit outdoor storage to an area no larger than 100 square feet and six (6) feet in height. All material stored outside shall be screened from public view (from a public road); and
5. Limit deliveries to/from the property so that it does not cause interference with the normal flow of traffic for surrounding residents; and
6. Clearly be incidental and secondary to the use of the residential use and shall not materially change the character of the residential use or of the neighborhood by excessive noise, odors, dust, lights, traffic, or other disturbances; and
7. Be allowed one (1) unanimated, non-illuminated flat wall or window sign having an area of not more than two (2) square feet. The operator shall not display or create any evidence of the Cottage Industry outside of the building; and

Cottage Industries that create significant impacts to adjacent properties such as fumes, noxious odors, excessive noise, dust, and or traffic shall be subject to a Conditional Use Permit.

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CHAPTER 2

Section ~~54~~. ~~Limited~~ Use ~~Approval~~ Specific Standards

The following standards are in addition to other standards set forth in this Code.

A. ~~B~~. ~~Use Specific Standards~~Intensive Agriculture

~~**Intensive Agriculture**~~

1. **Definition***:* Intensive Agriculture means a group of land uses that involve the raising, care, or feeding livestock, where the number of animals is equivalent to or greater than 50 animal units, and, the animals are stabled, confined, fed and/or maintained a total of 45 days or more in any 12-month period, and, where crops, vegetation, forage growth, or post-harvest residues are not growing, irrigated and sustained in the normal growing season over any portion of the lot or facility. The phrase "intensive agriculture" also includes concentrated aquatic animal production ("CAAP"). The phrase "intensive agriculture" does not encompass (without more) cattle and sheep that are moved between winter and summer pastures, including those confined for more than 45 days due to adverse conditions, and breeding stock on property where other cattle are grazing.

TABLE 2.C
DEFINITION OF INTENSIVE AGRICULTURE
~~(SEE CHAPTER 14 SECTION 2 FOR FULL DEFINITION)~~

Animal feeding operation (AFO) means any building or outdoor corral, pen, or other enclosure used to confine animals for the purpose of feeding or care, where no forage is harvested. The total number of animal units (see Chapter 14, Section 2 for full definition) determines the applicable criteria and standards		
Small AFO	Medium AFO	Large AFO
50-149 animal units	**150-999 animal units**	**1000+ animal units**

2. **Definition**. Residential Use means any property, whether developed or not, that is zoned A5 or ~~UGA~~ RES, and any other property that has a residential tax assessment indicating residential use of the property. For the purposes of measuring setbacks for Intensive Agriculture, the setback should be measured from the property line of the property that meets the Residential Use definition.

3. **Minimum Lot Area.** The minimum lot area for MAFO and LAFO uses is 35 acres. There is no minimum lot area for SAFO or CAAP uses.

4. **Setbacks.** Intensive agriculture uses shall be set back as provided in Table 2.d, Setback Standards for Intensive Agriculture. **Additional setbacks may be required in order to implement the requirements of subsections (e), (f), and (g), below.** If an intensive agriculture application cannot meet the requirements of this subsection, and is processed as a Conditional Use in accordance with Chapter ~~28~~, Section ~~25 (A.3) *Conversion to a Conditional Use,* above~~, setbacks may be reduced, but only within the limits of subsection

Commented [CH36]: Relocate from Chapter 2, Section 5.B since not all uses included are Limited Uses (come conditional uses). Concept to have all in one place makes sense. Formatting revised as a new Section.

Commented [CH37]: Stated in narrative below (repetitive)

(k), below.

TABLE 2.d
SETBACK STANDARDS FOR INTENSIVE AGRICULTURE

Standard	Facility Type			
	SAFO	**MAFO**	**CAAP**	**LAFO**
Part A: Setbacks for feedlots, confinement buildings or pens, waste lagoons, and carcass disposal areas				
From Streams and Rivers	200 ft.	200 ft.	200 ft.	200 ft.
From Irrigation Ditches	100 ft.	100 ft.	100 ft.	100 ft.
From Community Water Sources	300 ft.	300 ft.	300 ft.	300 ft.
From Domestic Water Wells	150 ft.	150 ft.	150 ft.	150 ft.
From Residential Uses	Greater of 150 ft. or 1 ft. / AU	1,000 ft.	150 ft.	1,000 ft.
From Public Schools	2,640 ft.	2,640 ft.	2,640 ft.	5,280 ft.
Part B: Setbacks for buildings used for confinement of animals, water or wastewater storage tanks, and accessory buildings or structures that are not covered by Part A, above.				
From all property lines	100 ft.	100 ft.	50 ft.	100 ft.

5. **Odor Management**. An Odor Management Plan is required. Mitigation measures that are set out in the Odor Management Plans shall be conditions of approval of the intensive agriculture use.

    a. Animal confinement structures, structures or lagoons used to store and/or treat wastewater, solids, or sludges, and areas used to process and dispose of carcasses shall be designed to incorporate ventilation, aeration, treatment, and/or filtration technologies to reduce odors and pathogens.

    b. Building exhaust vents shall include control equipment to prevent emissions of dust and odors to the greatest extent practicable.

    c. *Odor Management Plans* for intensive agriculture shall include:

        1) A description of and a map that demonstrates the location of each of the operations and processes at the intensive agriculture operation, including the following:

            a) Animal confinement structures and open animal feeding operations;

            b) Manure collection, storage, and treatment systems, including anaerobic process wastewater vessels and impoundments and aerobic impoundments;

            c) Composting storage sites; and

            d) Land application equipment and sites.

2) *Construction and Design Plans* for odor controls and management practices shall include all necessary and appropriate technology to minimize to the greatest extent practicable off-site odor impacts from all aspects of the intensive agriculture operations, including confinement structures, animal waste, and composting storage sites, and odor and aerosol drift from land application equipment and sites;

3) *Operation Plans* for odor controls and management practices, including plans for the following, if applicable:

    a) Proper operation and maintenance of the necessary technology or practices to minimize the greatest extent practicable off-site odor impacts;

    b) Operation of the required equipment in compliance with manufacturer's specifications and recommendations;

    c) Proper operation and maintenance of covers, technologies and/or practices employed for anaerobic process wastewater vessels and impoundments to capture, recover, incinerate, or otherwise manage odorous gases to minimize, to the greatest extent practicable, the emission of such gases into the atmosphere; and

    d) Proper operation and maintenance of the necessary technology employed for aerobic impoundments to ensure maintenance of aerobic conditions or otherwise to minimize the emission of odorous gases to the greatest extent practicable.

4) An animal waste management plan for odor control and management practices necessary to minimize to the greatest extent practicable off-site odor impacts

5) All plans and specifications for odor control equipment and management practices included in the Odor Management Plan must conform to common and accepted professional practices.

6) Testing, sampling, and analysis requirements appropriate for the intensive agriculture use.

6. **Water Quality.** A *Water Quality Management Plan* is required for all intensive agriculture uses. Mitigation measures that are set out in the Water Quality Management Plan shall be conditions of approval of the intensive agriculture use.

   Note: All animal feeding operation are subject to Colorado Regulation 81 to protect water quality. Information on Regulation 81 can be found at https://www.colorado.gov/pacific/cdphe/animal-and-livestock-feeding-operations-general-information

7. **Dust Management**. A *Dust Control Plan* is required for all intensive agriculture uses.

Mitigation measures that are set out in the Dust Control Plan shall be conditions of approval of the intensive agriculture use.

a. The Dust Control Plan shall include all available practical methods that are technologically feasible and economically reasonable and that will reduce, prevent, and control fugitive dust into the atmosphere.

b. For those materials, equipment, services or other resources (such as water for abatement and control purposes), which are likely to be scarce at any given time, an alternative control method must be included in the dust control plan.

c. Where the intensive agriculture use is accessed by an unpaved road or access easement, the County may require that the Dust Control Plan provide for mitigation of dust along the unpaved road or access easement.

8. **Noise Mitigation.** A *Noise Mitigation Plan* is required for all intensive agriculture uses. Mitigation measures that are set out in the Noise M~~anagement~~itigation Plan shall be conditions of approval of the intensive agriculture use.

a. Noise that is generated by development shall not exceed the thresholds set out in C.R.S. § 25-12-103, *Maximum Permissible Noise Levels*, except as provided in 25-12-109, *Exception - Sport Shooting Ranges - Legislative Declaration – Definitions*, or any other specific exceptions created by the State of Colorado after the effective date of this Code.

b. Where design is not sufficient to mitigate noise impacts, the applicant shall submit a Noise Mitigation Plan that includes operational limitations to mitigate the noise impacts. Adherence to the Noise Mitigation Plan shall be a condition of approval.

9. **Pest Management.** A *Pest Management Plan* is required for all intensive agriculture uses. Mitigation measures that are set out in the Pest Management Plan shall be conditions of approval of the intensive agriculture use. The Pest Management Plan shall address the following:

a. The types of pests that may be associated with the proposed land use at a level that requires management;

b. The methods, techniques, barriers, biological agents, or chemical agents that will be used to control the identified pests (the "PEST MANAGEMENT PLAN~~ROGRAM~~"), the anticipated timing of application of chemical or biological agents, and the method of storage of chemical or biological agents; and

c. The controls that will be used to minimize the impacts of the Pest Management Plan~~rogram~~ on nearby property, waterbodies (including but not limited to irrigation ditches and reservoirs), livestock operations, and environmentally sensitive lands.

10. **Truck Routing.** A *Truck Routing Plan* is required for all intensive agriculture uses. Routes and hours of operation that are set out in the Truck Routing Plan shall be conditions of

approval of the intensive agriculture use.

a. The type or class of vehicles that will be used by the proposed land use;

b. The anticipated frequency of arrival and departures of trucks;

c. The hours of truck traffic;

d. A map illustrating the route(s), from a paved County arterial road or State Highway, of all trucks used by the proposed land use.

11. **Limitations on Modifications**.

a. Setbacks for intensive agriculture uses shall only be modified through a Conditional Use review process described in Chapter 8~~2~~, Section 2~~5, *Limited Use Approval Standards*~~, in accordance with the following limitations:

1) Setbacks to residential uses may be reduced by up to 50-percent; and

2) Setbacks to property lines may be reduced by up to 25-percent, provided that setbacks to schools are not thereby reduced below minimum requirements.

3) In determining whether setback reductions will be allowed, the Board of County Commissioners shall consider the concentration of intensive agriculture facilities in the vicinity, in order to evaluate the cumulative impacts of such uses on the land uses from which spacing is required.

B. Rural Residential Uses

~~**Rural Residential Uses**~~

1. **General Requirements**.

a. *Stewardship Areas*. If Steward Areas are required to be identified based on Chapter 4 *Site Design and Environmental Stewardship,* such Stewardship Areas shall be managed in accordance with Chapters 4 and 12 of this Code. No development of lots, dwelling units, supporting infrastructure, or common areas shall occur in the designated Stewardship Area.

b. *Density*. The total number of ~~rural residential uses for manufactured home parks and multifamily~~ dwelling units allowed on a parcel shall be limited to one dwelling unit per minimum acreage allowed by the applicable zone district. In addition, one Accessory Dwelling Unit is allowed per parcel. The total number of units allowed in the UGA Overlay shall be restricted only by the ability to connect to municipal services including water and sewer.

2. **Manufactured Home Park.** ~~In addition to all other applicable standards of this Code, and c~~Compliance with ~~Resolution 2006-R-010~~ County regulations regarding Pre-HUD Homes, manufactured home parks shall meet the following standards:

Commented [CH38]: Stewardship areas required with a clustered subdivision.

Commented [CH39]: Stated at intro of this Chapter

Commented [CH40]: Reso 2006-R-010 is the inspection checklist for Pre-HUD units. Provided as an addendum to the operative Ordinance… Plan to revise pre-HUD ordinance allowing to keep in place if existing, but cannot relocate/transport a pre-HUD except to dump or out of the County.
Added standards from Mobile Home Park Resolution (Reso 97-R-035)

PC Work Session – LUC Update

August 10, 2022

a. *General Standards.*

1) Design of Manufactured Home Parks shall preserve, insofar as it is possible, the natural terrain, natural drainage, existing topsoil and tees.

2) Land subject to hazardous conditions such as landslides, mud flows, rock falls, snow avalanches, possible mine subsidence, shallow water table, open quarries, periodic flooding, and polluted or non-potable water supply shall not be developed into manufactured home parks until the hazards have been eliminated or will be eliminated as part of the proposed development plans.

b. *Access.*

1) A park with more than 20 sites must have two means/points of access.

2) Streets within the park shall be meet County Road Standards for a Local Street.

3) Dead-end streets shall not be permitted.

4) Cul-de-sacs shall not serve more than 10 sites.

5) Driveways for individual park sites shall not be permitted to have direct access to highways or County roads.

c. *Easements.* Easements shall follow front, side, or rear lines of individual park sites whenever practical and designed to provide efficient installation of utilities.

d. *Design Standards.*

1) Perimeter Setbacks and Building Spacing. The minimum setback from the perimeter of the subject property shall be 25 ft. and the minimum spacing between manufactured homes shall be 10 ft.

2) Site Size. Minimum site size is 4,500 square feet.

3) Density. Maximum density is six (6) units per acre. This density can be increased to eight (8) units per acre where the park is connected to sewer.

4) Skirting. All units shall be skirted within 90 days after placement on a site. The material shall be fire resistant and generally blend with the appearance of the unit.

5) Utilities and Services. Each site shall be provided with: domestic water, wastewater disposal, electricity. Telephone and gas may be provided. All of these utilities must be properly installed, permits as required by State or local regulations, with systems of adequate capacity to meet anticipated demands. All utilities, except major transmission lines, shall be underground.

6) Fire Protection. Each Park shall be equipped with fire hydrants in good working order and of such size, type, number, and location as to satisfy applicable regulations of the appropriate fire agency.

~~1)~~7) Parking. Each site shall be provided with a minimum of two (2) off-street parking spaces.

e. *Common Buildings*. Manufactured home parks may include common buildings for administration, assembly, and utility purposes, such as leasing, recreation, storage, and laundry.

~~b.~~f. *State Registration*. Manufactured home parks with more than five (5) units is required to be registered with the State.

3. **Multifamily.** In addition to all other applicable standards of this Code, multifamily uses shall meet the following standards:

1) *Perimeter Setbacks and Building Spacing*. The minimum setback from the perimeter of the subject property shall be 25 ft. and the minimum spacing between multifamily buildings shall be 20 ft.

2) *Common Buildings*. Multifamily uses may include common buildings for administration, assembly, and utility purposes, such as leasing, recreation, storage, and laundry.

