

BOARD OF COUNTY COMMISSIONERS FOR
ADAMS COUNTY, STATE OF COLORADO

**RESOLUTION FOR LAND USE CASE DECISION - CASE #EXG2013-00001 120TH
PARTNERS CD**

Resolution 2014-163

WHEREAS, on the 24th day of February, 2014, the Board of County Commissioners, held a public hearing on the application of Eric Fenster, Case #EXG2013-00001; and,

WHEREAS, this case involved an application for: Certificate of Designation to allow this site to be filled with approximately 1,000,000 cubic yards of material to return the site close to its original grade. on the following described property:

PARCEL NUMBER: 0157135301001

APPROXIMATE LOCATION: 10925 East 120th Avenue

LEGAL DESCRIPTION: SUB:CORRIGAN SUBDIVISION LOT:1 DESC:
EXC RDS (2011000030387)

WHEREAS, substantial testimony was presented by members of the public and the applicant; and,

WHEREAS, the Adams County Planning Commission held a public hearing on the 13th day of February, 2014, and forwarded a recommendation of APPROVAL to the Board of County Commissioners based on the following:

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners, County of Adams, State of Colorado, that based upon the evidence presented at the hearing and the recommendations of the Department of Planning and Development and the Planning Commission, the application in this case be hereby **APPROVED** based upon the following findings of fact and subject to the fulfillment of the following conditions precedent and stipulations by the applicant:

1. The proposed use is an acceptable use in the applicable zone district.
2. The certificate of designation is consistent with the purposes of these standards and regulations and meets the intent of the Adams County Comprehensive Plan.
3. The certificate of designation will comply with the requirements of these standards and regulations including, but not limited to, all applicable performance standards.
4. The certificate of designation 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. In making this determination, the Planning Commission and the Board of County Commissioners shall find, at a minimum, that the certificate of designation will not result in excessive traffic generation, noise, vibration, dust, glare, heat, smoke, fumes, gas, odors, or inappropriate hours of operation.

5. The certificate of designation has addressed all off-site impacts.
6. The site is suitable for the certificate of designation, including adequate usable space, adequate access, and absence of environmental constraints.
7. There is a need for the facility in the County.
8. The applicant has documented his ability to comply with the health standards and operating procedures as provided by the Colorado Department of Health, the Tri-County Health Department, and other relevant agencies.
9. The site is accessible to Adams County residents and other potential users.
10. The proposed facility will comply with all applicable laws and regulations relating to air pollution, water pollution, and noise. When standards do not exist for regulating emissions from a particular type of facility, the County will consider whether the facility may impact health and welfare of the community based upon specific facility design and operating procedures.
11. The site conforms to siting standards for the type of facility being proposed.

Condition Precedent:

1. The applicant shall comply with the requirements of the Division of Water Resources. This includes obtaining approval for a new Substitute Water Supply Plan (SWSP).

Conditions:

1. Operations shall not proceed until a "Notice to Proceed" is issued by the Department of Planning and Development, after the applicant has demonstrated all pertinent Conditions of Approval, as determined by Adams County, have been completed.
2. Hours of operation for the facility shall be from 7:00 A. M. to 5:00 P.M., Monday through Saturday. Operations shall not be permitted on Sundays or major holidays (New Year's Day, MLK Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day (and the day after), and Christmas Day).
3. All conditions set forth by the Colorado Department of Public Health and Environment (Solid Waste and Material Management Unit) as stated in their letter July 11, 2013 shall be considered as conditions in this case.

4. The CD shall expire on February 24, 2021.
5. Fugitive dust control mechanisms must be in place and functioning at all times.
6. All complaints received by the applicant concerning impacts to offsite wells, and the resolution of those complaints, shall be conveyed to the Department of Planning and Development. Impacts to offsite water wells shall be responded to and resolved immediately by the applicant. Disputes concerning impacts to offsite water wells may be resolved by the Department of Planning and Development and may be justification for a Show Cause Hearing before the Adams County Board of County Commissioners.
7. All haul trucks shall cover their loads pursuant to C.R.S. 42-4-1407.
8. The facility shall cease operations during periods of high winds. High winds shall be defined as when wind speeds exceed 35 mph or a sustained 25mph.
9. 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.
10. All applicable operational standards found within the Solid and Hazardous Waste Disposal section of the Adams County Development Standards shall be followed.
11. The total volume of the import shall not exceed 1,000,000 cubic yards over the lifetime of this project. The fill shall be structural fill only.
12. The proposed fill operation shall not obstruct or cause interference of any kind to irrigation ditch laterals or roadside ditches that are in place.
13. 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. Trash, organic material, and other waste material not meeting the definition of inert material shall be removed from each load at the screening location. A visual inspection and screening shall be made where loads are offloaded and materials not meeting the definition of inert material shall be removed. All materials removed from the waste stream shall be disposed of at an approved waste disposal facility at regular intervals and records of the transportation disposal shall be kept.
14. The applicant shall be responsible for the cleanliness and safety of all roadways adjacent to this site. If at any time, these roadways are found to be dangerous or not passable due to debris or mud, the Adams County Transportation Department will shut down the project, until the roadway conditions have improved and are deemed acceptable. If the contractor/applicant fails to keep the adjacent roadways clean and free from debris, the Transportation Department has the option to do the required clean up and bill the charges directly to the owner/applicant.

15. All materials must be inert, as defined in the Adams County Development Standards and Regulations including: non-water soluble and non-putrescible solids together with such minor amounts and types of other materials as will not significantly affect the inert nature of such solids, as determined by Adams County. The term includes, but is not limited to, earth, sand, gravel, rock, concrete (which has been in a hardened state for at least sixty (60) days), masonry, asphalt paving fragments which are not located in the water table, and other inert solids including those the Colorado Department of Health may identify by regulation. Street sweepings from street cleaning machines are not considered inert material and are instead considered solid waste.
16. 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.
17. Finished elevations shall be at or below pre-mine elevations.
18. The applicant will be held responsible for the cleanliness and safety of all roadways adjacent to this site.
19. A clean, neat, and orderly appearance shall be maintained on site.
20. The facility shall be limited only to those materials and processes described in this application. Any changes to types of material or processes shall require an amendment to the Certificate of Designation.
21. There were recommendations regarding the placement of additional signs in the traffic study. The applicant shall prepare a plan that shows the placement of the signs. Adams County Transportation may elect to manufacture and install the signs, and shall require reimbursement from the applicant. The applicant will need to coordinate this with Adams County Transportation / Traffic Operations regarding this issue.
22. If fuel will be stored on this site:
 - All fuel storage at this site shall be provided with secondary containment, which complies with State of Colorado Oil Inspection Section Regulations; and
 - Fueling areas shall be separated from the rest of the site's surface area, and protected from storm water; and
 - Applicant shall provide a spill prevention plan and release prevention plan for fuel storage and fueling operations. Good housekeeping shall be practiced at this site. Spill and drip containment pans shall be emptied frequently and all spills shall be cleaned up and disposed of immediately at a facility permitted for such disposal.
23. All access to and from the site shall enter and exit from the southwest access point onto 120th Avenue.

24. 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.

Recommended Notes to the applicant:

1. All applicable requirements of the Zoning, Health, Building, Engineering and Fire Codes shall be adhered to with this request.
2. Failure to comply with the requirements set forth in this permit may be justification for a show cause hearing, where the permit may be revoked.
3. Prior to operations commencing on site, the applicant shall obtain a Certificate of Designation document.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Henry _____ Aye
Tedesco _____ Aye
Hansen _____ Aye

Commissioners

STATE OF COLORADO)
County of Adams)

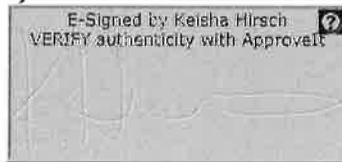
I, Karen Long, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Adams County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Brighton, Colorado this 24th day of February, A.D. 2014.

County Clerk and ex-officio Clerk of the Board of County Commissioners
Karen Long:



By:



Deputy

120th Partners CD

Case Number:	EXG2013-00001
Planning Commission Hearing Date:	02/13/2014 at 6:00 p.m.
Board of County Commissioners Hearing Date:	02/24/2014 at 10:00 a.m.

Case Manager: Chris LaRue

Case Technician: Genevieve Pizinger

Applicant: P.O. Box 44011
ERIC FENSTER
DENVER, CO 80201

303-921-3530

Owner: GSL/BRUSH LLC
4131 S STATE ST
CHICAGO, IL 606092942

Representative:

Location: 10925 E 120TH AVE
Parcel Number: 0157135301001
Size of Property: undetermined parcel size
Proposed Use: Vacant

Request: Certificate of Designation to allow this site to be filled with approximately 1,000,000 cubic yards of material to return the site close to its original grade.

HEARINGS

Planning Commission

Board of County Commissioners

Date: 02/13/2014

Action:

Date:

Action:

Review for Tracking:

Map Updated by:

Approved By:

Date: 02/24/2014

Action:

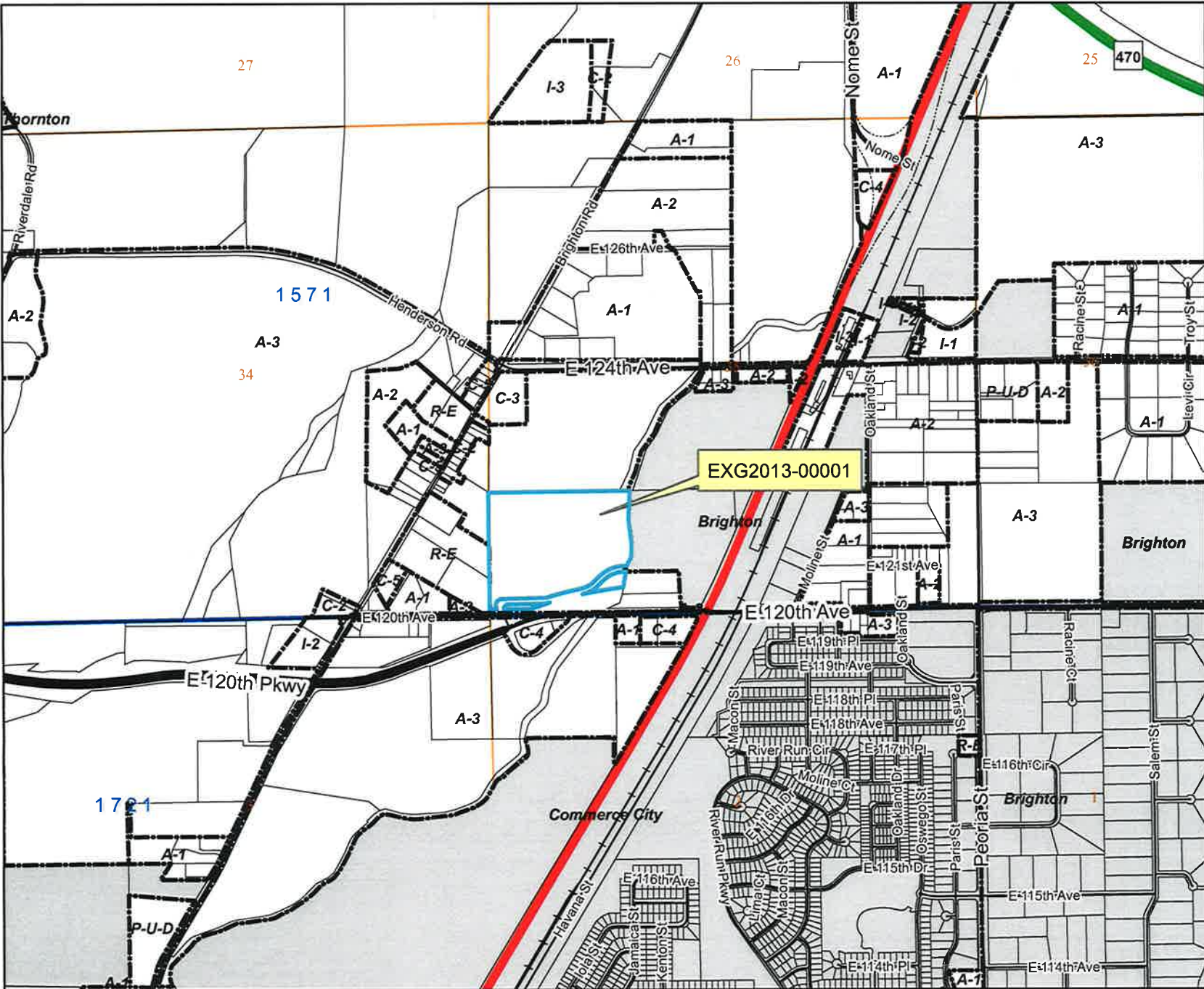
Date:

Action:

Date:

Date:

Date:



LEGEND

- ★ Special Zoning Conditions
- 3 Section Numbers
- Railroad
- Major Water
- Zoning Line
- ▭ Sections
- ▨ Airport Noise Overlay
- ▭ Incorporated Areas

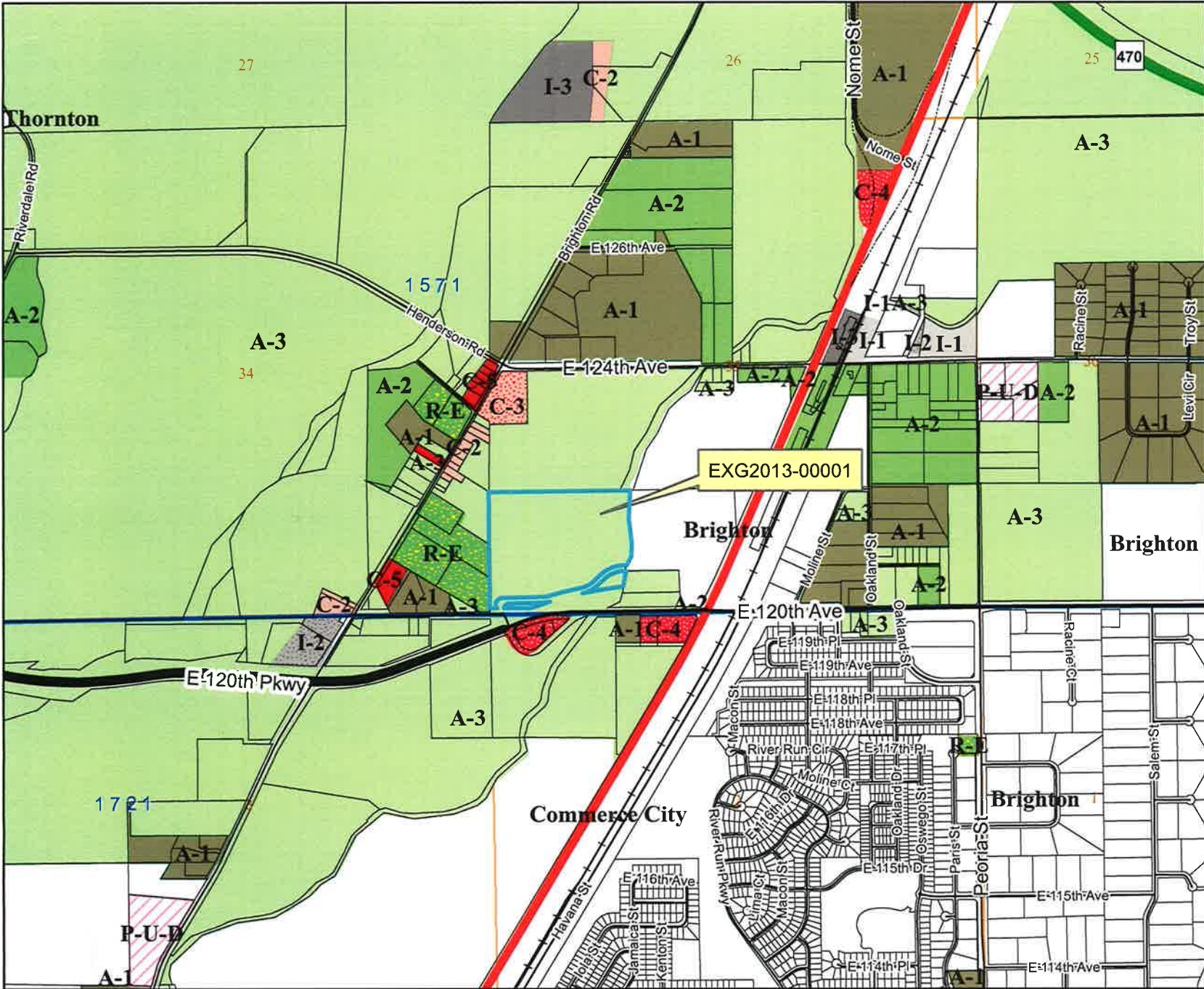
120th Partners CD
EXG2013-00001



For display purposes only.



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



LEGEND

- ★ Special Zoning Conditions
- 3 Section Numbers
- 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)
- ⊙ Airport Noise Overlay

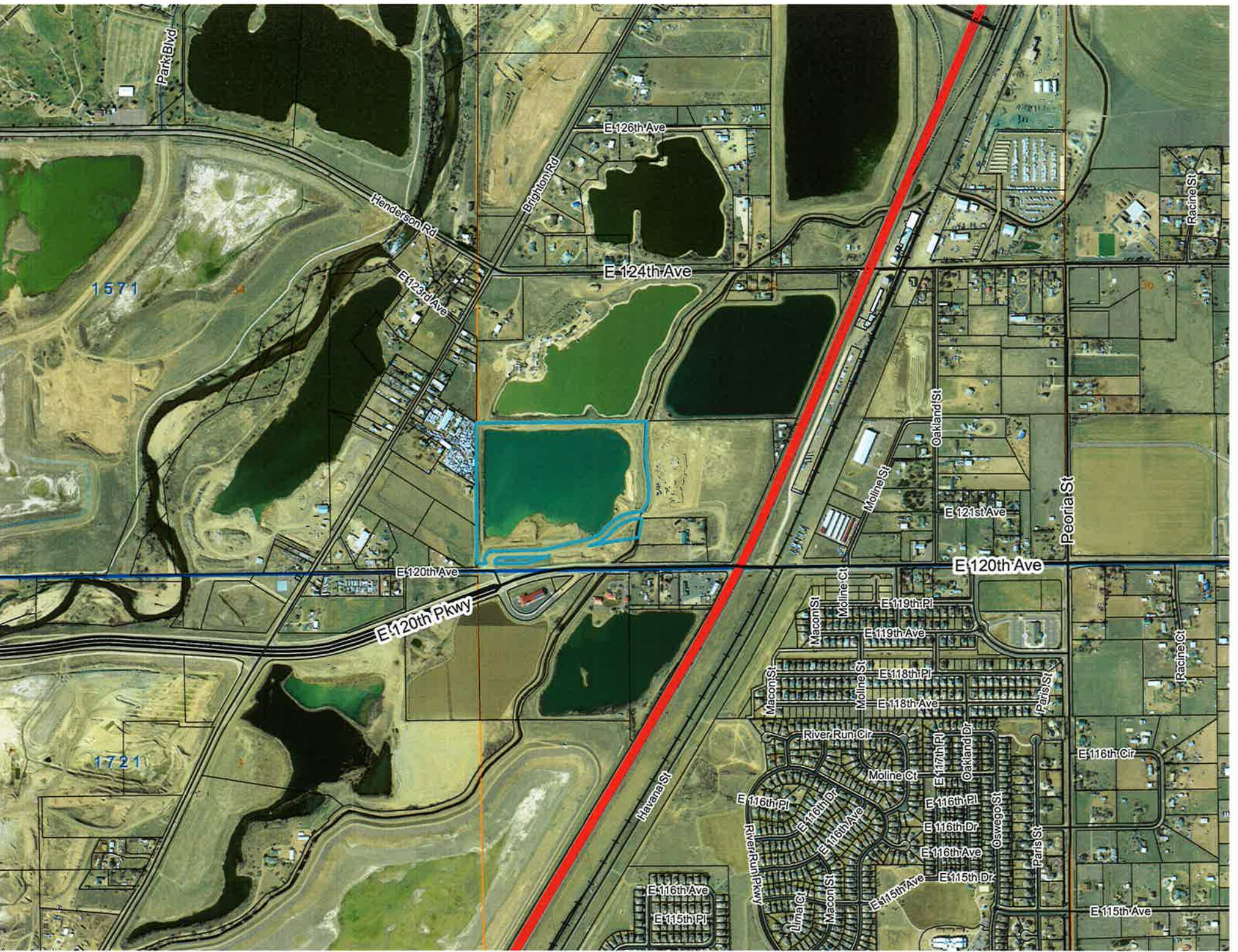
120th Partners CD
EXG2013-00001



For display purposes only.



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





**DEPARTMENT OF PLANNING AND DEVELOPMENT
STAFF REPORT**

Board of County Commissioners

February 24, 2014

CASE No.: EXG2013-00001

CASE NAME: 120th Partners CD

Owner's Name:	GSL/Brush, LLC
Applicant's Name	Eric B. Fenster
Applicant's Address:	P.O. Box 44011
Location of Request:	NW of 120th Pkwy & the Fulton Ditch
Nature of Request:	Certificate of Designation to allow this site to be filled with approximately 1,000,000 cubic yards of material to return the site to its original grade
Site Size:	+/-39.9 acres
Zone District:	A-3, Agriculture
Hearing Date(s):	PC = February 13, 2014 / 6:00 pm BoCC = February 24, 2014 / 10:00 am
Report Date:	February 18, 2014
Case Manager:	Christopher C. La Rue <i>CLM</i>
Staff Recommendation:	Approval with 11 findings, 1 Condition Precedent, 24 Conditions, & 3 Notes
PC Recommendation:	Approval with 11 findings, 1 Condition Precedent, 24 Conditions, & 3 Notes

SUMMARY OF PREVIOUS APPLICATIONS

Case # PRJ2002-00012, Corrigan Subdivision was approved by the Board of County Commissioners on June 10, 2002. The request was for 1) Rezoning 25 acres from A-3 to A-2; and 2) a Final Plat to create two lots on 69 acres (Lot 1: 44 acres/A-3 and Lot 2: 25 acres/A-2).

Case # EXG2002-00004, 120th Estates Partners, was approved by the Board of County Commissioners on June 2, 2003. The request was for a Conditional Use Permit for Major Excavation and Hauling to allow sand and gravel mining on 44.699 acres in the A-3 Zone District.

Case # EXG2008-00001, 120th Estates Partners was approved by the Board of County Commissioners on August 20, 2008. The request was for an extension in time to allow an existing Conditional Use Permit for Major Excavation and Hauling of sand and gravel mining for

an additional two years on 44.699 acres in the A-3 Zone District. Mining has been completed on site.

Case # EXG2010-00007, 120th Avenue Pit Night Hauling was approved by the Planning Commission on January 12, 2012. The request was for a Minor Amendment to Case # EXG2010-00007 to allow limited night hauling for construction activities at I-76 and the Platte River. This use has expired.

SUMMARY OF APPLICATION

The applicant is requesting a Certificate of Designation to allow this site to be filled with approximately 1,000,000 cubic yards of material to return the site to its original grade. The property is located northwest of 120th Avenue and Highway 85 within Lot 1 of the Corrigan Subdivision. The site is zoned A-3, Agricultural and consists of approximately 39 acres. The surrounding area consists of A-1, A-2, RE, C-2, and C-4 zonings. This property has previously been called the 120th Avenue / Henderson Pit. With this Certificate of Designation request the property will now be known as the Henderson Pit Inert Landfill.

