



COMMUNITY AND ECONOMIC DEVELOPMENT
DEPARTMENT

CASE NAME: HENDERSON AGGREGATES PIT
CASE NO.: EXG2019-00002

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**COMMUNITY AND ECONOMIC DEVELOPMENT
DEPARTMENT
STAFF REPORT**

Board of County Commissioners

July 14, 2020

CASE No.: EXG2019-00002		CASE NAME: Henderson Aggregates Pit Expansion
Owner's Name:	Henderson Aggregates, Ltd.	
Applicant's Name:	Ben Frei, Henderson Aggregates, Ltd.	
Applicant's Address:	7321 E. 88 th Avenue, Suite 100, Henderson, CO 80640	
Location of Request:	50000 E. 72 nd Avenue, Bennett, CO 80102	
Parcel Numbers:	0181500000401, 0181502100002, and 0181500000337	
Nature of Request:	Conditional Use Permit to expand existing mining operations (extraction) use.	
Zone District:	Agricultural-3 (A-3)	
Site Size:	± 129.15 acres	
Proposed Uses:	Extraction and Disposal (gravel mine)	
Hearing Date(s):	PC: June 25, 2020 / 6:00 p.m. BoCC: July 14, 2020 / 9:30 a.m.	
Report Date:	June 18, 2020	
Case Manager:	Greg Barnes	
PC Recommendation:	APPROVAL with 8 Findings-of-Fact, 6 Conditions Precedent, 22 conditions, and 2 notes.	

SUMMARY OF PREVIOUS APPLICATIONS

On June 25, 2001, the Board of County Commission (BoCC) approved a conditional use permit (EXG2001-00004) application for a gravel mining operation on one of the three subject properties (parcel number: 0181500000401) for a period of five years. On March 13, 2006, the BoCC approved an extension of the use (EXG2005-00006) for a period of ten years. On March 8, 2016, the BoCC approved another extension of the use for an additional ten years. In addition, an inert fill operation was approved on the site with the conditional use permit extension (RCU2015-00041). The other two parcels that are part of the subject application (Parcel numbers 0181500000337 and 0181502100002) were not included in the previous requests.

SUMMARY OF APPLICATION

Background:

Ben Frei of Henderson Aggregates, Ltd. has filed an application for a conditional use permit to expand the existing extraction (gravel mining) operations at 50000 East 72nd Avenue. The site (known as Henderson Aggregates Pit) is located east of Highway 79 and south of East 72nd Avenue. The gravel mining operation was formerly owned by David Lincoln and was previously known as Bennett Sand & Gravel. Henderson Aggregates, Ltd. acquired the gravel mine subsequent to the most recent conditional use permit approval in 2016. The operation is considered dry alluvial mining and has no exposure to groundwater. The proposed request, if approved, will allow mining activities in the area to continue for another ten years to 2030.

This request is to expand an existing gravel mine operation (extraction use) in the area to two adjacent parcels (0181502100002, and 0181500000337) on the northern side of the mine. In conjunction with this conditional use permit application, a land survey plat has been filed with Adams County to combine all three parcels into a single 129-acre parcel.

Site Characteristics:

The site is approximately four miles northeast of the Town of Bennett, and approximately one mile southeast of the intersection of State Highway 79 and East 72nd Avenue. Truck traffic out of the mine will enter East 72nd Avenue at its intersection with Provost Road. Traffic would then travel westbound for approximately one mile to reach Highway 79. The three subject properties are approximately 129 acres and a land survey plat has been filed combining them into a single parcel. Currently, the site is accessed through a private driveway that runs from intersection of East 72nd Avenue and Provost Road on the northeast corner of the site. East 64th Avenue dead-ends into the southwestern corner of the site, however there is no access into the site from East 64th Avenue, and no truck traffic in and out of the mine will be traveling on this public roadway.

The southeastern corner of the site is located within a 100-year floodplain. The Kiowa Creek meanders through the southeastern portion of the site. The proposed mining activity will not encroach into this floodplain.

Development Standards and Regulations Requirements:

Per Section 11-02-198 of the County's Development Standards and Regulations, the subject request is classified as an Extraction and Disposal Use. In accordance with Section 3-07-01 of the Development Standards and Regulations, a Conditional Use Permit is required for the operation of an Extraction and Disposal Use in the A-3 zone district.

Per Section 3-10-01 of the County's Development Standards and Regulations, the purpose of the A-3 zone district is to provide land primarily in holdings of at least thirty-five (35) acres for dryland or irrigated farming, or other related food production uses. Due to the temporary nature of the use, and sparse density of surrounding developments, the subject request will not

substantially impact surrounding development. All the surrounding properties to the site are also zoned A-3.

Performance standards for mining extraction uses are defined in Section 4-10-02-03 of the County's Development Standards and Regulations. These standards include approval by the Colorado Department of Natural Resources, approval of a mining plan and a reclamation plan, and methods for preventing insect breeding in pools and puddles of stagnant water. The applicants have addressed all these standards in their application, and full compliance is expected. A reclamation plan was submitted to the County with this application and reviewed by staff. Reclamation of the site will include filling of the mined areas, grading, and re-vegetation with non-irrigated grasses. Mosquito control measures are addressed in the Design and Operations Plan as well (see Exhibit 2.2), and standing water is expected to be managed within 4-14 days with increased evaporation strategies.

Future Land Use Designation:

The Future Land Use Designation on the property is Agriculture. Per Chapter 5 of the County's Comprehensive Plan, the purpose of the Agriculture Land Use is to preserve areas for long-term farming, conserve environmentally sensitive areas, separate and define urban areas, prevent urban nuisance complaints, limit the extension of services where they are costly and difficult to provide, and conserve environmentally-sensitive areas. The subject request is temporary. Once the extraction use has been completed, the property is expected to be reclaimed into usable land. Reclamation of the site will include placement and seeding of cover material over fill areas.

Surrounding Zoning Designations and Existing Use Activity:

Northwest A-3 Vacant/Agricultural	North A-3 Residential/Agricultural	Northeast A-3 Residential/Agricultural
West A-3 Residential/Agricultural	Subject Property A-3 Extraction	East A-3 Residential/Agricultural
Southwest A-3 Residential/Agricultural	South A-3 Vacant/Agricultural	Southeast A-3 Residential/Agricultural

Compatibility with the Surrounding Land Uses:

All the surrounding properties are used residentially, agriculturally, or are vacant. These properties range in size from 35-316 acres. The closest dwelling unit to the subject site is approximately 150 feet to the west of the mine. Existing extraction activities on the property have been ongoing since 2001.

Although the previous mine operator had no history of complaints to Adams County, the current mine operator has received several complaints from neighbors of this operation. These complaints included dust, traffic volume and safety, and diminishing road quality of East 72nd

Avenue. Henderson Aggregates, Ltd. has responded to these concerns by entering into an agreement with Adams County to allow for the applicant to make improvements to East 72nd Avenue to mitigate these concerns. The applicants entered into a Roadway Maintenance Agreement with Adams County in October 2019. In addition, a deceleration lane is planned for Highway 79 traffic turning eastbound on East 72nd Avenue.

PLANNING COMMISSION UPDATE:

The Planning Commission considered this case on June 25, 2020. The applicant was present for the hearing. All public comments that were received by staff before 3 p.m. on June 25, 2020 were shared with the Planning Commission and posted on the County's web site for public viewing. Any comments received after this deadline were read into the record at the hearing.

During the hearing, the Planning Commission expressed concern with the hours of operation for the facility. The applicant agreed that the hours of operation were excessive during most times, however the flexibility to perform later hours during an emergency were needed. The applicant and the Planning Commission agreed to 6 a.m. to 8 p.m. with an option for increased hours to be granted on a case-by-case basis by the County.

The Planning Commission forwarded this request to the Board of County Commissioners with a recommendation of approval by a 5-1 vote, which included a modification to the condition regulating the hours of operation.

RECOMMENDATION:

It is staff's determination that the request is consistent with the surrounding area, will not be detrimental to development of surrounding property; therefore, staff is recommending approval of the request with 8 findings-of-fact, 6 conditions precedent, 22 conditions, and 2 notes.

Findings-of-Fact:

1. The conditional use is permitted in the applicable zone district.
2. The conditional use is consistent with the purposes of these standards and regulations
3. The conditional use will comply with the requirements of these standards and regulations, including but not limited to, all applicable performance standards.
4. The conditional use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the immediate area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and the County.
5. The conditional use permit has addressed all off-site impacts.
6. The site is suitable for the proposed conditional use including adequate usable space, adequate access, and absence of environmental constraints.
7. The site plan for the proposed conditional use will provide the most convenient and functional use of the lot including the parking scheme, traffic circulation, open space, fencing, screening, landscaping, signage, and lighting.

8. Sewer, water, storm water drainage, fire protection, police protection, and roads are to be available and adequate to serve the needs of the conditional use as designed and proposed.

RECOMMENDED CONDITIONS OF APPROVAL

Recommended Conditions Precedent:

1. The applicant shall obtain and provide to Adams County all required and approved DRMS permits prior to commencing any mining activities at the site.
2. The applicant shall provide a copy of the final Groundwater Well Monitoring Plan as approved by DRMS.
3. The Applicant shall provide a copy of its APEN as submitted to Colorado Department of Public Health and Environment (CDPHE) for mining operations.
4. The applicant shall notify Adams County upon Notice of Startup form submission to the Air Pollution Control District as may be required by new or modified Construction Permit.
5. The applicant shall submit to Adams County its Mosquito Control Program as approved by Tri-County Health Department.
6. Mining on the newly added area shall not proceed until a "Notice to Proceed" is issued by Adams County Department of Community and Economic Development, after applicant has demonstrated all Conditions Precedent have been completed.

Recommended Conditions:

1. Applicant shall notify the County of all complaints from any well owner within 600 feet from the site boundary and necessary actions taken to address impacts within 30 days of filing such reports with DRMS. For subject wells put to beneficial use prior to commencement of mining activities, applicant will begin to implement one or more mitigation measures if mining and reclamation activity is determined to be a significant contributing factor to groundwater changes requiring mitigation.
2. Reclamation activities and sequential extraction of material shall be followed to keep the total disturbed areas at any one time to a minimum.
3. To minimize light pollution impact to active nocturnal or resting diurnal wildlife species, all site lights shall be motion-activated and downward directed.
4. A setback buffer consisting of a minimum 50 feet from the riparian plant community along the length of Kiowa Creek shall be maintained and protected from mining activities in accordance with ACDSR Section 4-11-02-04-02.5.b.
5. As recommended in the Resources Review, the applicant shall conduct a raptor nest survey one week before disturbing any new area from April 1 through August 31. If raptor nests are found, vegetation shall not be removed as part of land disturbing activities. The applicant shall keep records of all nest survey results and make these available to the County upon request.
6. The applicant shall install a wind gauge, such as an anemometer, in the vicinity of mining and crushing operations to monitor wind speeds and shall cease both mining and crushing activities when wind speeds exceed a sustained 25 mph and when gusts exceed 35 mph occur. Records of cessation due to high winds shall be maintained on site for one year past the record date.

7. Fugitive dust control measures prescribed within the facility's Air Pollutant Emission Notice permit issued by CDPHE, must always be in place and functioning to ensure on-site visible emissions do not exceed 20% at any time. There must be no off-property transport of visible emissions.
8. Per the executed Roadway Maintenance Agreement between Adams County and AFS dated December 6, 2019, the applicant shall cooperate with the County to share the costs of repair, maintenance, and reconstruction for East 72nd Avenue.
9. An Annual Reclamation Report shall be submitted to Adams County by January 31st of each year. The Annual Report shall be the same report as is submitted to the DRMS
10. Aboveground petroleum storage tanks used for equipment fueling must be placed within secondary containment and meet applicable fire code requirements.
11. If fuel will be stored on this site:
 - a. All fuel storage at this site shall be provided with secondary containment, which complies with Division of Oil and Public Safety Storage Tank Regulations; and
 - b. Fueling areas shall be separated from the rest of the site's surface area, and protected from storm water; and
 - c. Applicant shall make available for review by its Spill Prevention, Control, and Countermeasures Plan.
12. All fluid spills such as hydraulic and oil from maintenance of equipment, shall be removed and disposed of at a facility permitted for such disposal.
13. The hours of operation shall be from 6:00 a.m. to 8:00 p.m, Monday-Saturday. If there is an emergency that requires material outside of the stated hours of operation, the applicant shall a written request to the Director of Community & Economic Development for an extension of operation hours. The Director of Community & Economic Development or his or her appointed designee shall provide a response within one business day.
14. This site is subject to inspections from Adams County staff, during reasonable working hours. Adams County may or may not give notice of an inspection prior to the inspection.
15. The Conditional Use Permit for extraction shall expire on July 14, 2030.
16. All haul trucks shall cover their loads pursuant to C.R.S. 42-4-1407, or as amended.
17. Kiowa Creek runs on a section of the southeastern corner of the property. The Applicant shall be required to continually evaluate and avoid erosion and encroachment of extraction activities to the bank of the river, and construct creek bank protection when necessary.
18. All rollers or mechanical equipment emitting high-pitched noises must be immediately replaced or repaired. Adams County will be the final arbitrator regarding the intensity of noise emitting from the conveyor system.
19. All applicable operational standards found in Sections 4-10-02-03, Extraction and Disposal Uses, and 4-13, Operational Standards, of the Adams County Development Standards and Regulations shall be followed.
20. All complaints received by the applicant concerning offsite impacts, and the resolution of those complaints, shall be conveyed to the Department of Community & Economic Development. Offsite impacts shall be responded to and resolved immediately by the applicant. Disputes concerning offsite impacts may be resolved by the Department of Community and Economic Development and may be justification for a Show Cause Hearing before the Adams County Board of County Commissioners.
21. The applicant shall comply with all the requirements of the Colorado Division of Parks and Wildlife provided in their letter dated September 2, 2019.

22. The applicant shall comply with all the requirements of the Tri-County Health Department provided in their letter dated December 30, 2019.

Recommended Note to Applicant

1. The applicant shall obtain a separate Conditional Use Permit for the concrete and aggregate recycling operations prior to commencement of those operations.
2. The applicant shall obtain a separate Conditional Use Permit for any inert filling operations beyond those approved by RCU2015-00041.

PUBLIC COMMENTS

Number of Property Owners Notified (1 Mile)	Number of Public Comments Received by Staff
63	10

At the time of application, Adams County notified all property owners and residents within one mile of the three subject properties. During the initial public referral period (August-September 2019), six comments were received. Five of those six commenters expressed dissatisfaction with the ongoing operations. These comments included concerns over traffic, air pollution, noise, hours of operation, and roadway damage. Since the initial referral period, the applicant entered into the Roadway Maintenance Agreement with the County and made improvements on East 72nd Avenue to mitigate dust and road damage concerns. Staff did not receive any further updates from the original five commenters until the cases were scheduled for public hearing. The additional commenter expressed dissatisfaction with the amount of right-of-way a deceleration lane on Highway 79 may cause along the frontage of their property. Since the case was scheduled for hearings, many of the original commenters have re-expressed their concerns and opposition to the case. Four new commenters provided feedback for the county since the cases were scheduled for hearings. Three letters of support were received, and one additional letter of concern or opposition. All comment letters have been included in this packet with this staff report.

COUNTY AGENCY COMMENTS

The County has recommended six conditions precedent and 22 conditions to mitigate off-site impacts of the operation. Significant improvements along East 72nd Avenue have been completed during the review of this application.

REFERRAL AGENCY COMMENTS

Staff sent the request to various referral agencies and there were no objections to the request. Several agencies recommended best management practices for the operation of the facility. Staff has recommended several conditions of approval to ensure compliance with these comments.

Responding with Concerns:

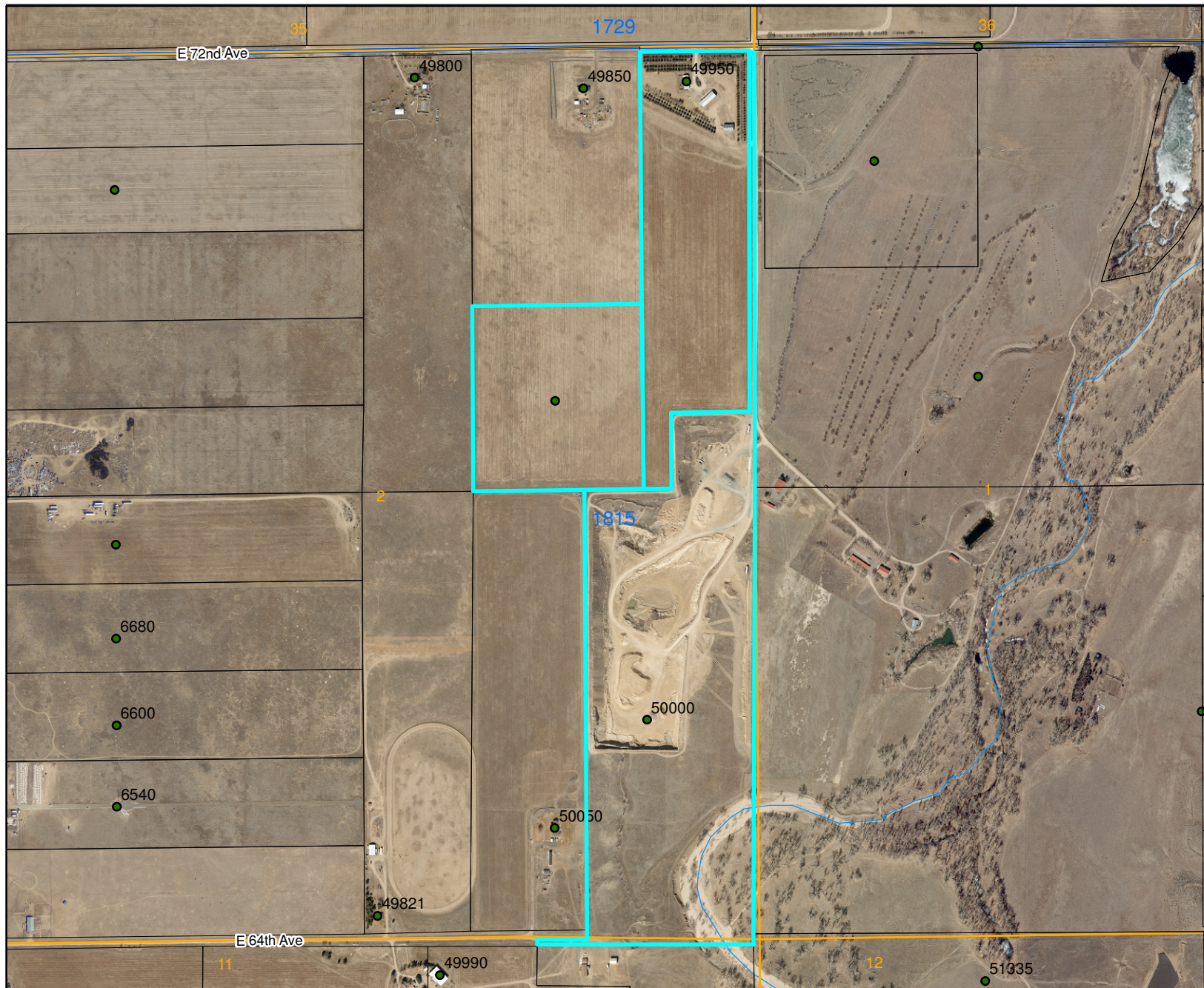
Colorado Department of Public Health & Environment (CDPHE)
Colorado Division of Parks & Wildlife
Tri-County Health Department (TCHD)

Responding without Concerns:

Bennett Fire
Intermountain Rural Electric Association (IREA)
Xcel Energy

Notified but not Responding / Considered a Favorable Response:

Adams County Sheriff
Bennett Parks & Recreation
Bennett Schools 29J
Century Link
Comcast



Legend

- Railroad
- Major Water
- Zoning Line
- Sections

Zoning Districts

- A-1
- A-2
- A-3
- R-E
- R-1-A
- R-1-C
- R-2
- R-3
- R-4
- M-H
- C-0
- C-1
- C-2
- C-3
- C-4
- C-5
- I-1
- I-2
- I-3
- CO
- PL
- AV
- DIA
- P-U-D
- P-U-D(P)

Henderson Aggregates

RCU2019-00040

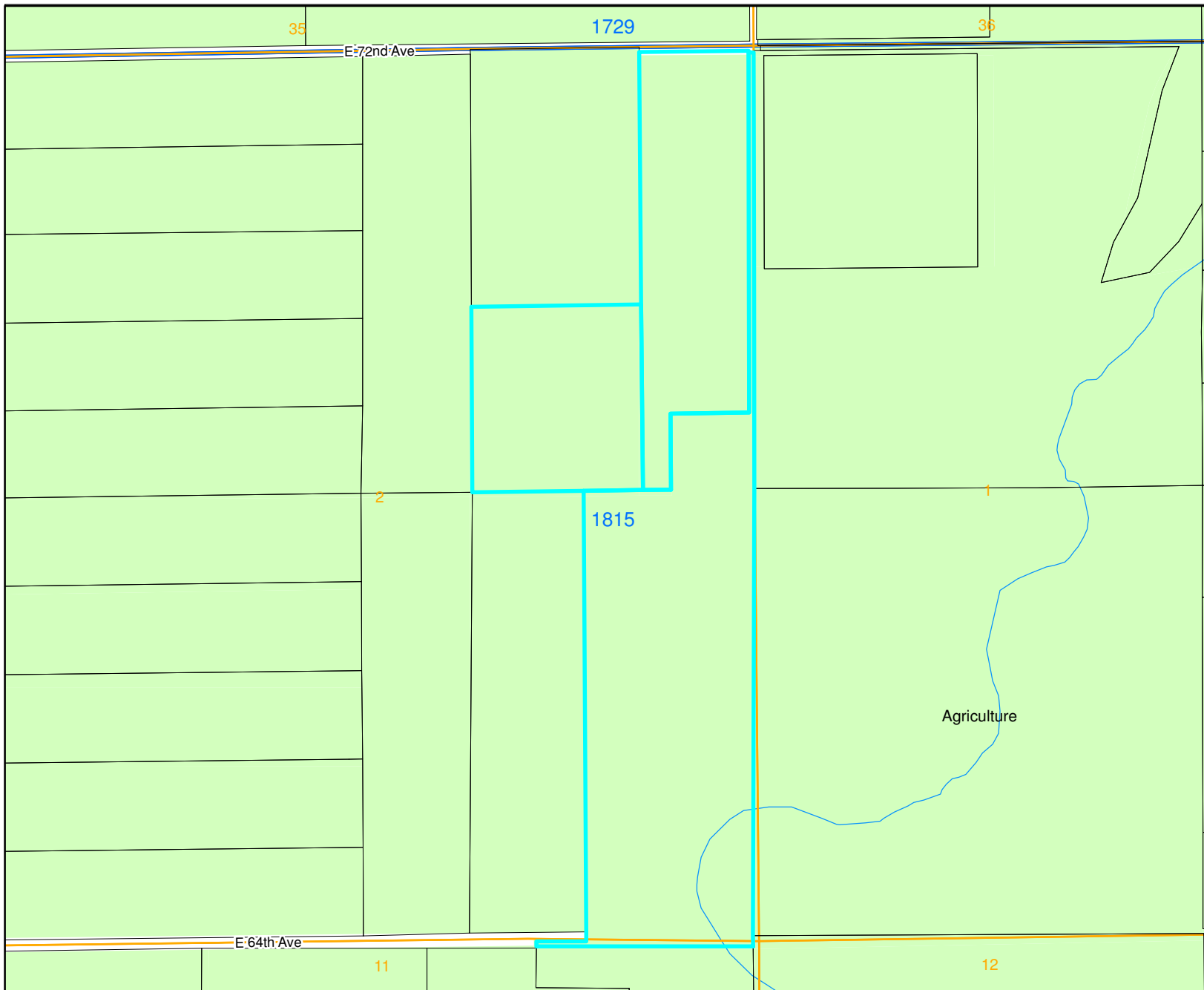


For display purposes only.



ADAMS COUNTY
COLORADO

This map is made possible by the Adams County GIS group, which assumes no responsibility for its accuracy



Legend

- Railroad
- Major Water
- Zoning Line
- Sections

Zoning Districts

- A-1
- A-2
- A-3
- R-E
- R-1-A
- R-1-C
- R-2
- R-3
- R-4
- M-H
- C-0
- C-1
- C-2
- C-3
- C-4
- C-5
- I-1
- I-2
- I-3
- CO
- PL
- AV
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- P-U-D(P)

Henderson Aggregates

RCU2019-00040

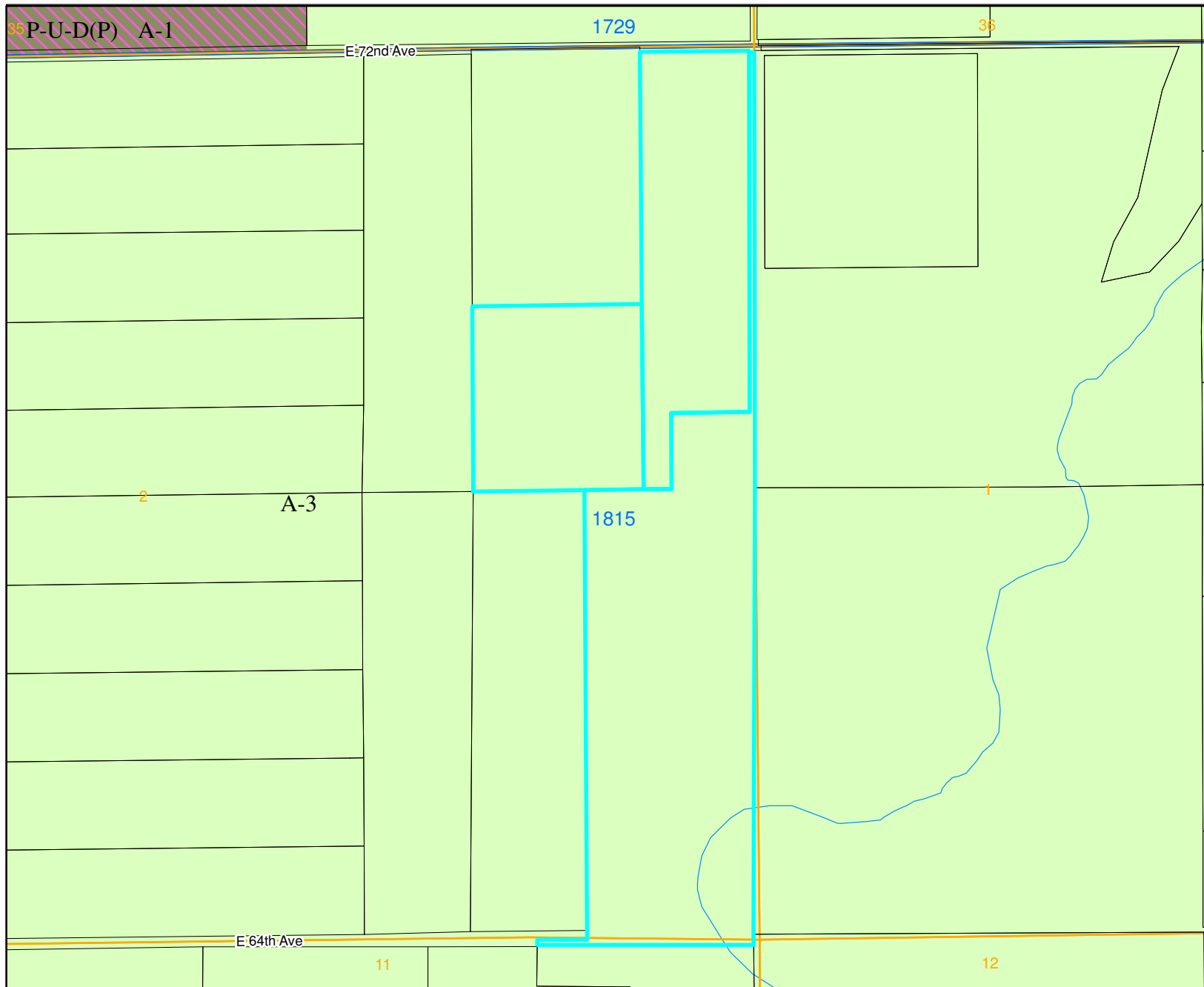


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ADAMS COUNTY
COLORADO

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Legend

- Railroad
- Major Water
- Zoning Line
- Sections

Zoning Districts

- A-1
- A-2
- A-3
- R-E
- R-1-A
- R-1-C
- R-2
- R-3
- R-4
- M-H
- C-0
- C-1
- C-2
- C-3
- C-4
- C-5
- I-1
- I-2
- I-3
- CO
- PL
- AV
- DIA
- P-U-D
- P-U-D(P)

Henderson Aggregates

RCU2019-00040



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ADAMS COUNTY
COLORADO

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CONDITIONAL USE PERMIT PLAN REQUEST EXPLANATION

This is an application for expanding the permitted mining operation at 50000 E 72nd Avenue, Bennett Colorado since the original mining application in 2001. An approval for the application to extend the mining Conditional Use Permit (CUP) for an additional 5 years to 2021 and supplement it with the importation of inert fill was granted RCU2015-00041 without public opposition. The existing approximately 43 acre mining site has two adjacent parcels 0181502100002 and 0181500000337 approximately 25 and 35 acres respectively that would be included into the existing permit.

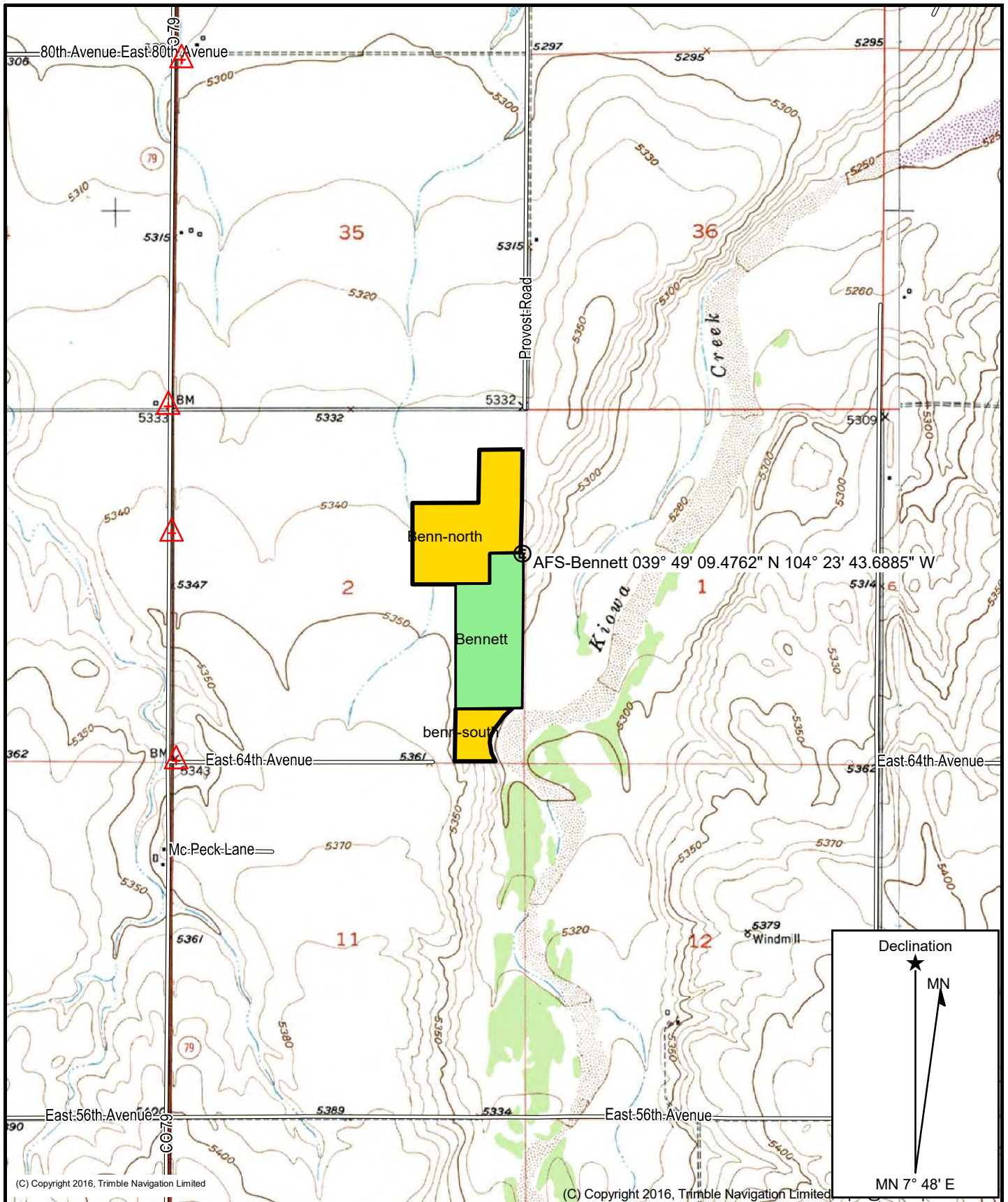
This is a dry alluvial mining operation with no exposure of groundwater. The mining operation conforms to all requirements of Section 11.340 of the Zoning Regulations, and the original permit was approved by the Division of Reclamation, Mining and Safety (DRMS). The expanded mining operations have been applied for at DRMS and the permit application is included with this application and found in Sup Item 3.