~~i. Section 2. Accessory Residential Uses~~

~~1. A. Purpose and Application of Section~~

~~1. **Purpose.** The purpose of this Section is to set standards for the development of accessory residential uses, including additional residences on a lot, and seasonal farmworker housing, in order to ensure that adequate services are provided, and that proper permits or taps for water and wastewater disposal are secured.~~

~~2. **Application of Section.**~~

~~3. Chapter 3, Section 2(B), *Additional Residences or Communal Living*, provides standards for the development of more than one single-family dwelling unit on a lot.~~

~~4. Chapter 3, Section 2(C), *Seasonal Farmworker Housing*, provides standards for the development of housing for seasonal use by farmworkers.~~

4. **Additional Residences or Communal Living**

a. *Generally*.

1) The purpose of this Section is to set standards for the development of additional residences on a lot to ensure that adequate services are provided,

Commented [CH41]: Separate (differentiate) farmworker housing from additional units (Ag vs non-Ag).

Commented [CH42]: Relocated from Chapter 3, Section 2 (A&B), and edited

and that proper permits or taps for water and wastewater disposal are secured.

~~1)~~2) ~~In general, o~~One residence is allowed per lot. Additional residences may be constructed, placed, or installed on a lot in accordance with the provisions and limitations of this Section, subject to Site Plan Review. The number of additional residences is ~~not specifically limited~~limited to the allowed density (Section B of this Chapter, "Rural Residential Uses"). ~~, but a~~Adequate water, sewer, power, fire protection, and access must be provided for each unit in accordance with the standards of this Code and other applicable law.

~~2)~~3) A subject property that is developed with additional residences may also include accessory buildings that are not designed such they could be used as dwelling units (*e.g.*, common buildings, storage buildings, barns, stables, etc.).

4) This allows for additional residences that are intended for permanent occupancy~~; however, such additional residences may also be used for seasonal housing, including seasonal farmworker housing~~. Additional residences that are used as temporary residential uses may be subject to ~~Chapter 2, Section 3(B), *Temporary Uses of Recreational Vehicle, or other similar structure as Dwelling Unit*~~other standards depending on how they are used (e.g., lodging, seasonal farmworker housing, etc.).

~~3)~~5) Design according to the standards referenced in ~~this~~ subsection (2) below shall not create a vested right to future subdivision. Future subdivision will be evaluated based on the standards in place on the date of application for the subdivision

b. *Site Design and Utilities*.

1) ~~Although subdivision is not required, a~~Additional ~~residences~~ dwelling units shall be accessed, located, spaced, oriented, and served by utilities such that the subject property could be subdivided into a ~~standard~~ subdivision or a clustered subdivision in the future. ~~*See* Chapter 4, *Site Design and Environmental Stewardship*, for applicable design standards.~~

~~1)~~2) Additional units shall be designed and located in areas that will not impact irrigated Ag lands.

~~2)~~3) Construction or installation of net new dwelling units requires compliance with Chapter 5, *Public Facilities, Infrastructure, and Services*, as applicable.

~~3)~~4) ~~Design according to the standards referenced in this subsection (2) shall not create a vested right to future subdivision. Future subdivision will~~

Commented [CH43]: Clarify need to go through a process.

Commented [CH44]: Density establishes limitations on the number of units. If do not establish density, then need to determine if this is really only limited to available water…even if taking out irrigated lands.

Commented [CH45]: General not site design.

Commented [CH46]: Encourage clustering to minimize footprint.

~~be evaluated based on the standards in place on the date of application for the subdivision~~Access for additional units shall be consolidated with the primary access and designed in accordance with applicable County Road Standards. Multiple access for multiple units is discouraged unless the Director determines it would be impractical due to unique site conditions.

c. *Traffic Impacts.* At the point ~~If~~ a ~~subject~~ property ~~is~~ propose~~d~~ to create additional dwelling units totaling ~~include~~ more than three ~~net new~~ dwelling units on the property, a traffic impact study is required. *See* Chapter 5, Section 1, *Traffic Impacts.*

C. Agricultural Support & Rural Industry Uses

~~Agricultural Support & Rural Industry Uses~~

~~(Reserved)~~

~~2.~~1. ~~C.~~ ~~Seasonal~~

1. **Farmworker Housing**

a. The purpose of this Section is to set standards for the development of farmworker housing, in order to ensure that adequate services are provided, and that proper permits or taps for water and wastewater disposal are secured.

b. Farmworker Housing consists of permanent structures/units occupied year-round.

c. Seasonal Farmworker Housing consists of temporary or permanent structures and meets the criteria for seasonal land use in Chapter 2, Section 2.D of this Code. Units shall be vacated at least 90 consecutive days during a 12-month period.

~~a.~~d. ~~Seasonal f~~Farmworker housing may be constructed, placed, or installed on a lot, provided ~~that~~all of the following criteria are met:

1) The parcel is zoned A35 or A20.

a) Density of 1 unit/10 acres with a minimum 20 contiguous acres is an Allowed Use.

b) Density greater than subsection "a" above is a Limited Use.

~~1)~~2) The principal use of the lot (or a larger area of commonly-owned property within which the lot is integrated) is agriculture or intensive agriculture.~~; and~~

~~2) The format for the seasonal farmworker housing is allowed in the zoning district in which the farm is located (*e.g.*, manufactured home park, multiple-family, or campground); and~~

3) Water can be hauled for use of seasonal farmworker housing for a period not to exceed 90 days.~~; and~~ Units occupied for more than 90 days in a

Commented [CH47]: Consistent with encouraging clustered footprint versus sprawling out.

Commented [CH48]: Clarify intent to trigger a traffic study when more than 3 units. As worded could be read that able to add two at a time without trigger the need for a traffic study.

Commented [CH49]: Relocated from Chapter 3, Section 2.C, and edited

calendar year shall meet the criteria for an adequate water supply (see *Chapter 5, Section 3*).

~~3)~~4) The housing shall be designed and located to minimize loss of irrigated lands.

~~4)~~5) ~~The seasonal f~~Farmworker housing shall meet~~s~~ all of the applicable standards of this Code, based ~~on its~~the format of ~~and the zoning district in which the subject property is located.~~

~~1) Additional residences or communal living (see Chapter 3, Section 2 (B), *Additional Residences or Communal Living*);~~

Manufactured Home Parks (see ~~Chapter 2, Sections 5 (B),~~ *Use Specific Standards above*);

~~2) Multiple family housing (see Chapter 2, Section 5 (B), *Use Specific Standards*);~~

~~3) Campgrounds (see Chapter 2, Section 5 (B) *Use Specific Standards*); provided that farmworker housing that will be occupied for periods of 30 days or more is in the format of a recreational vehicle, tiny home, cabin, yurt or mobile home. Tents shall not be occupied as farmworker housing for periods longer than 30 days.~~

D. Community Uses

~~**Community Uses**~~

Community land uses shall not be located in wildfire hazard areas.

E. Commercial Uses

~~**Commercial Uses**~~

1. **Sexually-Oriented Businesses.** Sexually-oriented businesses are regulated under the authority of C.R.S. 30-15-401(l). In addition to all other applicable standards of this Code, sexually-oriented business uses shall meet the following standards:

    1) No sexually-oriented business shall be located within 1,000 ft. of a place of assembly, day care, dwelling unit, or school, measured from property line to property line. Setbacks related to Sexually-oriented businesses shall not be modified using the Conditional Use review process described in Chapter 8~~2~~, Section 2~~6~~, ~~*Conditional Use Approval Standards*~~.

    2) Access to the use shall be configured to allow for verification of age of customers before entry.

3) The interior of the use shall be configured so that there is no visibility of interior activities from outside of the building through windows or doors.

F. Rural Recreation & Hospitality

~~**Rural Recreation & Hospitality**~~

1. **Indoor Shooting Range**. ~~In addition to all other applicable standards of this Code, indoor shooting range uses shall be:~~

    1) Located within a free-standing building;

    2) Sound-proofed so that the shooting activities are not audible at property lines;

    3) Designed with closed loop range ventilation systems with HEPA filtration, dedicated to the range and not connected to the general HVAC system for the building;

    4) Designed to prevent dangers from ricochets, backsplash, and lead dust;

    5) Designed such that no door or entrance is located forward of the rearmost firing point, unless secured from the inside; and

    6) Designed such that a red light is installed above all doors giving direct access to the range itself (not the building), with such lights turned on whenever the range is in use.

2. **Outdoor Shooting Range.** ~~In addition to all other applicable standards of this Code, outdoor shooting ranges shall be:~~

    1) Either designed to mitigate noise impacts on residential uses, community uses, and/or livestock operations within 1,000 ft. to a level that does not exceed 70 dBA, or located not less than:

        a) 1,000 ft. from residential buildings;

        b) One mile from the boundaries of a municipality; and

        c) Two miles from an airport or airstrip;

    2) Designed to prevent projectiles from leaving the subject property; (a scaled site plan, elevations, and construction plans must show how all projectiles will be contained within the site);

    3) Secured to prevent entry into surface danger zone areas;

    4) Designed according to the most recent version of "Range Design Criteria," promulgated by the U.S. Department of Energy, Office of Health, Safety, and Security; and

    5) Designed to provide an impervious layer in the area where bullets land to intercept lead leachate and direct it to a monitored pond.

Commented [CH50]: Stated at beginning of this Section (repetitive)

3. **Racetrack.** ~~In addition to all other applicable standards of this Code, racetrack uses shall meet the following standards:~~

    1) The minimum area of the subject property shall be 60 acres;

    2) The use shall be located not less than:

        a) One-half mile from buildings used for residential purposes, places of assembly, daycares and schools; and

        b) One mile from the boundaries of a municipality;

    3) All parts of the track and stands shall be set back:

        a) 100 ft. from all property lines; and

        b) 300 ft. from arterial streets;

    4) If the use is open to the public, access shall be provided by an arterial road or a local commercial or industrial road.

4. **Campground**. ~~In addition to all other applicable standards of this Code,~~ Campgrounds shall be developed according to the standards for a "Developed" campground as defined in 6 CCR 1010-9, 2.10.d (Colorado Code of Regulations).

    ~~*Note that 6 CCR 1010-9 is available online at https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=410&fileName=6%20CCR%201010-9*~~

5. **Outdoor Theater**. ~~In addition to all other applicable standards of this Code, outdoor theater uses shall meet the following standards:~~

    1) Access shall be taken from a collector or arterial road, or a local commercial or industrial road.

    2) No outdoor theater shall be located within 100 ft. of property lines.

    3) Amphitheater stages and drive-in screens shall face away from the nearest residential or livestock uses, and the applicant shall provide evidence that the use will comply with the standards of Chapter 4, Section 7(C), *Noise*.

G. Utilities, Communications, Mining, Energy, Transportation, and Disposal Uses

1. ~~**Utilities, Communications, Mining, Energy, Transportation, and Disposal Uses**~~**Renewable Energy Facilities**. The purpose and intent of this Section is to define the standards for placement, design, monitoring, modification of commercial-scale renewable energy (solar, wind, geothermal) while protecting public health, safety, and general welfare in the County in accordance with applicable State and Federal regulations.

    a. *Applicability*. The requirements of this Section shall apply to all proposed new and proposed modifications to commercial-scale renewable energy facilities, including

Commented [CH51]: Repeat of intro.

Commented [CH52]: Links can change/break so should not include in text.

Commented [CH53]: Regulations used examples from: Weld County, Adams County, Morgan County, Pueblo County. Reviewed by COSSA (irrigated Ag).

battery storage. These standards shall not apply to personal scale facilities, which are permitted in all zoning districts as an accessory use to a permitted principal use subject to the standards for accessory uses in the applicable zoning district.

b. *Exceptions*. These regulations shall not govern any renewable energy facilities on State or Federal lands.

c. *Design and Operation*. In addition to LUC Chapter 4 *Site Design and Environmental Stewardship*, commercial-scale renewable energy facilities shall be designed using the criteria set forth in this Section.

1) Protection of Agricultural Lands. The energy facility shall not have a significant adverse impact on agricultural lands or agricultural operations. Commercial scale projects should avoid impact to soils identified by Natural Resources Conservation Service (NRCS) as prime farmland or farmland of statewide importance. Where a project is located on agricultural designated lands, the project shall include an Agricultural Management Plan that adequately demonstrates continuation of Agricultural operations given the site conditions.

2) Irrigated Lands. Renewable Energy Facilities should be designed to minimize loss of irrigated ground, and shall maintain irrigation to surrounding properties (including access rights or way and easements).

3) Location.

a) Ground-mounted solar panels shall be located at least 70 feet from property liens and 200 feet from any residential structure. Inverter/transformer equipment, including any substation on site, shall be located at least 500 feet from any residential structure.

b) Wind Energy Facilities (WEF):

i. Shall be located at least 1.1 times the system height from above-ground public electric or communication lines, public roads/highways and railroads, property lines (unless appropriate easements secured from adjacent property owners or other acceptable mitigation is approved by the Board).

ii. Shall be located at least 2 times the system height from inhabited buildings including: residence, school, hospital, church or public library.

iii. System height is the combined height of the tower, wind turbine and any blade extended at its highest point, measured from [finish] ground level.

c) Structures associated with renewable energy facilities, to the greatest extent possible, shall not be located in a regulatory floodplain. Structures located in a regulatory floodplain shall require an approved flood plain permit.

d) Commercial-scale renewable energy facilities shall be located more than one (1) mile from:

i. Any defined municipal boundary; or

ii. Existing or permitted facilities.

4) Power lines. Proposed transmission facilities must be identified and included as part of the Renewable Energy Facility project. Unless geologic condition or other technical engineering considerations prevent underground installation, electrical collection system wiring and powerlines for the renewable energy facility shall be installed underground except where the electrical collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network. Overhead transmission lines are permissible from the project substation to the point of electrical interconnection.

d. *Standards and Limitations.*

1) In addition to Renewable Energy Facility standards set forth in this Section, applications for a renewable energy facility shall meet the Conditional Use Approval Standards in LUC Chapter 8, Section 2.

2) A Renewable Energy Facility must be designed to minimize site disturbances. Reestablishment of all disturbed areas, including the construction access, shall maintain the historic drainage patterns and permeable ground cover and must be done to minimize environmental impacts. Temporary and permanent erosion control measures shall be used as necessary to minimize erosion of the site.

e. *Application Requirements.* Applications for approval of renewable facilities shall be processed according to the applicable procedures set forth in Chapter 8 of this Code. Following a pre-application meeting, specific application requirements are promulgated by the Director, including but not limited to leading practice standards such as:

1) Concept/Development Plan. An illustrative summary of the project, including information provided in other documents described below, such as: property boundary lines and dimensions, location and arrangement of screening, buffer zones, fencing location and design (designed with wildlife movement in mind), tree preservation, existing/proposed structures and renewable energy facilities (including battery energy storage facilities),

driveways and entrances, existing road edges and rights-of-way abutting the project site, irrigation systems, existing/proposed easements (utility, irrigation, conservation, etc.), wildlife corridors, floodplain, and existing/proposed electrical and transmission lines.