The Henderson Pit Inert Landfill project is, essentially, a reclamation project for a parcel of property left un-reclaimed after mining activity. Mining was completed several years ago. Following the gravel mining, the property remains as a large pit encompassing about 39 acres, requiring approximately 1,000,000 cubic yards of fill material to return it to its original grade. This project represents a change in the reclamation plan from permanent water storage reservoir to a backfilled mine. This change has been approved by the State of Colorado Division of Reclamation Mining & Safety. The pit will be filled with clean, inert, non-hazardous material. According to the applicant, converting the pit to a water reservoir has become infeasible due to the high costs of renovation, the lack of interest from the City of Brighton and other potential suitors, and other factors. The Colorado Division of Reclamation Mining and Safety has approved a Technical Revision that allows the import of inert materials for use in repairing the northern part of the slurry wall.

General Information

Using inert fill at the Henderson site will convert the currently unusable property to usable agricultural or low-impact rural property uses in the near future. The site is zoned A-3, and the Comprehensive Plan designates the site as Estate Residential. The existing bottom of the remaining mined-out gravel pit (39 acres) is from 40 to 45 feet below the pre-existing ground surface of the land. Using inert fill in this area for structural fill will bring the site back to grade at the former land elevation allowing for future productive land use of the property.

The Colorado Department of Public Health and Environment has approved the site to be utilized as an inert landfill. The site would be used for the filling of clean fill dirt and inert materials only in the previously mined out gravel pit. Adams County defines “inert material” as:

“As defined in C.R.S. Section 25-15-101 (14) which includes non-water soluble and non-putrescible solids together with such minor amounts and types of other materials as will

not significantly affect the inert nature of such solids, as determined by Adams County. The term includes, but is not limited to, earth, sand, gravel, rock, concrete (which has been in a hardened state for at least sixty (60) days, masonry, asphalt paving fragments which are not located in the water table, and other inert solids including those the Colorado Department of Health may identify by regulation. Street sweepings from street cleaning machines are not considered inert material and are instead considered solid waste.”

Deliveries would enter and exit the site from 120th Avenue. The site will accept material associated with hauling contractors and construction operators in the Denver metro area. Only screened inert materials will be accepted. Truck drivers will be required to sign-in with each delivery and will unload in a designated area. The applicant will always have, at a minimum, one qualified operations employee on site during operational hours to monitor activities.

At the end of each day, operation personnel will review the sign-in sheet and the loads received for any abnormalities. The material received will be screened for unacceptable conditions and materials. After completing the daily review and secondary screening operations, and pushing material into the pit if it is appropriate, personnel would close and lock the gates. Unacceptable materials will be removed by the responsible party (trucking or hauling company), or by the operator, and be taken to an appropriate facility for legal disposal.

The types of inert materials that can be received at the Henderson Pit Inert Landfill are listed below and only uncontaminated materials will be accepted. A more complete description of inert materials to be used as fill is found in Section 6.6.1 in this application:

- Earth (“dirt”, “soil”),
- Sand,
- Gravel,
- Rock,
- Concrete (hardened for at least 60 days) and concrete pieces,
- Asphalt paving fragments,
- Top soil, and
- Masonry.

All of the materials could and would be placed below the alluvial water table with exception of asphalt materials. As previously mentioned, the pit bottom is 40 to 45 feet below the pre-existing ground surface of the land. Those materials, primarily consisting of hardened, ripped-up chunks of road paving, would be segregated and set aside for placement with other materials only at a minimum of one foot above the maximum seasonally high elevation of the alluvial water table. No organic materials (vegetation) will be allowed to be used as fill at the site. Material would be crushed on site for placement in the pit. A crusher would be utilized on site.

The Henderson Inert Landfill would maintain operating hours of 7:00 a.m. to 5:00 p.m., Monday through Saturday. Staff included a condition stating operations could not occur on Sundays or on holidays.

The site would have two employees onsite during operational hours. There would always be at least one qualified operations personnel on site during operational hours to monitor activities. The employees would be a qualified person at the check-in station to log-in and screen loads and a laborer to direct trucks to the proper location to dump. An equipment operator may be stationed on the site to push loads into the pit after they have been secondarily screened by the operations manager or his designee.

The inert materials fill has three areas of operation: delivery-receiving, placement of materials, and equipment parking. The previously backfilled areas will be used as areas for dumping clean fill dirt and inert construction materials ("solid waste", as described previously). Inert materials will be placed on the pit edge wherever the current filling location is to be pushed into the pit after a secondary screening. As this site would be used for fill, there would not be any storage of material.

The sources and amount of fill received on a daily basis will vary depending on construction activities in the Denver metro area. Traffic entering the site is estimated at approximately 31 trucks per day on a maximum basis. Often, given weather conditions and winter construction activity, only a few trucks would enter the site. The sources of fill material range from excavation activities for constructing basements and buildings, land clearing, demolition projects, and road and highway construction. Customers expected at the facilities will be trucking companies, asphalt and concrete paving companies, excavators, construction companies and government entities.

The volume of the remaining mined-out gravel pit is approximately 977,710 cubic yards. Based on an average of 31 truckloads of material received per day with an average of 18 cubic yards per truckload and 290 days/year of filling, the site should be filled at a conservative estimate of about 6 years. The daily volume of 560 cubic yards/day will fluctuate over time and it is anticipated that the site life could be as low as 5 years and as high as 7 years.

Nuisance Problems

Nuisance problems such as erosion, dust, and noise have been identified by the applicant and measures have been proposed by the applicant to mitigate such issues. This includes groundwater monitoring, storm water protections, and air quality mitigation (fugitive dust will be controlled with a watering truck). Operations at the site would be shut down when wind gust speeds exceed 35 mph or there are sustained 25mph winds. Litter should be minimal as loads would not normally contain any other debris other than what is needed for filling. Regardless, staff from the site would police the site and place it in receptacles as needed. State statute requires all incoming and outgoing loads to be covered.

Referrals:

During the referral of this case staff received one comment from a surrounding property owner. That person was concerned with the facility possibly have bad odors and looking unsightly. She ultimately stated the site should be developed as a grocery store for the area. Staff would state the facility would only accept inert material. This would in no way allow municipal solid waste.

There should be no odor concerns with operations. It should be stated that before the site could ever be considered for any development it would first need to be filled.

The Adams County Transportation Department stated the site is not impacted by a designated floodplain. They also stated no right-of-way is required. Transportation also stated the applicant will need to coordinate traffic sign placement/reimbursement with Adams County Transportation / Traffic Operations. There were questions regarding the original site plan. Since the original plan, the following has been provided and satisfied:

- Updated site plan with correct contour elevations,
- Approval from the Colorado Department of Health and Environment for the grading,
- New information on the site plan regarding the right-of-way descriptions, and
- Use of Class 6 road base material.

A letter was received from the Colorado Department of Public Health and Environment (CDPHE) regarding the applicants' request for a CD. The letter states the proposed facility can comply with the technical, environmental, and public health standards if the facility is constructed, operated, and monitored, as stated and as conditioned by CDPHE. They further state the proposal could be approved by Adams County with the conditions contained in their letter along with any additional local restrictions the County may wish to impose.

Urban Drainage and Flood Control states they have no objections to the proposal.

The Colorado Division of Water Resources made comments stating a Substitute Water Supply Plan must be obtained/amended to replace the depletions caused by the operation.

In a letter South Adams Water & Sanitation stated the property is not within their service area and is not included in the District.

In a letter Xcel Energy states they see no apparent conflicts with the proposal.

Conclusions

Staff is proposing numerous conditions with this land use application to ensure a safe and compatible land use with the area. The conditions are items that will run with the approval of the project. Staff has not received any negative referral agency comments that cannot be addressed. All of the relevant comments are included within the Conditions of Approval. Staff is recommending approval based on the following findings of fact:

CITIZEN COMMENTS

Kathryn Chappell, 11288 East 124th Avenue, stated she is not supportive of a waste dump near her property. It is stated she enjoys the water fowl and the pond on the applicant's property and does not want to see those things go. She states the site would best be served by putting in a commercial grocery chain which is badly needed for the residents.

PLANNING COMMISSION UPDATE

The Planning Commission previously heard this case on February 13, 2014 and recommended approval in a six to one vote. Commissioner Mosko was the dissenting vote and stated he felt the site should be used as water storage as was originally planned rather than being filled. The applicant did not state any concerns with the staff report or the recommended conditions of approval. Tom Kruger, 15037 West 49th Place in Golden, came forward in support of the request. Mr. Kruger stated he represented the water ski club to the north of the subject site and wished for the applicant's site to be filled. He also stated the applicants had been very responsive to his questions and needs.

RECOMMENDED FINDINGS OF FACT

1. The proposed use is an acceptable use in the applicable zone district.
2. The certificate of designation is consistent with the purposes of these standards and regulations and meets the intent of the Adams County Comprehensive Plan.
3. The certificate of designation will comply with the requirements of these standards and regulations including, but not limited to, all applicable performance standards.
4. The certificate of designation 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. In making this determination, the Planning Commission and the Board of County Commissioners shall find, at a minimum, that the certificate of designation will not result in excessive traffic generation, noise, vibration, dust, glare, heat, smoke, fumes, gas, odors, or inappropriate hours of operation.
5. The certificate of designation has addressed all off-site impacts.
6. The site is suitable for the certificate of designation, including adequate usable space, adequate access, and absence of environmental constraints.
7. There is a need for the facility in the County.
8. The applicant has documented his ability to comply with the health standards and operating procedures as provided by the Colorado Department of Health, the Tri-County Health Department, and other relevant agencies.
9. The site is accessible to Adams County residents and other potential users.
10. The proposed facility will comply with all applicable laws and regulations relating to air pollution, water pollution, and noise. When standards do not exist for regulating emissions

from a particular type of facility, the County will consider whether the facility may impact health and welfare of the community based upon specific facility design and operating procedures.

11. The site conforms to siting standards for the type of facility being proposed.

PC Recommendation:	Approval with 11 Conditions, 1 Condition Precedent, 24 Conditions, & 3 Notes
Staff Recommendation:	Approval with 11 Conditions, 1 Condition Precedent, 24 Conditions, & 3 Notes

RECOMMENDED CONDITIONS OF APPROVAL

Recommended Condition Precedent:

1. The applicant shall comply with the requirements of the Division of Water Resources. This includes obtaining approval for a new Substitute Water Supply Plan (SWSP).

Recommended Conditions:

1. Operations shall not proceed until a "Notice to Proceed" is issued by the Department of Planning and Development, after the applicant has demonstrated all pertinent Conditions of Approval, as determined by Adams County, have been completed.
2. Hours of operation for the facility shall be from 7:00 A. M. to 5:00 P.M., Monday through Saturday. Operations shall not permitted on Sundays or major holidays (New Year's Day, MLK Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day (and the day after), and Christmas Day).
3. All conditions set forth by the Colorado Department of Public Health and Environment (Solid Waste and Material Management Unit) as stated in their letter July 11, 2013 shall be considered as conditions in this case.
4. The CD shall expire on February 24, 2021.
5. Fugitive dust control mechanisms must be in place and functioning at all times.
6. All complaints received by the applicant concerning impacts to offsite wells, and the resolution of those complaints, shall be conveyed to the Department of Planning and Development. Impacts to offsite water wells shall be responded to and resolved immediately by the applicant. Disputes concerning impacts to offsite water wells may be resolved by the Department of Planning and Development and may be justification for a Show Cause Hearing before the Adams County Board of County Commissioners.
7. All haul trucks shall cover their loads pursuant to C.R.S. 42-4-1407.

8. The facility shall cease operations during periods of high winds. High winds shall be defined as when wind speeds exceed 35 mph or a sustained 25mph.
9. 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.
10. All applicable operational standards found within the Solid and Hazardous Waste Disposal section of the Adams County Development Standards shall be followed.
11. The total volume of the import shall not exceed 1,000,000 cubic yards over the lifetime of this project. The fill shall be structural fill only.
12. The proposed fill operation shall not obstruct or cause interference of any kind to irrigation ditch laterals or roadside ditches that are in place.
13. 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. Trash, organic material, and other waste material not meeting the definition of inert material shall be removed from each load at the screening location. A visual inspection and screening shall be made where loads are offloaded and materials not meeting the definition of inert material shall be removed. All materials removed from the waste stream shall be disposed of at an approved waste disposal facility at regular intervals and records of the transportation disposal shall be kept.
14. The applicant shall be responsible for the cleanliness and safety of all roadways adjacent to this site. If at any time, these roadways are found to be dangerous or not passable due to debris or mud, the Adams County Transportation Department will shut down the project, until the roadway conditions have improved and are deemed acceptable. If the contractor/applicant fails to keep the adjacent roadways clean and free from debris, the Transportation Department has the option to do the required clean up and bill the charges directly to the owner/applicant.
15. All materials must be inert, as defined in the Adams County Development Standards and Regulations including: non-water soluble and non-putrescible solids together with such minor amounts and types of other materials as will not significantly affect the inert nature of such solids, as determined by Adams County. The term includes, but is not limited to, earth, sand, gravel, rock, concrete (which has been in a hardened state for at least sixty (60) days), masonry, asphalt paving fragments which are not located in the water table, and other inert solids including those the Colorado Department of Health may identify by regulation. Street sweepings from street cleaning machines are not considered inert material and are instead considered solid waste.
16. 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.

17. Finished elevations shall be at or below pre-mine elevations.
18. The applicant will be held responsible for the cleanliness and safety of all roadways adjacent to this site.
19. A clean, neat, and orderly appearance shall be maintained on site.
20. The facility shall be limited only to those materials and processes described in this application. Any changes to types of material or processes shall require an amendment to the Certificate of Designation.
21. There were recommendations regarding the placement of additional signs in the traffic study. The applicant shall prepare a plan that shows the placement of the signs. Adams County Transportation may elect to manufacture and install the signs, and shall require reimbursement from the applicant. The applicant will need to coordinate this with Adams County Transportation / Traffic Operations regarding this issue.
22. If fuel will be stored on this site:
 - All fuel storage at this site shall be provided with secondary containment, which complies with State of Colorado Oil Inspection Section Regulations; and
 - Fueling areas shall be separated from the rest of the site's surface area, and protected from storm water; and
 - Applicant shall provide a spill prevention plan and release prevention plan for fuel storage and fueling operations. Good housekeeping shall be practiced at this site. Spill and drip containment pans shall be emptied frequently and all spills shall be cleaned up and disposed of immediately at a facility permitted for such disposal.
23. All access to and from the site shall enter and exit from the southwest access point onto 120th Avenue.
24. 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.

Recommended Notes to the applicant:

1. All applicable requirements of the Zoning, Health, Building, Engineering and Fire Codes shall be adhered to with this request.
2. Failure to comply with the requirements set forth in this permit may be justification for a show cause hearing, where the permit may be revoked.

3. Prior to operations commencing on site, the applicant shall obtain a Certificate of Designation document.



Planning and Development Department
12200 Pecos Street, Westminster, CO 80234
PHONE 303.453.8800 FAX 303.453.8829

MEMORANDUM

To: Board of County Commissioners
From: Christopher C. La Rue, Senior Planner
Subject: 120th Partners CD / Case #EXG2013-00001
Date: February 24, 2014

If the Board of County Commissioners does not concur with the staff recommendation of Approval, the following findings may be adopted as part of a decision of Denial:

ALTERNATIVE RECOMMENDED FINDINGS

1. The proposed use is not an acceptable use in the applicable zone district.
2. The certificate of designation is not consistent with the purposes of these standards and regulations and does not meet the intent of the Adams County Comprehensive Plan.
3. The certificate of designation will not comply with the requirements of these standards and regulations including, but not limited to, all applicable performance standards.
4. The certificate of designation is not compatible with the surrounding area, not harmonious with the character of the neighborhood, would be detrimental to the immediate area, would be detrimental to the future development of the area, and would be detrimental to the health, safety, or welfare of the inhabitants of the area and the County.
5. The certificate of designation has not addressed all off-site impacts.
6. The site is not suitable for the certificate of designation, including adequate usable space, adequate access, and absence of environmental constraints.
7. There is not a need for the facility in the County.
8. The applicant has not documented his ability to comply with the health standards and operating procedures as provided by the Colorado Department of Health, the Tri-County Health Department, and other relevant agencies.

9. The site is not accessible to Adams County residents and other potential users.
10. The facility would impact the health and welfare of the community based upon specific facility design and operating procedures.
11. The site does not conform to siting standards for the type of facility being proposed.



**DEPARTMENT OF PLANNING AND DEVELOPMENT
STAFF REPORT**

Planning Commission

February 13, 2014

CASE No.: EXG2013-00001	CASE NAME: 120 th Partners CD
-------------------------	--

Owner's Name:	GSL/Brush, LLC
Applicant's Name	Eric B. Fenster
Applicant's Address:	P.O. Box 44011
Location of Request:	NW of 120th Pkwy & the Fulton Ditch
Nature of Request:	Certificate of Designation to allow this site to be filled with approximately 1,000,000 cubic yards of material to return the site to its original grade
Site Size:	+/-39.9 acres
Zone District:	A-3, Agriculture
Hearing Date(s):	PC = February 13, 2014 / 6:00 pm BoCC = February 24, 2014 / 10:00 am
Report Date:	January 24, 2014
Case Manager:	Christopher C. La Rue <i>CLAM</i>
Staff Recommendation:	Approval with 11 findings, 1 Condition Precedent, 25 Conditions, & 3 Notes

SUMMARY OF PREVIOUS APPLICATIONS

Case # PRJ2002-00012, Corrigan Subdivision was approved by the Board of County Commissioners on June 10, 2002. The request was for 1) Rezoning 25 acres from A-3 to A-2; and 2) a Final Plat to create two lots on 69 acres (Lot 1: 44 acres/A-3 and Lot 2: 25 acres/A-2).

Case # EXG2002-00004, 120th Estates Partners, was approved by the Board of County Commissioners on June 2, 2003. The request was for a Conditional Use Permit for Major Excavation and Hauling to allow sand and gravel mining on 44.699 acres in the A-3 Zone District.

Case # EXG2008-00001, 120th Estates Partners was approved by the Board of County Commissioners on August 20, 2008. The request was for an extension in time to allow an existing Conditional Use Permit for Major Excavation and Hauling of sand and gravel mining for an additional two years on 44.699 acres in the A-3 Zone District. Mining has been completed on site.

Case # EXG2010-00007, 120th Avenue Pit Night Hauling was approved by the Planning Commission on January 12, 2012. The request was for a Minor Amendment to Case # EXG2010-00007 to allow limited night hauling for construction activities at I-76 and the Platte River. This use has expired.

SUMMARY OF APPLICATION

The applicant is requesting a Certificate of Designation to allow this site to be filled with approximately 1,000,000 cubic yards of material to return the site to its original grade. The property is located northwest of 120th Avenue and Highway 85 within Lot 1 of the Corrigan Subdivision. The site is zoned A-3, Agricultural and consists of approximately 39 acres. The surrounding area consists of A-1, A-2, RE, C-2, and C-4 zonings. This property has previously been called the 120th Avenue / Henderson Pit. With this Certificate of Designation request the property will now be known as the Henderson Pit Inert Landfill.

The Henderson Pit Inert Landfill project is, essentially, a reclamation project for a parcel of property left un-reclaimed after mining activity. Mining was completed several years ago. Following the gravel mining, the property remains as a large pit encompassing about 39 acres, requiring approximately 1,000,000 cubic yards of fill material to return it to its original grade. This project represents a change in the reclamation plan from permanent water storage reservoir to a backfilled mine. This change has been approved by the State of Colorado Division of Reclamation Mining & Safety. The pit will be filled with clean, inert, non-hazardous material. According to the applicant, converting the pit to a water reservoir has become infeasible due to the high costs of renovation, the lack of interest from the City of Brighton and other potential suitors, and other factors. The Colorado Division of Reclamation Mining and Safety has approved a Technical Revision that allows the import of inert materials for use in repairing the northern part of the slurry wall.

General Information

Using inert fill at the Henderson site will convert the currently unusable property to usable agricultural or low-impact rural property uses in the near future. The site is zoned A-3, and the Comprehensive Plan designates the site as Estate Residential. The existing bottom of the remaining mined-out gravel pit (39 acres) is from 40 to 45 feet below the pre-existing ground surface of the land. Using inert fill in this area for structural fill will bring the site back to grade at the former land elevation allowing for future productive land use of the property.

The Colorado Department of Public Health and Environment has approved the site to be utilized as an inert landfill. The site would be used for the filling of clean fill dirt and inert materials only in the previously mined out gravel pit. Adams County defines "inert material" as:

"As defined in C.R.S. Section 25-15-101 (14) which includes non-water soluble and non-putrescible solids together with such minor amounts and types of other materials as will not significantly affect the inert nature of such solids, as determined by Adams County. The term includes, but is not limited to, earth, sand, gravel, rock, concrete (which has

been in a hardened state for at least sixty (60) days, masonry, asphalt paving fragments which are not located in the water table, and other inert solids including those the Colorado Department of Health may identify by regulation. Street sweepings from street cleaning machines are not considered inert material and are instead considered solid waste.”

Deliveries would enter and exit the site from 120th Avenue. The site will accept material associated with hauling contractors and construction operators in the Denver metro area. Only screened inert materials will be accepted. Truck drivers will be required to sign-in with each delivery and will unload in a designated area. The applicant will always have, at a minimum, one qualified operations employee on site during operational hours to monitor activities.

At the end of each day, operation personnel will review the sign-in sheet and the loads received for any abnormalities. The material received will be screened for unacceptable conditions and materials. After completing the daily review and secondary screening operations, and pushing material into the pit if it is appropriate, personnel would close and lock the gates. Unacceptable materials will be removed by the responsible party (trucking or hauling company), or by the operator, and be taken to an appropriate facility for legal disposal.

The types of inert materials that can be received at the Henderson Pit Inert Landfill are listed below and only uncontaminated materials will be accepted. A more complete description of inert materials to be used as fill is found in Section 6.6.1 in this application:

- Earth (“dirt”, “soil”),
- Sand,
- Gravel,
- Rock,
- Concrete (hardened for at least 60 days) and concrete pieces,
- Asphalt paving fragments,
- Top soil, and
- Masonry.

All of the materials could and would be placed below the alluvial water table with exception of asphalt materials. As previously mentioned, the pit bottom is 40 to 45 feet below the pre-existing ground surface of the land. Those materials, primarily consisting of hardened, ripped-up chunks of road paving, would be segregated and set aside for placement with other materials only at a minimum of one foot above the maximum seasonally high elevation of the alluvial water table. No organic materials (vegetation) will be allowed to be used as fill at the site. Material would be crushed on site for placement in the pit. A crusher would be utilized on site.

The Henderson Inert Landfill would maintain operating hours of 7:00 a.m. to 5:00 p.m., Monday through Saturday. Staff included a condition stating operations could not occur on Sundays or on holidays.

The site would have two employees onsite during operational hours. There would always be at least one qualified operations personnel on site during operational hours to monitor activities.

The employees would be a qualified person at the check-in station to log-in and screen loads and a laborer to direct trucks to the proper location to dump. An equipment operator may be stationed on the site to push loads into the pit after they have been secondarily screened by the operations manager or his designee.

