SAN MIGUEL COUNTY PLANNING COMMISSION

PLANNING COMMISSION MEETING AGENDA
THURSDAY, NOVEMBER 18, 2021 – 9:00 AM

MEETING INFORMATION - This meeting will be held online due to the COVID-19 virus. To join the meeting: https://zoom.us/join, Meeting ID: 965 1288 5206, Password: 534277; Audio only: Dial 1-301-715-8592 or 1-253-215-8782 (long distance rates may apply).

1. **9:00 A.M. CALL TO ORDER**

2. **APPROVAL OF MINUTES, PLANNING COMMISSION AND STAFF COMMENTS**

   Approval of the August 19, 2021 as corrected
   pc.8.19.minutesFINAL.pdf

   Approval of the October 14, 2021 minutes as presented
   pc.10.14.minutes Final (2).docx

3. **9:05 A.M. PUBLIC HEARING: CONTINED REVIEW OF LAND USE APPLICATION FROM OCTOBER 14, 2021**

   Applicant: Ben Langenfield, Representative; Skelton Inc.
   Location: (Parcel # 429517300003) located south of Montrose County off CR 44Z N
   Parcel Size: 25-acre
   Zone District: Wright's Mesa
   Proposal: Mining Special Use Permit for proposed expansion of the United Materials Norwood Gravel Pit/MOTION
   Presented By: John Huebner, Senior Planner
   3 CPC Project Report & Packet Materials - United Norwood Mine Pit SUP 11.18.21.pdf

4. **WORKSESSION:**

   Staff Report with exhibits -Affordable Housing Impact Mitigation Update
   Presented By: John Huebner, Senior Planner
   4 Staff Report w exhibits- Affordable Housing Impact Mitigation update 11.3.21.pdf

5. **WORKSESSION**

   Request: Staff discussion of SMC Master Plan Amendment regarding Housing

6. **PLANNING COMMISSION AND STAFF COMMENTS**

7. **ADJOURN**
   NOTE: This agenda is subject to change, including the addition of items up to 24 hours in advance or the deletion of items at any time. All times are approximate. This meeting is considered a San Miguel County Committee Meeting.

   If special accommodations are necessary per ADA, contact 970-728-3174, via email

bocc@sanmiguelcountyco.gov prior to the meeting.

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NOTE: All times are approximate; items may begin earlier (except public hearings) or later than scheduled. For more information contact the Planning Department at (970)728-3083.

If special accommodations are necessary per ADA, contact 970-728-3174, via email bocc@sanmiguelcountyco.gov prior to the meeting.

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AGENDA ITEM

TITLE:
Approval of the August 19, 2021 as corrected

Presented by:
Time needed:

RECOMMENDED ACTION/MOTION:

INTRODUCTION/BACKGROUND:

FISCAL IMPACT:

ATTACHMENTS:
pc.8.19.minutesFINAL.pdf

Description:

SAN MIGUEL COUNTY PLANNING COMMISSION
MINUTES – REGULAR MEETING

August 19, 2021

Norwood Public Library, 1455 Pinion Street, Norwood, CO 81423

Present:	Lee Taylor, Chair M.J. Schillaci, Secretary Josselin Lifton-Zoline, Member Matthew Bayma, Sr. Alternate Tobin Brown, Jr. Alternate
Absent:	Pamela Hall, Vice-chair Ian Bald, Member
Planning Staff Present:	Kaye Simonson, Planning Director John Huebner, Senior Planner Troy Hangen, Senior Planner
County Staff Present:	Matt Gonzales, Building Official Amy Markwell, County Attorney Nancy Hrupcin, Legal Assistant, County Attorney's Office

9:15 AM Site Visit: 7239 County Road 44 ZS, SUP Hunting Lodge
10:15 AM Site Visit: 272 County Road 43 ZS, SUP Warehousing, Affordable Housing

11:00 a.m. Called to Order

PUBLIC HEARING: REVIEW OF LAND USE APPLICATION
Applicant: Jim & Alice Fae Young, Therin Pace
Location: 272 County Road 43 ZS
Parcel size: 3.2 acre (Parcel 429526200010)
Zone District: Heavy Commercial (HC)
Proposal: Amendment to Special Use Permit to establish Warehousing and Affordable Housing for persons employed on site.

Those who addressed the commission:
Jim & Alice Fae Young, Applicant
Jenny Russell, Attorney representing Parker & Dellis
Therin Pace, Applicant
George Parker, neighbor
Tina Dellis, neighbor

Kaye Simonson, Planning Director, presented the land use application submitted by Therin Pace and Jim & Alice Fae Young. On December 10, 2020, a complaint was filed regarding possible zoning violations at 272 and 350 County Road 43ZS, Norwood. The property has Special Use

Permits (SUP) for an auto repair shop, impound yard and contractor shop. On March 25, 2021 the Planning Director and Building Official conducted a site visit and on April 9, 2021, a letter was issued to Therin Pace, business owner/tenant, and Jim Young, property owner identifying areas that needed to be addressed. Specifically, the number of cars stored on the site exceed that allowed by the current SUP; the impound use is no longer occurring; unpermitted warehousing is occurring on site within cargo containers; and there are unpermitted residential uses on the property, in a mobile home on site, in an apartment in the building at the southeast corner of the lot, and in an RV parked on site. The key violations for this property are the number of vehicles parked on site in excess of the number allowed by CPC Resolutions No. 1997-10 and 2004-08; use of the property for warehousing without a special use permit; and the residential uses occurring on the property without a special use permit, development permit or building permit.

In response, an application was submitted by the applicants requesting amendments to the existing SUPs to increase the number of vehicles allowed to be parked on the site, a request to keep the vehicle impound and storage use, to retain the construction shop and yard use, and to add "Warehousing" as an allowed use on the site. Also, to allow the mobile home, which was placed on the site in the late 90s but not permitted, and to authorize the existing apartment in the south end of Building C, which is classified by Planning as a legally non-conforming structure. It was constructed with permits and met the setback requirements in place at the time it was built. There is no evidence that building permits or a certificate of occupancy were issued for the apartment.

The number of vehicles and the duration of their stay should be limited. Based on all the activities occurring on the site, staff does not believe the site can accommodate additional vehicles. Vehicle storage should not exceed 30 days and vehicles should be currently registered and have an active work order.

The impound business is no longer active. If a use is abandoned for 12 months it is no longer valid.

With the addition of warehousing, the use of site is near capacity. The storage containers cannot be placed within the minimum setbacks allowed by zoning regulations; they are considered structures by the Land Use Code. All storage containers should be placed outside of the setbacks at least 50 feet from the property lines. The commission asked if there was some flexibility in regards to the parking of customer and employee vehicles in the setbacks.

Building C is classified as a legally non-conforming structure as it was constructed without permits when it was built. There is no evidence building permits or a certificate of occupancy were issued for the apartment. If the Planning Commission approves the use, the applicant will need to obtain all necessary plumbing, electrical and building permits, as well as verify the size and condition of the Onsite Wastewater Treatment System (OWTS). The apartment shall only be occupied with employees that work on site.

Staff believes the condition of the mobile home building is not habitable. Consideration of the mobile home use was not included in the application because it does not meet setback requirements; approval of the use of the mobile home would also require approval of a setback variance from the Board of Adjustment. No application has been submitted.

11:51 a.m. Recessed
11:56 a.m. Reconvened

Jim and Alice Fae Young and Therin Pace questioned staff and the commission regarding the original resolutions, OWTS requirements, and the use of the setback area.

12:14 p.m. Public Comment opened.

Jenny Russell, attorney for neighbors George Parker and Tina Dellis, stated on their behalf that they do not object to the proposed zoning or the SUP. They are concerned with the significant number of violations involving law enforcement that has inhibited their enjoyment of their property. There is also concern about the location of the OWTS. It was expressed that if the apartment is approved that there be proof (a W-2) required that the person occupying the space is actually an employee. Also, the shipping containers are located right up against the fence. She stated that the 50 foot setback would protect her client. They also requested that fencing be required on the south & east sides of property to prevent trash from blowing onto their property.

Tina Dellis and George Parker expressed these numerous violations inhibit their use and enjoyment of their property.

12:37 p.m. Public Comment closed.

The Commission asked whose responsibility is the fence. Staff stated it is the applicant's responsibility. They inquired about the size of the apartment and if it is County Deed Restricted.

Staff added that the occupants have vacated the RV campers on site; it is not zoned for a campground. There are two long term classes of work, impound and car restoration business. Also, the outdoor vehicle storage is not a use by right.

The Commission commented that there is clean-up needed on site; the applicant needs to reduce the numbers of cars and the storage containers are placed haphazardly and in the setback. The Commission concluded that due to multiple reasons (in the setback, unlivable, OWTS) the mobile home must be removed. The number of vehicles allowed on site, twenty-four (24) does not include employees' commuter vehicles.

MOTION by Josselin Lifton-Zoline to approve the amendment to the Foreign Cars Special Use Permit, and adopt Resolution No 2021-05, retaining the auto repair business, retaining the contractor's yard and shop, adding warehousing as a new use, and adding a residential use that shall be affordable housing for persons employed on the site, based on the finding that the proposed SUP amendment meets the standards of LUC Section 5-308 B, Heavy Commercial, and of 5-1002, Special Uses, with the following conditions ***as amended during today's meeting***:

1. All written representations of the applicant, in the original submittal and all supplements, letters and emails, are deemed to be conditions of approval, except to the extent modified by this Motion.

2. This Resolution shall replace all prior SUP resolutions in their entirety, including CPC Resolution No. 1997-10 and CPC Resolution No. 2004-10.

3. Erect an opaque fence to screen the property that is at least 6 feet high along the south and east property lines. The Planning Director may waive this condition if the final settlement with the neighbor otherwise addresses screening.

4. The maximum number of vehicles parked outside for the automotive repair use shall be limited to twenty four (24). All vehicles shall have current registration or work order and shall not be on the property for more than thirty (30) days, per LUC Section 5-308 B.XII.j. Vehicles stored in buildings or containers are not subject to these limits.

5. The impound use is no longer active and shall not be reestablished unless and until a Special Use review is conducted pursuant to the requirements of the Land Use Code.

6. All stored vehicles (those not being actively repaired and/or allowed to be stored outside per the above conditions) shall be located inside buildings or containers.

7. There shall be no more than twenty (20) cargo/storage containers on the site.

8. No storage containers shall be placed or located in the fifty-foot (50') setbacks.

9. Obtain all necessary inspections for the apartment. If a Certificate of Occupancy or Final Inspection is not obtained within ninety (90) days of the date of this approval, the apartment and all plumbing and wiring associated with the kitchen and bathroom shall be removed and approval of the affordable housing use shall be void. The Planning Director and Building Official may grant an extension and allow more time to meet this condition, provided the applicant is working diligently to complete all work and obtain all inspections.

10. The apartment shall only be occupied by person employed on the site. There shall be no more than four (4) people residing in the apartment. The name(s) of the tenants(s) and their position(s) od employment within the SUP shall be provided to the Planning Department no later than January 31 of each year.

11. Provide documentation from an engineer regarding the size, location, and condition of the Onsite Wastewater Treatment System(s) (OWTS) within ninety (90) days of this approval. The engineer shall demonstrate to the satisfaction of the San Miguel County Site Inspector that the OWTS is adequate and functioning and will meet all needs for the site. The Site Inspector may require any modifications to the system(s) deemed necessary for the public health and safety.

12. Comply with all requirements of the Norwood Water District. Within ninety (90) days of this approval, provide San Miguel County Planning Department with verification from the District that their requirements have been met.

13. Vegetation and weeds shall be controlled. The site shall be kept clear of trash and debris and maintained in a clean and orderly condition.

14. The open shed along the east property line shall be removed. Alternately, the applicant and owner may apply for and obtain all necessary permits (development permit, building permit). A complete application shall be submitted within thirty (30) days of this SUP approval. If the open shed is proposed to be retained in its existing location within the setback, the applicant must apply for and receive approval from the Board of Adjustment for a variance to the rear yard setback. Nothing in this SP approval provides any guarantee that the variance or subsequent permits will be granted. If the applicant fails to obtain all necessary approvals and permits within six (6) months of the date of this approval, the open shed shall be removed.

15. The mobile home shall be removed, based on the finding that it is not safe for habitation and cannot be reasonably rehabilitated to a point that a certificate of occupancy can be obtained. It shall not be replaced unless and until all necessary permits and approvals are obtained, including but not limited to an amendment to this SUP to allow an additional dwelling unit on the property.

16. There shall be an annual review one (1) year after the date of approval of this SUP amendment (August 2022). Prior to the annual review by the Planning Commission, notice will be provided to the neighbors and individuals who have commented on this SP application. The CPC may make a determination in its discretion if there is a need for additional on-going annual reviews, or periodic reviews of the terms and conditions of the SUP in the future.

SECONDED by Tobin Brown. **VOTE PASSED 5-0.**

Lee Taylor	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Pamela Hall	**Aye**	**Nay**	**Abstain**	**<u>Absent</u>**
Ian Bald	**Aye**	**Nay**	**Abstain**	**<u>Absent</u>**
M.J. Schillaci	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Josselin Lifton-Zoline	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Matthew Bayma	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**
Tobin Brown	**<u>Aye</u>**	**Nay**	**Abstain**	**Absent**

2:07 p.m. Recess
2:17 p.m. Reconvened

<u>PUBLIC HEARING: REVIEW OF LAND USE APPLICATION</u>

Applicant: John T Howe, Representative; Jan Scharf, T.L Bar Ranch Partnership
Location: 7239 County Road 44ZS
Parcel size: 75 –acre (Parcel #452735300102)
Zone District: Wrights Mesa (WM)

Proposal: Special Use Permit to establish seasonal Hunting Lodge

Those who addressed the commission:
John T. Howe, Attorney for the applicant
Jan & Jerry Scharf, TL Bar Ranch applicant
Alex Sokolik, neighbor
Abby & Tyrell Thompson, neighbors

John Huebner, Senior Planner, presented the TL Bar Ranch Partnership application for a Hunting Lodge Special Use Permit to house hunters from their hunting operation on their property for approximately four (4) weeks during the hunting season. There will be a maximum of 11 hunters and 8 staff and guides this year hosted in 10 recreational vehicles ("RVs") that will be located on the property. All meals will be provided, and the residence's kitchen and dining room will be utilized to prepare and serve meals to hunters and employees. The ten RVs will be sited in a fenced area that was originally designed as an outdoor horse arena. Electrical service is provided to the RVs. Parking for customers and hunting vehicles is also planned in the arena. The property's existing well is permitted for fire protection, up to three residences, lawn and livestock. It currently serves the existing residence. A commercial onsite wastewater treatment system (OWTS) is proposed to be installed near the arena to serve the RVs. Potable water is planned to be provided to the lodgers from an existing onsite well and from water hauled to the site. The applicant is required to treat the water prior to use in the RVs and kitchen for meal preparation and drinking to insure it meets commercial standards.

All customers' guns are to be stored in the RV's each night. No hunting or shooting will occur on the Property. All hunting will take place on other private property owned by the applicant.

Comments from neighbor Jay Scott were received after the packet was distributed. His concerns were addressed by staff prior to the meeting so he did not attend the meeting.

Staff recommend approval as all condition have been met.

The Commission asked if applicant has obtained permission for water from the Town of Norwood as they want to minimize any drawdown from the existing well. A water card has been obtained from the town and they can also haul water from Montrose County. It was commented that no dogs are allowed and that there would be only field dressing on site. Processing would be sent out.

The OWTS will be sized to meet the maximum number of hunters and staff. It was asked if the SUP will run with the land. This SUP will be tied to the actual owners of the property and not run with the land.
John Howe stated on behalf of the applicant stated that the proposed hunting lodge use is low impact, seasonal, with no hunting on the specific property. The applicant is also looking to possibly convert the residential well to a commercial well.

Some comments were received concerning the impact to the water table. With the leach field 90-95% of the water goes back into the system minimizing impacts.

2:56 p.m. Public Comment opened.

Alex Sokolik, neighboring property owner stated concerns regarding water, that commercial status brings more crime, and he would like the property to stay residential only. He is happy there is no gun range on site.

The Commission added that part of the business plan is to mitigate the water issues.

Tyrell & Abby Thompson commented that the gallons of water usage proposed is not even close to agricultural water use. This project will bring more revenue to town. Jan and Jerry are not part of the Gurley HOA and have taken the HOA comments into consideration.

Patti Grafmyer, on behalf of the Water Commission stated that there will be economic benefits to the town and that applicant is able to have a card for the water dock.

3:13 p.m. Public Comment closed.

The Commission asked about adding a condition not to sight and fire weapons. Kaye Simonson said we do not have county shooting zones or regulations. Lee Taylor asked if that is enforceable.

The Commission commented that the applicant has a good reputation and history in San Miguel County and there are no issues with the application.

MOTION by Toby Brown to approve the Special Use Permit (SUP) to the TL Bar Ranch to operate a seasonal Hunting Lodge at 7239 CR 44Z S as presented, and to adopt the corresponding Resolution No. 2021-06 based on the finding that the proposed use complies with the standards of Land Use Code (LUC) Section 5-319 Wrights Mesa (WM) Zone District Purpose, LUC Section 5-319 K Review Standards for all WM Zond District Special Uses, LUC Section 5-407 A, C Wildlife Habitat Areas – Elk Winter Range, LUC Section 5-605 Water Supply, LUC Section 5-10 Special Uses, and is consistent with policies in LUC Section 2-16 Wildlife Protection; and the County Master Plan, with the following conditions:

1. The Applicant shall apply for and obtain a San Miguel County Development Permit prior to making any site improvements.

2. The Applicant shall apply for and obtain a San Miguel County Onsite Wastewater Treatment System (OWTS) Permit for the proposed OWTS to service the RVs for hunters and staff.

3. Approval for the use of a cistern for water storage for RVs shall be obtained from the Board of County Commissioners.

4. Treatment of drinking water that meets CDPHE or County Public Health standards is required.

5. A lighting plan shall be submitted. All lighting shall be directed down and meet the requirements of LUC Section 5-710.

6. Trash and recycling shall be located within wildlife resistant containers or enclosures.

7. A sign permit shall be obtained prior to placing any commercial sign.

8. The use of the site shall be limited to the areas shown on the site plan. There shall be no further development without County Planning approval.

9. All written representations of the applicant in the original submittal and all supplements, letters and emails are deemed to be conditions of approval, except to the extent modified by this Motion.

SECONDED By Matthew Bayma ***with the additional conditions that the applicant will comply with OHV rules and the SUP runs with the applicants only.***

AMENDMENT TO MOTION by Brown and Bayma ACCEPTED.

VOTE PASSED 5-0

Lee Taylor	Aye	Nay	Abstain	Absent
Pamela Hall	Aye	Nay	Abstain	Absent
Ian Bald	Aye	Nay	Abstain	Absent
M.J. Schillaci	Aye	Nay	Abstain	Absent
Josselin Lifton-Zoline	Aye	Nay	Abstain	Absent
Matthew Bayma	Aye	Nay	Abstain	Absent
Tobin Brown	Aye	Nay	Abstain	Absent

APPROVAL OF MINUTES, PLANNING COMMISSION AND STAFFCOMMENTS:

MOTION by MJ Schillaci to approve the July 8, 2021 Planning Commission minutes as presented. **SECONDED** By Josselin Lifton-Zoline.

VOTE PASSED 5-0

Lee Taylor	Aye	Nay	Abstain	Absent
Pamela Hall	Aye	Nay	Abstain	Absent
Ian Bald	Aye	Nay	Abstain	Absent
M.J. Schillaci	Aye	Nay	Abstain	Absent
Josselin Lifton-Zoline	Aye	Nay	Abstain	Absent
Matthew Bayma	Aye	Nay	Abstain	Absent
Tobin Brown	Aye	Nay	Abstain	Absent

3:28 p.m. Meeting ADJOURNED.

Respectfully Submitted,

____
Nancy Hrupcin, Legal Assistant, County Attorney

Approved on ___________, 2021.

SAN MIGUEL COUNTY PLANNING COMMISSION

____
M.J. Schillaci, Secretary

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AGENDA ITEM

TITLE:
Approval of the October 14, 2021 minutes as presented

Presented by:
Time needed:

RECOMMENDED ACTION/MOTION:

INTRODUCTION/BACKGROUND:

FISCAL IMPACT:

ATTACHMENTS:
pc.10.14.minutes Final (2).docx

Description:

SAN MIGUEL COUNTY PLANNING COMMISSION
MINUTES – REGULAR MEETING

October 14, 2021

On-line Meeting

Present:	Lee Taylor, Chair Pamela Hall, Vice-chair M.J. Schillaci, Secretary Ian Bald, Member Josselin Lifton-Zoline, Member Matthew Bayma, Sr. Alternate Tobin Brown, Jr. Alternate
Planning Staff Present:	Kaye Simonson, Planning Director John Huebner, Senior Planner Troy Hangen, Senior Planner
County Staff Present:	Amy Markwell, County Attorney Nancy Hrupcin, Legal Assistant, County Attorney's Office

9:01 a.m. Chair called the meeting to order.

PLANNING COMMISSION AND STAFF COMMENTS
Kaye Simonson is working on the Affordable Housing Zone District.
Planning expects to receive a Society Turn PUD Preliminary Plan application in December.

APPROVAL OF MINUTES:
Discussion of the August 19, 2021 minutes and the intent of Josselin Lifton-Zoline's motion regarding the impound lot and condition item, #5. Item continued to the next meeting.

MOTION by MJ Schillaci to approve the September 9, 2021 minutes as presented.
SECONDED by Ian Bald. **VOTE PASSED 5-0.**

Lee Taylor	**Aye**	**Nay**	**Abstain**	**Absent**
Pamela Hall	**Aye**	**Nay**	**Abstain**	**Absent**
Ian Bald	**Aye**	**Nay**	**Abstain**	**Absent**
M.J. Schillaci	**Aye**	**Nay**	**Abstain**	**Absent**
Josselin Lifton-Zoline	**Aye**	**Nay**	**Abstain**	**Absent**
Matthew Bayma	**Aye**	**Nay**	**Abstain**	**Absent**
Tobin Brown	**Aye**	**Nay**	**Abstain**	**Absent**

PUBLIC HEARING: REVIEW OF LAND USE APPLICATION
Applicant: Ben Langenfield, Representative; Skelton Inc.
Location: (Parcel #429517300003) South of Montrose County line off CR 44Z N
Parcel size: 25-acre
Zone District: Wright's Mesa (WM)
Proposal: Mining Special Use Permit for expansion of United Materials Norwood Gravel Pit

Those who addressed the commission:
Jason Burkey, Applicant
Ben Langenfield, United Companies
Tyra Bartuska, United Companies

John Huebner, Senior Planner, shared a power point presentation with a virtual site visit of the proposed Skelton Gravel pit to be located on a vacant unimproved 25-acre parcel zoned Wright's Mesa (WM) located off CR 44Z N just south of the Montrose County line approximately 1.75 miles northeast of the Town of Norwood.

The property owner, Skelton, Inc. owns the surface and mineral rights for the 25-acre vacant parcel. Skelton has leased the property to United Companies. United proposes to mine the sand and gravel resources on this parcel and to process the mined materials (gravel crushing and other refining) also on this parcel to lengthen operating life of the United Norwood Pit in Montrose County.

The existing United Norwood Gravel Pit, located in Montrose County north of the proposed Skelton Pit expansion parcel, is an active sand and gravel pit operation opened in 1989. It produces construction material, i.e. sand and gravel, road base, ready-mixed concrete, hot mixed asphalt and washed rock for use in projects in western Montrose County and San Miguel County. The United Norwood Gravel Pit operates under a land use permit from Montrose County and a reclamation permit from the Colorado Division of Reclamation, Mining and Safety. The Colorado Department of Public Health and Environment has issued permits for the control of dust/diesel emissions and for water quality protection.

San Miguel County Road and Bridge operates a 19.22 acre parcel gravel pit in San Miguel County under a Special Use Permit (SUP) granted by the Planning Commission (CPC Resolution 1992-11). It is located directly south of the existing United Norwood Pit and directly west of the proposed expansion parcel.

Access to both pits is over a 9.72-acre parcel, owned by the Skelton, Inc., located in San Miguel County. United Materials has its office for its pit and operates a weigh station for incoming and outgoing gravel trucks on this parcel.

The proposed mining operation on the Skelton Pit would commence after the remaining mining reserves north of the subject property is depleted. The primary commodity to be mined is sand and gravel for the purpose of producing construction materials. Fill dirt may be incidentally produced during the operation. The duration of mining activity is dependent on demand, with 25 years of extraction predicted to occur before all the commercially viable materials are removed.

No traffic will go directly from the subject property to the county road. All trucks and equipment related to the gravel extraction will move directly between the subject property, the gravel processing plant, and the existing pit in Montrose County. All employees associated with the gravel mining and gravel production will enter the subject property from the existing pit property.

The Skelton Pit will be mined using loaders, backhoes, dozers and off-highway haul trucks. Hours of operation are proposed to be 7 am to 7 pm Monday through Saturday.

No blasting will take place at the Skelton Pit. No refuse, acid producing or toxic materials are expected to be encountered in this operation. The site in general will be mined from northwest to southeast. The gravel extraction would occur initially in a 13 acre portion of the site. Gravel processing operations will also occur on the site. Processed gravel will be transported through the existing pit property located to the north in Montrose County.

Once the extractable materials have been depleted on the subject property, the site will be remediated. The proposed remediation plan returns the property to rangeland. The mining and reclamation on the parcel is proposed to be done concurrently. Mining will occur to the bottom of the gravel deposit, an average depth of 25-40 feet. After about 13 acres are mined out, the mined area will be top soiled and revegetated according to the reclamation plan. The applicant will need to obtain a reclamation permit for the subject property from the Colorado Division of Reclamation, Mining and Safety, and also be issued permits for the control of dust/diesel emissions and for water quality protection on the subject property from the Colorado Department of Public Health and Environment.

Key issues associated with gravel pit applications include visual screening, noise mitigation, truck traffic, and dust control for the gravel extraction operation. Visual impacts to the proposed pit are minimized due to the existing pits to the north and west, and the natural topography and landscape to the south and east. The properties directly surrounding the pit to the north and west are industrial in nature (existing United and County pits). The parcels directly to the east and south are used agriculturally. There are residences located within 1200 ft. to the west and 200 ft. to the south of the proposed pit.

The United Norwood Pit is geographically situated to provide asphalt paving services for CDOT and local governments. The expected annual average production is 100,000 tons, which the applicant states is equivalent to the average production over the past five years. Actual production rates will fluctuate based on market conditions.

Traffic at the United Norwood Pit has averaged roughly 30 trucks a day for the past five years based on a 200-day annual operating season. 2020 was a peak traffic year with 46 daily average trucks per day due to the paving of Colorado State Highway 141. The applicant is in discussions with County Road and Bridge on a new road use agreement for its use of CR 44Z N and to share in the cost maintenance of the road.

The applicant stated that approving a Special Use Permit for the Skelton Pit, as an addition of reserve to an existing sand and gravel operation and being adjacent to two existing sand and gravel operations, will not lead to significant adverse impacts. Any impact associated with the Skelton Pit will be of the same type and intensity as those currently occurring from the existing sand and gravel mines. The net effect is the clustering of mining operations in an area with infrastructure and impact mitigation systems already in place.

The property will be mined in a manner to maintain a 40 foot tall berm between CR 44 Z N and the operation until the final years of mining. No structures will be built at the Skelton Pit.
The applicant added that while potential air, water, noise and visual impacts do exist with a sand and gravel mine like the Skelton Pit, these impacts will be mitigated. Noise levels will not be above the applicable limit at the property line.

Night time activity will be restricted to emergency maintenance of the site or equipment. Any lighting needed for this activity will be minimal, and downcast.

The applicant is required to submit a 112 (c) reclamation permit application for the proposed Skelton Pit to the Colorado Division of Reclamation, Mining and Safety (CDRMS) for a construction materials extraction operation affecting 10 acres or more. The applicant included a draft copy of their proposed reclamation application to the State with their SUP application. United Companies has existing Storm Water Management Plan and Air Permits from (CDPHE) for the existing site. It proposes to incorporate the proposed pit location into these permits. The applicant states that no groundwater will be interacted by this operation as it is greater than 100 ft. below the surface. Water application for dust control is anticipated to consume 1.36 acre-feet of water a year and there is magnesium chloride available as an option.

The applicant, as part of the reclamation permit application process with the Colorado Division of Reclamation and Mining Safety, is required to post a Financial Warranty that is sufficient to cover the calculated reclamation costs to reclaim the site.