2) Project Narrative. Provide the owner and operator of the proposed facility, as well as the applicant or representative. Identify the intended utility company to interconnect to the facility. Legal description of the subject parcel(s), location and description of physical characteristics and current land use, zoning, and soil type including NRCS classification for agricultural lands. Project size in acres and percentage of site coverage. A description of the project and each phase of development, including the approximate number of structures (e.g., panels, inverters, etc.), power output (in MW), plus infrastructure and interconnection requirements for each phase. Identify baseline conditions, assess potential effects that the project may have on County services and/or capital facilities from the proposed construction and operation. Describe site maintenance during and after construction, and recognize the ability for County to inspect the site upon notification. Also, address any direct or indirect impacts to forests, parks, wildlife management areas, conservation easements, or recreational areas.

3) Decommissioning Plan. A Renewable Energy Facility application must include an agreement that addresses decommissioning and abandonment of the facility. The agreement must at a minimum provide for reuse, recycling, or dismantlement of the facility at the owner's expense. The Plan shall include a cost estimate (current dollars) for the decommissioning of the facility and restoration of the site prepared by a professional engineer or contractor who has expertise in removal of such facilities. All non-utility-owned equipment, conduits, structures, fencing and foundations to a depth of at least three (3) feet below grade shall be removed. Property shall be restored to a condition reasonably similar to pre-development conditions. Disturbed areas shall be reestablished to historic drainage patterns and ground cover consisting of native and pollinator plant species.

4) Traffic Study. The intent is to assess the traffic created by the proposed use and demand for parking during and after construction. Illustrate (map) desired primary and secondary routes on County roads and State Highways. Describe characteristics of loaded vehicles including maximum load capacity and frequency leading to a summary of what impacts construction will have upon transportation patterns in the area intended to be served or affected by the project. Include assessment of road segments/intersections for the number of average daily vehicle trips and accident rates as determined by the County Engineer. Include a construction traffic mitigation plan for public roads, including truck haul routes, off site park-and-ride, and traffic controls (e.g., signage, lane closure, flagging, etc.).

5) Construction Schedule. Estimated timeline for each step of the project.

6) Irrigation Systems (where applicable). Provide information relative to ditch alignment and easements to maintain appropriate drainage access. The nature and location of the facility must not interfere with any irrigation systems on or adjacent to the Renewable Energy Facility site.

7) Environmental Impacts Assessment. Including, but not limited to the following:

   a) **Biological Report**. The intent is to assess potential for sensitive species to be present on the property or impacted by the proposed project, and address wildlife concerns identified by Colorado Parks and Wildlife. If there is potential impact of a species, the report should include recommended mitigation to reduce/avoid impact. Include delimitation of wetlands, riparian areas, rivers, streams and floodplain as well as an avian and bat conservation plan. Illustrate the presence/location of wildlife corridors and concentration areas on, and within the immediate proximity to, the subject property.

   b) **Cultural Resource Survey**. Class III cultural resource survey is required of the project site to identify eligible or supporting resources potentially impacted by the proposed project. Specifically include any known historic or cultural resources within three (3) miles of the project boundary.

   c) **Hazardous Materials and Waste Management Plan**. Spill Prevention and Emergency Response Plan identifying potential sources at-risk of causing a spill and planned response if a spill does occur. Wildfire Control Plan including assessment and identification of at-risk communities/facilities with methods (strategies and tactics) for reducing potential impacts and protecting sensitive facilities. Phase I Environmental Site Assessment to research the current and historical uses of a property to assess if current or historical property uses have impacted the soil or groundwater beneath the property and could pose a threat to the environment and/or human health.

   d) **Noise Abatement Plan**. Evaluate potential noise levels of equipment associated with the facility when measured at the property line. Include current state noise standards and how the proposed project meets those standards, with or without mitigation.

   e) **Visual Analysis**. A visual analysis describing and demonstrating project siting and proposed mitigation, if necessary, to minimize impact on the visual character of the surrounding area (including light and glare). Elevations depicting the general style, size, color

and construction materials in sufficient detail to exhibit the relative compatibility of the proposed development with the character of the neighborhood. Location of exterior lights indicating area of illumination and foot-candles. Include accurate, to scale, photographic simulations showing the relationship of the proposed facility and its associated amenities and development to its surroundings. Include perspective from public viewing areas such as public rights-of-way, as deemed necessary by the County.

8) Geotechnical and Hydrological Investigation Report, including but not limited to:

a) **Geotechnical**. Conduct a preliminary evaluation, prepared by a professional engineer licensed in Colorado, of subsurface and site conditions with recommendations for site preparation, slope stability, foundation design, grading criteria, and management of drainage.

b) **Drainage**. A Preliminary Drainage Report, prepared by a Professional Engineer registered in the State of Colorado, is required. Assess peak flows and flood risk based on a 100-year recurrence interval storm event to model infiltration, runoff and flow depth and velocities in the study area.

c) **Vegetation and Noxious Weed Control**. Outline the strategy of the project to manage vegetation within the project area. This includes native vegetation, proposed landscaping plan, and abatement of noxious weeds.

d) **Dust/Erosion Control**. Describe existing and proposed ground cover, including species and coverage area. Provide a plan showing existing and proposed grading for the site. Said plan shall be accompanied by a written description of practices that will be utilized to mitigate dust, erosion and run-off during and after construction. Soils shall be planted and maintained in perennial vegetation to prevent erosion (water and wind), manage runoff and build soil.

e) **Stormwater Management**. Evaluate anticipated work associated with the project in accordance with good engineering, hydrologic, and pollution control practices to comply with requirements of the Colorado Discharge Permit System (CDPS) Water Quality Control Division (WQCD), and the General Permit for Stormwater Discharges Associated with Construction Activity.

f) **Hydrology**. Include a surface and groundwater monitoring and reporting plan that addresses solar panel washing plan with listed chemicals used in wash water.

9) Should any information represented on the application change, the applicant must contact the County in writing and provide the updated information.

f. *Securities*. Delta County shall have the right to draw upon the financial Security to pay for services noted below in the event the holder has not commenced activities within ninety (90) days of the Board of County Commissioners order or resolution directing said activity. Should any information represented in the agreement change, the owner must contact the County in writing and provide the updated information.

1) **Road Bond** to address damage to public roads during construction. The County Engineer will inspect the applicable roads prior to and after construction to assess applicable improvements. Any temporary construction access shall be removed prior to release of the Road Bond.

2) **Landscape/Vegetation Bond**. Security to maintain the landscape and manage noxious weeds for a minimum of ten (10) years or until the landscaping has been established, whichever is longer. This may also include Security to manage the land for agricultural operations, if applicable.

3) **Site Reclamation and Restoration Bond**. Prior to construction, the developer is required to submit an irrevocable standby letter of credit, bond, or alternative form of Security in an amount sufficient to fund the estimated decommissioning/reclamation costs. Decommissioning/reclamation cost estimates, which shall be updated every five (5) years from the establishment and submittal of the Security, shall include costs associated with the dismantlement, recycling, and safe disposal of facility components and site reclamation activities.

g. *Annual Reports.*

1) **Annual Report**. The facility operator shall submit the Annual Report to the County by December 31st of each year to include: summary of irrigation and agricultural practices, surface and groundwater testing and analysis, reporting of any chemical or wase spills, County, State or Federal citations or reports, avian and bird fatalities, traffic increases or decreases, County road repairs, number of solar panels replaced and recycling report.

2) **Annual Operating Plan (AOP)**. The facility operator shall submit the AOP to the County by January 15th of each year to include: planned construction or repair activities, updated hazardous waste, emergency response, stormwater pollution prevention, irrigation and grazing, and noxious weed and dust control plans. AOP should include updated contact information for

local and corporate responsible persons. Every five (5) years, the AOP shall include updated decommissioning/reclamation cost estimates that shall be used to true-up the decommissioning bond if needed.

3) Delta County and its agents reserve the right to conduct site inspections for monitoring compliance with applicable project permits and conditions.

4) If ownership changes, the Use Permit shall remain in effect, provided the successor owner/operator assumes, in writing, all of the obligations of the Use Permit, Decommissioning Plan and outstanding Securities.

h. *Abandonment and Removal.*

1) **Abandonment**. Any renewable energy facility that is not operated for any continuous period of one hundred eighty (180) days shall be considered abandoned. The County, in its sole discretion, may require any abandoned facility to be removed within ninety (90) days of receipt of notice from the County notifying the owner of the alleged abandonment.

2) **Decommissioning**. Decommissioning shall commence within twelve (12) months after power production has permanently ceased and be completed within twelve (12) months from the start date of the decommissioning/reclamation work

3) **Restoration**. Upon removal of a facility as provided in this Code, the site shall be restored and revegetated with seed for native vegetation that is appropriate for the site based off of the recommendation of the Natural resources Conservation Service (NRCS) and in consultation with Colorado Parks and Wildlife.

~~1.~~2.

~~2.~~ **Airport.** ~~In addition to all other applicable standards of this Code, airport uses shall meet the following standards:~~

~~*Airports.*~~ Airports shall provide a master plan for its physical expansion, and a forecast of aviation activity. The master plan and activity forecast may be approved as a component of the site plan and land use approval if it is demonstrated that:

1) The subject property is not less than 200 acres in area. Contiguous parcels may be aggregated to achieve the minimum acreage;

2) The proposal is designed to minimize the impact on residential uses by:

a) Minimizing the number of existing residences that are brought within the 55 DNL noise zone; and

b) Ensuring that residential uses do not come within the 65 DNL noise zone unless they are subject to an aviation easement that allows inclusion in this zone.

3) The proposal does not interfere with the implementation of the County's Master Plan or three-mile area plan of any municipality within the County; and

4) The plan for the airport shall demonstrate compliance with all other applicable federal regulations.

3. **Airstrips**. ~~In addition to all other applicable standards of this Code, airstrip uses shall meet the following standards:~~

1) Airstrips shall be located on a site ~~tract~~ that is at least 80 acres in area;

2) Applications for approval of an airstrip shall include a determination by the Federal Aviation Administration (FAA) of "no objection" or "conditional," pursuant to 14 CFR § 157.7, FAA Determinations. If the determination is "conditional," then the applicant shall demonstrate how the conditions will be met; and

3) Airstrips shall be spaced not less than 1,500 ft., measured as the shortest distance from the edge of the airstrip to the nearest property line of the use from which spacing is required, from:

a) Lots that are developed with dwelling units;

b) Municipal boundaries;

c) Schools, public parks, and child care centers; and

d) Places of assembly.

4. ~~*Helicopter*~~ **Landing Pad (Other)**

a. Land areas for other aircraft (not otherwise listed) shall be located on a site that is at least 40 acres in area;

b. Applications for approval of a landing pad shall include a determination by the Federal Aviation Administration (FAA) of "no objection" or "conditional," pursuant to 14 CFR § 157.7, FAA Determinations. If the determination is "conditional," then the applicant shall demonstrate how the conditions will be met; and

c. Landing areas shall be spaced not less than 300 ft, measured as the shortest distance from the edge of the airstrip to the nearest property line of the use from which spacing is required, from:

1) Lots that are developed with dwelling units;

2) Municipal boundaries;

3) Schools, public parks, and child care centers; and

Commented [CH54]: Add context similar to other uses (including ultra-lights)

Commented [CH55]: Ultralight landing area shall have a runway safety area: Length 300 feet, Width 150 feet Helipad 100'x100'

4) Places of assembly.

~~5.~~

5. **Salvage Yard.** ~~In addition to all other applicable standards of this Code, s~~Salvage yard uses shall be located at least 300 ft. away from State highways.

~~6.~~

~~7.~~6. **Minerals Extraction/Quarry**. ~~In addition to all other applicable standards of this Code, minerals extraction/quarry uses shall meet the following standards:~~

a. The reclamation plan (however titled), if required for an applicable state permit (*see, e.g.*, Rule 3, Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials; Rule 3, Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations; and Rule 4, Rules and Regulations of the Colorado Mined Land Reclamation Board Pursuant to the Colorado Surface Coal Mining Reclamation Act) shall provide for reclamation of the subject property for a use that is permissible on the Subject Property under this Code;

b. If the boundaries of the mining operation are within 2,000 ft. of a residence or livestock operation, a Noise Control Plan is required (*see* Chapter 4, Section 7(C), *Noise*);

c. A Dust Control Plan is required (*see* Chapter 4, Section 7(F), *Dust Control*); and

d. An Operational Hazard Mitigation and Risk Management Plan is required (*see* Chapter 4, Section 7(J), *Operational Hazard Mitigation and Risk Management*).

7. **Waste Transfer Station**. ~~In addition to all other applicable standards of this Code, waste transfer station uses shall meet the following standards:~~

~~8.~~

a. *State Review*. The County shall request a technical review of the site and facility documents and operation plan from CDPHE pursuant to 6 CCR 1007-2 § 7.1 for all applications for approval of a waste transfer station.

b. *Setbacks*. No building or area in which the unloading, storage, processing, or transfer of wastes or recyclable materials takes place shall be located within 300 ft. of:

1) The lot line on which the waste transfer station is located; or

2) Any area of special flood hazard;

3) Any wetland;

4) Any water well;

5) Any natural or artificial pond (including a detention or retention pond or facility); natural stream, water way, or water course; or

6) An artificial drainage way or irrigation canal.

c. *Minimum Area of Parcel Proposed for Development*. The minimum area of a parcel proposed for development as a waste transfer station is 40 acres.

d. *Design Requirements.*

1) Generally. The site shall be designed such that all activities associated with waste transfer, such as tipping, sorting, storage, compaction, transfer, reloading, and related activities are conducted in a fully enclosed building. No outdoor storage of materials or equipment is allowed. Appropriate enclosed office/and plumbed employee restroom facilities must be provided on-site.

2) Mitigation of Hazards to Aircraft Waste transfer stations handling putrescible wastes within 10,000 ft. of any airport runway end used by turbojet aircraft or within 5,000 ft. of any airport runway end used only by piston-type aircraft shall be designed and operated in a manner that will not result in hazards (including bird strike hazards) to aircraft

e. *On-Site Parking and Roads.*

1) Public streets shall not be utilized at any time for parking, stacking, or storage of employee vehicles, visitor vehicles, or trucks.