The inert materials fill has three areas of operation: delivery-receiving, placement of materials, and equipment parking. The previously backfilled areas will be used as areas for dumping clean fill dirt and inert construction materials (“solid waste”, as described previously). Inert materials will be placed on the pit edge wherever the current filling location is to be pushed into the pit after a secondary screening. As this site would be used for fill, there would not be any storage of material.

The sources and amount of fill received on a daily basis will vary depending on construction activities in the Denver metro area. Traffic entering the site is estimated at approximately 31 trucks per day on a maximum basis. Often, given weather conditions and winter construction activity, only a few trucks would enter the site. The sources of fill material range from excavation activities for constructing basements and buildings, land clearing, demolition projects, and road and highway construction. Customers expected at the facilities will be trucking companies, asphalt and concrete paving companies, excavators, construction companies and government entities.

The volume of the remaining mined-out gravel pit is approximately 977,710 cubic yards. Based on an average of 31 truckloads of material received per day with an average of 18 cubic yards per truckload and 290 days/year of filling, the site should be filled at a conservative estimate of about 6 years. The daily volume of 560 cubic yards/day will fluctuate over time and it is anticipated that the site life could be as low as 5 years and as high as 7 years.

Nuisance Problems

Nuisance problems such as erosion, dust, and noise have been identified by the applicant and measures have been proposed by the applicant to mitigate such issues. This includes groundwater monitoring, storm water protections, and air quality mitigation (fugitive dust will be controlled with a watering truck). Operations at the site would be shut down when wind gust speeds exceed 35 mph or there are sustained 25mph winds. Litter should be minimal as loads would not normally contain any other debris other than what is needed for filling. Regardless, staff from the site would police the site and place it in receptacles as needed. State statute requires all incoming and outgoing loads to be covered.

Referrals:

During the referral of this case staff received one comment from a surrounding property owner. That person was concerned with the facility possibly have bad odors and looking unsightly. She ultimately stated the site should be developed as a grocery store for the area. Staff would state the facility would only accept inert material. This would in no way allow municipal solid waste. There should be no odor concerns with operations. It should be stated that before the site could ever be considered for any development it would first need to be filled.

The Adams County Transportation Department stated the site is not impacted by a designated floodplain. They also stated no right-of-way is required. Transportation also stated the applicant will need to coordinate traffic sign placement/reimbursement with Adams County Transportation / Traffic Operations. There were questions regarding the original site plan. Since the original plan, the following has been provided and satisfied:

- Updated site plan with correct contour elevations,
- Approval from the Colorado Department of Health and Environment for the grading,
- New information on the site plan regarding the right-of-way descriptions, and
- Use of Class 6 road base material.

A letter was received from the Colorado Department of Public Health and Environment (CDPHE) regarding the applicants' request for a CD. The letter states the proposed facility can comply with the technical, environmental, and public health standards if the facility is constructed, operated, and monitored, as stated and as conditioned by CDPHE. They further state the proposal could be approved by Adams County with the conditions contained in their letter along with any additional local restrictions the County may wish to impose.

Urban Drainage and Flood Control states they have no objections to the proposal.

The Colorado Division of Water Resources made comments stating a Substitute Water Supply Plan must be obtained/amended to replace the depletions caused by the operation.

In a letter South Adams Water & Sanitation stated the property is not within their service area and is not included in the District.

In a letter Xcel Energy states they see no apparent conflicts with the proposal.

Conclusions

Staff is proposing numerous conditions with this land use application to ensure a safe and compatible land use with the area. The conditions are items that will run with the approval of the project. Staff has not received any negative referral agency comments that cannot be addressed. All of the relevant comments are included within the Conditions of Approval. Staff is recommending approval based on the following findings of fact:

RECOMMENDED FINDINGS OF FACT

1. The proposed use is an acceptable use in the applicable zone district.

2. The certificate of designation is consistent with the purposes of these standards and regulations and meets the intent of the Adams County Comprehensive Plan.
3. The certificate of designation will comply with the requirements of these standards and regulations including, but not limited to, all applicable performance standards.
4. The certificate of designation 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. In making this determination, the Planning Commission and the Board of County Commissioners shall find, at a minimum, that the certificate of designation will not result in excessive traffic generation, noise, vibration, dust, glare, heat, smoke, fumes, gas, odors, or inappropriate hours of operation.
5. The certificate of designation has addressed all off-site impacts.
6. The site is suitable for the certificate of designation, including adequate usable space, adequate access, and absence of environmental constraints.
7. There is a need for the facility in the County.
8. The applicant has documented his ability to comply with the health standards and operating procedures as provided by the Colorado Department of Health, the Tri-County Health Department, and other relevant agencies.
9. The site is accessible to Adams County residents and other potential users.
10. The proposed facility will comply with all applicable laws and regulations relating to air pollution, water pollution, and noise. When standards do not exist for regulating emissions from a particular type of facility, the County will consider whether the facility may impact health and welfare of the community based upon specific facility design and operating procedures.
11. The site conforms to siting standards for the type of facility being proposed.

Staff Recommendation:	Approval with 11 Conditions, 1 Condition Precedent, 25 Conditions, & 3 Notes
------------------------------	---

RECOMMENDED CONDITIONS OF APPROVAL

Recommended Condition Precedent:

1. The applicant shall comply with the requirements of the Division of Water Resources. This includes obtaining approval for a new Substitute Water Supply Plan (SWSP).

Recommended Conditions:

2. Operations shall not proceed until a "Notice to Proceed" is issued by the Department of Planning and Development, after the applicant has demonstrated all pertinent Conditions of Approval, as determined by Adams County, have been completed.
3. Hours of operation for the facility shall be from 7:00 A. M. to 5:00 P.M., Monday through Saturday. Operations shall not be permitted on Sundays or major holidays (New Year's Day, MLK Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day (and the day after), and Christmas Day).
4. All conditions set forth by the Colorado Department of Public Health and Environment (Solid Waste and Material Management Unit) as stated in their letter July 11, 2013 shall be considered as conditions in this case.
5. The CD shall expire on February 24, 2021.
6. Fugitive dust control mechanisms must be in place and functioning at all times.
7. All complaints received by the applicant concerning impacts to offsite wells, and the resolution of those complaints, shall be conveyed to the Department of Planning and Development. Impacts to offsite water wells shall be responded to and resolved immediately by the applicant. Disputes concerning impacts to offsite water wells may be resolved by the Department of Planning and Development and may be justification for a Show Cause Hearing before the Adams County Board of County Commissioners.
8. All haul trucks shall cover their loads pursuant to C.R.S. 42-4-1407.
9. The facility shall cease operations during periods of high winds. High winds shall be defined as when wind speeds exceed 35 mph or a sustained 25mph.
10. 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.
11. All applicable operational standards found within the Solid and Hazardous Waste Disposal section of the Adams County Development Standards shall be followed.
12. The total volume of the import shall not exceed 1,000,000 cubic yards over the lifetime of this project. The fill shall be structural fill only.
13. The proposed fill operation shall not obstruct or cause interference of any kind to irrigation ditch laterals or roadside ditches that are in place.

14. 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. Trash, organic material, and other waste material not meeting the definition of inert material shall be removed from each load at the screening location. A visual inspection and screening shall be made where loads are offloaded and materials not meeting the definition of inert material shall be removed. All materials removed from the waste stream shall be disposed of at an approved waste disposal facility at regular intervals and records of the transportation disposal shall be kept.
15. The applicant shall be responsible for the cleanliness and safety of all roadways adjacent to this site. If at any time, these roadways are found to be dangerous or not passable due to debris or mud, the Adams County Transportation Department will shut down the project, until the roadway conditions have improved and are deemed acceptable. If the contractor/applicant fails to keep the adjacent roadways clean and free from debris, the Transportation Department has the option to do the required clean up and bill the charges directly to the owner/applicant.
16. All materials must be inert, as defined in the Adams County Development Standards and Regulations including: non-water soluble and non-putrescible solids together with such minor amounts and types of other materials as will not significantly affect the inert nature of such solids, as determined by Adams County. The term includes, but is not limited to, earth, sand, gravel, rock, concrete (which has been in a hardened state for at least sixty (60) days), masonry, asphalt paving fragments which are not located in the water table, and other inert solids including those the Colorado Department of Health may identify by regulation. Street sweepings from street cleaning machines are not considered inert material and are instead considered solid waste.
17. 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.
18. Finished elevations shall be at or below pre-mine elevations.
19. The applicant will be held responsible for the cleanliness and safety of all roadways adjacent to this site.
20. A clean, neat, and orderly appearance shall be maintained on site.
21. The facility shall be limited only to those materials and processes described in this application. Any changes to types of material or processes shall require an amendment to the Certificate of Designation.

22. There were recommendations regarding the placement of additional signs in the traffic study. The applicant shall prepare a plan that shows the placement of the signs. Adams County Transportation may elect to manufacture and install the signs, and shall require reimbursement from the applicant. The applicant will need to coordinate this with Adams County Transportation / Traffic Operations regarding this issue.
23. If fuel will be stored on this site:
 - All fuel storage at this site shall be provided with secondary containment, which complies with State of Colorado Oil Inspection Section Regulations; and
 - Fueling areas shall be separated from the rest of the site's surface area, and protected from storm water; and
 - Applicant shall provide a spill prevention plan and release prevention plan for fuel storage and fueling operations. Good housekeeping shall be practiced at this site. Spill and drip containment pans shall be emptied frequently and all spills shall be cleaned up and disposed of immediately at a facility permitted for such disposal.
24. All access to and from the site shall enter and exit from the southwest access point onto 120th Avenue.
25. 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.

Recommended Notes to the applicant:

1. All applicable requirements of the Zoning, Health, Building, Engineering and Fire Codes shall be adhered to with this request.
2. Failure to comply with the requirements set forth in this permit may be justification for a show cause hearing, where the permit may be revoked.
3. Prior to operations commencing on site, the applicant shall obtain a Certificate of Designation document.

CASE ANALYSIS

REVIEW CRITERIA:

1. The proposed use is an acceptable use in the applicable zone district.
Yes
2. The certificate of designation is consistent with the purposes of these standards and regulations and meets the intent of the Adams County Comprehensive Plan.
Yes
3. The certificate of designation will comply with the requirements of these standards and regulations including, but not limited to, all applicable performance standards.

Yes

4. The certificate of designation 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. In making this determination, the Planning Commission and the Board of County Commissioners shall find, at a minimum, that the certificate of designation will not result in excessive traffic generation, noise, vibration, dust, glare, heat, smoke, fumes, gas, odors, or inappropriate hours of operation.

Yes

5. The certificate of designation has addressed all off-site impacts.

Yes

6. The site is suitable for the certificate of designation, including adequate usable space, adequate access, and absence of environmental constraints.

Yes

7. There is a need for the facility in the County.

Yes

8. The applicant has documented his ability to comply with the health standards and operating procedures as provided by the Colorado Department of Health, the Tri-County Health Department, and other relevant agencies.

Yes

9. The site is accessible to Adams County residents and other potential users.

Yes

10. The proposed facility will comply with all applicable laws and regulations relating to air pollution, water pollution, and noise. When standards do not exist for regulating emissions from a particular type of facility, the County will consider whether the facility may impact health and welfare of the community based upon specific facility design and operating procedures.

Yes

11. The site conforms to siting standards for the type of facility being proposed.

Yes

CITIZEN COMMENTS

Kathryn Chappell, 11288 East 124th Avenue, stated she is not supportive of a waste dump near her property. It is stated she enjoys the water fowl and the pond on the applicant's property and does not want to see those things go. She states the site would best be served by putting in a commercial grocery chain which is badly needed for the residents.

COUNTY AGENCY COMMENTS

ADAMS COUNTY BUILDING SAFETY DIVISION:

No comments.

ADAMS COUNTY CODE COMPLIANCE DIVISION:

Code responded with no concerns.

ADAMS COUNTY PARKS DEPARTMENT:

Parks responded with no concerns.

ADAMS COUNTY SHERIFF'S OFFICE:

No comments

ADAMS COUNTY TRANSPORTATION DEPARTMENT:

Regional Drainage

Flood Insurance Rate Maps – FIRM Panel 08001C0336H, Federal Emergency Management Agency, March 5, 2007.

Second Creek (Downstream of DIA) and DFA 0053 Watersheds - Outfall Systems Planning Study Update, prepared for the Urban Drainage and Flood Control District, City of Brighton, the City of Commerce City, and Adams County, prepared by Kiowa Engineering Corporation. August 2004. Sheet 25.

- A. According to the above references, the site is not located within a delineated flood hazard zone.
- B. There are no proposed regional drainage facilities that affect the site.

		Right-of-Way		
		Right of Way*		
<u>Road</u>	<u>Type</u>	<u>existing</u>	<u>proposed</u>	<u>requested</u>
East 120 th Parkway	arterial	varies	varies	0-ft

* Right-of-Way is measured from either section line or street center line.

Additional right-of-way is not requested at this time.

Access

There were recommendations regarding the placement of additional signs in the traffic study. It is requested that the applicant's technical representative prepare a plan that shows the placement of the signs. Adams County Transportation may elect to manufacture and install the signs, and require reimbursement from the applicant. The applicant will need to coordinate this with Adams County Transportation / Traffic Operations.

Construction

The revised exhibit provided by the applicant's addresses the original comments that County staff had regarding the site plan.

There were questions regarding the original site plan. Since the original plan, the following has been provided:

- Updated site plan with correct contour elevations
- Approval from the Colorado Department of Health and Environment for the grading
- New information on the site plan regarding the right-of-way descriptions
- Use of Class 6 road base material

REFERRAL AGENCY COMMENTS

Responding without concerns:

Brighton School District

CDPHE

In a letter dated July 11, 2013 CDPHE approved the CD application with conditions that should be followed. The conditions relate to providing adequate financial assurance and renewing that assurance every five years.

South Adams Water & Sanitation

Xcel Energy

Urban Drainage & Flood Control

Responding with concerns:

Colorado Division of Water Resources

In their letter dated October 22, 2010 the Colorado Division of Water Resources indicates the applicants must continue to have a valid substitute water supply plan (SWSP) as long as ground water is exposed.

Notified but not responding / Considered a Favorable Response:

Brighton Fire District

CDOT

City of Brighton

City of Commerce City

Colorado Department of Health – Air Quality

Colorado Division of Mining Reclamation & Safety

Colorado Division of Wildlife

Comcast

FEMA

Fulton Ditch Company

Metro Wastewater Reclamation District

Qwest Communications

RTD
South Adams Fire District
United Power
US EPA



Planning and Development Department
12200 Pecos Street, Westminster, CO 80234
PHONE 303.453.8800 FAX 303.453.8829

MEMORANDUM

To: Planning Commission

From: Christopher C. La Rue, Development Review Planner II

Subject: 120th Partners CD / Case #EXG2013-00001

Date: February 13, 2014

If the Planning Commission does not concur with the staff recommendation of Approval, the following findings may be adopted as part of a decision of Denial:

ALTERNATIVE RECOMMENDED FINDINGS

1. The proposed use is not an acceptable use in the applicable zone district.
2. The certificate of designation is not consistent with the purposes of these standards and regulations and does not meet the intent of the Adams County Comprehensive Plan.
3. The certificate of designation will not comply with the requirements of these standards and regulations including, but not limited to, all applicable performance standards.
4. The certificate of designation is not compatible with the surrounding area, not harmonious with the character of the neighborhood, would be detrimental to the immediate area, would be detrimental to the future development of the area, and would be detrimental to the health, safety, or welfare of the inhabitants of the area and the County.
5. The certificate of designation has not addressed all off-site impacts.
6. The site is not suitable for the certificate of designation, including adequate usable space, adequate access, and absence of environmental constraints.
7. There is not a need for the facility in the County.
8. The applicant has not documented his ability to comply with the health standards and operating procedures as provided by the Colorado Department of Health, the Tri-County Health Department, and other relevant agencies.

9. The site is not accessible to Adams County residents and other potential users.
10. The facility would impact the health and welfare of the community based upon specific facility design and operating procedures.
11. The site does not conform to siting standards for the type of facility being proposed.



**COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY
MINERALS PROGRAM INSPECTION REPORT
PHONE: (303) 866-3567**

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: 120th Estates Partners	MINE/PROSPECTING ID#: M-2001-085	MINERAL: Sand and gravel	COUNTY: Adams
INSPECTION TYPE: Monitoring	INSPECTOR(S): Berhan Keffelew	INSP. DATE: May 15, 2012	INSP. TIME: 14:00
OPERATOR: GSL/Brush LLC	OPERATOR REPRESENTATIVE: Adam Schultejan	TYPE OF OPERATION: 112c - Construction Regular Operation	

REASON FOR INSPECTION: Citizen Complaint	BOND CALCULATION TYPE: Complete Bond	BOND AMOUNT: \$303,815.00
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
WEATHER: Clear	INSPECTOR'S SIGNATURE:	SIGNATURE DATE: July 3, 2012

The following inspection topics were identified as having Problems or Possible Violations. OPERATORS SHOULD READ THE FOLLOWING PAGES CAREFULLY IN ORDER TO ASSURE COMPLIANCE WITH THE TERMS OF THE PERMIT AND APPLICABLE RULES AND REGULATIONS. If a Possible Violation is indicated, you will be notified under separate cover as to when the Mined Land Reclamation Board will consider possible enforcement action.

<p>INSPECTION TOPIC: Backfilling & Grading PROBLEM/POSSIBLE VIOLATION: Problem: Erosion gullies and ruts were observed on-site. This is a problem at this time for failure to protect the affected land from erosion pursuant to C.R.S. 34-32.5-116 (4) (j). CORRECTIVE ACTIONS: The operator shall provide photo documentation to the Division verifying erosion gullies and ruts have been repaired, and that the site has have been reconstructed and stabilized to prevent erosion damage by the corrective action date. CORRECTIVE ACTION DUE DATE: 8/30/12</p> <p>INSPECTION TOPIC: Financial Warranty PROBLEM/POSSIBLE VIOLATION: Problem: Problem: The Operator has not provided the full financial warranty amount required under the approval of Amendment AM-4. CORRECTIVE ACTIONS: CORRECTIVE ACTION: The Operator must provide the additional amount before work on Amendment AM-4 starts or within 365 days of AM-4 approval (February 2, 2011). CORRECTIVE ACTION DUE DATE: 2/02/11</p> <p>INSPECTION TOPIC: Hydrologic Balance PROBLEM/POSSIBLE VIOLATION: Problem: PROBLEM: Operator has failed to minimize disturbances to the prevailing hydrologic balance of the affected land and of the surrounding area, as required by 34-32.5-116(4)(h) C.R.S. and Rule 3.1.6(1). CORRECTIVE ACTIONS: CORRECTIVE ACTION:</p>

PERMIT #: M-2001-085
INSPECTOR'S INITIALS: BMK
INSPECTION DATE: May 15, 2012

--

OBSERVATIONS

- 1) The Division conducted a citizen's complaint inspection of the site on 5/15/12. The Division received a letter from the adjacent land owners about a potential failure surface along the north side of the pond embankment that could impact their property.
- 2) Present during the inspection was Mr. Adam Schultejann, the operator's representative and Messer T.C Oxley, Jim Wheeling, Carlo Gains and Dan Overton representing the adjacent land owners were present.
- 3) There was indeed a failure surface along the north side embankment that joins the ski lake on the North side. However, all the failure surface and affected area was limited to the permit boundary of M-2001-085? Even though the current affected area is limited within the permit boundary, if the failure surface is not backfilled in reasonable amount of time, there is a potential to encroach on to the adjacent land and affect the narrow road that allows access around the ski lake. Everybody present agreed all the affected area from the surface failure was limited to the existing permit. We all agreed if the repair is not conducted in a reasonable time, there is a good chance the narrow ski lake road could be impacted. In order to limit the potential impact, the Division requested the ski lake owners to limit vehicle traffic along the road until the embankment is repaired. They agreed to restrict access along that area until the repair is completed.
- 4) The Division contacted the operator Mr. Jim Newman in Chicago and informed him of the finding and the need to conduct the repair in an expedited manner. Mr. Newman stated that he has authorized Adam to conduct the repair.
- 5) At present the operation is still under corrective action for a failure to submit the additional financial warranty for Amendment # 4. In addition under this inspection the operator is cited for a possible problem for failure to protect the affected land from erosion C.R.S. 34-32.5-116(4)(j).
- 6) On June 26, 2012, the Division sent the operator a certified letter to address the warranty deficiency within 15 days after receipt of the certified letter. If the operator does not address the issue by the date outlined in the letter, the Division will take appropriate action as outlined in the letter.

PHOTOGRAPHS



Figure 1 permit sign



Figure 2 showing the area of embankment failure 5/15/12



Figure 3 looking west at the failure surface



Figure 4 looking NNW @ the failure surface



Figure 5 looking SSW at the pond



Figure 6 looking NNW at the pond.

GENERAL INSPECTION TOPICS

The following list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each

(AR) RECORDS----- <u>Y</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>N</u>
(HB) HYDROLOGIC BALANCE----- <u>N</u>	(BG) BACKFILL & GRADING----- <u>PB</u>	(EX) EXPLOSIVES----- <u>N</u>
(PW) PROCESSING WASTE/TAILING---- <u>N</u>	(SF) PROCESSING FACILITIES----- <u>N</u>	(TS) TOPSOIL----- <u>N</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>N</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>N</u>
(SM) SIGNS AND MARKERS----- <u>N</u>	(SP) STORM WATER MGT PLAN---- <u>N</u>	(SB) COMPLETE INSP---- <u>N</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>NA</u>	(SC) EROSION/SEDIMENTATION--- <u>N</u>	(RS) RECL PLAN/COMP-- <u>N</u>
(AT) ACID OR TOXIC MATERIALS----- <u>NA</u>	(OD) OFF-SITE DAMAGE----- <u>N</u>	(ST) STIPULATIONS----- <u>N</u>

Y = Inspected and found in compliance / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

James Newman
GSL/Brush LLC
4131 S. State Street
Chicago, IL 60609

Enclosure

CC:



**COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY
MINERALS PROGRAM INSPECTION REPORT
PHONE: (303) 866-3567**

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: 120th Estates Partners	MINE/PROSPECTING ID#: M-2001-085	MINERAL: Sand and gravel	COUNTY: Adams
INSPECTION TYPE: Monitoring	INSPECTOR(S): Berhan M. Keffelew	INSP. DATE: August 30, 2012	INSP. TIME: 1330
OPERATOR: GSL/Brush LLC	OPERATOR REPRESENTATIVE: Eric Fensterlaw and Dan Schulejann	TYPE OF OPERATION: 112c - Construction Regular Operation	

REASON FOR INSPECTION: Normal I&E Program	BOND CALCULATION TYPE: Complete Bond	BOND AMOUNT: \$303,815.00
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
WEATHER: Clear	INSPECTOR'S SIGNATURE: <i>Berhan Keffelew</i>	SIGNATURE DATE: September 21, 2012

GENERAL INSPECTION TOPICS

This list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each. No problems or possible violations were noted during the inspection. The mine operation was found to be in full compliance with Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials and/or for Hard Rock, Metal and Designated Mining Operations. Any person engaged in any mining operation shall notify the office of any failure or imminent failure, as soon as reasonably practicable after such person has knowledge of such condition or of any impoundment, embankment, or slope that poses a reasonable potential for danger to any persons or property or to the environment; or any environmental protection facility designed to contain or control chemicals or waste which are acid or toxic-forming, as identified in the permit.