Staff commented that while the San Miguel County Comprehensive Plan recommends low density rural residential for this area on Wright's Mesa it does not preclude the location of heavy industrial uses on property outside of the Norwood Master Plan Area.

The application was sent to referral agencies for comment, and the legal public notice was completed. Numerous public comments were received regarding view impacts, environmental concern, noise, hours of operation, traffic increased activity.

Planning Commission members asked if the material would be hauled through San Miguel or Montrose County. The majority of hauling will be in San Miguel County and some in west Montrose County. Members asked how long the pit is anticipated to be used. It will depend on the market for gravel resources. The Commission also asked about assurances that proper weed control will occur, and requirements that an adequate reclamation bond is in place.

Ian Bald asked about jake breaking, which will be complaint driven. Most complaints were about night hauling activity occurred during road construction on the west Hwy 145 spur to Telluride. A proposed condition of approval for the proposed pit is allowing work during daylight hours only; and requiring special approval and notification for any exceptions.

The Commission also asked about the property tax implications, which will change as the subject property use changes from agricultural to commercial. It was also asked how much use the San Miguel County gravel pit is used. It depends on the Road & Bridge road maintenance schedule, but activity is limited in the county pit compared to the United Pit.

Matt Bayma asked about the status of negotiations of a road agreement between the applicant and County Road and Bridge. Kaye Simonson, Planning Director said Road & Bridge hauling permits are not activated until work is happening. Any agreements would be a condition to be met before any activity could commence.

Ben Langenfield, on behalf of the applicant, stated that many local truck drivers use the United Norwood Pit. The drivers are asked to maintain good neighbor relationship with our community and all drivers are asked to acknowledge these policies in writing.

The Commission asked the applicant about the possibility of removing proposed gravel crushing from the subject property as it is very noise intensive. Crushing is usually limited to once a year for a couple months. The applicant was asked if they would be willing to do a sound study, which the applicant said they would look into. The commission also asked if traffic could be limited to off-peak time of day to mitigate traffic impacts.

11:15 a.m. Opened Public Comment

Laureen Kozey, adjoining property owner- concerned with maintaining existing water drainage to preserve significant ponderosa tree on her property, excessive noise and dust from gravel crushing operations that lasts for months.

Madeline Gardner, property owner- concerns about gravel crushing and Saturday hours of operation.

Alex Drake, hours of operation, enforcement of violations

Mary Anne Gaston, property owner- concerns of water, visual impacts, wants M-F hours

Peggy Smelt-Day, property owner- concerns of traffic, impact on the land, dust, hours of operation

11:36 a.m. Closed Public Comment

Lee Taylor asked if the United Norwood Pit is in good standing with Montrose County. Montrose County planning did review the application and added no comments.

Commission asked for clarification on location of the existing United Companies weigh station and office, which are located on a separate parcel than the subject property. The structures have been located there for several decades and there was no requirement in any past San Miguel county pit approvals that the office or scales be moved, and there are no existing commitments to move those buildings. It was discussed that perhaps the berm could be enhanced with additional vegetation as a screen.

The Commission prepared a list including: a 5 year review, review of available water, gravel crushing locations, discuss habitat impacts with CPW, hours of operation as Monday-Friday with neighbors being notified of any exceptions, and information needed from CDOT regarding traffic and projections at SH 145/CR 44Z intersection. The Commission concluded that any mining operations and approval would last for a long time and asked that the applicant strengthen and refine its application.

MOTION by Josselin Lifton-Zoline for a continuance to November 18, 2021 meeting of the Planning Commission with direction to the staff and the applicant as the commission is interested in more information on gravel crushing, an agreement for a project with CPW, hours of operation, information from CDOT about traffic, water use, existing agreements with Montrose County, screening the office and scales, and any other items that come up.
SECONDED by Toby Brown. **VOTE PASSED 5-0.**

Lee Taylor	**Aye**	**Nay**	**Abstain**	**Absent**
Pamela Hall	**Aye**	**Nay**	**Abstain**	**Absent**
Ian Bald	**Aye**	**Nay**	**Abstain**	**Absent**
M.J. Schillaci	**Aye**	**Nay**	**Abstain**	**Absent**
Josselin Lifton-Zoline	**Aye**	**Nay**	**Abstain**	**Absent**
Matthew Bayma	**Aye**	**Nay**	**Abstain**	**Absent**
Tobin Brown	**Aye**	**Nay**	**Abstain**	**Absent**

12:08 p.m. Recessed
12:13 p.m. Reconvened

DISCUSSION OF MASTER PLAN AMENDMENT FOR AFFORDABLE HOUSING

Kaye Simonson, Planning Director talked about updating the Master Plan and creating an Affordable Housing Zone District. As drafted, the new zone district makes 15 units per acre a one-step review process and over 15 units a two-step process, both dependent on the ability to be served by water and sewer. This is subject to further review and discussion. There will be a Master Plan amendment that supports the affordable housing goals and the proposed zone district.

There was discussion on the wording about ‘low cost housing’ as it does not exist in this area and other refinement of the wording in the Master Plan. There was further discussion on Short Term Rentals, permitting and what is the value to the community. Josselin added that she would like reference to essential workforce, i.e. teacher, workers, first responders, etc. Pam Hall is concerned with the new person who just moved here versus people who have been here 20+ years and how to balance that fairly, as well as how to incentivize the creation of affordable housing.

The BOCC wants Planning to move quickly on this item and Kaye will be sending the amendments out to review agencies for consideration. There will be one more work session before the November 17, 2021 meeting.

PLANNING COMMISSION AND STAFF COMMENTS CONTINUED:
Pam Hall submitted a resignation letter to Planning Commission. Senior Alternate, Matt Bayma will be advanced to a regular member, and Tobin Brown from a Junior Alternate to Senior Alternate position.

There is now seats open on both the Planning Commission and the Board of Adjustment.

1:14 p.m. Adjourned.

Respectfully Submitted,

____
Nancy Hrupcin, Legal Assistant, County Attorney

Approved on ____________, 2021.

SAN MIGUEL COUNTY PLANNING COMMISSION

____
M.J. Schillaci, Secretary

:\PC Planning Commission\PC Minutes\2021\pc.10.14.minutes.docx]

AGENDA ITEM

TITLE:
Applicant: Ben Langenfield, Representative; Skelton Inc.
Location: (Parcel # 429517300003) located south of Montrose County off CR 44Z N
Parcel Size: 25-acre
Zone District: Wright's Mesa
Proposal: Mining Special Use Permit for proposed expansion of the United Materials Norwood Gravel Pit/MOTION

Presented by: John Huebner, Senior Planner
Time needed:

RECOMMENDED ACTION/MOTION:

INTRODUCTION/BACKGROUND:

FISCAL IMPACT:

ATTACHMENTS:
3 CPC Project Report & Packet Materials - United Norwood Mine Pit SUP 11.18.21.pdf

Description:

PUBLIC HEARING RECORD
County Planning Commission
Application: United Companies – Skelton Pit, Mining Special Use Permit, application – Wright's Mesa Zone District
Date: November 18, 2021 **Items in bold received after the October 14, 2021 meeting**

1. San Miguel County Land Use Code (Adopted 11/30/90) with all amendments to date (By Reference Only).

2. San Miguel County Comprehensive Development Plan (Adopted 8/3/78) with all amendments to date (By Reference Only).

3. **Memorandum to the San Miguel County Planning Commission from John Huebner, Senior Planner dated November 18, 2021**.

4. Memorandum to the San Miguel County Planning Commission from John Huebner, Senior Planner dated October 14, 2021.

5. Application and **Supplements** submitted by Ben Langenfeld, P.E., Lewicki & Associates received July 25, 2021, August 16, 2021 **and November 10, 2021**.

6. Applicant's Certifications of Compliance with the public noticing requirements of the San Miguel County Land Use Code Section 3-9 and CRS § 24-65.5-103(1) dated October 7, 2021 and October 5, 2021.

7. Emails from Ben Langenfeld, P.E., Lewicki & Associates to County Planning and Road and Bridge staff, dated September 14-29, 2021.

8. Public Hearing Notice published in the Norwood Post and Telluride Daily Planet on September 29, 2021, **Meeting Notice**s on October 6, 2021 **and November 10, 2021**.

9. **Response to Planning Commission Questions**.

AGENCY COMMENTS

10. Email and Memo from John Huebner, Senior Planner, to Review Agencies dated September 2, 2021.

11. Email from John Bockrath, Norwood Fire Protection District, to John Huebner, Senior Planner, dated September 2, 2021.

12. Email from Patti Grafmyer, Town of Norwood, to County Planning Commission dated September 7, 2021.

13. Email string from Lucas West, Colorado Division of Reclamation, Mining and Safety to John Huebner, Senior Planner, dated September 7, 2021.

14. Email from Matt Gonzales, County Building Official, to John Huebner, Senior Planner, dated September 9, 2021.

15. Email from Greg Powers, Colorado Division of Water Resources, to John Huebner, Senior Planner, dated September 14, 2021.

16. Letter received from Ryan Righetti, County Road and Bridge Director to County Planning Department dated September 24, 2021.

17. Letter received from Mark W. Caddy, Colorado Parks and Wildlife, to John Huebner, Senior Planner, dated October 3, 2021.

18. **Emails received from Steve White, Montrose County Planning and Development Director, to John Huebner, Senior Planner, dated October 14 & 15, 2021**.

PUBLIC COMMENT

19. Email received from Jackson Ordean to County Planning Commission dated September 11, 2021.

20. Letter received from James Fourney, 4Knee Ventures, LLC to County Planning Department dated September 13, 2021.

21. Letter received from Martha P. Whitmore, Esq., on behalf of Ken Crouse, to County Planning Commission dated September 23, 2021.

22. Letter received from Mary Ann Gaston to John Huebner, Senior Planner, dated September 26, 2021.

23. Email string with Madeline Gardner with John Huebner, Senior Planner, dated September 15, 2021.

24. Email from Madeline Gardner to John Huebner, Senior Planner, dated October 6, 2021.

25. Email from Peggy Smelt-Day to John Huebner, Senior Planner, dated October 7, 2021.

26. **Letter from member of the Wright's Mesa Coalition for Quality of Life to County Planning Department, received November 3, 2021**.

OTHER

27. Planning Commission Resolution 1992-11 Approving SUP County Norwood Gravel Pit, dated September 16, 1992.

28. Board of Commissioner Memorandum of Understanding with Skelton regarding 44Z N road reconstruction dated July 7, 1993.

29. San Miguel County Gravel Task Force Recommendations, dated October 27, 1998, pp 1-30.

30. Montrose County Gravel Mining Mitigation Standards, pp. 49-54.

31. **Response to Wright's Mesa Coalition for Quality of Life Questions.**

M E M O R A N D U M

TO: San Miguel County Planning Commission
FROM: John Huebner, Senior Planner
RE: United Companies – Skelton Pit, Mining Special Use Permit, WMZD
DATE: November 18, 2021; continued from October 14, 2021
["Z:\Applications\2021_United Companies_Mining SUP_Skelton Pit\1 Staff Memo(s) and Resolution(s)\CPC Project Report - United Norwood Mine Pit SUP.docx"]

Summary of Request

Ben Langenfield, Lewicki & Associates on behalf of the United Companies and Skelton Inc., PO Box 125, Norwood, CO 81423 ("Applicant"), has submitted an application seeking a Mining Special Use Permit for the extraction of sand and rock, and processing gravel on a vacant unimproved 25-acre parcel, #429513300013 the ("Property'), zoned Wright's Mesa (WM) located off CR 44Z N just south of the Montrose County line approximately 1.75 miles northeast of the Town of Norwood.

Background

The Planning Memorandum addresses supplemental material provided by the applicant and received from referral agencies and the public since the October 14 County Planning Commission (CPC) meeting.

The CPC continued its review of the United Companies Skelton Pit Mining Special Use Permit application from October 14 to November 18 to enable the applicant to respond to questions raised by CPC members at the meeting.

At the October 14 meeting the CPC requested the applicant provide information regarding the following for today's meeting:

- Respond to Colorado Parks and Wildlife's suggestion that United Companies consider working with the Bureau of Land Management to help fund or perform a habitat improvement project on nearby public lands that would help mitigate the temporary loss during the pit's production time.
- Hours of Operation stated in Montrose County LUC Gravel standards?
- Potential condition of approval - obtaining Planning Director signoff on temporary expanded hours of operation, and to notify affected neighbors?
- Status on UNP Land Use Code Permit status with Montrose County?
- Status on UNP 112 Reclamation Permit status with Colorado Division of Reclamation, Mining and Safety?
- Status on UNP Air and Water permits status with Colorado Department of Public Health and Environment?
- Colorado Department of Transportation data regarding the safety status of the intersection of State Highway 145/ SMC County Road 44Z N in regards to gravel truck traffic?
- Legal source and physical availability of water at the UNP for dust control at the existing pit and expansion parcel? Do they have a well or is it just ditch water for their operation?

- Plan to provide additional screening of the UNP office and weigh station?
- Proposed review of operations authorized by an SUP approval?
- Number of days gravel crusher(s) were in use at UNP in recent years?
- Regarding the applicant's ability to crush gravel on the new Skelton site vs. existing site?

The following comments and questions were received by staff from individual Planning Commission members after the October 14 meeting:

- In order to crush gravel on the proposed site vs. where the existing operation is, if it makes the most sense, movement of the processing operation may be authorized if that is more efficient and causes less dust, etc. It's important to not allow an additional crushing operation - so keep it to one for the total site overall. If dust is a primary neighbor issue, this may help alleviate that, albeit incrementally.
- Hours of Operations: 7AM to 7PM hours Monday - Saturday. Further limiting hours will only compress and magnify traffic impacts to area residents and road users during key commuting periods.
- Sympathetic to the area resident's concerns about noise and dust, but mining and processing has been going on here for 32 years and the location is where the ore is and easily extracted. In some ways this is an essential service for our community. It is preferable that these impacts are concentrated in a lower density location rather than putting more trucks on state highway and county roads in and out of Ilium. Most complaints and negative comments are limited to residents who live within 1/2 mile of the operation. Many moved or bought well after this operation was underway.
- Does applicant have a well or is it just ditch water for their operation?

Revised Application
Following the October 14 Planning Commission (CPC) meeting, the Applicant provided a supplement to the application dated November 10, 2021 to the Planning Department. The supplemental information contained, including the attached narrative report and supporting documents, is responsive to the above questions and materials requested by the Planning Commission.

1. Colorado Parks and Wildlife (CPW) suggestion for habitat improvement project. The Applicant is in contact with staff at CPW and Bureau of Land Management (BLM) to seek input on potential projects from those agencies staff. A project has not been identified at the date of this report. The Applicant states it will provide the County with copy of a project agreement prior to it mining at the Skelton Pit.
2. Hours of Operation identified in Montrose County standards. The hours of operations proposed are standardized with the Montrose County guidelines with Saturday being excluded. The updated operating hours proposed for the Skelton Pit are 7:00 am to 6:00 pm Monday through Friday. The Applicant requests temporary expanded hours of operation be allowed if

approved by the San Miguel County Planning Director at his or her discretion, with the county providing public notice of any requests granted.

3. Status of Existing Permits held by Applicant for existing United Norwood Pit.
   a. Land Use Permit - in good standing, Steve White, Montrose County Planning Director, letter dated October 27, 2021 (see attached).
   b. 112c Reclamation Permit # M-1988-037 – current site conditions described as good per Colorado Division of Reclamation, Mining and Safety inspection report dated October 23, 2018 (see attached), for the United Norwood Pit completed by Lucas West.
   c. Construction Air Pollution Permit #96MO114F – copy of current permit issued January 24, 2018 by Colorado Air Pollution Control Division was provided by the applicant (see attached).
   d. Stormwater runoff & Mine (pit) dewatering Discharge Permit Cert # COG501768 – copy of application received July 2, 2021 by the Colorado Department of Health & Environment was provided by the applicant (see attached).
4. Status of Intersection of State Highway 145 and SMC County Road 44Z. The Colorado Department of Transportation (CDOT) was contacted by the applicant on 10/26/2021 regarding this intersection directly south of the entrance of mine. No feedback was received from CDOT.
5. Water Supply. The applicant provided a letter dated 11/10/2021 from Wright Water Engineers detailing the adequacy of the available water for the United Norwood Pit (see attached). The report concludes that the Applicant has the flexibility to operate the Norwood Pit to reduce water demands to reflect water supply availability. The two decreed water rights rely on wastewater from irrigation shares in Farmers Water and are determined sufficient to meet water demands from pit operations and during reclamation in average, wet, and dry years.
6. Screening of Pit Office and Weigh Station. Native shrubs and trees, i.e. pinon like trees, will be planted on the ridge to aid in screening the scale house operations from the neighboring properties to the south and west. Plantings will be denser to the west of scale house for better screening for the closest neighbor directly downhill from the gravel pit. The proposed vegetation screening is shown in Figure 1.

Figure 1. Vegetation Screening for Scale House

7. Review and Reporting of proposed SUP. United Companies proposes to provide reports to San Miguel County as part of its initial review one-year review by the County after the start of operations in the Skelton Pit. It proposes to submit subsequent reports to the county on a five-year basis following the start of operations. The following items will be included in reports:
   a. Copies of all reports to the state such as the annual report to CDRMS.
   b. Results from the one-year and five-year noise monitoring plans associated with crushing in the Skelton Pit (not applicable after the first five-year report).
   c. Complaints received by the public and what actions the mine took to address these concerns.
8. Stormwater Runoff. The applicant states the proposed Skelton Pit will only cause minimal changes to stormwater runoff during mining. Current runoff is limited to the adjacent gravel pits to the west and north, and down the east slope of the property as the land to south is elevated. During mining runoff is confined within the pit. After reclamation runoff is similar to current. See maps included with attached State stormwater discharge permit.

9. Gravel Crushing. Applicant provided the data on the number of days annually the portable gravel crushing unit was in use at UNP.

Days of Operation	Year	Days
United Norwood Pit	2018	30
Gravel Crusher	2019	37
	2020	113
	2021	55
	Avg	58.75

Applicant requests that Gravel Crushing be allowed in the Skelton Pit. United Companies proposes to implement a noise analysis during the first year of operation to demonstrate the effectiveness of noise shielding of the portable crushing unit because of the topography of the pit. Applicant will only crush within the Skelton Pit if it demonstrates compliance with Colorado Statutes and San Miguel County standards regarding maximum noise levels (55 dBA measured at property boundaries). Figure 2 visually depicts the effects of topography on soundwaves.

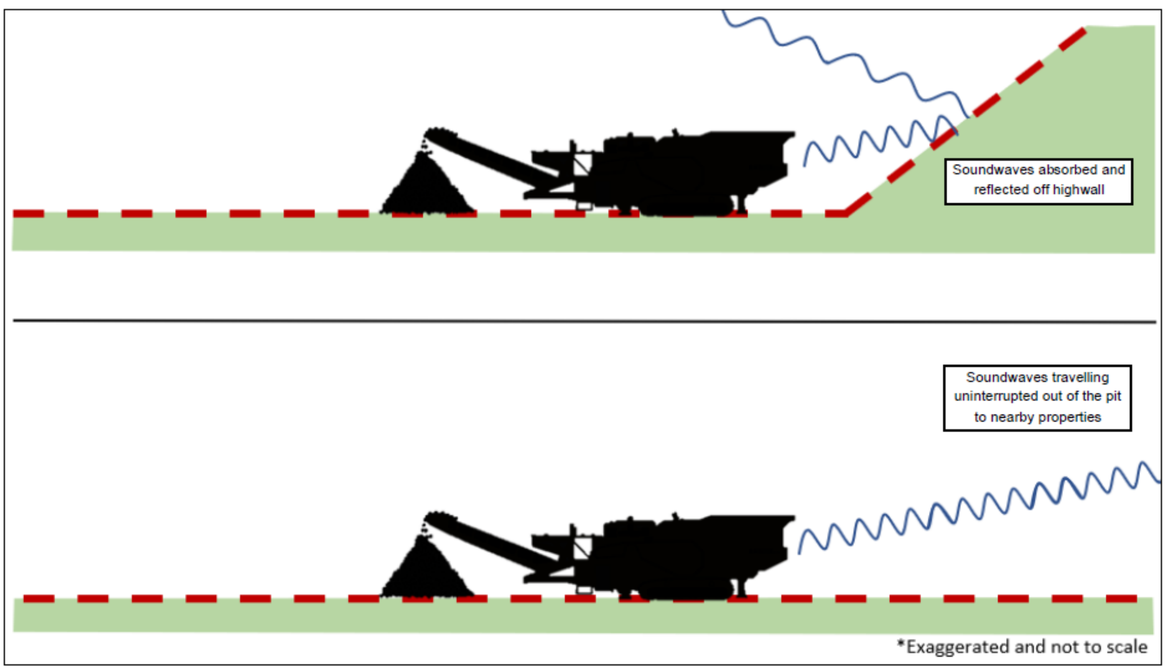


Figure 2. Effects on Crusher Soundwaves from the Pit

If the noise emanating from the Skelton Pit exceeds 55 dBA during operations the Applicant proposes adding physical barriers, most commonly strawbales, around the gravel crushing unit to reduce noise levels to comply with noise limits.

During the first year material is extracted at Skelton Pit, the Applicant proposes monitoring noise readings recorded at various locations on site while a crusher is operating. All measurements will be reported to the county with the year one annual report, and five year report. Figure 3 illustrates the approximate locations with a sample crusher placement.

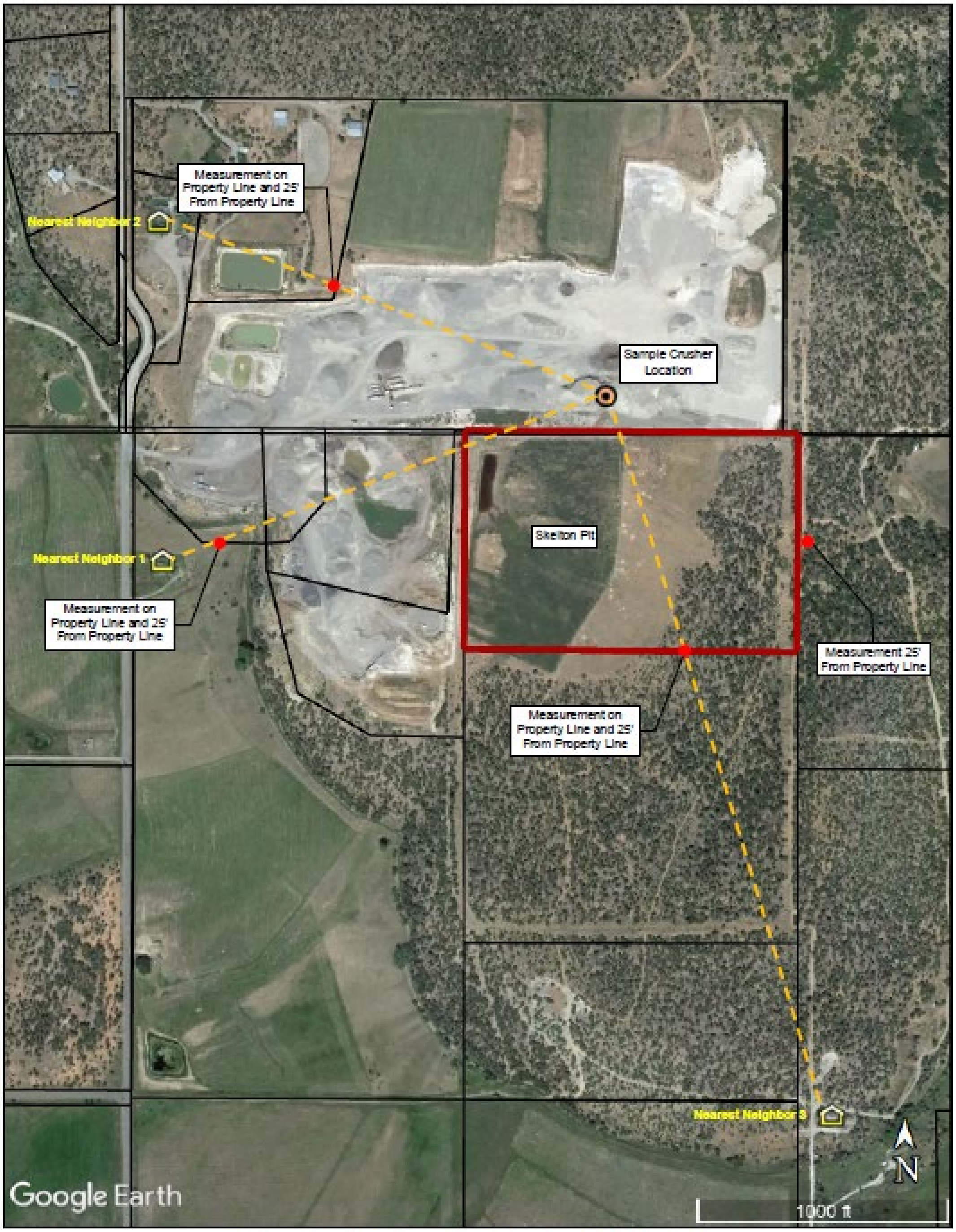


Figure 3. Monitoring Plan Sample Locations

Following the October 14 Planning Commission (CPC) meeting, staff provided a spreadsheet to the applicant requesting their responses to the questions and materials requested by the Planning Commission. Staff has attached the spreadsheet, which includes the responses provided by the Applicant.

Public Notice
A legal notice of the November 18, 2021 Planning Commission meeting was published in the Norwood Post and Telluride Daily Planet on November 10, 2021.

Additional Referral Agencies Comments
Steve White, Montrose County Planning and Development Director, stated it may be appropriate to match the Hours of Operation identified in the Montrose County Zoning Code since the existing pit is located in Montrose County. He provided a copy of their Gravel Mining Mitigation Standards (see attached), and stated that he has received no complaints regarding the United Norwood Gravel pit.

Additional Public Comments
Wright's Mesa Coalition for Quality of Life (WMCQL), a group of eleven (11) neighbors and community members, submitted a letter to the Planning Department on November 3, 2021 (see attached) stating their concerns and recommendations regarding the United SUP application and SMC review process. The substantive comments relate to the noise produced by gravel trucks and existing gravel pit operations, Hours of Operation, water usage, visual impacts, dust control, reclamation requirements, review process, and enforcement of regulations.

Staff forwarded a copy of the WMCQL comment letter and a spreadsheet it prepared to the applicant requesting responses to the questions and comments raised by WMCQL. Staff has attached the spreadsheet, which includes responses provided by the Applicant.

Review Standards and Policies
A Wright's Mesa Zone District Mining Special Use Permit (SUP) requires Two-step Planning Commission and Board of County Commissioner Review, per Land Use Code (LUC) Section 5-319 G VII, pursuant to the standards contained in LUC Sections 5-319 K, Review Standards for all WM Zone District Special Uses, 5-1002, Special Uses, and 5-16 Mining; and to policies contained in LUC Sections 2-8, Natural and Man-made Hazard and Resource Areas, 2-11 Erosion, 2-34 Revegetation with Native Species, 2-35 Mining and Mineral Processing Operations.

See Attached ***Review Standards and Policies*** included in Staff Memorandum dated October 14, 2021 to the Planning Commission

Planning Comments and Recommendation
The reduced hours of operations requested, Monday to Friday 7:00 AM to 6:00 PM is equivalent to those authorized by the Planning Commission for the adjacent San Miguel County Pit. They are less than those allowed in Montrose County.

The existing United Norwood Pit located in Montrose County is in compliance currently with its State water and air permits operating conditions, and with its State reclamation permit that includes a $245,000 financial guarantee. Montrose County reported it has not received any complaints regarding gravel operations, nor has any open violations for the United Norwood Pit.

An analysis prepared by Wrights Water Engineers is included in the supplement provided by the applicant. It describes how the water supply available is adequate for dust suppression to mine and wash up to roughly 200,000 tons annually. The Applicant has recently on average operated a mobile gravel crushing unit on the current site about 59 days per year. A similarly intensive gravel pit operation is proposed in San Miguel County, if approved.

The Applicant must provide **prior** written notice to the Planning Department before the commencement of any mining activities at the Skelton Pit. It must also demonstrate to the Planning Department that it can operate the rock crusher within noise limits utilizing the sample locations identified in its Monitoring Plan (figure 3) **before** beginning crusher operations within the Skelton Pit. The Applicant should also address how it will avoid the existing pinion, juniper and ponderosa trees located on the proposed Skelton Pit site, and mitigate any trees removed during mining operations.

Planning staff added as a condition of an approval that the Applicant must submit a landscape plan (to include a guarantee/warranty for plantings) to Planning for the proposed enhanced screening of the United Norwood Pit office building/weigh station location.