The site has an air permit, and a stormwater permit. The drainage is retained on site in the mining pit. Inert filling operations is described in this application and will be done in compliance with the DRMS mining permit and conditions set by Adams County with this CUP application. A traffic study was performed by an independent traffic engineering company and a copy of the draft report is included with this application. Traffic flow is predominantly northbound on SH79 to 72nd Avenue then east to the site entrance. The applicant has agreed to enter into a roadway maintenance agreement with Adams County.

This request expands the size and life of the mining operations. Final grades and reclamation of the mine are included in the DRMS permit application. A decision from DRMS on the mine permit is expected in August 2019. The expanded mine will need less inert materials for backfilling and is limited in scope compared to the previous CUP (RC2015-00041). Acceptance of inert fill will be done following the Inert Fill Plan in the mining permit.

Other aspects of the proposed development plan are:

- Proof of Ownership with a Warranty Deed
- Proof of Water and Sewer Services – Water from well permit #83410-F is used on site. Portable toilets are used at the facility for site personnel and drivers.
- Proof of Electricity and Gas services is shown by the utility bill provided in Item 7 attached
- Legal descriptions found in Item 8 attached
- Certificate of Taxes Paid are found in Item 9 attached
- Certificate of Notice to Mineral Estate Owners/and Lessees are found in Item 10 attached.



Name: BENNETT
 Date: 01/29/19
 Scale: 1 inch = 2,000 ft.

Parts of the NE/4NE/4, SE/4NE/4,
 SW/4NE/4, NE/4SE/4, & SE/4SE/4, SEC. 2,
 T-3-S, R-63-W, 6TH P.M., ADAMS
 COUNTY, COLORADO

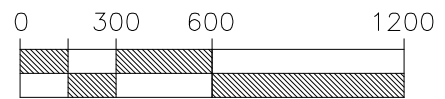
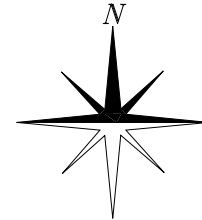
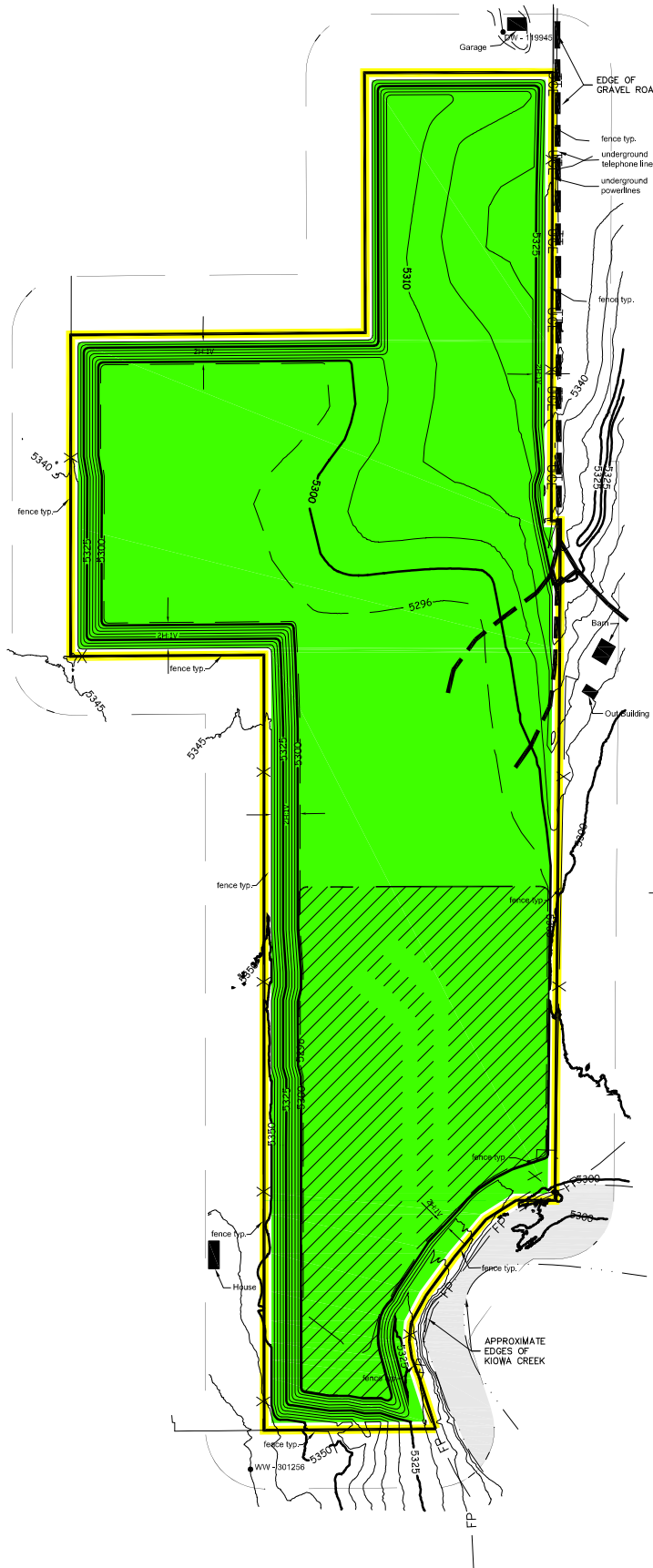
Albert Frei and Sons, Inc.
AFS- Bennett Pit
MAP EXHIBIT B-1 - VICINITY MAP

AFS

ALBERT FREI & SONS

P.O. BOX 700 | Henderson, Colorado 80640
 phone: (303) 287-4656 | fax: (303) 289-2865

AFS- BENNETT PIT - M-2001-038
 Map Exhibit E-1 - Reclamation Plan Map (Revised 1-24-19)



SCALE 1"=600'

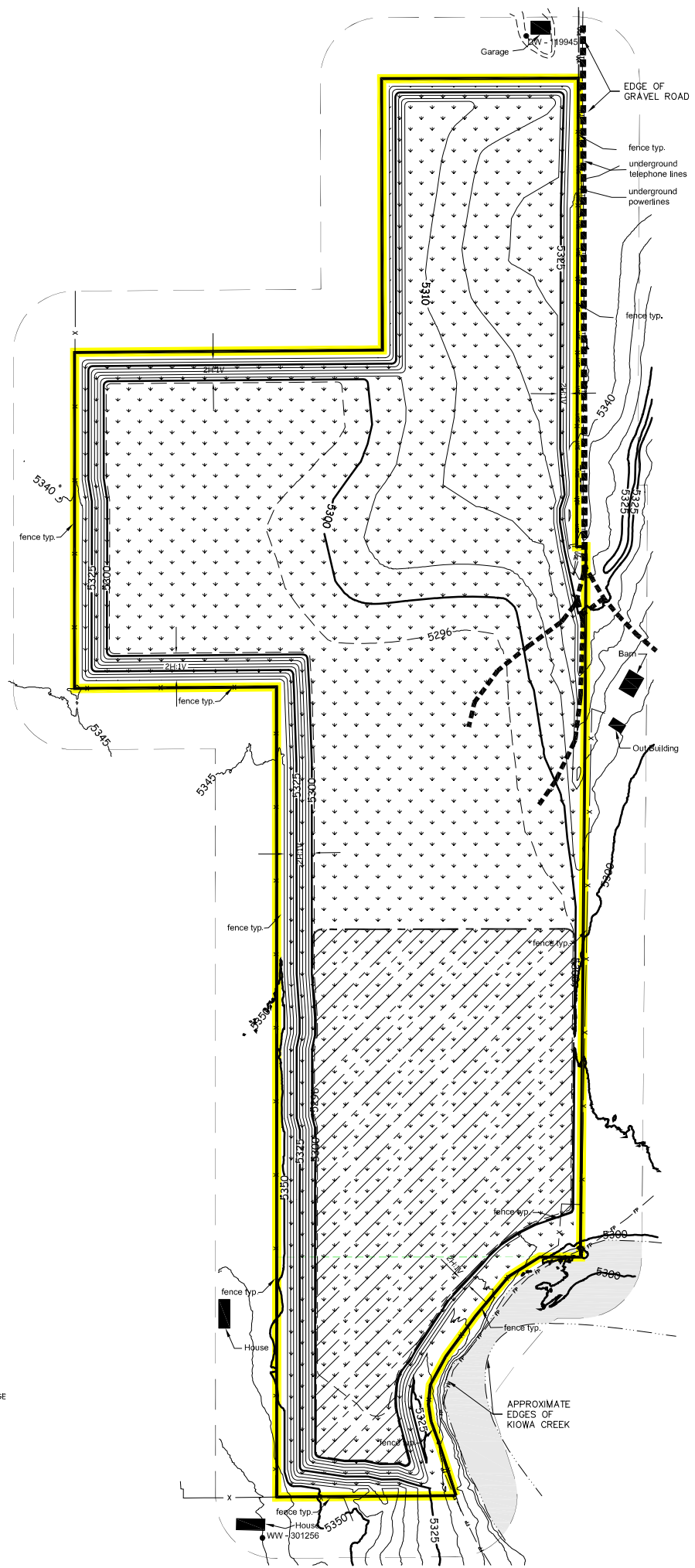
LEGEND

	PERMIT BOUNDARY/ AFFECTED LANDS
	200 FOOT LIMIT
	BURIED COMMUNICATION LINES
	BURIED ELECTRIC LINES
	CREEK BANK
	FLOOD PLAIN BOUNDARY
	FENCE
	ROADS (HAUL, ACCESS) (TYP.)
	TOPO CONTOUR
	WATER WELL / PERMIT #
	MINING DIRECTION
	BUILDINGS
	RECLAIMED AREA
	POTENTIAL DEVELOPED WATER STORAGE

PREPARED BY: **ENVIRONMENT, INC.**
 7985 VANCE DR., # 205A
 ARVADA, CO 80003
 (303) 423-7297
 Environment-inc@outdr.net

Parts of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$,
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SEW $\frac{1}{4}$, Section 2, T-3-S, R-63-W
 of the 6th P.M., County of Adams, State of Colorado

24GE

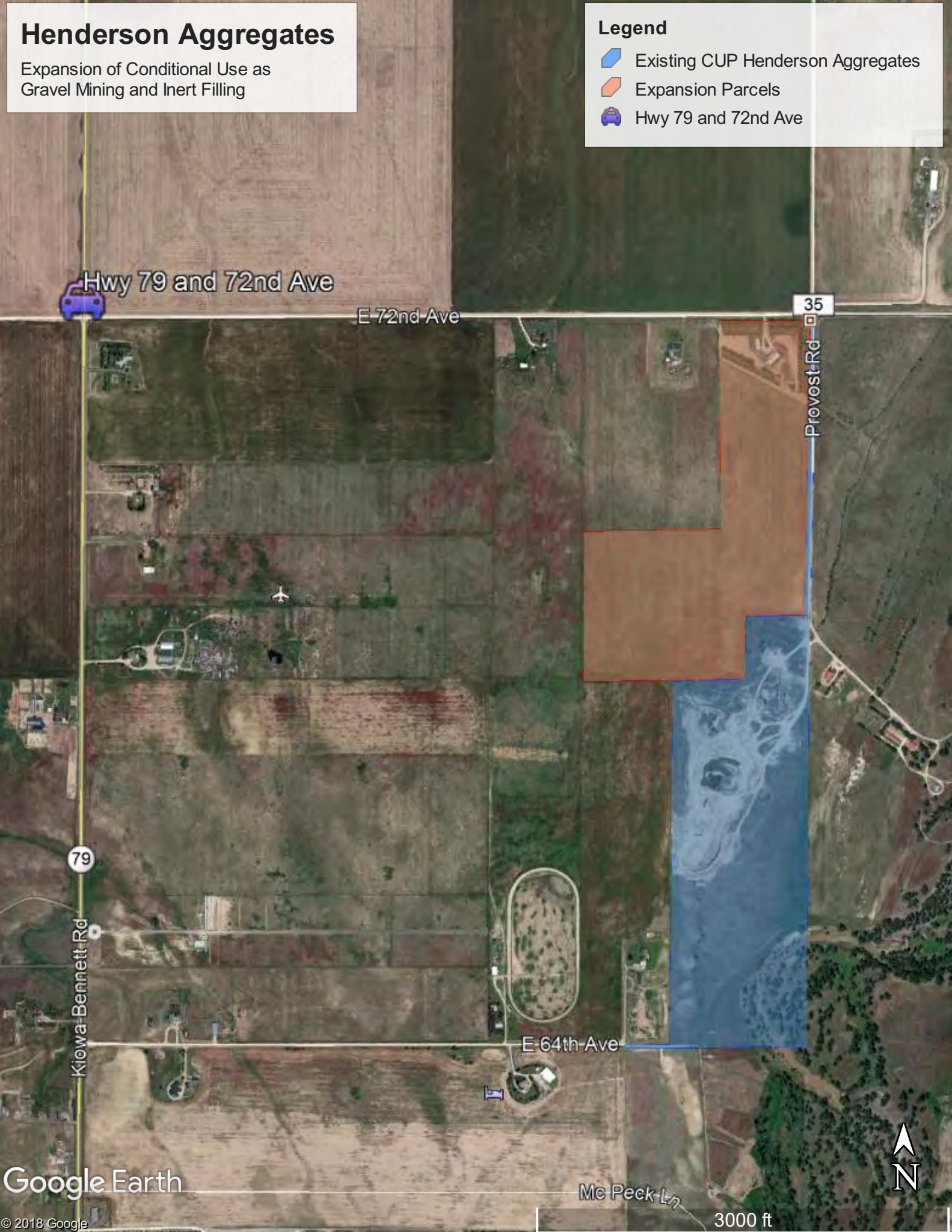


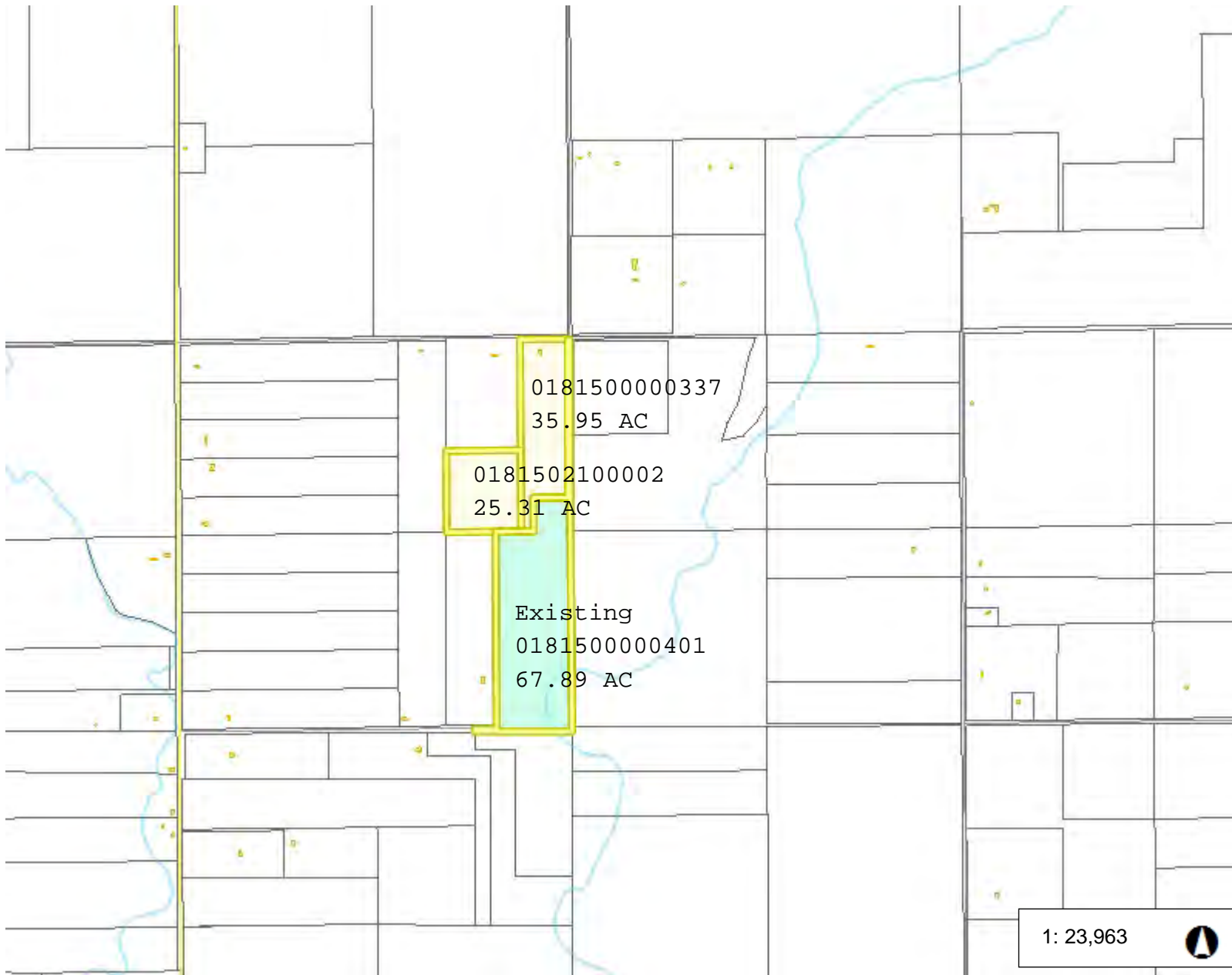
Henderson Aggregates

Expansion of Conditional Use as
Gravel Mining and Inert Filling






















Legend

- Existing CUP Henderson Aggregates
- Expansion Parcels
- Hwy 79 and 72nd Ave





Legend

-  Lake
-  River
-  Parks and Open Space
- Highways**
- Highways (< 20,000)
 -  Interstate
 -  Highway
 -  Tollway
- Streets**
- Streets (20,000 - 50,000)
 -  Streets
 -  Ramp
-  Parcels
-  Building
-  County Boundary
- City**
-  Arvada
-  Aurora
-  Bennett
-  Brighton
-  Commerce City
-  Federal Heights
-  Lochbuie
-  Northglenn
-  Thornton
-  Westminster

1: 23,963



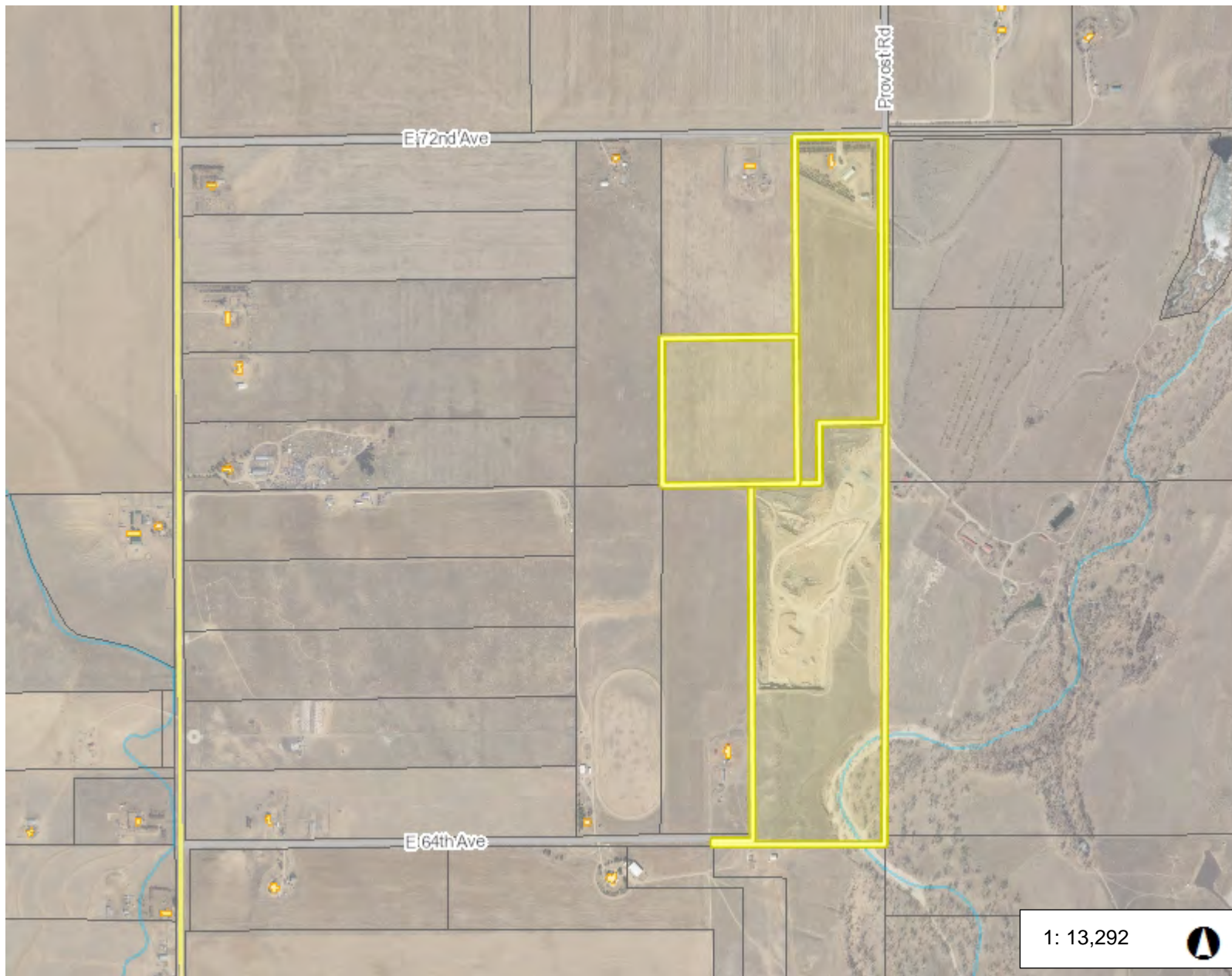
3,993.8 0 1,996.89 3,993.8 Feet

NAD_1983_StatePlane_Colorado_Central_FIPS_0502_Feet
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Henderson Aggregates, Ltd Mining CUP Application Area



1: 13,292

Legend

- Lake
- Lake
- River
- Parks and Open Space
- Highways**
- Highways (10,000 - 20,000)
- Interstate
- Highway
- Tollway
- Streets**
- Streets (10,000 - 20,000)
- Streets
- Ramp
- Parcels
- Building
- County Boundary
- City**
- Arvada
- Aurora
- Bennett
- Brighton
- Commerce City
- Federal Heights
- Lochbuie
- Northglenn
- Thornton

Notes

South parcel mining permitted.
Northern two parcels are included in
mining permit application

2,215.3 0 1,107.64 2,215.3 Feet

NAD_1983_StatePlane_Colorado_Central_FIPS_0502_Feet
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Environment, Inc.

LARRY E. O'BRIAN
FOUNDER

STEVAN L. O'BRIAN
PRESIDENT

June 17, 2019

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

Mr. Jared Ebert
Division of Reclamation, Mining & Safety
1313 Sherman St., Suite 215
Denver, CO 80203

Dear Mr. Ebert;

RE: Albert Frei and Sons, Inc. - AFS-Bennett Pit
M-2001-038 - Adequacy Response 01

RECEIVED

JUN 17 2019

DIVISION OF RECLAMATION
MINING AND SAFETY

On behalf of my client Albert Frei and Sons, Inc, I am responding to your adequacy review letter dated April 12, 2019. I have included your review points that need to be addressed in the order presented so the questions and answers will be in this document for easy reference.

Rule 6.4.4, Exhibit D – Mining Plan

1. Page 6 of the mining plan indicates groundwater elevation under the southern part of the mine is approximately 5394 feet. Based on the Exhibit C Existing Conditions Map, the southern end of the permit area has a ground elevation ranging from 5350 feet to 5325 feet. Please clarify the depth of groundwater and the two foot maximum depth of excavation?

That is a typo on my part it should have read 5294. I have corrected the elevations noted on page 6 and provided a copy for the file.

2. Page 6 of the mining plan indicates the top of the shale on the north side of the property may be higher than 5394 feet. According to the Exhibit C, Existing Conditions Map, the ground elevation on the north side of the permit boundary is 5340 feet. Please clarify the depth of the shale layer on the north side of the permit area?

Again it was a typo and should have been 5294. The underlaying shale slopes to the south and west from a highpoint of 5315 to 5298 towards the mid part of the mine. This means it varies from 15 to 40 feet below the existing surface elevation in that area.

3. Page 6 of the mining plan indicates all stormwater will be collected on the site and treated before being released if it contacts the disturbed area. Please describe how the water will be treated? If storm water collection basins will be used or another type of impoundment, please depict these features on the Exhibit C-1 Mining Plan Map.

The treatment proposed consist of allowing the water to soak into the gravel layer that underlays the mine floor of the mine so it returns to the ground water table or the silt in the runoff will have settled enough to meet the discharge permit limits. Low spots on the mine floor collect the runoff so having designated basins is not needed.

4. Please describe the nature of the stratum immediately beneath the material to be mined.

The entire permit area is underlain by a claystone or siltstone that is gray to dark gray with some orange staining (iron). The claystone is listed as very stiff to hard and plastic, while the siltstone is sandy with low plasticity. Both are impervious, but tend to weather and get softer when exposed. We expect mining to reach this underlying bedrock on the northern two-thirds of the mine. In the south area where the Potential Developed Water Storage area is shown the floor will be sandy gravel until/if the liner is installed, then the floor of the reservoir would be the bedrock.

5. It does not appear, AFS is proposing to use explosives at the site? Please confirm. If so, please addressed the requirements of Rule 6.4.3(I).

No explosives will be used nor will blasting be done at this mine, the material is easily mined using conventual sand and gravel mining methods. I added this statement to Page 5.

6. Please clarify the type of processing that occurs at the site.

At this time the only processing taking is the screening of the raw materials, no washing or crushing takes place. This material requires no treatment with chemicals or hazardous materials.

Rule 6.4.5, Exhibit F – Reclamation Plan

7. Albert Frei and Sons (AFS) is proposing to continue to import inert fill into the site for use in backfilling the pit slopes and mine floor as stated on Page 6 of the reclamation plan as originally approved with Technical Revision No. 1 (TR01). TR01 specified a phased approach to backfilling and estimated the void volume to be filled. It does not appear mining and reclamation will be conducted in a phased approach based on the revised mining and reclamation plan. Please describe any revision to the timing and duration of the inert fill operation.

We took the phasing plan out because Albert Frei and Sons will mine the area faster then the original permit holder and staging is not conducive with their operating practices. The inert material will be piled, as it is delivered, along the final perimeters of the mine where the 3:1 slopes will be built. The plan is to follow mining on lope areas with placement of the inert material until enough is available to complete the final slope. Fill material will be accepted during the life of the mine until the volume needed to reclaim the slopes has been received or mining ends. Once sufficient fill, is in place along any section of slope it will be graded 3h to 1v, covered

with finer material, re-soiled and seeded. How fast this happens depends on how much material is available and this mine is not operated as an inert fill facility.

8. Please approximate the volume of inert fill to be used at the site given the revised mining and reclamation plan?

At this time Albert Frei and Sons, Inc. estimates that 600,000 yards \pm of inert material would be accepted at the mine.

9. The current inert fill plan indicates the permanent slopes will be no steeper than a 3H:1V ratio. With AM01, the applicant is proposing final reclamation slopes of 2H:1V ratio. Please provide a general engineering plan stating how the material will be placed and stabilized in a manner to avoid unacceptable settling and voids.

Recent inter company discussions have lead to a decision to retain the 3h to 1v sloping plan around the area to be mined and remove references to 2h to 1v from the permit amendment. I have attached a revised Exhibit C-1-Mining Plan and Map Exhibit F - Reclamation Plan Map showing the 3h to 1v slopes and corrected Pages 5, 8, 9, 53, & 61 to remove any reference to 2:1 .

10. Page 10 and 11 of the reclamation plan state that a U.S. Army Corp of Engineers Permit will be obtained if wetlands or waters of the U.S. will be affected during the mining operation. Exhibit G and Exhibit M state that there are not wetlands or waters of the U.S. at the site. While on the pre-operation inspection, Ben Frei indicated a wetlands evaluation may be conducted at the site. If wetlands are identified within the permit area, please update the Exhibit C map to depict their location. If wetlands are identified, within the proposed mine area, please develop a protection plan for these wetlands until the required U.S. Army Corp Permits are in place if necessary.

A copy of the finalized environmental assessment report that was done for the mine area by ERO Resources is attached for the file. It reports that there are no wetlands or Waters of the U.S. in the permit area. Therefore, no U.S. Army Corps of Engineers permit will be required. The statement on Pages 10 and 11 was placed there to explain that a permit would be obtained if required. A copy of the ERO letter to eh U.S. Fish and Wildlife Service requesting concurrence on the lack of endangered species at the mine is attached. Once the USFWS confirmation letter is received a copy will be delivered to the Division for the file.

Rule 6.4.7, Exhibit G – Water Information

11. Page 14 of the Exhibit G states that off-site runoff is/or will be diverted around the disturbed area. Please revise the Exhibit C-1 Map to depict the diversion structures used to accomplish this. Please describe and provide a cross section of the diversion structures.

These diversion structures will be simple dirt ditches placed along the up gradient side of the mine's perimeter with the material from the ditch being placed along the pit side of the ditch. Usually a motor grader is used to create the ditch/berm. Their intent is to keep off site surface

flows of storm water from entering the disturbed area. I added a line and label showing their approximate location and a Typical Cross Section sketch of the proposed diversion structure.

12. Page 14 of Exhibit G implies the groundwater level is at 5094 feet. As discussed above, please clarify the depth of groundwater.

This is another typo it should have been 5294. I have fixed page 14 and included a copy for the file.

13. The applicant states storm water from the disturbed area will be retained on site. Based on the Exhibit C and F Maps, it appears the site will positively drain to the southeast during mining of the northern three quarters of the site. Please submit a brief statement or plan showing how water from runoff from disturbed areas, piled material and operating surfaces will be managed to protect against pollution offsite at the southeast end where surface run-off is likely to flow, both during and after the operation.

Nothing is needed on the lower end of the mine since any storm water that falls in the mine now collects on the mine floor where it evaporates or soaks into the ground. In the southeast corner of the mine the gravel is approximately 7 feet deep so there will never be a point where the mine floor will daylight out to the surface where it would run off the permit area. During the mining operation and until reclamation is complete the mine floor is graded to direct water runoff away from the active mining area so it soaks into the ground. No stormwater will be retained for more than 72 hours.

14. Given the nature of the mining operation described, the operator does not propose to conduct any dewatering? Please confirm.

No dewatering is planned at this time, we are committed to staying 2 feet above the groundwater table. If the developed water storage facility option is implemented then some dewatering may be necessary. Dewatering, its impacts and mitigation methods will be discussed in the Technical Revision that will be filed to allow the use of this option.

Rule 6.4.8, Exhibit H – Wildlife Information

15. The wildlife exhibit included the original wildlife statement from the 2001 permitting process. Since that time it is likely the threatened and endangered species list has been updated. Please evaluate the presence of any current threatened or endangered species at the site.

Albert Frei and Sons, Inc., retained ERO Resources to evaluate the mine site for wildlife issues and their report is attached. They found no habitat for Threatened or Endangered species on the mine area or in close proximity of the mine perimeter.

16. The reclamation plan indicates that temporary displacement of wildlife will result from the mining operation. In accordance with Rule 3.1.8, all aspects of the mining and reclamation plan shall take into account the safety and protection of wildlife on the mine site, at processing sites, and along all access roads to the mine site with special attention given to critical periods in the

life cycle of those species which require special consideration (e.g., elk calving, migration routes, peregrine falcon nesting, grouse strutting grounds). Please discuss the measures the operator will use to protect wildlife during the mining and reclamation operation.

We believe the Mining and Reclamation Plans do take into the impacts to wildlife. Because it is a continuation of an existing operation and the wildlife are likely acclimated to the noise and human activities. So the continuation of the mine will not increase the impacts already there. The speed limits in the mine, and the mining staff is directed to be aware of wildlife that may enter the mine operating hours and what to do if they find any on the active mining area that came on after hours limit impacts. Using wildlife friendly wire fencing, instead of chainlink allows the wildlife that enter the mine a way to safely leave instead of block their way. The impacts are temporary in nature during the active mining times as the area is open enough of so any wildlife can skirt the active areas or have use of other parts of the property where no activities are taking place. The ERO Resources report discusses impacts to wildlife on the mine and to paraphrase the report, when the vegetation is removed the area will no longer be desirable to wildlife until it is reclaimed. It also noted there are no wildlife corridors or other sensitive species that occur on the site that would be affected by the project. More information is provided starting on Page 6 of the ERO report.