(AR) RECORDS----- <u>Y</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>Y</u>
(HB) HYDROLOGIC BALANCE----- <u>Y</u>	(BG) BACKFILL & GRADING----- <u>Y</u>	(EX) EXPLOSIVES----- <u>NA</u>
(PW) PROCESSING WASTE/TAILING---- <u>NA</u>	(SF) PROCESSING FACILITIES----- <u>NA</u>	(TS) TOPSOIL----- <u>N</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>N</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>N</u>
(SM) SIGNS AND MARKERS----- <u>Y</u>	(SP) STORM WATER MGT PLAN---- <u>NA</u>	(SB) COMPLETE INSP---- <u>N</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>NA</u>	(SC) EROSION/SEDIMENTATION--- <u>N</u>	(RS) RECL PLAN/COMP-- <u>N</u>
(AT) ACID OR TOXIC MATERIALS----- <u>NA</u>	(OD) OFF-SITE DAMAGE----- <u>Y</u>	(ST) STIPULATIONS----- <u>NA</u>

Y = Inspected and found in compliance / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

OBSERVATIONS

- 1) The Division conducted a compliance inspection of the site on August 30, 2012. During the complaint inspection conducted on May 5, 2012, the Division had identified a possible problem for failure to protect areas from slides. The embankment along the north side of the pond was observed with a failure surface at the time of the May inspection. The Division did not want the failure surface to encroach on to an adjacent road, outside of the permit area and requested the repair work to be completed by August 30, 2012. This inspection was conducted to verify the proper completion of the repair work.
- 2) As requested, the operator has completed all the repair work and armored the embankment so it will remain stable.
- 3) The operator is expected to submit an amendment to the permit by September 30, 2012. The amendment will purpose to change the post mining land use from the current water storage to a backfilled dry pit.

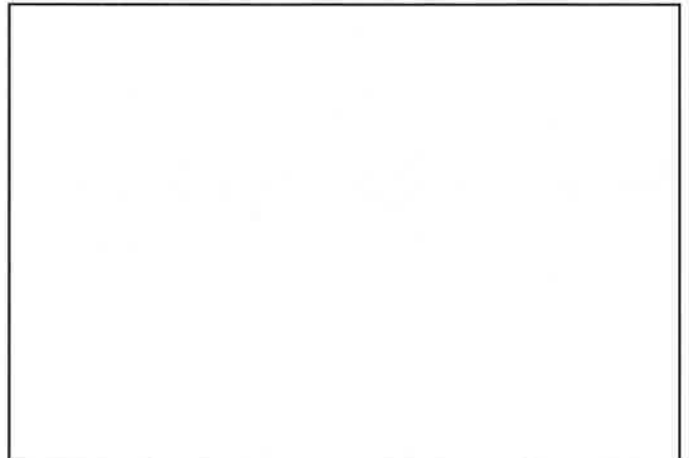
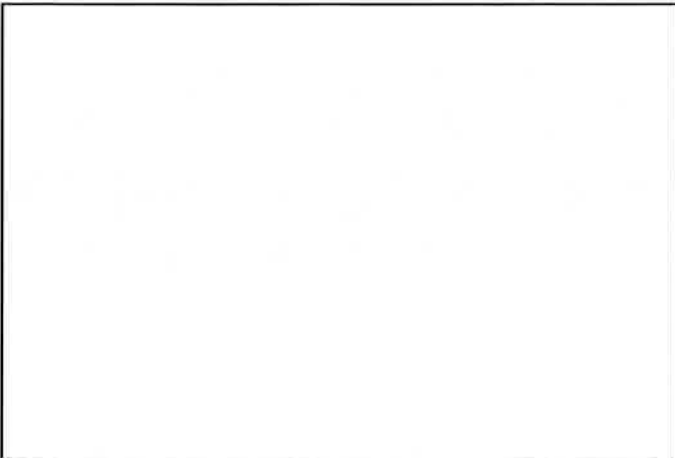
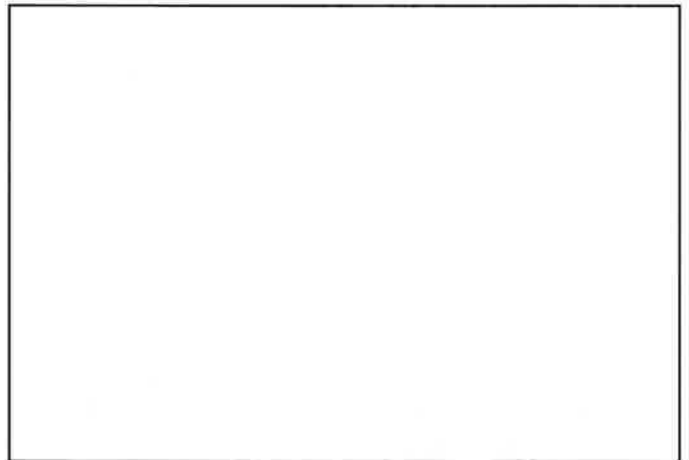
PHOTOGRAPHS



Figure 1 Looking west at the repaired embankment



Figure 2 A close up look of the repaired embankment



PERMIT #: M-2001-085
INSPECTOR'S INITIALS: BMK
INSPECTION DATE: August 30, 2012

James Newman
GSL/Brush LLC
4131 S. State Street
Chicago, IL 60609

CC: Tony Waldron
Tom Kaldenbach

M-2001-085
INSPECTION
9/30/12

SOLID WASTE INSPECTION WORKSHEET

Agency: Colorado Department of Public Health and Environment
Hazardous Materials and Waste Management Division

Date: September 30, 2012 Times: 10:30 AM -12:00 PM

Site: 120th Avenue Partners Operator: 120th Avenue Partners
10925 E. 120th Ave. 4131 S. State Street
Henderson, CO Chicago, Ill

Inspectors: Darrell Dearborn Inspection: Complaint Inv.
Craig Tessmer

File: SW/ADM/GEN 1.2

On September 30, 2012, Darrell Dearborn an inspector with the Solid Waste and Material Management Unit of the Hazardous Materials and Waste Management Division (Division) conducted an unannounced inspection on a property located at 10925 E. 120th Ave. in Henderson, CO. The Department conducted this inspection to determine the property's compliance status relative to the Solid Waste Disposal Sites and Facilities Act, Title 30, Article 20, Part 1 of the Colorado Revised Statutes ("the Act") and the Regulations Pertaining to Solid Waste Sites and Facilities, 6 CCR 1007-2, Part 1 ("the Regulations"). This inspection was conducted in response to a complaint of illegal solid waste disposal at the site.

Eric Fenster and David Schultjann with 120th Estates Partners, Inc. and Craig Tessmer with Adams County Planning Department accompanied Mr. Dearborn during the inspection. This 48 acre site is permitted by the Division of Reclamation, Mining and Safety (permit # M-2001-085). Until last year the site was mined for aggregate and is currently being filled with inert materials to stabilize the north wall. This remediation action was requested by Mr. Berhan Keffelew with the Division of Reclamation, Mining and Safety in a report dated May 15th, 2012 due to instability of the north and northwest pit wall. No engineered plan or material specifications were required by the Division of Reclamation for this project.

Mr. Fenster told the inspectors that eventually he would like to get a permit or Certificate of Designation to fill the pond with inert materials. He also informed the inspectors that only clean dirt and concrete was being used as fill and that asphalt observed on the edge of the pond is staged for removal. He further stated that he is aware of the locations where the dirt is hauled from and that the facility is not charging for disposal.

The group rode in a vehicle to the edge of the pit. Dirt and concrete was observed at the edge of the excavation and was being pushed into the pit with a loader. Asphalt is stored

away from the working face and is placed upon the edge of the pit for additional processing. No organic material or other solid waste was observed in the pit.

The inspectors then walked along the north wall of the pit. The pit was not drained prior to the remediation effort and currently is filled with water. Rills and gully's are apparent on the sidewalls. The Division of Reclamation, Mining and Safety has required that these be repaired as well. No unauthorized waste was observed in the pit. No asphalt was observed in the pond.

It is clear that the facility operators are conducting remedial action to prevent the mines wall from collapsing as required by the Division of Reclamation, Mining and Safety. No asphalt materials were observed in the mining pit.

Based upon observations conducted during this inspection and information provided by the operators the Division determines this site to be in compliance with the Solid Waste Act 30-20-Part 1 C.R.S. and the Solid Waste Regulations 6 CCR 1007-2.



Figure 1- North edge of pit w/concrete



Figure 2 - NW corner of pit




Figure 3 - Road constructed along north edge of pit



**COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY
MINERALS PROGRAM INSPECTION REPORT
PHONE: (303) 866-3567**

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: 120th Estates Partners	MINE/PROSPECTING ID#: M-2001-085	MINERAL: Sand and gravel	COUNTY: Adams
INSPECTION TYPE: OSM Complete Inspection	INSPECTOR(S): Berhan Keffelew & Tony Waldron	INSP. DATE: October 11, 2012	INSP. TIME: 14:00
OPERATOR: GSL/Brush LLC	OPERATOR REPRESENTATIVE: Eric Fenster	TYPE OF OPERATION: 112c - Construction Regular Operation	

REASON FOR INSPECTION: Citizen Complaint	BOND CALCULATION TYPE: Complete Bond	BOND AMOUNT: \$303,815.00
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
WEATHER: Clear	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: October 25, 2012

The following inspection topics were identified as having Problems or Possible Violations. OPERATORS SHOULD READ THE FOLLOWING PAGES CAREFULLY IN ORDER TO ASSURE COMPLIANCE WITH THE TERMS OF THE PERMIT AND APPLICABLE RULES AND REGULATIONS. If a Possible Violation is indicated, you will be notified under separate cover as to when the Mined Land Reclamation Board will consider possible enforcement action.

INSPECTION TOPIC: Backfilling & Grading
PROBLEM/POSSIBLE VIOLATION: Possible Violation: Failure to follow approved reclamation plan, or current reclamation plan needs to be updated and clarified pursuant to C.R.S. 34-32.5-116 (1) and Rule 3.1.5(9) for importing inert fill without first obtaining approval from the Division. The operator must follow approved reclamation plan or provide sufficient information to describe or identify how the operator intends to conduct reclamation.
CORRECTIVE ACTIONS: The operator shall submit a Technical Revision, with the required \$216 revision fee, to update and clarify the current approved reclamation plan to reflect existing and proposed activities by the corrective action date.
CORRECTIVE ACTION DUE DATE: 10/15/12

OBSERVATIONS

- 1) The Division conducted a monitoring inspection of the site in response to a citizen's compliant letter.
- 2) On October 10, 2012, the Division received a copy of a complaint letter sent to Adams County about a possible illegal importation of inert fill to the office.
- 3) Present during the inspection were Tony Waldron and Berhan Keffelew and Tony Waldron representing the Division and Eric Fenster representing the operator.
- 4) As reported, the operator was indeed importing inert fill without first obtaining the required approval from the Division, before importing the material. A small stockpile of inert fill approximately 1,000 cubic yards was stockpiled along the northeast side of the permit at the time of the inspection. In addition the material was used to stabilize the north side the north side embankment. Some inert fill was also used to stabilize the southeast side of the lake embankment.
- 5) The Division informed the operator, the importation of inert fill without first obtaining approval from the Division was a possible violation of Rule 3.1.5(9) and that a Reason to Believe a Violation exists letter will be sent to the operator, no later than October 12, 2012. The operator was also informed to submit a Technical Revision to the permit to import inert fill in accordance with Rule 3.1.5(9) no later than October 12, 2012, and have the revision approved by Monday October 15, 2012. The operator was also informed to cease accepting inert fill to complete the repair work along the north side of the permit, until the technical revision is approved.
- 6) The operator agreed to comply with the Division's request and agreed to cease importing inert fill immediately until the revision is approved.

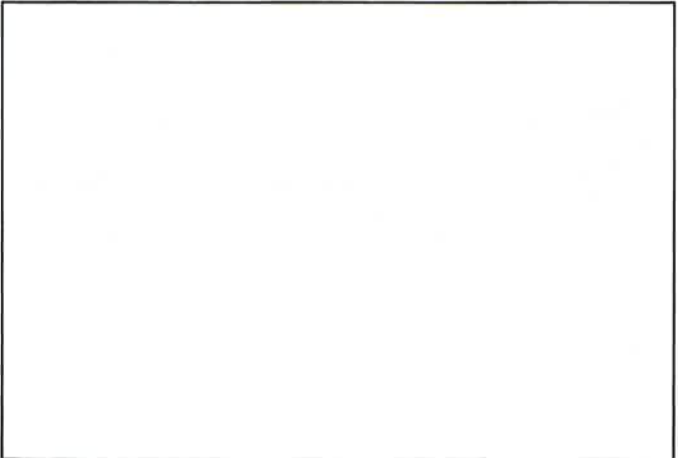
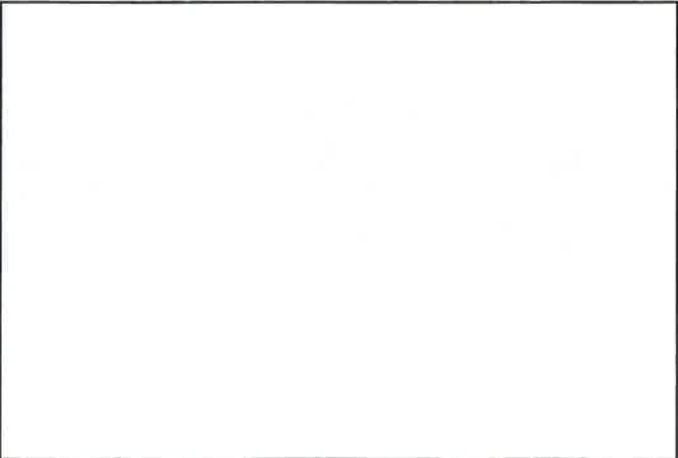
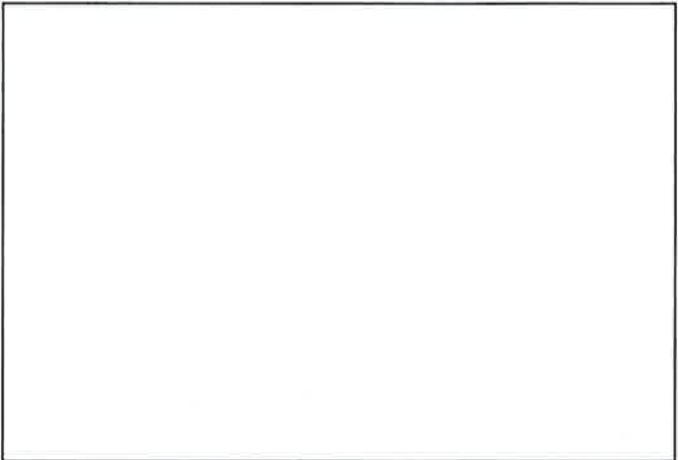
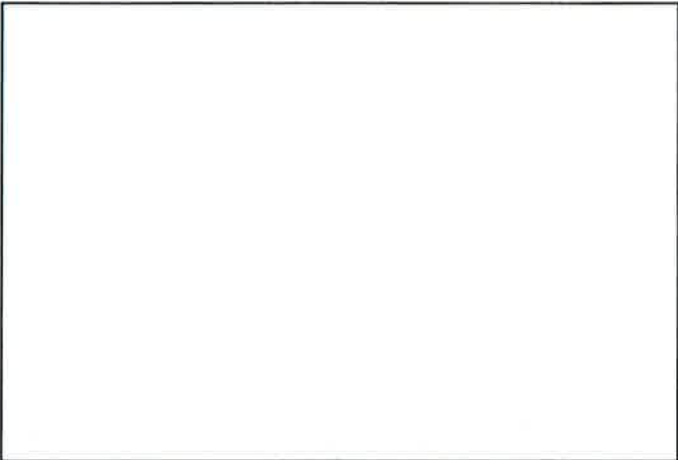
PHOTOGRAPHS



Figure 1 Location where inert fill was utilized to repair the embankment, looking NNW



Figure 2 Approximate location of the inert fill stockpile area.



GENERAL INSPECTION TOPICS

The following list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each

(AR) RECORDS----- <u>Y</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>N</u>
(HB) HYDROLOGIC BALANCE----- <u>Y</u>	(BG) BACKFILL & GRADING----- <u>PV</u>	(EX) EXPLOSIVES----- <u>NA</u>
(PW) PROCESSING WASTE/TAILING---- <u>N</u>	(SF) PROCESSING FACILITIES----- <u>N</u>	(TS) TOPSOIL----- <u>N</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>PV</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>N</u>
(SM) SIGNS AND MARKERS----- <u>Y</u>	(SP) STORM WATER MGT PLAN---- <u>N</u>	(SB) COMPLETE INSP---- <u>N</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>NA</u>	(SC) EROSION/SEDIMENTATION--- <u>N</u>	(RS) RECL PLAN/COMP-- <u>N</u>
(AT) ACID OR TOXIC MATERIALS----- <u>Y</u>	(OD) OFF-SITE DAMAGE----- <u>N</u>	(ST) STIPULATIONS----- <u>N</u>

Y = Inspected and found in compliance / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

Eric Fenster
GSL/Brush LLC
P.O. Box 44011
Denver, CO 80201

Enclosure

CC: Tony Waldron
Tom Kaldenbach

Craig Tessmer

From: eric@fensterlaw.net
Sent: Tuesday, August 14, 2012 12:22 PM
To: Craig Tessmer
Cc: Berhan Keffelew
Subject: 120th Pit - Permit #M2001-085

Craig,

This email follows our telephone call last week. Recall I told you that my group is operating the property temporarily to try and bring it into compliance, so that it can then be transferred to us. We have clean inert material from on and off site that is being used to fix the wall where it is encroaching onto the neighbor's property. This repair must be completed by August 30, per the State.

Below are the emails you requested from the State, authorizing the repairs. I have cc'd Mr. Keffelew on this email. We are carefully inspecting every load that comes off property and have information on where it came from, etc. We understand that only inert material is allowed / suitable, and we are taking all appropriate steps to ensure the material is inert.

If you have any further questions or concerns, please do not hesitate to contact me 303-921-3530.

Eric B. Fenster
P.O. Box 44011
Denver, CO 80201
(303) 832-3012 fax
(303) 921-3530 mobile

----- Original Message -----

Subject: RE: Permit #M2001-085
From: "Keffelew, Berhan" <Berhan.Keffelew@state.co.us>
Date: Fri, July 27, 2012 6:43 am
To: <eric@fensterlaw.net>
Cc: "Jim Newman" <jimn@loebequipment.com>

Eric,

It appears you are now authorized to complete the repair with Adam. I expect the work to be completed ASAP. Thank you Jim and have a nice weeknd.

-----Original Message-----

From: Jim Newman [<mailto:jimn@loebequipment.com>]
Sent: Friday, July 27, 2012 7:37 AM
To: Keffelew, Berhan
Cc: eric@fensterlaw.net; Mr. Schultejann Adam
Subject: Re: Permit #M2001-085

Eric is authorized

Jim Newman
From my phone
773-251-2269

On Jul 27, 2012, at 9:28 AM, "Keffelew, Berhan"

<Berhan.Keffelew@state.co.us> <<mailto:Berhan.Keffelew@state.co.us>>> wrote:

Eric,

Jim has authorized Adam to do the work. Please talk to Adam and let him complete the work. Your negotiations with Jim is to take over the permit..

From: eric@fensterlaw.net<<mailto:eric@fensterlaw.net>> [<mailto:eric@fensterlaw.net>]

Sent: Friday, July 27, 2012 6:58 AM

To: Keffelew, Berhan

Subject: RE: Permit #M2001-085

Berhan, my hands are tied unless / until Jim gives me authority. Right now, I would be a trespasser if I entered the property. I'm trying to get authority today.

Eric B. Fenster

P.O. Box 44011

Denver, CO 80201

(303) 832-3012 fax

(303) 921-3530 mobile

----- Original Message -----

Subject: RE: Permit #M2001-085

From: "Keffelew, Berhan"

<Berhan.Keffelew@state.co.us> <<mailto:Berhan.Keffelew@state.co.us>>>

Date: Fri, July 27, 2012 5:29 am

To: <eric@fensterlaw.net> <<mailto:eric@fensterlaw.net>>>

Cc: "Jim Newman" <jimn@loebequipment.com> <<mailto:jimn@loebequipment.com>>>

Eric,

I understand that you are planning to take over the operation. However the repair has nothing to do with your plans. If it is not completed by the date outlined in the inspection report, the Division will have no choice but to send a reason to believe a violation exists letter and bring the matter before the Mined Land Reclamation Board. The repairer will have to be completed ASAP. Thank you.

From: eric@fensterlaw.net<<mailto:eric@fensterlaw.net>> [<mailto:eric@fensterlaw.net>]

Sent: Friday, July 27, 2012 6:09 AM

To: Keffelew, Berhan

Subject: Permit #M2001-085

Berhan,

I received your voice message yesterday regarding the necessary repairs to the wall, etc. I want to assure you that we have equipment and material ready and waiting. I am currently negotiating with Jim to be his Operator for a short period. I hope to hear back from him today. My objective as his Operator will be to bring the property into compliance so my group can eventually take ownership of the property.

As soon as I take control of operations, I will contact you and get started immediately. Thanks again for your accessibility and communication.

Eric B. Fenster

Attorney at Law

P.O. Box 44011

Denver, CO 80201

(303) 832-3012 fax

(303) 921-3530 mobile

SUBMITTAL ITEM C EXPLANATION

The Henderson Pit project is a reclamation effort for a parcel of mining property located West of Highway 85 and North of 120th Avenue. Following gravel mining, the property remains as a large open pit encompassing 39 acres of the 49 acre property. An estimated 1,000,000 cubic yards of fill material will return the property to near its original grade. The pit is filled with ground water, and is in compliance with the existing Substitute Water Supply Plan.

The property will accept inert material including earth, dirt, soil, sand, gravel, rock, hardened concrete, asphalt paving fragments, top soil, brick, and other non-organic conforming inert material as defined by C.R.S. 25-15-101(14). The pit will be filled with clean, inert, non-hazardous material, mostly dirt and hardened concrete. The proposed use is acceptable in the zone district and is harmonious with several similar operations within the immediate vicinity.

The property's reclamation is currently supervised by the Colorado Division of Reclamation Mining and Safety ("DRMS"). DRMS has supervised the importation of approximately 100,000 cubic yards of concrete, fill dirt, and asphalt for repairs to the existing slurry wall.

Concrete placed into the pit is hardened and cured for at least 60 days. Asphalt material will be stored a minimum of two feet above the alluvial water table, and is stockpiled for crushing or placement to higher ground. Permittee plans to crush and recycle concrete and asphalt, as practicable, and the current DRMS permit allows for crushing. No crushing presently occurs.

The property is fenced and secure against impressible entry. The gate is attended from 7:00 a.m. to 6:00 p.m. Monday through Saturday. All material into the property is inspected to ensure compliance by means of a catwalk installed at the gatehouse. Safeguards are in place to make certain no non-conforming or hazardous material is placed in the pit, and employees are trained to conduct inspections. A Loader will be operated on the property. Additional equipment will include a water truck, light pick-up trucks, and possible earth moving equipment as needs arise. A small construction trailer has been utilized as an office.