Planning staff recommends approval to the Planning Commission of the revised application with the findings and conditions contained in the following motion:

Motion:
I move to recommend approval to the Board of County Commissioners of a Mining Special Use Permit (SUP) to the United Companies for the extraction of sand and gravel, and processing of gravel on a vacant unimproved 25-acre parcel, #429513300013 the (“Property’), zoned Wright’s Mesa (WM) as presented, based on the finding that the proposed use complies with the following Land Use Code (LUC) standards: Section 5-319 G VII, Uses allowed subject to Two-step Planning Commission and Board of Commissioners SUP review; Section 5-319 K, Review Standards for all WM Zone District Special Uses, Section 5-1002, Special Uses, and Section 5-16 Mining; and to the LUC policies contained in Sections 2-8, Natural and Man-made Hazard and Resource Areas, 2-11 Erosion, 2-34 Revegetation with Native Species, 2-35 Mining and Mineral Processing Operations, and subject to the following specific terms and conditions:

General Conditions:

1. This Special Use Permit (SUP) is issued to the Applicant and also runs with

the land.

2. This SUP Approval is subject to all written representations of the applicant, in the original application submittal and all supplements, letters and emails, are deemed to be conditions of approval, except to the extent modified by this Motion.

Specific Conditions:

3. The Special Use Permit shall only be valid as long as the applicant holds current State permits (CDPHE Air Quality Permit, CDPHE Stormwater Discharge Permit, and CDRMS Mining and Reclamation Permit) relative to the approved use and complies with all state and county requirements and regulations at all times.
4. The applicant shall enter into a new agreement with San Miguel County Road and Bridge for the maintenance of County Road 44Z N, and/or apply for and secure hauling permit(s) from the county, prior to commencing mining activity.
5. The applicant shall enter into a new agreement with San Miguel County Road and Bridge facilitating its plan to mine to the property line adjacent to the San Miguel County gravel pit, prior to commencing mining activity.
6. The applicant shall submit a landscaping plan providing for the screening of the existing United Norwood Gravel Pit office/scales within sixty (60) days of approval.
7. The applicant is to submit to the Planning Department in a timely manner a copy of all plans and applications submitted to, and permits issued by, the state, county or any other government agency required by this SUP.
8. The permitted hours of operation are Monday through Friday 7:00 am to 6:00 pm during daylight hours. In the event of an emergency request, the Planning Director may allow the mine to operate outside of the hours and days of 7:00 am and 6:00 pm Monday through Friday for a limited period of time. Such a request is to be submitted to the Planning Director for review. The Director may require additional information for the analysis of such a request. The Director may approve, approve with conditions, or deny such a request.
9. The following production activities: concrete mixing and hot mixed asphalt are prohibited at the Skelton Pit. Mining of sand and gravel rock, sand screening, road base, and washed rock is authorized on the site. Crushing of gravel shall only be permitted at the Skelton Pit site if it is not occurring at the Montrose pit.
10. The Applicant shall provide written notice to the Planning Department prior to the commencement of mining activities at the site.
11. Provide a list of onsite United Companies contacts for the Skelton Pit operation to the Planning Department, Sheriff’s Office and Road and Bridge Department.

12. This Special Use shall commence within three (3) years of this approval. If mining activity does not commence in that time frame, this Special Use approval shall be reviewed by the Board of Commissioners and the approval may be rescinded and terminated or extended, and may be subject to additional modifications or conditions.

Review Period:

13. There shall be an annual review after the first full calendar year of mining operations. Prior to this annual review by the Planning Commission, notice will be provided to the neighbors and individuals and review who received notice for this SUP application, prior to the scheduled public meeting so they may make their comments, questions or concerns known to the CPC. The CPC shall then make its recommendation to the BOCC as to any recommended changes to the approved SUP, if any.

    The BOCC may then take action to allow the SUP to continue as approved, modify or add conditions, or even revoke the SUP for non-compliance with the BOCC Resolution terms and conditions of approval, or if there are unintended substantial impacts to neighbors adjacent to the site. As a part of its consideration the BOCC may make a determination in its discretion if there is a need for additional annual reviews, or periodic reviews of the terms and conditions of the SUP in the future or not.

M E M O R A N D U M

TO: San Miguel County Planning Commission
FROM: John Huebner, Senior Planner
RE: Mining Special Use Permit
United Companies – Skelton Pit, Mining Special Use Permit, WMZD
DATE: October 14, 2021
["Z:\Applications\2021_United Companies_Mining SUP_Skelton Pit\1 Staff Memo(s) and Resolution(s)\CPC Project Report - United Norwood Mine Pit SUP.docx"]

SUMMARY OF REQUEST

Ben Langenfield, Lewicki & Associates on behalf of the United Companies and Skelton Inc., PO Box 125, Norwood, CO 81423 ("Applicant"), has submitted an application seeking a Mining Special Use Permit for the extraction of sand and rock, on a vacant unimproved 25-acre parcel, #429513300013 the ("Property'), zoned Wright's Mesa (WM) located off CR 44Z N just south of the Montrose County line approximately 1.75 miles northeast of the Town of Norwood.

BACKGROUND

The existing United Norwood Gravel Pit, located in Montrose County north of the proposed Skelton Pit expansion parcel, has been an active sand and gravel pit operation since 1989. It produces construction materials, i.e. sand and gravel, road base, ready-mixed concrete, hot mixed asphalt and washed rock for use in projects in western Montrose County and San Miguel County.

The United Norwood Gravel Pit operates under a land use permit from Montrose County and a reclamation permit from the Colorado Division of Reclamation, Mining and Safety. The Colorado Department of Public Health and Environment has issued permits for the control of dust/diesel emissions and for water quality protection.

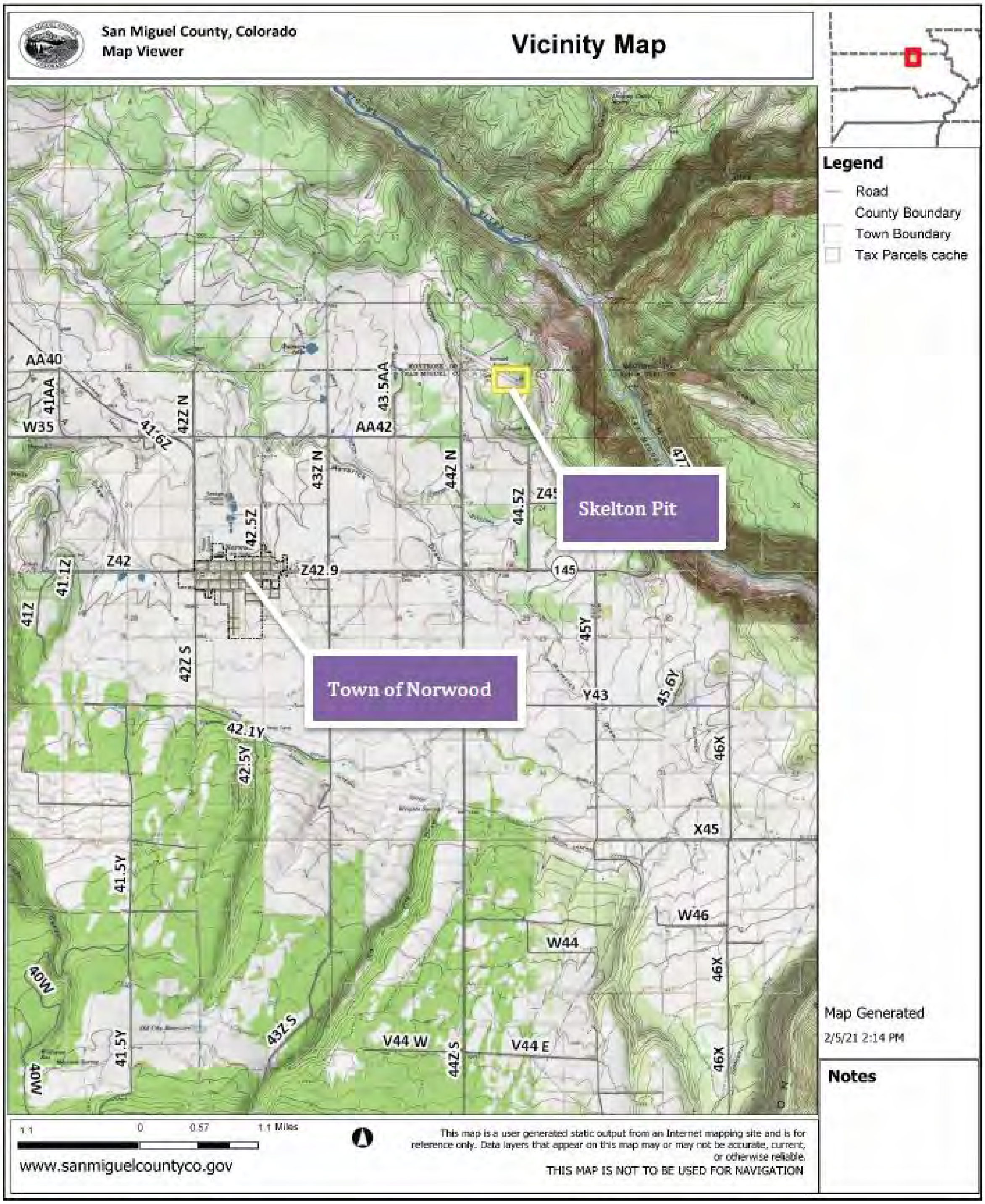
San Miguel County Road and Bridge operates a 19.22-acre parcel gravel pit in San Miguel County under SUP (CPC Resolution 1992-11) located directly south of the existing United Norwood Pit and directly west of the proposed expansion parcel. A 1993 MOU with Skelton and San Miguel dealt with CR 44Z N repairs.

Access to both pits is over a 9.72-acre parcel, owned by the applicant, located in San Miguel County. United Materials has an office and also operates a weigh station for incoming and outgoing gravel trucks on the parcel.

PROPOSAL

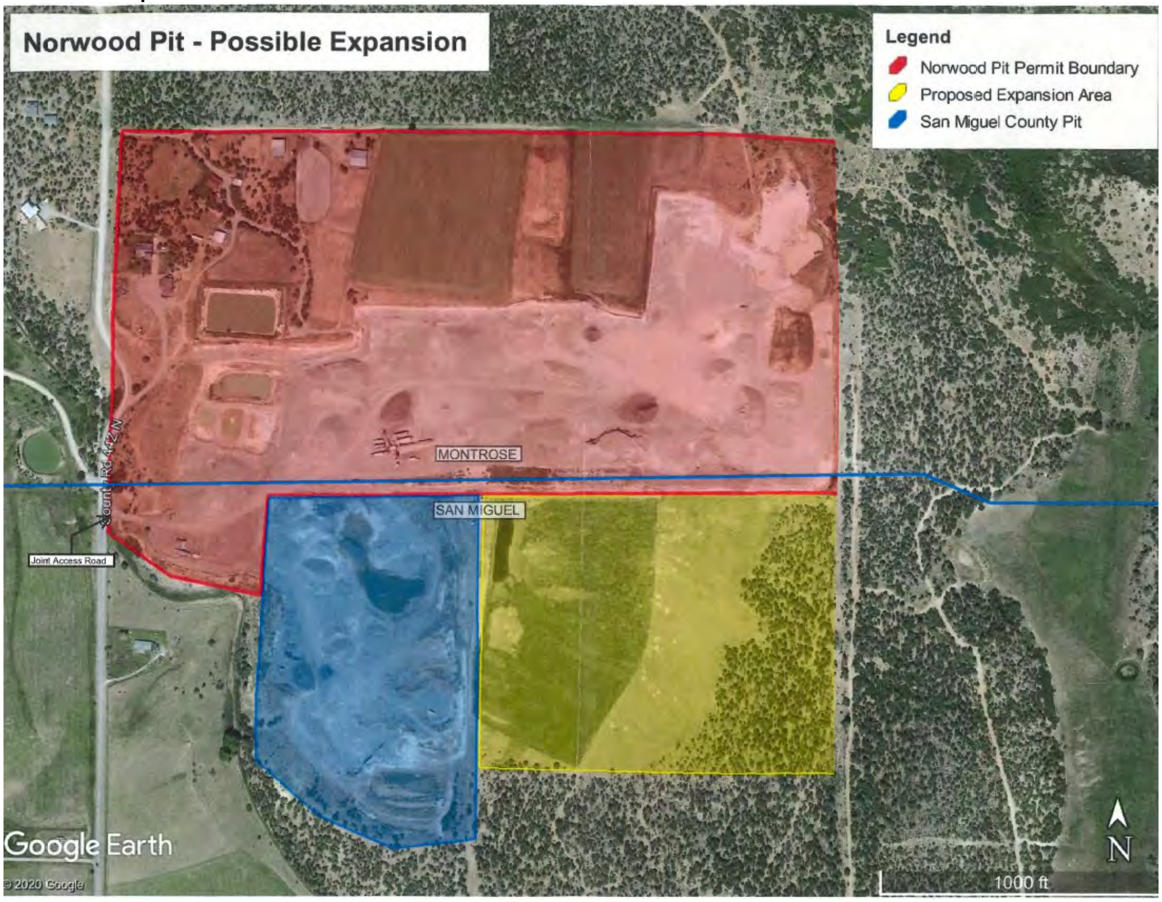
Skelton, Inc. owns the surface and mineral rights for the 25-acre parcel. Skelton has leased the property to United Materials. The applicant proposes to mine the sand and gravel resources on this parcel and haul to the existing United Norwood Pit in Montrose County for processing. The exact commencement date of the mining operation is not known at this time, as the operation would start once the existing site north of the subject property is depleted.

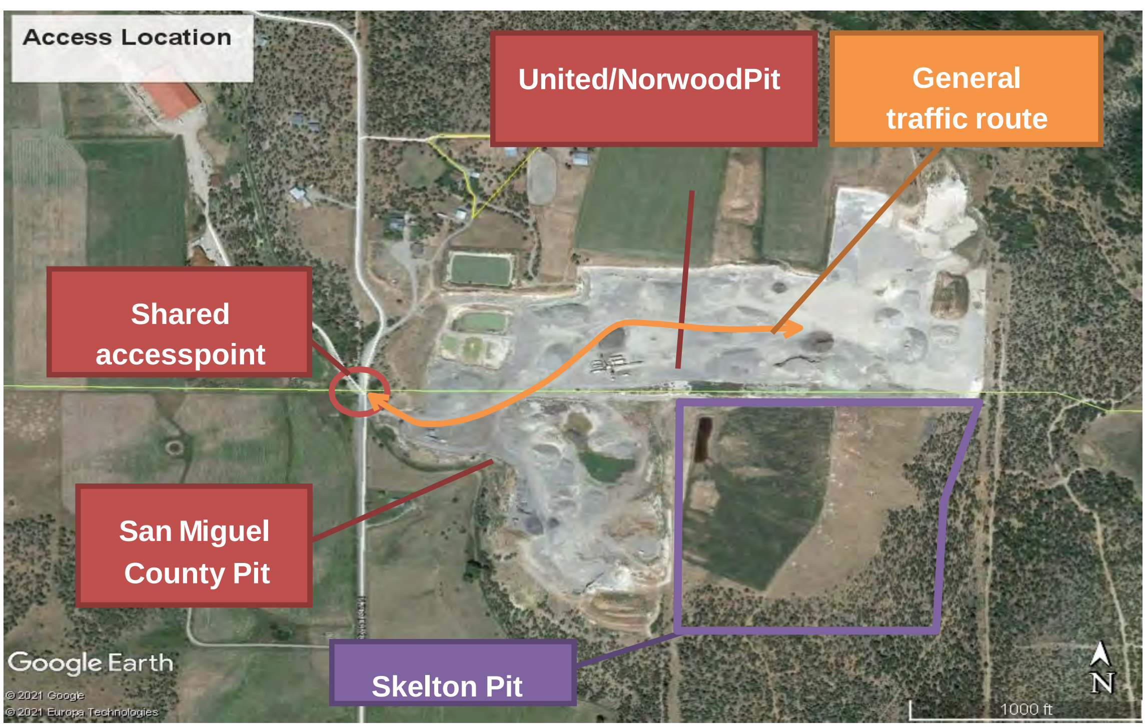
Vicinity Map



The following aerial map on page 3 shows the proposed Skelton Pit (yellow) parcel. It is bordered by the United Norwood Pit (red) to the north; the San Miguel County Gravel Pit (blue) to the west. It borders private forested shrub land to the south and private forested shrub land and irrigated farmland to the east.

Aerial Maps


Norwood Pit - Possible Expansion
Legend
Norwood Pit Permit Boundary
Proposed Expansion Area
San Miguel County Pit
County Rd 44Z N
MONTROSE
SAN MIGUEL
Joint Access Road
Google Earth
© 2020 Google
N
1000 ft


Access Location
United/NorwoodPit
General traffic route
Shared accesspoint
San Miguel County Pit
Skelton Pit
Google Earth
© 2021 Google
© 2021 Europa Technologies
N
1000 ft

Access to the parcel is from the United Norwood Pit directly to the north, which has access from County Rd 44Z N to the west. The primary commodity to be mined is sand and gravel for the purpose of producing construction materials. Fill dirt may be incidentally produced during the operation. The duration of the mining activity is dependent on demand, with 25 years of extraction predicted to occur before all the commercially viable materials are removed.

No traffic will go directly from the subject property to the county road. All trucks and equipment related to the gravel extraction will move directly between the subject property and the gravel processing plant. All employees associated with the gravel mining will enter the subject property from the processing plant property.

Anticipated Mining Schedule

Activity	Time
Initial stripping	First months of Year 1
Mining of first 13 acre half of pit	Years 1-13
Mining of second 13 acre half of pit	Years 13-25

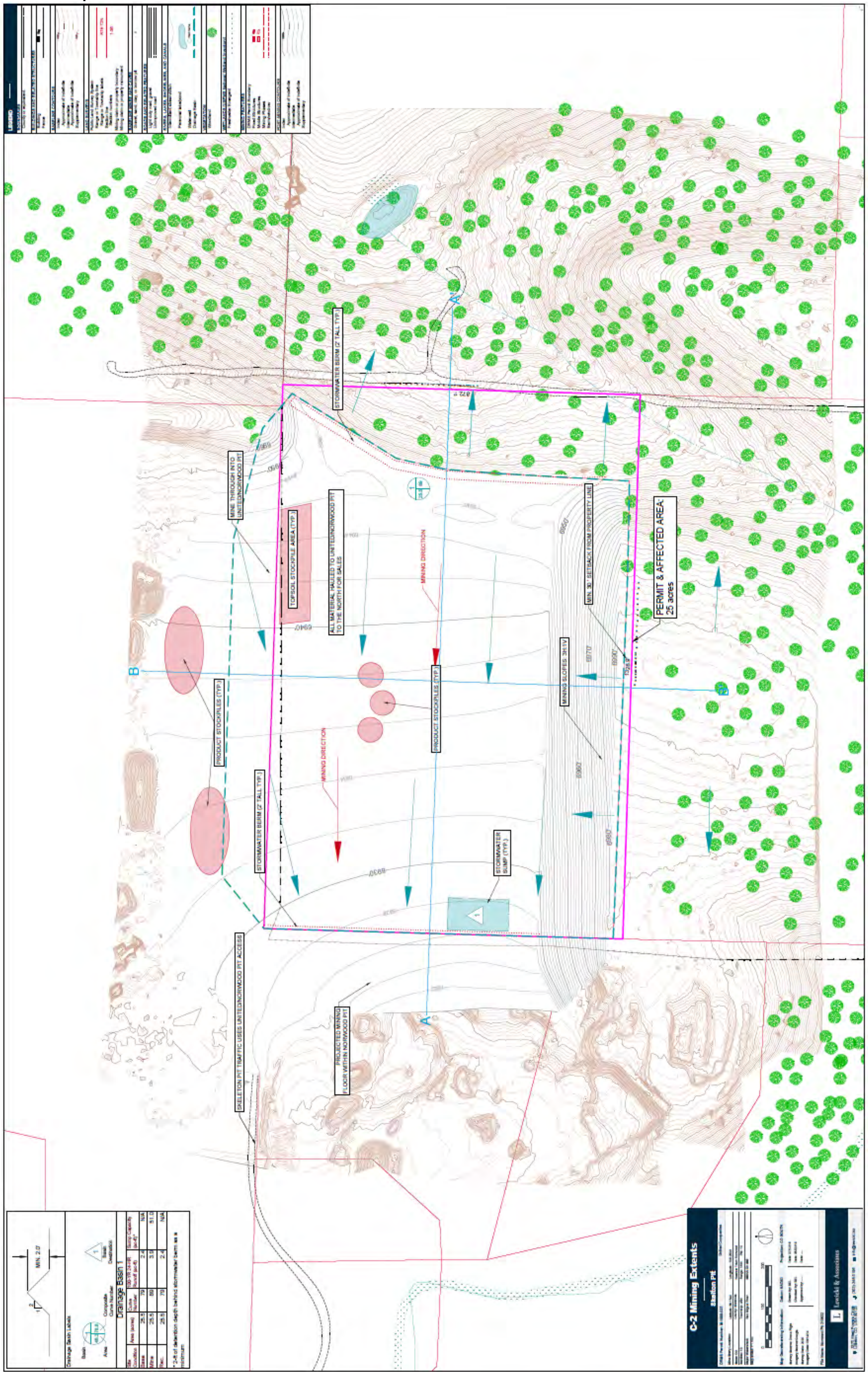
The operation first involves the initial stripping (removal) of topsoil, with its storage occurring on-site through its use as fill in an area on the property. The gravel extraction activity then occurs below ground level, but above the water table, with the gravel removed in a dry state. All of the extracted material is to be transported for processing to the United Norwood Pit to the north that is under the same ownership as the subject parcel. Some material will be stockpiled and stored on site prior to being transported for processing.

The Skelton Pit will be mined using loaders, backhoes, dozers, and off-highway haul trucks. Hours of operation will be 7 am to 7 pm Monday through Saturday.

No blasting will take place at the Skelton Pit. No refuse, acid producing or toxic materials are expected to be encountered in this operation. If these materials are encountered or if groundwater is encountered, at least two feet of inert material will be placed over the area and mining will move to a different area.

The site in general will be mined from northwest to southeast. The gravel extraction would occur initially in a 13 acre portion of the site in support of the existing gravel processing operation located to the north in Montrose County. The following site map shows the configuration of the mine during mining.

Site Map


PERMIT & AFFECTED AREA:
25 acres
MIN. 30' SETBACK FROM PROPERTY LINE
MINING SLOPES: 3H:1V
PRODUCT STOCKPILES (TYP.)
STORMWATER SUMP (TYP.)
STORMWATER BERM (2' TALL TYP.)
TOPSOIL STOCKPILE AREA (TYP.)
ALL MATERIAL HAULED TO UNITED/NORWOOD PIT TO THE NORTH FOR SALES
MINE THROUGH INTO UNITED/NORWOOD PIT
MINING DIRECTION
PROJECTED MINING FLOOR WITHIN NORWOOD PIT
C-2 Mining Extents
Station Pit
Drainage Basin 1

The applicant proposes to mine to the property line on the west side of the gravel pit. San Miguel County (Road and Bridge Department) would match by mining to the same property line from its side. An Agreement to facilitate this plan would be required between the parties. It has been discussed but has not been agreed to as of the date of this Memorandum.

The applicant has submitted a 112 (c) reclamation permit application for the proposed Skelton Pit to the Colorado Division of Reclamation, Mining and Safety (CDRMS) for a construction materials extraction operation affecting 10 acres or more.

Once the extractable materials have been depleted on the subject property, the site will be remediated. The submitted remediation plan returns the property to rangeland. The site is zoned Wrights Mesa and the applicant or any future owners of the property can pursue future development of the remediated land; such use application would be subject to the applicable LUC review standards.

The mining and reclamation on the parcel is proposed to be done concurrently. Mining will occur to the bottom of the gravel deposit, an average depth of 25-40 feet. The active mining face will be vertical, but the final mining slopes will be the same as the reclaimed slopes at 3H:1V. After about 13 acres are mined out, the mined area will be topsoiled and revegetated according to the reclamation plan. This process will be repeated for the remaining portion of the pit.

Key issues associated with gravel pit applications include visual screening, noise mitigation, truck traffic, and dust control for the gravel extraction operation. Visual impacts to the proposed pit are minimized due to the existing pits to the north and west, and the natural topography and landscape to the south and east.

Noise impacts will occur from gravel mining activities (earth scraping and moving equipment), which will mainly occur over the life of the pit below surface grade. The properties directly surrounding the pit to the north and west are industrial in nature (existing United and County pits). The parcels directly to the east and south are used agriculturally. There are residences located within 1200 ft. to the west and 2000 ft. to the south of the proposed pit.

The United Norwood Pit is geographically well situated to provide asphalt paving services for CDOT and local governments. The expected annual average production is 100,000 tons, which the applicant states is equivalent to the average production over the past five years. Actual production rates will fluctuate based on market conditions.

Traffic at the United Norwood Pit has averaged roughly 30 trucks a day for the past five years based on a 200-day annual operating season. 2020 was a peak traffic year with 46 daily average trucks per day due to the paving of CO State Highway 141. Planning received complaints in 2020 due to the hauling of materials at night from the United Norwood Pit for the paving of the Hwy 145 Spur road to the Town of Telluride.

Historic Production and Traffic

Row Labels	Annual Production	Average Daily Tons	Daily Avg Trucks
2016	67,762	339	20
2017	105,370	527	31
2018	86,218	431	26
2019	92,139	461	27
2020	155,375	777	46
Average	**101,373**	**507**	**30**

The United Norwood Pit is the destination of all raw materials mined from the Skelton Pit. Processing of material is included in the currently approved United Norwood Pit issued by Montrose County. Gravel crushing and screening activities are regulated via the Colorado Department of Public Health and Environment (CDPHE) Air Permit for dust control. This permit will incorporate the additional disturbance area from proposed Skelton Pit.

A Wright's Mesa (WM) Zone District Mining Special Use Permit (SUP) requires Two-step Planning Commission and Board of County Commissioner Review, per Land Use Code (LUC) Section 5-319 G VII, Commencement and/or expansion of non-chemical mining and mineral processing operations, subject to Section 5-16.

Planning Staff met on site with Tyra Bartuska, Environmental Specialist - United Materials on September 22, 2021.

Aerial View of Property

View from NW corner to east outside fence line

View from NW corner to east inside fence line

View from NW corner to east

View from NW Corner to Southeast

View from NW Corner to South

Review Standards and Policies:

A Wright's Mesa Zone District Mining Special Use Permit (SUP) requires Two-step Planning Commission and Board of County Commissioner Review, per Land Use Code (LUC) Section 5-319 G VII, pursuant to the standards contained in LUC Sections 5-319 K, Review Standards for all WM Zone District Special Uses, 5-1002, Special Uses, and 5-16 Mining; and to policies contained in LUC Sections 2-8, Natural and Man-made Hazard and Resource Areas, 2-11 Erosion, 2-34 Revegetation with Native Species, 2-35 Mining and Mineral Processing Operations.

5-319 K. Review Standards for all WM Zone District Special Uses. All special uses shall:

I. Be consistent with the County Master Plan, the County Land Use Policies in Article 2 and the purpose of the WM Zone District;
II. Be consistent with and compatible with the character of the immediate vicinity of the parcel proposed for development and surrounding land uses, and/or shall enhance the mixture of complimentary uses and activities in the immediate vicinity of the parcel proposed for development;
III. Be designed, located and proposed to be operated so that the public health, safety and welfare will be protected;
IV. Be located, designed and operated to minimize adverse effects, including impacts on scenic quality, pedestrian and vehicular circulation, parking, trash, service delivery, noise, vibration and odor on surrounding properties. (The allowed number of employees or occupants may be limited depending upon potential impacts on surrounding properties);
V. Provide adequate public facilities and services to serve the special use, including but not limited to roads, adequate water supply in terms of both quality and quantity, sewer, solid waste and fire protection;
VI. Not substantially adversely affect agriculture or ranching operations, residences or scenic quality of land surrounding State or County roads (including through addition of traffic);
VII. Comply with setback and height restrictions; however, the County may require greater setbacks to mitigate impacts on neighbors or scenic quality;
VIII. Be required to shield exterior lighting to prevent direct visibility of light bulbs from off-site. All exterior lighting shall be directed toward the ground or the surface of a building. High-intensity sodium-vapor and similar lighting shall be prohibited;
XI. Be located to preserve scenic views and blend in with and utilize the natural topography;
X. Use native or similar horticultural materials for revegetation and reforestation, and provide guarantees that any needed revegetation or reforestation will be completed during the first planting season after construction;
XI. Only include roads, utilities and associated structures that bear logical relationships to existing topography and minimize cuts and fills;
XII. Comply with the applicable sign standards in Land Use Code Section 5-704; and
XIII. Be consistent with the historic rural and agricultural character of Wright's Mesa. The following standards, along with input from neighbors, shall be considered by the County in determining consistency:

(Applicant comments from application in blue italics)
Resource extraction like that planned at the Skelton Pit is identified in the WM zone as an allowed use, as long as it is in accordance with the standards laid out in this section of the County land use code, including avoiding significant adverse impacts to neighbors and avoiding detracting from the rural character of Wright's Mesa. The Skelton Pit, as an addition of reserve to an existing sand and gravel operation and being adjacent to two existing sand and gravel operations, will not lead to significant adverse impacts. Any impacts associated with the Skelton Pit will be of the same type and intensity as those

currently occurring from the existing sand and gravel mines. The net effect is the clustering of mining operations in an area with infrastructure and impact mitigation systems already in place.