ERO Resources made a recommendation to submit an endangered species habitat assessment to the U.S. Fish and Wildlife Service for concurrence with their findings, ERO to file that request on or around June 4, 2019 and once a reply is received it will be filed with the Division for the file. They also recommend doing a nest survey one week before disturbing any new area during the breeding season, April 1 to August 31. AFS will follow the recommendations for not removing vegetation during that time if raptor nests are found. Records of the inspection will be kept in the Company records for inspection, if needed.

The speed limit along the main access road and within the mine is limited to 10 mph to help mitigate the truck traffic entering and leaving the mine will have on the larger wildlife species. Prior to startup of daily activities the site is inspected to assure there are no wildlife in the mine that would be affected by the daily activities. Usually the larger animals that over night in the mine leave once humans enter the mine area, if this does not happen they are chased out of the active area.

Rule 6.4.12, Exhibit L – Reclamation Costs

17. The cost estimate submitted with the application covers 30 acres of affected land. Based on the proposed mining plan, no phasing of the mining is planned and page 4 indicates a maximum disturbance scenario will be used to allow flexibility for the mine to be developed from both ends of the deposit. If the applicant would like to use a phased 30-acre bonding approach, please revise the mining plan to accommodate this and define the phases accordingly, or provide an estimate for the maximum disturbance scenario.

That was not our intent on page 4, it was to allow for a plan that covers the existing and proposed disturbance area of 30 acres. During our review of that plan we realize that we are

close to the 30 acres currently bonded. For this reason I have revised Page 4 and Exhibit L Reclamation cost to increase the area to cover 60 acres. Under this plan mining and reclamation would run concurrently on the mine area as needed.. Under this plan we will bond for, existing and proposed disturbance areas rather than a maximum area, this means that we are not limited to 60 acres in the future. Rather that at this time the amount covered by the bond will be 60 acres, that includes areas that are actively being affected by mining, processing and partial reclamation areas that will have been mined, graded and vegetated but not yet ready for release. If this changes then Albert Frei and Sons, Inc., will file a Technical Revision to increase the amount of the bond prior to exceeding the 60 acres.

Rule 6.4.19, Exhibit S – Permanent Man-made Structures

18. For each of the permanent man-made structures within 200 feet of the affected land, please either provide:

- a. provide a notarized agreement between the applicant and the person(s) having an interest in the structure, that the applicant is to provide compensation for any damage to the structure; or

Structure agreements were mailed on February 11, 2019 to the five structure owners around the mine. Henderson Aggregates is a subsidiary of Albert Frei and Sons, Inc. so that structure agreement was executed in house. We have one in place for the Lincoln's but sent a second as a precaution. Of the remaining 4 we have received 3 back. Only the Copeland Trust has not returned one as of this date. Attached are copies of the Executed Structure Agreements received.

- b. where such an agreement cannot be reached, the applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or.

A Geotechnical analysis for the Copeland structures is provided since a structure agreement was not received from them.

- c. where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have "no negative effect" on their utility.

The Utilities within 200 feet returned signed agreements.

Rule 1.6.2 –Notice Requirements

19. Please submit the proof of publication of the required notice in accordance with Rule 1.6.2(1)(d) and Rule 1.6.5.

Attached is a copy of the Proof of Publication for this permit area. It was published in the Eastern Colorado News, the adjudicated paper of notice for eastern Adams County starting on April 19 and running once a week ending on May 10, 2019.

20. Please submit documentation a copy of the notice required in Rule 1.6.2(1)(d) was mailed or personally served immediately after the first publication of the notice to all Owners of Record of the surface and mineral rights of the affected land; and the Owners of Record of all land surface within 200 feet of the boundary of the affected land.

Attached are copies of the return receipt cards for the Owners of Record within 200 feet of the permit area. They are for the second notices mailed on April 19, 2019.

Additional information added to permit exhibits

Albert Frei and Sons, Inc. has added a section to **Exhibit C - Mining Plan** to address using some of the topsoil/overburden to install temporary sight berms along the mine boundary in two locations. These berms will not remain when reclamation is completed at the material will be used to resoil slopes. Another section as added to explain the mining setback change to the south line that was required after the Geotechnical Analysis was completed.

Frei install 4 ground water monitoring wells along the south boundary of the mine on June 4, 2019. Even though they do not plan to expose ground water at this time, the elevation data collected for the first 13 months and then once quarterly, will establish the historic ground water background data if needed in the future. In addition, throughout the life of the mine AFS is committed collecting a water quality sample, one time per year from the central most well. In other words one sample per year for one well. This data will be retained in the company office and can be inspected upon request.

These changes are shown on **Map Exhibit C-1 - Mining Plan Map**.

Agency Comments

The Division has received comments from the Colorado Division of Water Resources and the US Army Corp of Engineers. Enclosed are their comment letters for your review.

U.S. Army Corps of Engineers (rec. 3/26/19)

A wetland determination was prepared for the mine and it was determine no waters of the US will be affected by this operation nor will mining take place within the 100 floodplain of Kiowa Creek. The U.S. Fish and Wildlife Service will be contacted since mining will take place within 300 feet of Kiowa Creek. No fill will be placed in water of the US or wetlands therefore a 404 permit is not needed.

Division of Water Resources (rec. 3/18/19)

Albert Frei and Sons, Inc. understands the DWR's comments and agree with the four points they have raised. The application packet contains commitments to comply with each.

- 1 - The floor of the mine and mining will stay at least 2 feet above the groundwater table.
- 2 - Water used for industrial purposes will come for a source approved for that use.
- 3 - If the option to build developed water storage reservoir on the mine site is chosen the reservoir area will be constructed within the 1999 SEO Guidelines.

- 4 - Stormwater runoff intercepted by this operation will soak into the ground or be released to the stream system within the time required by DWR.

Public Objections

21. The Division has received public objections from the following people:

- a. Victoria Katchen and Mark Faber
- b. Alethea Copeland
- c. Jennifer Curtis and Kimberly Chainhalt
- d. Kelsey Magnuson
- e. Nancy Donaldson - added via email
- f. Elva & Joe Munzo - added via e-mail
- g. David Murphy 5/24/19
- h. Jennifer Curtis and Kimberly Chainhalt 5/24/19

Their objection letters are attached for your review. Concerns related to noise, truck traffic, hours of operation, visual impacts, affects on property values and other social or economic concerns are issues not subject to DRMS jurisdiction. However, please address any jurisdictional issues raised by the objectors.

Many of the objections raised, deal with items not subject to the Division of Mining, Reclamation and Safety jurisdiction as you noted. In addition, many of the objections listed have been addressed in the original amendment submittal or address in this adequacy review. For sake of brevity I will, whenever possible, refer to our response in this adequacy review or the page number in the amendment application when the answer can be found. Where each party raises a unique or different objection, it will be addressed directly. I will start with the unique letters first and then deal with the obvious form letters next.

Ms. Katchen and Mr. Faber raised 2 objections that are jurisdictional

Concerned dry up of areas water resources. - Frei has committed to staying 2 feet above any ground water surface to avoid impacting area water resources. See the information provided starting on page 14 of the application packet and our responses to items #11, thru 14 above.

Raised concern of water quality and quantity in the area. - According to the OSE records their well is owned by Linda Cook and is located approximately 1500 feet northeast of the NE corner of the mine at an estimated elevation of 5349 and is 280 feet deep with the static water level listed at 135 feet. The groundwater table is on the south end of the mine is 5294. This is approximately 5350 feet from their well. The floor is approximately 84 feet above the static water level reported in their well permit. There is no hydrologic connection between the surface and this deep water source. For this reason the mining operation cannot introduce sediments into the deep aquifer or influence their well flow characteristics.

Ms. Copeland raised 3 objections that are jurisdictional.

- 1. Impacts to wetlands - there are no wetlands on the mine site and Albert Frei and Sons will not disturb areas outside the permit boundary.

4. Reclamation to original standards - A mine site can not nor is an operator required to reclaim it to its previous conditions. Once the material is mined the land shape will always be different. Starting on page 8 of the amendment book Albert Frei and Sons, Inc. describes how the site will be reclaimed.
- 7 Wildlife concerns - This is an existing operation and any impacts to wild life occurred in the first year of operation. We addressed this concern in our response to items # 15, 16 & 17 above and have had a wildlife assessment done by ERO Resources showing that the mine will have a limited impact to wildlife in the area. This report will be included in the copy place for public review in the Adams County Clerks office.

Ms Curtis, Ms Chainhalt, Ms. Magnuson, Ms. Donaldson, Mr & Mrs Munzo and David Murphy raised 20 objections in common that are jurisdictional in my opinion for the Division of Mining, Reclamation and Safety . Since it appears for the dates that Ms. Curtis or Ms. Chainhalt wrote the base letter (4/6/19) and 3 of the other objectors copied it in part, I will use their numbering format for the objection responses. Following these responses I will respond to any other objections each party raised above what was presented in the list.

7. Unknown liquids and solid materials have been dumped the pit area.
We know of NO unknown liquids or solid material dumped in the permit area in the past. After Albert Frei and Sons, Inc. assumed reclamation responsibilities for the permit area, any material delivered to the mine is qualified as Inert Material according to Division of Mining, Reclamation and Safety and Adams County regulations.
10. Plan for noxious weed mitigation.
See Weed Control Plan starting on Page 63 of the permit application packet.
12. Will explosives be used in the mining operation?
No explosive will be used at the mine. See Response to Item #5 in this document.
13. Any chemicals used in the mining or processing of materials?
No chemical will be used in the mine for mining or processing nor are any needed.
14. Depth of the gravel and sand deposits and how deep will the pit dig to excavate the materials.
The depth is discussed on page 3, shown on the Reclamation Plan Map as varying from 5 to 45 feet deep. Also, see page 14 for numeral listing.
15. Will water be used in the process of excavating or processing the materials?
No, see page 14. Water used will be obtained from a sources approved dust contol and other approved uses.
17. Is there a Water Plan in place to ensure the quality and quantity of water the area currently uses is not affected by its operations?

Please see response to items # 11 thru 14. This is addressed also in the Mining and Reclamation Plan and Exhibit G Water information starting on page 14 of the amendment packet.

18. Is there a new Mining Plan?

No, starting on Page 3 of the application packet, we explain the operational changes for the expansion area.

19. Is there a new Site Description?

Yes. See amendment packet starting on Page 3 or the original permit application.

20. Is there a Reclamation Plan and Map?

Yes, see amendment packet starting on page 8.

21. Can neighbors see required Permits, Licenses and Inspection Reports?

Yes, this information was provided in the adjoining owner notices received by all owners within 200 feet of the permit area. A copy of the original amendment packet was placed for public review on 2/13/19 with the Adams County Clerks office. A copy of this response will be delivered to the same office after it is filed with the state.

22. Is there a Geotechnical Stability Exhibit?

This has been prepared and is submitted as part of addressing Adequacy response 18 above for the Copeland structure. All other structure owners have provided Structure Agreements.

23. A list of inert materials and liquids used to backfill the pit and inspections to ensure ground water, air and land non-toxicity?

Please see Inert Fill Technical Revision starting on page 66 of the amendment packet.
The Inert Material by definition cannot contain toxic materials.

24. Original Permit for the sand and gravel pit.

Yes, one was issued in 2001.

25. How will the materials be processed?

Please see response to Item # 6 in this packet.

30. Engineering plan to describe how materials will be placed and stabilized to avoid settling and voids.

Refer to the Inert Fill plan starting on Page 66 of the amendment packet.

31. Water Plan to include if the pit will be lined and the use of dewatering techniques.

Not need at this time it will be filed when/if it is feasible to build the water reservoir.

34. Has AFS operated the sand and gravel pit under the original Permit?

Yes, they assumed the permit in Mid 2017.

35. Has AFS followed the provisions in the original Permit?

Yes, Last inspection show AFS is in compliance with all provisions of the permit.

36. Can a company be sold, and the original Permit be used by the purchasing company without amendments; i.e. name change, loads per day, road maintenance?

Yes, Only name a change of new operator and a replacement bond is required. Loads and road maintenance are county jurisdictional.

Ms. Magnuson

Raised concern of water quality and quantity in the area. - According to the OSE records the well is located approximately 3100 feet northeast of the NE corner of the mine at an estimated elevation of 5318 and is 300 feet deep with the static water level listed at 120 feet. The groundwater table is on the south end of the mine is 5294. This is approximately 1.3 miles from her well. The floor is approximately 98 feet above the static water level reported in her well permit. There is no hydrologic connection between the surface and this deep water source. For this reason the mining operation cannot introduce sediments into the deep aquifer or influence their well flow characteristics.

Ms. Donaldson and Mrs & Mr. Munoz

Raised concern of water quality and quantity in the area. - According to the OSE records the well is owned by Roger L. Hogan and is located approximately 3980 feet northeast of the NE corner of the mine at an estimated elevation of 5335 and is 365 feet deep with the static water level listed at 110 feet. The groundwater table is on the south end of the mine is 5294. This is approximately 1.4 miles from their well. The floor is approximately 71 feet above the static water level reported in their well permit. There is no hydrologic connection between the surface and this deep water source. For this reason the mining operation cannot introduce sediments into the deep aquifer or influence their well flow characteristics.

Mr. Murphy

Of the 11 concerns Mr. Murphy raised 7 would be considered jurisdictional issues. Six of them have been addressed in the responses to the group letters above. Only number 9 is different so I will address it separately. The question is; *Can I see the results of the groundwater quality and quantity?* As we noted in the **Additional information added to permit exhibits** 4 wells were installed and data collection will begin when complete. This data will be available at the company office in Henderson and will be available for inspection upon Mr. Murphy making arrangements to review them.

Ms Curtis & Ms Chainhalt - second letter 5/24/19

This letter expands on their pervious concerns and makes conjecture based on their impressions of the operation. I will address them in the order presented.

Paragraph 2 - This concerns the dumping of unknown liquids.

There are no unknown liquids being dumped at the mine. Especially "Drilling Mud", drilling mud refers to the muds and chemicals associated with oil and Gas drilling and because of the makeup of the material is not classified as "Inert Material" and can not, nor is it accepted at this mine. The mud accepted comes from vac trucks, and consists of dirt and water. Frei requires each person who delivers a load fill out a load ticket that contains information company and person making the delivery, the material being delivered, the location it was taken from and signing it saying nothing in the load is hazardous. Frei also inspects the load after dumber and if something is found to be questionable the delivering truck is told to clean it up and take it somewhere else. If this is found after the exit the mine that the material is isolated and when they return they are told to retrieve it. This can also lead to them being banned from future deliveries to the mine. We also point out that no material that does not meet the definition of Inert Fill will be accepted at the mine. Frei does not want anything that would be hazardous on their land and water either. As we have shown there is on direct connection between their water well and the mine in that the mine floor is a minimum of 71 feet above the static water levels in the objectors wells. Unless they have illegal water well that are drilled into the surface water table that are not listed in the SEO's records.

Paragraph 3 - Concern on Inert Material and testing.

Albert Frei and Sons, Inc. has been compliance with the requirements concerning the acceptance of Inert Materials since they took over the mine. There is no indication that they have accepted material other than what they committed to in the permit. Each load is inspected prior to delivery and any questionable loads are rejected. If unacceptable material is delivered because it was in the load that material is segregated and held until the delivering party returns to the mine where it is loaded back in their truck and they are given a warning that would ban them from delivering any material to the mine if it happens again. Visual inspection in the testing method use and is an industry wide practice, that has proven to be successful, in prevent unacceptable material from being delivered to a facility.

Paragraph 4 - Concern on annual report.

All annual reports have been filed since the mine opened in 2001. They are public records and as such available for review on the Divisions website under Imaged Documents.

Paragraph 5 - Concern Phasing and disturbed area.

As a reminder all discussion of Phasing has been removed from the Mining and Reclamation Plans in the amendment. Instead we went to a bonded plan that covers the existing and proposed disturbance area to cover 60 acres. In the 7/2019 annual report it was reported there was 28.8 acres disturbed, in the 9/2019 inspection report the bond was recalculated for 30 acres in increase. The Mined Land Reclamation act requires the operator to reclaim the disturbed parts of the mine and the reclamation bond provides the assurance that it will be completed.

Paragraph 6 - there is nothing jurisdictional to respond to, as it is all allegations and conjecture on their part.

The record shows that this permit is operating in compliance with the issued permit. There is no record of violations that support their contention that the permit amendment should be denied for "current or past behavior". The past operating record of Albert Frei and Sons, Inc. does not support the comment that the current or future activities will adversely impact the "environment, wildlife, air quality, water quantity/quality and impact on the quality of life of myself and affected neighbors is disheartening and threatens the health, safety and welfare of me, my neighbors and the community." Albert Frei and Sons operates all of their mines in compliance with all State and County permits as the record shows.

Revised Exhibits and other items attached

- Map Exhibit C-1 Mining Plan map revised
- Copy of revised Exhibit D - Mining Plan
- Copy of revised Exhibit E - Reclamation Plan
- Map Exhibit E-1 Reclamation Plan map Color revised
- Map Exhibit F Reclamation Plan map revised
- Copy of revised Exhibit G - Water
- Copy of revised Exhibit L - Reclamation costs.
- Copy of revised Exhibit S - Structure agreements
- Proof of Publication
- Adjoining owner notice receipts
- Geotechnical analysis.
- ERO Resources - Natural Resources Assessment report
- ERO - U.S. Fish and Wildlife Service Concurrence request packet

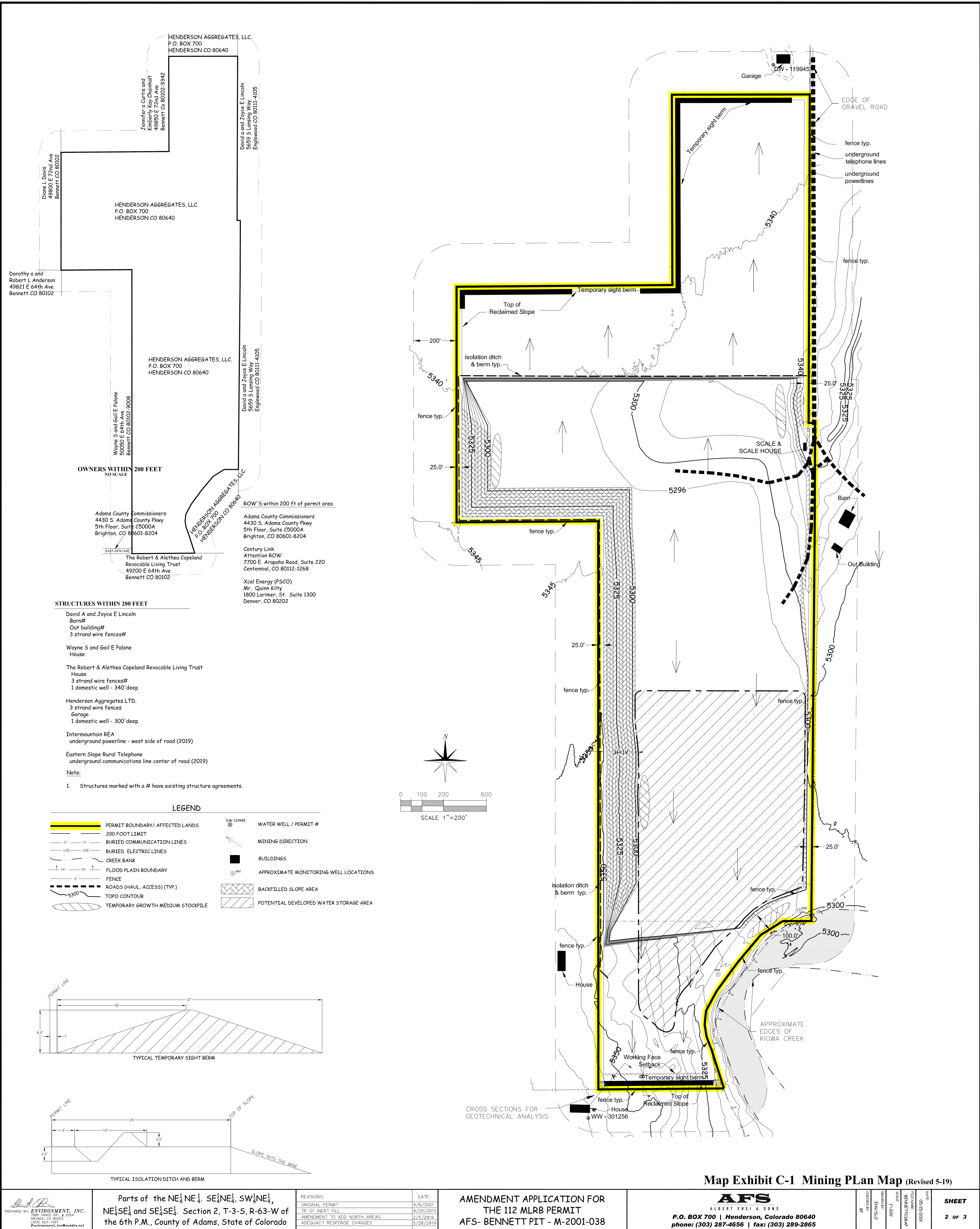
If you have more questions or need more information please call me at (303) 423-7297.

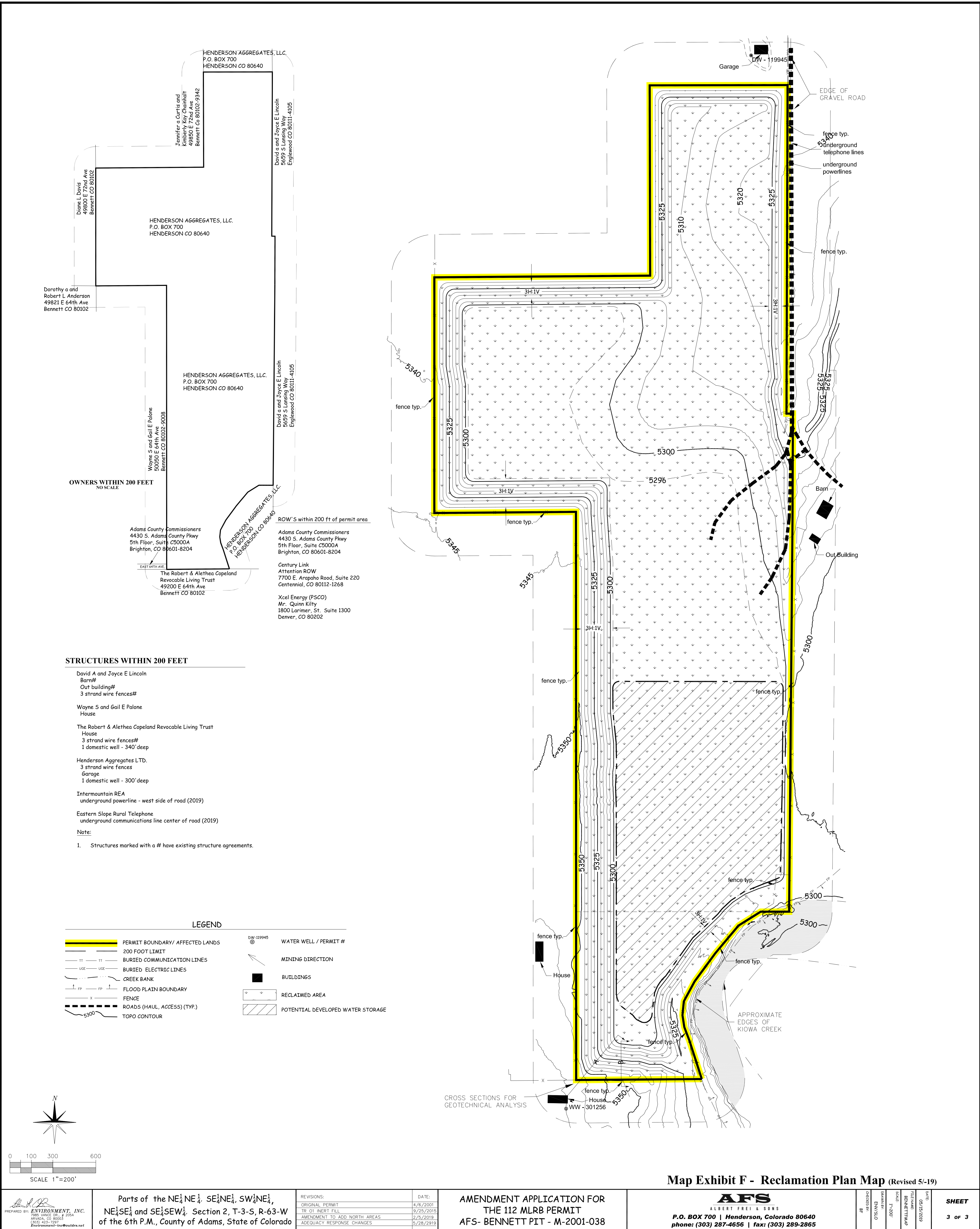
Sincerely,



Stevan L. O'Brian
Environment, Inc.

cc Albert Frei and Sons, Inc.
Jared Ebert - via e-mail
Adams County Clerk
file



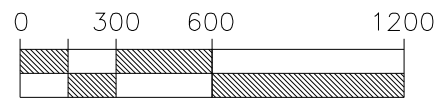
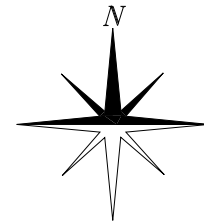


AFS

ALBERT FREI & SONS

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 phone: (303) 287-4656 | fax: (303) 289-2865

AFS- BENNETT PIT - M-2001-038
 Map Exhibit E-1 - Reclamation Plan Map (Revised 5-19)



SCALE 1"=600'

LEGEND

	PERMIT BOUNDARY/ AFFECTED LANDS
	200 FOOT LIMIT
	BURIED COMMUNICATION LINES
	BURIED ELECTRIC LINES
	CREEK BANK
	FLOOD PLAIN BOUNDARY
	FENCE
	ROADS (HAUL, ACCESS) (TYP.)
	TOPO CONTOUR
	WATER WELL / PERMIT #
	MINING DIRECTION
	BUILDINGS
	RECLAIMED AREA
	POTENTIAL DEVELOPED WATER STORAGE

PREPARED BY: **ENVIRONMENT, INC.**
 7985 VANCE DR., # 205A
 ARVADA, CO 80003
 (303) 423-7297
 Environment-inc@outdr.net

Parts of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$,
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SEW $\frac{1}{4}$, Section 2, T-3-S, R-63-W
 of the 6th P.M., County of Adams, State of Colorado

MINING PLAN AND TIMETABLE

Unless specifically discussed below the methods described in the 2001 mining plans and Technical Revision filed in 9/25/2015 will remain unchanged. The current bond was set at \$110,860 on October 4, 2018 and a new reclamation cost estimate is presented in **EXHIBIT L** on page 53 of this application. Existing sloping, grading and shaping plans will apply to the new area since they are similar to the area now in the permit. The existing permit area is 47.75 acres and will be increased by 60.13 acres to 107.88 acres. This area is being added on the north end and extended to the south to the property line. We revised the 2001 approved Mining Plan as appropriate for adding the new area acreages, methods and timing.

LOCATION

The property is located in Adams County approximately 3.8 miles north of Bennett, Colorado. From Denver take I-70 East to the Bennett exit and follow Colorado State highway 79 north to E 72nd Ave. Then west 1.0 miles to a private driveway (a.k.a. Provost Road) on the south side of 72nd Ave. Follow the driveway south 0.4 miles to the entrance and scale house. The surrounding areas are mainly large tracts of rural residential sites and agricultural or rangeland. Please refer to **EXHIBIT B - VICINITY MAP** for the property configuration and the relationship to surrounding geological features.

CURRENT CONDITIONS

The current permit area covers 47.75± acres with a site elevation of approximately 5340 feet, sea level datum. Most of the existing mine area is partially mined and reclaimed. Growth medium has been placed around the mine area and some partial backfilling has been done on the mine floor to level area mined in the past.

The **PRE-MINING MAP-EXHIBIT C** shows how the area looks at this time. The gravel deposit is an alluvial deposit that averages 5 to 45 feet deep across the property. This deposit tends to thin from west to east. The deepest area is under the terrace area on the west. Drill logs indicate there is a section of the property that has gravel below the water table on the south end of the permit area.

MAP EXHIBIT C shows the outline of the mining area, the touching landowners, the 200 foot ownership, current topography, and hydro-logic features of the property. The land is presently used for

mining and agricultural purposes by the landowners. Most of the existing area is highly disturbed where mining is taking place. The new areas have been used for dry land crop production or rangeland.

Access to the site is via the existing driveway from the East 74th Avenue to the north and it will be maintained as needed and will remain when mining is complete. Since the driveway is an existing private road and will remain when reclamation ends, it is not included as part of the permit area.

MINING PLAN

The permit area is being expanded from 47.57 acres to 107.88 acres to extend the life of the mine and to continue the sand gravel and borrow material operations for the area. Along the affected lands/permit line the mining setback will be 25 feet. The exception to this is along the south permit line. In this area due to structures adjacent to the permit. In this area a working face setback of 70 feet staked from the Permit line. North of this line the working face will be worked approximately ½:1 but when mining reached this setback line mining will done on the final 3:1 grade. This will maintain at least a 1.5 factor of safety for the fence line. The geotechnical Analysis is based on this plan. The excavation will proceed both north and south from the area currently mined as a dry alluvial operation. A portion of the southern end of the existing mine and new south area has sand and gravel below the alluvial aquifer associated with Kiowa Creek. It may be feasible to mine this material as a dry source by placing a sealing liner around it. But until investigations can be completed as to the feasibility of obtaining replacement water for that area, then mining will only take place above the groundwater table.

At anyone time we may have 2 working faces extend across the property until an exterior limit is reached. **MAP EXHIBIT C-1-MINING PLAN** shows how this may look in the near future. There is not a dedicated Plant Site since processing takes place at the face being mined and piles of finished product are placed near the process equipment until it is hauled from the mine. The current plan calls for having 4 - 10 acre Mining Phases, but under this amendment the phasing is removed and a maximum disturbance scenario will be used to allow flexibility for the mine to be developed from both ends of the deposit. The material mined is damp so no unusual dust control problems exist.

Mining will expand out from the existing partially mined area to the south and north. Stripping will precede mining so only enough area is stripped to cover the next 6 to 12 months of mining. Reclamation will run concurrent with mining to limit the amount of area disturbed at any time. The maximum disturbed area will include partially reclaimed area, mined area, partially mined areas and stripped areas. Under the revised is plan mining and reclamation would run concurrently on the mine area as needed. Under this plan we will bond for the existing and proposed disturbance areas rather than a maximum area, this means that we are not limited to 60 acres in the future. Rather that at this time the limit covered by the bond will be 60 acres which includes areas that are actively being affected by mining, processing and partial reclamation areas that will have been mined, graded and vegetated but not yet ready for release. No mining will take place within 100 feet of the north bank of Kiowa Creek. Kiowa Creek is an ephemeral drainage that very seldom has water running thru it. No explosives will be used nor will blasting be done at this mine, the material is easily mined using conventual sand and gravel mining methods.

There is limited surface material that would qualify as topsoil. As noted in the original text, much of the surface on the existing permit area and newly added south area, has sand on the surface that is not classified as soil. Information for the new north area suggests that there is an average of 5 plus feet of a sandy-clay that is medium stiff to stiff. We will salvage the upper 12 inches of this material for resoiling that area. When the surface layer has some topsoil material it will be stripped and stored for later use in revegetation. As new area is stripped for excavation the soil will be salvaged and stored around the mine perimeter. There have been unusable overburden and/or lenses of clay materials in the sand deposit that will also be stripped and stored for later use in building slopes or backfilling the floor. Both overburden material and unusable clay lenses will be stored along the western portion of the mine for use in grading the final slope from the top to the floor. The salvaged topsoil may also be used on areas ready for resoiling.

A part of this material salvage plan a 6 foot high temporary sight berm will be placed along the northern part and on the south line of the mining area to screen the neighbors from noise generated by mining. The berm will have 3h to 1v slopes on each side and will be revegetated using the approved seed mix. When mining ends in

the area next to these berms, the material will be used to resoil the final slopes. **MAP EXHIBIT C-1 - MINING PLAN MAP** shows where the berms will be located. Their installation will take place before mining reaches these areas.

Mining will take place using scrapers, track hoes, frontend loaders, off road trucks and other equipment. Fuel stored on site is/or will be kept in self contained facilities capable of contain 110% of the capacity of the liquids stored.

The excavated material may be loaded directly into trucks for delivery to the plant or from the working face into the processing plant. If raw material is hauled to the plant it will be stockpiled for processing. All slopes will be left in a reasonably smooth condition and be a minimum of $\frac{1}{2}h$ to 1v and a maximum of 3 horizontal to 1 vertical during mining. Exterior sloping will take place as mining progresses thru the deposit.

Since this is a dry pit operation there will be not affect or injury to any water rights. The plan is to stay at lease 2 feet above the ground water table and should mining get into the water table it will be immediately backfilled with at least 2 foot of material. If that happens the floor will be temporally adjusted so it stays at lease 2 feet over the groundwater until the necessary permits can be obtained to cover evaporation losses prior to mining deeper. This will be done by either installing a slurry wall or compacted liner to isolate the mining area from the groundwater table, depending on the technology that will best serve the conditions found. Albert Frei and Sons, Inc. will file a Technical Revision once it is determined what type of liner is most appropriate, and how much area will be lined will be determined at that time. The Mining and Reclamation Plan Maps will be revised showing the location of liner and the end use for the area inside the liner.