With the Certificate of Designation, the Henderson Pit project will be monitored as a solid waste facility, and will be subject to all applicable county and state performance standards. The Applicant commits to meeting or exceeding these standards and to act in accordance with all applicable regulations. Applicant believes this is the safest, best and most expeditious use for the property. The change will ensure a speedier reclamation and generate employment, taxes, and other revenue while under way. There is a need for this type of facility in Adams County, and the demand is expected to rise considerably as the construction industry continues to improve.

The Certificate of Designation will not result in excessive traffic generation, noise, vibration, dust, glare, heat, smoke, fumes, gas, odors, or inappropriate hours of operation. The proposed change will not result in a significant increase in truck traffic from its operation as a mine. The property is currently outfitted with all-weather roads throughout the pit which allows for clean travel and dust abatement. The property is well-suited for this reclamation plan. The property allows for adequate access and egress, as well as a suitable environment for truck operations.

1 2 0 8 5 L L C
OPERATION NAME: 120TH ESTATE PARTNERS

SUMMARY OF NEIGHBORHOOD MEETING

120 85's Neighborhood meeting was held on January 3, 2013: Tail Feathers Saloon, 11010 E. 120th Avenue, Henderson, Colorado – 4:00 p.m. to 7:00 p.m.

One neighbor showed up to express concerns:

Mr. Tom Kreuger
Henderson Water Ski Club, LLC
10800 E. 124th Avenue
Golden, CO 80403

Mr. Kreuger expressed the following concerns:

He would ask that 120 85 LLC complete the following projects:

1. Request: Set back on the North/South boundary, with trees, berm, or suitable visual barrier.
Response: We will build a berm and add trees. This will result in an easement of approximately 36-feet onto our property.
2. Request: Restore the Flume and Head Gate from the Fulton Ditch.
Response: We will handle the restoration of Flume.
Response: The fence has been repaired.
3. Request: Establish road access to the Headgate.
Response: We will build out this road as material becomes available.
4. Request: Concerns over the loss of fish that occurred with the slurry wall breach.
Response: Unfortunately we will not be able to assist with this. We cannot take on liability for the previous owner's acts.

Eric Fenster
Managing Partner
120 85 LLC

1. INTRODUCTION AND SUMMARY OF THE PROJECT

This Certificate of Designation Application is presented to the Adams County Planning and Development Department by 120 85 LLC, a Colorado Corporation. The subject property is situated at 10929 E. 120th Avenue in Henderson, Colorado, in unincorporated Adams County.

The Applicant seeks to backfill the mine with clean, inert materials to reclaim the land and restore it to near its original grade.

The property consists of a total of 49 acres of un-reclaimed Agricultural (A-3) land that has been vacant and mostly inactive since the completion of gravel mining operations in 2007. The general character of the property is a large pit, approximately 977,710 cubic yards in the middle of the property, expanding approximately 39 acres. The mining, and now Reclamation project, is supervised by the Colorado Division of Reclamation Mining and Safety ("DRMS").

The property is currently operated under a Reclamation plan that calls for a permanent water storage reservoir. Converting the pit to water reservoir has become infeasible due to the high costs of renovation, the lack of interest from the City of Brighton and other potential suitors and many other factors.

2. INTRODUCTION AND HISTORY OF THE PROPERTY

The Henderson inert filling operation is being proposed for a site with an entrance located at 10929 East 120th Avenue in Henderson, CO (unincorporated Adams County). See Vicinity Map. This is a total 49-acre property just north of the new 120th Avenue Parkway and west of US Highway 85. The legal description is: SW1/4 of Section 35, Township 1 S. Range 67 W. of the 6th PM.

The Original Mining Permit for this Property was issued in 2001 to Adams County RV Park, and 120th Estate Partners. The original permit remains in the name of 120th Estate Partners who conducted all mining operations on the property from 2001 until 2007. The reclamation began, essentially, in 2007.

In 2007, the property was acquired by GSL / Brush LLC as it had collateralized defaulting equipment loans to 120th Estate partners. 120th Estate Partners dissolved with the recession and no further mining activities occurred. As Operator, GSL / Brush assumed responsibility and financial warranty for the reclamation to a clay-lined water reservoir. During this period of time, the slurry wall failed, a breach developed, and the pit filled with water.

A short-lived pumping operation failed, and the pit remains full of water. The property owner entered into contract with the City of Brighton to recompense for evaporation and other costs associated with the breach and subsequent loss of water.

The property is currently zoned for Agricultural-3 (minimum 35-acre lot size), and does not anticipate a need to change the zoning. Henderson has an active Mine Land Reclamation Board (MLRB) permit (M-2001-085) and a Conditional Use Permit ("CUP") from Adams County for the site.

The MLRB permit is currently being considered for amendment to allow for total inert backfill of the remaining mine to a final grade equal to that of two feet above the historical water table.

A \$281,115.00 bond is currently held through the DRMS naming the State of Colorado as beneficiary for complete reclamation of the site should the Operator fail to perform final reclamation. An active stormwater permit is maintained for the site, although no surface water runoff exists to the South Platte River as surface water. During mining, CDPHE air permits were maintained for the gravel plant equipment and the mining site.

The property remains under the supervision of the Colorado Division of Reclamation Mining and Safety ("DRMS") as the current Reclamation Plan calls for permanent water storage. 120 85 LLC has applied for

an amendment to change the reclamation to an inert backfill rather than water storage. While this amendment is pending at DRMS, the agency has approved a Technical Revision that allows the import of inert materials for use in repairing the ever-sliding North wall.

Adams County has not commented on the original applications, or any of the Revisions at this time, and will not until referral comments are received back by the county after copies of the plans are sent out to governmental reviewing agencies.

3. GENERAL INFORMATION

Using inert fill at the Henderson site will convert the currently unusable property to usable agricultural or low-impact rural property uses in the near future. The existing bottom of the remaining mined-out gravel pit (39 acres) is from 40-45 ft below the pre-existing ground surface of the land. Using inert fill in this area will bring the site back to grade at the former land elevation allowing for future productive land use of the property.

The benefits for approving inert fill at this location through the CD process are:

- Creating usable property for future low-impact land uses.
- Providing private entities with an inert fill alternative close to the Denver metro area.
- Revenue to Adams County and the State of Colorado in the form of fees collected for the filling of solid waste and future tax revenues for tax-generating land uses located on the site after filling.
- Increased employment opportunities created by the development of the inert filling operations.

Henderson will comply with all the requirements, laws, and regulations that apply to inert filling operations. The rules and regulations for the State of Colorado that apply to the operation of inert filling and the rules, regulations and local ordinances for Adams County will be followed. An original, signed statement to this effect has been signed by Eric Fenster, President of Henderson is included as Attachment 8 to this application. A similar notarized statement was signed and has become a part of the most recent DRMS amendment for his site. The inert fill operation will operate during normal construction-type business hours and has convenient access from US Hwy. 85 via 120th Avenue.

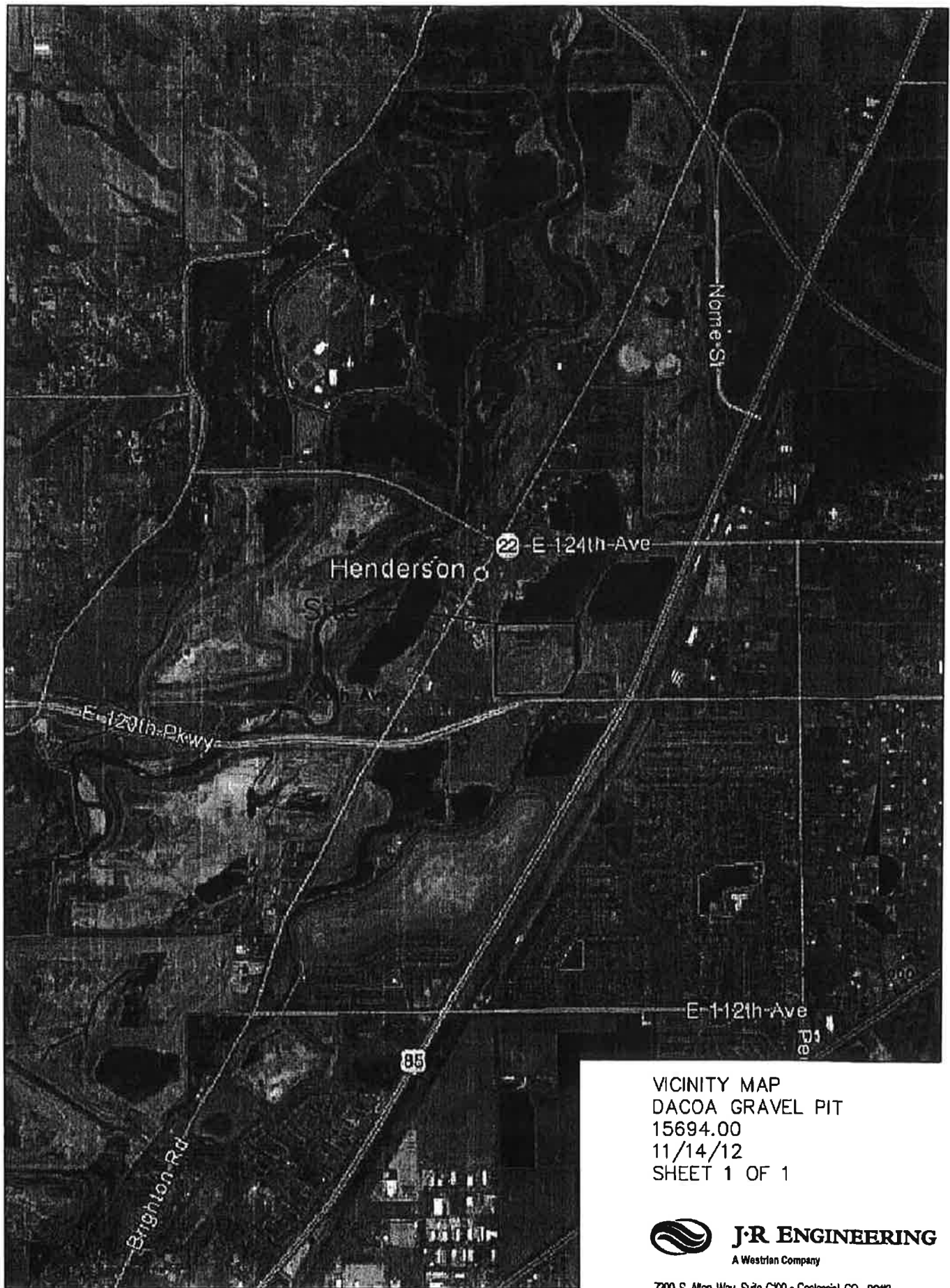
3.1. Facility Legal Description

The current entrance to the facility is located at 10929 East 120th Avenue, Henderson, Colorado. A map showing the location of the site is contained within this application as the Vicinity Map. This map also gives the legal description of SW¼ of Section 35, Township 1 S., Range 67 W of the 6th PM. The entrance has a dedicated right turn lane into the sight and has a separate exit for efficient traffic management.

The land referred to herein below is situated in the County of Adams, State of Colorado, and is described as follows:

Lot 1,
Corrigan Subdivision,
EXCEPT any portion thereof lying within the Fulton Ditch,
AND EXCEPT that portion conveyed to the County of Adams, State of Colorado by Warranty Deed record August 6, 2003 at Reception No. C1188505,
AND EXCEPT that portion conveyed to the county of Adams, State of Colorado by Special Warranty Deed recorded May 11, 2011 at Reception No. 2011000030387, County of Adams, State of Colorado.

X:\156000.0.all\1569400\Drawings\Vicinity Map.dwg, 8.5x11 Portrait, 11/27/2012 2:11:13 PM, ClerkD



VICINITY MAP
DACOA GRAVEL PIT
15694.00
11/14/12
SHEET 1 OF 1

 **J-R ENGINEERING**
A Westrian Company

7200 S. Alton Way, Suite C100 • Centennial, CO 8012
303-740-9393 • Fax: 303-721-9019 • www.jrengineering.com

3.2. Property Description

The site is located east of Brighton Rd. and north of 120th Ave. The southern boundary is immediately adjacent East 120th Avenue except a portion adjacent to a rural-residential property. The western boundary is immediately adjacent to several rural-residential properties. A 25 acre vacant parcel zoned A-3, owned by GSL / Brush LLC. creates the eastern boundary. That property is currently listed for sale. A legal description is found on all the map exhibits.

3.3. Property Ownership

The Applicant, 120 85 LLC is currently the Lessor on the property and is under contract to purchase the property as soon as a transfer can be accomplished per DRMS. The property is currently owned by GSL/Brush LLC, an Illinois LLC, since 2007 and is in the process of being purchased by 120 85 LLC, a Colorado LLC.

120 85 LLC is a Colorado Corporation under contract to purchase and operate the, property. Eric B. Fenster (a licensed Colorado Attorney registration #33264) is the Managing Partner and is responsible for all day to day operations.

GSL / Brush LLC is an Illinois company, the current property owner/permit holder, and is under contract to sell the property to 120 85 LLC. GSL / Brush acquired the property in 2008 as collateral to a construction equipment loan and has owned and operated the property since 2008 until August 1, 2012, when 120 85 LLC went into contract and took over operations.

The parties are in the process of transferring the permit and property to 120 85 LLC. The property and permit cannot presently be transferred, because DRMS has cited numerous permit violations which prohibit transfer. Among other things, DRMS has cited the failure of the north slurry wall, the placement of materials on neighboring properties, inadequate financial warranty, and other compliance issues. DRMS provided an estimate that approximately 100,000 cubic yards of material is necessary to fortify the slurry wall and avoid further breach. These repairs are underway and are expected to continue throughout the review phase of this CD application. Since assuming operations, 120 85 LLC has mobilized material, equipment and other necessary resources to make the necessary repairs, bring the property into compliance and transfer the property. 120 85 LLC installed an all-weather road around the property to preserve road cleanliness and dust abatement. The Operator believes the property is now in compliance and its Succession of Operations Application and Application to Amend the permit to backfill is pending. As soon as DRMS allows the transfer in the coming weeks, the company will purchase the property.

3.4. Surrounding Properties

Properties that are immediately adjacent to the proposed Henderson Inert Landfill are listed and shown on the map found in Attachment 1. Property ownership is shown 200 ft. out from the boundary of the permit area. Henderson has notified all of the property owners on the list contained in Attachment 3 of the proposed inert landfill.

Surrounding land uses are sand and gravel mining, inert land filling operations, and rural residential housing with some commercial uses in the remaining area. The area has historically been a center for sand and gravel mining with reclaimed uses for water-storage reservoirs, inert landfills, and as County Open Space.

4. GENERAL FACILITY DESCRIPTION

The site will be used for filling of clean fill dirt and inert materials only in the previously mined out gravel pit. Inert materials have been defined by the CDPHE in the "Regulations Pertaining to Solid Waste Disposal Sites and Facilities". Inert material is defined as follows:

"Non-water soluble and non-putrescible solids together with such minor amounts and types of other materials as will not significantly affect the inert nature of such solids. The term includes, but is not limited to earth, sand, gravel, rock, concrete, which has been in a hardened state for at least sixty days, masonry, asphalt paving fragments, and other inert solids."

Deliveries will enter and exit the site off 120th Ave. as shown on Exhibit 1. The site will be open to the general public, but Henderson generally knows of all of the hauling contractors and construction operators in the Denver metro area. Only screened inert materials will be accepted. Truck drivers will be required to sign in with each delivery and will unload in a designated area. Henderson will always have, at minimum, one qualified operations personnel on site during operational hours to monitor activities.

At the end of each day, operation personnel will review the sign-in sheet and the loads received for any abnormalities. The material received will be screened for unacceptable conditions and materials, as described elsewhere in this application. After completing the daily review and secondary screening operations, and pushing material into the pit if it is appropriate, personnel will close and lock the gates. Unacceptable materials will be removed by the responsible party (trucking or hauling company), or by the operator, and be taken to an appropriate facility for legal disposal. A more definitive description of the operation of the facility, screening and acceptance of inert materials at this facility is found in Section 7.

4.1. Types of Materials

The types of inert materials that can be received at the Henderson Inert Landfill are listed below and only uncontaminated materials will be accepted. A more complete description of inert materials to be used as fill is found in Section 6.6.1 in this application:

- Earth ("dirt", "soil")
- Sand
- Gravel
- Rock
- Concrete (hardened for at least 60 days) and concrete pieces
- Asphalt paving fragments
- Top soil
- Masonry

All of the above listed materials can and will be placed below the alluvial water-table at the Henderson site, if approval is received for this application, except for asphalt materials. Those materials, primarily consisting of hardened, ripped-up chunks of road paving, will be segregated and set aside for placement only at a minimum of 1 foot above the maximum seasonally-high elevation of the alluvial water table, combined with the other inert materials, as described elsewhere in this application. Although Henderson has data in support of the pre-mine groundwater elevations at the site, conditions may have changed over the years and the seasonal-high water elevation of the alluvial water table at the site will be determined at a later date when groundwater is allowed to fill in the mined-out pit and conditions have stabilized. No organic materials (vegetation) will be allowed to be used as fill at the site.

4.2. Site Life

The anticipated site life of the inert filling operation is conservatively estimated to be approximately 5 to 7 years. There is approximately 977,710 cubic yards of material required to fill the remaining mine. This site life is estimated based upon the volumes of materials expected to be received. The quantity of inert

materials available is dependent upon the local economy. An increase in economic activity, building activities, road construction or other construction, will increase the quality of inert materials available.

Approval of this site for inert filling to bring the property back to pre-mining grades will allow the land to be put back to a beneficial use. Future use of the backfilled property is uncertain at this time; however, it will be graded and replanted to a stable condition to facilitate optional future land uses. No zoning change is being requested at this time and the current zoning of A-3 will remain.

5. SITE DESCRIPTION

5.1 Site Reclamation Plan

The Henderson Inert Landfill is proposed for property that was mined for sand and gravel. The mining and special use permit numbers are listed in Section 2 of this application. An amended reclamation plan is in the process of being approved by the DRMS/MRLB, as previously described, allowing the complete backfilling of the remaining Henderson site with inert fill and a revegetated soil cover.

5.1.1 Revegetation

Once the area is backfilled to final elevations and has received a soil cover, the entire remaining disturbed area (backfilled), other than the pond location, will be revegetated according to the reseeding plans outlined in the recently amended reclamation plan found in Attachment 2.

5.2 Local Restrictions

5.2.1 Airports

Restrictions for airports are not required for this type of inert fill operation. Only non-putrescible materials will be placed in this site and therefore there are not any concerns with birds being attracted to this site. The site is located approximately 7 miles from any airport.

5.2.2 Floodplain

The Fulton Ditch creates the boundary for the eastern extent of the Henderson gravel pit. The flow in the ditch shall remain uninterrupted throughout the fill operations.

5.2.3 Seismic Impact Zones

The United States Geologic Survey (USGS) Open-file Report was reviewed to determine if the site is in a seismic impact zone as defined in the current State and Federal Regulations. The report indicates that the site is not defined as a seismic impact zone. Placement of inert materials does not require a barrier layer of liner material (either clay or synthetic) and is not subject to seismic impact zone requirement.

5.2.4 Fault Zones

The site boundary is not located within 200 feet of any fault experiencing displacement in Holocene time. The nearest reported fault is the Rock Mountain Arsenal Fault located approximately 4 miles southeast of the site. Placement of inert materials does not require a barrier layer of liner material (either clay or synthetic) and is not subject to the fault zone requirement.

5.2.5 Unstable Areas

There are no unstable geologic areas on the site. Man-made features (backfilling) on this site will be maintained to a stable condition. Permanently constructed slopes will be no steeper than 3:1.

5.2.6 Protection Against Prevailing Winds

Operation of an inert material fill does not require specific protection from prevailing winds. The filling of inert materials does not create nuisance conditions of wind blown paper or debris. Only inert material described herein will be acceptable at the site.

5.3 Placement of Inert Materials Below or Into Surface Water or Groundwater

The current condition of the 39 acres to be filled per approval of this CD application consists of a mined-out sand and gravel pit that is not currently being dewatered of alluvial groundwater. Since the dewatering pumps are shut off, this area is filled to near its former level with alluvial groundwater. All inert materials listed in Section 4.1 can and will be placed below the alluvial water-table at the Henderson site, if approval is received for this application, except asphalt materials. Those materials, primarily consisting of hardened, ripped-up chunks of asphalt road paving, will be segregated and set aside for placement to only occur 1 ft. above the seasonally-high elevation of the water-table in this 39-acre area.

5.4 Existing Site Topography

The existing site topography of the 39 acres remaining to be filled is that of a mined-out gravel pit. The site is located in the South Platte Alluvium in an area that was previously mined for sand and gravel. Mining was done according to the MLRB permit and the site elevations within the pit are irregular from 40-45 ft. below the pre-mining topography and the neighboring properties. The entire property has been disturbed in accordance with the MLRB permit.

5.5 Surface Water Drainage

There are two significant surface water features near to this property. The first is the South Platte River located to the west of the site. Sand and gravel mining has occurred on other properties within 100 ft. from the river. This site is nearly a ¼ mile away and therefore will not be directly impacted. The second significant water feature is the Fulton Ditch. The plans for the inert fill should improve surface water drainage over the area by providing a continuous south-southwest gradient without low spots or depressions, other than the intentionally designed and constructed pond. Gradient of the former and reclaimed topography will be extremely shallow. No rapid sheet flow will occur across this gradient and most, if not all, surface flow will percolate into the underlying fill, will enter into the pond. Stormwater information is found in Section 6.4

5.6 Nearby Wells

A listing of all the recorded wells within a one-half mile radius is found in the State Division of Water Resources listing found in Attachment 3. Included in this listing are all wells within 600 ft. of the permit boundary.

The Henderson site and surrounding areas have been extensively analyzed for alluvial groundwater conditions on and off the site and all nearby alluvial wells are well documented. Locations, completion depths, dates, static water levels and other information has been completed by Henderson as part of the DRMS approval. Development of these plans was facilitated by the extensive survey and also the extensive groundwater measurements maintained by Henderson, both current and historic, from several sources.

5.7 Soils, Geology and Hydrology

The entire remainder of the property proposed primarily for filling occupies about 39 acres of which is essentially all soil and the underlying sand and gravel has been removed. Former soils within the proposed permit area consisted of only two soil types. The majority of the site (approximately 95%)

contained the soil type termed Dacono loam with 0 to 1 percent slopes. The remaining south western portion of the site approximately (5%), was comprised of Dacono loam with 1 to 3 percent slopes

Nearest groundwater on and around the property is the alluvial aquifer of the South Platte River. Inert filling has occurred extensively in other parts of this aquifer in Adams County over the years with no known adverse impacts. Based on drilling results for sand and gravel reserves and former monitoring wells located on the site, an average water elevation of 5012 ft. MSL in the locations designated for filling. Provided as Attachment 4 to this submittal, are the aforementioned monitoring well results.

Other hydrogeologic aspects of this site have been discussed under Section 5.6 and Section 10. No negative impacts to either water quality or quantity to this alluvial aquifer are anticipated from inert filling. Further extensive geologic and hydrological investigation should not be necessary based upon the inert nature of the materials being placed at the site and the near future DRMS/MRLB approval to fill the remaining pit with inert fill capped with soil design approval.