(*Staff comments are italicized in black*)
While the Comprehensive Plan recommends low density rural residential for this area on Wright's Mesa it does not preclude the location of heavy industrial uses on property outside of the Norwood Master Plan Area.

Siting of Buildings
- Locate buildings away from open meadows, visible ridges, and wildlife habitat areas.
- Cluster structures with surrounding open space ("ranch compound" concept).
- Locate buildings to maximize solar access. Roads/Driveways
- Minimize cuts and fills, which should not exceed 2:1 slopes.
- Stabilize cut and fill slopes with erosion-resistant vegetation or material contoured to blend with natural, undisturbed terrain.
- Maintain the natural drainage on the property to the greatest extent possible.
- Encourage shared driveways between buildings.
- Avoid cutting through open meadows.
- Surface driveways with gravel, or employ dust-control.

Parking
- Locate parking areas behind or to the side of buildings.
- Consider parking-surface alternatives, such as gravel and reinforced sod.
- Separate parking areas from buildings with pedestrian ways and planting zones.
- Landscape at least 15 percent of parking areas, and provide one shade tree for each 300 square feet of parking.

Building Materials
- Utilize predominantly natural building materials, such as wood siding and native stone. (Corrugated metal buildings are discouraged, and at minimum should be sited to minimize visibility from roads.)
- Encourage natural earth tones and muted colors to blend with surroundings.
- Paint or anodize exposed metal flashing or trim to reduce reflectivity.
- Encourage composition shingle, metal, slate or other earth toned non-reflective roofing.

Architectural Elements
- Encourage front and side porches.
- Encourage roof slopes that change pitch and peaked roofs with gentle slopes.
- Encourage horizontal building forms (this does not preclude two stories).
- Encourage pitched roofs, and discourage flat, mansard, curved and domed roofs.
- Match roof colors with the darkest colors in the adjacent landscape.
- Encourage reuse, renovation, and/or modification of existing buildings.

Accessory Structures
- Screen mechanical appurtenances, service and storage areas and trash receptacles from public view.
- Utilize the same or similar building materials (forms, colors and textures) for main and accessory structures.
- Mitigate visibility of accessory structures with fences, walls and/or landscaping

(Applicant comments)
The property will be mined in a manner to maintain a 40 foot tall berm between CR 44Z N and the operation until the final years of mining. No structures will be built at the Skelton Pit.

SECTION 5-1002: Standards for All Special Uses Requiring One-step and Two-step Review

All Uses requiring One-step and Two-step Review shall comply with the standards in this section.

5-1002 A. Consistency with Master Plan, Land Use Polices, Zone District and Neighborhood

The Use shall be:

I. Consistent with the County Master Plan;
II. Consistent with County Land Use Policies in Article 2;
III. Consistent with the purpose of the Zone District in which it is proposed to be located;
IV. Consistent with and Compatible with the Character of the Neighborhood of the Parcel proposed for Development and surrounding land Uses, and may enhance the mixture of complimentary Uses and activities in the Neighborhood of the Parcel proposed for Development;
V. Necessary for public convenience at the proposed location; and
VI. Designed, located and proposed to be operated so that the public health, safety and welfare will be protected.

5-1002 B. Impacts on Surrounding Area

Compatibility with the Character of Parcels adjacent to the Parcel shall be expressed in terms of appearance, scale and features, Site design, landscaping, weed seed dispersal, as well as, the control and Minimization of adverse Impacts including Noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, Impacts on pedestrian and traffic congestion, parking, trash, service delivery, or other undesirable or hazardous conditions.

(Applicant comments)
While potential air, water, noise, and visual impacts do exist with a sand and gravel mine like the Skelton Pit, these impacts will be mitigated. No explosives will be used at Skelton Pit, and no processing will take place. Vibration will not be noticeable at the property line due to these limitations. Noise shall not exceed 60 dBA at a lot line that abuts a commercial property or 55 dBA at the property line adjacent to a residential use or where residential uses are allowed by right; Noise levels will not be above the applicable limit at the property line.

(*Staff comments*)
The proposed use is anticipated to be complimentary to the adjacent United Norwood Pit to the north and San Miguel County Pit to the west. The close proximity of the proposed gravel mine to the existing gravel processing plant to the north will not add to heavy truck traffic on the adjacent county roads, as trucks bringing gravel from the mine to the processing plant on internal drives of the property will not need to utilize county or private roads. This mining use is not anticipated to have a negative impact on the rangeland and agricultural land uses to the east and south. The residences further to the south and west of the property are not anticipated to be negatively impacted because of the distance from the pit, and if adequate water spraying of dust inducing activities at the site, and if berming and seeding efforts take place as proposed help to ameliorate the effects of the use.

5-1002 C. Public Facilities

Adequate public facilities and services shall exist or shall be provided to serve any reviewable Use including, but not limited to, roads, potable water, sewer, solid waste, parks, police, fire protection, emergency medical, hospital and medical, drainage system and schools.

5-1002 D. Bond Requirement

A bond may be required, as a condition of any reviewable Use permit as deemed necessary by the Board of Commissioners or the Planning Commission, sufficient to cover the cost of Site remediation and/or satisfaction of the other conditions and requirements.

(*Staff comments*)
The applicant, as part of the reclamation permit application process with the Colorado Division of Reclamation, and Mining Safety, is required to post a Financial Warranty that is sufficient to cover the calculated reclamation costs to reclaim the site.

5-1002 E. The following must be addressed as part of any application:

I. A Site plan including:
  a. Ownership, Use and zoning of all adjacent Parcels;
  b. Driveways, streets and right-of-way, Access ways, including points of ingress, egress, parking plan;
  c. Easements;
  d. Location and dimensions of Structures and Signs;
  e. Typical elevations/Heights of such Buildings;
  f. Landscaping;
  g. Topography;
  h. Specific areas proposed for specific types of land Use/the identification of specific land Uses; and
  i. Information regarding the function and characteristics of any Building or Use proposed, including: days and hours of operation, number of employees, number of students, number of rooms for rent, etc., as applicable;

II. Lighting plan;
III. Signs – all Signs must meet Section 5-704 standards;
IV. Water/sewer plan – must meet state standards and may include verification of a commercial well permit;
V. Drainage plan;
VI. Grading plan;
VII. Dust control plan;
VIII. Detailed engineered plans and specifications by a registered Colorado Professional Engineer as requested by staff or Referral Agents;
IX. Weed control plan that must include use of weed free hay or straw;
X. Fencing Plan; and
XI. Additional permits as necessary from other agencies.

(Applicant comments)
Night time activity will be restricted to emergency maintenance of the site or equipment. Any lighting needed for this activity will be minimal, and downcast. Security lighting on the office trailer will be flush.

The applicant has submitted a 112 (c) reclamation permit application for the proposed Skelton Pit to the Colorado Division of Reclamation, Mining and Safety (CDRMS) for a construction materials extraction operation affecting 10 acres or more. It has existing Stormwater Management Plans and Air Permits from (CDPHE) for the existing site that would incorporate the proposed pit.

5-1002 F Review of Approved Special Uses

I. All approved Special Uses subject to either one-step Planning Commission or Board of County Commissioner review or two-step Special Permit Review shall commence within three (3) years of the date of approval. If the owner has not obtained a Development Permit for the approved Special Use and/or commenced the approved use or activity, in accordance with the terms and conditions of the approval, within this three (3) year time period, the Special Use shall be subject to review at a duly noticed Public Hearing by the entity that approved the Special Use. The purpose of this review is to determine if there has been a change in circumstances since the Special Use Permit was granted and to determine if the Special Use meets or complies with the review standards for Special Uses set forth in Land Use Code Section 5-1002 A. Standards for all Special Uses and Section 5-1002 B. Impacts on Surrounding Area.

Upon or prior to the expiration of the three (3) year period, the owner/applicant may provide a written statement withdrawing the Special Use application and requesting the Special Use approval be terminated. If upon expiration of the three (3) year period the owner/applicant does not provide a written statement withdrawing the application the matter shall be noticed and scheduled for Public Hearing by the County. The applicant is encouraged to provide a written statement, prior to the Public Hearing, indicating why the approved Special Use has not been permitted and/or commenced, identifying any changes that may have occurred in the surrounding land uses and explaining how the proposed Special Use meets the review standards in Land Use Code Sections 5-1002 A. and 5-1002 B.

Review of an approved Special Use shall be conducted in accordance with the applicable provisions of Article 3 Procedures for one-step reviews and shall include posting and sending written notice of the Public Hearing for review of the Special Use to adjacent property owners.

The Planning Commission and/or Board of County Commissioners in reviewing the Special Use Permit, at a duly noticed Public Hearing, may extend the Special Use Permit approval, extend the approval subject to modifications or additional conditions, or they may rescind and terminate the approval if a finding is made that the Special Use does not meet the review standards for Special Uses pursuant to Section 5-10 Special Uses.

II. If any approved Special Use is discontinued or abandoned for twelve (12) consecutive months, then such Special Use shall be subject to review initiated by the County. The procedures and standards for review of discontinued or abandoned Special Uses are the same as those for Review and Approval of Special Uses set forth in Land Use Code Section 5-1002 F. I. If a Special Use is discontinued or abandoned for twelve (12) consecutive months, and the Special Use is re-established or resumed by the owner, the use shall be subject to review in accordance with the provisions of this section and subject to review by either the Planning Commission and/or Board of County Commissioners, at a duly noticed Public Hearing, where the permitting entity may rescind or terminate, recognize and extend the original approval, or extend subject to additional conditions or modifications. The procedures and standards for review of discontinued Special Uses are the same as those for Review of Approved s set forth in 5- 1002 F. I.

SECTION 5-16: MINING

The standards in this Section are intended to mitigate the impacts of mining and mineral processing, including protecting the health, safety and welfare of persons residing in the vicinity and of persons traveling on roads, streets and highways in San Miguel County utilized for hauling of mined material. This Section also contains provisions to ensure that the environmental impacts of mining and mineral processing are adequately mitigated. Mining and mineral processing operations are also subject to the special use permit provisions of Section 5-10.

5-1601 Applicability

The standards and requirements in this Section 5-16 shall apply to all mining and mineral processing operations required to obtain special use permit approval from the County, including any expansion of existing mining and/or mineral processing operations. Mining and mineral processing operations also are subject to applicable review requirements for Activities of Local and State Interest, as set forth in Section 5-4, and for Wetland Areas, as set forth in Section 5-22.

5-1602 Mitigation of Impacts

All on-site and off-site impacts shall be adequately mitigated to protect the health, safety and welfare of persons in San Miguel County and to protect the integrity and appearance of the natural environment. Consideration shall be given to site-specific environmental assessments and mitigation plans approved by the appropriate Federal agencies and/or the Colorado Division of Minerals and Geology and/or the Colorado Department of Health. However, compliance with such plans, as well as additional mitigation, may be required by the County as part of the special use permit review process. Such mitigation may include, but is not limited to, revegetation, dust control, noise control, visual screening, limitations on hours of operations, truck haul routes and traffic volumes.

(Applicant comments)

The applicant has submitted a 112 (c) reclamation permit application for the proposed Skelton Pit to the Colorado Division of Reclamation, Mining and Safety (CDRMS) for a construction materials extraction operation affecting 10 acres or more. It has a Stormwater Management Plan and Air Permit from (CDPHE) for the existing site that would incorporate the proposed pit.

(*Staff comments*)

With the traffic, dust and visual mitigation efforts proposed, the use should not create unsafe or unhealthy conditions detrimental to the welfare of San Miguel County citizens.

5-1603 Enforcement of State and Federal Regulations

In the event that the County discovers that applicable state and/or federal regulations pertaining to a specific mining activity in San Miguel County have not been adequately enforced by the appropriate agency or organization, the Board of County Commissioners may require the mining activity to comply with any and all terms of such regulations. If such regulations are not complied with, the Board of County Commissioners may order such mining activity to cease and desist.

5-1604 Traffic Impacts and Highway Access

Mining (including sand and gravel operations) and mineral processing shall be limited to the greatest extent possible to areas where the surrounding road, street and/or highway network can accommodate heavy truck traffic. In no event shall a proposed operation be permitted where the carrying capacity of the surrounding road, street and/or highway network is exceeded by existing traffic volumes, or would be exceeded by projected or proposed traffic volumes.

(Applicant comments)

The proposed pit is located 1.5 miles from State Highway 145 off of CR 44Z N, which is paved. This route is used by gravel truck operators to and from the existing United Norwood Pit, and by San Miguel County Road and Bridge trucks from its pit.

(*Staff comments*)

The applicant is in discussions with County Road and Bridge on a new road use agreement for its use of CR 44Z N and to share in the cost of maintenance of the road.

5-1605 Additional Notice Requirements

In addition to the notice requirements set forth in Section 3-9, applicants for approval of mining and mineral processing operations shall also be required to provide written notice of a pending application by mailing such notice first class, postage prepaid, no less than 20 days prior to the scheduled meeting date to all owners of property within 1,500 feet of the subject property, and to all municipalities within 3 miles of the subject property.

(*Staff comments*)

The applicant provided notice to all property owners within 1,500 of the subject property, and to the Town of Norwood. County staff also required that notice be provided to all owners south of the subject property to those abutting CR 44ZN and Highway 145 to the top of Norwood Hill.

SECTION 2-8: NATURAL AND MAN-MADE HAZARD AND RESOURCE AREAS

It is the policy of San Miguel County to prevent any use and development of land that may:

2-801 Unreasonably subject any person, or use, to natural or man-made hazards;

2-802 Unreasonably create or contribute to the danger of natural or man-made hazards that might affect lands or the use and development thereof;

2-803 Unreasonably subject other persons including the County to the risks and expenses necessary to mitigate hazardous conditions, respond to emergencies created by such conditions, or to rehabilitate any lands or improvements thereof;

2-804 Be unduly destructive to the natural resources of the County; or

2-805 Constitute a public or private nuisance.

SECTION 2-11: EROSION

It is the policy of the County to prevent the acceleration of the erosion of soil and rock and whenever possible maintain vegetative cover to minimize soil disturbance.

(Applicant comments)

The applicant's CDRMS permits thoroughly address issues of hydrologic protection, slope stability, revegetation, and reclamation. Revegetation at the Skelton Pit will consist of seeding to develop rangeland vegetation to prevent soil erosion. Topsoil stockpiled from the pit will be used in reclamation. Six to 14 inches of topsoil will be replaced on all graded areas for an average depth of nine inches.

SECTION 2-34: REVEGETATION WITH NATIVE SPECIES

It is the policy of the County to prevent weed infestation and to ensure that all surface disturbances, especially of topsoil, are revegetated with native species.

(Applicant comments)

As much as is practical, woody vegetation removed prior and during topsoil stripping will be directly placed in the concurrent reclamation areas to encourage restoration of those species. Revegetation at the Skelton Pit will consist of seeding to develop rangeland vegetation.

SECTION 2-35: MINING AND MINERAL PROCESSING OPERATIONS

It is the policy of the County to permit commencement or expansion of Mining and Mineral Processing operations only in appropriate areas identified pursuant to the County Comprehensive Development Plan, with review, as appropriate, under Land Use Code Section 5-4 and CRS 24-65.1-101 *et. seq.*, "Areas and Activities of State Interest," subject to adequate mitigation of environmental, noise, traffic, and other impacts of such activities.

(*Staff comments*)

All relevant Land Use Code review standards and requirements are anticipated to be met with this proposal. The proposed development on this site, with the conditions listed in the *following staff's Recommendation can meet the goals and policies of the Wright's Mesa Master Plan and Land Use Code Section.*

The applicant is concurrently proceeding with certain State of Colorado applications related to mining and environmental matters.

Public Noticing

The applicant provided notice of this SUP application and today's Planning Commission meeting to all property owners within 1,500 feet of the subject parcel per LUC Section 5-1605. Per Planning staff direction, additional notice was provided to all property owners further south along CR 44Z N to State Highway 145. The applicant also posted a sign on the property and a second sign at the intersection of CR 44ZN with CR AA42 that provided notice concerning this application Planning Commission meeting to be held on-line today, Thursday, October 14, 2021. A legal meeting notice has also been published in the Telluride Daily Planet and Norwood Post on October 6, 2021.

Referral Agencies

The application was referred to the County Manager, County Attorney, County Building Official, County Road and Bridge Director, County Government Affairs and Natural Resources, County Sheriff, County Site Inspector, County Vegetation Manager, Colorado Department of Transportation, Colorado Division of Reclamation Mining and Safety, Colorado Department of Public Health & Environment, Colorado State Patrol, Colorado Division of Water Resources, Colorado Parks and Wildlife, Montrose County Planning Department, Norwood Fire District, and the Town of Norwood for review and comment.

Referral Comments

Matt Gonzales, County Building Official; John Bockrath, Norwood Fire District Chief; and Patti Grafmyer, Town of Norwood Administrator stated they had no issues with the proposed expansion of the Norwood United gravel pit.

Ryan Righetti, County Road and Bridge Director, writes he is primarily concerned with continued and additional impacts to the CR 44ZN road surface from gravel truck use. More information is need for him to recommend conditions of county road usage. He states that a new road agreement with the applicant or an annual hauling permit with associated bond will be required for the use of CR 44Z N.

(*Staff comments italicized*)
The applicant states it will enter into a new road agreement with county regarding the maintenance of CR 44Z N or obtain the requisite hauling permits from Road and Bridge as needed.

Greg Powers, CDWR Division 4 Well Commissioner, stated the proposed expansion will not be a problem if the new pit area does not intercept groundwater and if water usage does not exceed 3.5 acre feet of water from the Norwood Pit Reservoir No. 1.

The applicant states that no groundwater will be interacted by this operation as it is greater than 100 ft. below the surface. Water application for dust control is anticipated to consume 1.36 acre-feet of water a year.

Lucas West, Colorado Division of Reclamation and Mining and Safety (CDRMS) Environmental Specialist, stated United will need to amend their existing DRMS permit to expand the Norwood Pit. The CDRMS Permit amendment process includes limited property owner noticing, advertised public notice, public comment period, and an adequacy review on the application by CDRMS.

The applicant has submitted a 112(c) permit application for the proposed Skelton Pit dated July 2021 to the Colorado Division of Reclamation, Mining and Safety as required.

Mark Caddy, Colorado Parks and Wildlife (CPW) District Manager, noted that the parcel is located within the elk & mule deer winter range, is a movement corridor for bear and mountain lion, and provides habitat for other wildlife species. He commented the loss of habitat will not have an undue impact on wildlife. CPW suggested that the United Companies consider participating in a habitat improvement project on nearby public lands.

Public Comments

Jackson & Vicki Ordean, 800 CR 44.5Z, Norwood, oppose the proposed expansion of this gravel mining operation for the following reasons: loud nuisance noise levels from mining equipment during permitted gravel operations at the existing Norwood Gravel Pit, and from the use of compression brakes by gravel truck drivers leaving the Pit on CR 44ZN.

Leave Me Alone Ranch LLC (Mary Ann Gaston), 97 CR 44 Z N, stated concerns with consistency of hours of operation, existing visual impacts of pit berms & visibility of the pit office and scale from her parcel, reclamation of pit located in Montrose County, noise from use of compression brakes on CR 44Z N by exiting gravel trucks, increased annual activity of existing United Norwood Pit, and the maintenance of CR 44Z N.

Gaston's property and residence are adjacent to the existing United Norwood Pit and the San Miguel County Pit. Her comments reference the 1998 Gravel Task Force Recommendation to the SMC BOCC, and the Montrose County Land Use Code gravel pit regulations, which are attached to her comments.

The applicant has ordered two (2) NO JAKE BRAKES signs for placement at its existing pit exit and on CR 44Z N. with sign location to be determined with Road and Bridge. Drivers must also acknowledge in writing to United to utilize a limited use of Jake Brakes.

Martha Whitmore, Esq, on behalf of the Crouse Family Trust (Ken Crouse), 600 CR 44.5Z N, does not expect material changes or increases to the expected truck traffic, air impacts, noise impacts, production amounts or changes in pit operation as presented in the application. Any proposed change of access, to CR 44.5 ZN, for the proposed gravel pit operation is strongly opposed.

James Fourney, 4Knee Ventures LLC, Norwood, wrote in favor of the proposed expansion of Norwood Gravel Pit.

Madeline Gardner, 1267 CR 44Z N, is concerned that the proposed expansion of gravel pit will increase road noise (engine brakes) and traffic on CR 44Z N, lengthen the operating season of pit, and increase operational impacts due to cutting of trees at proposed gravel pits. Her perimeter fences near the entrance to pits are damaged by trucks exiting the pit in colder months, and main irrigation ditch (Nelson & Bolinger) is located adjacent to berms at existing gravel pits entrance.

The Nelson & Bolinger irrigation ditch(es) is located near the south property line of the Skelton property south of the existing pit(s) entrance below the pit berms in San Miguel County. It is located at least 700 feet from proposed pit expansion at closest point.

<u>Peggy Smelt-Day and Charles Day</u>, 485 CR 44.5Z N, is concerned with potential view impacts to the north from their property of Uncompahgre Mesa due to new pit, potential degradation to bluff formations to east of subject property's east property line. The expansion may also affect their property value due to continued noise and the negative impact of the continued operation of the United Norwood Pit. A new multi-use recreational site and trail was suggested for the existing gravel pit in lieu of an expansion.

Recommendation

Planning staff recommends approval of the application, with the findings and conditions contained in the following sample motion:

<u>Sample Motion:</u>
I move to recommend approval of a Mining Special Use Permit (SUP) to the United Companies for the extraction of sand and gravel, on a vacant unimproved 25-acre parcel, #429513300013 the ("Property'), zoned Wright's Mesa (WM) as presented, based on the finding that the proposed use complies with the following Land Use Code (LUC) standards: Section 5-319 G VII, Uses allowed subject to Two-step Planning Commission and Board of Commissioners SUP review; Section 5-319 K, Review Standards for all WM Zone District Special Uses, Section 5-1002, Special Uses, and Section 5-16 Mining; and to the LUC policies contained in Sections 2-8, Natural and Man-made Hazard and Resource Areas, 2-11 Erosion, 2-34 Revegetation with Native Species, 2-35 Mining and Mineral Processing Operations, and subject to the following specific terms and conditions:

General Conditions:

1. This Special Use Permit (SUP) is issued to the applicant and runs with the land.
2. This SUP Approval is subject to all written representations of the applicant, in the original submittal and all supplements, letters and emails, are deemed to be conditions of approval, except to the extent modified by this Motion.

Specific Conditions:

3. The Special Use Permit shall only be valid as long as the applicant holds current State permits (CDPHE Air Quality Permit, CDPHE Stormwater Discharge Permit, and CDRMS Mining and Reclamation Permit) relative to the approved use and complies with all state and county requirements and regulations at all times.
4. The applicant shall enter a new agreement with San Miguel County Road and Bridge for the maintenance of County Road 44Z N, and/or apply for and secure hauling permit from the county, prior to commencing mining activity.
5. The applicant shall enter into a new agreement with San Miguel County Road and Bridge facilitating its plan to mine to the property line adjacent to the San Miguel County gravel pit, prior to commencing mining activity.

6. The applicant is to submit to the Planning Department in a timely manner a copy of all plans and applications submitted to, and permits issued by, the state, county or any other government agency.

7. The permitted hours of operation are 7:00 am to 7:00 pm Monday through Saturday during daylight hours. In the event of an emergency request, the Planning Director may allow the mine to operate outside of the hours and days of 7:00 am and 7:00 pm Monday through Saturday for a limited period of time. Such a request is to be submitted to the Planning Director for review. The Director may require additional information for the analysis of such a request. The Director may approve, approve with conditions, or deny such a request.

8. The following production activities: gravel crushing, concrete mixing, sand screening, road base, hot mixed asphalt, and washed rock are prohibited at the Skeleton Pit. Only the mining of sand and gravel rock is authorized on the site.

9. This Special Use shall commence within three (3) years of this approval. If the extraction activity does not commence in that time frame, this Special Use approval shall be reviewed by the Board of Commissioners and the approval may be rescinded and terminated or extended subject to additional modifications or conditions.

Review Period:

10. There shall be an annual review after the first full calendar year of operations (January 2023). Prior to this annual review by the Planning Commission, notice will be provided to the neighbors and individuals and review who received noticed for this SUP amendment application, prior to the scheduled public meeting so they may make their comments, questions or concerns known to the CPC and BOCC. The CPC shall then make its recommendation to the BOCC as to any recommended changes to the approved SUP, if any.

    The BOCC may then take action to allow the SUP to continue as approved, modify or add conditions, or even revoke the SUP for non-compliance with the BOCC Resolution terms and conditions of approval or if there are unintended substantial impacts to neighbors adjacent to the site. As a part of its consideration the BOCC may make a determination in its discretion if there is a need for additional annual reviews, or periodic reviews of the terms and conditions of the SUP in the future or not.

November 10, 2021

John Huebner
San Miguel County Community Development
333 W Colorado Avenue 3rd Floor
Telluride, CO 81435
(970) 728-3083

Delivered Via Email
Supplemental Information for the Skelton Pit SUP

The following supplement is provided in support of the Special Use Permit Application for the Skelton Pit, operated by United Companies.

1. Colorado Parks and Wildlife Request

United Companies is in contact with CPW on how they can best serve the community on improving wildlife habitat to make up for the habitat temporarily lost during the mining of Skelton Pit. Through Mark Caddy at CPW, United has engaged with Niel Perry of the Bureau of Land Management's Montrose, CO office. Additionally, United has engaged its biology and wildlife consultants to develop a project that would enhance wildlife habitat on nearby public lands. For example, removal of pinion-juniper vegetation to increase the forage available to mule deer and elk, which have winter range in the area.

United Companies will provide San Miguel County with a copy of any agreement or project with the BLM prior to mining at the Skelton Pit.

2. Hours of Operation

The hours of operation at the Skelton Pit are being standardized with Montrose County guidelines, with Saturday's being excluded from normal operating hours. The updated operating hours for the Skelton Pit will be 7:00 am to 6:00 pm, Monday through Friday. The operator will request approval from the Planning Director on temporary expanded hours of operation. United Companies supports allowing the Planning Director to issue public notice related to these requests at his or her discretion.

3. Existing Permits

3.1. Montrose County Land Use Permit

A letter from Montrose County is provided stating that the United Norwood Pit is in good standing with the county with regards to their current SUP.

3.2. Colorado Division of Reclamation, Mining, and Safety

The most recent inspection by CDRMS is provided showing that the Norwood Pit to the north of the Skelton Pit is currently in good standing with DRMS.

3.3. CDPHE

The current Air and CDPHE water permit are provided for the United Norwood Pit. United Companies is currently in compliance with both of these permits.

4. Intersection of State Highway 145 & SMC County Road 44ZN

The Colorado Department of Transportation was contacted on 10/26/21 to inquire about the status of the intersection of CO-145 and CR-44ZN directly south of the entrance of the mine. United has not received any feedback from CDOT.

5. Water Supply

Skelton Inc. has two water rights in absolute that United Companies uses to supply the water needed to run their gravel mining operation. The two industrial water rights have historically been sufficient in supplying the water needed for operations in the United Norwood Pit for material processing and dust control. They are anticipated to remain this way for the Skelton Pit as production will not be increasing. Attached to this supplement is a letter from WrightWater Engineers detailing the available water rights and their sufficiency.

6. Scale House Screening Enhancements

Enhancements will be made to improve screening of the scale house as requested by the neighbors. Native shrubs and trees, such as pinon like trees, will be planted on the ridge between the scale house and neighbors to aid in screening for the neighbors to the south and west. The vegetation will be planted denser to the south of the scale house for better screening for the neighbor located directly down the hill from the mine. The proposed locations for vegetative screening are shown in Figure 1.