2) The facility shall be designed with sufficient drive aisles and parking areas to avoid potential conflicts between facility operations by trucks and passenger vehicles (e.g., for drop-off of household wastes), and the use of emergency access easements and fire lanes.

3) The road surface design shall be suitable for heavy vehicles and the road base shall be capable of withstanding all expected loads.

4) On-site roads shall be passable by loaded collection and transfer vehicles in all weather conditions.

5) The road system shall be designed to eliminate the need for the backing of truck traffic.

f. *Capacity*. Solid wastes shall not remain at the transfer station for more than 72 hours. Any solid waste that is to be kept overnight at the station shall be stored in an impervious, enclosed structure.

g. *Unloading and Loading Areas.*

1) The unloading area shall be adequate in size and design to facilitate efficient unloading from the collection vehicles and the unobstructed movement of vehicles.

2) The unloading and loading pavement areas shall be constructed of concrete or asphalt paving material and equipped with adequate drainage structures and systems.

3) Processing, tipping, sorting, storage, and compaction areas shall be located within an enclosed building.

4) Provisions shall be made for weighing or measuring all solid wastes transferred to the facility.

5) Sufficient internal storage areas shall be provided for incoming solid wastes.

h. *Fencing and Aesthetics*. Waste transfer station design shall include an opaque six-foot perimeter fence or wall, interrupted only by necessary access and maintenance gates.

i. *Waste Liquid Collection and Disposal.*

1) All waste transfer stations shall be designed and constructed to include a collection and disposal system that will prevent liquids contained in waste materials and generated by normal operations, such as wash-out and cleaning of equipment, trucks, and floors ("waste liquids"), from contaminating the soil, surface water, or groundwater.

2) Tipping, loading, and unloading areas shall be constructed of impervious material and equipped with drains connected to either:

a) A sanitary sewer system if approved by the utility provider; or

b) A corrosion-resistant holding tank; or

c) An alternative system, if the applicant demonstrates that the alternate design will prevent waste liquids from contaminating the soil, surface water, and groundwater.

j. *Operational Requirements.*

1) Waste Acceptance. Only household wastes, commercial and industrial wastes and recyclable materials shall be accepted at any waste transfer station. Unless otherwise collected in accordance with a plan approved by the County, no wastes classified as hazardous in accordance with C.R.S. § 25-15-101 *et seq*. shall be knowingly accepted. No asbestos wastes shall be knowingly accepted at a waste transfer station facility. The operator shall employ a plan for proper identification, control, and disposal of hazardous and asbestos wastes.

k. *Overnight Truck Parking*. Trucks or vehicles shall not be parked or stored overnight at the waste transfer station unless screened from public rights-of-way. Any vehicle maintenance services shall be a secondary and subordinate use of the site and shall be limited to maintenance of vehicles associated with trash collection and transfer at the waste transfer station. Junked or inoperable vehicles shall not be stored at a waste transfer station.

l. *Emergency Access Required*. Emergency access easements and fire lanes shall be maintained at all times in an unobstructed and fully accessible condition.

m. *Supervision of Facility*. The waste transfer station or recycling center shall have an on-site operator on duty at all times that the facility is open. Such operator shall be licensed and/or certified if licensure or certification is required by state law. Suitable security measures and signage shall be provided to limit unauthorized persons from access to the facility when the station is closed.

n. *Management Plans*. The following management plans are required pursuant to Chapter 4, Section 7, *Environmental Quality*:

1) A pest management plan;

2) An odor management plan;

3) A dust control plan;

4) An operational hazard and risk management plan; and

5) A truck routing plan.

o. *Other Operational Requirements and Prohibitions.*

1) No liquids, other than those used to disinfect, to suppress dust, or to absorb or cover odors from the solid waste, shall be added to the solid waste.

2) Open burning is prohibited.

3) Scavenging is prohibited.

~~9.~~8. *Landfill.* ~~In addition to all other applicable standards of this Code, landfill uses shall meet the following standards:~~

a. *Certificate of Designation Required*. No landfill shall be developed or operated without a certificate of designation, as required by Title 30, Article 20, Part 1, *Solid Wastes Disposal Sites and Facilities*, Colorado Revised Statutes.

b. *State Review.*

1) Applications for approval of a disposal facility shall be reviewed by the Colorado Department of Public Health and Environment ("CDPHE")

pursuant to Title 30, Article 20, Part 1, *Solid Wastes Disposal Sites and Facilities*, Colorado Revised Statutes.

2) The report and recommendation of CDPHE are required prior to the processing of the application by the County.

3) In addition to the application of the standards of this Code, no disposal site shall be approved without a recommendation of approval by CDPHE.

4) Technical conditions of approval made by CDPHE shall be incorporated into the certificate of designation.

c. *General Evaluation Criteria*. No certificate of designation shall be issued unless the facility has a recommendation of approval by the CDPHE and the Board of County Commissioners finds that:

1) There is no exclusive site for solid waste disposal (pursuant to 30-20-107, Colorado Revised Statutes) with capacity to serve the County's needs;

2) There is a demonstrated need for the facility to serve the residents and businesses of Delta County;

3) The facility will not frustrate the implementation of the Master Plan, as amended from time to time;

4) The facility complies with all technical rules promulgated by CDPHE;

5) The financial assurances provided pursuant to C.R.S. § 30-20-104.5 are adequate to serve their purposes; and

6) The landfill would create a net public benefit to the region and the residents and property owners of Delta County, taking into account:

a) The effect that the solid wastes disposal site and facility will have on the surrounding property, considering the types of processing to be used, surrounding property uses and values, and wind and climatic conditions;

b) The convenience and accessibility of the landfill site and facility to potential users;

c) The ability of the applicant to comply with the health standards and operating procedures provided for in Title 30, Article 20, Part 1, Solid Wastes Disposal Sites and Facilities, Colorado Revised Statutes, and such rules and regulations as may be promulgated by the CDPHE; and

d) Recommendations by health departments that have jurisdiction within five miles of the facility.

d. *Minimum Area of Subject Property*. The minimum area of the subject property is 100 acres.

e. *Minimum Setbacks*. All disposal operations must be set back at least 200 ft. from all property lines.

f. *Spacing.*

1) The landfill shall be spaced not less than 1,000 ft., measured from the main entrance to the landfill perimeter to:

a) Residential dwelling units;

b) Parcel boundaries of schools, public parks, and child care centers; and

c) Places of assembly.

d) Landfills that are located within 10,000 ft. of any airport runway end used by turbojet aircraft or within 5,000 ft. of any airport runway end used only by piston-type aircraft shall be designed and operated in a manner that will not result in bird strike hazards to aircraft.

g. *Management Plans*. The following management plans are required pursuant to Chapter 4, Section 7, *Environmental Quality*:

1) A pest management plan;

2) An odor management plan;

3) A dust control plan;

4) An operational hazard and risk management plan; and

5) A truck routing plan.

h. *Limitations on Location*. Disposal facilities are not allowed within:

1) Areas of special flood hazard;

2) Areas of wildfire hazard;

3) Areas of geologic hazard; or

4) Critical wildlife habitat.

i. *Buffering and Screening*. Landfills shall be buffered from surrounding property and public rights-of-way using berms, fences, topography, or landscaping, in order to minimize the visual impacts of the landfill operations from ground-level vantage points.

~~10.~~9. **Hazardous Waste Landfill.** ~~In addition to all other applicable standards of this Code, hazardous waste landfill uses shall meet the following standards~~:

a. *Certificate of Designation Required*. No hazardous waste landfill shall be developed or operated without a certificate of designation, as required by Title 25, Article 15, Part 2, Hazardous Waste Disposal Sites, and Colorado Revised Statutes.

b. *Evaluation Criteria*. No certificate of designation shall be issued unless the Board of County Commissioners finds all of the following:

1) CDPHE has made a recommendation of approval pursuant to 25-15-202(4)(c)(III), Colorado Revised Statutes.

2) The hazardous waste landfill would not pose a significant threat to the safety of the public, taking into consideration:

a) The density of population of the areas neighboring the subject property;

b) The density of population of the areas adjacent to the delivery roads within a 50-mile radius of the subject property; and

c) The risk of accidents during the transportation of waste to or at the site.

c. The applicant has demonstrated a need for the facility by Colorado hazardous waste generators.

d. The applicant has documented its financial ability to operate the proposed site.

e. The applicant, taking into account its prior performance record, if any, in the treatment, storage, or disposal of hazardous waste, has documented sufficient reliability, expertise, and competency to operate and manage the proposed facility.

f. The site conforms to the officially adopted land use plans, policies, regulations, and resolutions of the County.

g. *Management Plans*. The following management plans are required pursuant to Chapter 4, Section 7, *Environmental Quality*:

1) A pest management plan;

2) An odor management plan;

3) A dust control plan;

4) An operational hazard and risk management plan; and

5) A truck routing plan.

h. *Limitations on Location*. Disposal facilities are not allowed within:

1) Areas of special flood hazard;
2) Areas of geologic hazard; or
3) Critical wildlife habitat.

H. Wireless Telecommunications Facilities

1. **Purpose**. The purpose and intent of this Section is to accommodate the communication needs of residents, businesses, and institutions, while protecting public health, safety, and general welfare in the County in accordance with applicable State and Federal regulations.

   a. *Applicability*. The requirements of this Section shall apply to all proposed new and proposed modifications to wireless communication facilities, including base stations, alternative communication facilities, towers, and small wireless facilities. The County may withhold approval of any facility that does not meet one or more of the requirements or criteria set out in this Section or other provisions referenced herein.

   Any wireless communication facilities approved on or before the effective date of this Resolution shall comply with all applicable sections herein with respect to modification of such facilities.

   b. *Exceptions*. These regulations shall not govern any tower or wireless communication facilities owned or operated by a federally licensed amateur radio station operator or used exclusively for receive-only antennas.

   These regulations shall not govern any tower or wireless communication facilities on State or Federal lands.

2. **Location**.

   a. *Applicability; Prohibitions*. All wireless communication facilities are subject to the requirements of this Section. Wireless communications facilities are allowable on public and private property within the County as provided in this Section.

   Wireless communication facilities are not allowed on residential lots that are one acre or less in area.

   b. *Need*. No wireless communication facility shall be approved unless the decision-maker finds that the need for the facility in its proposed location has been demonstrated as provided in this Section.

   The applicant shall demonstrate how the proposed site fits into the overall communication network for the County. As applicable, the applicant shall also demonstrate:

   1) That, to the extent that the applicant seeks approval to address gaps in coverage or capacity, there are no materially preferable alternatives (in

Commented [CH56]: From Reso. Integrate pertinent regulations into LUC rather than separate Code (Reso). Delete overlap with LUC (e.g., pre-application, application, etc.)

Commented [CH57]: Communications Act of 1934
Telecommunication Act of 1996
Middle Class Tax Relief and Job Creation Act of 2012 (a.k.a. Spectrum Act), Section 6409

Commented [CH58]: ADDED SENTENCE (for clarity, expressly stated);
Generally, local government can apply regulations where it is not otherwise addressed by State/Federal regulations provided there is no conflict with their regulations.
IF County wants to address new facilities on other public lands, should include as part of Section 7.c *Approval Process by Application Type*

terms of compliance with this Section) to remedy gaps in the applicant's network; or

2) That, to the extent that the applicant provides services under a license granted by a governmental authority, a failure to approve the application will result in the applicant's inability to provide the minimum coverage or capacity it is required to provide pursuant to its license and any applicable law.

c. *Siting Considerations*. The siting considerations set out in this Section shall be used to optimize the location of a wireless communication facility outside of public rights-of-way within the areas in which need is demonstrated pursuant to Subsection 2.b, *Need,* and within the setbacks set out in Subsection 2.d, *Setbacks,* except as provided therein.

1) Hazards. All wireless communication facilities must be physically sited so that they do not pose a potential hazard to nearby residences, livestock operations, or surrounding properties, buildings, or improvements.

2) Topography and Vegetation. The location and development of wireless communication facilities shall, to the maximum extent possible, preserve the existing character of the topography and vegetation.

3) Silhouettes and Views. If the proposed wireless communications facility is a tower (of any type) and it is proposed to be located within one-quarter (1/4) mile from the right-of-way of a Scenic Byway for proposed towers within these areas, the applicant shall submit a graphic illustration or photo-simulation depicting the impact of the proposed tower on the views from designated Scenic Byways or Significant View Corridors, as applicable, to include:

a) An illustration or rendering of ground elevations, existing buildings and structures, and vegetative cover before development (the "pre-development condition"), in plan-view and elevation view, taking into account the elevation of the road and the distance to the scenic resource;

b) An illustration or rendering of the proposed tower (the "post-development condition") in plan-view and in elevation view from the same vantage points that were used to illustrate the pre-development condition; and

c) Annotations that label and describe the concealment elements that are proposed in order to mitigate the impact of the proposed development on the scenic resource.

The County may require mitigation measures such as alternative setbacks (*see* subsection (d), *Setbacks*, below), increased setbacks, design, landscaping, and/or additional or alternative concealment elements.

d. *Setbacks.* All wireless communication facilities that are located outside of the public right-of-way shall be set back the greater of:

1) For towers, the lesser of:

a) The setback that is applicable to buildings in the zoning district in which the subject property is located; or

b) The height of the wireless communications facilities, as measured from the natural grade at the base of the facilities to the highest point of the facilities.

2) For building or structure-mounted facilities, the lesser of:

a) The setback that is applicable to the building or structure in the zoning district in which the subject property is located; or

b) The actual setback of the building or structure, if it is legally nonconforming to this Code.

e. *Alternative Setbacks.* In the alternative to the requirements of subsection (d), *Setbacks* (above), modified setbacks may be applied if the physical characteristics of the proposed site and the wireless communication facilities are such that:

1) Mitigation of visual impacts pursuant to Subsection 3.f, *Concealment Elements*, will be materially improved through the application of alternative setbacks; or

2) The siting considerations set out in Subsection 2.c, *Siting Considerations*, would all be better served through the application of alternative setbacks.

No portion of the facility, including any antenna array, may extend beyond the property line unless the encroachment is allowed by easement or license agreement.

f. *Public Rights-of-Way.*

1) Generally. Wireless Communications Facilities within public rights-of-way must be installed upon, in descending order of priority:

a) Existing poles;

b) Replacement poles; or

c) New poles.

2) Wiring.

a) Any necessary wiring or cabling shall be located within the pole or, if such location is not technically feasible, within fully enclosed sheathing attached to the pole.

b) Sheathing shall be the same color as the pole, shall be limited in size to that necessary to cover the wiring or cabling, and may not extend out from the pole more than three inches.