The south working face will continue to be worked to the south on a elevation that is 2 feet above the ground water level in this area until the mine limits have been reached. Site investigations indicate the groundwater elevation under the southern part of the mine is approximately 5294. So the floor elevation will be mined at approximately 5296 across the property.

As mining goes into the north side it may be possible to mining to the top of the shale since it may be higher then 5294. If needed

water for washing and dust control will be purchased or the operator may also obtain a deep well permit for a well to provide water for the mines needs.

During mining all interior pit slopes will be into the mine so there will be no drainage off the affected land. This same slope management plan will prevent any offsite slides or other disruptions, and will also address some of the storm-water runoff questions arising from the Clean Water Act. Temporary isolation berms or ditches will be constructed within the setbacks around the mine to prevent stormwater from entering or leaving the site. No water will be discharged from the pit unless done so under a CPDS permit and all stormwater will be collected on the site and treated before being released if it comes in contact with disturbed areas as required. It will be held for less than 72 hours.

The current permit contains an Inert Fill provisions approved in **Technical Revision 01** that allows importation of fill material. If Albert Frei and Sons, Inc., imports inert fill it will be used for reconstruction of slopes or backfilling on the mine floor. A copy of the Technical Revision and approval are provided in the appendix for your review.

MINING TIMETABLE

The continuing uncertainty of economic conditions in the construction materials industry precludes an accurate forecast of demand during the life of the mine. This estimated mining timetable is based on an average year and it is expected that a specific year will vary widely from the average.

MINING TIMETABLE

MINING AREA	YEARS	ACRES ±		AVERAGE ANNUAL PRODUCTION TONS/YEAR
		TOTAL AREA	MINED AREA	
Mine	7-10	107.88	83.07	500,000

RECLAMATION PLAN AND TIMETABLE***RECLAMATION PLAN***

There are no plans at this time to change the future use for the mined areas for that approved in 2001. Currently the post mining land use is rangeland and the new areas will have the same designation. The approved reclamation plans, including resoiling, revegetation methods and grass species, for the existing permit area will be used for the amendment areas. We will use the revegetation and resoiling methods approved in the original application and the Technical Revisions, on the new areas. The current reclamation plan is laid out as a phased operation. Under the original submittal this made sense because the original operator was small. When Albert Frei and Sons, Inc. took it over the companies sales demands are higher so having a Phase Reclamation Plan is too restrictive for how fast the material is being mined. Instead, the Phasing is being removed and a maximum disturbance layout is proposed. The text below addresses changes that are needed to make this happens. The Reclamation Plan Map shows the area to be reclaimed.

Reclamation will be undertaken in the following manner for all parts of the mine. Except for the areas of the permanent private road, any stored overburden material and sand spoils from the plant's operation will be used to level the mines floor and rebuild side slopes. The final exterior slopes will be rebuilt and sloped 3H (horizontal) to 1V (vertical) and the floor will slope gently from north to south to preserve the natural drainage across the site. The current Reclamation Plan Map shows that some of the western part of the mine may be backfilled out from the west permit line so a long slope extends across the mine. The map shows the area as we feel it will be graded. Should excess waste material be encountered or a supply of inert fill material becomes available, Albert Frei and Sons will keep the option to do partial backfilling. Prior to this happening the Division will be notified and a Technical Revision will be filed to show what is planned. If the liner is installed on the southern area this area would be sloped, resoiled and seeded according to the reclamation plan and left as depression in the surrounding area.

In the area where the mine floor reached the underlaying shale or has been backfilled with clay lenses or overburden it will be ripped and scarified prior to resoiling and seeding. Once sloping

is complete the salvaged soil will be spread over the area to be seeded an average of 12 inches deep on the north area. For the existing permit area and south, any soil salvaged from the south area will be respread for revegetation.

The plan calls for revegetating the mined area using the NRCS recommendations provided in the original permit **EXHIBIT I/J** (a copy is provided in the exhibit for reference). The NRCS recommended using a seed drill with 6.5 inch spacing and a planting depth of $\frac{1}{4}$ to $\frac{1}{2}$ inch from October 15 to May 20th of each year. No fertilizer or mulch was recommended and spring weed control using herbicides and/or mowing in spring to mid-summer.

The following seed mix was recommended and approved for use at the mine.

<u>Species</u>	<u>Lbs. PLS/Acre*</u>
Sand bluestem (Eiida)	2.40
Prairie Sandreed (goshen)	0.88
Switchgrass (greenville)	0.50
Yellow Indian grass (Llano)	0.83
Little Bluestem (Pastura)	<u>0.35</u>
TOTAL	12.50

* If broadcast the seed rate is to be doubled

Under normal conditions, the operator will strive for a 20 to 40 percent cover rate on the revegetated areas when reclamation is complete. Careful analysis of the growth medium and salvageable soil will permit the operator to implement a soil additive program and to monitor the prescribed seeding plan to determine if the plan requires revision. Under normal weather conditions, an adequate moisture reserve will be present for establishment of the proposed seed mixture. No irrigation will be used during reclamation since the plan is to establish a vegetation cover that is not dependent on irrigation to survive.

RECLAMATION PERFORMANCE STANDARDS

The property will be mined in compliance with the Reclamation Performance Standards of Rule 6. Grading will be performed to create a final topography that is compatible with the intended final land use. Final external slopes will be graded no steeper than 3h to 1v as provided for in the Rules and Regulations. The **RECLAMATION PLAN MAP** shows how the area will be reclaimed.

Imported fill materials may be used to fill part of the excavated area and level the mine floor. This material may consist of broken concrete or other materials suitable for that purpose. It will be "Inert Material" as defined by the Colorado Department of Health. The pit will be reclaimed so that a suitable grade for drainage exists, all surface runoff will be directed so it remains on the mine site.

All grading will be done in a manner to control erosion and to protect areas outside the affected land from slides or other damage. Backfilling and grading will be completed as soon as feasible after mining is completed in a given area. All refuse will be hauled away or disposed of in a manner that will control unsightliness and protect the drainage system from pollution. There are no acid-forming or toxic materials involved in this operation. The minimal amounts of petroleum products stored at the site will be done as prescribed by applicable laws. The storage tanks have secondary containment features and a Spill Prevention and Containment Plan has been prepared for the fueling facility. There are no drill or auger holes on the land. Maximum slopes will be within the limits set forth in the Rules and Regulations of the Board and will be capable of being traversed by machinery.

The operator does not expect prevailing hydrologic conditions to be disturbed. We will comply with applicable Colorado water laws and regulations (as the operator understands them) governing injury to existing water rights in order to minimize any disturbance, which might occur to the prevailing hydrologic balance of the affected land and surrounding areas and to the quality of water in surface and ground-water systems both during and after the mining operation and during reclamation. In addition, the operator expects to comply with applicable Federal and Colorado water quality laws and regulations. Any water used in the operation or the processing plant will come from water owned by the operator or purchased from an outside agency that is approved for that use. **EXHIBIT G** contains specific information concerning impacts and uses of water at this mining operation.

This is not a dredge facility, so there are no temporary siltation structures involved in this operation and no mining will be done within the confines of the Kiowa Creek channel. If needed a U.S. Army Corp of Engineers Permit is required for mining in waters of the U.S. or wetlands on the site it will be obtained prior to

disturbing those areas. There will be no earthen dams on the mined area.

The mining and reclamation plans consider existing wildlife use of the site. This mine is located in a rural setting surrounded by large tracks of open lands where displaced wildlife can go. During mining and reclamation a few terrestrial mammals, amphibians and birds will be displaced. There is adequate habitat on surrounding properties for the displaced critters to go until reclamation is complete. Creation and management of wildlife habitat is not a specific part of the reclamation plan. A wildlife statement was provided by Colorado Division of Wildlife Northeast Region, in 2001, a copy is provided.

Topsoil in the area is minimal or of poor quality and very little exists in some areas that can be salvaged. The operator is committed to salvage whatever growth medium is available for use in reclamation. When growth medium/topsoil is removed to reach the mineral deposit, it will be segregated and stockpiled along the perimeter or floor where mining is complete. If the topsoil piles remain undisturbed for more than a year, the approved seed mix and rate recommend, per surface acre will be planted on the piles or other means will be employed to preserve the topsoil from wind and water erosion. This will keep it free of contaminants so that it remains useful for sustaining vegetation when reclamation begins. The topsoil will be handled as little as possible until it is replaced onto disturbed areas. Albert Frei & Sons will take measures necessary to insure the stability of the replaced topsoil on graded slopes and ensuring that it is spread as evenly a possible.

RECLAMATION TIMETABLE

Reclamation will begin once enough area has been opened so that any reclamation completed will not be disturbed as mining progresses. This may take one or more years depending on the economic conditions in the area and the amount of material mined. By the time mining is completed approximately 70% of the total mined land will be reclaimed. As mining ends only final slope backfilling, grading and shaping resoiling and seeding will be needed on the areas last mined. Final seeding will be done by the end of the second fall after grading is completed. The area will be monitored for success of revegetation until accepted by the Division for release. If revegetation failures occur prior to release, an analysis of the

site will be made and the area will be revegetated again as necessary.

RECLAMATION TIMETABLE

AREA	YEARS	ACRES ±				
		TOTAL	ROAD	BACKFILL AREA	REVEGET ATION	SET- BACKS
Mine	3-5	107.88	0.63	17.73	106.92	7.08

color map

WATER INFORMATION

It is the operators intent to minimize the disturbances to the prevailing hydrologic balance of the affected land, of the surrounding areas and to the quality and quantity of the surface and ground water system, both during and after mining and reclamation. Albert Frei and Sons, Inc. believes they will be in compliance with all state and federal laws and regulations governing water and water rights as they understand them.

Because of the geographic features around the mine, all offsite runoff is or will be diverted around the disturbed area. Any storm water runoff from the disturbed areas will be retained on the site and directed into the mining area where it will be held for no longer then 72 hours. No mining will take place within 100 feet of the north bank of Kiowa Creek channel. Kiowa Creek is an ephemeral drainage that very seldom has water running thru it. The creek flows only at such times when flooding upstream causes water to flow thru the Creek. Additionally in some years there are flows in Kiowa Creek from approximately May through June, generally from that time on any water encountered is only ground water associated with the creek. Under no circumstance will this proposed pit have any effect upon the ground water in the Kiowa, Bijou or Lost Creek Basins.

As explained in the revised Mining and Reclamation Plans most of the permit area is a terrace deposit of gravel. We do not expect to expose groundwater above 5294. The bedrock is above this elevation on approximately two-thirds of the mine farthest from Kiowa Creek. The southern one-third will be mined dry until the groundwater table is encountered. If that happens the floor will be backfilled so it stays at lease 2 feet over the groundwater table. Once the area has been mined an evaluations will be done to determine if mining below the water table is feasible as noted in the Mining Plan. If it provides feasible then a Technical Revision will be filed to provide the type of liner and it's design, the area to be lined and will include ground water monitoring and mitigation plan prior to installing the liner and mining the material.

Review of drill logs for the permit are indicated the groundwater lies on the southern apart of the area closest to the Kiowa Creek channel. It varies in depth from 9 feet near the east fence to an average of 50 feet along the west side. Four monitoring wells will be installed along the southern end of the mine as shown on Map

Exhibit C-1. Even though there is no plan to expose ground water at this time, The elevation data collected for the first 13 months and then once quarterly, will establish the historic ground water elevation data if needed in the future. In addition, throughout the life of the mine Frei is committed to collecting a water quality sample one time per year from the central most well. In other words one sample per year from one well. This data will be retained in the company office and can be inspected upon request.

TABLE G-1 shows the results of a record search of the Division of Water Resources well permits files. It indicates the four wells within 600 feet of the mine perimeter are 300 plus feet deep and no surface groundwater wells are listed for the surrounding area. A map showing the well locations according to the Office of the State Engineer data is also provided labeled **MAP EXHIBIT G - WELL MAP**.

We estimate dust control for the various parts of the operation, i.e., roads, crushing & screening, washing, etc. to be a maximum of 3-ac-ft per year. This water will be obtained from a source approved for that use. No water will be used for reclamation.

Kiowa Creek is the closest surface water drainage to the mine and is dry most of the time. The permit area lies above and outside the 100-year floodplain for Kiowa Creek. Its location is shown on the large Map Exhibits. There are no Waters of the US or wetlands are on the mine area. Mining and Reclamation will not affect the Kiowa Creek channel.

RECLAMATION COSTS

The following information is presented based on the Bond evaluations preformed by the Division of Reclamation Mining and Safety on September 14, 2018 Circes Reclamation Cost estimate. The current bond amount is \$110,860.00 which is current enough that it can be used as a base to set the bond for the amendment.

The bond is based on having no more then 60 acres needing resoiling and seeding and 3300 feet of cut/fill bank sloping, based on 3h to 1v.

The following information based on the layout of the CIRCES COST SUMMARY FORM the Division provided in September 2018. The numbers and sequencing were left in the order presented for ease of following this estimate. Only the costs associated with grading, shaping, resoiling and seeding increases are changed. At this mine it is not necessary to import fill material to complete reclamation on the site. The methodology for the reclamation did not change from the 2001 amendment.

Task Description	Direct Cost
001 - Grade all slopes (1300 on South & East and 1800' on West and North) 7896yds x 1.124= 8,872 cyds @ 23.8¢/yd	\$2,109.00
002 - Spread Topsoil - (60 ac - 12" deep) 96,800 cyds @ 96.2¢/yd	\$94,084.00
003 - Revegetation work - (60.0 acres seeding, includes dicing seed bed, mulch and secondary seeding) 60.0 ac @ \$1,011.95/ac +60x20%x\$329.66/ac	\$64,673.00
004 - Mob/demob	\$6,462.00
Total Direct costs	\$167,328.00
INDIRECT COSTS	
Liability insurance @ 2.02%	\$3,380.03
Performance bond @ 1.05%	\$1,756.97
Job Superintendent 228.00 hrs @ \$41.25/hr	\$9,405.00
Profit @ 10%	\$16,732.00
TOTAL INDIRECT COSTS	\$31,274.00
Financial warranty processing	\$500.00
Engineering work/bid preparation @ 4.25%	\$8,440.60
Reclamation Management @ 5%	\$9,930.10
Total bond	\$217,472.70

RECOMMEND BOND BE SET AT \$217,500.00

PERMANENT AND MAN-MADE STRUCTURES

The following list represents the permanent man-made structures within 200 feet of or on the mining areas. As the limits of the mine are reached, the slopes will be backfilled 3h to 1v to leave a stable slope. Along the property line the setback will be 25 feet from the permit line to the dig line. Our plan to mine the slopes at the natural angle of repose adjacent to any structure and place temporary backfill against them if they will be left for more than 3 months. This will eliminate any chance that these structures will be affected by mining. Structure agreements were mailed to the owners for which no agreements have been obtained as of February 21, 2019 and when or if they are received copies will be provided to the Division. Copies of the proof of mailings receipts are provided in the Appendix of this packet.

Please refer to **MAP EXHIBIT C - AFFECTED LAND MAP** for the location of the structures listed below;

Henderson Aggregates, LLC.

3 - strand wire fences
Garage
Water Well - 300 ft deep

David A and Joyce E Lincoln
Barn#
Out building#
Fences

Wayne S and Gail E Palone
House
Fences
Water Well - 340 ft deep

The Robert & Alethea Copeland Revocable Living Trust
Fences
Water Well - 340 ft deep

Eastern Slope Rural Telephone
1 underground phone line*

Intermountain REA
underground ground powerline*

Note

1. Structures marked with a # have existing structure agreements.
2. Structures marked with a * have been installed to service only the scale house and mine.

PERMITTEE/STRUCTURE OWNER AGREEMENT

State of Colorado, Mined Land Reclamation (MLR) law requires the permit applicant (operator/permittee) to agree to reimburse the owner of any permanent man-made structure(s) within 200 feet of the AFS-Bennett Pit (M-2001-038) permitted mining area, for damage done to the structure(s) as a result of the permitted operation.

Albert Frei and Sons, Inc. believes Henderson Aggregates, LLC. own the following structure(s), located within 200 feet of the permitted mining area: 3 -strand wire fences, Garage and Water Well - 300 ft deep

Albert Frei and Sons, Inc., agrees to reimburse you for any damage done to the listed structures as a result of the mining operation. Your acknowledging signature and a notary seal in the spaces provided below shall satisfy the MLR law requirement. Albert Frei and Sons, Inc. certifies this agreement as follows:

CERTIFICATION: The applicant Albert Frei and Sons, Inc. represented by Albert Frei, Jr., as the President, does hereby certify that Henderson Aggregates, LLC. shall be compensated for any damage from the proposed mining operation to the above listed structure(s) located within 200 feet of the permitted mining area described in the MLR Permit for the AFS - Bennett Pit.

NOTARY FOR PERMIT APPLICANT

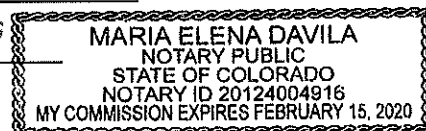
ACKNOWLEDGED BY:

Permit Applicant: Albert Frei and Sons, Inc. P.O. Box 700 Henderson, CO 80640

Representative: Albert Frei, Jr. phone 303-289-1837

Signature: [Signature] Date: 2/7/19

STATE OF Colorado)
COUNTY OF Adams) ss



The foregoing was acknowledged before me this 7th day of February, 2019, by Albert Frei, Jr. as the President of Albert Frei and Sons, Inc.

Notary Public: [Signature] My Commission Expires: 02-15-2020

NOTARY FOR STRUCTURE OWNER(s)

ACKNOWLEDGED BY:

Structure Owner(s): Henderson Aggregates, LLC.

Contact name (print): Benfrei Benfrei

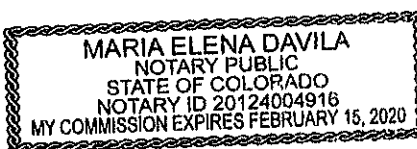
Title: Partner Partner

Signature: [Signature] Date: 2/7/2019 2/7/2019

STATE OF Colorado)
COUNTY OF Adams) ss

The foregoing was acknowledged before me this 7th day of February, 2019, by

Notary Public: [Signature] My Commission Expires: 02-15-2020



JUE

STRUCTURE AGREEMENT

M 2001038

May 17, 2017

David A. and Joyce E. Lincoln
50500 E 72nd Avenue
Bennett, Co 80102-9302

RE: **Damage Reimbursement Agreement**
AFS - Bennett Pit - M2001-038

Dear Mr. & Mrs Lincoln

Albert Frei & Sons, Inc., is making an application amendment for a Colorado Mined Land Reclamation (MLR) permit for a tract of land located in parts of the Parts of the NE¼ SE¼ of Section 2, T-3-S, R-63-W, 6th P.M., Adams County, Colorado.

State MLR law requires the permit applicant to agree to reimburse the owner of any permanent man-made structure(s) within 200 feet of the mining area for damage done to the structure(s) as a result of the permitted operation. We believe David A. and Joyce E. Lincoln own the structure(s) listed below. Albert Frei & Sons, Inc. agrees to reimburse David A. and Joyce E. Lincoln for any damage done to the structure(s) listed below as a result of the proposed mining operation. Your acknowledging signature and a notary seal in the spaces provided below should satisfy the MLR law reimbursement requirement.

Please return this agreement within 30 days of receiving it if at all possible. Enclosed is a stamped addressed envelope so you can return the executed agreement to us. We have also enclosed a second copy of this letter that you may keep for your files. Thank you for your cooperation.

Sincerely,

B-7-

Bernard S. Frei
Secretary

cc: Division of Reclamation, Mining & Safety
file

Structure list:
Barn
Out building

ACKNOWLEDGED BY:

David A. and Joyce E. Lincoln

[Signature]
[Signature]

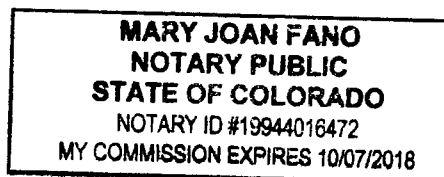
STATE OF Colorado)
COUNTY OF Adams) ss.

The forgoing was acknowledged, subscribed
and sworn to before me, a Notary Public,
this 18 day of May, 2017.

By David + Joyce Lincoln.

Mary Joan Fano
Notary Public

My commission expires: 10-07-18



PERMITTEE/STRUCTURE OWNER AGREEMENT

State of Colorado, Mined Land Reclamation (MLR) law requires the permit applicant (operator/permittee) to agree to reimburse the owner of any permanent man-made structure(s) within 200 feet of the AFS-Bennett Pit (M-2001-038) permitted mining area, for damage done to the structure(s) as a result of the permitted operation.

Albert Frei and Sons, Inc. believes Eastern Slope Rural Telephone own the following structure(s), located within 200 feet of the permitted mining area: 1 underground phone line*

Albert Frei and Sons, Inc., agrees to reimburse you for any damage done to the listed structures as a result of the mining operation. Your acknowledging signature and a notary seal in the spaces provided below shall satisfy the MLR law requirement. Albert Frei and Sons, Inc. certifies this agreement as follows:

CERTIFICATION: The applicant Albert Frei and Sons, Inc. represented by Albert Frei, Jr., as the President, does hereby certify that Eastern Slope Rural Telephone shall be compensated for any damage from the proposed mining operation to the above listed structure(s) located within 200 feet of the permitted mining area described in the MLR Permit for the AFS - Bennett Pit.

NOTARY FOR PERMIT APPLICANT

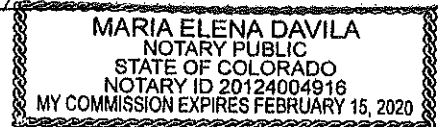
ACKNOWLEDGED BY:

Permit Applicant: Albert Frei and Sons, Inc., P.O. Box 700, Henderson, CO 80640

Representative: Albert Frei, Jr. phone 303-289-1837

Signature: [Signature] Date: 2/7/19

STATE OF Colorado)
COUNTY OF Adams) ss



The foregoing was acknowledged before me this 7th day of February, 2019, by Albert Frei, Jr. as the President of Albert Frei and Sons, Inc.

Notary Public: [Signature] My Commission Expires: 02-15-2020

NOTARY FOR STRUCTURE OWNER(s)

ACKNOWLEDGED BY:

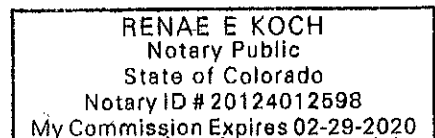
Structure Owner(s): Eastern Slope Rural Telephone

Contact name (print): Clint Felzien

Title: Operations Manager

Signature: [Signature] Date: 2-23-19

STATE OF Co)
COUNTY OF Adams) ss



The foregoing was acknowledged before me this 28 day of February, 19, by Clint Felzien.

Notary Public: Renae E Koch My Commission Expires: 2/29/2020

PERMITTEE/STRUCTURE OWNER AGREEMENT

State of Colorado, Mined Land Reclamation (MLR) law requires the permit applicant (operator/permittee) to agree to reimburse the owner of any permanent man-made structure(s) within 200 feet of the AFS-Bennett Pit (M-2001-038) permitted mining area, for damage done to the structure(s) as a result of the permitted operation.

Albert Frei and Sons, Inc. believes Wayne S and Gail E Palone own the following structure(s), located within 200 feet of the permitted mining area: House
Fences

Albert Frei and Sons, Inc., agrees to reimburse you for any damage done to the listed structures as a result of the mining operation. Your acknowledging signature and a notary seal in the spaces provided below shall satisfy the MLR law requirement. Albert Frei and Sons, Inc. certifies this agreement as follows:

CERTIFICATION: The applicant Albert Frei and Sons, Inc. represented by Albert Frei, Jr., as the President, does hereby certify that Wayne S and Gail E Palone shall be compensated for any damage from the proposed mining operation to the above listed structure(s) located within 200 feet of the permitted mining area described in the MLR Permit for the AFS - Bennett Pit.

NOTARY FOR PERMIT APPLICANT

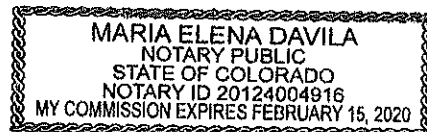
ACKNOWLEDGED BY:

Permit Applicant: Albert Frei and Sons, Inc., P.O. Box 700, Henderson, CO 80640

Representative: Albert Frei, Jr. phone 303-289-1833

Signature: [Signature] Date: 2/7/19

STATE OF Colorado)
COUNTY OF Adams) ss



The foregoing was acknowledged before me this 7th day of February, 2019, by Albert Frei, Jr. as the President of Albert Frei and Sons, Inc.

Notary Public: [Signature] My Commission Expires: 02-15-2020

NOTARY FOR STRUCTURE OWNER(s)

ACKNOWLEDGED BY:

Structure Owner(s): Wayne S and Gail E Palone

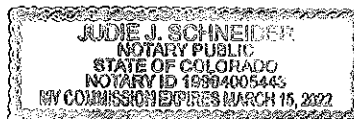
Contact name (print): Gail E. Palone

Signature: [Signature] Date: 3/1/19

Contact name (print): Wayne S. Palone

Signature: [Signature] Date: 3/1/19

STATE OF Colorado)
COUNTY OF Adams) ss



The foregoing was acknowledged before me this 1 day of March, 2019, by

Wayne S. & Gail E. Palone

Notary Public: [Signature] My Commission Expires: 3-15-2022

PERMITTEE/STRUCTURE OWNER AGREEMENT

State of Colorado, Mined Land Reclamation (MLR) law requires the permit applicant (operator/permittee) to agree to reimburse the owner of any permanent man-made structure(s) within 200 feet of the AFS-Bennett Pit (M-2001-038) permitted mining area, for damage done to the structure(s) as a result of the permitted operation.

Albert Frei and Sons, Inc. believes Intermountain REA own the following structure(s), located within 200 feet of the permitted mining area: underground ground powerline*

Albert Frei and Sons, Inc., agrees to reimburse you for any damage done to the listed structures as a result of the mining operation. Your acknowledging signature and a notary seal in the spaces provided below shall satisfy the MLR law requirement. Albert Frei and Sons, Inc. certifies this agreement as follows:

CERTIFICATION: The applicant Albert Frei and Sons, Inc. represented by Albert Frei, Jr., as the President, does hereby certify that Intermountain REA shall be compensated for any damage from the proposed mining operation to the above listed structure(s) located within 200 feet of the permitted mining area described in the MLR Permit for the AFS - Bennett Pit.

NOTARY FOR PERMIT APPLICANT

ACKNOWLEDGED BY:

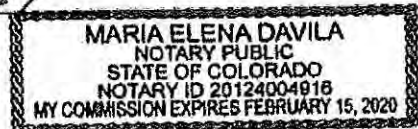
Permit Applicant: Albert Frei and Sons, Inc., P.O. Box 700, Henderson, CO 80640

Representative: Albert Frei, Jr. phone 303-289-1837

Signature: [Signature]

Date: 2/7/19

STATE OF Colorado)
) ss
COUNTY OF Adams)



The foregoing was acknowledged before me this 7th day of February, 2019, by Albert Frei, Jr. as the President of Albert Frei and Sons, Inc.

Notary Public: [Signature] My Commission Expires: 02-15-2020

NOTARY FOR STRUCTURE OWNER(s)

ACKNOWLEDGED BY:

Structure Owner(s): Intermountain REA

Contact name (print): Pam Feuerstein

Title: COO

Signature: [Signature]

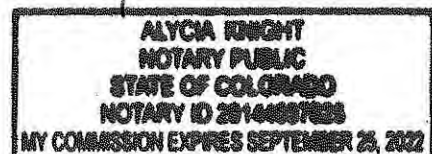
Date: 3.6.19

STATE OF Colorado)
) ss
COUNTY OF Douglas)

The foregoing was acknowledged before me this 6th day of March, 2019, by Pam Feuerstein.

Notary Public: [Signature] My Commission Expires: 9/25/2022

SENT TO STRUCTURE OWNER VIA CERTIFIED MAIL # 7102780000220633766



Addendum to Inert Fill Plan as approved on 10/9/2015

Inspection and Control Policy

This policy is intended to assure that all Inert Material delivered to the mine for use in reclamation meets the definition of acceptable material under Division of Mining, Reclamation and Safety Rule 1.1(20). The control begins as the material enters the permit area. Albert Frei and Sons, Inc. employees at the mine have been trained to recognize inert material and unacceptable inert materials as defined in the rule and are instructed to not allow it to be dumped if there is any questionable material in the load.

Monitoring Plan

As material is delivered to the mine the truck must stop at the scale house for inspection and screening. Employees check the load to see that it meets the permit guidelines. After the inspection a load delivery ticket is filled in and signed by the driver, and allowed to be placed in a designated area as long as it meets the acceptance criteria. After the truck is unloaded, and the equipment operator finds any unacceptable materials, they will segregate it to be returned, loaded back on to the customer's truck for disposal at site permitted for the materials. The complete inspection of the load is done prior to the load being combined with other inert fill on site. Notes are made on the ticket of the offending customer if trash or unacceptable materials are in the load so it can be discussed with them and appropriate actions can be taken. This way we have control over anyone who abuses our trust since they will not be allowed to use the facility in the future unless the problem is corrected.

Load log/tracking plan documentation

A load ticket for the delivered inert material contains information on

1. The Date and time the load was delivered.
2. The type and amount of material delivered to be backfilled into the pit.
3. The source of this material and address of origin
4. Each ticket has this statement - *"I certify that my load DOES NOT contain hazardous materials, garbage, wood, organic material or other unacceptable materials"*.
5. Signature line that certifies the material is clean and inert.

Record keeping plan

On a daily basis the load tickets will be transfer from the mine office to the company headquarters where they will be retained in the company records in electronic form and submitted to the Division of Mining, Reclamation and Safety (State) with annual reports. Load tickets will be kept at the corporate office in Henderson Colorado for inspection upon request.



Consultants in Natural Resources and the Environment

Natural Resources Assessment Albert Frei and Sons – Bennett Pit Bennett, Colorado

Prepared for—

Albert Frei and Sons, Inc.
PO Box 700
Henderson, Colorado 80640

Prepared by—

ERO Resources Corporation
1842 Clarkson Street
Denver, Colorado 80218
(303) 830-1188
ERO Project #10645

May 9, 2019

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Executive Summary

Albert Frei and Sons, Inc. (AFS) retained ERO Resources Corporation (ERO) to provide a natural resources assessment for the Bennett Pit property southwest of the intersection of East 72nd Avenue and Provost Road in Bennett, Adams County, Colorado (project area). ERO assessed the project area for potential wetlands and other waters of the U.S., threatened and endangered species habitat, and general wildlife use. Below is a summary of the resources found at the project area and recommendations or future actions necessary based on the current site conditions and federal, state, and local regulations.

The natural resources and associated regulations described in this report are valid as of the date of this report and may be relied upon for the specific use for which it was prepared by ERO under contract to AFS. Because of their dynamic natures, site conditions and regulations should be reconfirmed by a qualified consultant before relying on this report for a use other than that for which ERO was contracted.

Wetlands and Other Waters of the U.S. – Kiowa Creek is a tributary to the South Platte River and may be considered a jurisdictional water of the U.S. ***If any work is planned within Kiowa Creek, a jurisdictional determination should be requested from the U.S. Army Corps of Engineers (Corps).*** If Kiowa Creek is considered jurisdictional and work is planned within the creek, a Section 404 permit would be required from the Corps for the placement of fill or dredge material within wetlands or below the ordinary high water mark. If no work is planned in Kiowa Creek, no action is necessary regarding wetlands and other waters of the U.S.

Threatened and Endangered Species – The project area does not contain habitat for Mexican spotted owl. A viable population of Preble's meadow jumping mouse (Preble's) is unlikely to exist in the project area because the project area lacks riparian shrub habitat and the project area is extremely fragmented and continuously disturbed by human activity. The project area is not conducive to the establishment of Ute ladies'-tresses orchid or Colorado butterfly plant because no wetlands occur within the project area and the project area consists primarily of disturbed uplands dominated by introduced understory species. ***If project activities would encroach within 300 feet of the 100-year floodplain of Kiowa Creek, ERO recommends submitting a habitat assessment to the U.S. Fish and Wildlife Service (Service) requesting confirmation the project area lacks habitat for Preble's and a presence/absence survey would not be required.***

Migratory Birds – No bird nests were observed during the 2019 site visit; however, trees, shrubs, and upland grasslands in the project area provide potential nesting habitat. The Denver Field Office of the Service (2009) and Colorado Department of Transportation (2011) have identified the primary nesting season for migratory birds in eastern Colorado as occurring between April 1 and mid to late August. However, some birds, such as the red-tailed hawk and great horned owl, can nest as early as February or March. Because of variability in the breeding seasons of various bird species, ***ERO recommends a nest survey be conducted within one week prior to construction*** to determine if any active nests are present in the project area so they can be avoided. If active nests are found, any work that would destroy the nests could not be conducted until the birds have vacated the nests.