Figure 1. Vegetation Screening for Scale House

7. SUP Reporting

United Companies will submit reports to San Miguel County to update staff on the status of the SUP at the Skelton Pit. Since there is no set start day of mining, the one-year report will be provided to the county one year after the start of operations in the Skelton Pit. Subsequent reports will be provided for the estimated 25 year mine life on a five-year basis following the start of operations. The following items will be included in the one-year and five-year reports:

1) Copies of all reports to the state such as the annual report to CDRMS.
2) Results from the one-year and five-year noise monitoring plans associated with crushing in the Skelton Pit (not applicable after the first five-year report).
3) Complaints received by the public and what actions the mine took to address these concerns.

8. Surface Runoff

The Skelton Pit will cause minimal changes to the surface water runoff of in the immediate area of the mine. Prior to mining, runoff is mostly limited to the adjacent gravel mines to the west and north, and down the slope to the east as the land to the south is elevated. During mining, runoff will be contained within the pit. Post reclamation runoff will be very similar to pre-mine runoff. Attached maps depict the runoff patterns from the topography of the Skelton Pit and surrounding land.

9. Gravel Crushing

United Companies requests that crushing be allowed in the Skelton Pit. A noise monitoring plan to be included with the Year One report of the mine will be submitted to San Miguel County to demonstrate the effectiveness of the noise shielding from the topography of the pit in maintaining compliance with noise regulations. United Companies commits to only crush within the Skelton Pit if it can effectively demonstrate compliance with both Colorado State Statutes and San Miguel County Code regarding noise.

9.1. General

The Skelton Pit must adhere to the noise limits imposed by the San Miguel County Use Code which limits the maximum noise level from industrial activities to 55 dBA measured at a distance of 25 feet or more from the property boundary. The main concern with noise emitted from the mine is from the portable crushing unit that will be running in the pit for a few months each year. However, the noise coming from the crusher is not anticipated to exceed these noise limits as the topography and location of the crusher act as natural noise mitigation. United Companies has experience in successfully mitigating noise with these measures as evident with United’s Cerise Pit, a similar operation to the Skelton Pit. A noise analysis of the Cerise Pit was performed showing that physical barriers provided by operating below the natural grade were successful in maintaining compliance with an imposed 55 dBA noise limit. These same noise mitigating measures that have proven to work for United Companies other gravel pits will be in place at the Skelton Pit.

When the Skelton Pit is in operation, the crusher will be located near the active face of the mining highwall. This is a beneficial location for the crusher for reducing noise and dust from hauling material back to the Norwood Pit to the north. It also helps reduce noise travelling from the crusher. United Companies often place their crushers near their mining faces for the sound and dust reduction benefits. Being near the face reduces the sound that is able to travel out of the pit as it both absorbs the soundwaves from the crusher and reflects them back into the pit, therefore decreasing the noise travelling to neighbors

There are also benefits to noise provided by the topography of the mine. By the time the crusher is needed for gravel extraction, the top few feet of topsoil and overburden will have been stripped from the mining area; the two activities will not be simultaneous. In addition, the mining highwall will start in the current pit which is currently more than 35 feet below the natural grade and will continue to be located at this subgrade level as mining advances into the Skelton Pit. This ensures that the crusher will be located well below the natural topography at any time that it is in use. Being below the natural topography provides similar benefits to being near the face by reducing the sound travelling through reflection and absorption as the soundwaves travel to the berms encasing the pit. The only side that does not receive this benefit is to the east where the pit daylights. However, no neighbors are located in this direction.

Figure 2 visually depicts the effects of topography and proximity to the highwall on the soundwaves emanating from the crusher.

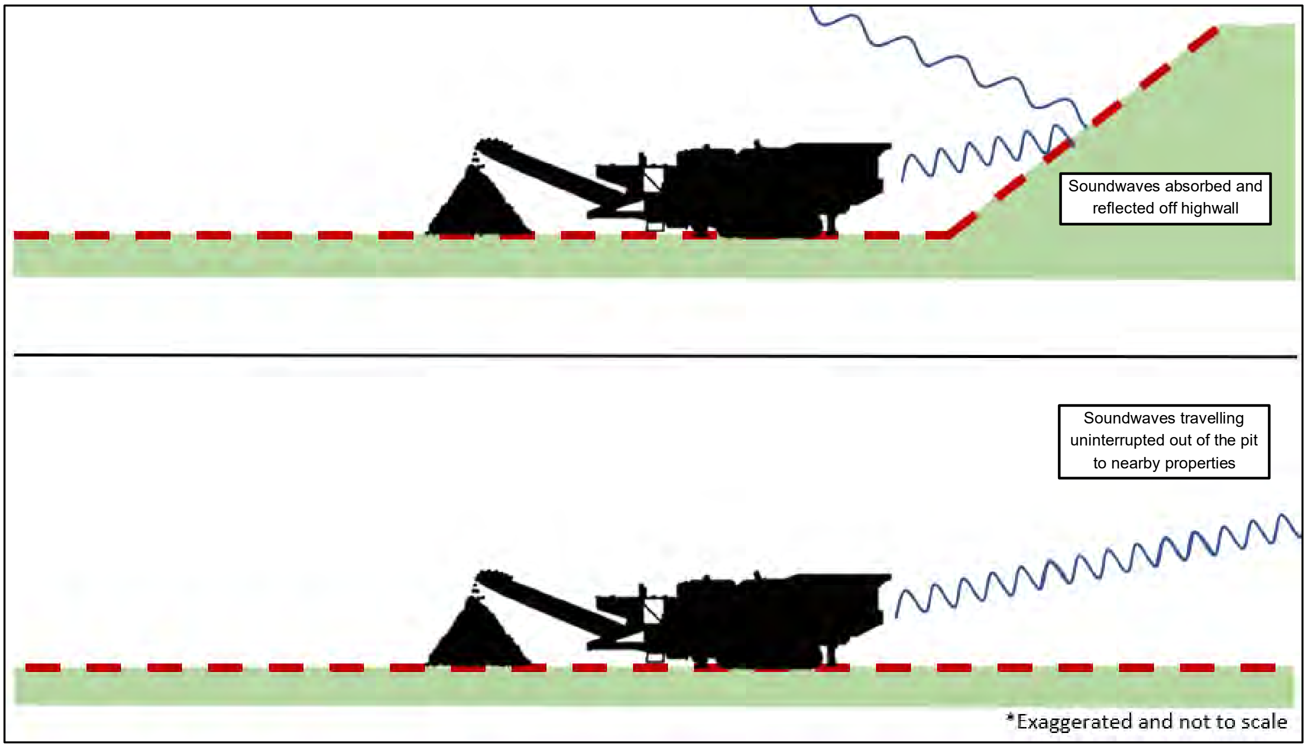


Figure 2. Effects on Crusher Soundwaves from the Pit

The nearest residential property to the Skelton Pit is located more than 800 feet from the anticipated pit boundary behind the berm on the western side of the adjacent San Miguel Gravel Pit. Both the physical distance and topography of the pit to the west will allow time for the soundwaves from the crusher to dissipate before reaching the residence.

The Skelton Pit will follow a monitoring plan to measure the noise emitted from the mine when the crusher is in operation to ensure that it is not exceeding noise limits. In the case that noise emanating from the mine is excessive, there are additional measures the operator can take that have been proven to reduce noise. These measures typically involve adding more physical barriers around the noise source, most commonly strawbales. Strawbales provide significant noise reduction and can be put in place in a relatively short amount of time so mining activities can continue while maintaining compliance with noise regulations; they are effective “spot” mitigation if needed.

9.2. Monitoring Plan

A monitoring plan will be put in place at the start of operations in the Skelton Pit to test the noise from mine while the crusher is in use. The results of the monitoring plan will be reported to San Miguel County as part of the Skelton Pit’s one year report and subsequent five-year report. The plan requires an employee of United Companies to go to the site with a handheld noise level meter and record the noise reading at the proposed locations. As it is uncertain when mining of the

Skelton Pit will begin mining, there are not specific dates for when this monitoring plan must take place. Instead, it will start the first year that material is extracted from the Skelton Pit. The monitoring plans are laid out in more detail below.

9.2.1. Monitoring Plan

The noise monitoring will take place on a day of typical crushing within the existing United Norwood Pit. Measurements will be taken at approximately six locations while the crusher is running a typical full load. A United employee will measure and record the noise level reported by a handheld noise level meter. The noise level is expected to be no greater than 55 dBA at a distance of 25 feet from the property boundary. In the case that noise levels exceed these limits, noise mitigating measures will need to be put in place and the same locations will need to be tested to show that the noise limit is met. All measurements will be reported and sent to the county with the Skelton Pit's year one report.

Measurements will be taken with a handheld noise level meter at the following described locations. It is included in their descriptions where noise must not exceed the 55 dBA limit. Refer to Figure 3 for the approximate locations with a sample crusher placement.

9.2.2. Ongoing Monitoring

United will take further noise measurements at the same locations around the property prior to the five-year report to San Miguel County. These measurements will be included in that report.

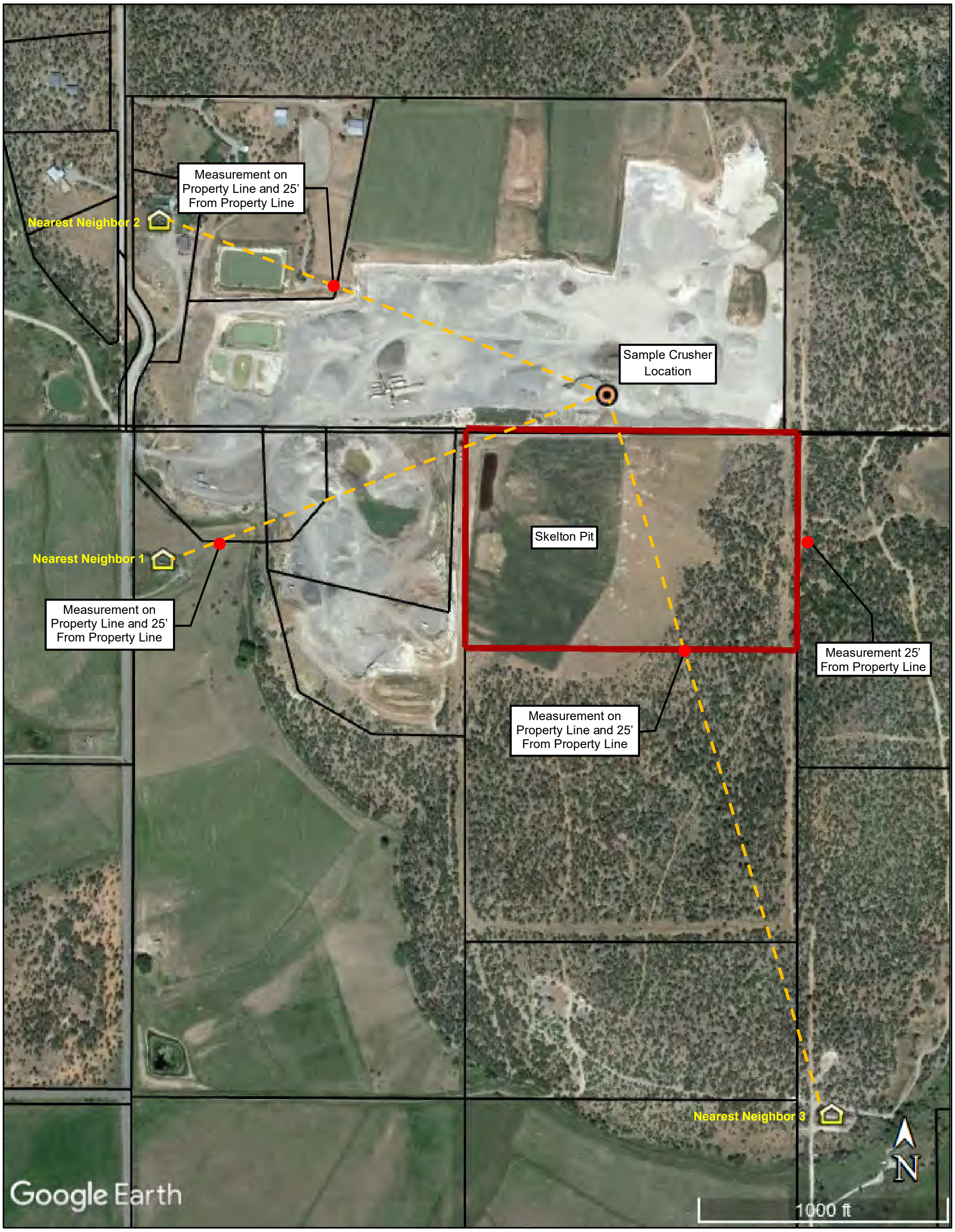


Figure 3. Monitoring Plan Sample Locations

Wright Water Engineers, Inc.
1666 N. Main Avenue, Suite C
Durango, Colorado 81301
(970) 259-7411 TEL
(970) 259-8758 FAX
www.wrightwater.com
e-mail: pfoster@wrightwater.com

November 10, 2021

Via email: tyra.monger@unitedcocom

Tyra Bartuska
Environmental Specialist
2273 River Road
Grand Junction, CO 81505

Re: Water Adequacy for the Norwood Pit

Dear Tyra,

Wright Water Engineers, Inc. (WWE) is pleased to provide an analysis of the water supply adequacy for the Norwood Pit.

The Norwood Pit is located in Section 13, Township 45N, Range 13W of the New Mexico principal meridian (see Figure 1). The gravel pit is located in the Maverick Draw Drainage, which is tributary to Naturita Creek and the San Miguel River.

Water Supply

The gravel facility receives water from two sources of water: 1) the Skelton Water System and 2) the Norwood Pit Reservoir No. 1. The Skelton Water System was originally decreed conditional in Case No. 96CW64 for 0.50 cfs for industrial uses. The Skelton Water System water right was decreed absolute in Case No. 02CW215 with an appropriation date of April 2, 1996, and an adjudication date of 1996.

The Norwood Pit Reservoir No. 1 was originally decreed in Case No 98CW9 for a 3.5 AF storage water right for industrial purposes. The pit reservoir was constructed, and 3.5 AF was put to beneficial use and made absolute in Case No. 04CW145 for industrial purposes.

The water rights rely on wastewater from irrigation by shares in the Farmers Reservoir and Irrigation Co. WWE spoke with Mark Ragsdale, Water Commissioner District 60 (San Miguel River). Mark Ragsdale reported that he is familiar with the Norwood Pit Water Rights, and the gravel pit has operated according to the gravel pit's respective decrees without injury to downstream water rights.

Water Demands

The water demands for the gravel facility include dust control, evaporation, and material washing. The wash plant is mobile, and United can operate the wash plant when there is available water supply. United proposes to mine and wash up to roughly 200,000 tons per year. The highest recorded water use for dust suppression equals 195,667 gallons per year. Evaporation from Norwood Pit Reservoir No. 1 is shown on Table 1, and operational water use is shown on Table 2. The total calculated water use is 3.76 AF per year.

San Miguel River Water Administration

WWE researched the water rights administration of the San Miguel River Basin including Naturita Creek and Maverick Draw from 1995 to 2020 (see Table 3). Based on the administrative call records, there was only one call identified in 2019, which is categorized as a wet year. The duration of the 2019 call was 21 days. No other calls were identified during other wet and average years. It is WWE's understanding from reviewing the call records that Naturita Creek and Maverick Draw are typically administered under free river conditions during average and wet years.

During a dry year, the administration water rights calls on Naturita Creek and Maverick Draw typically occur in June and last until October. In 2002, a call was placed on Naturita Creek from June 3rd and ended on October 31st, a duration of 150 days.

Water Rights Operation

When there is no call on Naturita Creek or Maverick Draw, the gravel facility can divert water from the Skelton Water System up to 0.5 cfs or approximately 1.0 AF per day for industrial purposes. The 1 AF per day equals 325,851 gallons per day or 30.4 AF per month (9.9 million gallons per month). The 30.4 AF per month is sufficient to supply the calculated maximum water demand of 1.04 AF per month.

When a call is placed by senior irrigation water rights near Naturita, the 0.5 cfs of water under the Skelton water system may not be available. During a dry year with a similar call record to 2002, the Norwood Pit will use water stored in Norwood Reservoir No. 1. During the 2002 water year, the Norwood Pit would need 2.57 AF of storage water to meet the gravel pit water demands when the Skelton Water System is out-of-priority. The 3 AF of storage in Norwood Reservoir No. 1 is sufficient to meet 2.57 AF of water demands during administration. As discussed above, United operates a mobile wash plant which can be utilized when there is sufficient water supply.

Commissioner Ragsdale reported that, if there was a shortage of water, the Skelton Water System and the Norwood Pit Reservoir No. 1 water rights can be administered to avoid injury to water rights in Maverick Draw and Naturita Creek.

Based on historical gravel operations, the Norwood Pit appears to have adequate water supply to meet water demands during average, dry, and wet years. During a dry year, the operation will need to rely on storage water, and the mobile wash plant will be operated when there is sufficient water available.

After reclamation, the Norwood Pit will be reclaimed to native and irrigated agriculture. In addition to the industrial water right, the senior decreed water could be used for irrigation of the facility during reclamation.

Conclusion

Based on our review, United Companies has flexibility to operate the Norwood Pit to reduce water demands to reflect water supply availability. The pit has direct flow and storage rights that are sufficient to meet the facility's water demands both during and after reclamation in average, wet, and dry years. When there are water shortages, the pit can be operated and reclaimed in such a manner to not injure neighboring water rights.

Please give us a call if you have any questions or comments regarding this letter.

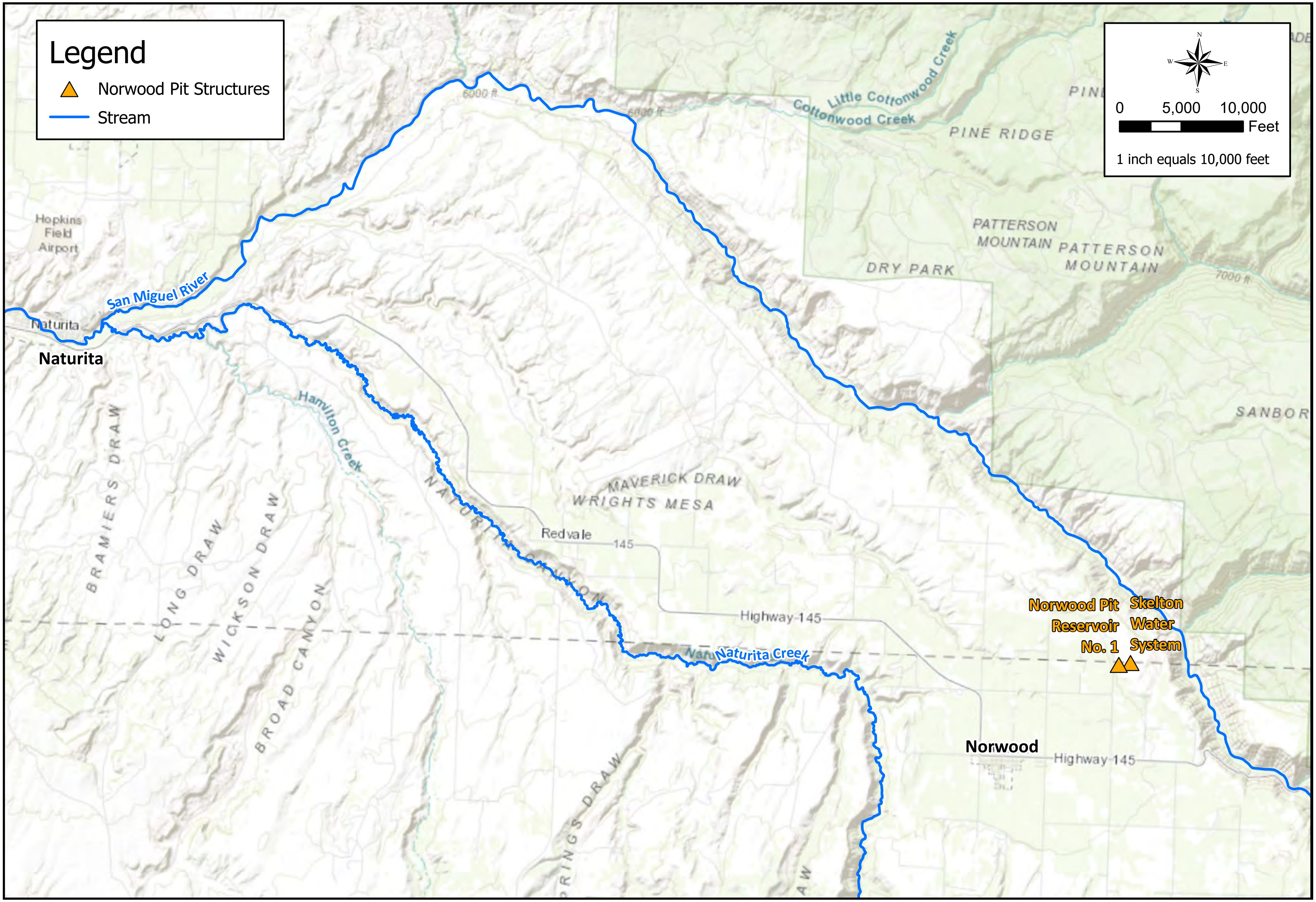
Sincerely,

WRIGHT WATER ENGINEERS, INC.

By

Peter R. Foster, P.E.
Vice President

P:\031-007\300 Norwood\20211110 Letter to United re Norwood Pit Water Supply



Date: 11/9/2021 Document Path: P:\031-007\300 Norwood\Mapping\Norwood Pit.aprx

User Name: twilliams

WWE
Wright Water Engineers, Inc.
1666 N. Main Ave., Ste.C
Durango, CO 81301
(970) 259-7411 ph 259-8758 fx

SAN MIGUEL AND MONTROSE COUNTIES, COLORADO

NORWOOD PIT / SKELTON WATER SYSTEM

UNITED COMPANIES

PROJECT NO.
031-007.300

DRAFT
FIGURE
1

Table 1

Evaluation for Norwood Pit Reservoir No. 1

United Companies

Groundwater exposed	0.46	acres
Gross Evaporation	44	inches (from NOAA Technical Report NWS 33)
Precipitation Station	Norwood 2	

Month	(1) Monthly Evaporation Distrubution (%)	(2) Gross Evaporation (inches)	(3) Average Year Precipitation (inches)	(4) Effective Precipitation (inches)	(5) Net Unit Evaporation (inches)	(6) Net Unit Evaporation (feet)	(7) Total Evaporation (acre-feet)
January	1.0	0.44	0.67	0.47	0.00	0.00	0.00
February	3.0	1.32	0.45	0.31	1.01	0.08	0.04
March	6.0	2.64	0.55	0.39	2.25	0.19	0.09
April	9.0	3.96	0.57	0.40	3.56	0.30	0.14
May	12.5	5.50	0.51	0.36	5.14	0.43	0.20
June	15.5	6.82	0.30	0.21	6.61	0.55	0.25
July	16.0	7.04	1.39	0.97	6.07	0.51	0.23
August	13.0	5.72	1.50	1.05	4.67	0.39	0.18
September	11.0	4.84	1.14	0.80	4.04	0.34	0.15
October	7.5	3.30	0.95	0.66	2.64	0.22	0.10
November	4.0	1.76	0.66	0.46	1.30	0.11	0.05
December	1.5	0.66	0.72	0.50	0.16	0.01	0.01
Annual	**100**	**44.00**	**9.41**	**6.58**	**37.45**	**3.12**	**1.44**

Footnotes:

(1) From SEO's Guidelines (2/28/95) for sites with elevation above 6,500 ft.
(2) Annual value from NOAA Technical Report NWS 33.
(3) Average annual precipitation data from NOAA recording station at Norwood 2
(4) Equals Column (3) x 0.70
(5) Column (2) - Column (4)
(6) Column (5) / 12
(7) Column (6) x number of exposed groundwater surface acres.

Table 2
Norwood Pit Operational Water Use
United Companies

Month	Evaporation from Norwood Pit Reservoir No. 1	Water Use from Dust Suppression	Water Use from Dust Suppression	Monthly Aggregate Production	Water Use from Aggregate Washing	Total Water Use
	(acre-feet)	(gallons)	(acre-feet)	(tons)	(acre-feet)	(acre-feet)
	(1)	(2)	(3)	(4)	(5)	(6)
January	0.00	-	-	-	-	-
February	0.04	-	-	-	-	0.04
March	0.09	-	-	14,706	0.22	0.30
April	0.14	-	-	14,706	0.22	0.35
May	0.20	-	-	14,706	0.22	0.41
June	0.25	-	-	14,706	0.22	0.47
July	0.23	192,000	0.59	14,706	0.22	1.04
August	0.18	2,667	0.01	14,706	0.22	0.40
September	0.15	-	-	14,706	0.22	0.37
October	0.10	-	-	14,706	0.22	0.32
November	0.05	-	-	-	-	0.05
December	0.01	-	-	-	-	0.01
Annual	1.44	194,667	0.60	117,650	1.73	3.76

Notes
(1) Table 1, Column (7)
(2) Based on 2019 dust suppression records
(3) Column (1) / 325,851 gallons/AF
(4) Based on 5-year aggregate production average, 2016-2020
(5) Equals Column (2) x (2,000 lbs/ton) x 2% / (62.4 lbs/ft3) / (43,560 ft^2/acre) per Colorado Division of Water Resources *General Guidelines for Substitute Water Supply Plans for Sand and Gravel Pits (Updated April 1, 2011)*
(6) Equals Column (2) + Column (4)

Table 3
Administration of Naturita Creek and Maverick Draw
United Companies

Draft

Year	Total Annual Streamflow - Brooks Bridge Gage near Nucla, CO (acre-feet)	Rank	Wet, Average, or Dry Year	Call Placed on Naturita Creek	Call Placed on Maverick Draw	Struct. Name	Duration of Call
1997	363,484	1	Wet				
1995	*330,147	2	Wet				
2019	289,343	3	Wet	Yes		Maverick Draw Ditch	21 days
1999	245,195	4	Wet				
1998	234,869	5	Wet				
2008	229,544	6	Wet				
2005	196,336	7	Wet				
2007	196,096	8	Wet				
2017	191,575	9	Wet				
2016	185,373	10	Wet				
2011	184,696	11	Average				
2009	178,749	12	Average				
2014	171,162	13	Average				
2015	170,316	14	Average				
2010	165,156	15	Average				
2000	144,556	16	Average				
2004	141,566	17	Average				
1996	135,803	18	Average				
2001	133,760	19	Dry				
2006	130,356	20	Dry				
2003	122,415	21	Dry		Yes	Smuggler Ditch	150 days
2013	91,580	22	Dry				
2012	77,348	23	Dry	Yes		Maverick Draw Ditch	133 days
2020	67,839	24	Dry	Yes	Yes	Smuggler Ditch	147 days
2002	45,071	25	Dry	Yes		Maverick Draw Ditch	150 days
2018	31,593	26	Dry	Yes		Maverick Draw Ditch	125 days

Notes
* Annual streamflow record is incomplete (3/31/1995 - 12/32/1995)
Calls have been checked against CDSS records, and 2002 revised calls from Div 4 DWR Office.

Table 4

Norwood Pit Operational Water Use and San Miguel Dry Year Call Scenario

United Companies

Month	San Miguel River and Naturita Creek Call (2002)	Total Water Depletions from Water Use	Total Out of Priority Depletions
	(% of month)	(af)	(af)
	(1)	(2)	(3)
January	0%	0.00	-
February	0%	0.04	-
March	0%	0.30	-
April	0%	0.35	-
May	0%	0.41	-
June	93%	0.47	0.44
July	100%	1.04	1.04
August	100%	0.40	0.40
September	100%	0.37	0.37
October	100%	0.32	0.32
November	0%	0.05	-
December	0%	0.01	-
Annual		3.76	2.57

Notes

(1) Administrative call scenario from Table 2 based on 2002 call record for San Miguel River and Naturita Creek from Colorado Division of

(2) Equals Column (5) of Table 1

(3) Equals Column (1) x Column (2)

CONSTRUCTION PERMIT

Permit number: 96MO114F Issuance: 4

Date issued: January 24, 2018

Issued to: Oldcastle SW Group, Inc. dba United Companies

Facility Name: Norwood Pit
Plant AIRS ID: 085/0082/001
Physical Location: 1300 County Road 44ZN, Norwood
County: Montrose
General Description: Sand and gravel pit

Equipment or activity subject to this permit:

Facility Equipment ID	AIRS Point	Description
	001	Material extraction, handling, stockpiling, hauling, associated conveyors and transfer points.