3) Volume. The volume of wireless communications facilities on any pole, other than sheathing enclosing wiring or cabling described in subsection (b), above, shall not exceed three cubic feet for antenna enclosures and 17 cubic feet for any primary equipment enclosures, and the facilities shall add no more than 10 feet of additional height to the pole.

4) Ground-Level Equipment. Any ground-level equipment shall be buried or screened by landscaping that is approved by the County along with the permit issued under this Resolution. The owner of the facilities shall provide for the maintenance of such landscaping.

5) Pole Spacing. If an applicant proposes to add to the total number of poles located in the area impacted by its application, the County may administratively approve the application only if the proposed new pole(s) is located a minimum distance of:

a) 300 feet from any existing pole; or

b) 300 feet from any other new pole proposed in the application.

6) Alternatives. Alternatives to the standards set out in this Section may be approved by public hearing permit if:

a) The alternative standards are necessary to address a service need that cannot be addressed in any manner that is in strict accordance with this Section; and

b) The siting considerations set out in Subsections 2.c, *Siting Considerations*, would not be materially compromised by the application of the alternative standard.

3. **Design and Operation**. All wireless communication facilities shall be designed using the criteria set forth in this Section.

a. *Co-Location*

1) General Requirement. The shared use of existing towers or other freestanding communication facilities upon which wireless communication facilities can be mounted shall be preferred to the construction of new facilities. Wireless communication facilities shall be co-located with other

wireless communication facilities or public utilities whenever technically feasible.

2) Tower Design. Towers shall be designed to allow for co-location to the maximum extent possible. To ensure the structural integrity of towers and any other freestanding communications facilities upon which other wireless communication facilities may be mounted, the owner of such structure shall ensure that it is of sufficient structural strength to accommodate reasonable co-location.

3) Co-Location Agreement as Condition of Approval. As a condition of approval of any tower or other freestanding communication facility, the applicant shall be required to agree to allow co-location on such facilities in the future if:

a) The facility is capable of supporting co-location;

b) The entity wishing to co-locate is willing to pay fair market value for the space; and

c) The County requests such co-location.

b. *Height.* Towers shall not exceed 100 feet in height.

Commented [CH59]: Maximum height is 100 feet period, or unless they get a variance?
What if adding onto an existing pole within exception…?

c. *Footprint.* The total footprint of a wireless communication facility's accessory equipment shall not exceed 350 square feet per operator.

d. *Hazards.* All wireless communication facilities must be structurally designed and physically sited so that they do not pose a potential hazard to nearby residences, livestock operations, or surrounding properties or improvements.

e. *Towers and Other Freestanding Facilities*.

1) Any tower or freestanding communication facility shall be designed and maintained to withstand without failure maximum forces expected from wind, tornadoes, blizzards, and other natural occurrences, when the facility is fully loaded with antennas, transmitters, other wireless communication facilities and concealment elements.

2) Sufficient anti-climbing measures must be incorporated into each facility to reduce potential for trespass and injury.

3) All wireless communication facilities shall comply with the power line clearance standards set forth by the Colorado Public Utilities Commission ("PUC").

f. *Concealment Elements*. All wireless communication facilities and support equipment shall be concealed according to a concealment element plan. The concealment element plan shall address the requirements of this Section and may

also address the siting considerations of Subsection 2.c, *Siting Considerations*, to the extent that such siting considerations are part of the strategy for concealing the facilities and equipment.

1) All Facilities. Wireless communication facilities (all types) shall be concealed using colors, textures, surfaces, scale, materials, geometries, or screening materials that blend into or compliment their context and the background upon which they will be viewed (*e.g.*, tree canopy, the sky, a building wall, etc.). Applications for approval of wireless communications facilities shall specify and illustrate the concealment elements that are applied.

2) Facilities Integrated into Buildings or Structures. Where possible, wireless communication facilities shall be concealed by integration into architectural features or accessory structures that are consistent with the architectural scale and character of the area.

3) Facilities Attached to Buildings.

   a) Wall-mounted facilities are allowed only if roof-mounted facilities that are hidden behind screening materials cannot be installed due to physical or operational infeasibility.

   b) Wall-mounted facilities shall be mounted as flush to the building wall as possible.

4) Towers and Freestanding Facilities. Towers and other freestanding facilities shall be screened with vegetation, buildings or structures, or topographical features. The facilities shall be integrated to the maximum extent possible, through its location and design, into the natural setting and the structural environment of the area.

5) Accessory Equipment. Accessory equipment shall be located to minimize visual impact on adjacent properties and public rights-of-way in one or more of the following ways:

   a) Enclosure within a building;

   b) Installation in a flush-to-grade underground equipment vault;

   c) Depressed or located behind earth berms or structures to minimize its profile; or

   d) Located behind screen walls, privacy fences, buildings or structures, dense landscaping, or a combination thereof.

g. *Operations*. The wireless communication facilities shall be designed, maintained and operated as required by applicable FCC licenses and regulations.

1) Federal Emissions Regulations. All owners and operators of wireless communication facilities shall comply with federal regulations for radio frequency ("RF") emissions.

4. **Visual Mitigation**. Wireless communication facilities shall be screened or utilize concealment elements to mitigate visual impacts on adjacent properties and public rights-of-way to the maximum reasonable extent.

5. **Lighting**. Wireless communication facilities shall not be artificially lighted, unless required by the Federal Aviation Administration ("FAA") or other governmental authority with jurisdiction to mandate lighting.

   a. *Mandated Lighting*. If lighting is required by a governmental authority, the County may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding property owners, livestock operations, or scenic views. Lighting must be shielded or directed to the greatest extent possible so as to minimize the amount of light falling onto nearby properties, particularly residences and livestock operations.

6. **Application Requirements**. Applications for approval of wireless communications facilities shall be processed according to the applicable procedures set forth in Chapter 8 of this Code. Specific application requirements are promulgated by the Director, and may be set out in Subsection 10, *Application Requirements*, or otherwise made available to the public.

7. **Approval Process by Application Type**. The approval process varies depending upon the types of wireless communication facility that is the subject of the application and the location that is proposed for the siting of the wireless communication facility. The Director shall determine the type of application based on the information presented.

   a. *New Facilities on Private Property*. Unless another subsection more specifically applies, approval of a new wireless communications facility on private property requires a Conditional Use permit.

   b. *New Facilities on County Property*. Unless another subsection more specifically applies, approval of a new wireless communications facility on County property requires:

      1) A Limited Use Permit, public notice required;

      2) A lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property; and

      3) A right-of-way use permit is required if the proposed location is within the County right-of-way.

   c. *Eligible Facilities Requests for Existing Towers and Base Stations (Wherever Located).*

Commented [CH60]: Changed from "public hearing permit". Two types of permits with public *notices* in LUC: LUP and CUP. CUP only type with a public hearing.

1) The Director shall process an application as an eligible facilities request, as defined in Chapter 14 and provided in subsection (ii), below, if the Director finds that the proposal:

   a) Consists of collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment;

   b) Does not result in a modification that substantially changes the physical dimensions of an eligible support structure, defined as follows:

      i. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater;

         - Changes in height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height shall be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

      ii. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

      iii. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of

Commented [CH61]: Section 6409(a) of the Spectrum Act (2012); eligible facilities request means any request for modification of an existing wireless tower or base station that involves:
- Collocations of new transmission equipment;
- Removal of transmission equipment; or
- Replacement of transmission equipment

FCC later defined "Substantial change":
-Applies to collocation, removal, or modification.
-Does not apply to collocation on a structure that is not a wireless tower or base station
-Does not apply if action substantially changes the physical dimensions of a tower or base station.

Commented [CH62]: Brought from wireless definitions since includes regulatory standards.

ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure;

iv. It entails any excavation or deployment outside the current site;

v. It would defeat the concealment elements of the eligible support structure; or

vi. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds enumerated in this section.

c) Does not violate any generally applicable law, regulation or other rule reasonably related to public health and safety;

d) Complies with the original application design elements or conditions of approval, including but not limited to colors, textures, surfaces, scale, character and siting, or any approved amendments thereto, subject to the thresholds established in this section; and

e) Complies with concealment elements of the eligible support structure necessary to qualify as an alternative communication facility.

2) Approval of eligible facilities requests requires:

a) Development Application/Site Plan Review; and

b) If located within public property, including but not limited to rights-of-way:

i. A lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property, that allows for such installation; and

ii. A right-of-way use permit is required if the proposed location is within the County right-of-way.

d. *Building-Mounted Wireless Communications Facilities (Wherever Located).*

1) The Director shall process applications for building-mounted wireless communications facilities.

2) Approval of such facilities requires:

Commented [CH63]: Change from Administrative WCF Permit (not creating a separate permit type) ALLOWED/PERMITTED USE

a) Development Application/Site Plan Review; and

b) If located within public property, a lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property, that allows for such installation.

e. *Small Wireless Facilities (Wherever Located).*

1) The Director shall process applications for small wireless facilities, except those that do not qualify for administrative review due to the pole spacing requirements of Section 2.f, *Public Rights-of-Way*.

2) Approval of such facilities requires:

a) Development Application/Site Plan Review (except as provided in subsection e(1) above); and

b) If located within public property, including but not limited to rights-of-way:

i. A lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property, that allows for such installation; and

ii. A right-of-way use permit is required if the proposed location is within the County right-of-way.

f. *Temporary Wireless Communications Facilities.* Placement and use of temporary mobile wireless communication facilities or television broadcast equipment in conjunction with federal, state or local emergencies, natural disasters or major special events may be approved administratively by the Director, subject to reasonable time limitations approved by same based on the nature, scope and duration of the emergency, disaster, or special event.

8. **Shot Clocks**. Shot clocks are FCC-mandated time frames for review of applications under this Resolution. If the County does not act on the application on or before the expiration of the shot clock period, the County is presumed not to have acted within a "reasonable period of time" under FCC regulations. The shot clock commences upon the filing of an application. The County shall not refuse to accept an application during business hours on a business day.

a. *Shot Clocks by Application Type.* The following are the presumptively reasonable periods of time ("shot clocks") for action on applications seeking authorization for deployments in the categories set forth below:

1) Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.

Commented [CH64]: Change from Administrative WCF Permit (not creating a separate permit type)

Commented [CH65]: Change from Administrative WCF Permit (not creating a separate permit type)

Commented [CH66]: Must approve an application under 6409 within 60 days of a complete application. Timeline tolled is application deemed incomplete.

2) Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.

3) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.

4) Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.

2) *Batching*.

1) If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either paragraph (a)(1) or (a)(3) of this section, then the presumptively reasonable period of time for the application as a whole is equal to that for a single deployment within that category.

2) If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (a)(1) and deployments that fall within paragraph (a)(3) of this section, then the presumptively reasonable period of time for the application as a whole is 90 days.

3) *Tolling of Shot Clock*. Unless a written agreement between the applicant and the County provides otherwise, the tolling period for an application (if any) is as set forth below.

1) Initial Application to Deploy Small Wireless Facilities. If the Director issues a Notice of Deficiency to the applicant on or before the 10th day after submission of an initial application to deploy small wireless facilities, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the Director to render the application complete.

2) All Other Initial Applications. For all other applications not included within subsection (1), above, the tolling period shall be the number of days from:

a) The day after the date when the Director issues a Notice of Deficiency to the applicant until the date when the applicant submits all the documents and information identified by the Director to render the application complete;

b) But only if the Notice of Deficiency is delivered on or before the 30th day after the date when the application was submitted.

3) Supplemental Submissions Following a Notice of Deficiency. For supplemental submissions following a Notice of Deficiency, the tolling period shall be the number of days from:

a) The day after the date when the Director issues a second Notice of Deficiency based on the Director's original notice (or a subsequent Notice of Deficiency), until the date when the applicant submits all the documents and information identified by the Director to render the application complete;

b) But only if the second or subsequent Notice of Deficiency is delivered on or before the 10th day after the date when the applicant makes a supplemental submission.

4) *Shot Clock Date.* The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock identified pursuant to paragraph 8(a) of this Section; provided that if the date calculated in this manner is a "holiday" as defined in 47 C.F.R. § 1.4(e)(1), or a legal holiday within the State of Colorado or Delta County, Colorado, the shot clock date is the next business day after such date.

5) *Shot Clock Period.* Action shall be taken on applications under this Resolution within the shot clock period. The shot clock period is the shot clock date, plus the number of days that the shot clock is tolled (if any); provided that if the date calculated in this manner is a "holiday" as defined in 47 C.F.R. § 1.4(e)(1), or a legal holiday within the State of Colorado or Delta County, Colorado, the shot clock date is the next business day after such date.

9. **Abandonment and Removal**.

a. *Obsolescence.* At the time of submission of the application for a wireless communication facility, the Applicant shall execute an agreement in a form acceptable to the County, to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower or freestanding communication facility used as a wireless communication facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than 180 days.

b. *Abandonment.* Any wireless communication facility that is not operated for any continuous period of 180 days shall be considered abandoned. The County, in its sole discretion, may require any abandoned wireless communication facility to be removed within 90 days of receipt of notice from the County notifying the owner of alleged abandonment. If there are two or more users of a structure upon which wireless communication facilities are mounted, then this provision shall not become effective as to the structure until all users cease using the structure.

c. *Restoration.* Upon removal of a facility as provided in this Division, the site shall be restored and revegetated in a manner that is consistent with the surrounding context.

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10. **Application Requirements**

a. *General Requirements*

1) Applications must contain an applicant's name, address, general contact telephone number and an emergency number where a representative of the applicant can be contacted 24 hours per day, seven days per week.

2) Should any information represented on the application change, the applicant must contact the County in writing and provide the updated information.

b. *Consolidated Application for Small Cell Antenna Facilities*

1) An applicant for small cell antenna facilities involving multiple individual small cell antenna facilities may submit a consolidated application to the County that covers all individual small cell antenna facilities.

c. *Specific Requirements*

1) All applications shall specify concealment elements as required by Section 3.f, *Concealment Elements*, and illustrate how such elements contribute to concealment of the facility.

2) At the time of application for approval of a wireless communication facility the owner or operator shall submit a project implementation report that provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and that compares the results with established federal standards.

d. *Eligible Facilities Requests*

1) The County shall prepare, and from time-to-time revise, and make publicly available an application form which shall be limited to the information necessary for the County to consider whether an application is an eligible facilities request.

e. *Co-Location Information (Towers and Freestanding Communication Facilities)*

1) The application for any wireless communication facility involving a new tower or other freestanding communication facility shall include evidence that reasonable efforts have been made to co-locate within or upon an existing wireless communication facility within a reasonable distance of the proposed site, regardless of municipal boundaries.