Other Wildlife – No wildlife corridors or other sensitive species occur within the project area that would be adversely affected by the proposed project. If the 100-foot setback from Kiowa Creek is maintained as proposed, impacts on other wildlife would be minimized.

Natural Resources Assessment

Albert Frei and Sons – Bennett Pit

Bennett, Colorado

May 9, 2019

Introduction

Albert Frei and Sons, Inc. (AFS) retained ERO Resources Corporation (ERO) to provide a natural resources assessment for the Bennett Pit property southwest of the intersection of East 72nd Avenue and Provost Road in Bennett, Adams County, Colorado (project area; Figure 1). On April 22, 2019, Steve Butler, a biologist with ERO, assessed the project area for natural resources (2019 site visit). During this assessment, activities included a review of potential wetlands and other waters of the U.S., identification of potential federally threatened and endangered species habitat, and identification of other natural resources. This report provides information on existing site conditions and resources, as well as current regulatory guidelines related to those resources. ERO assumes the landowner is responsible for obtaining all federal, state, and local permits for construction of the project.

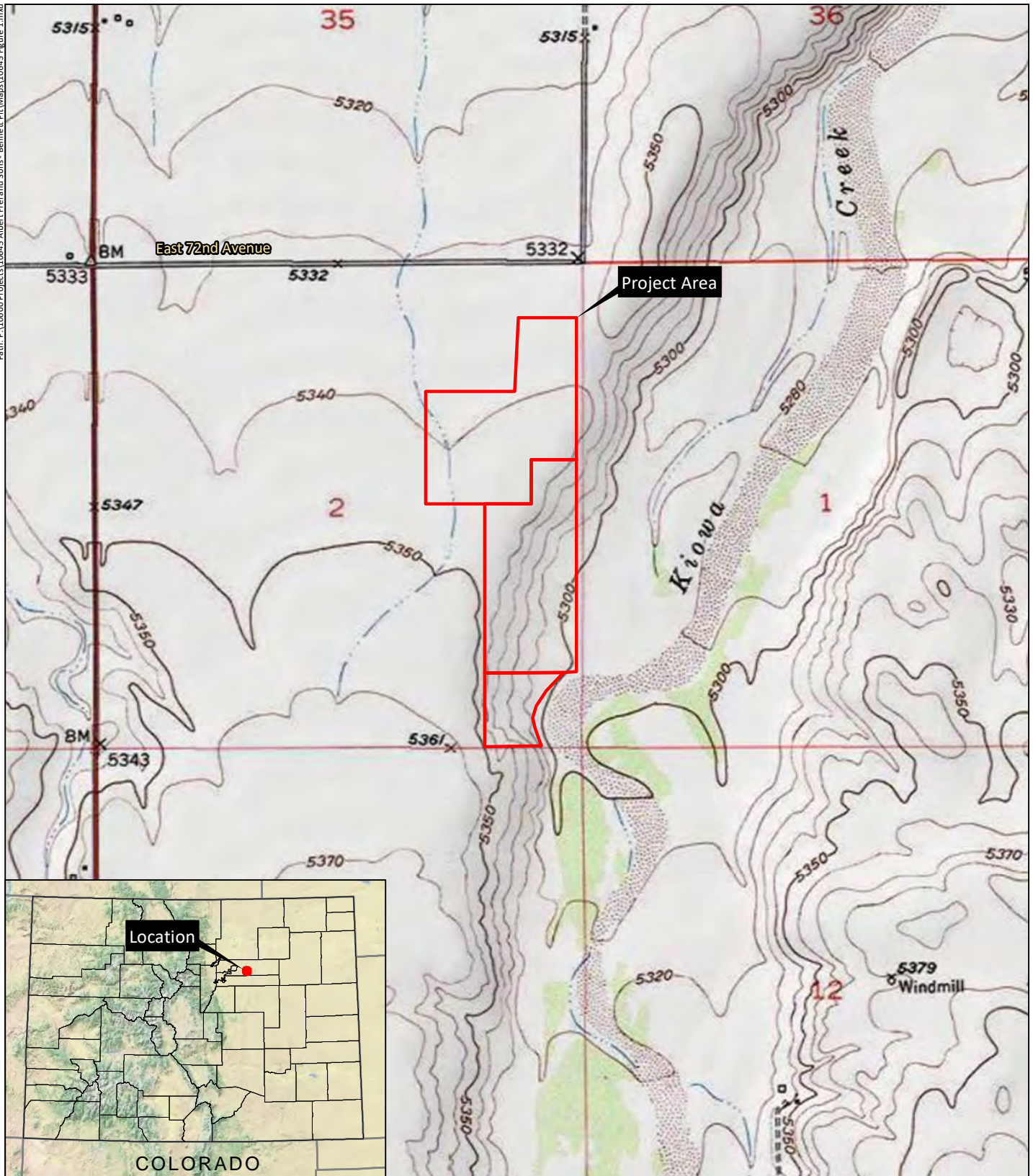
The natural resources and associated regulations described in this report are valid as of the date of this report and may be relied upon for the specific use for which it was prepared by ERO under contract to AFS. Because of their dynamic natures, site conditions and regulations should be reconfirmed by a qualified consultant before relying on this report for a use other than that for which ERO was contracted.

Project Area Location

The project area is in portions of Section 2, Township 3 South, Range 63 West of the 6th Principal Meridian in Adams County, Colorado (Figure 1). The UTM coordinates for the approximate center of the project area are 551594mE, 4407486mN, Zone 13 North. The longitude/latitude of the project area is 104.397185°W/39.815796°N. The elevation of the project area is approximately 5,320 feet above sea level. Photos of the project area are included in Appendix A.

Project Area Description

The project area is bounded by undeveloped land on all sides, except for a residential property to the west of the southern portion of the project area (Figure 2). The central portion of the project area consists of the active sand and gravel mine (Bennett Pit), while the northern and southern portions of the project area consist of undeveloped land (Figure 2). Kiowa Creek borders the project area to the southeast.



Bennett Pit

Section 2, T3S, R63W; 6th PM

UTM NAD 83: Zone 13N; 551594mE, 4407486mN

Longitude 104.397185°W, Latitude 39.815796°N

USGS Bennett, CO Quadrangle

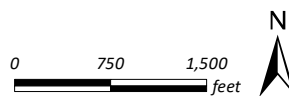
Adams County, Colorado

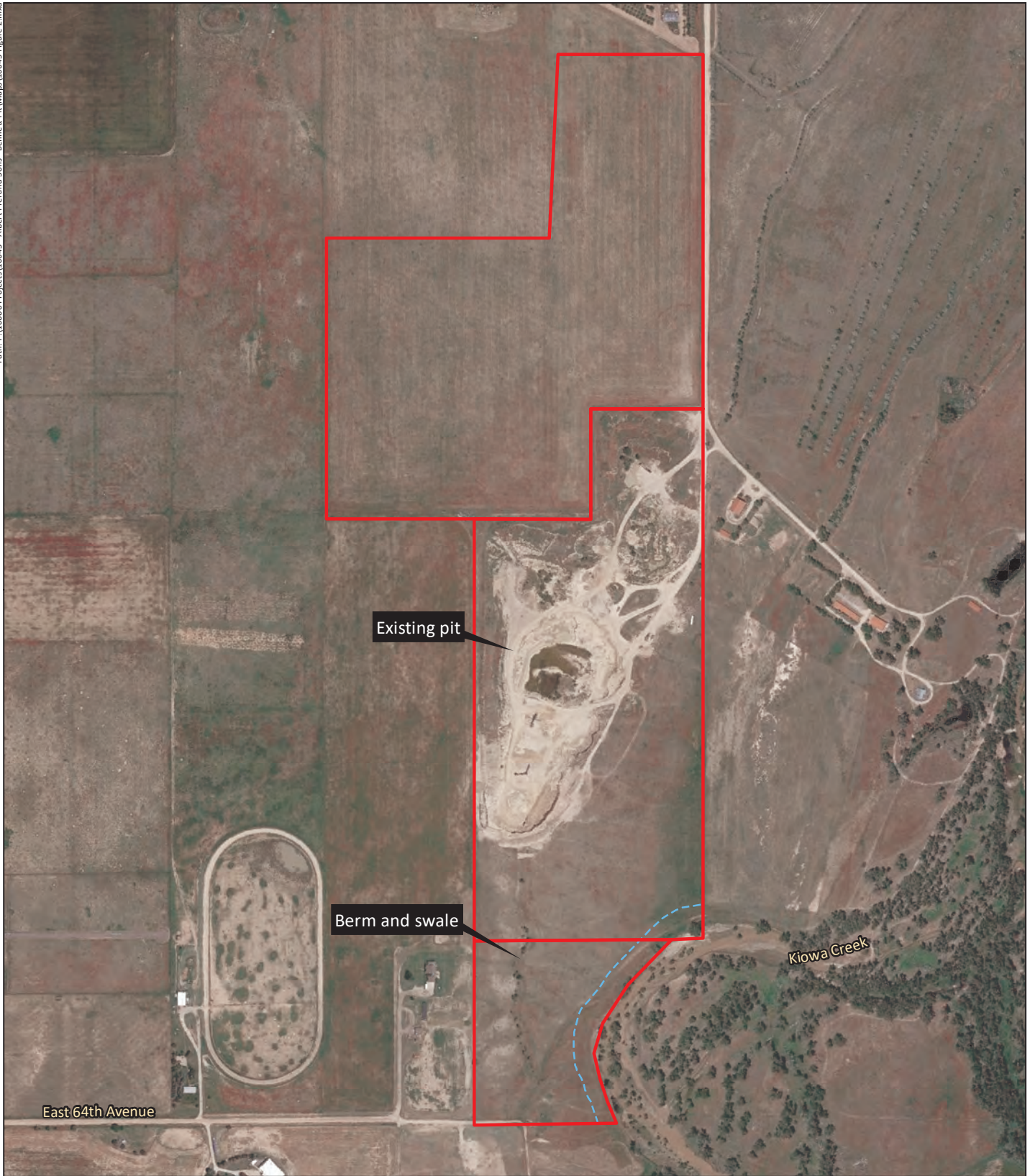
Copyright:© 2013 National Geographic Society, i-cubed

Figure 1 Vicinity Map

Prepared for: Albert Frei and Sons
File: 10645 Figure 1.mxd [dH]
May 6, 2019

ERO
ERO Resources Corp.





Bennett Pit



Project Area



100 Feet from Edge of Creek

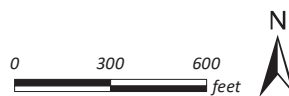


Figure 2
Existing Conditions

Prepared for: Albert Frei and Sons
File: 10645 Figure 2.mxd [dlH]
May 9, 2019

ERO
ERO Resources Corp.

The central portion of the project area is occupied by the Bennett Pit and lacks vegetation. The vegetation in the project area south of the pit consists of a mixture of native and introduced plants such as smooth brome (*Bromus inermis*), blue grama (*Bouteloua gracilis*), sand dropseed (*Sporobolus cryptandrus*), common mullein (*Verbascum thapsus*), prairie sage (*Artemisia ludoviciana*), fringed sage (*Artemisia frigida*), yucca (*Yucca glauca*), prickly pear (*Opuntia* sp.), diffuse knapweed (*Centaurea diffusa*), and musk thistle (*Carduus nutans*) (Photos 1 and 2). A constructed berm and swale run from north to south at the southern end of the project area. A few scattered cottonwood trees (*Populus deltoides*) occur along the swale.

Kiowa Creek flows along the southeastern edge of the project area (Photo 3). The creek has steep, nearly vertical banks, and the top of the east bank of the creek generally follows the edge of the project area. Vegetation along the creek consists mostly of cottonwood and peachleaf willow (*Salix amygdaloides*) trees with a sparse understory of grasses.

The portion of the project area north of the Bennett Pit is a formerly cultivated field, with sparse vegetation. Most of the grasses in this area were just beginning to grow and could not be reliably identified during the 2019 site visit. Vegetation that could be identified included kochia (*Bassia scoparia*), musk thistle, bindweed (*Convolvulus arvensis*), cheatgrass (*Bromus tectorum*), gray lovegrass (*Eragrostis cilianensis*), common dandelion (*Taraxacum officinale*), and curly dock (*Rumex crispus*).

Wildlife observed at the project area included American robins (*Turdus migratorius*), western meadowlarks (*Sturnella neglecta*), and a cottontail (*Sylvilagus audubonii*).

Wetlands and Other Waters of the U.S.

Background

The Clean Water Act (CWA) protects the chemical, physical, and biological quality of waters of the U.S. The U.S. Army Corps of Engineers' (Corps) Regulatory Program administers and enforces Section 404 of the CWA. Under Section 404, a Corps permit is required for the discharge of dredged or fill material into wetlands and other waters of the U.S. (streams, ponds, and other waterbodies). In 2007, the Corps issued guidance in response to the Supreme Court ruling in the consolidated cases of *Rapanos v. United States* and *Carabell v. U.S. Army Corps of Engineers* stating that the Corps considers traditionally navigable waters (TNWs), wetlands adjacent to a TNW, and tributaries to TNWs that are relatively permanent waters (RPWs) and their abutting wetlands jurisdictional waters. Other wetlands and waters that are not TNWs or RPWs require a significant nexus evaluation to determine their jurisdiction. A significant nexus evaluation assesses the flow characteristics and functions of a tributary and its adjacent wetlands to determine if they significantly affect the chemical, physical, and biological integrity of downstream TNWs.

On May 31, 2016, the U.S. Supreme Court concluded that approved jurisdictional determinations are judicially reviewable under the Administrative Procedure Act and, therefore, can be appealed in court. The Corps has recommended that requests for both approved and preliminary jurisdictional

determinations be done using guidance outlined in Regulatory Guidance Letter 16-01 and that a jurisdictional form request be completed (Corps 2016). The Corps has indicated that jurisdictional determinations associated with a Section 404 CWA Permit request will preside over stand-alone jurisdictional determination requests. While ERO may provide its opinion on the likely jurisdictional status of wetlands and waters, the Corps makes the final determination.

Site Conditions and Regulations

ERO assessed the project area for potential isolated wetlands, jurisdictional wetlands, and other waters of the U.S. Kiowa Creek runs along the southeast edge of the project area. Kiowa Creek is an intermittent stream with a defined bed and bank and is a tributary to the South Platte River. As described above, Kiowa Creek has steep, nearly vertical banks, and the top of the east bank of the creek generally follows the fence line at the edge of the project area. The ordinary high water mark (OHWM) of the creek is just outside the project area, on the outside of the fence line that marks the edge of the project area. Vegetation along the creek consists mostly of cottonwood and peachleaf willow trees with a sparse understory of grasses. Kiowa Creek would likely be considered a jurisdictional water of the U.S. by the Corps. AFS has indicated to ERO that no work would occur within 100 feet of Kiowa Creek. If placing fill material or other work is proposed in Kiowa Creek, a jurisdictional determination should be requested from the Corps.

If Kiowa Creek is considered jurisdictional and work is planned within the creek, a Section 404 permit would be required for the placement of fill or dredge material below the OHWM. If the creek is determined nonjurisdictional, or if no work is planned within the creek, no action would be necessary.

No other wetlands or aquatic sites were identified within the project area. A review of data from the National Hydrography Dataset (NHD) shows an intermittent stream crossing the western edge of the project area, north of the existing pit. A site review found that no stream exists at this site, which is part of a recently cultivated field. Because the NHD data are based on aerial photography from the 1970s, it is likely the drainage no longer exists at this site.

A constructed berm and swale run from north to south at the southern end of the project area (Photo 4). A few scattered cottonwood trees occur along the swale. The swale lacks wetland vegetation, soils, and hydrology and, thus, is not a wetland. Vegetation at this swale is dominated by cottonwood trees and Kentucky bluegrass (*Poa pratensis*). No indicators of wetland hydrology or soils are present, and the swale does not connect to Kiowa Creek. This berm and swale may be the remains of an agricultural ditch that is no longer used.

At certain times, water may occur in the lower areas within the Bennett Pit. ERO did not review areas within the pit during the 2019 site visit. A review of aerial photography shows that any water within the pit would lack a surface connection to Kiowa Creek and would likely be considered isolated and nonjurisdictional.

Threatened, Endangered, and Candidate Species

ERO assessed the project area for potential habitat for threatened, endangered, and candidate species under the Endangered Species Act (ESA). Federally threatened and endangered species are protected under the ESA of 1973, as amended (16 United States Code 1531 et seq.). Significant adverse effects on a federally listed species or its habitat require consultation with the U.S. Fish and Wildlife Service (Service) under Section 7 or 10 of the ESA. The Service lists several threatened and endangered species with potential habitat in the project area, or that would be potentially affected by projects in the project area (Table 1).

Table 1. Federally threatened, endangered, and candidate species potentially found in the project area or potentially affected by projects in the project area.

Common Name	Scientific Name	Status*	Habitat	Habitat Present or Potential to be Affected by Project?
Mammals				
Preble's meadow jumping mouse	<i>Zapus hudsonius preblei</i>	T	Shrub riparian/wet meadows	No
Birds				
Interior least tern**	<i>Sterna antillarum athalassos</i>	E	Sandy/pebble beaches on lakes, reservoirs, and rivers	No habitat and no depletions anticipated
Mexican spotted owl	<i>Strix occidentalis</i>	T	Closed canopy forests in steep canyons	No
Piping plover**	<i>Charadrius melodus</i>	T	Sandy lakeshore beaches and river sandbars	No habitat and no depletions anticipated
Whooping crane**	<i>Grus americana</i>	E	Mudflats around reservoirs and in agricultural areas	No habitat and no depletions anticipated
Fish				
Pallid sturgeon**	<i>Scaphirhynchus albus</i>	E	Large, turbid, free-flowing rivers with a strong current and gravel or sandy substrate	No habitat and no depletions anticipated
Plants				
Colorado butterfly plant	<i>Gaura neomexicana</i> ssp. <i>coloradensis</i>	T	Subirrigated alluvial soils on level floodplains and drainage bottoms between 5,000 and 6,400 feet in elevation	No
Ute ladies'-tresses orchid	<i>Spiranthes diluvialis</i>	T	Moist to wet alluvial meadows, floodplains of perennial streams, and around springs and lakes below 7,800 feet in elevation	No
Western prairie fringed orchid**	<i>Platanthera praeclara</i>	T	Moist to wet prairies and meadows	No habitat and no depletions anticipated

*T = Federally Threatened Species, E = Federally Endangered Species.

**Water depletions in the South Platte River may affect the species and/or critical habitat in downstream reaches in other counties or states.

Source: Service 2019.

The interior least tern, piping plover, whooping crane, pallid sturgeon, and western prairie fringed orchid are species that are affected by depletions to the Platte River system. Based on ERO's knowledge of the types of activities likely to be implemented as part of the project area, there would be no depletions to the Platte River system. If the project includes activities that deplete water in the South Platte River, such as diverting water from a stream or developing new water supplies, these species could be affected by the project and consultation with the Service may be required.

The proposed project would not directly affect the Mexican spotted owl because the project area lacks the closed canopy forest and canyon habitat required by the Mexican spotted owl. Because of the lack of habitat, no further action is necessary regarding this species.

Potential habitat for Preble's meadow jumping mouse (Preble's), Colorado butterfly plant (CBP), and Ute ladies'-tresses orchid (ULTO) is generally more prevalent in areas across the Front Range. Because these species are more likely to be addressed by counties and regulatory agencies such as the Corps, a more detailed discussion is provided below.

Preble's Meadow Jumping Mouse

Species Background

Preble's was listed as a threatened species on May 13, 1998. Typically, Preble's occurs below 7,600 feet in elevation, generally in lowlands with medium to high moisture along perennial or intermittent streams and canals (Meaney et al. 1997). Preble's occurs in low undergrowth consisting of grasses and forbs, in open wet meadows, in riparian corridors near forests, or where multilevel shrubs and low trees provide adequate cover (Service 1999; Meaney et al. 1997).

Potential Habitat and Effects

During the 2019 site visit, ERO assessed the project area for potential Preble's habitat. The riparian area along Kiowa Creek contains mature trees, such as cottonwoods and peachleaf willows, with a sparse understory of grasses. Kiowa Creek is an intermittent stream and lacks wetlands in the reach near the project area. No presence/absence surveys have been conducted along Kiowa Creek, although several projects in Elbert County, more than 20 stream miles from the project area, were evaluated but not trapped due to lack of suitable habitat (Service 2014). Because of the lack of perennial water and lack of shrub cover along the creek, the reach of Kiowa Creek along the southeastern edge of the project area is unlikely to support a population of Preble's.

Recommendations

The Service recommends that projects within 300 feet of 100-year floodplains associated with rivers, creeks, and their tributaries (and projects that may have potential secondary impacts on such areas) be assessed as to their potential to have direct and indirect impacts on Preble's and Preble's habitat. Under existing regulations, either a habitat assessment or a full presence/absence survey for Preble's is required for any habitat-disturbing activity within areas determined to be potential Preble's habitat. Although the project area includes areas with 300 feet of the 100-year floodplain of Kiowa Creek, ERO determined that Preble's is unlikely to be present in the project area because of the lack of adequate

shrub cover. ERO recommends submitting a habitat assessment to the Service requesting concurrence that the project area is not habitat for Preble's and that the proposed project would not adversely affect the continued existence of Preble's.

Colorado Butterfly Plant

Species Background

The CBP is a short-lived perennial herb adapted to stream channels that are periodically disturbed. It occurs on moist subirrigated alluvial soils on level or slightly sloping floodplains and drainage bottoms at elevations from 5,000 to 6,400 feet. Colonies are often found in low depressions or along bends in wide, active, meandering stream channels that are periodically disturbed. Typically, CBP occurs in moist areas intermediate between wetlands and upland shortgrass prairies, which are open without dense or overgrown vegetation. This species is federally listed as threatened under the ESA and is found within a small area in southeastern Wyoming, western Nebraska, and north-central Colorado (NatureServe 2019). Critical habitat for CBP has been designated in southeastern Wyoming (Service 2005). On June 8, 2018, the Service proposed to remove the CBP from the federal list of threatened and endangered species (83 Code of Federal Regulations 111); however, it currently remains listed as threatened.

Potential Habitat and Effects

The Service has not established official survey guidelines for CBP; however, habitat is not present within the project area because a suitable perennial stream with an active floodplain does not occur within the project area.

Recommendations

No action is necessary regarding CBP.

Ute Ladies'-Tresses Orchid

Species Background

ULTO is federally listed as threatened. ULTO occurs at elevations below 7,800 feet in moist to wet alluvial meadows, floodplains of perennial streams, and around springs and lakes where the soil is seasonally saturated within 18 inches of the surface (Service 1992a). This species has also been found along irrigation canals, irrigated meadows, gravel pits, and other human-modified wetlands. Generally, the species occurs where the vegetative cover is relatively open and not overly dense or overgrazed. Once thought to be fairly common in low-elevation riparian areas in the interior western United States, ULTO is now rare (Service 1992a). The species' known range is from Nevada to British Columbia. The largest known populations occur in Utah, followed by Colorado (NatureServe 2019).

Potential Habitat and Effects

In Colorado, the Service requires surveys in suitable habitat within the 100-year floodplain segments of the South Platte River, Fountain Creek, and Yampa River and their perennial tributaries, or in any area with suitable habitat in Boulder and Jefferson Counties. Since the protocols were submitted in 1992, ULTO has been found along the Roaring Fork River. Therefore, surveys should be conducted within

suitable habitat in the floodplain of the Roaring Fork River and its tributaries. ULTO does not bloom until late July to early September (depending on the year) and timing of surveys must be synchronized with blooming (Service 1992b).

The project area was assessed for potential ULTO habitat. Because a perennial tributary to the South Platte River does not occur in the project area and the project area is in Adams County, the site does not fall within the Service's guidelines for ULTO surveys.

Recommendations

No action is necessary regarding ULTO.

Other Species of Concern

Raptors and Migratory Birds

Migratory birds, as well as their eggs and nests, are protected under the Migratory Bird Treaty Act (MBTA). The MBTA does not contain any prohibition that applies to the destruction of a bird nest alone (without birds or eggs), provided that no possession occurs during the destruction. While destruction of a nest by itself is not prohibited under the MBTA, nest destruction that results in the unpermitted take of migratory birds or their eggs is illegal and fully prosecutable under the MBTA (Service 2003). The regulatory definition of a take means to pursue, hunt, shoot, wound, kill, trap, capture, or collect; or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect.

Under the MBTA, the Service may issue nest depredation permits, which allow a permittee to remove an active nest. The Service, however, issues few permits and only under specific circumstances, usually related to human health and safety. Obtaining a nest depredation permit is unlikely and involves a process that takes, at a minimum, 8 to 12 weeks. The best way to avoid a violation of the MBTA is to remove vegetation outside of the active breeding season, which typically falls between March and August, depending on the species. MBTA enforcement actions are typically the result of a concerned member of the community reporting a violation.

Potential Habitat and Effects

ERO did not observe any active or inactive migratory bird nests, including potential raptor nests, in the project area during the 2019 site visit. A review of Colorado Parks and Wildlife (CPW) data also did not find any known raptor or bald eagle nests within ½ mile of the project area (CPW 2018). Several robins and meadowlarks were observed and heard within the project area, mostly south of the Bennett Pit in the portion of the project area closest to Kiowa Creek. Ground-nesting and other birds could potentially nest in the grasslands, trees, and shrubs in the project area.

A potential raptor nest was observed in a large cottonwood tree on the east side of Kiowa Creek, about 0.4 mile east of the project area. The size and shape of the nest and its position in the tree suggests it is a raptor nest. Raptors such as red-tailed or Swainson's hawks could potentially use the observed nest. CPW recommends a ⅓- or ¼-mile buffer from active raptor nests, depending on the species (Colorado

Division of Wildlife 2008). The breeding season for most birds in Colorado is March through August, with the exception of a few species that begin breeding in February, such as great-horned owls. It is unknown if the nest is active or which species uses the nest. No raptors were observed near the nest. Because of the distance from the Bennett Pit, any raptors using the nest would unlikely be affected by activities at the pit. The nest is also closer to the pit than to the proposed expansion areas; therefore, any raptors using the nest would likely be acclimated to activity at the pit.

Recommendations

Although no nests were observed within the project area during the 2019 site visit, ground-nesting bird and arboreal nests are difficult to detect and may be present in the grasslands and trees in the project area. To avoid destruction of potential migratory bird nests, vegetation removal should be conducted outside of the April 1 through August 31 breeding season.

Both the Denver Field Office of the Service (2009) and the Colorado Department of Transportation (2011) have identified the primary nesting season for migratory birds in eastern Colorado as occurring between April 1 and mid to late August. However, a few species such as bald eagles, great horned owls, and red-tailed hawks can nest as early as December (eagles) or late February (owls and red-tailed hawks). Because of variability in the breeding seasons of various bird species, ERO recommends that a nest survey be conducted within one week prior to construction to determine if any active nests are present in the project area so that they can be avoided. Additional nest surveys within the nesting season may also be warranted to identify active nesting species that may present additional development timing restrictions (e.g., eagles or red-tailed hawks).

If active nests are identified within or near the project area, activities that would directly affect the nests should be restricted. Habitat-disturbing activities (e.g., tree removal, grading, scraping, and grubbing) should be conducted in the nonbreeding season to avoid disturbing active nests, or to avoid a “take” of the migratory bird nests within the project area. Nests can be removed during the nonbreeding season, September 1 through March 31, to preclude future nesting and avoid violations of the MBTA. There is no process for removing nests during the nonbreeding season; however, nests may not be collected under MBTA regulations. If the construction schedule does not allow vegetation removal outside of the breeding season, a nest survey should be conducted immediately prior to vegetation removal to determine if the nests are active and by which species. If active nests are found, any work that would destroy the nests or cause the birds to abandon young in the nest cannot be conducted until the birds have vacated the nests.

Other Wildlife

When vegetation is removed from the project area for mining, these areas will no longer be available for use by wildlife as habitat, until the area is reclaimed. As with any human development, wildlife species sensitive to human disturbance are likely to decline in abundance or abandon the project area. The proposed project is an expansion and continuation of the ongoing mining activities at the Bennett Pit; therefore, any wildlife in the area is likely to be acclimated to the existing noise and human activity in

the project area. Kiowa Creek likely serves as a movement corridor for wildlife moving through the area. The most sensitive habitat along Kiowa Creek would be avoided by maintaining a 100-foot setback from the creek; therefore, no impacts on the creek or its riparian habitat are expected.

References

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- Meaney, C.A., A. Deans, N.W. Clippenger, M. Rider, N. Daly, and M. O'Shea-Stone. 1997. Third year survey for Preble's meadow jumping mouse (*Zapus hudsonius preblei*) in Colorado. Under contract to Colorado Division of Wildlife. Boulder, CO.
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- U.S. Fish and Wildlife Service (Service). 1992a. Endangered and Threatened Wildlife and Plants: Final Rule to List the Plant *Spiranthes diluvialis* (Ute ladies'-tresses) as a Threatened Species. Federal Register 50 CFR Part 17, Volume 57, No. 12, Pages 2048-2054. January 17.
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- U.S. Fish and Wildlife Service (Service). 2003. Migratory Bird Permit Memorandum. April 15.
- U.S. Fish and Wildlife Service (Service). 2005. Endangered and Threatened Wildlife and Plants: Designated Critical Habitat for Colorado Butterfly Plant, Final Rule. Federal Register, Volume 70, No. 7. January 11.
- U.S. Fish and Wildlife Service (Service). 2009. Personal communication between Pete Plage (U.S. Fish and Wildlife Service) and ERO Resources Corporation.
- U.S. Fish and Wildlife Service (Service). 2014. U.S. Fish and Wildlife Service Preble's meadow jumping mouse trapping survey results, unpublished data.
- U.S. Fish and Wildlife Service (Service). 2019. Endangered, Threatened, Proposed and Candidate Species, Colorado Counties. <http://ecos.fws.gov/ipac/>. Last accessed April 25, 2019.

Appendix A Photo Log

ALBERT FREI AND SONS – BENNETT PIT
APRIL 22, 2019
PHOTO LOG



Photo 1 - Southern portion of the project area. View is to the north.



Photo 2 - Southern portion of the project area. View is to the south.

ALBERT FREI AND SONS – BENNETT PIT
APRIL 22, 2019
PHOTO LOG



Photo 3 - Kiowa Creek. View is to the south along the edge of the project area.



Photo 4 - Swale and cottonwood trees in the southern portion of the project area. View is to the south.

ROAD MAINTENANCE AGREEMENT

AFS - BENNETT PIT

Case #RCU2015-00041

THIS AGREEMENT, made and entered into this ____ day of _____, 2019, by and between the County of Adams, State of Colorado, hereinafter called "County" and Albert Frei & Sons, Inc. hereinafter called the "Company".

WHEREAS, the Adams County Board of Commissioners approved Conditional Use Permit Case No. RCU2015-00041, Bennett Sand & Gravel, on March 8, 2016; and,

WHEREAS, Condition No. 10 of the resolution approving the above-referenced case requires that the Company is responsible for maintenance of the haul routes and shall repair any rutting and pot holes; and,

WHEREAS, the County has determined that the maintenance activities cannot be feasibly performed by the Company within the County's right-of-way, and the parties have developed this roadway maintenance agreement to address the Company's responsibilities for maintenance; and,

WHEREAS, the public roads considered in this agreement are haul routes (The Haul Routes) that were approved by Adams County and are as follows: 72nd Ave. from the entrance to the AFS - Bennett Pit west to State Highway 79.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, the County and the Company mutually agree as follows:

1. The recitals set forth above are hereby incorporated in this Agreement in their entirety.
2. Upon execution of this agreement, the Company agrees to provide an initial payment, in the amount set forth in **Exhibit A**, to the County to maintain those sections of the Haul Routes directly related to trucks hauling to and from the Company's "AFS - Bennett Pit" operation, as determined by the Adams County Public Works Department and the Company. **Exhibit A**, which outlines the estimated costs associated with this first round of maintenance and repair work deemed required by the County and mutually agreed upon by the Company, is attached hereto and incorporated herein by this reference.
3. At any time in the future, when maintenance or repair to those sections of the Haul Routes has increased beyond the point that grading and dust abatement can reasonably restore the road, the Company will cooperate with Adams County in the reconstruction of said sections.
4. When reconstruction is required, the details of such reconstruction shall be determined by the Adams County Public Works Department and mutually agreed upon by the Company.