THIS PERMIT IS GRANTED SUBJECT TO ALL RULES AND REGULATIONS OF THE COLORADO AIR QUALITY CONTROL COMMISSION AND THE COLORADO AIR POLLUTION PREVENTION AND CONTROL ACT C.R.S. (25-7-101 et seq), TO THOSE GENERAL TERMS AND CONDITIONS INCLUDED IN THIS DOCUMENT AND THE FOLLOWING SPECIFIC TERMS AND CONDITIONS:

REQUIREMENTS TO SELF-CERTIFY FOR FINAL APPROVAL

1. This construction permit represents final permit approval to operate this emissions source. Therefore, it is not necessary to self-certify. (Regulation Number 3, Part B, III.G.5).

EMISSION LIMITATIONS AND RECORDS

2. Emissions of air pollutants must not exceed the following limitations (as calculated using the emission factors included in the Notes to Permit Holder section of this permit). (Reference: Regulation Number 3, Part B, II.A.4)

Annual Emission Limits:

Facility Equipment ID	AIRS Point	Emission Type			
		PM	PM_{10}	$PM_{2.5}$	
Mining and Hauling Operations	001	3.0	1.2	0.2	Fugitive
Transfer Points		0.1	0.1	0.1	Point

Note: In the absence of credible evidence to the contrary, compliance with the emission limits is demonstrated by complying with the production limits listed below and by following the attached particulate emissions control plan.

PROCESS LIMITATIONS AND RECORDS

3. This source must be limited to the following maximum consumption, processing and/or operational rates as listed below. Annual records of the actual process rate must be maintained by the applicant and made available to the Division for inspection upon request. (Reference: Regulation Number 3, Part B, II.A.4)

Production Limits:

AIRS Point	Production Parameter	Annual Limit (tons/year)
001	Sand and gravel extraction	200,000

STATE AND FEDERAL REGULATORY REQUIREMENTS

4. Visible emissions from conveyors and transfer points must not exceed twenty percent (20%) opacity during normal operation of the source. During periods of startup, process modification, or adjustment of control equipment visible emissions must not exceed 30% opacity for more than six minutes in any sixty consecutive minutes. (Reference: Regulation Number 1, II.A.1. & 4.)

5. All conveyors and transfer points will be subject to the New Source Performance Standards requirements of Regulation number 6, Subpart OOO *whenever* there is primary crushing capacity greater than 150 tons per hour (portable equipment) or 25 tons per hour (fixed equipment) at this location as follows:

   [The requirements below reflect the rule language of 40 CFR Part 60 Subpart OOO published in the Federal Register on 4/28/2009. However, if revisions to this Subpart are published at a later date, the owner or operator is subject to the requirements contained in the revised version of 40 CFR Part 60, Subpart OOO.]

   a. Visible emissions from each crusher shall not exceed fifteen percent (15%) opacity.

   b. Visible emissions from each screen and transfer point shall not exceed ten percent (10%) opacity.

   In addition, the following requirements of Regulation Number 6, Part A, Subpart A, General Provisions, apply (40CFR part 60, Subpart A).

   c. At all times, including periods of start-up, shutdown, and malfunction, the facility and control equipment shall, to the extent practicable, be maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions. Determination of whether or not acceptable operating and maintenance procedures are being used will be based on information available to the Division, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source. (Reference: Regulation 6, Part A. General Provisions from 40CFR60.11)

d. No article, machine, equipment or process shall be used to conceal an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere. (§ 60.12)

e. Written notification of construction and initial startup dates shall be submitted to the Division as required under § 60.7.

f. Records of startups, shutdowns, and malfunctions shall be maintained, as required under § 60.7.

g. Written notification of opacity observation or monitor demonstrations shall be submitted to the Division as required under § 60.7.

h. Compliance with opacity standards shall be demonstrated according to § 60.11.

OPERATING & MAINTENANCE REQUIREMENTS

6. This source is not required to follow a Division-approved operating and maintenance plan.

COMPLIANCE TESTING AND SAMPLING

Periodic Testing Requirements

7. Periodic testing is not required for this source.

ADDITIONAL REQUIREMENTS

~~8.~~ All previous versions of this permit are cancelled upon issuance of this permit.

9. The AIRS ID number must be posted in an easily visible location for ease of identification. (Reference: Regulation Number 3, Part B, III.E.) (State only enforceable)

10. The particulate emission control measures listed on the attached page (as approved by the Division) must be applied to the particulate emission producing sources as required by Regulation Number 1, III.D.1.b.

11. This permit is for the activities specified above; any additional process equipment (i.e. crushers, screens, etc.) to be located at this site must have a separate permit from the Division. (Reference: Reg. 3, Part B, III.E.)

12. A Revised Air Pollutant Emission Notice (APEN) must be filed: (Reference: Regulation Number 3, Part A, II.C.)

    a. By April 30 of the year following a significant increase in emissions. A significant increase in emissions is defined as follows:

       For any criteria pollutant:

       For sources emitting less than 100 tons per year, a change in annual actual emissions of five (5) tons per year or more, above the level reported on the last APEN; or

For sources emitting any amount of lead, a change in actual emissions of fifty (50) pounds of lead above the level reported on the last APEN submitted.

For any non-criteria reportable pollutant:

If the emissions increase by 50% or five (5) tons per year, whichever is less, above the level reported on the last APEN submitted to the Division.

b. Whenever there is a change in the owner or operator of any facility, process, or activity; or

c. Whenever new control equipment is installed, or whenever a different type of control equipment replaces an existing type of control equipment; or

d. Whenever a permit limitation must be modified; or

e. No later than 30 days before the existing APEN expires.

GENERAL TERMS AND CONDITIONS:

13. This permit and any attachments must be retained and made available for inspection upon request. The permit may be reissued to a new owner by the Division as provided in Regulation Number 3, Part B, II.B upon a request for transfer of ownership and the submittal of a revised APEN and the required fee.

14. If this permit specifically states that final approval has been granted, then the remainder of this condition is not applicable. Otherwise, the issuance of this construction permit is considered initial approval and does not provide "final" approval for this activity or operation of this source. Final approval of the permit must be secured from the APCD in writing in accordance with the provisions of 25-7-114.5(12)(a) C.R.S. and AQCC Regulation Number 3, Part B, III.G. Final approval cannot be granted until the operation or activity commences and has been verified by the APCD as conforming in all respects with the conditions of the permit. Once self-certification of all points has been reviewed and approved by the Division, it will provide written documentation of such final approval. Details for obtaining final approval to operate are located in the Requirements to Self-Certify for Final Approval section of this permit. The operator must retain the permit final approval letter issued by the Division after completion of self-certification with the most current construction permit.

15. This permit is issued in reliance upon the accuracy and completeness of information supplied by the applicant and is conditioned upon conduct of the activity, or construction, installation and operation of the source, in accordance with this information and with representations made by the applicant or applicant's agents. It is valid only for the equipment and operations or activity(ies) specifically identified in this permit. If subsequent operations or testing at the source indicate the information supplied to obtain this permit and relied upon in the creation and issuance of this permit is inaccurate, the source must submit an application to modify the permit to address the inaccuracy(ies). (Reference: Regulation Number 3, Part B III.E.)

By: Michael Harris
Michael Harris, P. E.
Permit Engineer

By: R K Hancock III
R K Hancock III, P.E.
Construction Permits Unit Supervisor

Permit History

Issuance	Date	Description
Issuance 4	This issuance	Name change from Oldcastle SW Group, Inc. dba United Companies of Mesa County, Inc. Update to new permit format, recalculate emissions.
Final Approval Mod #1	March 11, 2003	
Final Approval	April 28, 1998	
Initial Approval		Initial approval issued to Oldcastle SW Group, Inc. dba United Companies of Mesa County, Inc.

Notes to Permit Holder (as of permit issuance):

1) The production or raw material processing limits and emission limits contained in this permit are based on the production/processing rates requested in the permit application. These limits may be revised upon request of the permittee providing there is no exceedence of any specific emission control regulation or any ambient air quality standard. A revised air pollutant emission notice (APEN) and application form must be submitted with a request for a permit revision. (Reference: Regulation Number 3, Part B II.A.4.)

2) This source is subject to the Common Provisions Regulation Part II, Subpart E, Affirmative Defense Provision for Excess Emissions During Malfunctions. The permittee must notify the Division of any malfunction condition which causes a violation of any emission limit or limits stated in this permit as soon as possible, but no later than noon of the next working day, followed by written notice to the Division addressing all of the criteria set forth in Part II.E.1. of the Common Provisions Regulation. See: https://www.colorado.gov/pacific/cdphe/aqcc-regs.

3) The transfer point emission levels contained in this permit are based on the following emission factors:

Transfer Point Emissions:

	Emission Factors - Uncontrolled (per transfer point)		Emission Factors - Controlled* (per transfer point)	
Pollutant	lb/ton	Source	lb/ton	Source
PM	0.0030	EPA's AP-42 table 11.19.2-2	0.000063	Division calculation
PM_{10}	0.0011	EPA's AP-42 table 11.19.2-2	0.000023	Division calculation
$PM_{2.5}$	0.00031	ratio from uncontrolled PM10 using the PM10 and PM2.5 controlled emission factors	0.0000065	Division calculation

* Emissions controlled by water spray bars and/or moist material

In developing the emissions limits in this permit, it was assumed there are 12 transfer points. Emissions are calculated using the following formula:

Emissions (in tons) = (EF x Y x N)/2000

Where:

EF = emission factor per the table above
Y = throughput of material in tons
N = number of transfer points

4) In accordance with C.R.S. 25-7-114.1, each Air Pollutant Emission Notice (APEN) associated with this permit is valid for a term of five years from the date it was received by the Division. A revised APEN must be submitted no later than 30 days before the five-year term expires. Please refer to the most recent annual fee invoice to determine the APEN expiration date for each emissions point associated with this permit. For any questions regarding a specific expiration date call the Division at (303)-692-3150.

5) This facility is classified as follows:

Applicable Requirement	Status
Operating Permit	Minor source
PSD/NANSR	Minor source

6) Full text of the Title 40, Protection of Environment Electronic Code of Federal Regulations can be found at the website listed below:

http://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=2a3fbebe8f5c2f47006ad49ae4b4c080&mc=true&tpl=/ecfrbrowse/Title40/40tab_02.tpl

Part 60: Standards of Performance for New Stationary Sources		
NSPS	§60.670 - §60.676	Subpart OOO

7) The permit holder is required to pay fees for the processing time for this permit. An invoice for these fees will be issued after the permit is issued. Failure to pay the invoice will result in revocation of this permit. The permit holder must pay the invoice within 30 days of receipt of the invoice (Reference: Regulation Number 3, Part A, VI.B.).

8) Unless specifically stated otherwise, the general and specific conditions contained in this permit have been determined by the Division to be necessary to assure compliance with the provisions of Section 25-7-114.5(7)(a), C.R.S.

9) Each and every condition of this permit is a material part hereof and is not severable. Any challenge to or appeal of a condition hereof must constitute a rejection of the entire permit and upon such occurrence, this permit must be deemed denied *ab initio*. This permit may be revoked at any time prior to self-certification and final authorization by the Division on grounds set forth in the Colorado Air Pollution Prevention and Control Act and regulations of the AQCC including failure to meet any express term or condition of the permit. If the Division denies a permit, conditions imposed upon a permit are contested by the applicant, or the Division revokes a permit, the applicant or owner or operator of a source may request a hearing before the AQCC for review of the Division's action. (Reference: Regulation Number 3, Part B III.F.)

10) Section 25-7-114.7(2)(a), C.R.S. requires that all sources required to file an Air Pollutant Emission Notice (APEN) must pay an annual emission fee. If a source or activity is to be discontinued, the owner must notify the Division in writing requesting a cancellation of the permit. Upon notification, annual fee billing will terminate.

11) Violation of the terms of a permit or of the provisions of the Colorado Air Pollution Prevention and Control Act or the regulations of the AQCC may result in administrative, civil or criminal enforcement actions under Sections 25-7-115 (enforcement), -121 (injunctions), -122 (civil penalties), -122.1 (criminal penalties), C.R.S.

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PARTICULATE EMISSIONS CONTROL PLAN FOR MINING AND PROCESSING ACTIVITIES

THE FOLLOWING PARTICULATE EMISSIONS CONTROL MEASURES MUST BE USED FOR COMPLIANCE PURPOSES ON THE ACTIVITIES COVERED BY THIS PERMIT, AS REQUIRED BY THE AIR QUALITY CONTROL COMMISSION REGULATION NUMBER 1, III.D.1.b. THIS SOURCE IS SUBJECT TO THE FOLLOWING EMISSION GUIDELINES:

a. Mining and Processing Activities - Visible emissions not to exceed 20%, no off-property transport of visible emissions.

b. Haul Roads - No off-property transport of visible emissions must apply to on-site haul roads, the nuisance guidelines must apply to off-site haul roads.

c. Haul Trucks - There must be no off-property transport of visible emissions from haul trucks when operating on the property of the owner or operator. There must be no off-vehicle transport of visible emissions from the material in the haul trucks when operating off of the property of the owner or operator.

Control Measures

1. Adequate soil moisture must be maintained in topsoil and overburden to control emissions during removal. Watering must be implemented if necessary.

2. Topsoil and overburden stockpiles must be revegetated within one year.

3. Emissions from material handling (i.e. removal, loading, and hauling) must be controlled by watering at all times unless natural moisture is sufficient to control emissions.

4. Haul roads must be treated with chemical stabilizer per manufacturer's recommendations, and watered as often as needed to control fugitive particulate emissions such that the above guidelines are met.

5. Reclamation works and sequential extraction of material must be initiated to keep the total disturbed areas at any one time to a minimum.

6. All disturbed areas must be treated with chemical stabilizer per manufacturer's recommendations, and watered as often as needed to control fugitive particulate emissions such that the above guidelines are met, and revegetated within one year.

UNITED COMPANIES
A CRH COMPANY
TELLURIDE GRAVEL
A CRH COMPANY

2273 River Road
PO Box 3609
Grand Junction, CO 81502
(970) 243-4900

3794 County Road 109
Glenwood Springs, CO 81601
(970) 704-4800

13124 6175 Road
Montrose, CO 81403
(970)249-1815

964 CR 63L
Telluride, CO 81435
(970) 728-3775

www.united-gj.com

June 30, 2021

Received
JUL -2 2021
Water Quality Control

Colorado Department of Public Health
Water Quality Control Division
4300 Cherry Creek Drive South
Denver, CO 80246-1530

RE: 2021 Permit Renewal Applications

Enclosed are discharge renewal applications for the discharge permits associated with the following locations:

Permit # & Name for Oldcastle SW Group sites

15 Road Pit	COG500437	Latham Burkett Pit	COG500003
32 Rd Gravel Pit	COG501725	Lyster Pit	COG501522
Alexander Pit	COG501813	Mamm Creek Gravel Pit	COG500408
Anderson Pit	COG500464	North Bank Pit	COG500482
Animas Glacier Gravel	COG502072	Norwood Gravel Pit	COG501827
Blair Mesa Pit	COG501819	Otter Creek Pit	COG501567
Breeze Basin Pit	COG501614	Railhead Gravel Pit	COG500299
Cerise Sand and Gravel Pit	COG502042	River Road Pit	COG500216
Chambers Pit	COG500119	Rozman Pit	COG501768
Craig Ranch Pit	COG502046	Scott Pit	COG501510
De Beque Pit No 2	COG501542	Sea Horse 2 Pit	COG500420
Eagle West Pit	COG500088	Sievers Ranch Pit	COG500267
Glens Pit	COG500467	Spring Creek Pit	COG501842
Gunnison Pit	COG500010	Tellier Pit	COG500350
Gypsum Ranch Pit	COG500342	Tri County Pit	COG500498
Hayden Pit	COG501590	Two Feathers Pit	COG501949
Hidden Valley Pit	COG502033	White River City Pit	COG500484

Sincerely,

Jason Burkey

Jason Burkey
Environmental / Resource Manager
Oldcastle SW Group, Inc.
jburkey@oldcastlematerials.com

Enclosure:
Colorado Water Quality Control Division Termination Application

COLORADO
Department of Public Health & Environment

For Agency Use Only:
Permit Number Assigned
COG50 - ________

APPLICATION FOR CDPS GENERAL PERMIT COG500000
DISCHARGES FROM SAND AND GRAVEL MINING AND PROCESSING

Please print or type. Original signatures are required.
Photo, faxed, pdf or email copies will not be accepted.

The application must be submitted to the Water Quality Control Division at least **60 days** prior to the anticipated date of discharge, and must be considered complete by the division before the review and approval process begins. The division will notify the applicant if additional information is needed to complete the application. If more space is required to answer any question, please attach additional sheets to the application form. Applications must be submitted by mail or hand delivered to:

Colorado Department of Public Health and Environment
Water Quality Control Division, WQCD-P-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Received
JUL - 2 2021
Water Quality Control

A. PERMIT INFORMATION

Reason for Application: ☐ NEW CERT
☑ RENEW CERT EXISTING CERT # COG501768

Applicant is: ☐ Property Owner ☑ Contractor/Operator

The applicant requests authorization for the following discharge type(s).

☑ ***Mine (pit) dewatering***: includes any water, such as groundwater, seepage, and stormwater (precipitation and surface runoff), that is impounded or that collects in the mine pit (surface or underground workings) and is pumped, drained, or otherwise removed from the mine through the efforts of the mine operator. In addition, for construction sand and gravel facilities and industrial sand facilities only, mine dewatering includes wet pit overflow caused solely by direct rainfall and/or groundwater seepage;

☐ ***Process generated wastewater***: includes any wastewater used in slurry transport of mined materials, air emissions control, and processing exclusive to mining.

☐ ***Water used in processing the mined commodity***: includes water from washing, sorting, screening, crushing, classifying, etc.

☑ ***Stormwater runoff***, comingled with the above listed wastewaters before the discharge point.

☐ ***Stormwater runoff*** (not comingled with the above listed wastewaters) from facility pollutant sources: includes runoff from stockpiles, disturbed areas, roads, maintenance areas, etc.; asphalt batch plants (SIC code 2951); concrete batch plants (SIC code 3273); or asphalt and concrete recycling activities conducted at the facility.

Note: the following discharge types **are not eligible** for coverage under CDPS General Permit COG500000:

- Stormwater discharges associated with construction activity that disturbs one acre or more;
- Process water discharges from asphalt batch plants (resulting from the production of asphalt concrete);
- Process water discharges from concrete batch plants, including drum and truck wash water (concrete wash out);
- Stormwater and process water discharges from placer mining industrial activities (SIC Major Group 10).
- Process water discharges from the SIC codes identified in **Appendix 1** of this application.

B. CONTACT INFORMATION

1. Permittee Information

Organization Formal Name: Oldcastle SW Group, Inc.

Permittee Name: the person **authorized to sign and certify** the permit application. This person receives all permit correspondences and is **responsible** for ensuring compliance with the permit.

Responsible Position (Title): Natural Resources / Environmental Manager

Currently Held By (Person): Jason Burkey

Telephone No: 970-243-4900

Email address: jason.burkey@na.crh.com

Mailing Address: 2273 River Road

City: Grand Junction State: CO Zip: 81505

This form must be signed by the permittee to be considered complete. **Per Regulation 61**, in all cases, it shall be signed as follows:

a) In the case of corporations, by a responsible corporate officer. For the purposes of this section, the responsible corporate officer is responsible for the overall operation of the facility from which the discharge described in the application originates.
b) In the case of a partnership, by a general partner.
c) In the case of a sole proprietorship, by the proprietor.
d) In the case of a municipal, state, or other public facility, by either a principal executive officer or ranking elected official.

2. **DMR Cognizant Official** (i.e. authorized agent) the person or position authorized to sign and certify reports required by permits including Discharge Monitoring Reports [DMR's], Annual Reports, Compliance Schedule submittals, and other information requested by the division. The division will transmit pre-printed DMR's to this person. If more than one, please add additional pages.

☑ Same as 1) Permittee

Responsible Position (Title): Natural Resources / Environmental Manager

Currently Held By (Person): Jason Burkey

Telephone No: 970-243-4900

Email address: jason.burkey@na.crh.com

Organization: Oldcastle SW Group, Inc.

Mailing Address: 2273 River Road

City: Grand Junction State: CO Zip: 81505

Per Regulation 61: All reports required by permits, and other information requested by the Division shall be signed by the permittee or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a) The authorization is made in writing by the permittee
b) The authorization specifies either an individual or **a position having responsibility for the overall operation of the regulated facility or activity** such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position)
c) Submitted in writing to the Division

B. CONTACT INFORMATION (cont.)

3. **Site/Local Contact** (contact for questions relating to the facility & discharge authorized by this permit.)
   ☐ Same as 1) Permittee
   Responsible Position (Title): Environmental Specialist
   Currently Held By (Person): Tyra Bartuska
   Telephone No: 970-697-7886
   Email address: tyra.bartuska@unitedco.com
   Organization: Oldcastle SW Group, Inc.
   Mailing Address: 2273 River Road
   City: Grand Junction State: CO Zip: 81505

4. **Operator in Responsible Charge** ☐ Same as 1) Permittee ☑ Same as 3) Site/ Local Contact
   Responsible Position (Title): Environmental Specialist
   Currently Held By (Person): Tyra Bartuska
   Telephone No: 970-697-7886
   Email address: tyra.bartuska@unitedco.com
   Organization: Oldcastle SW Group, Inc.
   Mailing Address: 2273 River Road
   City: Grand Junction State: CO Zip: 81505

5. **Billing Contact** ☐ Same as 1) Permittee
   Responsible Position (Title): Business Analyst
   Currently Held By (Person): Amy LeMoine
   Telephone No: 970-243-4900
   Email address: amy.lemoine@unitedco.com
   Organization: Oldcastle SW Group, Inc.
   Mailing Address: 2273 River Road
   City: Grand Junction State: CO Zip: 81505

6. **Other Contact Types (check below) Add pages if necessary:**
   Responsible Position (Title): ________
   Currently Held By (Person): ________
   Telephone No: ________
   Email address: ________
   Organization: ________
   Mailing Address: ________
   City: ________ State: ________ Zip: ________

   ☐ Environmental Contact ☐ Other ________
   ☐ Facility Inspection Contact
   ☐ Consultant
   ☐ Compliance Contact
   ☐ Property Owner

C. PERMITTED FACILITY INFORMATION

Facility or Project Name Rozman Pit

Street Address (or cross streets) 1500 Buckley Drive Riverland Park

City Crested Butte Colorado, Zip Code 81224

County Gunnison

Type of Facility Ownership

- ☐ City Government
- ☐ Corporation
- ■ Private
- ☐ Municipal or Water District
- ☐ State Government
- ☐ Mixed Ownership ______

Facility or Project Latitude/Longitude – List the latitude and longitude of the center point of the facility.

Latitude: 38.841705 Longitude: -106.950426

(Provide coordinates in decimal degrees to 6 decimal places (e.g., 39.703345°,-104.933567°))

Standard Industrial Classification (SIC) Code(s) for this FACILITY (please use dropdown menu to select up to 4 SIC codes, in order of importance)

Note: see the SIC codes covered by permit link (general permit COG500000) on the division website for descriptions of SIC codes associated with this permit.

1. 1442 2. 3273 . 2951 4. ______

D. PROJECT DESCRIPTION - Provide an overview of the industrial activities that are conducted at the facility.

Construction Sand & Gravel mining and processing
Possible Hot Mix Asphalt paving material processing with portable plant
Concrete Batching

E. SITE MAPS AND SCHEMATICS - provide as an attachment to the application - no larger than 11x17 inches

1. **Location Map** - Application must include a location map that shows the location of the project/facility, the boundaries of the area subject to the application, and all receiving water(s). A north arrow must be shown.

2. **Legible Site Sketch** - showing all surface features (buildings, ponds, diversion ditches, stockpiles, processing areas, batch plants, other pollutant sources, etc.); stream location(s); numbered outfalls; **and direction(s) of water flow at the facility indicated by arrows (stormwater and process water).** Label outfalls to correspond with the numbers listed **Table G.1** of this application.

   Are the required maps/sketches attached? ● Yes ○ No - Application cannot be processed without required maps

F. SITE-SPECIFIC CONDITIONS - Nearby Sources of Potential Groundwater Contamination/Facility pollutant sources

Note: The division may require representative analytical data of the effluent (e.g., mine pit water or discharge) as part of the application review process. The division will notify the applicant if any additional information is required. Failure to provide this data may delay permit application processing until such data is submitted to the division.

Note: see Appendix B of Application Guidance Document (Construction Dewatering - COG070000) on the division website for resources useful in identifying ground water contamination near the facility.

1. Has the applicant reviewed the surrounding area for possible groundwater contamination, such as plumes from leaking underground storage tanks (LUSTs), hazardous waste sites, or additional sources? *Applicants are expected to exercise due diligence in evaluating their sites prior to applying for a discharge permit.*

   ■ Yes ☐ No ☐ NA (no water leaves the pit, or stormwater-only discharge)

2. Is an open LUST located within **0.5 mile** of the site? ☐ Yes ■ No
   **If yes, BTEX analytical data for the mine pit water or discharge must be included with the permit application. The division may request analytical data for additional parameters. Failure to include this data may delay permit application processing until such data is submitted to the division.*

3. Is a Superfund site or National Priorities List (NPL) site located within **1 mile** of the site? ☐ Yes ■ No
   **If yes, analytical data for the mine pit water or discharge, for those parameters associated with the Superfund or NPL facility, must be included with the permit application. Failure to include this data may delay permit application processing until such data is submitted to the division.*

4. Is a UMTRA facility located within **1 mile** of the site? ☐ Yes ■ No
   **If yes, analytical data for the mine pit water or discharge, for those parameters associated with the UMTRA facility, must be included with the permit application. Failure to include this data may delay permit application processing until such data is submitted to the division.*

5. Is any other (non-LUST, non-Superfund, non-NPL site) known source of contamination, such as a Voluntary Cleanup (VCUP), Environmental Covenant, open RCRA Corrective Action site, or brownfields site located within **0.5** mile of the site? ☐ Yes ■ No

   **If yes, analytical data for the mine pit water or discharge, for those parameters associated with the known source of contamination, must be included with the permit application. Failure to include this data may delay permit application processing until such data is submitted to the division.*

6. Is the sand and gravel facility within the footprint of an historic landfill? ☐ Yes ■ No

If **Yes** for any of questions 1 - 6 above, show location of the source(s) of possible groundwater contamination on the maps required in **Item E of this application**. In the box below, describe the location, extent of contamination, and possible effect on the discharges from this facility.

No listed sites within the stated distance from the pit.

7. Is concrete truck washout conducted at the facility? ■ Yes ☐ No

   If **Yes,** please provide the following additional information with respect to this discharge:

   - Location of concrete washout water discharge. Check all that apply.
     - ☐ to surface water
     - ☐ to the ground
     - ■ to an unlined impoundment or excavation
     - ☐ to a lined impoundment or excavation
     - ■ washout water not discharged - water is reused, or evaporates
   - What is the proximity of the discharge to a lake, pond, stream/river, intermittent or ephemeral creek, drainage, irrigation ditch, wetland, etc? N/A
   - Is the discharge within the DRMS permit boundary? N/A
   - What is discharge volume and frequency? N/A

8. Does the facility discharge stormwater runoff from a **concrete batch plant**? (SIC code 3273) ☐ Yes ■ No

9. Does the facility discharge stormwater runoff from an **asphalt batch plant**? (SIC code 2951) ☐ Yes ☐ No

10. Does the facility discharge stormwater runoff from **recycled concrete**? ☐ Yes ☐ No

11. Does the facility discharge stormwater runoff from **recycled asphalt**? ☐ Yes ☐ No

G. OUTFALLS

1. For **EACH** process water or stormwater-only outfall, provide the information identified in the table. Instructions for filling out this table (superscripts 1 -12) are provided in **Attachment 2** of this application. Please copy this page and submit with the application if more than 6 outfalls are required.