2) The applicant for a new tower or freestanding communications facility must demonstrate that the proposed wireless communication facility cannot be accommodated on existing facilities due to one or more of the following reasons:

a) The planned equipment would exceed the structural capacity of existing and approved wireless telecommunication facilities, considering existing and planned use for those facilities

b) The planned equipment, if co-located, would cause radio frequency interference with other existing or planned equipment, or exceed radio frequency emission standards which cannot be reasonably prevented.

c) Existing or approved wireless communication facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably.

d) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures.

e) The landowner or owner of the existing wireless communication facility refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates.

f) No existing wireless communication facilities upon which the applicant's facilities can be mounted are located within the geographic area required to meet the applicant's engineering requirements.

g) Existing wireless communication facilities are not of sufficient height to meet the applicant's engineering requirements.

h) Existing wireless communication facilities upon which the applicant's facilities can be mounted do not have sufficient structural strength to support the applicant's proposed antennas and related equipment.

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CHAPTER 3

Section 1. Lot Dimensions by Zoning District

A. Lot Dimensions

1. **Generally.** The minimum lot area, lot width, and lot frontage by zoning district is set out in Table 3.a, *Lot Dimensions*.

TABLE 3.a
LOT DIMENSIONS

Standard	Zoning District					
	A35	A20	A5	RI/~~R~~C	RES-2.5	~~UGA~~RES-1.0
Lot Size	35 ac.	20 ac.	5 ac.	2.0 ac.	2.5 ac	~~7,500 sf.[1]~~1.0 ac
Lot Width	600 ft.	450 ft.	200 ft.	150 ft.	150 ft.	75 ft.~~[1]~~
Lot Frontage	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	30 ft.

TABLE NOTE:
~~[1] Applies to residential uses. Nonresidential uses shall meet the standards of the RC zoning district.~~

2. **Existing Lots.** The standards of this apply to lots created after the effective date of this Code. Lots that were lawfully created prior to the effective date shall be considered "conforming" to the requirements of this Code regardless of their zoning designation or dimensions.

3. **Variation~~s~~ to Lot Size.** The ~~County~~ Director shall have authority to Administratively ~~may~~ approve the creation of one additional ~~new~~ lot~~s~~ that do~~es~~ not conform to the requirements of Table 3.a, *Lot Dimensions*, provided that:

   a. The subdivision conforms to all other requirements of this Code, including but not limited to: adequate water supply, access, setbacks of existing structures, and capacity for wastewater treatment systems (as applicable);

   b. The subject parcel is zoned A-35 or A-20;

   c. One parcel in the subdivision shall retain the minimum acreage required for that zoning designation;

   ~~b.~~d. The new lot~~s~~ requesting a variance to lot size ~~have at least the minimum dimensions~~ shall conform to ~~set out in~~ the standards for the ~~UGA~~ RES-2.5 zoning district;

Commented [CH67]: Allow exception for larger Ag parcels, but not an avenue around zoning (planned vs unplanned). Aka "Legacy Subdivision"

Commented [CH68]: This list reflects the key aspects to be considered in all cases

Commented [CH69]: Limit this exception to larger Ag parcels. Not variation to the minimum lot size in A5, RI/C, RES-2.5 or RES-1. Potential to rezone if warranted.

Commented [CH70]: Example (criteria c + d): In A-35, one of the parcels is at least 35 acres. The other is at least 2.5 acres.

~~c.~~e. The size and configuration of the new lot ~~minimizes~~ avoids, to the greatest extent feasible, disturbance or development of irrigated agricultural portions of a property, and does not interfere with wildlife habitat~~.~~; and

~~d.~~f. The final plat is annotated such that: ~~no further subdivision of either lot created by this subsection is allowed~~ "Parcels/Lots created by this subdivision shall not subdivide further for at least 20 years".

Said subdivision shall follow the process of a Minor Plat.

4. **Boundary Line Adjustment**. No variance is required to adjust property between existing legal lots/parcels where one or more lots/parcels do not meet the minimum size required, provided:

   a. The adjustment does not create non-conforming setbacks for septic and/or structures; and

   b. The parcels/lots were created through a subdivision.

~~4.~~5. **Cluster Subdivision**. Allows a subdivision with higher density and/or smaller lots designed to protect significant resources pursuant to Chapter 12, Section 4(C) of this Code.

B. Bulk Standards

1. **Generally.** All principal buildings, accessory buildings, and accessory structures shall meet the standards of this Section.

2. **Setbacks.** All buildings and structures shall be setback:

   a. 25 ft. from all roadways (public and private), ~~and~~ including shared access where a road name has been assigned; and

   b. 15 ft. from all other property boundaries; and

   ~~a.~~c. 25 ft. from waterways, including irrigation ditches.

   When creating or changing a property line, the new line must comply with structural setbacks, or a variance is required pursuant to Chapter 8 of this Code.

~~2.~~3. **Height.** There is no maximum height limitation. However, the height of buildings or structures may be limited as a result of the standards in Chapter 4, Section 5, *Agricultural, Natural, or Cultural Resources*; and Chapter 4, S~~s~~ection 5, *Scenic Impacts*.

Commented [CH71]: Avoids sets a higher bar to meet.

Commented [CH72]: Remove restriction in perpetuity, but limited frequency.

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CHAPTER 12

Section 1. Scope of Regulations

A. Purpose and Intent

1. Subdivision Regulations, incorporated within the Land Use Code, shall apply to all new divisions of land into one or more parcels where any of the resulting parcels are less than 35 acres.

2. These regulations also apply to divisions of land 35 acres or larger where the statutory exemptions listed in C.R.S. 30-28-101(10)(b), (c) or (d) do not apply. However, C.R.S. 30-28-110(3)(a) applies to subdivisions of all parcels of land, regardless of the size of the parcels within the subdivision (see Section C.4 below).

B. Exemptions

Where the Director determines that the parameters are met and that the creation of such divisions or interests are not for the purpose of evading the terms of this regulation, the following actions shall not be subject to the subdivision regulations of this Code:

1. Boundary Survey documenting existing conditions that results in no change from existing conditions.

2. Boundary Line Adjustment where all parcels involved exceed 35 acres, before and after the adjustment.

3. Boundary Agreements between adjacent landowners where a boundary line between parcels is unknown or uncertain. Boundary Agreements shall not create any new parcels and shall be accomplished according to Section 38-44-112 C.R.S. All parties involved in the agreement must enter into a written agreement that the new boundary line(s) shall become certain.

C. Standards and Limitations.

1. The Director shall sign the plat certifying that the creation of such divisions or interests are not for purpose of evading the terms of this regulation.

2. The surveyor shall certify that no new lots less than 35 acres are being created as a result of the Boundary Line Adjustment.

3. *Minor Plats, Replats, Boundary Line Adjustments and Preliminary Plats* shall demonstrate compliance with the applicable requirements of this Code, including Chapters 3, 4, 5, & 6.

4. *Street Plans (35-Acre Plus Subdivisions).* All plans of streets or highways for public use, and all plans, plats, plots and replots of land laid out in subdivision or building lots and the streets, highways, alleys or other portions of the same intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall be

Commented [CH73]: Identify what is NOT subject to regs, and refence 35+ acre exemption statute where there is criteria.

Commented [CH74]: Resolution 2003-R-027 – Street Plans in "35-Acre Plus" Subdivisions

Commented [CH75]: Amplify reference to 35-acre Road resolution.
Development application covers other types of permits, addressed in other sections.

submitted to the Board of County Commissioners, for review and subsequent approval, conditional approval, or disapproval pursuant to C.R.S. 30-28-110(3)(a). This applies to subdivisions of all parcels of land, regardless of size of the parcels within the subdivision.

5.

~~***Other Approvals and Permits May Be Required.*** These approvals and permits are in addition to o~~Other reviews, approvals, and permits ~~that~~ may be required for compliance with other laws, statutes, or regulations, which may include but are not necessarily limited to:~~:~~

a. State or federal law, including, but not limited to, the Clean Water Act, the Clean Air Act, or the Endangered Species Act;

b. 35-Acre Road Resolution (Appendix)

~~Adopted building and safety codes;~~

~~Resolutions that require permits for activities on public land or within public right-of-way; or~~

~~Business licensing resolutions.~~

~~35-Acre Road Resolution~~

Section ~~3~~2. Minor Plats, Replat~~s~~, & ~~Administrative Review~~ Boundary Line Adjustments

Commented [CH76]: From Chapter 8

A. Administrative Review Established

1. **Generally.** The Director has authority to approve Minor Plats ~~(for creation of two~~ 2-lot s~~u~~bdivision~~)~~, R~~r~~eplats, or Boundary~~lot~~ L~~l~~ine A~~a~~djustments ~~approvals are issued by the Director~~ upon a finding of compliance with the applicable requirements of this Code. ~~No public hearing is required.~~

2. All parties must acknowledge their agreement to permanently adjust/create boundary lines(s) by their signature on the final plat. All signatures must be notarized.

~~1. ***Other Approvals and Permits May Be Required.*** These approvals and permits are in addition to other reviews, approvals, and permits that may be required for compliance with other laws, statutes, or regulations, which may include but are not necessarily limited to:~~

~~a. State or federal law, including, but not limited to, the Clean Water Act, the Clean Air Act, or the Endangered Species Act;~~

~~b.~~a. ~~Adopted building and safety codes;~~

~~c.~~a. ~~Resolutions that require permits for activities on public land or within public right-of-way; or~~

~~d.a. Business licensing resolutions.~~

~~e.a. 35-Acre Road Resolution~~

3. **Standards and Limitations.**

   a. *Minor Plats, Replats, or Boundary Line Adjustments* shall demonstrate compliance with the applicable requirements of this Code, including Chapters 3, 4, 5, & 6.

   b. *Minor Plats, Replats, or Boundary Line Adjustments* shall demonstrate compliance with the applicable County Road and Bridge Standards.

      1) Review of Minor Plats shall include the dedication of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created, including but not limited to access, electrical service and water meter for each parcel/lot. Fulfillment of these requirements shall be required prior to accepting the Final Plat.

      2) Review of Boundary Line Adjustments shall include all applicable easements. There shall be no requirement to dedicate rights-of-way or construct offsite and onsite improvements for a Boundary Line Adjustment.

   c. The Director shall verify that no violations of this Code are being created.

B. Administrative Review Process

1. **Administrative ~~Recommendation,~~ Decision~~,~~ or Referral.** All applications for Administrative Review shall be processed in accordance with Chapter 7 - Standardized Application Review Process.~~Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Chapter 7, Section 2 (D), *Recommended Revisions* (or, after finding that no revisions will be required)~~:

   a. Applications for Minor Plats, Replats, and Boundary Line Adjustments require completion of a Development Application that includes:

      1) Express written consent from all Parties with ownership interest in the subject properties; and

      2) A checklist to verify compliance with applicable regulations, including this Code; and

      3) A plat from the applicant's surveyor showing the existing boundary and the proposed boundary adjustment of all affected parcels.

   b. ~~If the application is for an administrative approval or permit, then t~~The Director shall verify public notice has been given, if required (see Chapter 7, Section 4, *Public Notice*), and either:

1) Approve, approve with conditions, or deny the application, as appropriate, and promptly provide written notice, including the reasons for the decision, to the applicant; or

~~1)~~2) Refer the Minor Plat or Boundary Line Adjustment to the Board of Adjustment for consideration of the whole project where a variance is required; or

~~2)~~3) Refer the ~~application~~ Minor Plat or Replat to the ~~Planning Commission for review and recommendation and~~ Board of County Commissioners for decision ~~according to the applicable standards of this Code, upon a determination by the Director, in his or her sole discretion, that the development, as proposed justifies the referral because it~~where:

a) ~~May have material impacts on neighboring properties or public resources that are unusual in kind or degree due to the unusual context of the subject property~~Dedication of Right-of-Way is required with the Minor Plat; or

b) ~~Involves material potential for reasonable disagreement regarding whether the proposed development complies with the standards of this Code, or whether particular standards of this Code apply~~Replat revises a Plat note that specifies Board action to remove the restriction.

c. If ~~referred,~~ the ~~application~~ Minor Plat or Replat is referred to the Board, it shall be processed as a ~~preliminary~~ Final P~~p~~lat ~~in accordance with Chapter 8, Section 4(B), *Preliminary Plat*~~.

d. If the application is referred for a public hearing approval, then the Director shall make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the ~~next~~ decision-making body that will consider it ~~for further recommendation or approval~~.

2. The Director shall review the proposed Plat in accordance with the *Standards and Limitations* listed in subsection "A.3" above.

3. Following action by the decision-making body, the Director shall promptly provide written notice, including the reasons for the decision, to the applicant.

4. An aggrieved party may appeal the decision pursuant to Chapter 9 – *Approvals, Denials and Appeals.*

5. **~~Recordation:~~** The Director shall determine ~~Minor plats may be recorded~~ when all public improvements shown on the Minor P~~p~~lat are installed and the County has granted preliminary acceptance of the improvements pursuant to Chapter 6, Section 1(C), *Acceptance of Public Improvements*.

6. The Director shall forward the Plat to the County Surveyor who shall review the Plat for form and content in accordance with State statute.

7. Once approved by the County Surveyor, the Plat shall be recorded with the signatures of all property owners (notarized), their surveyor, the mortgage company (notarized, if applicable), the County Treasurer, the County Surveyor, and Planning Director. See Section 6 of this Chapter for applicable signature blocks.

8. New deeds describing all affected lots shall be recorded with the approved Minor Plat or Boundary Line Adjustment. New deeds shall be recorded with the Replat if there is any change to a parcel/lot. Any encumbrances applicable to the project or conditions (Access Agreements, etc.) shall be recorded with the Plat.