5. When the County determines that reconstruction is required and the Company mutually agrees upon same, the Company shall share the costs of said reconstruction. The cost share shall be proportional to the truck traffic generated by the Company's AFS - Bennett Pit operation to the baseline truck traffic volumes at the time of said reconstruction and the overall condition of the road sections, as determined by the County through a traffic study.
6. Failure of either party to perform any of its respective obligations hereunder by reason of acts of God, strike, or acts of any governmental agency or authority having jurisdiction over matters set forth herein shall excuse timely performance of such obligations, but shall not excuse the performance of such obligations as soon as reasonably practicable. The parties may, however, mutually consent to excuse a party from performing any obligation, in whole or in part, upon a showing that performance has been rendered impracticable by reason of FORCE MAJEURE.
7. This Agreement may not be assigned in whole or in part by either party hereto without the written consent of the other party. Such consent will not to be unreasonably withheld, conditioned, or delayed.
8. If any clause or provision of this Agreement is illegal, invalid, or unenforceable, then it is the intention of the parties that the remainder of this Agreement shall not be affected.
9. Should the Company sell its operation, permanently cease operations at the AFS - Bennett Pit, file bankruptcy, or in any way release, convey or transfer ownership of and responsibility for the permitted property, except as described herein, this Agreement shall be terminated effective immediately without any additional action required by the parties. If the aforementioned release should occur, the Company shall give a minimum notice of ninety (90) days to the County before the date of termination. If the aforementioned release should occur, the County shall have the option of immediately terminating this Agreement. The requirements of Case No. RCU2017-000287 shall not be waived by the terms of this paragraph. And the failure to have a Maintenance Agreement in effect shall be grounds to revoke the Conditional Use Permit.
10. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned parties, and nothing contained in this Agreement shall give or allow any claim or right of actions whatsoever by any other person not included in this Agreement. It is the express intention of the undersigned parties that any entity other than the undersigned parties receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.
11. By entering into this Agreement, the parties do not intend, either expressly or implicitly, to create a joint venture or partnership. Except as provided herein, neither party shall have the right or authority to act for, or on behalf of, or to enter into any obligations which are binding on the other party to this Agreement. This Agreement shall inure to the benefit of and be

binding upon the heirs, personal representatives, successors (including successors as a result of a merger), and assigns of the parties.

12. All notices to be given under this Agreement shall be in writing and delivered in person, or mailed by certified or registered U.S. Mail, or sent by a nationally recognized overnight delivery service, to the party to receive such notice at the following addresses:

Director
Adams County Public Works Department
4430 Adams County Parkway
Brighton, CO 80601

Ben Frei
Albert Frei & Sons, Inc.
7321 E. 88th Avenue, Suite 100
Henderson, CO 80640

All notices shall be effective upon receipt by the party to receive such notice, or by the third day following deposit of said notice in U.S. Mail, or the first day following deposit of acknowledgment of refusal of delivery of said notice.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the day and year first above written.

WHEREFORE, parties have hereunto set their hands and seal the date and year first written above.

ATTEST:

Albert Frei & Sons, Inc.

By: _____

Albert R. Frei, Jr., President

ATTEST:

BOARD OF COUNTY COMMISSIONERS
ADAMS COUNTY, COLORADO

Clerk of the Board

Chair



Development Review Team Comments

Date: 9/5/2019

Project Number: EXG2019-00002

Project Name: Henderson Aggregates Pit Expansion

Commenting Division: Planner Review

Name of Reviewer: Greg Barnes

Date: 08/12/2019

Email: gjbarnes@adcogov.org

External Agencies Selected

Commenting Division: ROW Review

Name of Reviewer: Marissa Hillje

Date: 08/22/2019

Email: mhillje@adcogov.org

Resubmittal Required

ROW1: Parcel # 0181502100002 was created in 2007. This piece of property would have to be over 35 acres to be considered legally created. In order to fix the illegal creation of this parcel, the County will require the owner to create a land survey plat and deposit it at our front Counter. The land survey plat will describe a piece of property that is greater than 35 acres. If you have any questions about this contact Marissa Hillje- mhillje@adcogov.org / 720-523-6837

ROW2: E 72nd Ave is classified as a rural collector street per the 2012 Adams County Master Transportation Plan. As such it should have a half right-of-way width of 40 feet. Since the existing half right-of-way width appears to be 30 feet, this would require a dedication of 10 feet additional right-of-way.

Commenting Division: Planner Review

Name of Reviewer: Greg Barnes

Date: 09/05/2019

Email: gjbarnes@adcogov.org

Resubmittal Required

PLN01: Parcel # 0181502100002 was created in 2007, and appears to have been illegally created. This can be remedied by readjusting lot lines. All parcels over 35 acres are exempt from subdivision regulations, so shifting lines to create a 35 acre parcel would fix the illegality.

PLN02: The County has received many complaints about the existing operations. It may be in your best interest to thoughtfully consider methods for mitigating the concerns of nearby property owners. Very little was provided to describe how impact mitigation will occur on the site. This is an important part of the request.

PLN03: A plan for the Mining Phase and the Reclamation Phase shall provided, with a specific timeline.

Commenting Division: Development Engineering Review

Name of Reviewer: Greg Labrie

Date: 08/30/2019

Email: glabrie@adcogov.org

Resubmittal Required

ENG1: The applicant will be required to complete the roadway maintenance agreement before the "Notice of Proceed" is issued. The roadway improvements will include the right turn deceleration lane at the intersection of Highway 79 and 72nd Avenue and the installation of new asphalt pavement on 72nd Avenue between Highway 79 and Provost Road.

ENG2: The traffic study is required to be revised to indicate how the existing traffic volumes on 72nd Avenue was determined. If the existing traffic volume along 72nd Avenue as described in the traffic study was determined by input from the mine operator, Adams County is requiring that actual traffic counts are completed along 72nd Avenue to verify the estimated traffic volume provided by the mine operator.

Greg Barnes

From: Katie Keefe
Sent: Monday, September 02, 2019 6:16 PM
To: Greg Barnes
Subject: Bennett Sand & Gravel (Henderson) Conditional Use Permit

Hi Greg,

Since I submitted complete in Accela for this case, I'm submitting my comments to you via email (sorry!):

ENV1: The applicant must provide for review both the Mining Operations Plan and Reclamation Plan as submitted to DRMS.

ENV2: In order to evaluate nuisance offsite impacts, please provide both a Dust Control Plan and the Air Pollution Emissions Notice permit provided by CDPHE.

ENV3: The planning request explanation submitted by the applicant indicates that directional drilling mud will be accepted for use as inert fill material; however, drilling mud does not meet the DRMS definition of inert fill material. There are no procedures within the one page inert fill management plan describing the process for dewatering the mud prior to use as inert fill or how the extracted water will be managed. Please address these concerns within the inert fill acceptance management plan.

ENV4: All development located within the southeast corner of parcel #018150000040 shall comply with the with the Natural Resource Conservation Overlay buffer/setback requirements in cestion 4-11-02-04-02.



Katie Keefe

Environmental Program Manager, *Community & Economic Development Department*

ADAMS COUNTY, COLORADO

4430 South Adams County Parkway, 1st Floor, Suite W2000A

Brighton, CO 80601

o: 720.523.6986 | kkeefe@adcogov.org

www.adcogov.org



Development Review Team Comments

Date: 1/3/2020

Project Number: EXG2019-00002

Project Name: Henderson Aggregates Pit Expansion

Commenting Division: Plan Coordination 2nd Review

Name of Reviewer: Greg Barnes

Date: 01/03/2020

Email: gjbarnes@adcogov.org

Resubmittal Required

Commenting Division: Development Engineering Review 2nd Review

Name of Reviewer: Greg Labrie

Date: 01/02/2020

Email: glabrie@adcogov.org

Resubmittal Required

ENG1: The applicant shall submit the design plans for the northbound right turn deceleration lane on Highway 79 at the 72nd Avenue intersection. The applicant must obtain a written letter of approval for the design plans of the turn lane from CDOT and submit this letter to Adams County.

Commenting Division: Environmental Analyst Review 2nd Review

Name of Reviewer: Katie Keefe

Date: 01/02/2020

Email:

Resubmittal Required

See Comments Tab for complete ENV comments.

Commenting Division: Planner Review 2nd Review

Name of Reviewer: Greg Barnes

Date: 12/31/2019

Email: gjbarnes@adcogov.org

Resubmittal Required

PLN01: The land survey plat will need to be a separate application. Please file the LSP with the One Stop Customer Service Center and pay the appropriate fees. Let me know if I can assist you with this process.

Commenting Division: ROW Review 2nd Review

Name of Reviewer: Marissa Hillje

Date: 12/18/2019

Email: mhillje@adcogov.org

Resubmittal Required

ROW1: The Land survey plat submitted with this application should be deposited at the Front counter and applicable fees paid.

ROW2: Please email the right of way dedication exhibit and legals to Mhillje@adcogov.org.

Commenting Division: Application Intake 2nd Review

Name of Reviewer: Erin McMorries

Date: 12/06/2019

Email:

Complete

Commenting Division: Planner Review

Name of Reviewer: Greg Barnes

Date: 08/12/2019

Email: gjbarnes@adcogov.org

External Agencies Selected

Commenting Division: ROW Review

Name of Reviewer: Marissa Hillje

Date: 08/22/2019

Email: mhillje@adcogov.org

Resubmittal Required

ROW1: Parcel # 0181502100002 was created in 2007. This piece of property would have to be over 35 acres to be considered legally created. In order to fix the illegal creation of this parcel, the County will require the owner to create a land survey plat and deposit it at our front Counter. The land survey plat will describe a piece of property that is greater than 35 acres. If you have any questions about this contact Marissa Hillje- mhillje@adcogov.org / 720-523-6837

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Name of Reviewer: Greg Barnes

Date: 09/05/2019

Email: gjbarnes@adcogov.org

Resubmittal Required

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Commenting Division: Development Engineering Review

Name of Reviewer: Greg Labrie

Date: 08/30/2019

Email: glabrie@adcogov.org

Resubmittal Required

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Environmental Review Comments

Katie Keefe

kkeefe@adcogov.org

ENV1. The applicant states within the application packet that a concrete crusher will be used up to 90 days per year to recycle aggregate/concrete at the proposed mining and inert fill site. Concrete recycling operations are a conditional use in the A-3 zone district and is not covered by the current excavation and hauling permit application. A separate conditional use permit is required for aggregate recycling operations. "A crusher may be brought on site to crush concrete or other aggregates as needed to recycle materials. However, a crusher will be at the AFS Bennett Pit no more than 90 consecutive days at a time (AFS resubmittal document, pg. 19)"

ENV2. The applicant provided a copy of the CDPHE Construction APEN Permit for Mining Operations, which does not include concrete crushing and recycling operations as permitted processes. A separate conditional use permit for aggregate recycling operations must be obtained from Adams County that will require the submission of an accurate APEN Permit for concrete and aggregate recycling/crushing operations.

ENV3 . In response to public concerns regarding placement of non-inert material into the pit, the applicant indicates that a handheld photo-ionizing detector (PID) will be used to field screen incoming loads for volatile organic compounds (VOC), the presence of which would indicate contamination from petroleum or other organic based chemicals. The applicant goes on to state that if VOCs are detected, the load will be rejected. This procedure is not identified in the Inert Fill Plan or the 'Inspection and Control Policy' addendum to the Inert Fill Plan. The applicant must clarify whether their response to public concerns is an accurate reflection of the procedures that will be actually implemented for the inert fill operations.

ENV4. Control of the fill materials, keeping records of the sources of the materials used at this site, shall be the responsibility of the applicant. Records concerning sources of fill materials and certifications shall be made available to Adams County inspectors upon request. This site is subject to inspection from Adams County inspectors, during reasonable working hours. Adams County may give notice of inspection prior to the inspection.

ENV5. Authorized personnel trained to recognize non-inert material shall be present on site while filling is taking place and shall inspect and screen each load of material brought to the fill site. Loads containing trash, organic material, and other waste material not meeting the definition of inert material shall be wholly rejected and documented as such. All non-inert materials identified and removed from the inert fill location shall be segregated and disposed of at an approved waste disposal facility at regular intervals and records of disposal shall be kept.

ENV6. A setback buffer consisting of a minimum 50 feet from the riparian plant community along the length of Kiowa Creek shall be maintained and protected from mining activities in accordance with ACDSR Section 4-11-02-04-02.5.b.

ENV7. As recommended in the Resources Review, the applicant shall conduct a raptor nest survey one week before disturbing any new area from April 1 through August 31. If raptor nests are found, vegetation shall not be removed as part of land disturbing activities. The applicant shall keep records of all nest survey results and make these available to the County upon inspection.

ENV8. The applicant has committed to collecting a water quality sample from the central most groundwater monitoring well one time each year. Within 15 days of receiving results of water quality monitoring, the applicant shall submit said water quality results to the County.

ENV9. The applicant shall install a wind gauge, such as an anemometer, at the site of active mining to monitor wind speeds and shall stop all mining and material management activities when wind speeds exceed a sustained 25 mph and when gusts exceeding 35 mph occur.

Greg Barnes

From: Caleb J. Connor <CalebConnor@BennettFireRescue.org>
Sent: Thursday, August 15, 2019 8:11 AM
To: Greg Barnes
Subject: RE: Request for Comments: Henderson Aggregates (RCU2019-00040)

Please be cautious: This email was sent from outside Adams County

Greg,

The Fire District has no objections or comments for this case.



Caleb J. Connor
Battalion Chief - Fire Marshal
Life Safety Division
Bennett-Watkins Fire Rescue

303-644-3572 - Headquarters / 720-893-7672 - Direct

www.BennettFireRescue.org

THIS EMAIL AND ANY FILES TRANSMITTED WITH IT MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION AND MAY BE READ OR USED ONLY BY THE INTENDED RECIPIENT. IF YOU ARE NOT THE INTENDED RECIPIENT OF THE EMAIL OR ANY OF ITS ATTACHMENTS, PLEASE BE ADVISED THAT YOU HAVE RECEIVED THIS EMAIL IN ERROR AND THAT ANY USE, DISSEMINATION, DISTRIBUTION, FORWARDING, PRINTING, OR COPYING OF THIS EMAIL OR ANY ATTACHED FILES IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS EMAIL IN ERROR, PLEASE IMMEDIATELY PURGE IT AND ALL ATTACHMENTS AND NOTIFY THE SENDER BY REPLY EMAIL OR CONTACT THE SENDER AT THE NUMBER LISTED.

From: Greg Barnes <GJBarnes@adcogov.org>
Sent: Monday, August 12, 2019 5:13 PM
To: Greg Barnes <GJBarnes@adcogov.org>
Subject: Request for Comments: Henderson Aggregates (RCU2019-00040)

The Adams County Planning Commission is requesting comments on the following application: **Conditional Use Permit to expand existing mining operations.** This request is located at 50000 East 72nd Avenue. The Assessor's Parcel Numbers are 0181500000401, 0181500000337, and 0181502100002.

Applicant Information:
BEN FREI
7321 E 88TH AVE STE 100
HENDERSON, CO 806408137
HENDERSON AGGREGATE LTD

Please forward any written comments on this application to the Community and Economic Development Department at 4430 South Adams County Parkway, Suite W2000A Brighton, CO 80601-8216, or call (720) 523-6800 by 9/2/2019 in order that your comments may be taken into consideration in the review of this case.

If you would like your comments included verbatim please send your response by way of e-mail to GJBarnes@adcogov.org. Once comments have been received and the staff report written, the staff report and notice of public hearing dates will be forwarded to you for your information. The full text of the proposed request and additional colored maps can be obtained by contacting this office or by accessing the Adams County web site at www.adcogov.org/planning/currentcases. The full case material may take up to 72 hours of this notice to get updated to the website.

Greg Barnes

From: Hackett - CDPHE, Sean <sean.hackett@state.co.us>
Sent: Thursday, August 29, 2019 6:10 PM
To: Greg Barnes
Subject: Re: Request for Comments: Henderson Aggregates (RCU2019-00040)

Please be cautious: This email was sent from outside Adams County

Good evening, Mr. Barnes:

The Colorado Department of Public Health and Environment (CDPHE) appreciates the opportunity to comment on this proposal. Please note that the following requirements are not intended to be an exhaustive list and it is ultimately the responsibility of the applicant to comply with all applicable rules and regulations.

In Colorado, most businesses that are or will be emitting air pollutants above certain levels are required to report those emissions to the Division by completing an Air Pollutant Emissions Notice (APEN). This is a two in one form for reporting air emissions and to obtain an air permit, if a permit will be required. While only businesses that exceed the AQCC reporting thresholds are required report their emissions, all businesses - regardless of emission amount - must always comply with the Colorado AQCC regulations.

In general, an APEN is required when uncontrolled actual emissions for an emission point or group of emission points exceed the following defined emission thresholds:

Table 1 APEN Thresholds		
Pollutant Category	UNCONTROLLED ACTUAL EMISSIONS	
	Attainment Area	Non-attainment Area
Criteria Pollutant	2 tons per year	1 ton per year
Lead	100 pounds per year	100 pounds per year
Non-Criteria Pollutant	250 pounds per year	250 pounds per year

Uncontrolled actual emissions do not take into account any pollution control equipment that may exist.

This project may require a mining operations APEN.

Additional information on APENs and air permits can be found at <https://www.colorado.gov/pacific/cdphe/apen-and-permitting-guidance>. This site explains the process to obtain APENs and air quality permits, as well as information on calculating emissions, exemptions, and additional requirements. You may also view AQCC Regulation Number 3 at <https://www.colorado.gov/pacific/cdphe/aqcc-regs> for the complete regulatory language.

If you have any questions regarding Colorado's APEN or air permitting requirements or are unsure whether your business operations emit air pollutants, please call the Small Business Assistance Program (SBAP) at **303- 692-3175** or **303-692-3148**.

Sincerely,

Sean Hackett
Energy Liaison



COLORADO
Department of Public
Health & Environment

P 303.692.3662 | F 303.691.7702



COLORADO

Parks and Wildlife

Department of Natural Resources

Northeast Regional Office
6060 Broadway
Denver, CO 80216
P 303.291.7227

September 2, 2019

Greg Barnes
Adams County
Community and Economic Development Department
4430 S. Adams County Parkway
Brighton, CO 80601

RE: Henderson Aggregates Conditional Use Permit to Expand Existing Mining Operations (RCU2019-00040)

Dear Mr. Barnes:

Thank you for the opportunity to comment on the application to expand the Henderson Aggregates permitted mining operation. The mission of Colorado Parks and Wildlife (CPW) is to perpetuate the wildlife resources of the state, to provide a quality state parks system, and to provide enjoyable and sustainable outdoor recreation opportunities that educate and inspire current and future generations to serve as active stewards of Colorado's natural resources. Our goal in responding to land use proposals such as this is to provide complete, consistent, and timely information to all entities who request comment on matters within our statutory authority.

The proposed sand gravel and borrow mining expansion is located at 50000 East 72nd Avenue, north of Bennett, in Adams County, Colorado. The proposed permit is for an additional 5 years for the existing 43-acre mining site and the addition of two adjacent parcels of 25 and 35-acres.

The excavation will be both north and south of the current Bennet Pit, a dry alluvial operation. A portion of the southern end of the existing mine and proposed south area has sand and gravel below the alluvial aquifer associated with Kiowa Creek. CPW understands that until feasible for obtaining replacement water of that area, mining will only take place above the groundwater table.

District Wildlife Manager Serena Rocksund recently analyzed this site. The main impacts to wildlife from this development include fragmentation and loss of habitat. Fragmentation of wildlife habitat has been shown to impede the movement of big game species across the landscape. Open space areas are more beneficial to wildlife if they connect to other natural areas. The areas of wildlife habitat that most closely border human development show heavier impact than do areas on the interior of the open space. However, when open space areas are smaller in size, the overall impact of the fragmentation is greater (Odell and Knight, 2001). By keeping open space areas contiguous and of larger size the overall benefit



to wildlife increases dramatically.

CPW would expect a variety of wildlife species to utilize this site on a regular basis, most notably, small to mid-sized mammals, songbirds, and raptors. The potential also exists for large mammals such as deer and pronghorn to frequent this site, due to the proximity to Kiowa Creek and its function as a wildlife movement corridor. Raptors and other migratory birds are protected from take, harassment, and nest disruption at both the state and federal levels. If an active nest is discovered within the development area, CPW recommends that buffer zones around nest sites be implemented during any period of activity that may interfere with nesting season. This will prevent the intentional or unintentional destruction of an active nest.

For further information on this topic, a copy of the document “Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors,” is available from your local District Wildlife Manager or located at

<https://cpw.state.co.us/Documents/WildlifeSpecies/LivingWithWildlife/RaptorBufferGuidelines2008.pdf>.

Following the recommendations outlined in this document will decrease the likelihood of unintentional take through disturbance.

This area currently provides habitat to many wildlife species and wildlife usage may decrease with increased disturbance. However, by minimizing nighttime activity, wildlife may continue to use the area as a movement corridor. CPW recommends all site lights be motion-activated and downward-directed to minimize light pollution for active nocturnal or resting diurnal wildlife species.

If a prairie dog colony is discovered within the project area, the potential may also exist for the presence of burrowing owls. Burrowing owls live on flat, treeless land with short vegetation, and nest underground in burrows dug by prairie dogs, badgers, and foxes. These raptors are classified as a state threatened species and are protected by both state and federal laws, including the Migratory Bird Treaty Act. These laws prohibit the killing of burrowing owls or disturbance of their nests. Therefore, if any earth-moving will begin between March 15th and October 31st, a burrowing owl survey should be performed. Guidelines for performing a burrowing owl survey can also be obtained from your local District Wildlife Manager or found at

<https://cpw.state.co.us/Documents/WildlifeSpecies/LivingWithWildlife/RecommendedSurveyOwls.pdf>.

If prairie dog colonies are present, CPW would recommend they either be captured alive and moved to another location or humanely euthanized before any earth-moving occurs. The possibility of live-trapping and donating to a raptor rehabilitation facility or the black-footed ferret recovery program may also exist. If interested, please contact the local District Wildlife Manager. Be aware that a permit and approval from county commissioners may be required for live relocation.

If reclamation includes a pond, CPW recommend ponds be constructed to have irregular shorelines, and contain one or two islands of at least 15' x 25' in size per 2 surface acres. Shoreline and island slopes should be 4H:1V, with some area having slopes no steeper than 8H:1V. Such shallow areas will allow for establishment of a variety of types of aquatic vegetation and invertebrate prey for waterfowl. Such a shoreline coupled with a planting of

variety of wetland plant species will allow for a variation in wetlands to be established which will have long term benefits to wildlife.

CPW recommends consideration be made for using principles of an integrated weed management plan, which Adams County may already have in place, to control and eliminate the spread of any noxious weeds in and around the site. CPW recommends that the planting of any species listed as noxious weeds be avoided throughout the development site and surrounding area. The spread and control of noxious weeds on the sites is a concern for wildlife in the immediate and surrounding area. Weeds are defined as “a plant that interferes with management objectives for a given area of land at a given point in time” (Whitson, 1999). Invasive plants endanger the ecosystem by disturbing natural processes and jeopardizing the survival of native plants and the wildlife that depend on them. The threat is so severe in the United States that scientist now agree that the spread of invasive species is one of the greatest risks to biodiversity (Nature Conservancy, 2003).

Thank you again for the opportunity to comment on the application to expand the Henderson Aggregates Mining Operation. Please do not hesitate to contact us again about ways to continue managing the facility in order to maximize wildlife value while minimizing potential conflicts. If you have any further questions, please contact District Wildlife Manager Serena Rocksund at (303) 291-7132 or serena.rocksund@state.co.us.

Sincerely,

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

Matt Martinez
Area Wildlife Manager

Cc: M. Leslie, T. Kroening, S. Rocksund

Greg Barnes

From: Brooks Kaufman <BKaufman@Irea.Coop>
Sent: Wednesday, August 28, 2019 7:24 AM
To: Greg Barnes
Subject: RE: Request for Comments: Henderson Aggregates (RCU2019-00040)

Please be cautious: This email was sent from outside Adams County

Dear Mr. Barnes;

The Association has reviewed the contents in the above-referenced referral response packet. We reviewed the project for maintaining our existing facilities, utility easements, electric loading, and service requirements. We are advising you of the following concerns and comments:

The Association has existing underground electric facilities on the subject property. The Association will maintain these existing utility easements and facilities unless otherwise requested by the applicant to modify them under the Association's current extension policies

The Association approves of the expansion.

Respectfully

Brooks Kaufman
Intermountain Rural Electric Association
Lands and Rights of Way Manager
5496 N. US Hwy 85
Sedalia, CO 80135
Direct : 720.733.5493
Cell : 303.912.0765
bkaufman@irea.coop



From: Greg Barnes [mailto:GJBarnes@adcogov.org]
Sent: Monday, August 12, 2019 5:13 PM
To: Greg Barnes
Subject: Request for Comments: Henderson Aggregates (RCU2019-00040)

CAUTION:

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

The Adams County Planning Commission is requesting comments on the following application: **Conditional Use Permit to expand existing mining operations.** This request is located at 50000 East 72nd Avenue. The Assessor's Parcel Numbers are 0181500000401, 0181500000337, and 0181502100002.

Applicant Information:

BEN FREI
7321 E 88TH AVE STE 100
HENDERSON, CO 806408137
HENDERSON AGGREGATE LTD

Please forward any written comments on this application to the Community and Economic Development Department at 4430 South Adams County Parkway, Suite W2000A Brighton, CO 80601-8216, or call (720) 523-6800 by 9/2/2019 in order that your comments may be taken into consideration in the review of this case.

If you would like your comments included verbatim please send your response by way of e-mail to GJBarnes@adcogov.org. Once comments have been received and the staff report written, the staff report and notice of public hearing dates will be forwarded to you for your information. The full text of the proposed request and additional colored maps can be obtained by contacting this office or by accessing the Adams County web site at www.adcogov.org/planning/currentcases. The full case material may take up to 72 hours of this notice to get updated to the website.

Thank you for your review of this case.



Greg Barnes

Planner III, *Community and Economic Development Dept.*

ADAMS COUNTY, COLORADO

4430 S. Adams County Parkway, 1st Floor, Suite W2000A

Brighton, CO 80601-8216

720.523.6853 gjbarnes@adcogov.org

adcogov.org



August 28, 2019

Greg Barnes
Adams County Community and Economic Development
4430 South Adams County Parkway, Suite W2000A
Brighton, CO 80601

RE: Henderson Aggregate Pit Expansion, RCU2019-00040
TCHD Case No. 5794

Dear Mr. Barnes,

Thank you for the opportunity to review and comment on the Conditional Use Permit application to expand existing mining operations at 50000 E. 72nd Avenue. Tri-County Health Department (TCHD) staff has reviewed the application for compliance with applicable environmental and public health regulations and principles of healthy community design. After reviewing the application, TCHD has the following comments.

Air Pollution

Exposure to air pollution is associated with a number of health problems including asthma, lung cancer, and heart disease.

Permit Required

The Colorado Department of Public Health and Environment Air Pollution Control Division (APCD) regulates air emissions of hazardous air pollutants, asbestos, and chlorofluorocarbons (CFCs). The applicant's air permit may be required to be updated for this project. If required, Tri-County recommends that the County require the applicant to have obtained or updated the facility's air emissions permit as a condition for issuance of a building permit. The applicant shall contact the APCD at (303) 692-3100 for more information. Additional information is available at

<https://www.colorado.gov/pacific/cdphe/categories/services-and-information/environment/air-quality/air-emissions-business-and-industry>

Diesel Emissions

The proposed project may increase diesel truck traffic in the area. The Colorado Department of Public Health and Environment Air Pollution Control Division (APCD) regulates air emissions from vehicles including fleet maintenance and limiting idling. The applicant shall contact the APCD at (303) 692-3100 for more information. Additional information is available at <https://www.colorado.gov/pacific/cdphe/lpha/air-pollution-mobile-sources-contacts> and <https://www.colorado.gov/pacific/cdphe/diesel-emissions-control-program>.

Henderson Aggregates Pit Expansion
August 28, 2019
Page 2 of 2

Fugitive Dust

The Colorado Department of Public Health and Environment Air Pollution Control Division (APCD) regulates air emissions, including fugitive dust. Control measures may be necessary to minimize the amount of fugitive emissions from site activities including haul roads, stockpiles, and erosion. The applicant shall contact the APCD, at (303) 692-3100 for more information. Additional information is available at <https://www.colorado.gov/pacific/cdphe/categories/services-and-information/environment/air-quality/business-and-industry> .

Please feel free to contact me at 720-200-1575 or kboyer@tchd.org if you have any questions about TCHD's comments.

Sincerely,

A handwritten signature in cursive script, appearing to read 'K Boyer', followed by a horizontal line.

Kathy Boyer, REHS
Land Use and Built Environment Specialist III

cc: Sheila Lynch, Dylan Garrison, TCHD



December 30, 2019

Greg Barnes
Adams County Community and Economic Development
4430 South Adams County Parkway, Suite W2000A
Brighton, CO 80601

RE: Henderson Aggregate Pit Expansion, EXG2019-00002 (formerly RCU2019-00040)
TCHD Case No. 6038

Dear Mr. Barnes,

Thank you for the opportunity to review and comment on the resubmittal of a Conditional Use Permit application to expand existing mining operations at 50000 E. 72nd Avenue. Tri-County Health Department (TCHD) staff previously reviewed the application and provided the comments below in a letter dated August 28, 2019. TCHD received a response from the applicant, dated December 5, 2019, and the applicant has responded to our comments satisfactorily.

Air Pollution

Exposure to air pollution is associated with a number of health problems including asthma, lung cancer, and heart disease.

Permit Required

The Colorado Department of Public Health and Environment Air Pollution Control Division (APCD) regulates air emissions of hazardous air pollutants, asbestos, and chlorofluorocarbons (CFCs). The applicant's air permit may be required to be updated for this project. If required, Tri-County recommends that the County require the applicant to have obtained or updated the facility's air emissions permit as a condition for issuance of a building permit. The applicant shall contact the APCD at (303) 692-3100 for more information. Additional information is available at <https://www.colorado.gov/pacific/cdphe/categories/services-and-information/environment/air-quality/air-emissions-business-and-industry>

Diesel Emissions

The proposed project may increase diesel truck traffic in the area. The Colorado Department of Public Health and Environment Air Pollution Control Division (APCD) regulates air emissions from vehicles including fleet maintenance and limiting idling. The applicant shall contact the APCD at (303) 692-3100 for more information. Additional information is available at <https://www.colorado.gov/pacific/cdphe-lpha/air-pollution-mobile-sources-contacts> and <https://www.colorado.gov/pacific/cdphe/diesel-emissions-control-program>.

Henderson Aggregates Pit Expansion
December 30, 2019
Page 2 of 2

Fugitive Dust

The Colorado Department of Public Health and Environment Air Pollution Control Division (APCD) regulates air emissions, including fugitive dust. Control measures may be necessary to minimize the amount of fugitive emissions from site activities including haul roads, stockpiles, and erosion. The applicant shall contact the APCD, at (303) 692-3100 for more information. Additional information is available at <https://www.colorado.gov/pacific/cdphe/categories/services-and-information/environment/air-quality/business-and-industry> .

Please feel free to contact me at 720-200-1575 or kboyer@tchd.org if you have any questions about TCHD's comments.

Sincerely,

A handwritten signature in cursive script, appearing to read 'K Boyer', followed by a horizontal line.

Kathy Boyer, REHS
Land Use and Built Environment Specialist III

cc: Sheila Lynch, Dylan Garrison, TCHD



Right of Way & Permits
1123 West 3rd Avenue
Denver, Colorado 80223
Telephone: **303.571.3306**
Facsimile: 303. 571.3284
donna.l.george@xcelenergy.com

September 3, 2019

Adams County Community and Economic Development Department
4430 South Adams County Parkway, 3rd Floor, Suite W3000
Brighton, CO 80601

Attn: Greg Barnes

Re: Henderson Aggregates Pit Expansion, Case # RCU2019-00040

Public Service Company of Colorado's Right of Way & Permits Referral Desk has reviewed the conditional use permit documentation for **Henderson Aggregates Pit Expansion** and has no apparent conflict.

Donna George
Right of Way and Permits
Public Service Company of Colorado dba Xcel Energy
Office: 303-571-3306 – Email: donna.l.george@xcelenergy.com

From: [Greg Barnes](#)
To: [Jen Rutter](#)
Subject: FW: Henderson Aggregates Pit [EXG2019-00002]
Date: Thursday, June 25, 2020 3:01:58 PM

From: lisa colbeck <lisa_colbeck24@yahoo.com>
Sent: Friday, June 19, 2020 1:35 PM
To: Greg Barnes <GJBarnes@adcogov.org>; ehannah@adcogov.com; CommissionersMailbox <commissioners@adcogov.org>
Subject: Henderson Aggregates Pit [EXG2019-00002]

Please be cautious: This email was sent from outside Adams County

Dear Planning Commission and Board of County Commissioners,

My name is Lisa Colbeck, I have a different relationship and perception of Albert Frei and Sons than most. My husband of 19 years, Forrest Colbeck JR, has worked for AFS for 21 years. We are also now a neighbor of the Bennett Gravel Pit.

Over the years my husband has worked in several of AFS gravel pits and in every single one AFS has made it a priority to take care of their neighbors. My husband has been part of the work done for the neighbors over the years and has relationships with them and it is no different here in Bennett. They make any and all efforts to include the people around the pits and let them know what is going on while also helping them with anything from material needed on their property, to up-righting a building that was blown over in the wind, just to name a few things. If myself or any other neighbor has a problem AFS has made themselves available day or night.