6. SITE MANAGEMENT

6.1 Operations Schedule

The Henderson Inert Landfill will maintain operating hour of 7:00 a.m. to 5:00 p.m., Monday through Saturday.

The Henderson Inert Landfill will not normally be open on Sundays or holidays. The following holidays are the minimum holidays that will be observed by Henderson personnel:

- New Years day
- Memorial Day
- Fourth of July
- Labor Day
- Thanksgiving Day
- Christmas Day

6.2 Personnel and Equipment Requirements

The Henderson Inert Landfill normally will have two employees onsite during operational hours. Henderson will always have, at a minimum, one qualified operations personnel on site during operational hours to monitor activities. The employees will be a qualified person at the check-in station to log-in and screen loads and a laborer to direct trucks to the proper location to dump. An equipment operator may be stationed on the site to push loads into the pit after they have been secondarily screened by the operations manager or his designee. Eric Fenster is the President of Henderson and questions and information requests should be directed through him at the main office regarding these requirements.

6.3 Facility Layout

The inert materials fill has three areas of operation: delivery-receiving, placement of materials, and equipment parking. The previously backfilled areas will be used as areas for dumping clean fill dirt and inert construction materials ("solid waste", as described previously). Inert materials will be placed on the pit edge wherever the current filling location is to be pushed into the pit after a secondary screening.

6.3.1 Buildings

The site is already permitted and outfitted with a small construction trailer for housing of documents and the gate attendant. A portable toilet is available on site. A dumpster is on site.

6.3.2 Equipment

The following equipment will be available and will either be kept on the site or located at an alternative location near the site for convenient deployment:

- Dozer
- Loader
- Motor-grader
- Pickup truck
- Water truck

Equipment will be utilized for the proper placement and grading of the inert material being received. The equipment will also be used to maintain the ground and move other soil existing on the site.

6.3.3 Site Security and Fencing

Unauthorized access to the site is prevented with fencing, berms and a locked gate. An eight foot chain link fence is installed along the E 120th Avenue, the west, north and a majority of the east of the site. To the east there is the Fulton Ditch which provides a natural barrier to entrance into the site. Henderson personnel, from the filling operation will monitor the site throughout the day by regular inspections or working onsite.

6.4 Run-on and Run-off Control Measures

Surface water control measures will be maintained wherever required to manage run-on and run-off from the facility operations. No run-on surface water enters the Henderson property. Areas of operation on the eastern portion of the site have been stripped of overburden/topsoil and so no water ponds or runs-off, but percolates into the remaining sand and gravel below this area (it was never mined). Areas previously backfilled with clean fill dirt are also generally porous enough that no water ponds and very little runs-off. All drainage from the site currently enters the mined-out gravel pit and no surface run-off exits the Henderson property as surface run-off. The western pit sides will not allow surface water (stormwater) to reach the property boundaries. All historic drainage, controlled by topography, drains to the west-northwest in the area. No surface run-off from the Henderson site exits onto neighboring properties to the west, east, or south.

Inert filling activities on the site will be conducted in a manner that will control run-on and run-off from exiting the property. All onsite run-off will continue to enter the mined out gravel pit, whether filled with alluvial groundwater or not, during the operational life of the filling operation. Construction impact however will best mitigated by good site practice. Surface water will be routed to settlement lagoons and diverted from the main surface watercourses. This will restrict flow onto the active portion of the landfill during peak discharge from a 25-year storm. Fulton Ditch maintains a current and active stormwater permit through the CDPHE for the Henderson pit site.

After closure of the facility, measures will be taken to control run-on and run-off and are designed for the 100 year, 24 hour storm event. The Closure Plan/Final Topography can be seen in Exhibit 2. This exhibit illustrates a retention pond with adequate capacity for the 100 year storm. Erosion control mitigation will also be put into place, including swales, check dams and riprap rundowns.

6.5 Record-keeping

Henderson will maintain records of deliveries of materials to the site on a daily basis. Drivers are required to sign-in listing the company, location of the source of material, checking what types of inert materials are included (i.e. concrete, asphalt, dirt, etc.) and the number of loads on a daily basis. A copy of the sign-in sheet shall be kept for the duration of the project.

Prior to granting approval for a large quantity of inert material acceptance, a verbal agreement will be made between the hauling company and operator. The source location of materials is then known and will typically be checked by site personnel to verify the activities and screen for the potential of unacceptable or contaminated materials.

For individual loads coming from an unknown source, the load will be thoroughly screened and the driver will be asked where the load originated from. The driver will then be required to sign a "manifest" placing the burden of proof on the driver. Legal information will be taken from the driver so that in case of contaminated materials, the source can be checked. This manifest will also be required for drivers who are dumping larger quantities as part of a pre-arranged project as described above. A copy of this manifest is also located in Attachment 9.

All records will be maintained for the active life of the Henderson Inert Fill facility and for the entire period of the post-closure period, which may be as long as 30 years.

6.6 Material Acceptance and Placement

6.6.1 Acceptable Inert Materials

Only inert materials will be allowed at the site. The Colorado Department of Public Health and Environment (CDPHE) defines inert material as follows:

"Inert material" means non-water-soluble and non-putrescible solids together with minor amounts and types of other materials as will not significantly affect the inert nature of such solids. The term includes, but is not limited to, earth, sand, gravel, rock, concrete, which has been in a hardened state for at least 60 days, masonry, asphalt paving fragments, and other inert solids.

Accepted inert materials must not be contaminated. The following list of inert materials will be accepted:

- Earth
- Dirt
- Soil
- Sand
- Gravel
- Rock
- Concrete (hardened for at least 60 days) and concrete pieces
- Asphalt paving fragments
- Top soil
- Masonry

Inert material may contain very small quantities of incidental amounts of wood and vegetation. All inert materials listed here and in Section 4.1 can and will be placed below the alluvial water-table at the Henderson site, if approval is received for this application, except for asphalt materials. Those materials, primarily consisting of hardened, ripped-up chunks of road paving, will be segregated and set aside for placement only above the water table combined with the other inert materials. That placement will occur 1 ft. above the maximum seasonally-high elevation of the water-table in this 39-acre area as described in Section 5.3 with asphalt materials will be placed initially in a defined "holding" area on top of the previously backfilled areas until such time that the loads can be placed correctly above the alluvial water table.

6.6.2 Prohibited Materials

Contaminated soils are NOT ACCEPTABLE at the Henderson Inert Landfill site. Contaminated soils include petroleum hydrocarbon contaminated materials, organic demolition debris (wood, gypsum, etc.), excessive vegetation (trees, tree limbs, shrubbery, etc.), and other non-inert materials. Additionally, soils cannot be contaminated with asbestos, paint chips, or other potentially hazardous materials.

Pursuant to Section 2.1.2 (B) of the Solid Waste Regulations, the disposal of polychlorinated biphenyl (PCB) wastes is prohibited. Also prohibited, pursuant to CRS 25-15-101 (6), friable asbestos materials is a hazardous waste. Since some inert material might contain asbestos, asbestos-containing material, asbestos-contaminate soil, or asbestos waste as defined in Section 1.2 of the Solid Waste Regulations, material suspected of containing above stated asbestos shall be prohibited.

6.7 Fill Volumes and Sources

The sources and amount of fill received on a daily basis will vary depending on construction activities in the Denver metro area. Traffic entering the site is estimated at approximately 31 trucks per day on a maximum basis. Often, given weather conditions and winter construction activity, only a very few trucks will enter the site. The sources of fill material range from excavation activities for constructing of basements and buildings, land clearing, demolition projects, and road and highway construction. Customers expected at the facilities will be trucking companies, asphalt and concrete paving companies, excavators, construction companies and government entities.

The volume of the remaining mined-out gravel put is approximately 977,710 cubic yards. Based on an average of 31 truckloads of material received per day with an average of 18 cubic yards per truckload and 290 days/year of filling, the site should be filled at a conservative estimate of about 6 years. The daily volume of 560 cubic yards/day will fluctuate over time and it is anticipated that the site life could be as low as 5 years and as high as 7 years.

6.8 Delivery and Receiving

Transporters enter the facility through the entrance gate located on E 120th Ave. and the exit will loop around and back to an exit directly beside the entrance. The traffic pattern is designated to minimize the potential for accidents on site and to facilitate easy unloading. Exhibits 1 and 2 display the entrance and exit locations to the site. Traffic cones and signs will direct transporters to the daily-designated unloading area.

6.9 Fill Placement

Transporters will be directed to the unloading location by either onsite personnel or with signs and/or traffic cones. Transporters typically deliver many loads of inert material over a set period of time and will be familiar with the unloading area. Loads that contain asphalt materials will be directed to a designated area away from the pit area and on the previously placed and graded clean fill dirt areas on the eastern or southern portions of the property considerably above the water table, shown in Exhibit 2 in the application, for eventual placement on dry fill at least 1 ft. above the water table.

When unloading materials at the site, trucks will unload away from the edge of the pit. Initially, the inert materials will be unloaded near the pit edge and will be moved into the pit with a dozer and/or front-end loader only after confirmation that the material is free of contaminants. Once a sufficient amount of clean fill dirt and inert construction materials has been placed, the area will be elevated above the maximum height of the alluvial water table by 1 foot and asphalt chunks can be combined with other inert fill materials above the horizon.

7. SCREENING FOR SUSPECTED CONTAMINANTS

7.1 Proactive Screening

Prior to granting approval for inert material acceptance on a larger hauling or dumping project, a verbal agreement will be made between the hauling company and Henderson pit. The verbal agreements will include interview questions on the type of activity generating the inert materials, the location, whether and contamination is known to be generated at the source site, the approximate quantity, and any information available concerning the potential for encountering contamination. The source location of materials is then known and will be typically checked by Henderson pit personnel to verify the activities and screen for potential of unacceptable or contaminated materials. Any observed abnormalities would need to be explained or an evaluation done prior to inert materials being delivered from the source site to the Fulton Ditch site.

Henderson will develop, within the first year of operation of the Henderson Inert Landfill, an approved list of companies that have a history of not delivering any unacceptable or contaminated inert materials to the Henderson site. Companies that have been known to deliver materials that were not described initially as being contaminated or were found to be unacceptable or contaminated, are taken off the approved list and will remain off the approved list until such time that they can demonstrate regular compliance with Henderson rules.

Henderson will have the discretion to determine when a site should be tested for contaminants prior to hauling of inert materials to the Henderson site. Since Henderson will be required to monitor groundwater quality at the Henderson site on a quarterly basis for an extensive suite of analytes and potentially an extensive length of time, it will behoove Henderson to ensure that any fill that comes to the site is free of contamination. Henderson commits to perform the Toxicity Characteristic Leaching Procedure ("TCLP") as defined by EPA method 1311 and as described under Section 6.5.4 of the DRAFT Soil Remediation Objectives Policy Document developed by the CDPHE in 1997 on large projects which may have questionable fill characteristics, as determined by Henderson. Henderson commits to a TCLP analysis of 2 random samples (both horizontally and vertically within the soil fill) per 20,000 yards of these questionable soils for proposed fill prior to hauling to the site. Henderson will perform this test for the 8 RCRA metals on the 2 sample(s) collected from the soils that are proposed for inert filling at the Henderson site.

The results of the TCLP analysis will determine the suitability of the soils for placement within the Henderson site. Henderson has reviewed the CSEV Table 1 and commits to utilizing these values for placement of questionable soils within the Henderson inert fill site. If the Leachate values are equal to or below the Leachate Reference Concentration values in the Table, the soils will be suitable for placement within the fill site below the groundwater table. Conversely, if the Leachate Reference Concentration values are above the threshold value, the soils will not be placed into the Henderson inert fill site.

Also, soils proposed for inert filling at the Henderson site may contain contaminants other than the 8 RCRA metals. During the screening process for larger filling projects, as described above, Henderson will have to determine the suitability of all soils for filling at the Henderson site. As with the TCLP analysis, there may be questionable characteristics of the soils beyond the 8 RCRA metals, including VOC's, petroleum hydrocarbons, and pesticides. Henderson will perform the necessary testing on these questionable soils, at its discretion, when necessitated. It may be that the suitability of the soils are too risky from an environmental liability standpoint to not only undertake the acceptance of the materials, but to even perform the expensive testing, and Henderson will not allow the importation of these fills into the Henderson site and forego the project.

7.2 Onsite Field Screening

For individual loads from an unknown source, the load will be thoroughly screened at the entrance and the driver will be asked information as to where the load originated from. The driver then will be required

to sign a "manifest" placing the burden of proof on the driver. Legal information will be taken from the driver so that, in case of contaminated materials, the source can be checked. All records will be maintained for the active life of the Henderson Inert Landfill facility and for the entire period of the post-closure period which may be as long as 30 years.

During inert materials delivery, temporary stockpiling, or activities involving the inspection or movement of inert materials on the site, the inert materials will be screened for suspected contamination by using the following procedures:

7.2.1 Petroleum Hydrocarbon Contamination

- Visual observation of soil conditions looking for soil staining, soil discoloration, changes in moisture, or other unusual soil conditions.
- Visual observation for aggregate bedding materials commonly found around piping or underground storage tanks.
- Odor observation in the area of excavation indicating petroleum products.
- Odor observation of suspected soils by picking up a handful of soil and using olfactory senses to determine if suspicious soils might be contaminated.

7.2.2 Other Contamination

- Visual observation for trash or debris possibly indicating the presence of uncontrolled/unauthorized or historic landfilling.
- Visual observation for non-soil like materials including asbestos chips, asbestos piping, lead-based paint chips, etc.
- Visual observation for other irregularities in inert materials.

If materials that are being attempted to be delivered to the Henderson site appear to be obviously or grossly contaminated, the driver will be immediately turned away and will not be allowed to dump at the Henderson site. Other suspicious inert materials will be segregated for additional evaluation. A person or persons familiar with inert materials contamination will evaluate the segregated suspicious soils further. If the evaluation suggests that contamination could be present, environmental sampling will be completed. Inert materials suspected to be contaminated would not be allowed for continued delivery to the Henderson site until such time that a lack of contamination can be verified.

The segregated inert materials will be separated from other work areas with barricades, caution tape, traffic cones, or other means. The segregated inert material will have restricted access to the personnel, minimizing potential worker or public exposure and inadvertent handling of the potentially contaminated materials.

7.3 Field Screening Methods

Field screening methods may be used to determine potential inert material contamination. The field screening methods include headspace/PID screening, draeger tubes (or equivalent), colorimetric field kits, infrared (IR) analysis for TPH in soil, pH, conductivity, temperature and other methods, depending on the known or suspected contaminants or purpose of screening. Field screening methods may be done independently or periodic laboratory testing may be employed to verify the field screening results. Field screening equipment will be calibrated according to the manufacturer specification prior to and periodically during the field use. This applies to equipment used for on-site chemical measurements such as pH, electrical conductivity, and temperature. Instruments and equipment used to gather, generate, or measure environmental data in the field will be calibrated with sufficient frequency and in such a manner that accuracy and reproducibility of the results are consistent with the manufacturer specifications.

Finally Henderson commits to perform the TCLP analysis for the 8 RCRA metals on sample(s) collected from soils that have been brought to the Henderson site and that have been screened both by visual and

olfactory methods, and may or may not have had field screening performed on them as described above, and have been found to be questionable as to suitability from a potential contamination issue for fill within the pit. These soils will be set aside and will be tested by the TCLP method.

The results of the TCLP analysis will determine the suitability of the soils brought to the Henderson site for placement as fill. If the leachate values are equal to or below the Leachate Reference Concentration values in CSEV Table 1, the soils will be suitable for placement within the fill site below the groundwater table. Conversely, if the Leachate Reference Concentration values are above the threshold value, the soils will not be placed into the Henderson inert fill site.

8. Final Grades and Cover Materials

Final grades for the facility are found on Exhibit 2, a map titled "Closure Plan/Final Topography". The map shows the contour intervals and final elevations. As previously described, this site has an extremely shallow topographical gradient. Approximately 12 inches (1.0 ft.) of clean soil (compacted clay rich soil) will be placed on top of all filled materials as final cover. The upper 6 inches of the soil cover will consist of topsoil capable of supporting vegetation and have the following properties:

- Must be uniform and free of stones, stumps, roots, or other similar > than 2 in. in diameter,
- Contain less than 15 percent gravel (>2.00 mm, retained on No. 10 sieve),
- Dry density between 80 and 90 percent,
- CaCO₃ less than 15 percent by weight,
- Consist of pH values between 6.0 and 8.4, and
- Should not be frozen at time of placement.

Soils will be compacted by regular truck and heavy equipment traffic over the site. Cover soils are currently available at the facility and additional cover soils (clean fill dirt) delivered to the site will be stockpiled and used as final cover. The soils material that will support vegetation which prevents or minimizes erosion shall be applied over all disturbed areas. Attachment 2 is the most recently approved reclamation plan text for the Henderson site from the DRMS and will be utilized as part of this CD final closure procedure. A small approximately 4-acre pond will be designed and constructed on the site and will remain as part of the final reclamation.

Also included in Attachment 2 in reference to reclamation of the site, is a copy of the "State Engineer Guidelines for Lining Criteria for Gravel Pits" (August 1999) that Henderson must follow in order to gain State approval for the lined approximately 0.5-acre pond that will be left on the site as part of the DRMS reclamation plan.

Henderson will institute a Construction Quality Assurance/Quality Control Plan (QA/QCP) for the assurance of final grade construction and completion for the Henderson inert fill site for the soil cover. This plan will entail surveying of the entire final graded surface of the soil cover by a licensed PLS. Henderson will use the surveying requirements and methodologies as described in the CDHE "Solid Waste Guidance Document" for QA/QC plans. Henderson will also provide photo documentation of the final grade construction of the soil cover and surveying as part of the required reporting to the CDPHE for closure of the Henderson inert fill site.

8.1 Revegetation and Reclamations

Revegetation of the site will be completed after the final cover is placed. The seed mixture specified in the latest DRMS approved amendment for the MLRB permit in Attachment 2, will be used for revegetation. Revegetation will complete the reclamation of the site. After reclamation, as currently envisioned, the site will return to an agricultural or similar rural purpose.

9. ENVIRONMENTAL MONITORING AND HEALTH AND SAFETY CONTROLS

9.1 Groundwater Monitoring

An alluvial groundwater monitoring program will be implemented for detection monitoring for contamination. Elevations and samples will be taken of the groundwater and the analytical results will be monitored for site related, statistically significant increases and comparisons to the Colorado groundwater standards. Current ground water conditions will be defined by the data from eight separated sampling events using the existing well and three new proposed wells. These samples will form the initial "current ground water quality" pool for statistical evaluation. Up-gradient well analyses will be compared to down gradient analyses using statistical evaluation methods and a verification re-sampling procedure. The groundwater monitoring program is more fully-described in Section 10.

9.2 Stormwater

Stormwater does not currently run-off from the site as described in Section 6.4. As the site fills with inert fill from the south and east, slopes will be grades into the pit bottom to ensure the surface run-off is always directed to the pit floor or lowest elevation on the site. Final surface grades will be constantly surveyed to ensure that the flow direction will always be to the southwest, to the lowest point on the property. Berms or furrowing will be implemented if necessary during the final filling and grading of the site to ensure that no significant erosion and sedimentation occurs. The stormwater plan and permit will be updated and amended as necessary.

9.3 Air Quality

The only air quality issue at the facility will be fugitive dust from truck and equipment traffic. Fugitive dust will be controlled by watering with a water truck or similar equipment consisting of a water tank in the bed of a pick-up truck. Water from onsite ponds in the pit bottom or from de-watering pumps will be used, as well as sources of clean water from off-site, if necessary. The operator has installed all weather roads around the pit and we do not believe dust or mud contamination will be an issue.

A Fugitive Dust Permit will be re-acquired for this site based on the activities proposed in this application. Operations at the facility will be shut down when winds exceed 35 mph or a sustained 25 mph.

9.4 Litter Control

Litter at the facility should be minimal to non-existent because the facility will not receive materials that would normally contain litter. Henderson Pit personnel will police the site for inadvertent litter and place it in appropriate receptacles. Trash cans will be placed in strategic locations on site for use by transporters. Litter picked up at the site will be disposed of from the site on a regular basis.

9.5 Fire Safety

The potential for fire at the site is limited to shrubs located on the boundaries. Due to the inert nature of the materials delivered to the site, there will not be any materials that can sustain fire. This site is approved by the CUP from Adams County for fire safety.

Each piece of equipment used on site will have a fire extinguisher on it. The most likely place for a fire to occur on site would be an equipment fire. All Henderson personnel will be provided with fire safety training, including proper use of fire extinguishers. Equipment fires will be extinguished rapidly.

The site is located in Fire District 6, Greater Brighton. The South Adams Fire District phone number will be posted, along with other emergency contacts, where it is clearly visible from the office. Henderson personnel will have access to radios and/or a mobile phone for emergency contact purposes.

9.6 Hazardous Materials Emergency Management Plan

Hazardous materials inadvertently received at the Fulton Ditch site will be removed and placed in appropriate containers for temporary storage. If a transporter inadvertently delivered hazardous materials, the transporter/company will be contacted and will be held responsible to remove the materials. Companies that inadvertently deliver hazardous materials more than once will be removed from the list of acceptable companies that can use the facility.

A solid, new or reconditioned 55-gallon drum with a removable top will be kept on site and used to temporarily store hazardous materials inadvertently delivered to the site. Henderson personnel will place the hazardous materials into the container. Only one type of material is permitted to be placed into the container. No mixing (i.e. acid and bases, oxidizers and oils, or other incompatible materials) of two types of materials would be allowed in any one 55-gallon drum. Additional 55-gallon drums will be purchased if necessary. If necessary, a professional hazardous materials management company will be contracted to properly dispose of the materials in a timely manner.

A phone number of a hazardous material emergency response company will be posted with other emergency numbers in the office. The emergency response company will be called when necessary to respond to hazardous materials inadvertently disposed of on site.

9.7 Nuisance Conditions

Nuisance conditions at the site are limited to blowing dust (fugitive emissions) and blowing litter. Applying water to traffic areas and temporary roads will control blowing dust. A Fugitive Dust Permit will be re-acquired for this site based on the activities proposed in this application.

Operations at the facility will be shut down when winds exceed 35 mph or a sustained 25 mph. Litter is addressed in Section 9.4.

10. GROUNDWATER MONITORING PROGRAM

10.1 Groundwater Monitoring

The Henderson site has alluvial deposits that are approximately 25 to 35 ft in thickness. The Henderson site has been essentially mined for all the sand and gravel within the majority of the property, except for the southern portion as shown on Exhibit 1. The majority of the soils have also been removed and are described as loamy alluvial – moderately wet and wet alluvial soil. Alluvial ground water is found several feet below the original topographic surface in the 39-acre area to be filled. Attachment 4 shows the existing permits and test results for analytes over most recent years.

The landfilling sequence is expected to begin in the northwest corner of the pit and progress towards the east and south in a manner of compacted lifts. In reference to the groundwater monitoring, the dewatering will continue throughout the entire filling process. No discontinuation the dewatering activities are expected during the filling process.