Table G.1

Outfall and Activity information					Discharge information				Receiving water information	
Outfall Number	Latitude Longitude[1]	Activity Description(s)[2]	SIC Code[3]	Process water or stormwater[4]	Discharge type[5]	Continuous or instantaneous flow measure[6] / Specific flow method[7]	Flow rate in MGD[8]	Chemicals[9]	Distance from pit to surface water[10]	Immediate[11] / Ultimate[12]
001	38.843122, -106.950647	Stormwater runoff from stockpiled gravel	1442	Process Water	Passive pit dewatering	Instantaneous flow / Flow probe in channel	1.5	N/A	300 yds	Unnamed Ditch / Colorado River
002	38.843089, -106.946481	Stormwater runoff from stockpiled gravel	1442	Stormwater	Stormwater		N/A	N/A	300 yds	Roadside Ditch / Slate River
003										
004										
005										
006										

2. Are any of the receiving waters identified in the Table G.1 above a storm sewer system, ditch, or manmade conveyance?

   □ Yes ■ No

   Note: if discharge is to a storm sewer system, ditch, or manmade conveyance, approval from the owner of the system must be obtained before discharge.

3. Did the applicant obtain approval from the owner of the storm sewer system, ditch, or manmade conveyance?

   □ Yes □ No ■ NA - discharge is not to a storm sewer system, ditch, or manmade conveyance.

H. CHEMICAL ADDITION/TREATMENT

If chemical additives, settling agents, flocculants, or other materials are proposed for use in or to treat wastewater/stormwater prior to discharge, please submit a **Chemical Approval Form** with this application.

1. Is chemical addition/treatment proposed for this facility?

   □ Yes ■ No

2. Did applicant submit a **Chemical Approval Form** with this application?

   □ Yes ■ No - chemical addition/treatment not proposed

I. OTHER ENVIRONMENTAL PERMITS

Does this facility currently hold any environmental permits, or is it subject to regulation, under any of the following programs?

Permit Name	Yes	No	Effective Date	Permit No.
1. Colorado Division of Reclamation, Mining and Safety	✓		June, 1981	M-1981-014
2. Underground Injection Control		✓		
3. Clean Water Act (CWA) Section 404 - US COE		✓		
4. Resource Conservation and Recovery Act (RCRA)		✓		
5. CDPS Stormwater	✓		Combined/Discharge Permit	Stormwater Permit
6. Colorado State Air Pollution Emission	✓		2002	02GU0752F
7. Other		□		

J. ACTIVITY DURATION

When did the activity commence? 1981

What is the estimated life of the activity generating the discharge(s) ? 40 years.

K. STORMWATER MANAGEMENT PLAN (SWMP) CERTIFICATION - required ONLY for applications requesting stormwater-only outfalls.

The Stormwater Management Plan must be completed prior to signing the following certifications!

A Stormwater Management Plan (SWMP) shall be prepared prior to applying for stormwater coverage under the general permit, and the following certification signed.

"I certify under penalty of law that a complete Stormwater Management Plan has been prepared for my activity. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the Stormwater Management Plan is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for falsely certifying the completion of said SWMP, including the possibility of fine and imprisonment for knowing violations."

Signature of Legally Responsible Person or Authorized Agent — Date Signed

Name (printed) — Title

L. REQUIRED CERTIFICATION SIGNATURE [REG 61.4(1)(H)]

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

[signature] 6/30/2021

Signature of Legally Responsible Person or Authorized Agent — Date Signed

JASON BURKEY ENVIRONMENTAL / RESOURCE MGR

Name (printed) — Title

This form must be signed by the permittee to be considered complete. **Per Regulation 61**, in all cases, it shall be signed as follows:

a) In the case of corporations, by a responsible corporate officer. For the purposes of this section, the responsible corporate officer is responsible for the overall operation of the facility from which the discharge described in the application originates.
b) In the case of a partnership, by a general partner.
c) In the case of a sole proprietorship, by the proprietor.
d) In the case of a municipal, state, or other public facility, by either a principal executive officer or ranking elected official.

DO NOT INCLUDE A COPY OF THE STORMWATER MANAGEMENT PLAN with the application

DO NOT INCLUDE PAYMENT - AN INVOICE WILL BE SENT AFTER THE CERTIFICATION IS ISSUED.

SURFACE WATER RUNOFF DIRECTIONS
SKELTON PIT DISTURBANCE AREA: approx. 25 acres
ELEVATED AREA KEEPING DRAINAGE PIT RUNOFF FROM DRAINING SOUTH
Current Runoff Patterns
Skelton Pit
DRMS Permit Number: M-1988-037
United Companies
Mine Entry Location: Latitude: 38.1544 Longitude: -108.2533
State: CO County: Montrose Nearest Town: Norwood
Section: 13 Township: 45N Range: 13W PM: 10
Major Watershed: San Miguel River MSHA ID: ###
Map Scale: 1": 250'
0 250 500
N
Map Georeferencing Information: Datum: NAD83 Projection: CO SOUTH
Survey Source: Drone Flight
Imagery Source: Google
Survey Date: 2020
Imagery Date: 2020
Drawn by: SC Date: 10/27/21
Checked by: SC Date: ----
Approved by: ---- Date: ----
File Name: Norwood Pit Drainage Map - Supplement
3375 West Powers Circle Littleton, CO USA 80123
(303)-346-5196
info@lewicki.biz

SURFACE WATER RUNOFF DIRECTIONS
SKELTON PIT DISTURBANCE AREA:
approx. 25 acres
STORMWATER BERM KEEPING ALL RUNOFF WITHIN PIT
ELEVATED AREA KEEPING
DRAINAGE PIT RUNOFF
FROM DRAINING SOUTH
6930'
6940'
6950'
6960'
6970'
6980'
6990'
Mining Runoff Patterns
Skelton Pit
DRMS Permit Number: M-1988-037
United Companies
Mine Entry Location:
Latitude: 38.1544
Longitude: -108.2533
State: CO
County: Montrose
Nearest Town: Norwood
Section: 13
Township: 45N
Range: 13W
PM: 10
Major Watershed:
San Miguel River
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3375 West Powers Circle
Littleton, CO USA 80123
(303)-346-5196
info@lewicki.biz

Reclamation Runoff Patterns

Skelton Pit

DRMS Permit Number: M-1988-037 **United Companies**

Mine Entry Location:	Latitude: 38.1544	Longitude: -108.2533
State: CO	County: Montrose	Nearest Town: Norwood
Section: 13	Township: 45N	Range: 13W PM: 10
Major Watershed:	San Miguel River	**MSHA ID: ###**

Map Scale: 1": 250'

0 250 500

N

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

Survey Source: Drone Flight	**Drawn by:** SC	Date: 10/27/21
Imagery Source: Google	**Checked by:** SC	Date: ----
Survey Date: 2020	**Approved by:** ----	Date: ----
Imagery Date: 2020		

File Name: Norwood Pit Drainage Map - Supplement

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

MONTROSE COUNTY
PLANNING & DEVELOPMENT
63160 LaSalle Road
Montrose, CO 81401
Phone: 970-249-6688
Fax: 970-249-6680
www.montrosecounty.net

October 27, 2021

Jason Burkey
CRH Americas Materials

RE: United Norwood Gravel Pit

Dear Mr. Burkey,

This letter is in reference to the property located on the east side of Montrose County 44ZN Road and directly north of San Miguel County.

There are gravel operations taking place on the property which is known as the United/Norwood Gravel Pit or the Skelton Pit.

Montrose County has not received any complaints regarding mining operations and there are no open violations, which means the gravel pit is in good standing with Montrose County.

If you have any further questions regarding this issue, please feel free to contact me at 970-252-4550, or swhite@montrosecounty.net.

Sincerely,

Steve White
Planning and Development Director

COLORADO
Division of Reclamation, Mining and Safety
Department of Natural Resources

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: United/Norwood Pit	**MINE/PROSPECTING ID#:** M-1988-037	**MINERAL:** Gravel	**COUNTY:** Montrose
INSPECTION TYPE: Monitoring	**INSPECTOR(S):** Lucas J. West	**INSP. DATE:** October 23, 2018	**INSP. TIME:** 12:30
OPERATOR: Oldcastle SW Group, Inc. dba United Compan County	**OPERATOR REPRESENTATIVE:** None	**TYPE OF OPERATION:** 112c - Construction Regular Operation	

REASON FOR INSPECTION: Normal I&E Program	**BOND CALCULATION TYPE:** Complete Bond	**BOND AMOUNT:** $245,000.00
DATE OF COMPLAINT: NA	**POST INSP. CONTACTS:** None	**JOINT INSP. AGENCY:** None
WEATHER: Raining	**INSPECTOR'S SIGNATURE:**	**SIGNATURE DATE:** December 7, 2018

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

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

OBSERVATIONS

This inspection was conducted as part of the normal monitoring program established by the Colorado Division of Reclamation Mining and Safety's Minerals Program. The United/ Norwood Pit is an active 112(c) located on the Montrose / San Miguel County Line approximately 3.5 miles northeast of Norwood, CO at 7300 Feet in Elevation. The site consists of 83.3 Permitted Acres with nearly 45 acres disturbed or in varying stages of reclamation. No Operator representative was present during the inspection. The Division currently holds $245,000.00 in Financial Warranty for the site. A reclamation cost estimate update was performed as a result of this inspection. Staff calculations found that the currently held financial warranty is sufficient to achieve reclamation of the site. Four Photos accompany this report to illustrate the current site conditions.

The proper mine identification signage was posted at the entrance to the site and the permit boundaries were clearly marked. The mine ID sign can be seen in Photo One. The site was not active during the day of the inspection due to the weather. The entrance to the site consists of the scale, scale house, fuel and equipment storage. All fuel and hazardous materials were stored with appropriate secondary containment, and all equipment, scrap and other items were stored in a neat and orderly fashion. Located all throughout the pit floor is the processing and stockpile area. Processing activities including the operation of the asphalt hot plant were not underway the day of the inspection. The hot plant and processing facilities can be seen in Photo Two. Several stockpiles of various sized materials were on the pit floor, all stockpiles that were observed appear to be stable and in good condition. The overburden and topsoil stockpiles were observed at different locations throughout the site for ease of transport during reclamation. Examples of the materials stockpiles can be seen in Photo Three. The pit floor exhibit positive drainage and no impounded storm water was observed. All areas that have been sloped and reclaimed appear to be stable and in good condition. In the area near the wash plant ponds, the sloping has been completed and the area appears to exhibit sufficient vegetative cover.

The active mining area consist of a highwall approximately 40 feet tall. A new mining area is currently being stripped in the area referred to as Phase 4. The active mining area can be seen in Photo Four. The highwall is in good condition and no evidence of settling, slumping, or erosion was observed. The overall footprint of the site is in good condition and free from excessive trash and debris. Evidence of chemical treatment of noxious weeds was observed and throughout the site no signs of significant erosion was observed.

All responses to this report should be directed to Lucas West at the Colorado Division of Reclamation, Mining and Safety at 1313 Sherman Street, Room 215, Denver, CO 80203, by phone at (970) 243-6368 or by email at lucas.west@state.co.us.

Inspection Contact Address

Jason Burkey
Oldcastle SW Group, Inc. dba United Companies of Mesa County
P.O. Box 3609
Grand Junction, CO 81502

PHOTOGRAPHS

Photo One: Showing the proper Mine ID signage posted at the entrance to the site.

Photo Two: View East showing the asphalt hot plant and associated support facilities located on the pit floor. All hazardous materials tanks associated with the plant have proper secondary containment.

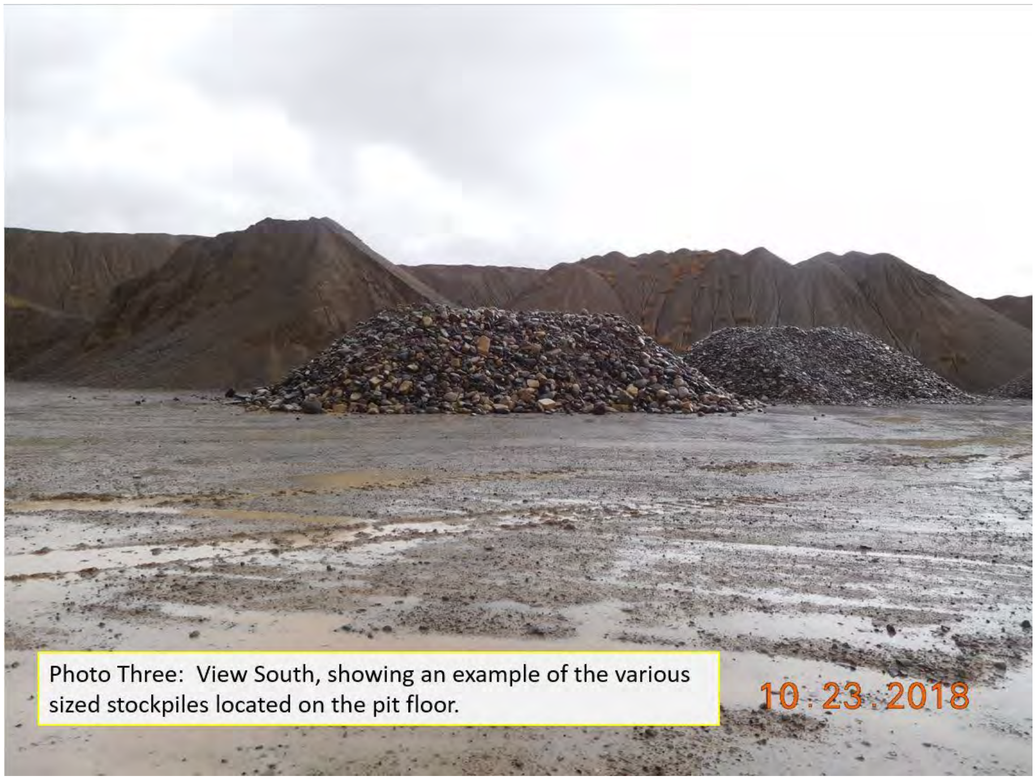

Photo Three: View South, showing an example of the various sized stockpiles located on the pit floor.

Photo Four: View East showing the active mining area. The highwall appears to be in good condition and shows no signs of settling, slumping or erosion.

Please publish the following Legal Ad in the:

NORWOOD POST AND TELLURIDE DAILY PLANET on WEDNESDAY NOVEMBER 10, 2021

Please bill: San Miguel County Planning Department
P.O. Box 548
Telluride, CO 81435

COUNTY PLANNING COMMISSION

MEETING AGENDA
NOVEMBER 18, 2021
Online Meeting

MEETING INFORMATION - This meeting will be held online due to the COVID-19 virus. To join the meeting: https://zoom.us/join, Meeting ID: 965 1288 5206, Password: 534277; Audio only: Dial 1-301-715-8592 or 1-253-215-8782 (long distance rates may apply)

1. **9:00 AM CALL TO ORDER.**

2. **APPROVAL OF MINUTES**

3. **9:05 AM PUBLIC HEARING: CONTINUED REVIEW OF LAND USE APPLICATION FROM OCTOBER 14, 2021**

   Applicant: Ben Langenfield, Representative; Skelton Inc.

   Location: (Parcel # 429517300003) located south of Montrose County off CR 44Z N

   Parcel size: 25-acre

   Zone District: Wright's Mesa (WM)

   Proposal: Mining Special Use Permit for proposed expansion of the United Materials Norwood Gravel Pit. MOTION

4. **WORKSESSION:**

   Request: Staff discussion of SMC Affordable Housing Impact Mitigation Standards.

5. **PLANNING COMMISSION AND STAFF COMMENTS**

6. **ADJOURN**

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Briefs

BRIEFS, from page 3

mascots after June 1, 2022. The law does not apply to schools on tribal lands and also allows exceptions for schools that had existing agreements with tribes.

The suit argues that the complete erasure of Native American imagery is not beneficial and that the use of positive and respectful Native American symbols and mascots in schools honors the group, helps neutralize offensive stereotypes and teaches the public about Native American history. The lawsuit also states that the use of positive Native American symbolism is a form of "reappropriation" or a way to "reclaim names and images that were once directed at them as insults in order to turn them outward as badges of pride."

According to the lawsuit, John and Jane Doe, who are of Cherokee and Chippewa descent, attend Yuma High School in northeast Colorado which is home of the "Yuma Indians." The two want their school to continue honoring their cultures and heritage because as the suit alleges, they "would suffer a hostile environment" if the Native mascots were banned.

The Colorado Commission of Indian Affairs has identified more than 20 schools across the state for violating the law by using terms such as Savages, Indians and Warriors in their mascot's name.

Spokespeople for Polis and Weiser said they would not comment because the lawsuit is ongoing.

An email sent last Thursday to the Colorado Commission of Indian Affairs for comment on the lawsuit was not immediately returned.

Norwood Business

Norwood Classifieds

Notices

Legal Notices
Bids
Free items
Lost & Found
Personals
Food
Volunteers
Wanted

Public Notices

THE MEETING OF THE TELLURIDE REGIONAL AIRPORT AUTHORITY WILL BE HELD ON THURSDAY, NOVEMBER 18, 2021 AT 12:00 P.M. LOCATION: OBSERVATION LOUNGE, 2ND FLOOR, TELLURIDE REGIONAL AIRPORT.

SEE www.tellurideairport.com FOR AGENDA

Jobs

Help Wanted
Work Wanted

Wanted

Want to buy Norwood water tap. Also, want to buy Gurley Ditch shares. Contact me @ ellenbradley13@gmail.com or (970)708-3898

Help Wanted

SAN MIGUEL COUNTY COLORADO

San Miguel County is Hiring!

All positions are full-time, year-round and include a comprehensive benefits package!

Equipment Operators (x2)
$21.80 per hour
Road & Bridge Department
(Deep Creek Shop)

Deputy Clerk
$20.74 per hour
County Clerk & Recorder's Office
(County Courthouse – Telluride)

Senior Property Appraiser
$24.66 to $29.31 per hour - Depending on Experience
County Assessor's Office
(Miramonte Building – Telluride)

Data Collector
$22.34 to $25.28 per hour – Depending on Experience
County Assessor's Office
(Miramonte Building – Telluride)

Mechanic
$24.06 per hour
Depending on Experience
Road & Bridge Department

Administrative Assistant/ Parks & Trails Aide
$19.26 - $22.91 per hour
Depending on Experience
Parks & Open Space Department
(Miramonte Building – Telluride)

To view the complete job descriptions and officially apply for any of the County's open career opportunities, please visit: www.sanmiguelcountyco.gov/jobs

San Miguel County is an Equal Opportunity Employer (EOE).

Help Wanted

Alpine LUMBER CO.

We are currently accepting applications for a
Forklift Operator/Yard Laborer/Lumber Truck Driver

The ideal candidate will be customer service oriented and willing and able to work outdoors during the winter. This is a full-time hourly paid position $19-$20/hr with overtime available. DOE + includes a benefits package. Alpine Lumber is 100% employee owned.

Apply online at alpinelumber.com under the Employment tab. Call (970)728-4388 or stop by 140 Society Drive, Lawson Hill/ Telluride with any questions.

Lone Cone Library

Lone Cone Library is currently seeking a Youth and Adult Specialist to deliver programs for children, teens, and adults.

Will assist in developing new programs. Up to 20 hours per week. Must be able to work a flexible schedule that includes days, evenings and weekends. Pay is between $15-$18 per hour DOE.

For more information visit our website at www.loneconelibrary.org.

SAN MIGUEL COUNTY COLORADO

San Miguel County's Road & Bridge Department is Hiring!

Administrative Assistant
$19.26 per hour
Part-Time
24 hours per week
(Norwood)

To view the complete job description and officially apply for any of the County's career opportunities, please visit: www.sanmiguelcountyco.gov/jobs

San Miguel County is an Equal Opportunity Employer (EOE).

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Planet Classifieds

Help Wanted

BUSINESS OPPORTUNITY
Work to own established Telluride business

BENEFITS:

-Variable hours

-Yearly income without working year round

-Established business

-Income dependent on effort

-Excellent growth potential

REQUIREMENTS:

-Must live in Telluride area

-Excellent communication

-Sales / Marketing

-Available on short notice

-Ownership interest

Additional details to follow for the right candidate.

Send resume to:
infotridebus@protonmail.com

Bella Fine Goods

****Bella Fine Goods****
$55k–$80k
*Based on experience

Hiring a FT Sales Consultant
Background in Art, Fashion, and/or Design a plus!

Base salary, commission & bonuses!

Email: info@bellafinegoods.com or call David (480)483-4600

BLACK TIE SKI RENTAL DELIVERY

Black Tie Skis is hiring for 21/22 Winter season.

Valet Managers
$18 to $27 per hour (with tips).
Plus revenue, inventory, and operations bonus.

Reservation Agents
$17 to $26

Delivery Rental
Technicians $14 to $28
(must have valid license)

Valet/Shop Rental Techs
$16 to $25

****

Full-time positions include ski pass or equal compensation.

Start and end of season bonus programs.

Gear discounts and employee demo programs.

****

Please send resume to Sam@blacktieskis.com or call (970)369-7799

Help Wanted

Element 52
AUBERGE RESIDENCES
telluride, colorado

Now Hiring:

Maintenance Tech
Full-time/Year-round
Insurance, 401K, Ski pass, Vacation Pay

Please submit your resume to:
E52.careers@aubergeresorts.com

For Sale

Automobiles

Studded snow Tires "Goodyear, Winter Command", size, 245/60R18 mounted on Toren TR-60 wheels, lug nuts included. Fits a Toyota Highlander. Used 1 winter. Asking $700.00
phone (208)201-5049.

Rentals

Telluride Long-Term

1 Bd 1Ba Condo avail 12/01 1 year lease $2200/mo, + last & deposit. No pets 651 W Pacific Ave ,Telluride call Danny @ 3035211752

Home available for rent through May. 2 bed plus loft and 1 bath. Partially furnished. Great location on Main St across from Town Park & river trail. $5500/month. Email to sheafamilydl@gmail.com

Winter rental until May 1st, 2022, 3BR Stand alone home on East Columbia. $6,000/mo. Includes internet and utilities, no smoking, no pets. Text Peter 970-708-9562.

Rentals Wanted

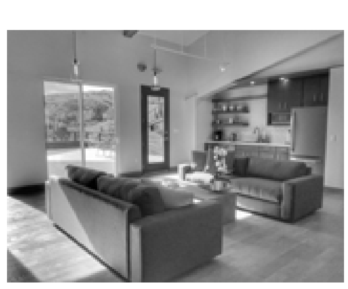
SMALL COMMERCIAL SPACE WANTED IN TELLURIDE

Looking for a modest office space with one or two rooms in Telluride. Doesn't need main street frontage. Quiet, responsible tenant with long history in town.

Please email publisher@telluridenews.com

Looking for 1bd, cottage, alley house, apt, studio that is old dog friendly. I know there is something out there, we don't need much. Just a man and his best friend looking for a home. Local. Long term. Responsible. Determined. Contact@ accornero.lucy@gmail.com

Commercial Rentals



Incredible office space available in Lawson Hill.

Enjoy massive views, a 1,500ft deck, an 1,800 ft space with conference room, wet bar, lounge, beautiful finishes and plenty of parking.

Available at $4800 a month plus NNN.

Call (970)708-0666 for details

Commercial Rentals

OFFICE SPACE FOR RENT
Bright and Private
725 s/f, 2 parking spaces
$2,250/mo CAM included
MV meadows, near Lift 1

Info and photos:
marie@surfaceliner.com

Real Estate

Investment Opportunities

Seeking short term lender to earn 8% interest, secured by 1st Trust Deed for loan of $1,000,000 plus for the Construction of single family dwelling (s) in highly desirable, exclusive Montrose/Ridgway, Colorado area.

Construction and real estate sales team with a 30+ year track record of millions of dollars of completed residential and commercial projects in the Rocky Mountain region.

Call Tom (970)209-9643

Homes

One of a kind studio unit for sale!
Remodeled, south facing with great light and views. Special.

Contact Sally Field Broker for details. (970)710-1272.

Commercial Properties

Bedrock Store
9812 CO Hwy 90
$449,000

Historic Commercial / Grocery / Liquor / Gas

Contact JJ with Coldwell Banker DP at (970) 729-0065

Services

Accounting
Alterations & Sewing
Appliances
Architecture
Attorneys
Audio/Video
Auto Care
Aviation
Books

Contractors/Engineers

KOCH CONSTRUCTION
Residential and commercial remodel, improvements, handyman services. Licensed and Insured. Small jobs welcome. Est. 2009.
(970)712-7100

Medical

Susannah Smith PhD
Clinical Psychology &
OD Consulting
Board Certified
Children, Adolescents, Adults, Couples, Telehealth Distance Therapy

Telluride & Ridgway

(970)728-5234
shas14@gmail.com

CreativeTeamConsulting.com

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TOWN OF MOUNTAIN VILLAGE TOWN COUNCIL ACTING AS THE BOARD OF DIRECTORS OF THE DISSOLVED MOUNTAIN VILLAGE METROPOLITAN DISTRICT
NOTICE
FOR THE REVISED 2021 AND THE PROPOSED 2022 BUDGETS

Notice is hereby given that the Revised 2021 and the Proposed 2022 Budgets for the dissolved Metropolitan District's Debt Service Fund have been presented to the Town of Mountain Village Town Council acting as the Board of Directors of the dissolved Mountain Village Metropolitan District. Drafts of the Budgets are available for public inspection and comment at the Mountain Village Town Hall, located at 455 Mountain Village Blvd., Suite A, Mountain Village, by appointment or on the Town's website at www.townofmountainvillage.com beginning on November 12, 2021. Any interested voter of the Town of Mountain Village may file in writing any objection to the Revised 2021 and the Proposed 2022 Budgets any time prior to adoption. A Public Hearing on the budget will be held at the meeting of the Mountain Village Town Council acting as the Board of Directors of the dissolved Mountain Village Metropolitan District on Thursday, November 18, 2021, beginning at 2:00 p.m. both in person and via virtual Zoom meeting https://us06web.zoom.us/webinar/register/WN_G3AP4-MSR0yoH4PxoM2CnQ.

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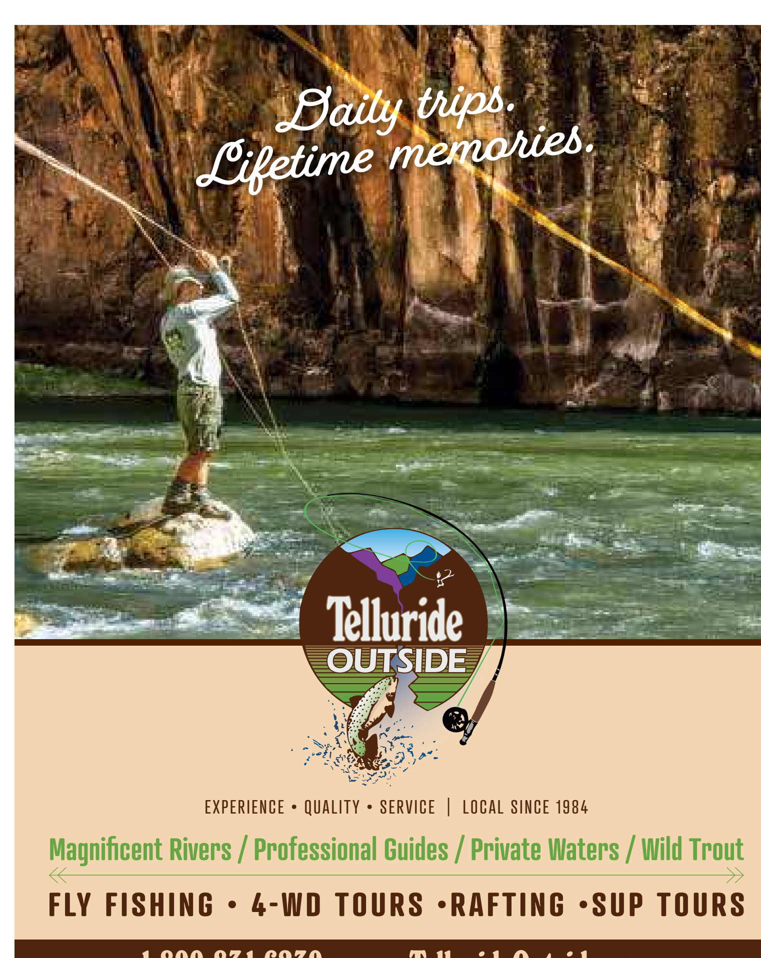
Dial 728-9788
to find out more!