~~Section 3. Boundary Adjustments~~

Commented [CH77]: From Chapter 10, integrated into Admin Process

~~A. Boundary Adjustment:~~

1. ~~**Generally.** Intended for adjustments or revisions of established, undisputed, existing boundary lines between parcels not previously subdivided, and where such adjustment does not result in the creation of an additional lot less than 35 acres.~~
2. ~~**Standards and Limitations.**~~
    a. ~~For the transfer of ownership from one owner to another, all parties must acknowledge their agreement to permanently adjust a boundary lines(s) by their signature on the final plat for the boundary line adjustment. All signatures must be notarized.~~
    b. ~~The surveyor shall certify that no new lots less than 35 acres are being created as a result of the boundary adjustment.~~

~~B. Process & Authority.~~

1. ~~Parties interested in a boundary adjustment shall:~~
    a. ~~Complete an application provided by the Planning Department~~
    b. ~~Provide a draft plat from the applicant's surveyor showing the existing boundary and the proposed boundary adjustment of all affected parcels.~~
2. ~~The Director shall review the proposed boundary adjustment to verify that no new lots are being created, and that no violations of this code are being created.~~
3. ~~The Director shall forward the draft plat to the County Surveyor who shall review the plat for accuracy.~~
4. ~~Once approved by the County Surveyor, the plat shall be recorded with the notarized signatures of all property owners, their surveyor, the mortgage company if applicable and the County Surveyor.~~
5. ~~New deeds describing all affected lots shall be recorded with the approved plat.~~

ii. Section 43. Preliminary ~~and Final~~ Plats ~~Public Hearing Review~~

Commented [CH78]: From Chapter 8

A. Application Review Process

~~All applications for subdivision shall be processed in accordance with Chapter 7 Standardized Application Review Process.~~

~~1. **Public Notice Requirement**. Public notice shall be made in accordance with Chapter 7, Section 4, *Public Notice*.~~

~~2. **Public Hearing Requirements**. Except for minor final plats, all subdivision applications are reviewed and considered for approval, approval with conditions, or denial at public hearings.~~

~~**B. Preliminary Plat**~~

1. **Generally**. A Preliminary Plat may be approved upon a finding of compliance with applicable requirements of this Code following a public hearing with the applicable review bodies.

   ~~a. Approvals are issued upon a finding of compliance with applicable requirements of this code following a public hearing with the applicable review body.~~

   ~~b. Except in the case of a minor final plat, preliminary plat approval is required prior to the approval of a final plat. Preliminary plats shall demonstrate compliance with this Code, including Chapters 3, 4, 5 and 6.~~

2. **Standards and Limitations.**

   a. Preliminary Plats shall demonstrate compliance with the applicable requirements of this Code, including Chapters 3, 4, 5, & 6.

   b. Preliminary Plats shall demonstrate compliance with the applicable County Road and Bridge Standards.

      1) Review of Preliminary Plats shall include the dedication of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created, including but not limited to access, electrical service and water meter for each parcel/lot. Fulfillment of these requirements shall be required prior to accepting the Final Plat.

   c. The Director shall verify that no violations of this Code are being created.

~~C~~B. Standard Subdivision Design Standards

Commented [CH79]: Move to Ch 12

1. **Generally.** Development areas shall be divided into blocks, lots, tracts, and/or roads, as appropriate to the subdivision. The boundaries of development areas shall be clearly indicated on the preliminary and final plat.

2. **Blocks.** Subdivision block lengths and widths shall be suitable for the uses or lot sizes that are contemplated, and shall be adequate for requirements pertaining to minimum lot areas and setbacks.

3. **Lots.**

   a. *Dimensions and Geometry.*

      1) The lot area, width, depth, shape, and orientation shall be sufficient and appropriate for the type of development and use that is contemplated, and shall facilitate buildings with sufficient access, emergency access, setbacks, open space, on-site parking, privacy, and view.

      2) Lot area shall meet the minimum requirements of the underlying zoning district. See Chapter 3, Section 1, *Lot Dimensions by Zoning District.*

      3) A flag lot configuration shall be avoided when possible. The minimum width of a flag lot appendage shall be 30 ft. The access along the "flagpole" shall be graded, 20 ft. wide, clear of all encumbrances, and drained in order to provide adequate emergency access to the property.

   b. *Access.* If new residential lots are smaller than five acres, direct access to a county road is not allowed unless there is no feasible alternative access.

   c. *Arrangement of Lots.*

      1) No single lot shall be divided by a municipal or county boundary line.

      2) No lot shall be divided by a road, alley, driveway, or other lot.

      3) Corner lots shall accommodate the required building setback for both street frontages.

   d. *Tracts.* Stewardship areas, private roads (if present), and commonly-owned recreation or open space areas that are located within the development area shall be located in tracts.

~~D~~C. Clustered Subdivision Design Standards

2. **Generally.** Clustered subdivisions can generally allow for a decrease in the size of ~~smaller~~ lots ~~configuration~~ and increase ~~may allow for more~~ in the number of lots from what is otherwise ~~than the minimum~~ allowed by zoning provided the County determines that ~~in exchange for layout of~~ the clustering~~ed~~ of lots on a portion of the subject property ~~that are designed to~~ protects a significant agricultural, natural, scenic, or archaeological resources ~~on the subject property~~ and, if possible, to avoid natural hazards (including flood hazards, wildfire hazards, and geologic hazards).

3. **Design Objectives.**

Commented [CH80]: Edits intended to tighten this up, setting a threshold for how much of the property is protected to grant this density bonus.

a. Clustered subdivisions shall have a defined stewardship objective or combination of objectives based on either:

1) Protecting a significant amount of identified priority resources (*e.g.*, forest stewardship, water quality preservation and enhancement, wildlife, etc.); or

2) Protecting a significant amount of irrigated agricultural lands with a mechanism that ensures irrigation will continue;

3) Providing a large common open space amenity.

b. Stewardship areas shall be interconnected within the subject property and to comparable resources on adjacent properties, where such integration is practical and tends to enhance the resource value of the stewardship areas.

4. **Lots.**

a. Dimensions and Geometry.

1) The lot area, width, depth, shape, and orientation shall be sufficient and appropriate for the type of development and use that is contemplated, and shall facilitate buildings with sufficient access, emergency access, setbacks, open space, on-site parking, privacy, and view.

2) Lot area may meet the minimum requirements of the underlying zoning district, or may be altered in accordance with Chapter 3, Section 1, *Lot Dimensions by Zoning District*.

3) A flag lot configuration shall be avoided when possible. The minimum width of a flag lot appendage shall be 30 ft. The access along the "flagpole" shall be graded, 20 ft. wide, clear of all encumbrances, and drained in order to provide adequate emergency access to the property.

4) Building envelopes shall not exceed one (1) acre or 25% of the Stewardship Area, whichever is less.

5. **Design Approach.** The approach to designing a clustered subdivision shall follow a four-step process that emphasizes the protection of irrigated agriculture, natural resources and meaningful open space:

a. Stewardship areas shall be identified and mapped (*see* Chapter 4, Section 5, *Agricultural, Natural, and Cultural Resources* and Chapter 4, Section 6, *Geologic and Wildfire Hazards*). Stewardship areas shall be designated as tracts.

b. ~~All other~~ areas ~~outside of stewardship areas~~located within designated building envelopes are developable. ~~Development areas~~Building envelopes shall be located to (in descending order of priority):

1) Avoid flood hazards and geologic hazards;

2) Avoid or reduce wildfire hazards;

3) Avoid irrigated agricultural land;

4) Avoid impacts to critical wildlife habitat, calving areas, winter range, and wildlife corridors;

5) Minimize the impacts of clearing and grading on riparian areas, steep slopes, wetlands, and woodlands;

6) Minimize the visual impact of the cluster subdivision on the landscape;

7) Provide contiguity of common open space, stewardship areas, and, if present, agricultural lands (on-site and, where possible, off-site);

8) Preserve the open sky backdrop above ridgelines, as viewed from public roads within one-quarter mile of the subject property; and

9) Provide open space and scenic views for the principal buildings in the clustered subdivision.

c. The road system shall be designed to allow safe and efficient movement through the subdivision, and to adjacent property as appropriate. The road system shall avoid impacts to the stewardship areas to the maximum feasible extent.

d. Lot lines and lot areas shall be established to provide for the most appropriate conservation of the stewardship areas, and to optimize the design priorities set out in subsection (2), above.

6. **Long-Term Maintenance.** Financial surety or other mechanism for long-term maintenance of Stewardship Areas shall be provided.

E. Use of Stewardship Areas

1. **Generally.** Stewardship Areas may be used for ecological, agricultural, recreational, utility (underground and overhead lines), drainage (*e.g.*, ponds, pipelines, swales, ditches, and related infrastructure), and access purposes (*e.g.*, trails, maintenance access, or general access if no other feasible alternative exists) that are consistent with the stewardship objectives for the area.

2. **Annotations.** Limitations on the use of or development activities within stewardship areas shall be set forth using annotations on the Preliminary Plat, Final Plat, Site Plan, or by cross-reference to recorded covenants, deed restrictions, or conservation easements.

~~B~~F. Preliminary Plat

~~Preliminary Plat~~ Review Process.

1. All applications for Preliminary Plats shall be processed in accordance with Chapter 7 Standardized Application Review Process.

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~~1.~~2. Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Chapter 7, Section 2(D), *Recommended Revisions* (or, after finding that no revisions will be required):

a. Generally, the application shall be heard during the next regular meeting of that body that meets the following two conditions:

1) There is sufficient time to meet applicable public notice requirements; and

2) There is available room on the agenda.

b. The Director, or a designee, shall notify the Applicant regarding the time and place of the public hearings.

~~a.~~c. The Director shall verify public notice has been given (*see* Chapter 7, Section 4, *Public Notice*)

~~b.~~d. The Director shall set the application on the agenda and make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the next body that will consider it for further recommendation or approval.

~~c. The Director shall set the application on the agenda of the next body that will consider the application.~~

~~d. Generally, the application shall be heard during the next regular meeting of that body that meets the following two conditions:~~

~~1) There is sufficient time to meet applicable public notice requirements; and~~

~~2) There is available room on the agenda.~~

~~e. The Director shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings. Said bodies are authorized to convene special meetings to hear applications as they determine appropriate.~~

~~f. The Director, or a designee, shall notify the applicant regarding the time and place of the public hearings.~~

~~g.~~e. ~~When reviewed by the Planning Commission,~~ The Planning Commission shall determine if the application complies with this Code~~. The Planning Commission shall~~ and recommend approval, approval with conditions, or denial of the Preliminary Plat to the Board of County Commissioners~~s~~.

f. ~~When reviewed by the Board of County Commissioners, t~~The Board of County Commissioners shall consider the Planning Commission recommendation to determine if the application complies with this Code and ~~determine if the application complies with this Code. The Board of County Commissioners~~ shall approve, approve with conditions, or deny the ~~application~~Preliminary Plat.

Commented [CH81]: DELETE if PC decision makers

Commented [CH82]: DELETE if PC decision makers

~~h.~~g. The Director shall promptly provide written notice, including the reasons for the decision, to the applicant following action by the Board of County Commissioners.

Commented [CH83]: AMEND to PC if they are decision makers

Section 4. Final Plats

~~1. C. Final Plat~~

A. Generally.

1. Final P~~p~~lats may be ~~approved~~ accepted by the Board of County Commissioners upon a finding that the~~y~~ ~~are~~ Final Plat is substantially consistent with the approved ~~p~~Preliminary ~~p~~Plat and ~~meet~~ all applicable conditions ~~requirements of this Code~~have been cleared by the appropriate agency.

2. The Director may approve a final, Minor Plat where no dedication is required. If the Minor Plat includes dedication of right-of -way, the Final Plat shall be considered by the Board of County Commissioners with the right-of-way dedication.

3. No final plat that includes or requires public improvements (on-site or off-site) shall be recorded, and no sketch plan or site plan that requires public improvements (on-site or off-site) or imposes conditions or obligations related to development approval shall be approved until the applicant has been submitted, and the Board of County Commissioners has approved one or a combination of the following:

Commented [CH84]: From Chapter 6, Section 4.1

   a. An Improvements Agreement in which the applicant agrees to construct any required public improvements shown in the final plat documents, together with collateral which is sufficient, in the judgment of the Board of County Commissioners, to make reasonable provision for the completion of said improvements in accordance with design and time specifications (see LUC Chapter 6, Section 5); or

   ~~a.~~b. Other agreements or contracts, however titled, setting forth the plan, method, and parties responsible for the construction of any required public improvements shown in the final plat documents which, in the judgment of the Board of County Commissioners, will make reasonable provision for completion of said improvements in accordance with design and time specifications; or obligation to satisfy such conditions of approval as may be imposed pursuant to this Code.

B. Timelines, Expiration, Extension

1. A Final Plat shall be submitted within twelve (12) months of Preliminary Plat approval, unless otherwise stated as part of the approval. Failure to submit the Final Plat within twelve (12) months shall result in the application being considered as withdrawn and shall require the applicant to begin the process anew.

2. If a proposed subdivision has multiple lots, a developer may request to complete the subdivision in two (2) or more phases. In order to complete a development in phases, a phasing plan showing which lots will be part of each phase is required to be submitted with

the Preliminary Plat. All requirements for a Final Plat must be met in order to complete any phase of a development. All phases of a subdivision must be completed within three (3) years of completion of the first phase unless otherwise approved through a Subdivision Improvement Agreement.

3. Request for an extension must be received at least thirty (30) days prior to the expiration date and will require proof that progress is being made towards completion of the subdivision. The Director may grant one extension for up to one (1) year if, in the Director's opinion, substantial progress has been made and the developer has demonstrated the ability to complete the project.

~~B.~~C. Final Plat Review Process

1. ~~Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Chapter 7, Section 2 (D), *Recommended Revisions,* and that the application is consistent with the approved preliminary plat (or, after finding that no revisions will be required)~~Upon receiving a Final Plat:

    a. The Director shall forward the Final Plat to commenting agencies to determine compliance with applicable standards and conditions.

        1) All public improvements shown on the Plat shall be installed and the County has granted preliminary acceptance of the improvements pursuant to Chapter 6, Section 1(C), *Acceptance of Public Improvements.*

        2) Evidence that access has been permitted and installed to all parcels/lots within the subdivision.

        3) Evidence that the water supply (tap, meter, well) has been installed to all parcels/lots within the subdivision, and applicable permits numbers are reflected on the Final Plat.

        4) Evidence the electrical supply has been installed to all parcels/lots within the subdivision.

    b. The Director shall forward the Plat to the County Surveyor who shall review the Plat for form and content in accordance with State statute.

    ~~a. The Director shall verify public notice has been given if required (*see* Chapter 7, Section 4, *Public Notice*)~~

    ~~b. The Director shall make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the Board of County Commissioners that will consider it for approval.~~

    ~~c. The Director shall set the application on the agenda of the County Commissioners.~~

~~d. Generally, the application shall be heard during the next regular meeting of that body that meets the following two conditions:~~

~~1) There is sufficient time to meet applicable public notice requirements; and~~

~~2) There is available room on the agenda.~~

~~e. The Director shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings. Said bodies are authorized to convene special meetings to hear applications as they determine appropriate.~~

c. Once the Director determines that all conditions are cleared and the Final Plat is approved by the County Surveyor, the Director shall set the application on the agenda and make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the Board of County Commissioners that will consider it for acceptance.

d. The Director shall verify public notice has been given if required (*see* Chapter 7, Section 4, *Public Notice*)

~~f. The Director, or a designee, shall notify the applicant regarding the time and place of the public hearings.~~

e. When reviewed by the Board of County Commissioners, the Board of County Commissioners shall determine if the ~~application~~ Final Plat complies with the approved Preliminary Plat and conditions of approval.

f. Final Plats shall be recorded with the signatures of all property owners (notarized), their surveyor, the mortgage company (notarized, if applicable), the County Treasurer, the County Surveyor, the Planning Director, and the Chair of the Board of County Commissioners. See Section 6 of this Chapter for applicable signature blocks.

g. New deeds describing all affected lots and dedications shall be recorded with the Final Plat along with any encumbrances applicable to the project or conditions (Covenants and Restrictions, Access Agreements, Irrigation Plans, etc.).