Prior to resumption of inert landfilling: (1) the approved ground water monitoring well network is to be in-place, (2) the initial ground water sampling to be completed, (3) approval of the facilities ground water monitoring plan. Three new groundwater monitoring wells are proposed and will be installed at the locations shown on the map in Exhibit 1, both down-gradient from the filling operation and located between the South Platte River and the filling operation. A commercial well drilling company will install the new wells after the CD license or permit is granted to resume inert filling at the Henderson site. All three monitoring wells will be surveyed for elevations of both the ground surface and top casing ("TOC") where the measurements will be taken. The new wells will be installed as shown in the well completion detail found in Attachment 5. The Henderson Inert Landfill Resource Manager, who is properly trained in groundwater sampling techniques (or his designee), can conduct sampling of the wells. Samples will be taken using standard groundwater protocols with samples delivered to a commercial analytical laboratory the same day of sampling using chain of custody seals.

10.2 Groundwater Monitoring Network

Three new groundwater monitoring wells will be placed on the site at locations denoted on the on the map found on Exhibit 2 and will supplement the existing wells for sampling (currently shown on Exhibit 1). The new monitoring wells will be drilled to monitor and sample the alluvial groundwater at the site. A licensed drilling contractor will be used to drill and complete the wells according to the specifications shown in Attachment 5.

10.3 Schedule, Analytes and Evaluation

Regular sampling of groundwater monitoring network will begin after the initial baseline sampling event of 8 quarterly samples of the 3 monitoring wells to determine existing groundwater quality. Regular groundwater sampling events will be scheduled every three months and will continue for the life of the facility and the post closure care period, unless a reduction in sampling frequency and/or sample analytes is requested by Henderson and granted by both the CDPHE and Adams County. Groundwater samples will be analyzed for Appendix IA and IB constituents as described in the CDPHE solid waste regulations and presented in Attachment 6. Also included in Attachment 6 is the Water Quality Control Commission's Basic Standards for Ground Water.

After the collection of the first quarterly samples of the three wells to establish a baseline groundwater conditions, Henderson will submit a report within 60-days summarizing the data to the CDPHE and/or Tri-County Health. These data will serve as the background data against which future results will be compared using a statistical evaluation. Henderson will continue to report the results of the quarterly sampling to the CDPHE and/or Tri-County Health within 60-days of each sampling event. After the eight initial quarterly sampling events, Henderson can propose to reduce the analyte list and/or the frequency of testing, as well as a statistical evaluation procedure consistent with one of the methods specified in the regulations, as described above. It is currently envisioned that a subset of the metal and chlorides will be selected for statistical evaluation.

10.4 Sampling and Analysis Plan

10.4.1 Sampling Methods

Depth to water will be measured prior to purging. The elevation of the reference point from which water depths are measured will be established by topographic survey of the ground water monitoring wells.

The wells will be purged before sampling and will be sampled using disposable polyethylene bailers, dedicated polyethylene, PVC or Teflon bailers or commercially available purge pumps (i.e. GeoTech Squirt Pumps or similar). Disposable bailers will be suspended on new polypropylene rope. Dedicated bailers may be suspended on dedicated polypropylene rope. Alternatively, at Henderson's option, dedicated pumps may be installed in the wells and used for purging and sampling.

If bailers are used to purge and sample the wells, the wells will be purged at least three wellbore storage volumes (the first volume standing inside the casing at the start of purging) or dryness, whichever occurs first, before sampling. Periodic field analysis of pH, temperature, and specific conductance will be taken and recorded prior to collecting the sample. Purging will continue until these parameters have stabilized to within 0.2 pH units, 2 degrees C or F, and 10 percent of the specific conductance reading. Samples will then be collected as soon as possible after purging, but no longer than 24 hours after purging. Purge water will be disposed of on the ground by the well from which the fluid was purged. If dedicated pumps are used, the wells will be purged of three pump and tubing volumes at a flow rate of 100 millimeters per minute or less and sampled immediately after purging; the flow rate during sampling will also be 100 milliliters per minute or less.

Samples will be transferred directly from the bailers or pump discharge tubing into sample bottles provided by the laboratory. Sample bottles and preservation will be as specified in the analytical methods employed, except that VOC samples will be chilled, but otherwise unpreserved (consistent with CDPHE policy). Sample bottles will be placed in a cooler or other shipping container and chilled as soon as possible after collection.

10.4.2 Chain of Custody

Chain-of-custody procedures will be used to track the sample from the time of collection until it, or its derived data, is used. A chain-of-custody form will be initiated at the time that the samples leave the site. Field personnel will complete all applicable sections of the form. The chain of custody forms will be protected from moisture by encasing them in plastic (e.g., Ziploc plastic bags) and placed inside the shipping containers. The chain-of-custody forms will accompany the containers during shipment to the laboratory. The shipping containers will be sealed with custody seals.

Field personnel collecting the samples will be responsible for custody until the samples are delivered to the laboratory or relinquished to a commercial shipping company. Sample transfer requires the individuals relinquishing and receiving the samples to sign, date, and note the time of transfer on the chain-of-custody forms. Common carriers (e.g. Federal Express) are not expected to sign the chain-of-custody forms. However, the bill of lading or airbill becomes part of the chain-of-custody record when a common carrier is used to transport the samples. The chain-of-custody is considered complete after the analytical laboratory accepts custody of the samples (acceptance of custody is indicated by signature on the chain-of-custody form). A copy of the chain-of-custody record will be maintained along with other field records.

10.4.3 Quality Assurance/Quality Control

The following quality assurance and quality control ("QA/QC") actions will be implemented to minimize the potential for biasing the analytical results by laboratory preparation, sampling, and transport activities.

- Fieldwork will be performed by qualified and trained personnel including company personnel or privately contracted company specializing in this type of sampling if required.
- Samples will be analyzed by a qualified laboratory. The laboratory will use appropriate chain of custody, analytical, and QA/QC procedures.
- A trip blank for VOC analysis may be included in each sampling event depending on whether the questions arise relative to the quality of the analytical data.
- Equipment blanks and field duplicates will not be collected on a routine basis because disposable or dedicated sampling equipment will be used; however, they may be prepared and analyzed if questions arise relative to the quality of analytical data.
- The full laboratory report, including laboratory QC data, will be attached to the monitoring reports submitted by the owner.
- The laboratory results will be validated using standard methods.

10.5 Maintenance

The condition of the ground water monitoring system will be inspected during each monitoring event. The results of the inspection will be documented and any deficiencies will be remedied within 60 days of the inspection or at a later date as approved by CDPHE. If deficiencies, malfunctions or deteriorations are observed at other times, such deficiencies will also be documented and remedied within 60 days of discovery or at a later date as approved by CDPHE.

10.6 Reporting

The monitoring results will be submitted to CDPHE within 60 days of receipt of the laboratory results in the form of a brief letter-report. Reports will be prepared yearly after the initial eight quarterly sampling

events and no less than one report per four sampling events. The report will include a tabulation of the data (including water level data), statistical evaluations as appropriate, the results of the system inspection, and a description of any maintenance performed.

Analytical methods will be as specified in EPA SW-846 or other appropriate sources and the laboratory results will be validated using standard methods. Additionally, all reports will incorporate the following information: 1.) groundwater elevation measurements, 2.) well-purging data, 3.) field parameter test data, 4.) chain-of-custody, 5.) laboratory test data including quality assurance and quality control information, 6.) a summary table that lists all detected constituents and corresponding groundwater quality standards, and 7.) a summary and conclusions section that includes an explanation of anomalous data. After the reporting for the eight quarterly initial sampling events, the annual report of groundwater monitoring data will also include, in addition to the above, conclusions and results of statistical analyses of groundwater data conducted pursuant to the requirements set for in Appendix B of the CDPHE Solid Waste Regulations.

11. LAND USE AND INSTITUTIONAL CONTROLS

11.1 Financial Assurance

Financial assurance for closure is to be implemented for the Henderson Inert Landfill site. Financial assurance is to cover the cost of additional site grading, revegetation, surface water control system construction, and oversight of the various construction activities. A closure cost estimate is presented in Attachment 7.

The current operator has posted a financial warranty in the amount of \$281,511. The DRMS is currently calculating a new financial warranty based upon the change of use and reclamation plan. 120 85 LLC will replace the current warranty with a new financial warranty once the plan is approved, a new financial warranty calculated, and it succeeds as operator.

11.2 Future Uses

Future use of the backfilled property is uncertain at this time however, it will be graded and replanted to a stable condition to facilitate optional future land uses. No zoning change is being requested at this time and the current zoning of A-3 will remain. Future development will comply with section 3.6.1(A)(7) of the solid waste regulations and any future uses will not adversely affect:

- The integrity of the cover,
- The effectiveness of drainage or erosion controls,
- Slope stability, or
- Groundwater monitoring systems.

The CDPHE will be informed of any future development and will review and approve any such development that may adversely affect any of the above listed items.

11.3 Deed Notice

Henderson will record, consistent with Section 3.4.1 of the regulations, a notation of the deed that the site has been used as an inert landfill facility and development will follow Section 3.6.1(A)(7) of the Regulations. CDPHE and the local governing body having jurisdiction will be notified when the notation is attached to the deed in accordance with Section 3.4.1(B) of the Regulations. Additionally, upon any sale of the property, the current owner will continue to be responsible for any outstanding post-closure care obligations, unless such obligations are assigned in a manner approved by CDPHE, to a new owner.

12. POST-CLOSURE FINANCIAL ASSURANCE

Financial assurance for the term of post-closure care will be provided in the form of one of the mechanisms specified in the current Colorado solid waste regulations. Financial assurance will cover the cost of maintenance and repair of the cover, the erosion control system, and the surface water control system, as well as the cost of nuisance control. It will also cover the cost of any ground water monitoring that may be remaining at the time of provision of the financial assurance mechanism. A post-closure care cost estimate is presented in Attachment 7. Financial assurance will be provided within six months of issuance of the inert fill permit or license. This financial assurance obligation may be assigned upon review and approval of the CDPHE. See also Section 11.1.

12.1 Period

The post-closure care period will be 30 years for nuisance control and for maintenance and repair of (1) the cover, (2) the erosion control system. The post-closure care period for maintenance of the groundwater monitoring system will be for 30 years after the commencement of the post-closure care period, unless shortened as requested by Henderson based on a period of proven sampling showing no contamination of the alluvial groundwater system and approved by the CDPHE document. The inert nature of the fill does not require gas monitoring and there will not be gas monitoring in the post-closure certification report according to the closure certification report procedures as described in the CDPHE Solid Waste Regulations.

12.2 Inspections and Maintenance

The entire facility will be inspected on a semi-annual basis during the post-closure care period applicable to each feature. The inspection will focus on:

- Overall performance of the cover, including unacceptable settlement, erosion and surface cracking,
- Overall performance of the surface water control system, including both erosion and plugging,
- Effectiveness of dust control programs,
- Vandalism of or inadvertent damage to the perimeter fencing, and
- Degradation of the ground water monitoring system.

The results of the inspection will be documented and any deficiencies remedied within 60 days of the inspection or at a later date as approved by CDPHE. If deficiencies, malfunctions or deteriorations are observed at other times, such deficiencies will be documented and remedied within 60 days of discovery or at a later date as approved by CDPHE.

13. ADAMS COUNTY LAND USE CRITERIA

Land-use criteria and compatibility issues for the Henderson Inert Landfill have been generally addressed previously under:

- 2 INTRODUCTION AND HISTORY OF THE PROPERTY
- 3 GENERAL INFORMATION
- 6.3.3 Site Security and Fencing
- 9.5 Fire Safety
- 9.7 Nuisance Conditions

To further qualify Adams County land-use criteria and compatibility issues for the Henderson site, the following information is presented.

13.1 Compliance with Comprehensive Plan and Other County Requirements/ Compatibility with Surrounding Area

This proposal is in compliance with the Adams County Comprehensive Plan as inert filling is a temporary land use and any subsequent, permanent land development would also be in conformance with the plan. This site is already the location of a Conditional Use Permit allowing sand and gravel mining.

The fill project will continue to be compatible with surrounding uses and will result in a positive and useful post-closure land use. Very few residences will be directly impacted. All past and present owners have maintained a positive relationship with our immediate neighbors over the years of sand and gravel mining.

13.2 Need for Facility

Henderson has a definite need for this inert disposal site because without it, high costs would prohibit the redevelopment of the land for future use. Currently, the costs of disposing this material are high and rising. Also, there is a general need in Adams County for this sort of facility due to the demands for construction and infrastructure improvements that are occurring in the area.

13.3 Fire Protection

Fire protection for the property is provided by the South Adams County Fire Protection District and has been approved for the current CUP. Since operations being proposed by this application for a CD are very similar to the approved mining CUP, there should be no difference in fire protection. After years of operations at this site for mining, there have been no instances where fire fighting has been required.

13.4 Water and Sewer

The property is not included in a designated sewer district. No direct water or sewer services will be required as part of this project. Water will be made available to employees from an off-site vendor such as Deep Rock Water. Sanitary facilities will be provided with the use of porta-potties that will also be maintained by an off-site vendor.

13.5 Signs

A project identification sign will be placed at the site access, which is on the south side of the property on the 120th Ave. entrance. This sign will also contain the words "No Unauthorized Dumping".

13.6 Traffic and Haul Routes

Access to the property is from 120th Avenue and is the only trucking access to the property. Conveniently, E. 120th Pkwy has dedicated left and right turn lanes onto the much less traveled E 120th Ave. providing an ease of access.

All traffic will access the site from the south, exiting off of the E 120th Pkwy onto E 120th Ave. and then north into the site via the access point. All traffic will exit the same route as for the entrance location using E 120th Ave. and E 120th Pkwy. No truck traffic will access the site from the north along Brighton Rd. through the Town of Henderson.

13.7 Annual Reports

Along with the reporting that will be required by the CDPHE and as described in previous sections of this submittal (of which will be copied to both the Department of Planning and Development and Tri-County Health Department), Henderson will submit a general annual report to the Adams County Department of Planning and Development summarizing the following information:

- a. Waste types and volumes handled during the year.
- b. Percent completion of the operation.
- c. Interpretation of all monitoring information on a yearly basis.
- d. Tabulation of reclamation activities to date.
- e. Description of operational plans for the next year.

13.8 Fees

The applicant commits to paying a quarterly fee based upon the amount of fill accepted at the site as required by Colorado State statute and also commits to paying the appropriate fees to Adams County based on the amount of fill accepted. As previously described, accurate accounting records will be maintained in order to calculate the fees to be paid to both the state and Adams County.

Much of the 977,710 cubic yards of fill placed into the pit will be solid waste and will have a fee extracted from Henderson Pit that will be paid the State of Colorado (General Fund) and Adams County, whether a charge is received by Henderson Pit for the filling of the solid waste or not.

STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY
Department of Natural Resources

1313 Sherman St., Room 215
Denver, Colorado 80203
Phone: (303) 866-3567
FAX: (303) 832-8106



September 13, 2013

Mr. Eric Fenster
P.O. Box 44011
Denver, CO 80201

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Pineda
Director

**Re: 120th Estates Partners site (M-2001-085)
Approval Amendment 6 (AM-06)
Change reclamation plan for pit from water storage, to backfill two feet above water table**

Mr. Fenster:

The Division of Reclamation, Mining and Safety (Division) received the above-referenced application for a permit amendment on October 15, 2012. The Division found the application complete on November 20, 2012, following receipt of additional items from the applicant. The Division reviewed the amendment application and approved it on September 13, 2013.

The amendment approval resulted in an increase of \$64,775 to the required financial warranty for this site. This amount is calculated as \$368,590 (site reclamation costs, see attached estimate), minus \$303,815 (current financial warranty on deposit with the State). The additional financial warranty of \$64,775 must be submitted to the Division within 60 days of this letter, on the appropriate Mined Land Reclamation Board- approved form. The forms for submitting financial warranties are available from our office or can be downloaded from our website at <http://mining.state.co.us>

If you have any questions, please contact me at (303) 866-3567, extension 8128.

Sincerely,



Tom Kaldenbach
Senior Environmental Protection Specialist

STATE OF COLORADO

John W. Hickenlooper, Governor
Karlin McGowan
Interim Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S.
Denver, Colorado 80246-1530
Phone (303) 692-2000
Located in Glendale, Colorado

Laboratory Services Division
8100 Lowry Blvd.
Denver, Colorado 80230-6928
(303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

July 11, 2013

Board of County Commissioners
4430 South Adams County Parkway
5th Floor, Suite C5000A
Brighton, Colorado 80601-8204

RE: Final Determination: **Recommendation of Approval with Conditions**
Application for Certificate of Designation
Proposed Henderson Inert Landfill
Adams County, Colorado

Dear Commissioners:

The Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division (Division), received from Adams County, Colorado, an official referral notification, dated January 22, 2013, requesting the Division's review of an Application for a Certificate of Designation (CD) (Application) for a proposed new inert landfill in Henderson in Adams County, Colorado. The Division received the Application as an electronic document stored on a compact disk. Based on the Division's request, the Division also received a hard copy of the Application. As described in the Application, the proposed new facility, the Henderson Inert Landfill, would have an area of approximately 39 acres and would accept inert material as defined by Section 1.2 of the Regulations Pertaining to Solid Waste Sites and Facilities, 6 CCR 1007-2, Part 1 (Solid Waste Regulations). Included in the Application is an *Operations and Closure Plan (Plan)* (JR Engineering 2012), prepared by the Henderson Inert Landfill's technical consultant, JR Engineering, and dated November 2012. The site was a gravel pit where approximately 978,000 cubic yards were removed and is now a reclamation project under the administration of the Colorado Division of Reclamation Mining and Safety (DRMS). The property is being operated under a reclamation plan that calls for a permanent water storage reservoir. According to the *Plan* (JR Engineering 2012), converting the pit to water reservoir has proven infeasible, and 120 85 LLC seeks to backfill the mine with inert materials to reclaim the land and restore it to near its original grade. As of the date of the *Plan* (JR Engineering 2012), GSL/Brush LLC, an Illinois company, is the property owner/permit holder, and is under contract to sell the property to 120 85 LLC, subject to approval by DRMS.

July 11, 2013

Mr. Eric Fenster, Esquire

Final Determination: **Recommendation of Approval with Conditions** of Application for Certificate of Designation, Proposed Henderson Inert Landfill, Adams County, Colorado

Page 2

The Division reviewed the Application to determine its compliance with the requirements set forth in the Solid Waste Disposal Sites and Facilities Act, Title 30, Article 20, Parts 1 and 10 (Solid Waste Act) of the Colorado Revised Statutes (CRS), as amended, and with the regulations promulgated there under: the Regulations Pertaining to Solid Waste Sites and Facilities, 6 CCR 1007-2, Part 1 (Solid Waste Regulations). In accordance with the Solid Waste Statute, CRS 30-20-103 (2), a "completeness review" of the Application was required within thirty (30) days of the receipt of the Application. The Division conducted the completeness review, and on February 22, 2013, the Division issued written notification that (1) the Division had determined the Application to be complete, and (2) it was not the intent or purpose of a "completeness review" to imply anything concerning the final approval (or disapproval) of the Application. In addition, the completeness review included several initial comments based on the completeness review.

On April 3, 2013, the Division met with 120 85 LLC and JR Engineering to discuss the permitting process and to discuss the initial comments noted in the Division's completeness review letter.

In accordance with the Solid Waste Statute, CRS 30-20-103 (2), a "technical evaluation" of the Application was required after the completeness review has been conducted. The Division conducted a comprehensive technical evaluation, and on May 21, 2013, the Division submitted technical review comments.

On June 6, 2013, the Division published a notice in the Aurora *Sentinel* requesting public comments on the proposed Henderson Inert Landfill. The public comment period ended on July 6, 2013. The Division received no comments.

On June 20, 2013, the Division received a Revised *Plan* (JR Engineering 2013), with the revisions prepared based on the Division's technical review comment letter.

It is the determination of the Division that the Henderson Inert Landfill can comply with the technical, environmental, and public health standards of the Solid Waste Act and the Solid Waste Regulations if the Henderson Inert Landfill is constructed, monitored, and operated as detailed in the CD Application and with the conditions of the Division as stated below in this letter. Based on our review and determination, the Division recommends that the Henderson Inert Landfill may be approved by Adams County based on these and any local criteria. The Revised *Plan* (JR Engineering 2013) and final resolution concerning the CD must be placed in the Henderson Inert Landfill's operating record. In addition to the conditions listed below, please note that the Henderson Inert Landfill shall comply with the public health and environmental laws, standards, and regulations of the Department and all other applicable state, federal, and local rules, and ordinances. Our recommendation for approval of the Application has the following conditions that shall be incorporated into the CD if issued by Adams County:

1. Financial Assurance as defined in Section 1.8 of the Solid Waste Regulations must be reviewed and approved by the Division and Adams County sixty (60) business days before the date on which waste is first received.
2. Pursuant to Section 1.8.3 (C) of the Solid Waste Regulations, the Henderson Inert Landfill must annually adjust such financial assurance cost estimates to account for inflation or deflation. Pursuant to Section 1.8.3 (D) of the Solid Waste Regulations, the Henderson Inert Landfill must replace original financial assurance cost estimates with new cost estimates every five (5) years unless otherwise required by the Division.

July 11, 2013

Mr. Eric Fenster, Esquire

Final Determination: **Recommendation of Approval with Conditions** of Application for Certificate of Designation,
Proposed Henderson Inert Landfill, Adams County, Colorado

Page 3

To avoid unnecessary modifications to the EDOP (when approved), the Division requests that, with the final submittal, the Henderson Inert Landfill submit closure and post-closure care costs separately. In the interim, the Division will review the costs already submitted and provide comments as necessary. The Division asks the applicants to contact Division Financial Analyst Enrique Martinez (303-691-4054, Enrique.Martinez@state.co.us) to coordinate review of the closure and post-closure care costs and the establishment of financial assurance.

Upon the final resolution of the Adams County Board of County Commissioners concerning the CD, please forward a copy of the final resolution to the Division.

Should you have questions, please contact Doug Eagleton at 303-691-4065, Douglas.Eagleton@state.co.us, or Roger Doak at 303-692-3437, Roger.Doak@state.co.us.