They also make sure to shop and use the local businesses for parts and services and develop relationships with the community, sponsoring events such as Bennett Days and they have reached out to the local schools to provide monetary donations for various programs. Also, it can't be ignored how the money they put into the City and County through permits and taxes which in turn better funds the various organizations that receive that money.

I have seen their family-owned business grow over the last 20 years through hard work and effort. Albert Frei and Sons have always been helpful and conscientious as a neighbor. Their success is not limited to the gravel pit, it includes the people around them.

As such, I respectfully request that you approve the above referenced application.

Respectfully,

Lisa Colbeck

49950 E 72nd Ave
Bennett, CO 80102

To: Adams County Community and Economic Development Department

From: Jennifer Curtis

49850 E 72nd Ave

Bennett, CO 80102

(720) 936-2348

Date: June 22, 2020

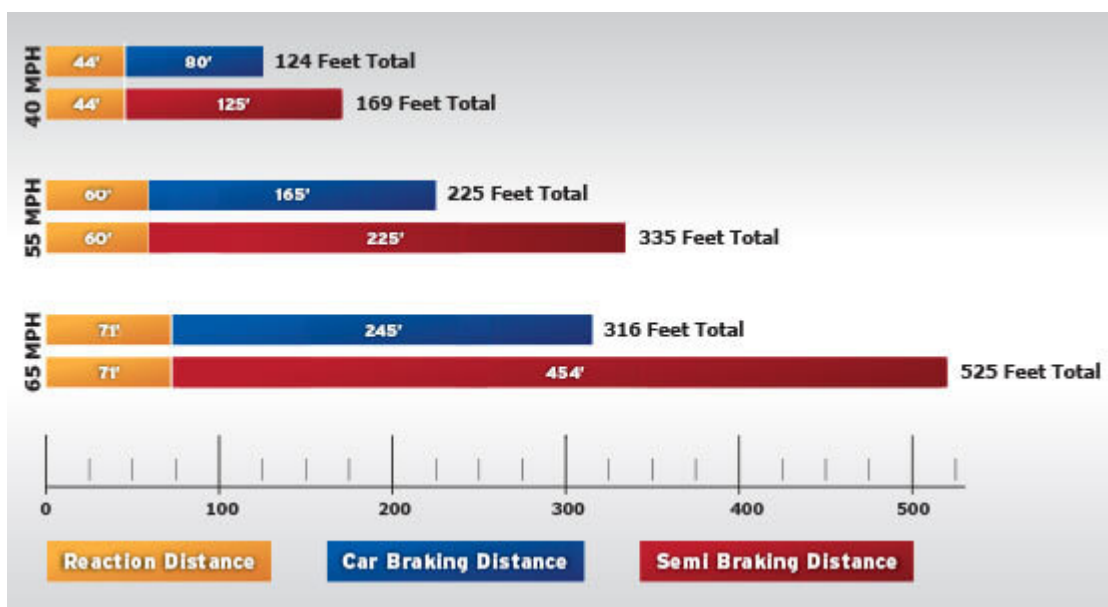
Subject: EXG2019-00002 Henderson Aggregates Conditional Use Permit Comments

Traffic Comments

1. AFS Bennett Pit has been operating under Conditional Permit # M-2001-038. Until the new Conditional Permit is approved, AFS is still obligated to adhere to EXG-2005-00006 which states "Traffic from SH79 and 72nd Avenue is estimated to be less than 20 trips per day." AFS traffic has increased dramatically prior to the requested changes to the permit being approved. It is hard to have confidence with AFS and the permitting process when violations to the current permit have been allowed since AFS purchased Bennett Sand Pit.
2. What are the projected truck trips per day AFS is requesting?
3. "LSC Traffic Consultants has completed the Traffic Study. A copy of the LSC Traffic Study is attached. Chris McGranahan with LSC has described how the estimated traffic volumes were determined and that they were based on high traffic volume records provided by the applicant." What is the traffic volume from the sand pit on E 72nd Ave?
4. "Trip Generation 1. **The expansion is projected to generate about 120 additional one-way truck trips on the average weekday**, with about half entering and half exiting during a 24-hour period. During the morning peak-hour of the site, about 6 additional trucks will enter and about 6 additional trucks will exit the site. During the afternoon peak-hour of the site, about 6 additional trucks will enter and about 6 additional trucks would exit the site." What does AFS expect truck traffic to be on a daily basis? What would the make level be?
5. I have observed convoys of trucks of 5-8 that park on E 72nd Ave preventing me from exiting my property to gain access to E 72nd Ave. I have observed trucks lined up on E 72nd Ave in the mornings prior to the opening of AFS and the trucks idle which wakes me up (I am a shift worker). As stated in AFS' Conditional Permit, **"Trucks entering or exiting the AFS Bennett Pit are instructed to not stop and are not permitted to be standing or idling along 72nd Avenue.** Trucks that arrive at the AFS Bennett Pit, prior to opening hours, will be allowed to wait to be loaded or unloaded along the entrance road on the AFS Bennett Pit property. No other standing, stopping or idling in

the neighborhood, other than on AFS Bennett Pit property is permissible by AFS.” It appears as if AFS’ customers should be educated and adhere to their procedures.

6. I am aware there is no posted speed limit on E 72nd Ave thus it is assumed to be 55 mph. E 72nd Ave is approximately one mile long. I have often observed trucks traveling over 45 mph and having to use their “Jake brakes” to slow down to turn south bound into the sand pit. I have observed trucks having to back up to prevent an accident due to another truck leaving AFS’ service road. The speed of the trucks has been observed by Adams County Road personnel, as well as residents. The speeds are so dangerous, Adams County had to close the road several times just to work on it safely. Prior to the widening of the road, I was almost run off the road due to a speeding truck.
7. “AFS will request and pay for Adams County to provide and post a roadside sign stating that Jake Brakes are expressly prohibited along 72nd Avenue.” When will E 72nd Ave and Highway 79 be posted with these signs?



This graph depicts stopping distances on pavement with appropriate brakes. A safer option would be a posted semitruck speed limit of 25 or 30 mph on E 72nd Ave. This will greatly reduce vehicle accidents, road damage and dust.

I have observed trucks with loads not covered. This allows the sand to blow into the air causing dust and air pollution. “Further, all trucks entering and exiting the AFS Bennett Pit are required to have a covered load to prevent rocks and debris from flying off of their trailers. Truck drivers are required to obey traffic laws and respect school bus stops and signals, as they are on all roadways.”

Road Comments

1. The improvements to E 72nd Ave have been appreciated. The improvements have included widening the road, new culverts and soil stabilizer. This has helped with the road rutting, dust mitigation and improved road safety.

2. "A fully executed roadway maintenance agreement has been approved by Adams County BOCC on November 12, 2019. A copy of the Adams County BOCC resolution is attached as well as a signed copy of the Road Maintenance Agreement. The Agreement with Adams County provides for roadway maintenance and paving and deceleration lane construction, if the expansion of the AFS Bennett Pit is approved." What is the projected date E 72nd Ave will be paved?
3. **"AFS has agreed to pay for the paving of 72nd Avenue**, an unimproved gravel road. The Road Maintenance Agreement was approved by Adams County BOCC on November 12, 2019. **AFS believes this is the best way to manage the road safety from the mine entrance at Provost Road to Highway 79."**

Air Quality Comments

1. Does AFS have a wind meter installed and monitored to ensure they cease operations during high winds? "The applicant shall install a wind gauge, such as an anemometer, at the site of active mining to monitor wind speeds and shall stop all mining and material management activities when wind speeds exceed a sustained 25 mph and when gusts exceeding 35 mph occur."
2. "A wind gauge will be installed and used to monitor wind speeds. Mining activities and other mining management activities will stop when wind speeds exceed a sustained 25 mph or gusts exceeding 35 mph. Loading of stockpiled aggregate into trucks will not stop unless wind speeds interfere with safety concerns of the truck driver or equipment operator." If mining activities should be halted due to wind speeds, why would loading of trucks continue? The dust from loading trucks will still occur.
3. Can the berms be seeded to assist with wind erosion? I have observed sand being blown from the berms during windy conditions around 20 plus mph. "AFS is committed to constructing and using berms along the edges of the property boundaries. The berms would be built at a time that screening from surface mining in the area is needed or desired. These berms are designed to mitigate concerns of noise and dust from the AFS Bennett Pit to adjacent property owners."
4. The dust on E 72nd Ave has improved due to the addition of soil stabilizers. What is the projected date to pave E 72nd Ave as approved? "Adams County Board of County Commissioners (BOCC) have approved plans to improve 72nd Avenue between State Highway 79 and the AFS Bennett Pit entrance at Provost Road. f) AFS agreed to escrow the funds to pay for the paving project on 72nd Avenue and the Adams County Board of County Commissioner (BOCC) approved the project on November 12, 2019."
5. I have observed trucks idling on E 72nd Ave and on AFS' service road. "Truck deliveries and loads will all be performed by outside parties that would be required to maintain a fleet diesel control program. AFS Bennett Pit site personnel will advise truck drivers to limit idling of their vehicles when not in use to further reduce diesel exhaust emission."

Aggregate Crusher Comments

1. "The applicant states within the application packet that a concrete crusher will be used up to 90 days per year to recycle aggregate/concrete at the proposed mining and inert fill site. Concrete recycling operations are a conditional use in the A-3 zone district and

is not covered by the current excavation and hauling permit application. A separate conditional use permit is required for aggregate recycling operations. "A crusher may be brought on site to crush concrete or other aggregates as needed to recycle materials. However, a crusher will be at the AFS Bennett Pit no more than 90 consecutive days at a time (AFS resubmittal document, pg. 19)" Will AFS be crushing aggregate? Will AFS notify surrounding neighbors when they will be using it? Will there be noise mitigation utilized for the crusher like fracking panels?

2. "The applicant provided a copy of the CDPHE Construction APEN Permit for Mining Operations, which does not include concrete crushing and recycling operations as permitted processes. A separate conditional use permit for aggregate recycling operations must be obtained from Adams County that will require the submission of an accurate APEN Permit for concrete and aggregate recycling/crushing operations." Has a separate conditional permit been issued for the crusher?
3. AFS is proposing rock crushing which will prevent me from sleeping as I work shift work. I would like Adams County to consider a condition that AFS enclose the rock crusher with sound barriers (fracking panels) to minimize excessive noise. AFS is proposing to use the pit for 10 – 17 years and the noise will inhibit my ability to sleep and the enjoyment of my property.

Inert Fill Comments

1. "In response to public concerns regarding placement of non-inert material into the pit, the applicant indicates that a handheld photo-ionizing detector (PID) will be used to field screen incoming loads for volatile organic compounds (VOC), the presence of which would indicate contamination from petroleum or other organic based chemicals. The applicant goes on to state that if VOCs are detected, the load will be rejected. This procedure is not identified in the Inert Fill Plan or the 'Inspection and Control Policy' addendum to the Inert Fill Plan." Does AFS utilize the PID?
2. "Authorized personnel trained to recognize non-inert material shall be present on site while filling is taking place and shall inspect and screen each load of material brought to the fill site. Loads containing trash, organic material, and other waste material not meeting the definition of inert material shall be wholly rejected and documented as such. All non-inert materials identified and removed from the inert fill location shall be segregated and disposed of at an approved waste disposal facility at regular intervals and records of disposal shall be kept." Has AFS personnel been trained in this area?
3. "Control of the fill materials, keeping records of the sources of the materials used at this site, shall be the responsibility of the applicant. Records concerning sources of fill materials and certifications shall be made available to Adams County inspectors upon request." Are records available for review?
4. "An amended Inspection and Control Policy which is contained in the Supplement to Inert Fill Plan as approved on **October 9, 2020** is attached hereto and includes descriptions for use of a PID and load rejection. The use of these procedures will be implemented for inert fill operations prior to the first delivery of inert materials." This amendment is dated in the future. Is this correct?

5. "In accordance with the amended Inspection and Control Policy, records concerning source of fill materials and certifications will be available to Adams County inspectors upon request." Are these available for residents to review? Can Adams County inspectors advise residents on the results?

Water Quality Comments

1. "The applicant has committed to collecting a water quality sample from the central most groundwater monitoring well one time each year. Within 15 days of receiving results of water quality monitoring, the applicant shall submit said water quality results to the County." What is the date of the last water quality sample?
2. "Results from the annual water quality sample from the central most groundwater monitoring well will be submitted to Adams County within 15 days of receiving the laboratory results." What are the results of the water quality test?

Property Values and Visual Impacts Comments

1. "Property values should not be affected by the AFS Bennett Pit given this location has had an existing mine site since 2001." The existing mine does not border residents on E 72nd Ave so this statement is true based upon the original sand pit boundaries. Based upon the new projected boundaries, the sand pit will not only be visible from E 72nd Ave but will adversely affect the future property value of 49850 E 72nd Ave as the sand pit will border two sides of the property. This statement becomes false under the proposed Conditional Permit, if approved.

c) "The AFS Bennett Pit does not currently have a visual impact on the neighboring properties in that it has a low profile and is below the visual horizon." This statement is also true under the original permit but will be very visible upon its expansion.

d) "AFS is committed to constructing and using berms along the edges of the property boundaries. The berms would be built at a time that screening from surface mining in the area is needed or desired. These berms are designed to mitigate concerns of noise and dust from the AFS Bennett Pit to adjacent property owners." The berms should be seeded to prevent sand and dust during windy conditions. I have observed sand flying off the tops of the existing berms. I would also suggest AFS plant trees between the fence and the berms to shield residents from visual, dust and noise generated from the sand pit.

e) "Once the permit is approved, AFS is committed to complying with the integrated weed management plan submitted and approved by DRMS." AFS should be complying with weed management as a good neighbor gesture instead of waiting for approval. I believe the original permit stipulates weed management as a condition of the permit.

Compliments

1. Mr. Ben Frei has asked for my input and provided information on fencing, berms and roads. I appreciate him being a "good neighbor". I realize Mr. Frei incurs expenses to fence and pave the road. These are concrete actions AFS is committed to following the constructs of the permit.

2. I thank Adams County for widening and putting soil stabilizer the road. It has been a tough process with all the traffic on the road. These actions have greatly improved road safety as well as dust mitigation. It has also improved the rutting of the road.

I am still concerned about the proposed expansion doubling the size of the sand and gravel pit by a company that has failed to abide by the Sand Pit's permit and mining plan. The Governmental agencies tasked with ensuring adherence to the permit, mining plans and environmental concerns has been lacking. The proposed Conditional Use Permit should be strictly regulated based upon AFS' current and past behavior on the proposed site. AFS has been penalized but I continue to observe violations that concern me. As a company, AFS' actions towards the environment, air quality, water quality and impact on the quality of life of myself and affected neighbors is disheartening and threatens the health, safety and welfare of myself, my neighbors and the community. I would like assurances from Adams County and AFS that the conditions in permit will be followed to ensure a safe environment for all of us.

Thank you very much for opportunity to voice my concerns and provide comments.

Sincerely,

Jennifer Curtis

Jennifer Curtis

To: Adams County Community and Economic Development Department

From: Jennifer Curtis

49850 E 72nd Ave

Bennett, CO 80102

(720) 936-2348

September 2, 2019

Subject: AFS-Bennett Pit # M-2001-038 Conditional Use Permit Comments

I have comments concerning the expansion to the existing mining operations located at 50000 E 72nd Ave. I have several concerns as a property owner whose property will be bordered on two sides by the proposed expansion of Henderson Aggregate LTD (AFS).

My first concern is with the dumping of unknown liquids into the sand pit with no procedures by AFS to ensure no contaminants are polluting the ground and ground water. According to AFS, they receive one to two liquid loads of "Drilling Mud" daily. AFS has no procedures to test the material to ensure it is inert and will not contaminant the land or water. AFS told me the responsibility to ensure the material is "Inert" lies with each truck driver. This policy is wholly inadequate and threatens the health, safety and welfare of myself, my neighbors and our animals, the entire community, as we drink this water daily with no assurances of its safety. My hope is Adams County will ensure the safety of my water and assist AFS in the proper disposal of drilling mud and other inert materials. AFS had rebar inside inert cement materials Inspections and testing should be completed to ensure materials placed at the site are truly inert and uncontaminated as listed in the Permit Section 6.4.4

My next concern is with the "inert fill" being dumped into the pit. Again, AFS says the responsibility to ensure no contaminants are being buried on site lies with the truck driver and AFS. AFS does not have any policies or procedures to ensure materials dumped into the pit are not contaminated. AFS has also recently taken down all the previous berms to cover materials in the pit. Again, AFS's actions and lack of safe environmental procedures for materials put into the sand pit leaves me fearful my water supply may become contaminated. Adams County Colorado Division of Reclamation is not interested in ensuring the safety of its Colorado residents, the water quality, the environment, the land and its wildlife neighbors. I hope Adams County can coordinate with the Environmental Protection Agency (EPA) to provide oversight and methods to AFS to ensure the safety of our water, land and environment. Annual independent

testing should be completed to ensure materials placed at the site are truly inert and uncontaminated as listed in the Permit Section 6.4.4

Another concern is AFS's lack of maintenance of E 72nd Ave. The road is very rough, has several potholes and is extremely dusty. The dust from the semi-truck traffic routinely covers the first quarter to one third of the front of my property preventing me from using it until the semi-trucks are through using the road. The dust may contain silica which is hazardous to health. AFS should assist Adams County with paving or using recycled asphalt to prevent dust and road damage from the semi-truck traffic. I would also like to see a speed limit of 25 mph for semi-truck traffic to ensure safety on the roadway.

I would like AFS to install a 6 foot fence bordering my property and AFS due to the depth of the proposed pit. I would like AFS to use berms and evergreen trees to limit the noise and dust from the sand pit. AFS is proposing rock crushing which will prevent me from sleeping as I work shift work. I would like Adams County to make a condition the AFS must enclose the rock crusher with sound barriers (fracking panels) to allow me to sleep. AFS is proposing to use the pit for 10 – 17 years and the noise will inhibit my sleep and the enjoyment of my property.

I would like Adams County to prevent AFS from allowing hunting/shooting in the pit. I would like Adams County to have a stipulation that AFS must stop all operations if there is 20 mph winds to prevent the dust from coming on my property.

I am concerned about the proposed expansion doubling the size of the sand and gravel pit by a company that has failed to abide by the Sand Pit's permit and mining plan. The Governmental agencies tasked with ensuring adherence to the permit, mining plans and environmental concerns has been lacking. The proposed Conditional Use Permit should be denied or strictly regulate AFS based upon their current and past behavior on the proposed site. As a company, AFS' actions towards the environment, wildlife, air quality, water quantity/quality and impact on the quality of life of myself and affected neighbors is disheartening and threatens the health, safety and welfare of me, my neighbors and the community.

Thank you very much for opportunity to voice my concerns.

Sincerely,

Jennifer Curtis

Nancy Donaldson
7550 Provost Road
Bennett, CO 80102

Community and Economic Development Department
4430 South Adams County Parkway
Suite W2000A
Brighton, CO 80601-6216
gjbarnes@adcogov.org

September 1, 2019

RE: Case #RCU2019-00040 Henderson Aggregate Pit Expansion

This letter is in response to the Request for Comments on the above-names matter dated August 12, 2019. I have lived at my current address for over 23 years. Until recently (approximately two years ago) I found the quality of life in the area to be exceptional. That changed, however, when Henderson Aggregates purchased and began operating the sand and gravel mine located at 50000 E. 72nd Avenue, Bennett, CO. Listed below are the major issues that concern me and that can only worsen if the Henderson Aggregate Expansion is allowed to proceed without intervention to the part of the county to protect the neighbors.

- Air Pollution – The dust created by the mining operation is significantly worse than a few years ago. Currently, I receive Air Quality Alerts on an almost daily basis. This situation can only continue to worsen with expanded operations at the mine. Breathing an increased level of dust and particles is harmful to the health of humans and animals both domestic and wildlife.
- Noise – Currently the noise pollution from the mine is primarily due to the truck traffic. The mine expansion will more than double the truck traffic and the resulting noise. Additionally, the expansion request includes use of a gravel-crushing machine. Gravel crushing is not performed at the Bennett mine at this time. Noise from gravel crushing will negatively impact essentially every aspect of the rural lifestyle.
- Traffic and Roads – Seventy Second Avenue is a dirt road. Dirt, not gravel or asphalt, recycled asphalt or any other type of road material. Weather conditions can make traveling on the dirt roads difficult for residents. Add heavy truck traffic to the mix and a dirt road and bad weather and the road quickly becomes almost impassable.

I respectfully request Adams County place restrictions and/or monitoring on each of above-mentioned areas.

- Monitor the local air quality and place restrictions on acceptable levels of dust and particulate matter.

- Monitor the level of noise pollution placing restrictions on excessive noise.
- The section of 72nd Avenue between Highway 79 and Provost Road needs to be improved. Based on living off the road for 23 years I do not believe the dirt road can be maintained well enough to handle the proposed truck traffic. The material on Converse Road (sealed recycled asphalt?) would eliminate the giants ruts caused by the semis and reduce the dust problem from the trucks.

Thank you for your consideration of these issues. I look forward to reviewing your report and attending the public meetings.

Regards,

Nancy Donaldson
(303) 748-4271
oero0314@hughes.net

Mark Faber
Victoria Katchen
7230 Provost Rd
Bennett, Co 80102

Planning Commissioners
ADAMS COUNTY, COLORADO
4430 South Adams County Parkway, 1st Floor, Suite W2000B
Brighton, CO 80601

June 22, 2020

Conditional Use Permit application for AFS-Bennett Pit

Dear Planning Commissioners
ADAMS COUNTY, COLORADO

We are concern neighbors of Bennett Sand and Gravel, I am writing this letter in response to the permit application for Albert Frei and Sons, Inc. Henderson Aggregate, Ltd.. Kindly take these few concerns in considering your decision with granting the permit application. We are very concerned about the permit application being flied by Albert Frei and Sons, for the following reasons:

1. Concerns of the hours of operation. They are requesting from 6:00a.m. to 10:00p.m., Monday through Saturday. This is unacceptable. This is a residential neighborhood. The current operating hours are acceptable. 7:00a.m. to 3:30p.m. Monday thru Friday.
2. Truck traffic. There is already heavy semi truck traffic on 72nd Ave. and Provost Road. The truck traffic has already increased since the purchase of pit by AFS. I believe the current permit states a 20 truck limit a day. This has not been followed since the take over of AFS, I think 75 trucks a day is plenty. I think 120 is pushing the limit for a day. The pit is suppose to water the road to keep dust down within the pit and around the corner onto 72nd, This is very sporadic.
Most of the trucks hauling sand out of pit are operating with license plates from Oklahoma. Therefore are Not Paying Colorado Road Taxes.
There is also a safety issue for AFS trucks who fail to yield for the stop sign on their property and turn left out of pit. This has caused numerous occasions a near collision to on coming traffic on 72nd.
3. The speed limit on 72nd. Ave. With the road improvements the trucks continue to speed down 72nd Ave. The trucks travel at excessive speed and I fell this very dangerous for all other that travel this road also.
4. And last but not least, there is the weed problem, especially at the entrance of the pit which has not been mowed all summer. It is about 2 to 4 ft. high at this time. Mr Frie told me he was going to keep this area mowed during a meeting we had with him. He has not kept his word for a second year in a row. I keep my driveway mowed, spray for weeds and keep it looking tidy and I expect no more of them than what I do myself. It is hard to have confidence in this company with any more serious issues when they do not manage one as basic as this.

We feel that the expansion of this pit has affect the quality of life of our community

Thank you for taking the time to read this letter.

I will be out of cell phone service range, on the meeting date June 25 at 6:00 But wanted you to be inform of our concerns.

We can be reached at: Mark Faber 303-489-4330 or mfperformance@yahoo.com
Victoria Katchen 303-489-5596 or at vkatchen@yahoo.com

Sincerely,

Mark Faber

Victoria Katchen

Greg Barnes

From: Victoria Katchen <vkatchen@yahoo.com>
Sent: Wednesday, August 28, 2019 6:39 AM
To: Greg Barnes
Subject: Fw: Henderson Aggregates Pit #RCU2019-00040
Attachments: IMG_4776 (2).JPG; IMG_4779.JPG; IMG_4780.JPG; IMG_4783.JPG

Please be cautious: This email was sent from outside Adams County

Mark Faber
Victoria Katchen
7230 Provost Rd
Bennett, Co 80102

Community & Economic Development Department
ADAMS COUNTY, COLORADO
4430 South Adams County Parkway, 1st Floor, Suite W2000A
Brighton, CO 80601

August 27, 2019

Conditional Use Permit application for AFS-Bennett Pit

Dear Community & Economic Development Department
ADAMS COUNTY, COLORADO

We are concern neighbors of Bennett Sand and Gravel, I am writing this letter to protest the permit application for Albert Frei and Sons, Inc. AFS- Bennett Pit. Kindly consider your decision with granting the permit application. We are very concerned about the permit application being flied by Albert Frei and Sons, Inc AFS-Bennett Pit. We feel the pit will cause damage to the environment, wildlife and dry up the area's water resources. Also will introduce contaminants (primarily sediment) to our wells and the alteration of the volume of the baseline flow. We are on well water and have concerns about our water quality and if our well will be deep enough if the gravel mining uses a lot of water for washing sand and drop the level of the aquifer. Our well is 280ft. and our pump sits at 220ft.

Then there are concerns of the air quality and noise. There is already heavy semi truck traffic on 72nd Ave. and Provost Road. The truck traffic has already increased since the purchase of pit by AFS. The dust from the trucks is horrible. I'm concerned that my asthma will worsen and how this will impact and exaggerate this condition. In addition to causing new health problems. AFS does not maintain 72nd Ave. AFS drags a heavy plate down road occasionally and maybe will water-down road once in a while, but not enough to control the dust problem. The pit should have to pave the road or Adams County and AFS should come up with a solution to control the dust problem. I've seen on 38th and Converse Rd. the County put a product down on gravel road to help eliminate the dust. Maybe something like this can be put on 72nd Ave. There should also be a limit to the amount of trucks that run everyday out of AFS Pit. I believe the current permit states a 20 truck limit a day. This has not been followed since the take over of AFS, usually there is 50 to 150 trucks that run out of pit a day. Most of the trucks hauling sand out of pit are operating with license plates from Oklahoma. Therefore are Not Paying Colorado Road Taxes.

My other concerns are that when I was on the tour of AFS Sand Pit, I noticed standing water which seemed fairly deep. I was told it was storm water, although we had no standing water on our property right next door. I don't recall any measurable rainfall prior to tour. There was a pump nearby.

I don't feel comfortable with this. In accordance with Colorado Division of Water Resources Rules and Regulations, standing water should either discharge to the stream system, percolate or evaporate within 72 hours or the operator would have to get an approved augmentation plan from their office. I was told AFS is aware of these requirements. I do not know if they have sought or received an approved augmentation plan.

I also observed concrete inert in a pile that contained rebar. It is my understanding that any concrete to be buried cannot contain metal of any kind. We would never know what is contained in the concrete once it is buried until years later when it effects our water quality.

And last but not least, there is the weed problem, especially at the entrance of the pit which has not been mowed all summer. It is about 3 to 4 ft. high at this time. Mr Frie told me he was going to keep this area mowed during a meeting we had with him. He has not kept his word. This has also become a safety issue for AFS trucks who fail to yield for the stop sign on their property and turn left out of pit. This has caused numerous occasions a near collision to on coming traffic on 72nd.

I keep my driveway mowed, spray for weeds and keep it looking tidy and I expect no more of them than what I do myself. It is hard to have confidence in this company with any more serious issues when they do not manage one as basic as this.

We feel that the expansion of this pit will affect the quality of life of our community

Thank you for taking the time to read this letter.

We can be reached at: Mark Faber 303-489-4330 or mfperformance@yahoo.com

Victoria Katchen 303-489-5596 or at .vkatchen@yahoo.com

Sincerely,

Mark Faber

Victoria Katchen

From: [Andrew Granger](#)
To: [Jen Rutter](#)
Subject: Public comment: Case number EXG2019-00002 Henderson Aggregate Pit Expansion
Date: Wednesday, June 24, 2020 10:28:00 PM

Please be cautious: This email was sent from outside Adams County

Dear Ms. Jennifer Rutter,

As a resident and owner of an adjacent property since 2014 here are my concerns:

Previous operations of Bennett Sand and Gravel maintained a balance of business and respect to the surrounding residential homes and rural setting of the area. In these previous operations, a small number of trucks were utilized (less than 20 per day). This previous operation appeared to be in line with its permit and most importantly did not disrupt the rural, country environment of its neighbors. After an ownership change, the impact to the surrounding neighborhood has been severe. Gone are the days of a few trucks running a day, now it can be a hundred plus. A once small operation has now given way to a full scale industrial plant. With hundreds of trucks running down the road, the subsequent level of noise, dust and pollution are unacceptable. As an owner of an adjacent property my experience over the last 5 years is in dire contrast to the findings in "Fact #4". Under the findings of fact #4 states:

"The conditional use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the immediate area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and the County."

1. How was this opinion of "Fact #4" established?

- A large industrial scale operation is NOT "harmonious" with a quiet, rural farm environment. Running a hundred plus number of trucks down a rural country neighborhood is NOT "harmonious" with the character of a rural country landscape. In fact it helps destroy it.
- A large industrial scale operation is "detrimental" to a quiet, rural farm environment.
- A large industrial scale operation could indeed be detrimental to the future development of the area – changing it from a country landscape to an industrial site. Additionally this "inert material" being brought to the site could jeopardize the local environment if contaminated.
- The health, safety and welfare of the local residents are currently in jeopardy. Health – increased pollution. Safety – too many trucks going too fast on a country road. Welfare – the disruption of the neighborhood and the potential affect on home values.

2. How can these stark contrasts outlined above possibly be reconciled?

3. What is the liability of the new ownership in the potential affect of home values in the area?
4. What is the liability of the county in potentially approving this permit?
5. What rights do we have as neighbors to limit the amount of trucks and to keep hours of operation in line with a residential, country neighborhood?

Thank you,

Andrew Granger

7490 Provost Rd.

Bennett, CO 80102

From: [Kelsey Magnuson](#)
To: [Jen Rutter](#)
Subject: CASE NAME: HENDERSON AGGREGATES PIT
Date: Monday, June 22, 2020 4:08:56 PM

Please be cautious: This email was sent from outside Adams County

Hello Jennifer,

First of all I want to thank all of you for listening to our concerns and the work ADCO has done to improve 72nd.

I read through the application and still have concerns with approving the conditional use permit for gravel mining.

Truck volume and speed is still a concern for all of the neighbors who use 72nd Avenue. When it was previously owned by Dave Lincoln and was Bennett Sand and Gravel, all of us thought that permit allowed only 20 trucks per day. We could live with this and it wasn't that noticeable. Almost tripling the amount of land that will be mined for gravel will have a huge impact on the truck traffic, noise, air quality, wildlife, etc.

In reading through the 119 pages I did not see the results of the traffic study. Is that public knowledge? When was it done and what were the results? If this conditional use permit is approved, I think there has to be a maximum number of trucks that can come and go into the pit per day. It cannot simply be based on supply in demand.

This also brings up another point of concern, the proposed hours of operation. 6am-10pm Monday through Saturday is ridiculous in a country community where the gravel pit is surrounded by private homes. As a nurse, I work various days/weekends and I can tell you there have been trucks flying down Provost Road way before 6am. Trucks have also been parked at the entrance waiting for them to open the gates. There has to be a balance between their business and our quiet livelihood.

Another concern for us is the speed limit of 55 mph on the dirt roads. First of all that is way too fast for any vehicle and should be reduced with the increased number of trucks.

Finally with concerns with truck traffic, 72nd Ave was supposed to be the main entrance to the pit. In some sections of the permit it says Provost Road will be used? Will this be the case? If so we have never had a water truck drive by to keep the dust down.

Other things listed in the permit that I have questions about I have listed below:

Under the findings of fact #4 states:

The conditional use is compatible with the surrounding area, harmonious with the

character of the neighborhood, not detrimental to the immediate area, not detrimental to

the future development of the area, and not detrimental to the health, safety,

or welfare of

the inhabitants of the area and the County

How is this measured and are the concerns of the neighbors have a say in this?

Under public comments it is stated, "Since the initial referral period, the applicant entered

into the Roadway Maintenance Agreement with the County and made improvements on East

72nd Avenue to mitigate dust and road damage concerns. Staff has not received any further

updates from the five commenters since those measures were implemented."

I am not sure when the Road Maintenance Agree went into effect, because in the application it is not signed or dated, but I have been in contact with ADCO via emails and phone calls in January, February and April requesting updates and reporting things that were not being followed by the permit. Although Ben Frei has been very nice and things have been fixed or taken care of, it appears that all of this is done because of us complaining that they were not following the permit in the first place. And if they are trying to get the permit extended 10 years they will do everything now to be compliant, but what happens once the permit is granted? How do we know they are following the rules?

Thank you for your time,

Kelsey Magnuson

Greg Barnes

From: Kelsey Magnuson <magnu079@gmail.com>
Sent: Monday, September 02, 2019 5:22 PM
To: Greg Barnes
Subject: Henderson aggregates pit expansion. Case #RCU2019-00040

Please be cautious: This email was sent from outside Adams County

Dear Greg Barnes and the ADCO Community and Economic Development Department,

I am writing in with concerns regarding expanding the permit of AFS or Albert Frei and Sons.