~~g.~~

~~C. **Recordation.** Final plats may be recorded when all public improvements shown on the plat are installed and the County has granted preliminary acceptance of the improvements pursuant to Chapter 6, Section 1(C), *Acceptance of Public Improvements.*~~

D. ~~D.~~ Plat Correction

1. **Generally.** In accordance with C.R.S. § 30-28-133, the Board of County Commissioners may approve a correction plat if:

a. The sole purpose of such correction plat is to correct one or more technical errors in an approved final plat; and

b. Such correction plat is consistent with the applicable approved Preliminary Plat.

2. **Limitations.** If the technical error or errors of an approved plat meet the description of any errors under C.R.S. § 38-51-111(2), a surveyor's affidavit of correction, as defined in C.R.S. § 38-51-102, shall be prepared in lieu of a correction plat.

Section 5. Format for Signature Blocks, Certifications and Plat Notes

Commented [CH85]: From prior Sub Regs, modified for current conditions

A. Generally. Prior to the County recording a Plat, the following signature blocks, certifications and plat notes shall be included as required by the Director.

B. Dedication

A final plat presented for approval shall contain a statement concerning public use of all roadways, the suggested format is:

(I, We), printed name of owner(s), being the owner(s) of the land described as follows: [insert legal description of land being platted and/or subdivided and include area in acres to two decimal places] in Delta County, Colorado, under the name of [complete name of development in capital letters and the number assigned], have laid out, platted and/or subdivided the same as shown on this plat and do hereby dedicate to the public at large the streets, alleys, roads and other public areas as shown hereon and those portions of land labeled as easements for the installation and maintenance of public utilities as shown hereon.

In witness whereof (printed name of the owner) has (have) subscribed (his, her, their) name(s) this day of , AD .

By:
Owner(s)

C. Notarial

Signatures for all responsible property owners shall be notarized in the manner in which they appear on title or in legal documents for trusts or corporations. Documentation may be required to verify the correct manner in which the signatory must sign the plat.

State of Colorado

ss.

County of Delta)

The foregoing instrument was acknowledged before me this _____ day of _____, AD ____, by (printed name of owner(s): if by natural persons here, insert name; if by person acting in a representative official capacity, insert capacity; if by officers of a corporation, then insert the title of said officers and the name of the corporation).

My Commission expires:_____

My address is _____

Witness my hand and official seal.

_____

Notary Public

(Seal)

D. Mortgagees Approval

Where real property is revised, any lien holder(s) shall sign the plat to acknowledge their acceptance of any change from the conditions in which they issued a loan, for each parcel/lot affected.

In witness whereof Mortgagee has subscribed its name approving the content of this final plat.

Dated this ____ day of _____, AD 20__.

_____

Mortgagee: [Insert Name of Mortgagee]

Authorized Signatory: [Insert Printed Name and Title]

E. Delta County Surveyor's Approval

All plats required by the Code shall be reviewed by the County Surveyor to ensure proper form and content pursuant to State Statute. The County Surveyor also maintains record of survey monuments.

Approved for content and form only and not as to accuracy of survey, computations or drafting, pursuant to CRS 38-51-106.

_____

County Surveyor _____ Date

F. Delta County Planning Department Approval

The Planning Director, or their designee, shall sign plats certifying that the plat meets appliable conditions and regulations or is exempt from review.

This plat of the above subdivision has been checked for compliance ~~by _____~~ in accordance with Case No. PLN##-###.

Dated this ____ day of _____, AD 20__.

_____

Planning Director

G. Certificate of Taxes Paid

Where real property is revised, the County Treasurer shall certify that taxes and assessments due have been paid.

I, Lisa J. Tafoya, Treasurer and Public Trustee of the County of Delta, State of Colorado, hereby certify that all current, supplemental and delinquent taxes and assessments upon all parcel(s) of real estate described on the subject Plat have been paid in full, and also an estimate of the amount of taxes that are a lien not yet due and payable as of _____.

Fiscal Year: [Insert Applicable FY]

Parcel ID: [Insert All Applicable Parcel Number(s)]

Account No.: [Insert All Applicable Account Number(s)]

Dated this day of , AD 20 .

_____

Treasurer of Delta County, Colorado

H. Board of County Commissioners Acceptance

Where a Preliminary Plat has been approved, the Board of County Commissioners shall accept the Final Plat, certifying that all conditions have been met. Where a Minor Plat requires right-of-way dedication, the Board of County Commissioners shall accept the Final Plat along with the dedication.

The within plat of [insert project number and name of development in capital letters] is accepted by the Delta County Board of County Commissioners. The roads and other public areas are hereby accepted provided; however, that such acceptance shall not in any way be considered as an acceptance for maintenance purposes. Maintenance of, or snow removal from, the subject roads shall be only upon a separate resolution of the Board of County Commissioners passed in accordance with such policies, resolutions or regulations in effect at that time.

Dated this day of , AD 20

_____

Chair, Delta County Board of County Commissioners

Attest:

_____

County Clerk of Delta County, Colorado

I. Standards Notes

Unless specifically excluded by the County, the following plat notes are required for all subdivisions:

1. All structures (including onsite wastewater treatment systems) in this subdivision shall meet applicable setbacks requirements (rights-of-way, property lines, ditches, waterways, etc.) in place at the time the development occurs.

2. All new development is subject to a Development Application. Land uses, including subdivisions, must comply with all applicable standards of the Delta County Land Use Code.

3. All lots/parcels are limited to one permitted access pursuant to County Road and Bridge Standards, unless otherwise approved by the County Engineer. There shall be no horseshoe driveways within this subdivision.

4. Unless approved otherwise, all lots within this subdivision have been approved for one single residential use only. Any further subdivision any change of use to other than single family residential or agricultural use requires the lot owner to process the request in accordance with applicable regulations of Delta County.

5. All utilities must be placed underground on all parcels (except transmission lines).

6. Outdoor lighting shall be hooded or shielded (cut-off) so that light is directed downward. Outdoor lighting shall not create glare onto adjacent property or public or private roads, nor shall it contribute to sky glow that dilutes the night sky.

7. Each lot owner shall be personally responsible to control undesirable, noxious weeds within the boundaries of that lot, to prevent the spreading of such weeds to other lands and to comply with the recommendations of the Delta County Weed Coordinator concerning the control of such weeds.

8. NOTICE TO LOT PURCHASERS. As of the date of this final plat, adjacent property is used for agricultural purposes. The land within this plat may be impacted by agricultural activities, including but not limited to noise from tractors and equipment; slow-moving farm vehicles on rural roads; dust from animal pens, field work, harvest and gravel roads; odor from animal confinement, silage, and manure;

Commented [CH86]: From Subdivision Regulations, modified for current conditions…unless otherwise noted.

Commented [CH87]: Revised to remove specific reference/numbers, which can change over time.

Commented [CH88]: New

Commented [CH89]: New (from Engineering)

Commented [CH90]: From LUC CH 4, Sect 7.H

Commented [CH91]: From LUC CH 4, Sect 7.G

Commented [CH92]: From LUC CH 4, Sect 5.B

smoke from ditch burning; flies and mosquitoes; hunting and trapping activities; shooting sports; legal hazing of nuisance wildlife; and the use of pesticides and fertilizers in the fields, including the use of aerial spraying.

9. Soils in this area may have severe limitations for septic tank systems and for certain types of construction. Septic tank systems may require engineered systems designed by a Professional Engineer registered in the State of Colorado.

10. Access to all shown or un-shown irrigation ditches for cleaning and maintenance purposes is permitted.

11. All development in Delta County is subject to the Delta County Right to Farm and Ranch Policy, adopted as Resolution 99-R-020 by the Board of County Commissioners on September 27, 1999 (as amended).

12. Colorado is an "open range "state. It is not the responsibility of a livestock owner to fence in livestock.

I. Special Notes

Commented [CH93]: From Subdivision Regulations, modified for current conditions…unless otherwise noted.

The County may require notes to be placed on the final plat as a condition of approval, including but not limited to the following:

1. Certain Covenants and Restrictions on the property in this Subdivision and other documents have been recorded in the office of the Delta County Clerk and Recorder, Reception No(s). _____. [*This note is required if there are any CC&Rs, including the applicable reception number(s)*]

2. Shares of irrigation water assigned to the subject property shall be assigned as follows:
   Lot 1 - ## shares (Applicable Company/ies)
   Lot 2 - ## shares (Applicable Company/ies)
   Shares of irrigation water conveyed to lots at the time of plat recording are subject to the Irrigation Plan (dated ###) recorded with this subdivision [Reception ###].

3. Emergency and service vehicle access easement(s) or roads, if any, shown hereon shall be constructed and maintained by the property owners and subsequent owners, heirs, successors and assigns. In the event that such construction and maintenance is not performed by said owner, Delta County shall have the right to enter said property and perform necessary work, the cost of which said owners, heirs, successors and assigns agree to pay upon billing.

4. Stormwater drainage easement(s), if any, shown hereon is (are) for the purpose of access, operation, maintenance, repair, and alteration of the stormwater quantity and quality management system/facilities included within the said easement(s). The

operation, maintenance, and repair of such stormwater management system/facilities shall be the responsibility of the property owner and subsequent owners, heirs, successors and assigns.

In the event that the operation, maintenance, and repair of the stormwater management system/facilities is not performed by said owners, Delta County shall have the right to enter such easement(s) and perform the necessary work, the cost of which said owner, successor owner, heirs, successor and assigns agree to pay upon billing. Any claims and resulting judgments for damage to downstream properties caused by the lack of adequate maintenance being performed by the said property owners shall be borne solely by the said property owners. The property owner and successor owner, heirs, successor, and assigns hereby releases Delta County for any and all liability created by the lack of adequate maintenance of said stormwater management system/facilities. No buildings, fills, excavations, structures, fences or other alterations shall be constructed within a stormwater drainage easement(s) without the express written consent of the Board of County Commissioners of Delta County.

5. Construction Covenant. All Final Plats involving a Subdivision Improvements Agreement shall contain a plat note, within the dedicatory language, stating the following:

The undersigned owners, mortgagees and beneficiaries under deeds of trust, hereinafter known as dedicators, for themselves, their heirs, successors and assigns, covenant and agree with Delta County that no development, construction or improvements shall be permitted unless and until all required public improvements, as defined by the subdivision regulations of Delta County, are in place and accepted by Delta County or cash funds or other security satisfactory to the County for the improvements are provided to Delta County. [Reception No: ___]

Date_____

Owner(s) _____

6. The open space, parks, and drainage facilities within this subdivision are owned by the property owners or Homeowners Association and the operation and maintenance of those facilities are the responsibility of said owners or Homeowners Association.

Section 6. Vacations of Roads, Streets, Right-of-Way, Easements, or a Subdivision

Commented [CH94]: From prior Sub Regs

A. Purpose

1. The Board of County Commissioners may vacate a portion or all of a recorded subdivision.

2. The Board of County Commissioners may vacate a public road, street, right of way, alley, lane, parkway, avenue, trail or other public way, dedicated, conveyed by deed or recorded easement, or acquired by prescriptive use, collectively referred to as "Public Way", whether or not it has ever been used as such.

B. Submittals

1. **Subdivision Vacations**.

   a. *Letter of Intent.* An application for a vacation shall be made by submitting a Letter of Intent explaining the reasons for the request and the required fees to the County Planning Department.

   b. *Petition.* A Vacation of all or a portion of a Final Plat shall be submitted with a petition signed by not less than 50% of the owners of the lots as shown on the final plat and 100% of the owners of the lots to be vacated.

2. **Public Road, Street, Rights-of-Way, or Easement Vacations**.

   a. *Letter of Intent.* An application to vacate any portion of a right-of-way or easement shall include, but not be limited to:

      1) Information stating whether any public moneys have been spent on any portion of the public way;

      2) Certification that no property will be left without proper access if the vacation is approved;

      3) Explanation of the purpose for the request to vacate, including how the propose vacation will not negatively impact public access; and

      4) Names and addresses of all the owners of property which abuts the public way; and

      5) Name mailing address and telephone number of the applicants.

   b. *Vacation Plat.* A plat (minimum 11" X 17") illustrating the following:

      1) The public way which is proposed to be (all or partially) vacated, including all necessary dimensions including the total right-of-way.

      2) Cross-hatch or otherwise illustrate the portion of public way to be vacated.

      3) Title the map "A vacation of (name or description)" and include on, or attach to the map, a legal description of the portion of the public way to be vacated.

C. Notification

1. **Subdivision Vacations**.

a. The Planning Department shall, by certified mail, notify all owners of record of property within the subdivision. The notice shall state that a request for vacation has been submitted and shall state the date, time and location for consideration by the Board of County Commissioners.

2. **Road, Street, Rights-of-Way, or Easement Vacations**.

a. The Planning Department shall, by certified mail, notify all owners of record of property that abuts the portion of public way that is requested to be vacated. The notice shall state that a request for vacation has been submitted and shall state the date, time and location for consideration by the Board of County Commissioners.

D. Procedure and Process

1. **Subdivision Vacations**.

a. Upon determining that the petition for vacation of all or part of a Final Plat is complete, the Planning Department shall schedule and process the request as a Final Plat.

2. **Road, Street, Rights-of-Way, or Easement Vacations**.

a. Upon determining that the petition for vacation of all or part of a public way is complete, the Planning Department shall schedule the request for a Public Hearing by the Board of County Commissioners.

E. Action by the Board of County Commissioners

After hearing testimony in the Public Hearing, the Board of County Commissioners shall take one of the following actions:

1. Approve the vacation with or without conditions.
2. Deny the vacation.
3. Table the request to a date certain.

F. Recording the Vacation

If the Board of County Commissioners approves the vacation, the Planning Department shall record the Resolution reflecting the Board of County Commissioners action in the office of the Delta County Clerk and Recorder. Where a public way is vacated, the Planning Department shall record the Vacation Plat in the office of the Delta County Clerk and Recorder, along with applicable deeds including legal descriptions of the: 1) land being transferred; and 2) the property being amended to accept the land.