Sincerely,



Doug Eagleton, P.E.
Environmental Protection Specialist
Solid Waste Permitting Unit
Solid Waste and Materials Management Program
Hazardous Materials and Waste
Management Division



Roger Doak
Unit Leader
Solid Waste Permitting Unit
Solid Waste and Materials Management Program
Hazardous Materials and Waste
Management Division

cc: Christopher La Rue – Adams County Planning and Development Department
Craig Tessmer – Adams County Planning and Development Department
Deanne Kelly – Tri-County Health Department
Berhan Keffelew – DRMS
Ioana Comaniciu – Division of Water Resources
Eric Fenster, Esquire – 120 85 LLC
Jason Tarry, P.E. – JR Engineering

ec: Darrell Dearborn – Division Compliance Assurance Unit
Dana Podell – Air Pollution Control Division
Nathan Moore – Water Quality Control Division
Rob Eber – Colorado Attorney General's Office

SW/ADM/HIF 2.1

STATE OF COLORADO

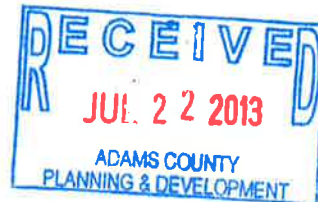
John W. Hickenlooper, Governor
Karin McGowan
Interim Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
Located in Glendale, Colorado (303) 692-3090
<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment



July 11, 2013

Board of County Commissioners
4430 South Adams County Parkway
5th Floor, Suite C5000A
Brighton, Colorado 80601-8204

RE: Final Determination: **Recommendation of Approval with Conditions**
Application for Certificate of Designation
Proposed Henderson Inert Landfill
Adams County, Colorado

Dear Commissioners:

The Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division (Division), received from Adams County, Colorado, an official referral notification, dated January 22, 2013, requesting the Division's review of an Application for a Certificate of Designation (CD) (Application) for a proposed new inert landfill in Henderson in Adams County, Colorado. The Division received the Application as an electronic document stored on a compact disk. Based on the Division's request, the Division also received a hard copy of the Application. As described in the Application, the proposed new facility, the Henderson Inert Landfill, would have an area of approximately 39 acres and would accept inert material as defined by Section 1.2 of the Regulations Pertaining to Solid Waste Sites and Facilities, 6 CCR 1007-2, Part 1 (Solid Waste Regulations). Included in the Application is an *Operations and Closure Plan (Plan)* (JR Engineering 2012), prepared by the Henderson Inert Landfill's technical consultant, JR Engineering, and dated November 2012. The site was a gravel pit where approximately 978,000 cubic yards were removed and is now a reclamation project under the administration of the Colorado Division of Reclamation Mining and Safety (DRMS). The property is being operated under a reclamation plan that calls for a permanent water storage reservoir. According to the *Plan* (JR Engineering 2012), converting the pit to water reservoir has proven infeasible, and 120 85 LLC seeks to backfill the mine with inert materials to reclaim the land and restore it to near its original grade. As of the date of the *Plan* (JR Engineering 2012), GSL/Brush LLC, an Illinois company, is the property owner/permit holder, and is under contract to sell the property to 120 85 LLC, subject to approval by DRMS.

July 11, 2013

Mr. Eric Fenster, Esquire

Final Determination: **Recommendation of Approval with Conditions** of Application for Certificate of Designation, Proposed Henderson Inert Landfill, Adams County, Colorado

Page 2

The Division reviewed the Application to determine its compliance with the requirements set forth in the Solid Waste Disposal Sites and Facilities Act, Title 30, Article 20, Parts 1 and 10 (Solid Waste Act) of the Colorado Revised Statutes (CRS), as amended, and with the regulations promulgated there under: the Regulations Pertaining to Solid Waste Sites and Facilities, 6 CCR 1007-2, Part 1 (Solid Waste Regulations). In accordance with the Solid Waste Statute, CRS 30-20-103 (2), a "completeness review" of the Application was required within thirty (30) days of the receipt of the Application. The Division conducted the completeness review, and on February 22, 2013, the Division issued written notification that (1) the Division had determined the Application to be complete, and (2) it was not the intent or purpose of a "completeness review" to imply anything concerning the final approval (or disapproval) of the Application. In addition, the completeness review included several initial comments based on the completeness review.

On April 3, 2013, the Division met with 120 85 LLC and JR Engineering to discuss the permitting process and to discuss the initial comments noted in the Division's completeness review letter.

In accordance with the Solid Waste Statute, CRS 30-20-103 (2), a "technical evaluation" of the Application was required after the completeness review has been conducted. The Division conducted a comprehensive technical evaluation, and on May 21, 2013, the Division submitted technical review comments.

On June 6, 2013, the Division published a notice in the *Aurora Sentinel* requesting public comments on the proposed Henderson Inert Landfill. The public comment period ended on July 6, 2013. The Division received no comments.

On June 20, 2013, the Division received a Revised *Plan* (JR Engineering 2013), with the revisions prepared based on the Division's technical review comment letter.

It is the determination of the Division that the Henderson Inert Landfill can comply with the technical, environmental, and public health standards of the Solid Waste Act and the Solid Waste Regulations if the Henderson Inert Landfill is constructed, monitored, and operated as detailed in the CD Application and with the conditions of the Division as stated below in this letter. Based on our review and determination, the Division recommends that the Henderson Inert Landfill may be approved by Adams County based on these and any local criteria. The Revised *Plan* (JR Engineering 2013) and final resolution concerning the CD must be placed in the Henderson Inert Landfill's operating record. In addition to the conditions listed below, please note that the Henderson Inert Landfill shall comply with the public health and environmental laws, standards, and regulations of the Department and all other applicable state, federal, and local rules, and ordinances. Our recommendation for approval of the Application has the following conditions that shall be incorporated into the CD if issued by Adams County:

1. Financial Assurance as defined in Section 1.8 of the Solid Waste Regulations must be reviewed and approved by the Division and Adams County sixty (60) business days before the date on which waste is first received.
2. Pursuant to Section 1.8.3 (C) of the Solid Waste Regulations, the Henderson Inert Landfill must annually adjust such financial assurance cost estimates to account for inflation or deflation. Pursuant to Section 1.8.3 (D) of the Solid Waste Regulations, the Henderson Inert Landfill must replace original financial assurance cost estimates with new cost estimates every five (5) years unless otherwise required by the Division.

July 11, 2013

Mr. Eric Fenster, Esquire

Final Determination: **Recommendation of Approval with Conditions** of Application for Certificate of Designation,
Proposed Henderson Inert Landfill, Adams County, Colorado

Page 3

To avoid unnecessary modifications to the EDOP (when approved), the Division requests that, with the final submittal, the Henderson Inert Landfill submit closure and post-closure care costs separately. In the interim, the Division will review the costs already submitted and provide comments as necessary. The Division asks the applicants to contact Division Financial Analyst Enrique Martinez (303-691-4054, Enrique.Martinez@state.co.us) to coordinate review of the closure and post-closure care costs and the establishment of financial assurance.

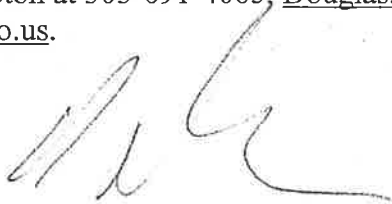
Upon the final resolution of the Adams County Board of County Commissioners concerning the CD, please forward a copy of the final resolution to the Division.

Should you have questions, please contact Doug Eagleton at 303-691-4065, Douglas.Eagleton@state.co.us, or Roger Doak at 303-692-3437, Roger.Doak@state.co.us.

Sincerely,



Doug Eagleton, P.E.
Environmental Protection Specialist
Solid Waste Permitting Unit
Solid Waste and Materials Management Program
Hazardous Materials and Waste
Management Division



Roger Doak
Unit Leader
Solid Waste Permitting Unit
Solid Waste and Materials Management Program
Hazardous Materials and Waste
Management Division

cc: Christopher La Rue – Adams County Planning and Development Department
Craig Tessmer – Adams County Planning and Development Department
Deanne Kelly – Tri-County Health Department
Berhan Keffelew – DRMS
Ioana Comaniciu – Division of Water Resources
Eric Fenster, Esquire – 120 85 LLC
Jason Tarry, P.E. – JR Engineering

cc: Darrell Dearborn – Division Compliance Assurance Unit
Dana Podell – Air Pollution Control Division
Nathan Moore – Water Quality Control Division
Rob Eber – Colorado Attorney General's Office

SW/ADM/HIF 2.1



Right of Way & Permits

1123 West 3rd Avenue
Denver, Colorado 80223
Telephone: 303.571.3306
Facsimile: 303. 571.3660
donna.l.george@xcelenergy.com

September 4, 2013

Adams County
Department of Planning and Development
4430 South Adams County Parkway
1st Floor, Suite W2000A
Brighton, CO 80601-8216

Attn: Chris LaRue

Re: 120th Partners CD, Case # EXG2013-00001

Public Service Company of Colorado (PSCo) has reviewed the plans for **120th Partners CD** and has **no apparent conflict**.

As a safety precaution, PSCo would like to remind the developer to call the **Utility Notification Center at 1-800-922-1987** to have all utilities located prior to any construction.

If you have any questions about this referral response, please contact me at (303) 571-3306.

Sincerely,

Donna George
Contract Right of Way Referral Processor
Public Service Company of Colorado



DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RESOURCES

August 27, 2013

John W. Hickenlooper
Governor

Mike King
Executive Director

Dick Wolfe, P.E.
Director

Chris LaRue, Case Manager
Adams County Planning & Development Department
Transmission via email: CLaRue@adcogov.org

Re: 120th Partners CD
Case No. EXG2013-00001
SW ¼ Sec. 35, T1S, R67W, 6th P.M.
Water Division 1, Water District 2

Dear Mr. LaRue:

This referral does not appear to qualify as a "subdivision" as defined in Section 30-28-101(10)(a), C.R.S. Therefore, pursuant to the State Engineer's March 4, 2005 and March 11, 2011 memorandums to county planning directors, this office will only perform a cursory review of the referral information and provide informal comments. The comments do not address the adequacy of the water supply plan for this project or the ability of the water supply plan to satisfy any County regulations or requirements. In addition, the comments provided herein cannot be used to guarantee a viable water supply plan or infrastructure, the issuance of a well permit, or physical availability of water.

The proposal seeks a Certificate of Designation for the Henderson Pit project, which will allow the property to be monitored as a solid waste facility. The Henderson Pit project is described as a reclamation project for a parcel of mining property located west of Highway 85 and north of 120th Avenue. The subject mining pit is known by this office as the GSL Sand and Gravel Mine, DRMS Permit No. M-2001-085. Mining at the site is complete, leaving an approximately 39-acre pit. The Applicant has estimated that 1,000,000 cubic yards of fill material is required to return the property to near its original grade. The property will accept inert material including earth, dirt, soil, sand, gravel, rock, hardened concrete, asphalt paving fragments, top soil, brick, and other non-organic conforming inert material.

A survey of the property performed in August of 2012 determined that approximately 26.7 acres of the pit are filled with ground water. Based on the most recent information provided to this office by the DRMS, the Applicant has amended their reclamation permit to change the reclamation of the mined site from a clay-lined water storage reservoir to backfilling the site to two feet above the historical water table. Although mining operations at the site have ceased, ongoing depletions are still occurring due to the exposure of ground water at the site. The subject pit is currently included in an approved substitute water supply plan that is valid through October 31, 2013.

The site must be covered under a valid substitute water supply plan until all depletions to the South Platte River resulting from the current exposed water surface and past mining operations have been replaced. So long as the Applicant complies with the terms and conditions of an approved substitute water supply plan, this office has no objection to approval of the requested Certificate of Designation. Should you or the Applicant have any questions, please contact Sarah Brucker of this office.

Sincerely,

Joanna Williams, P.E.
Water Resources Engineer

JMW/srb: Adams EXG2013-00001 120th Ave Pit.Docx

Office of the State Engineer

1313 Sherman Street, Suite 818 • Denver, CO 80203 • Phone: 303-866-3581 • Fax: 303-866-3589

www.water.state.co.us

Chris LaRue

From: Bill DeGroot [bdegroot@udfcd.org]
Sent: Tuesday, August 27, 2013 10:17 AM
To: Chris LaRue
Subject: referral comments for Case No. EXG2013-00001

We have no objection to this proposal.

I do think that the final topography exhibit should have labels on the contours.





August 26, 2013

Chris LaRue
Adams County Planning and Development Dept.
12200 Pecos Street
Westminster, Co. 80234

RE: Case No. EXG-2013-00001
120th Partners CD
E 120th Ave and Highway 85

Chris,

This letter is to inform you that South Adams County Water and Sanitary District ("District") has reviewed the information provided on a parcel of property located at E 120th Ave and Highway 85 Adams County, Colorado. The property is not the District service area, and is not included in the District. The District does not currently serve the North side of 120th Ave and does not have any plans to serve the area as it is now served by Brighton.

If you have any questions or require additional information, please contact me at 720-206-0593.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Voehringer".

Steven Voehringer
Development Review Coordinator

Cc: file folder



Chris LaRue

From: Kerrie Monti [KMONTI@sd27j.org]
Sent: Friday, August 23, 2013 9:32 AM
To: Chris LaRue
Subject: Case: 120th Partners CD-EXG2013-00001

Hello Chris,

Joy Gerdom has asked me to respond regarding the Case noted above. Thank for your requesting our comments; we have no objections. Please let me know if you need additional information from me.

~Kerrie

Kerrie Monti | Executive Secretary – Planning and Operations
School District 27J | 18551 E 160th Avenue | Brighton, CO 80601
303-655-2984 | Fax 303-655-2805
kmonti@sd27j.org | www.sd27j.org

Chris LaRue

From: Kathryn Chappell [karyfrances@hotmail.com]
Sent: Monday, August 19, 2013 5:14 AM
To: Chris LaRue

Your intent to place a waste dump next to my property is NOT what I want to see south of my property. The small pond is 20 feet from my backyard and I enjoy it and so do the water fowl who frequent this pond.

Adams County has already scarred much of the area west of old Brighton Blvd. from Henderson north to Brighton. It is unimaginable that you would trash out Henderson when it is not necessary.

I suggest you do this in another location, far away from residential communities, and look to sculpt these areas instead of leaving them to look and smell. The highest and best use of the property located at 120th and Highway 85 would be a commercial grocery chain, which is badly needed for the residents.

This is the poorest planning I have ever heard of.

Kathryn Chappell
11288 East 124th Avenue
Henderson, CO 80601
karyfrances@hotmail.com

Chris LaRue

From: Kathryn Chappell [karyfrances@hotmail.com]
Sent: Monday, August 19, 2013 5:35 AM
To: Chris LaRue
Subject: Mr. LaRue

Case Manager: 120th Partners CD, EXG2013-00001

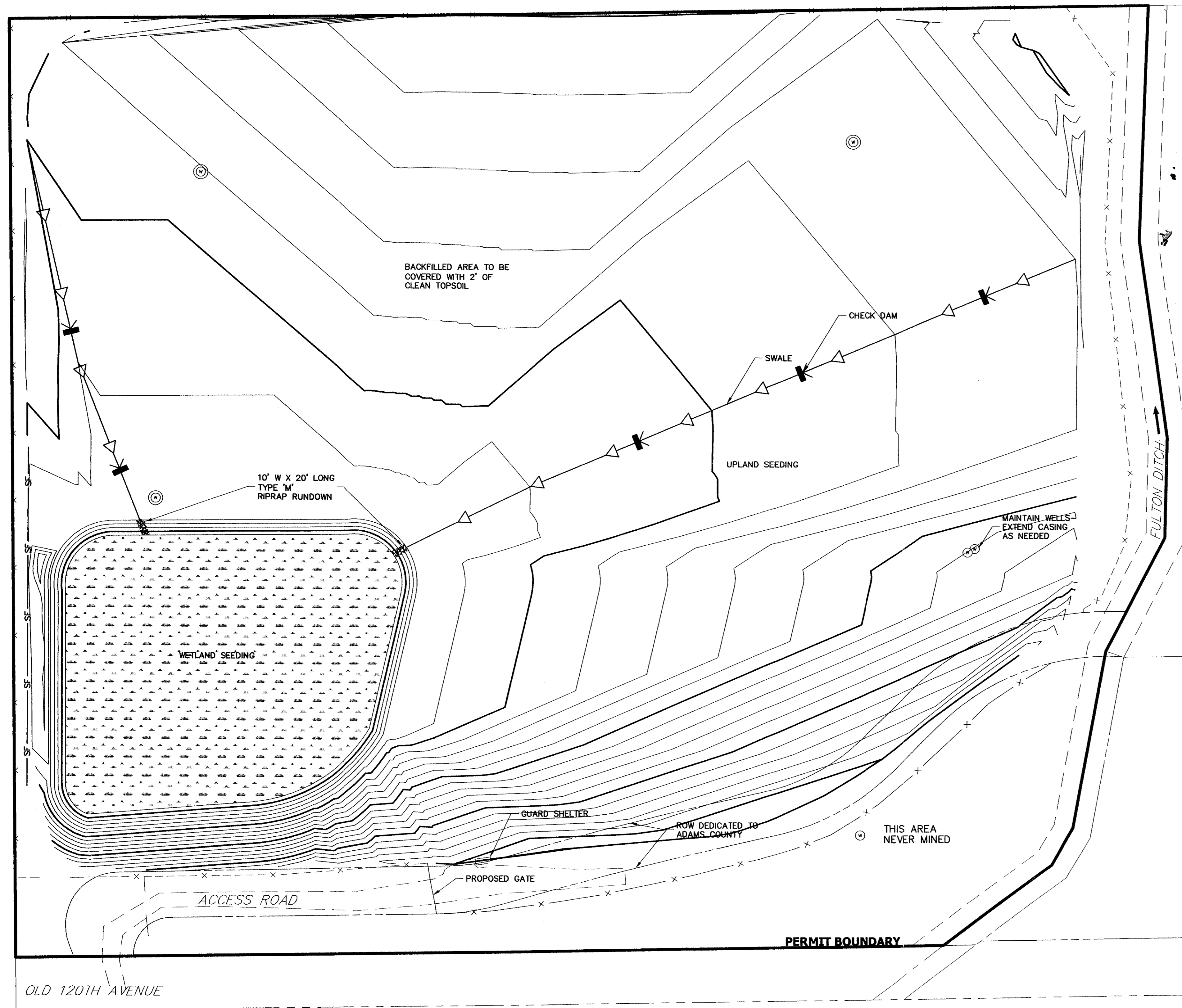
I would like to see your feasibility study and EPA study on this project. I intend to fight this with any and all legal options available to me.

I would like to propose that you rezone the area located west of 120th and Highway 85 to commercial/retail and solicit a King Soopers or Safeway. That will most certainly serve this community.

Kary Chappell
karyfrances@hotmail.com
720-922-14000

EXHIBIT 2

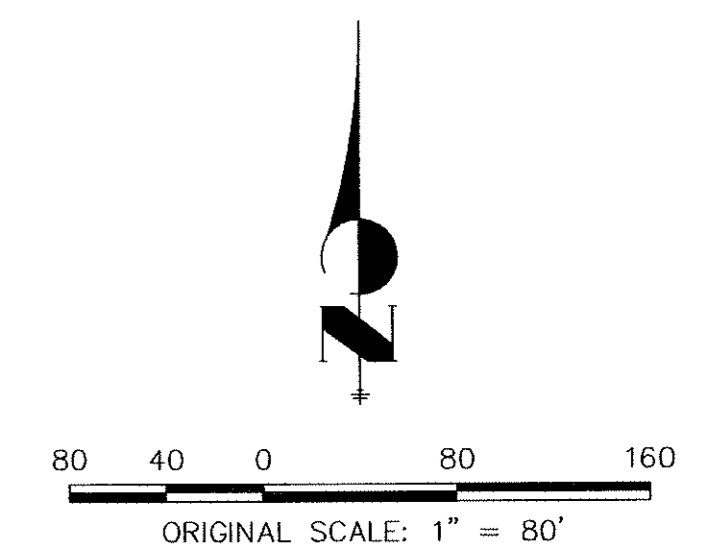
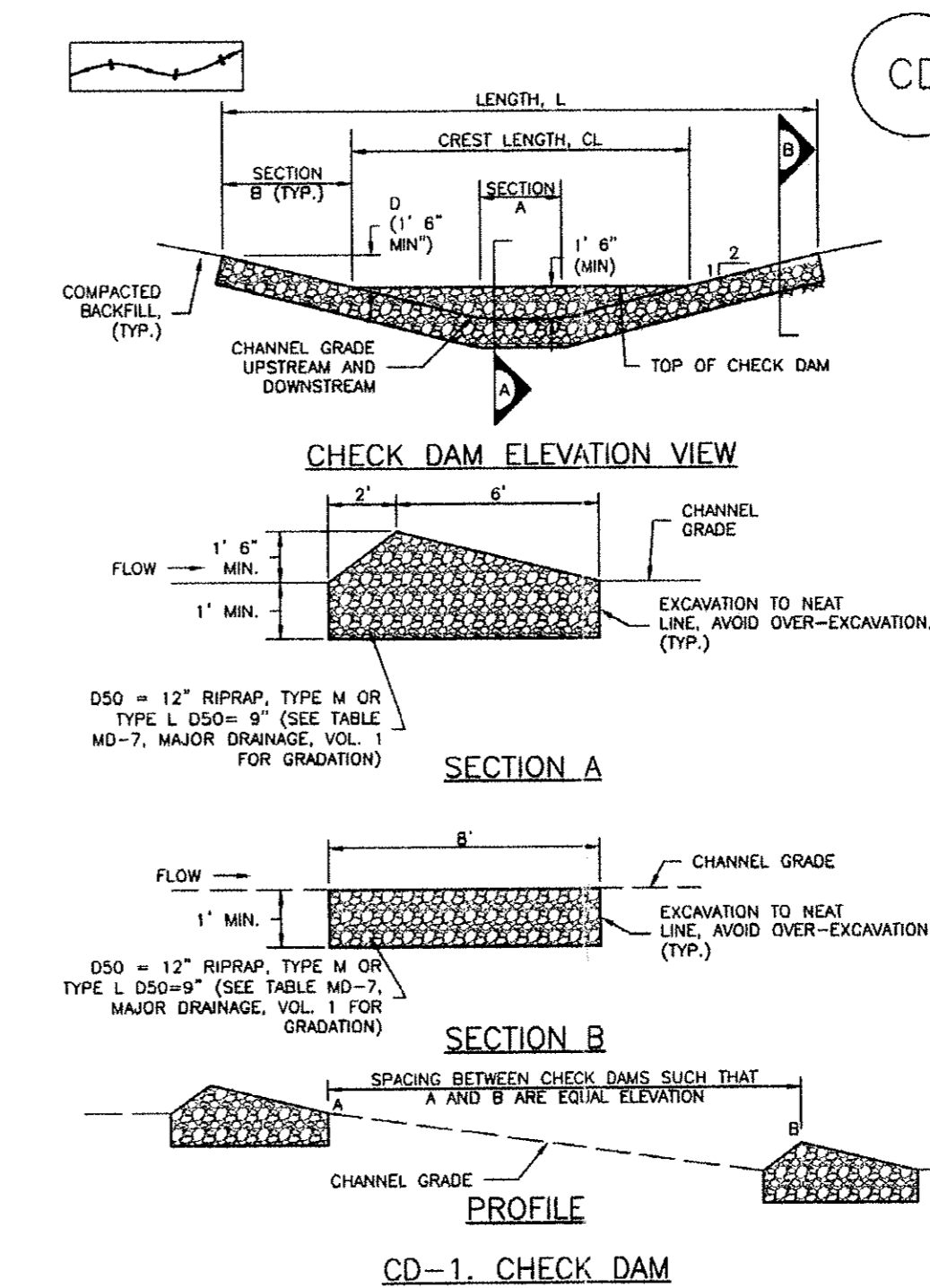
CLOSURE PLAN/FINAL TOPOGRAPHY



LEGEND	
	EXISTING GROUND WATER MONITORING WELL
	PROPOSED GROUND WATER MONITORING WELL
	EXISTING STRUCTURES
	EXISTING FENCING
	EXISTING GRAVEL ENTRANCE/EXIT ROAD
	PERMIT BOUNDARY
	PROPOSED FENCING
	SWALE
	CHECK DAM

Check Dams (CD)

EC-12



November 2010 Urban Drainage and Flood Control District Urban Storm Drainage Criteria Manual Volume 3 CD-3

CLOSURE PLAN/FINAL TOPOGRAPHY
 DACOA PIT
 JOB NO. 15694.00
 11/29/12
 SHEET 1 OF 1

J-R ENGINEERING
 A Westrian Company

7200 S. Alton Way, Suite C100, Centennial, CO 80112
 303-740-9393 • Fax: 303-721-9019 • www.jrengineering.com