We live less than a half a mile from the gravel location and have numerous concerns regarding the gravel pit.

The gravel pit when it was owned and operated as Bennett Sand and gravel, they averaged about 20 loads of mined sand and gravel daily. The original permit for Bennett Sand and Gravel was appropriate based on the small impact the business had on neighbors, the environment and the roads. A major concern of the AFS expansion is the direct affects it will have on the environment, wildlife, air quality, quantity and quality of well water, truck traffic and the safety and livelihood of our neighbors. Even though there are plans to mitigate and refill the pit with inert material, it will never again be the same. And if our water gets contaminated, because I believe the plan is to mine only 2 feet above the water table, it may never be able to be cleaned up.

As neighbors we are hesitant about this company because for the past 2 years they have not been following the rules in the permit, so we are hesitant if the expansion permit goes through that they will follow the rules in the future.

Even with the independent traffic study, there are days the truck traffic starts before 7am and there are way more trucks on the road than 20/day. Ben Frei told us at a neighborhood meeting that the truck traffic could increase if the demand for sand and gravel goes up. Sharing the road with these semis is scary and dangerous, especially when the roads are not maintained or the weather is bad. The trucks drive too fast and the road is too narrow to support all of this truck traffic. Also, heavy usage of the road by the semi trucks causes major potholes and dips that make it challenging to drive on as well.

Then there is the issue of dust and air quality from the truck traffic.

Not to mention the affects all the mining will have on the wildlife. We use to have a huge heard of deer hay are no longer around. There are coyotes, birds of prey, toads and jack rabbits to name a few. With all the noise and digging what will happen to them and are they even considered in this expansion?

Thank you for taking the time to read and address these concerns. I've emailed Steve O'Dorisio and Mary Hodge previously with all of these concerns as well.

Please keep me updated on the public hearing date regarding this permit expansion. If it were up to myself and my neighbors we would oppose expanding this permit. We are not against business, but think this expansion is not appropriate in our tiny country neighborhood.

Thank you,

Kelsey Magnuson
7490 Provost Road
Bennett, Co

Elva P Munoz
7550 Provost Road
Bennett, CO 80102

Community & Economic Development Department
Adams County, Colorado
4430 South Adams County Parkway, 1st Floor
Suite W2000A
Brighton, CO 80601

September 1, 2019

Attention: Greg Barnes

As a resident on Provost Road off 72nd Ave, I have some concerns with the owners of AFS-Bennett Pit Albert Frei and Sons, Inc. Since AFS – Bennett Pit took over the Bennett Sand and Gravel; there have been ongoing and growing concerns.

Several of us neighbors have been in constant contact with the Colorado Division of Reclamation, Mining and Safety. We've attended a couple informal meetings including a recent Board Meeting on August 21, 2019 and recent tour of the facility with the Board of Colorado Division of Reclamation on August 27, 2019. I recognize that the Colorado Division of Reclamation handles issues other than Adams County but our concerns are not just specific issues but the lack of effort of transparency that the Colorado Division of Reclamation mentioned that AFS's should be forthcoming.

AFS, specifically, Ben Frei, listened to our concerns and promised some things that he cannot, or should not promise or has gone back on his word on. When questioned that we're seeing a huge increase of trucks from the initial approval agreement of 20 trucks per day and that it has increased to 50 to 100 (well over the application amount). He said he's "he's not receiving tickets indicating that amount". He apparently is not at the facility and counts on others to tell him supposedly what's going on at the plant. When we mentioned that trucks were entering in and out of the facility prior at the hours of 5:30 – 6:00 A.M.; again his response was that the tickets are not showing that. When we mentioned that we hear the sand trucks Jake braking on 72nd Avenue, he assured us that they would operate at speeds of 10 MPH. Ben Frei nor AFS cannot dictate the speed limit of the road or promise that they'll maintain a certain speed. We're still hearing "Jake brakes". It's only a ½ mile dirt road from Highway 79 to the entrance of AFS Sand Pit. Why on earth would they need to "Jake brake" at that distance? When we voiced our concerns about what these "sand trucks" will be brining into the sand pit, Ben's response was "how am I supposed to know what they're brining in?" It wasn't until the Board of

Colorado Division of Reclamation Board meeting on 8/21/i9, that Michael Cunningham also of the Division of Reclamation, clearly made it a point that everyone knew that the “operator”, Ben Frei and his group, is responsible for what comes in or goes out of the Sand Pit.

AFS is basing their request for approval from the Board of Colorado Division of Reclamation on their past years experience and reputation of their other mines throughout the state. Seriously with the inconsistency of what Ben Frei is saying and how he’s denying or evasive and pacifying answers, it’s a wonder their still in business. Several of us neighbors have witnessed the increase number of trucks, the consistent “Jake Braking” the increase in noise and dirt pollution.

Concerns also include air quality and definitely the noise. There is an enormous amount of dust. Ben Frei promised to pave the dirt road and watered down the dirt road and then rescinded on that as well. AFS has not maintained Provost or 72nd Avenue at all as they had promised.

My concerns also include School Bus Routes, on 72nd Avenue and Provost Road. Are the buses going to have to go around the influx number of sand trucks? There are some serious safely issues including the damage done to our windshields from the sand trucks.

We also have some serious hunting issues on our properties. I personally have had AFS employee, come to our property with rifles in had; dismounting their vehicles to want to shoot at a herd of a minimum of 15 deer that have been in our properties for over 20 years. Now the deer are no where to be found and a dead one, succumbed from being shot, ended up on the property of a neighbor, . I know the hunting issue is a Colorado Wildlife Department...but this is just another example of how AFS – Ben Frei, are not playing nice in the neighborhood. Our neighborhood quality of life is ruined and no doubt the remainder of 72nd will be ruined and then flow on to Highway 79.

Over the past 19 years little of the mine has been mine’d. According to Ben Frei, the previous owner was not aggressive and Ben plans on being more aggressive. But yet he can not answer the increase number of trucks expected, can not tell us what’s being dropped off by the incoming sand trucks, when the trucks start in the morning and how fast they’re traveling on 72nd Avenue. Maybe he’s bitten off more that he should or maybe we can review better what is in store with not only the approval of the mine (Board of Colorado Division of Reclamation), how the roads can be able to handle a min of 50-100 trucks a day and then some. Traveling up and down Highway 79 onto 72nd Avenue and then back. May we suggested a paved road as opposed to gravel road. With that kind of travel a gravel road would be useless.

Sincerely,

Elva Munoz, Resident
(602) 300-2868
sanfran1227@hughes.net

From: [Greg Barnes](#)
To: [Jen Rutter](#)
Subject: FW: Planning Commission Meeting June 25, 2020 Adams County Henderson Aggregates (Case # EXG2019-00002 formerly RCU2019-00040)
Date: Wednesday, June 24, 2020 2:35:52 PM
Importance: High

From: Elva Munoz <sanfran1227@me.com>
Sent: Wednesday, June 24, 2020 10:14 AM
To: Greg Barnes <GJBarnes@adcogov.org>
Cc: Maggie M. Barringer <MBarringer@adcogov.org>
Subject: Fwd: Planning Commission Meeting June 25, 2020 Adams County Henderson Aggregates (Case # EXG2019-00002 formerly RCU2019-00040)
Importance: High

Please be cautious: This email was sent from outside Adams County

Good Morning Greg,

I'm forwarding my email "addressed" to Jen Rutter for it appears my initial email rejected. Probably an error on my part. Sorry for the confusion and possible duplication. Please consider comments in this email for the upcoming Planning Committee Meeting on June 25, 2020.

Have a wonderful day and we hope to tune in on Zoom tomorrow.

Sincerely,

Elva Munoz
(602) 300-2868

PS (Maggie thank you so much for the followup phone call)

Begin forwarded message:

From: Elva Munoz <sanfran1227@me.com>
Subject: Planning Commission Meeting June 25, 2020 Adams County Henderson Aggregates (Case # EXG2019-00002 formerly RCU2019-00040)
Date: June 22, 2020 at 4:19:50 PM MDT
To: jrutter@adcogov.com

Good Afternoon Jen,

In reference to the upcoming Planning Committee Meeting on June 25, 2020, as a

resident on Provost Road, I would like for you folks to consider a couple of concerns:

As mentioned in previous notices, Air Quality and noise pollution from the enormous amount of diesel traffic they are projecting to come through the 1 mile stretch of road from Highway 79 to the entrance of AFS pit is a great concern.

Measures have been recently implemented to improve East 72 Avenue mitigating dust and road damage. Thank you. It's pretty accommodating for the amount of current traffic but I hesitate to say it will enough or should I say pushed to the limits and beyond with the proposed amount of traffic that AFS is requesting. Prior to the recent improvements on 72nd Avenue, we always had to "give the-right-of-way" to the diesel trucks or risk being crushed or severely damaged cars on the narrow road. The amount of trucks that ran through 72nd Avenue has been extreme prior to the recent road improvements. The request is for 120 "more" trucks within a 24 hour period and an increase of 6 in and 6 out during peak periods in the morning and the afternoon is outrageous. Prior to the road improvements, one would see at least 5-6 trucks lined up coming and going for several hours a day. That's approximately 48 trucks coming in and 48 trucks coming out which equals 96 trucks minimum an 8 hour period plus the additional 6 in and 6 out during peak periods that's and additional 24 trucks on top of the 96 for a total of 120 "per day" not per a 24 hour period as stated by AFS request.

We're talking about a 1 mile stretch of an additional 120 diesel trucks per day of what's already being traveled plus residential traffic, U.S. Post Office traffic, delivery Amazon traffic, UPS traffic, FedEx traffic and not to mention school bus traffic twice a day when school is in session and AFS is requesting to increasing this by another 120 diesel trucks per day. I believe folks may or may not have considered the total amount of traffic and safety concerns involved with this. The mere number of 120 "additional" diesel truck and 6 in and 6 out in the A.M. and P.M peak periods, seems extremely high an extremely dangerous for a 1 mile stretch of road. I also have concerns along with the resident comments on the amount of right-of-way a deceleration land on Highway 79 and how it may cause along the frontage of their property. For residents turning onto 72nd Avenue through Highway 79, they too will have to use the right-a-way in order to go with the flow of traffic in entering 72nd Avenue.

Many agencies were contacted on their approval of this permit approval. It was also indicated that some of the agencies had not responded and it was "as favorable response". We're in a world crisis with COVID 19 and many agencies are closed, furloughed, or simply overwhelmed with duties for those who are still working whether working from home or the office. Several of us have called and left voice messages with the planning committee and have not received returned calls. I'm under the impression that Bennett Schools 29J and Bennett Parks and Recreation to name a few are under the listing of "notified but not responding, as favorable response". Favorable to whom?" In addition to all the diesel traffic which is sometimes extremely careless in their speed, the lane issue used to be an issue but the road have been widened. Prior to the paving improvements the speed of the diesels caused so much dust that it was difficult to see. One had to stop at least 500 feet prior to approaching the 72 Ave stop

sign to Highway 79 to be certain a diesel truck(s) was't making a wide turn onto us while entering off Highway 79. The paving has improved but the traffic volume is a huge safety concern. It's only 1 mile long but its a dangerous 1 mile long. Any measures to decrease the requested approval amount, would be greatly appreciated and a smart thing to do.

It's been noted that AFS has informed it's mining staff that they are directed to be aware of wildlife that may enter the mine during operating hours and what to do if they find any on active mining area that come after hours. Please note, that numerous times 4-5 residents have heard gun shots after hours in the dark coming from AFS Bennett Pits. Seriously don't believe they are "target practicing" at night for that's illegal. In several meetings both formal and informal, hunting on and especially off the property of AFS (neighboring property) no hunting is allowed and it is illegal unless permission is given by the resident. Please note the permission is "not" given. AFS has said they don't hunt but there's a general concern that there is shooting on the property and the surrounding areas especially at night.

Please also add my name to the mailing list:

Elva Munoz
7550 Provost Road
Bennett, CO 80102

Sincerely,

Elva Munoz
Resident
(602) 300-2868
sanfran1227@hughes.net

Water Well Right

Ovst

How come so much land 800ft for the
deceleration lane

Who is going to replace my mail box

I do not want this on my right away

David S. Murphy

7140 Hwy 79

Bennett, CO

80102-9009

Greg Barnes

From: Ben Frei <BFrei@albertfreiansons.com>
Sent: Thursday, June 25, 2020 3:18 PM
To: Greg Barnes
Subject: FW: Approval of AFS Existing Mining Application

Please be cautious: This email was sent from outside Adams County

How about this one.

Ben Frei

From: Jerry Schumacher <shoefarmjs@netscape.net>
Sent: Thursday, June 25, 2020 3:14 PM
To: Ben Frei <BFrei@albertfreiansons.com>
Subject: Fwd: Approval of AFS Existing Mining Application

Sent from my iPhone

Begin forwarded message:

From: Jerry Schumacher <shoefarmjs@netscape.net>
Date: June 24, 2020 at 1:37:24 PM MDT
To: jritter@adcogov.org
Cc: gibatnes@adcogov.org
Subject: Approval of AFS Existing Mining Application

Dear Planning Commission and Board of County Commissioners,

We are the Jerry Schumacher family, an adjacent neighbor of Albert Frei & Sons, (AFS). We have lived next to this gravel and aggregate operation since 1997 and AFS the last three years. AFS, a family owned business, continues to be an exemplar neighbor. For example, they provide voluntary snow removal, material for my 3/8th mile drive way and use of their water truck intermittently. AFS provides many of these same services to many of their neighbors; and also contributes to the Bennett High School Baseball Team and Bennett Days.

In Addition, AFS supports the greater Bennett community. For example, they do high volume business with Sherer Auto, The Co-op, Ace Hardware, local restaurants, and most recently, Action Graphic in Strasburg. AFS is a strong supporter of the Bennett FD. They have a standing offer to them for use of AFS property and resources to conduct training including high and low angle rescue, EMS, and trauma scenarios. (Which is on hold due to the impact of COVID-19).

I would also like to mention the abundance of wildlife in the area and around our farm. There has been a steady increase in deer, and turkey population over the last few years.

In closing, given their positive impact to the greater community, we respectfully request that you approve the AFS application to amend their existing Bennett mining permit.

Respectfully Submitted,
Jerry Schumacher Family
Sent from my iPhone



Request for Comments

Case Name: HENDERSON AGGREGATES PIT EXPANSION
Case Number: RCU2019-00040

August 12, 2019

The Adams County Planning Commission is requesting comments on the following application: **Conditional Use Permit to expand existing mining operations.** This request is located at 50000 East 72nd Avenue. The Assessor's Parcel Numbers are 0181500000401, 0181500000337, and 0181502100002.

Applicant Information: HENDERSON AGGREGATE LTD
BEN FREI
7321 E 88TH AVE STE 100
HENDERSON, CO 806408137

Please forward any written comments on this application to the Community and Economic Development Department at 4430 South Adams County Parkway, Suite W2000A Brighton, CO 80601-8216, or call (720) 523-6800 by 9/2/2019 in order that your comments may be taken into consideration in the review of this case. If you would like your comments included verbatim please send your response by way of e-mail to GJBarnes@adcogov.org.

Once comments have been received and the staff report written, the staff report and notice of public hearing dates will be forwarded to you for your information. The full text of the proposed request and additional colored maps can be obtained by contacting this office or by accessing the Adams County web site at www.adcogov.org/planning/currentcases.

Thank you for your review of this case.

Greg Barnes
Planner III

BOARD OF COUNTY COMMISSIONERS

Eva J. Henry
DISTRICT 1

Charles "Chaz" Tedesco
DISTRICT 2

Emma Pinter
DISTRICT 3

Steve O'Dorisio
DISTRICT 4

Mary Hodge
DISTRICT 5



Public Hearing Notification

Case Name:	Henderson Aggregates Pit
Case Number:	EXG2019-00002
Planning Commission Hearing Date:	Thursday, June 25, 2020 at 6:00 p.m.
Board of County Commissioners Hearing Date:	Tuesday, July 14, 2020 at 9:30 a.m.

May 29, 2020

A public hearing has been set by the Adams County Planning Commission and the Board of County Commissioners to consider the following request: Conditional Use Permit to expand existing mining operations (extraction) use in the Agricultural-3 zone district. The Assessor's Parcel Numbers are: 0181500000401, 0181500000337, and 0181502100002. The address is 50000 E. 72nd Avenue.

Applicant Information: Ben Frei
Henderson Aggregate, Ltd.
7321 E. 88th Ave., Ste. 100
Henderson, CO 80640

The Planning Commission meeting will be held virtually using the Zoom video conferencing software and members of the public will be able to submit comments prior to the start of the public hearing that will then be entered into the record. For instructions on how to access the public hearing via telephone or internet, or to submit comment, please visit <http://www.adcogov.org/planning-commission> for up to date information.

The Board of County Commissioners meeting is broadcast live on the Adams County YouTube channel and members of the public will be able to submit comments prior to the start of the public hearing that will then be entered into the record. The eComment period opens when the agenda is published and closes at 4:30 p.m. the Monday prior to the noticed meeting. For instructions on how to access the public hearing and submit comments, please visit <http://www.adcogov.org/bocc> for up to date information.

These will be public hearings and any interested parties may attend and be heard. The Applicant and Representative's presence at these hearings is requested. The full text of the proposed request and

additional colored maps can be obtained by accessing the Adams County Community and Economic Development Department website at www.adcogov.org/planning/currentcases.

Thank you for your review of this case.

A handwritten signature in black ink, appearing to read "Greg Barnes". The signature is fluid and cursive, with the first name "Greg" being more prominent than the last name "Barnes".

Greg Barnes
Planner III
gjbarnes@adcogov.org
(720) 523-6853

PUBLICATION REQUEST

Case Name: Henderson Aggregates Pit

Case Number: EXG2019-00002

Planning Commission Hearing Date: Thursday, June 25, 2020 at 6:00 p.m.

Board of County Commissioners Hearing Date: Tuesday, July 14, 2020 at 9:30 a.m.

Case Manager: Greg Barnes gjbarnes@adcogov.org (720) 523-6853

Request: conditional Use Permit to expand existing mining operations (extraction) use in the Agricultural-3 zone district

Parcel Number: 0181500000401, 0181500000337, and 0181502100002

Address of the Request: 50000 E. 72nd Avenue

Applicant: Ben Frei, Henderson Aggregate, Ltd., 7321 E. 88th Ave., Ste. 100, Henderson, CO 80640

Legal Description: BENNET SAND AND GRAVEL PIT #2 M-2001-038 SECT,TWN,RNG:2-3-63 DESC: PARCEL B (AS SURVEYED) PARCEL IN THE E2 OF SEC 2 DESC AS FOLS BEG AT THE NE 1/4 COR OF SD SEC 2 FROM WHENCE THE N 1/4 COR OF SD SEC 2 BRS S 89D 32M 15S W 2650/83 FT AND ON WHICH ALL BRNGS HEREON ARE BASED TH ON THE E LN OF THE NE4 OF SD SEC 2 S 00D 11M 26S W 2617/01 FT TO THE POB TH ON THE E LN OF THE SE4 OF SD SEC 2 S 00D 29M 37S W 2643/60 FT TH ON THE S LN OF THE SE4 OF SD SEC 2 S 89D 31M 48S W 984/07 FT TH N 00D 01M 19S W 2643/36 FT TH ON THE S LN OF THE NE4 OF SD SEC 2 N 89D 31M 58S E 514/88 FT TH N 00D 10M 26S W 449/18 FT TH N 89D 32M 01S E 465/84 FT TH ON THE W LN OF THE LAND DESC IN B3927 P224 A LN 30 FT W OF AND // TO THE E LN OF SD NE4 OF SD SEC 2 S 00D 11M 26S W 449/20 FT TH ON THE S LN OF THE NE4 OF SD SEC 2 N 89D 31M 58S E 30 FT TO THE POB TOG WITH PARCEL C (AKA PROVOST RD EXT)THE E 30 FT OF THE NE4 OF SEC 2 EXC THAT PORT CONVEYED TO COUNTY OF ADAMS (REC NO 2016000044789) TOG WITH PARCEL D (AKA E 64TH AVE EXT) THE N 30 FT OF THE E2 NE4 OF SEC 11/3/63 67/89A

Virtual Meeting and Public Comment Information:

These meetings will be held virtually. Please visit <http://www.adcogov.org/planning-commission> and <http://www.adcogov.org/bocc> for up to date information on accessing the public hearings and submitting comment prior to the hearings. The full text of the proposed request and additional colored maps can be obtained by accessing the Adams County Community and Economic Development Department website at www.adcogov.org/planning/currentcases.

AFFORDABLE CONCRETE LLC
9725 E HAMPDEN AVE
DENVER CO 80231-4915

COPELAND ROBERT/ALETHEA
REVOCABLE LIVING TRUST THE
50180 E 64TH AVE
BENNETT CO 80102-8955

ANDERSON DOROTHY A AND
ANDERSON ROBERT L
49821 E 64TH AVE
BENNETT CO 80102

CURTIS JENNIFER A
49850 E 72ND AVE
BENNETT CO 80102-9342

BRENNER SEAN AND
BRENNER JERRY R
34578 COUNTY ROAD 48
BURLINGTON CO 80807-9724

DANIEL DAVID ERNEST AND
INMAN BETH NICHOLE DANIEL
6221 KIOWA BENNETT RD
BENNETT CO 80102

BUCK STEVEN
10933 COUNTY ROAD 120
KIOWA CO 80117-8801

DAVIS DIANE L
49800 E 72ND AVE
BENNETT CO 80102

CARDENAS LINO
56330 E 41ST AVE
STRASBURG CO 80136-8095

DENVER ISLAMIC SOCIETY
2124 S BIRCH ST
DENVER CO 80222-5018

CARDENAS LINO
CARDENAS ANDREA
50000 E 56TH AVE
BENNETT CO 80102-9024

DONALDSON NANCY J
7550 N PROVOST RD
BENNETT CO 80102-9313

CARDENAS LINO AND
CARDENAS ANDREA
50000 E 56TH AVE
BENNETT CO 80102-9024

DU BOIS JAMES W AND
DU BOIS SEANA B
6420 HIWAY 79
BENNETT CO 80102-9005

CARDENAS LINO AND CARDENAS JUAN MANUEL AND
CARDENAS ANDREA
6073 HIGHWAY 79
BENNETT CO 80102-9023

FINNESY JOHN F AND
FINNESY SUSAN L
PO BOX 335
BENNETT CO 80102-0335

CLAIR SHARON A
1213 N TENAYA WAY
LAS VEGAS NV 89128-3250

FIRE HOUSE YOUTH CENTER INC
49990 E 64TH AVE
BENNETT CO 80102-9008

COPELAND GARY R AND
COPELAND JANIE L
49990 E 64TH AVE
BENNETT CO 80102-9008

FISHER RONALD L AND
FISHER JANET LEE
7040 HWY 79
BENNETT CO 80102-9006

GLICKMAN LAURA JO
51051 E 56TH AVE
BENNETT CO 80102

JONES SHERYL K AND
JONES LARENCE
6285 HIWAY 79
BENNETT CO 80102-9023

GREAR MICHAL AND
GREAR ROBERTA
51315 E 56TH AVE
BENNETT CO 80102-9040

JUDGE L ANN
6771 HWY 79
BENNETT CO 80102-9005

GRUBISH THOMAS C AND
GRUBISH JANET P
8709 MONTICELLO MEWS
NORTH RICHLAND HILLS TX 76180-1400

KACZAR DANIEL R AND
KACZAR KATHLEEN M
6775 YULLE MILE RD
BENNETT CO 80102

GUEWA CHARLES F AND
GUERNSEY RENEE Y
417 LAUREL LN
COLUMBUS OH 43230-3571

KATCHEN VICTORIA L AND
FABER MARK L
7230 PROVOST MILE ROAD
BENNETT CO 80102

HANNAH ROBERT WILLIAM AND
HANNAH TAMMY LYNN
14901 COLORADO BLVD
THORNTON CO 80602-7837

KRABILL JAMES R
6481 N HIWAY 79
BENNETT CO 80102-9005

HENDERSON AGGREGATE LTD
PO BOX 700
HENDERSON CO 80640-0700

LINCOLN DAVID A AND
LINCOLN JOYCE E
50500 E 72ND AVENUE
BENNETT CO 80102-9302

HENDERSON AGGREGATE LTD
7321 E 88TH AVE STE 100
HENDERSON CO 80640-8137

LINCOLN DAVID A AND
LINCOLN JOYCE E
5659 S LANSING WAY
ENGLEWOOD CO 80111-4105

JARAMILLO MARY AND
JARAMILLO NELSON
14506 HILLSIDE HICKORY CT
HOUSTON TX 77062-2132

LINNEBUR GRAIN AND BUFFALO LLLP
PO BOX 298
BYERS CO 80103-0298

JERRY AND CATHY BURNES TRUST DATED JULY 29 2
019
825 SCRANTON ST
AURORA CO 80011-6630

LOPEZ LINO CARDENAS AND
CARDENAS ANDREA
50000 E 56TH AVE
BENNETT CO 80102-9024

JONES MERRY A TRUST THE
5000 S COUNTY ROAD 149
STRASBURG CO 80136-9524

MA WEI HONG
C/O TINA YEE
ENGLEWOOD CO 80111-4120

MADERA JOSE LUIS
6311 KIOWA BENNETT RD
BENNETT CO 80102

SCHUMACHER GERARD D AND
SCHUMACHER AMORA LEA
7202 PROVOST ROAD
BENNETT CO 80102

MAGNUSON KELSEY CELESTE AND
GRANGER ANDREW ASHLEY
7492 PROVOST RD
BENNETT CO 80102-9313

SMIALEK DENNIS EDWARD AND
SMIALEK BETH ANN
47770 E 56TH AVE
BENNETT CO 80102-9106

MALONE JOSEPH ALLEN
6020 HIGHWAY 79
BENNETT CO 80102-9020

SMITH BRANDON J AND
SMITH CARISSA L
51315 E 56TH AVE
BENNETT CO 80102-9040

MAYEAUX RODNEY P AND MAYEAUX RANDALL P
C/O RANDY MAYEAUX
KREMMLING CO 80459-1311

SMITH DUSTIN DAVID
51315 E 56TH AVE
BENNETT CO 80102-9040

MOYER JOHN R AND
MOYER LYNNE M
6200 HIGHWAY 79
BENNETT CO 80102

STATE LAND
NEED ADDRESS

MURPHY DAVID SAMUEL AND
HARRISON RUTH ANN
7140 HIWAY 79
BENNETT CO 80102-9009

STATE OF COLORADO
1525 SHERMAN ST 2ND FLOOR
DENVER CO 80203-1714

PACHECO ROSENDO
7155 YULLE MILE RD
BENNETT CO 80102

THE GERALD R AND DEBORAH A TOCZEK REVOCABLE
TRUST
49200 E 64TH AVE
BENNETT CO 80102-9008

PALONE WAYNE S AND
PALONE GAIL E
50050 E 64TH AVE
BENNETT CO 80102-9008

TOFT LARRY C AND
TOFT HELEN F
51300 E 56TH AVE
BENNETT CO 80102-9040

PARIS ROGER GENE
593 VISTA GRANDE DR
COLORADO SPRINGS CO 80906-5825

TWO RINGS RANCH LLC
2015 YORK ST
DENVER CO 80205-5713

ROBLES PETRONILLO
50430 E 56TH AVE
BENNETT CO 80102

VEST RANCH LLC
5238 WA COUNTY ROAD DD
FLAGLER CO 80815-9706

VILLARREAL WENDY
PO BOX 441
BENNETT CO 80102-0441

YODER CLARENCE W S
6920 HWY 79
BENNETT CO 80102-9006

ZUBIA JESUS
4660 W CEDAR AVE
DENVER CO 80219-1741



Referral Listing
Case Number EXG2019-00002
Henderson Aggregates Pit Expansion

Agency	Contact Information
Adams County Attorney's Office	Christine Fitch CFitch@adcogov.org 4430 S Adams County Pkwy Brighton CO 80601 720-523-6352
Adams County CEDD Development Services Engineer	Devt. Services Engineering 4430 S. Adams County Pkwy. Brighton CO 80601 720-523-6800
Adams County CEDD Environmental Services Division	Katie Keefe 4430 S Adams County Pkwy Brighton CO 80601 720-523-6986 kkeefe@adcogov.org
Adams County CEDD Right-of-Way	Mark Alessi 4430 S. Adams County Pkwy. Brighton CO 80601 720-523-6837 malessi@adcogov.org
Adams County Community Safety & Wellbeing, Neighborhood Services	Gail Moon gmoon@adcogov.org 4430 S. Adams County Pkwy. Brighton CO 80601 720-523-6856 gmoon@adcogov.org
Adams County Development Services - Building	Justin Blair 4430 S Adams County Pkwy Brighton CO 80601 720-523-6825 JBlair@adcogov.org
Adams County Parks and Open Space Department	Aaron Clark (303) 637-8005 aclark@adcogov.org
Adams County Parks and Open Space Department	Marc Pedrucci 303-637-8014 mpedrucci@adcogov.org
Adams County Sheriff's Office: SO-HQ	Rick Reigenborn (303) 654-1850 rreigenborn@adcogov.org

Agency	Contact Information
Adams County Sheriff's Office: SO-SUB	-- 303-655-3283 CommunityConnections@adcogov.org
BENNETT FIRE DISTRICT #7	Captain Caleb J Connor 825 SHARIS CT BENNETT CO 80102 303-532-7733 303-644-3572 CalebConnor@BennettFireRescue.org
BENNETT FIRE DISTRICT #7	CHIEF EARL CUMELY 825 SHARIS CT BENNETT CO 80102 303-644-3434 ecumley941@aol.com
BENNETT PARK AND RECREATION	Chris Raines PO BOX 379 455 S. 1ST ST. BENNETT CO 80102-0379 303-644-5041 Director@bennettrec.org
BENNETT SCHOOL DISTRICT 29J	Robin Purdy 615 7TH ST. BENNETT CO 80102 303-644-3234 Ext: 8203 robinp@bsd29j.com
CDPHE	Sean Hackett 4300 S Cherry Creek Dr Denver CO 80246 303.692.3662 303.691.7702 cdphe_localreferral@state.co.us
CDPHE	Sean Hackett 4300 S Cherry Creek Dr Denver CO 80246 30 sean.hackett@state.co.us
CDPHE - AIR QUALITY	Richard Coffin 4300 CHERRY CREEK DRIVE SOUTH DENVER CO 80246-1530 303.692.3127 richard.coffin@state.co.us
CDPHE - WATER QUALITY PROTECTION SECT	Patrick Pfaltzgraff 4300 CHERRY CREEK DRIVE SOUTH WQCD-B2 DENVER CO 80246-1530 303-692-3509 patrick.j.pfaltzgraff@state.co.us
CDPHE SOLID WASTE UNIT	Andy Todd 4300 CHERRY CREEK DR SOUTH HMWMD-CP-B2 DENVER CO 80246-1530 303.691.4049 Andrew.Todd@state.co.us

Agency	Contact Information
Century Link, Inc	Brandyn Wiedreich 5325 Zuni St, Rm 728 Denver CO 80221 720-578-3724 720-245-0029 brandyn.wiedrich@centurylink.com
COLORADO DIVISION OF WILDLIFE	Matt Martinez 6060 BROADWAY DENVER CO 80216-1000 303-291-7526 matt.martinez@state.co.us
COLORADO DIVISION OF WILDLIFE	Serena Rocksund 6060 BROADWAY DENVER CO 80216 3039471798 serena.rocksund@state.co.us
COMCAST	JOE LOWE 8490 N UMITILLA ST FEDERAL HEIGHTS CO 80260 303-603-5039 thomas_lowe@cable.comcast.com
IREA	Brooks Kaufman PO Box Drawer A 5496 North US Hwy 85 Sedalia CO 80135 303-688-3100 x105 bkaufman@intermountain-rea.com
NS - Code Compliance	Gail Moon gmoon@adcogov.org 720.523.6833 gmoon@adcogov.org
TRI-COUNTY HEALTH DEPARTMENT	Sheila Lynch 6162 S WILLOW DR, SUITE 100 GREENWOOD VILLAGE CO 80111 720-200-1571 landuse@tchd.org
TRI-COUNTY HEALTH DEPARTMENT	MONTE DEATRICH 4201 E. 72ND AVENUE SUITE D COMMERCE CITY CO 80022 (303) 288-6816 mdeatrich@tchd.org
Tri-County Health: Mail CHECK to Sheila Lynch	Tri-County Health landuse@tchd.org .
Xcel Energy	Donna George 1123 W 3rd Ave DENVER CO 80223 303-571-3306 Donna.L.George@xcelenergy.com

CERTIFICATE OF POSTING



I, J. Gregory Barnes do hereby certify that I posted the property at 50000 East 72nd Avenue on June 5, 2020, in accordance with the requirements of the Adams County Development Standards and Regulations.

A handwritten signature in black ink, reading 'J. Gregory Barnes'.

J. Gregory Barnes