Get Your Waddle On!
Join us for the Annual San Miguel County Thanksgiving Day Turkey Trot
Free 5K - Fun Run/Walk
Thurs., November 25th
A Family Holiday Tradition
Check-In 9am, race starts at 9:30am
Prizes! Raffle Items!
Costumes Encouraged!
Ilium & Sunshine Mesa Road Intersection
Register online by 2:00 pm on Nov. 24th
www.sanmiguelcountyco.gov/turkeytrot
SMC Parks & Open Space (970)369-5469



From	Topic Area	Subtopic	Question / Comment	Applicant Response	
CPC	Impacts - Noise	Gravel Crushing	Applicant to provide information on the number of days gravel crusher(s) were in use at UNP in recent years?	2018 – 30 Days 2019 – 37 Days 2020 – 113 Days 2021 – 55 Days	
CPC	Impacts -Wildlife	CPW request	Applicant to respond to Colorado Parks and Wildlife suggestion that United Companies consider working with the Bureau of Land Management to help fund or perform a habitat improvement project on nearby public lands that would help mitigate the temporary loss during the pit's production time?	Via Mark Caddy at CPW we have been pursuing the appropriate contacts at BLM/USFS. Mr. Caddy is very busy due to hunting season and has not had time to get United a contact.	
CPC	Hours of Operation	Consistency	Applicant to provide information on the stated Hours of Operation in Montrose County LUC? Also respond to potential condition of approval on obtaining Planning Director signoff on temporary expanded hours of operation, and to notifiy the affected neighbors?	Hours of operation at the Skelton Pit will be the same as at the current UNP. United supports the Planning Director deciding notification of temporary hours requests on a case by case basis.	
CPC	Permit standing	Montrose County	Applicant to provide status on UNP Land Use Code Permit status with Montrose County?	Montrose County has provided a letter of good standing.	
	Permit standing	CDRMS	Applicant to provide status on UNP 112 Reclamation Permit status with Colorado Division of Reclamation, Mining and Safety?	CDRMS permit is in good standing. Last inspected in 2018, no problems	
	Permit standing	CDPHE	Applicant to provide status on UNP Air and Water permits status with Colorado Department of Public Health and Environment?	CDPHE air and water permits are in with the supplement.	
CPC	Truck Traffic	Intersection	Applicant to provide information from Colorado Department of Transportation regarding the safety status of the intersection of State Highway 145/ SMC County Road 44Z N in regards to gravel truck traffic?	CDOT Region 5 office was contacted following first PC Hearing. No response from CDOT.	
CPC	Water supply		Applicant to provide additional information regarding the legal source and physical availabiliy of water at the UNP for use on the existing pit and expansion parcel?	Two legal industrial water rights available for use. Details in supplement.	
CPC	Impacts - Scenic	Screening	Applicant to provide information regarding its stated plan to provide additional screening of the UNP office and weigh station?	Plantings along the south side of the office to further obscure it.	
CPC	SUP Review	Annual	Applicant and staff to provide information on proposed review of operations authorized by an SUP approval?	United supports a Year 1 review and then once every 5 years after.	
CPC	Impacts- Noise	Gravel Crushing	Regarding the ability to crush gravel on the site vs. where the existing operation is, I'm fine with the moving of the processing operation if that is more efficient and causes less dust, etc. I think it's important to not allow AN ADDITIONAL crushing operation-so keep it to one for the total site overall if it makes the most sense for them. If dust is a primary neighbor issue, this may help alleviate that, albeit incrementally.	Gravel crushing will be the UNP crusher moving into Skelton Pit. No additional crusher. See noise monitoring plan in supplement.	
CPC	Hours of Operation	Truck Traffic	I'm actually okay with the Saturday operations and the 7AM to 7PM hours. If we are concerned about traffic impacts during key commuting periods, further limiting hours will only compress and magnify the impacts to area residents and road users.	See hours of operations reply.	
CPC	Neighborhood Consistency		While I'm sympathetic to the area residents concerns about noise and dust, mining and processing has been going on here for 32 years and the location is where the ore is and easily extracted. In some ways I think this is an essential service for our community. I'd rather the impact be more concentrated here in a lower density location than putting more trucks in and out of Illium. The only complaints and negative comments came from folks who live within a 1/2 mile of the operation-mostly who moved or bought well after this operation was underway. Understandable and not ideal for them of course, but…	United has engaged with, and will continue to engage with, all neighbors to minimize the impact of the operation on their residences.	
CPC	Water supply		Do they have a well or is it just ditch water for their operation?	See water rights discussion.	

RE: Agency Referral: Mining SUP, Skelton Inc., Norwood Gravel Pit expansion

1 message

Steve White <swhite@montrosecounty.net> Thu, Oct 14, 2021 at 4:08 PM
To: John Huebner <johnh@sanmiguelcountyco.gov>

John, I only have one issue that may be appropriate since a portion of the pit is in Montrose County. We have set operating hours in our code. Matching these hours may be appropriate in this case.

Steve White

Planning and Development Director

63160 LaSalle Road, Montrose CO 81401

Direct - 970-252-4550

Office – 970-249-6688

swhite@montrosecounty.net

From: John Huebner <johnh@sanmiguelcountyco.gov>
Sent: Tuesday, September 28, 2021 4:43 PM
To: swhite@montrosecounty.net
Cc: Kaye Simonson <kayes@sanmiguelcountyco.gov>
Subject: Fwd: Agency Referral: Mining SUP, Skelton Inc., Norwood Gravel Pit expansion

Steve,

I recently was made aware that you had not received a referral copy of the proposed United Materials mining expansion in San Miguel County. I apologize for this late notice. You were listed as a referral agent but not included in my email. Please let me know if you have any questions or concerns.

Best regards,

John

John Huebner

Senior Planner

San Miguel County
P:970-728-3083

333 W Colorado Ave, 3rd Flr

Telluride, CO 81435

John Huebner <johnh@sanmiguelcountyco.gov>

RE: Agency Referral: Mining SUP, Skelton Inc., Norwood Gravel Pit expansion

1 message

Steve White <swhite@montrosecounty.net> Fri, Oct 15, 2021 at 11:53 AM
To: John Huebner <johnh@sanmiguelcountyco.gov>

John, I have attached the Gravel Mining Mitigation Standards that are a part of the County Zoning Code. The United Gravel Pit must follow these guidelines. Keep in mind that the County is complaint driving, and I have received no complaints regarding this gravel pit.

Steve White

Planning and Development Director

63160 LaSalle Road, Montrose CO 81401

Direct - 970-252-4550

Office – 970-249-6688

swhite@montrosecounty.net

From: John Huebner <johnh@sanmiguelcountyco.gov>
Sent: Friday, October 15, 2021 10:23 AM
To: Steve White <swhite@montrosecounty.net>
Subject: Re: Agency Referral: Mining SUP, Skelton Inc., Norwood Gravel Pit expansion

Steve,

I have received several questions from our Planning Commission regarding the land use permit or authorization the existing United Companies Norwood pit operates under, and any operating conditions that may have been imposed on the operation of the pit by Montrose County (including the hours of operation). I would appreciate all information you are able to provide.

The SMC Planning Commission at its meeting yesterday reviewed the Special Use Permit application submitted by United to expand iis mining reserves on the adjacent 25-acre parcel in San Miguel, and continued the item to its 11/18/21 meeting.

Best regards,

John

John Huebner

To: San Miguel Planning Department
From: Wrights Mesa Coalition for Quality of Life
Date: November 1, 2021
Re: (Draft) Skelton/ United San Miguel County Mining Special Use Permit Application

This Coalition has been created by community members and neighbors of the Norwood Gravel Pit that are affected and concerned about the proposed 25 acre, ~30 year expansion of the United operations into San Miguel County. This coalition is not attempting to shut down the gravel pit operations, which provide a critical piece of material for expansion in the area, but are hoping to work together with United Companies and San Miguel County planning commissioners in order for the expansion to affect the surroundings as little as possible.

The Planning Commission should not take action on the SUP request until all the agreements and questionable information in the application is available for review and comment by the Planning Department and the interested public. The application to the colorado division of reclamation, mining and safety permit has not been submitted to the state. The performance, pros and cons, of United's activity on the Montrose County permit side of the pit should be taken into consideration when permitting a new use in San Miguel. The coalition believes that United should not start mining into San Miguel County until United has depleted all material to the North permit line in Montrose County.

We have developed the following concerns and recommendations, which we are hoping will be the beginning of dialogue between the coalition, San Miguel County and United throughout the application process.

1. Truck noise

-Truck traffic and engine “jake” brakes on 44ZN.

Coalition Recommendations:

-County should post 'no jake brake' signs along CR 44ZN in both directions to the highway and needs to be enforceable by the sheriff or SMCPD.

-44 ZN will be the only haul route for trucks leaving the gravel pit, signs will distinguish approved trucking routes.

2. Operational noise

-Operational noise, especially gravel crushing.

Coalition Recommendations:

-To buffer noise from gravel pit operations, including the gravel crusher, United installs an innovative sound buffer, curtain, wall, etc. so the noise level stays below an approved and enforceable decibel to the surrounding areas.

-Gravel crusher only runs during operating hours, mon-fri 7am-6pm.

3. **Consistent hours of operation**
-Currently, there are inconsistent hours between Montrose County, San Miguel County and other operations that use the gravel pit.

Coalition Recommendations:
-Hours of operation need to be consistent in both Montrose County and San Miguel County, Monday - Friday, 7 to 6 p.m, and clearly posted at the entrance.
-Any operation outside these hours needs a written approval and affected residents be notified.

4. Water Use
-Concerned about the limited availability of water for dust suppression, reclamation and visual mitigation with current water decrees.
-Currently, the only water source for dust suppression and gravel washing is the Bolinger Ditch which is decreed for irrigation only. To use it for industrial use it needs to be used for agricultural irrigation and the tail water is converted to industrial use and stored in a decreed reservoir. Skelton has a .5cfs decree for tail water and a decree for a reservoir to store water at the operation.

Coalition Recommendations:
-The amount of production is limited by the limited amount of water.
-Because of the scarce water availability, United needs to use more innovative and effective methods for dust suppression and gravel washing.

5. Visual mitigation
-There is currently no visual mitigation to the south/east of the current permit area, where the weigh station, front office buildings, gravel piles, large equipment, etc. can be seen north of highway 145 and surrounding properties.

Coalition Recommendations:
-Visual mitigation from the area north of highway 145 to the gravel pit.
-Skelton/ United needs to have a design plan and a date certain of completion to the county prior to approval.
-Trees and/or vegetation, berms, fences and the like that minimize the visual impression of an intensive alteration of the natural landscape caused by a gravel mining operation, (Montrose Gravel Mining Mitigation Standards).
-The Coalition makes a visual presentation and/or a site walk with the Planning Commission and planning department.

-Buffer areas of existing Pinon and Juniper should be protected and not removed unless approved in writing from the county.

6. Environmental effects of Magnesium chloride

-The effects of Magnesium chloride on the land and water.

Coalition Recommendations:
-The use of Magnesium chloride should be limited or totally eliminated.
-The use of mag chloride should be carefully studied by SMC to see if there are any other natural, non contaminating applications for dust suppression.

7. County Requirements

Any requirements by the County be in writing with detail of execution and be included in the State Mine Permit. Plans need to have definite time commitment to be completed. Design and material to be used (including any planting and size) submitted to the County for approval.

8. State permits for Mining, Air Quality, storm water and noise

The San Miguel County portion of Skelton/United gravel operation and SMC Planning should have permits on file in San Miguel County. If one permit pertains to both counties, each county should maintain current permits.

9. Reclamation

-The coalition is not aware of any reclamation done by United.

Coalition Recommendations**:**
-Site plan for reclamation and when it will occur, the plan should be on a map and easy to identify.
-The reclamation includes trees, shrubs, etc. more than grass that is required by the state.
-Provide evidence of reclamation gravel operations done by United Companies.

10. Enforcement of requirements

Any requirements have to be enforceable: definite plans, definite times, triggering points, etc.

Coalition Recommendations:
-There is someone in place to enforce regulations and compliance.
-Penalties for non compliance, which still need to be identified.

Questions for SMC planning committee/ United:

- What are proposed SMC requirements?
- When will the new gravel mining regulations be adopted in the current land use codes of SMC?
- If the land use code is amended after this approval, can those regulations be backdated to cover Skelton/United Expansion Permit?

Send any information or replies to wmcqualityforlife@gmail.com

Wrights Mesa Coalition for Quality of Life Members:

Madeline Gardner
Mary Ann Gaston
Alexander Drake
Holly McFadden
Peggy Day
Mike Day
Kyle Wojnicki
Jackson Ordean
VIcki Ordean
Ken Crouse
Linda Crouse

C. GRAVEL MINING MITIGATION STANDARDS:

1. Definitions:

EFFECTIVELY SCREEN: Trees and/or vegetation, berms, fences and the like that minimize the visual impression of an intensive alteration of the natural landscape caused by a gravel mining operation.

EXISTING RESIDENCE:

a. As concerns a gravel mining operation for which a Special Use Permit has been issued, a residence in existence prior to the date of the application for a Special Use. Such existence may be established by the records of the County Land Use Department, the County Assessor's Office, or the County Treasurer's Office.

b. As concerns a gravel mining operation for which a Special Use Permit has not been issued, a residence in existence prior to the date of such gravel mining operation's most current application for a Reclamation Permit from the State Division of Minerals and Geology. Such existence may be established by the records of the County Land Use Department, the County Assessor's Office, or the County Treasurer's Office.

EXISTING PLATTED SUBDIVISION:

a. As concerns a gravel mining operation for which a Special Use Permit has been issued, a platted subdivision which has received preliminary plan or final plat approval prior to the date of the application for a Special Use Permit.

b. As concerns a gravel mining operation for which a Special Use Permit has not been issued, a platted subdivision which has received preliminary plan or final plat approval prior to the date of such gravel mining operation's most current application for a Reclamation Permit from the State Division of Minerals and Geology.

GRAVEL MINING OPERATION: The development, extraction or processing of sand or gravel from its natural occurrences on affected land to be utilized for off-site construction purposes, specifically including, but not limited to, on-site transportation, screening, crushing, breaking, blasting, inventory stockpiling, asphalt plant operation, concrete plant operation, or other similar operations or utilization of similar equipment. Such definition shall not be affected by the type of Reclamation Permit required by the State Division of Minerals and Geology.

2. Buffers:
   a. No mining excavation or stockpiling of material shall take place within twenty-five feet (25') of the boundary of adjacent property including easements and/or rights-of-way unless written agreement is obtained from the owner of such adjacent property.
   b. No mining excavation shall take place within one-hundred twenty-five feet (125') of any existing residence or existing platted subdivision unless written agreement is obtained from the owner of such residence or subdivision.

c. No blasting, use of screening, crushing, or breaking equipment, asphalt plant operation, concrete plant operation, or other similar equipment usage shall take place within two-hundred fifty feet (250') of the property boundary of any existing residence or existing platted subdivision unless written agreement is obtained from the owner of such residence or subdivision.

3. Landscaping:

a. If located within thirteen-hundred and twenty feet (1320') of any existing residence or existing platted subdivision, Gravel Mining Operator shall provide any combination of trees and/or vegetation, berms, fencing and/or other appropriate landscaping that will effectively screen such property from the visual impact of the gravel mining operation unless written agreement is obtained from the owner of such residence or subdivision.

b. If located within twenty-six hundred and forty feet (2640') of any road designated a Scenic Byway by the State of Colorado or a Scenic Drive by Montrose County, Gravel Mining Operator shall provide any combination of trees and/or vegetation, berms, fencing and/or other appropriate landscaping that will effectively screen such byway and/or drive from the visual impact of the gravel mining operation. Gravel mining operations with an approved Special Use or in production prior to the date of the adoption of these Mitigation Standards (adopted 10/20/97) shall be exempt from the requirements of this paragraph.

4. Dust:

a. If located with thirteen-hundred and twenty feet (1320') of an existing residence or an existing platted subdivision, Gravel Mining Operator shall maintain all roads within the mining property in conformance with the Colorado Air Quality Control Commission Regulation No. 1, as it applies to the regulation of fugitive particulate emissions and the measurement of opacity and off-property transport of fugitive particulate emissions.

b. If located within thirteen-hundred and twenty feet (1320') of an existing residence or an existing platted subdivision, Gravel Mining Operator shall operate screening, crushing, digging equipment, asphalt plant, concrete plant or other similar equipment in conformance with the Colorado Air Quality Control Commission Regulation No. 1, as it applies to the regulation of fugitive particulate emissions and the measurement of opacity and off-property transport of fugitive particulate emissions.

c. If located within twenty-six hundred and forty feet (2640') of an existing residence or an existing platted subdivision, asphalt batch plants shall be operated only between 6:00 a.m. (6:00 a.m. to 7:00 a.m. shall provide for a machinery warm-up period only) and 6:00 p.m., Monday through Saturday, unless written agreement is obtained from the owner of such existing residence or existing platted subdivision. The County Administrator or designee may expand such operating hours for a limited period of time and for special circumstances as might be deemed appropriate within the sole discretion of such County Administrator or designee.

5. Noise:

a. Montrose County shall establish two sets of noise standards which shall be applicable to gravel mining operations located within thirteen-hundred and twenty feet (1320') of an existing residence or an existing platted subdivision. One set of such noise standards shall encompass Monday through Friday gravel mining operations and a second more restrictive set of noise standards shall encompass Saturday gravel mine operations and any "expanded operating hours" that may be allowed by the County Administrator or designee pursuant to subsection (3) of this section.

b. As concerns such noise standards, Title 25, Article 12, Sections 101 through 105, and 108, Colorado Revised Statutes, are hereby adopted and incorporated herein by reference for the purpose of establishing noise standards prescribed pursuant to subsection (1) of this section. Pursuant to 25-12-102(4), C.R.S., the definition for "industrial zone" shall apply to gravel mining operations in Montrose County. Pursuant to 25-12-103(1), C.R.S., the industrial zone establishes a maximum permissible noise level of 80 db(A) which shall be controlling for gravel mining operations in Montrose County for the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and establishes a more restrictive maximum permissible noise level of 75 db(A) which shall be controlling for gravel mining operations in Montrose County for the hours of 7:00 a.m. to 6:00 p.m. Saturdays, as well as any expanded operating hours that may be allowed by the County Administrator or designee pursuant to subsection (3) of this section.

c. As concerns such noise standards, if located within thirteen-hundred and twenty feet (1320') of an existing residence or an existing platted subdivision, gravel mining operations shall be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, unless written agreement is obtained from the owner of such residence or subdivision. The County Administrator or designee may expand such operating hours for a limited period of time and for special circumstances as might be deemed appropriate after written decision of the County Administrator (Manager) or designee, such decision may be appealed by Public Hearing to the Montrose County Board of County Commissioners. In conjunction with the Public Hearing, all property owners within thirteen-hundred and twenty feet (1320') will be notified at least 14 days prior to the Public Hearing". [Amended 1/16/07]

d. As concerns such noise standards, if located within thirteen-hundred and twenty feet (1320') of an existing residence or an existing platted subdivision, gravel mining operations may be extended to include Saturday operations from 7:00 a.m. to 6:00 p.m. where conformance with the more restrictive established noise standards for Saturday gravel mining operations has been demonstrated.

6. <u>Haul Routes:</u>

a. If a gravel mining operation is located where it will access a County Road, the Gravel Mining Operator shall be required to obtain an Access and Driveway Permit for a Commercial Driveway from the County Land Use Department.

b. Under appropriate circumstances, and at the discretion of the Board of County Commissioners, a written agreement between Montrose County and the Gravel Mining Operator may be required in order to mitigate haul route impacts upon the County Road(s).

7. <u>Site Development:</u>

a. If located within thirteen-hundred and twenty feet (1320') of an existing residence or an existing platted subdivision, Gravel Mining Operator shall submit a development schedule describing the life span of the gravel mining operation in years and, if applicable, the years per phase of said development schedule. Requests for extensions of such development schedule up through five (5) years will be considered by the Board of County Commissioners at a noticed public hearing.

b. Gravel Mining Operator shall provide adequate sanitation facilities on site in accordance with State and County regulations.

c. The placement, construction or erection of any building or structure on the gravel mining operation property shall require a Building Permit in accordance with the County Building Code.

d. Gravel Mining Operator shall provide a Weed Management Plan and submit it for approval to the Weed Management Commission.

e. Gravel Mining Operator shall provide adequate parking space in conformance with the Parking and Loading Standards of the Montrose County Zoning Resolution.

f. Signage erected at the gravel mining operation shall be in conformance with the Sign Standards provided in the Montrose County Zoning Resolution.

8. Reclamation:

a. If the gravel mining operation site will be reclaimed as anything other than pasture, range land or farm land, the Gravel Mining Operator shall provide a plan (both written and diagrammatic) to the County Land Use Department for approval.

b. At such time as on-site gravel stockpiles have been depleted, gravel mined elsewhere shall not be stockpiled on the site.

D. GRAVEL MINING ADMINISTRATION AND ENFORCEMENT:

1. These gravel mining operation Mitigation Standards shall apply to: NEW gravel mining operations, i.e., gravel mining operations as to which the application for County's Special Use Permit is filed with the County Land Use Department subsequent to the date of the adoption of these Mitigation Standards <u>and</u> EXISTING gravel mining operations with a "permitted acreage" of ten (10) acres or more pursuant to an active Division of Minerals and Geology Reclamation Permit, i.e., gravel mining operations in existence prior to the date of the adoption of these Mitigation Standards and as to which the two-year amortization period has expired.

2. These gravel mining operation Mitigation Standards shall be enforced by the County's Zoning Enforcement Officer with the technical assistance of the County's Environmental Health Specialist. The County's Zoning Enforcement Officer with the technical assistance of the County's Environmental Health Specialist shall observe the following enforcement procedures:

   a. Confer with the Gravel Mining Operator in order to review alleged violations of these Mitigation Standards and to inform the Gravel Mining Operator as to these enforcement procedures.
   b. Attempt to negotiate an agreement with the Gravel Mining Operator as to the required corrective action concerning Mitigation Standards violations and as to the appropriate time table for the accomplishment of such corrective action.
   c. Following successful negotiations, provide a written "Contact Report" to the Gravel Mining Operator documenting the Mitigation Standards violations, required corrective actions and agreed time schedule.
   d. Following timely completion of the corrective actions, provide an appropriate Letter of Completion of Corrective Action to Gravel Mining Operator.

3. In the event that the County Zoning Enforcement Officer with the technical assistance of the County's Environmental Health Specialist and the Gravel Mining Operator are unable to agree as to the alleged violations of these Mitigation Standards or are unable to agree as to the appropriate corrective actions or are unable to agree as to the appropriate time schedule of the corrective actions, the County Zoning Enforcement Officer shall issue a certified "Notice of Non-Compliance" and shall mail an original of such Notice of Non-Compliance to the Gravel Mining Operator by certified mail, return receipt requested, which Notice shall advise the Gravel Mining Operator that he has the right to file an appeal of such Notice of Non-Compliance with the Montrose County Board of Adjustment within fifteen (15) days of Gravel Mining Operator's receipt of the Notice of Non-Compliance. This appeal to the Montrose County Board of Adjustment shall be conducted in accordance with Section VII of the Montrose County Zoning Resolution and also in accordance with C.R.S. 30-28-118, as amended.

4. In the event that the Gravel Mining Operator does not file a timely appeal with the County Board of Adjustment or in the event that the County Board of Adjustment denies the Gravel Mining Operator's appeal and the Gravel Mining Operator does not timely effectuate the required corrective actions, the Montrose County Attorney shall issue to the Gravel Mining Operator a

certified "Cease and Desist Order" and the Montrose County Attorney shall thereafter prosecute such violation of these Mitigation Standards pursuant to Section VIII of the Montrose County Zoning Resolution and/or applicable State statute.

5. The provisions of this section shall not be construed to preempt or limit the authority of the State of Colorado, nor shall any State standards be construed to preempt or limit the authority of the County of Montrose to adopt and enforce standards which are no less restrictive than the corresponding State statute or administrative rule/regulation.

From	Topic Area	Subtopic	Question / Comment	Applicant Response
WMCQL	Permit standing	CDRMS	Applicant should submit its UNP 112 Reclamation Permit to Colorado Division of Reclamation, Mining and Safety prior to Planning Commission taking action on SUP application	Applying for the SUP first ensures that San Miguel County priorities are reflected in the CDRMS permit application. Legally, such permits can be obtained in any order.
WMCQL	Permit standing	Montrose County	United's gravel mining operation performance (pros and cons) in Montrose County should be considered by Planning Commission when evaluating their SUP application	San Miguel planning staff has reviewed the Montrose County activity as part of its review of the SUP
WMCQL	SUP Conditions	Montrose County	United should not commence mining operations in San Miguel County until all materials are depleted in Montrose County	Whether the Skelton Pit or UNP is mined, the impacts will mostly be the same to locals. The access is the same, the water usage is the same, the truck traffic is the same, etc.
WMCQL	Truck Traffic		SMC Road and Bridge should post 'no jake brake' signs on CR 44Z N in both directions; county should provide enforcement of traffic regulations	No comment from United.
WMCQL	SUP Conditions	Truck Traffic	SMC should designate CR 44Z N as only official truck haul route from Norwood Pit	No comment from United.
WMCQL	Imacts Noise	Gravel Crushing	United should install a barrier (curtain, wall, etc.) to buffer noise from gravel pit operations, including gravel crusher	The proposed noise monitoring plan will demonstrate the effectiveness of below grade operations in noise blocking. If additional noise barriers are needed, they can be put to use based on the results of the monitoring.
WMCQL	Imacts Noise	Gravel Crushing	United should measure noise at property line to assure emitted sound is below allowed and approved decible level.	See proposed noise monitoring plan.
WMCQL	Hours of Operation	Gravel Crushing	United should only operate gravel crusher during approved hours of operation	United agrees.
WMCQL	Hours of Operation		United Hours of operations should be Monday - Friday, 7:00AM - 6:00PM. Any operations proposed outside these hours would required SMC approval and notification of affected residents	No comment from United.
WMCQL	Water Supply		Gravel production should be limited because of scarcity of water resources available for dust suppression	Mining is limited based on water supply.
WMCQL	Impacts Scenic	Screening	Applicant should mitigate the existing visual impacts of the current Montrose County permit area as viewed to the north from SMC.	Principal impacted views, from the east and south, will be mitigated by topography in the mine plan.
WMCQL	Impacts Scenic	SUP Review	United should have visual mitigation plan in place of current area w/completion date prior to SMC review	Visual mitigation of the Skelton Pit is achieved via topography during operations.
WMCQL	Impacts Scenic	SUP Review	Coalition should give a visual presentation and/or site walk of proposed visual mitigation with the Planning Commission and Planning Department	No comment from United.
WMCQL	Impacts Scenic	Screening	Existing pinon and juniper trees on proposed site should be protected and not removed unless authorized by San Miguel County	United has had success planting pinions at other operations and will bring those practices to Skelton Pit as appropriate.
WMCQL	Impacts Dust	CDPHE	Use of Magnesium chloride for dust suppression should be limited or eliminated on proposed site	United should be able to control dust in the same manner as road and bridge, CDOT, and other construction entities.
WMCQL	Impacts Dust	SUP Review	SMC should suggest the use of natural, non contaminating applications for dust suppression	United should be able to control dust in the same manner as road and bridge, CDOT, and other construction entities.
WMCQL	SUP Conditions		SMC conditions of apprval should be in writing and included with the CDRMS mine permit	CDRMS permits requires compliance with local land use law, incorporating local permit conditions via the local land use permit process.
WMCQL	SUP Conditions	Impacts Scenic	United should have visual mitigation plan including design, materials (plantings and size) in place of current area w/completion dates or targets prior to SMC review	Visual mitigation of the Skelton Pit is achieved via topography during operations.
WMCQL	CDRMS	CDPHE	San Miguel County should have copies of current permits of Skelton Pit when approved on file with Planning	No comment from United.
WMCQL	SUP Conditions	Visual Impacts	The site plan for reclamation should be easily identifieable and include map data	A reclamation plan map is already part of the current application.
WMCQL	Permit standing		United should provide evidence of reclamation of gravel operations completed of the current area and other sites it operates	Calhoun Eaton (now Eagle River Park; won CDRMS reclamation award)
WMCQL	Permit standing	SUP Review	Contact persons of United and SMC and Montrose should be identifed for the purpose of enforcement and compliance with mining regulations	No comment from United.
WMCQL	SUP Conditions		SMC conditions of approval should include penalties for non compliance	No comment from United.

AGENDA ITEM

TITLE:
Staff Report with exhibits -Affordable Housing Impact Mitigation Update

Presented by: John Huebner, Senior Planner
Time needed:

RECOMMENDED ACTION/MOTION:

INTRODUCTION/BACKGROUND:

FISCAL IMPACT:

ATTACHMENTS:
4 Staff Report w exhibits- Affordable Housing Impact Mitigation update 11.3.21.pdf

Description:

M E M O R A N D U M

TO: San Miguel County Board of Commissioners
FROM: John Huebner, Senior Planner
RE: Evaluation and Update of SMC Affordable Housing Impact Mitigation Standards
DATE: November 3, 2021

PURPOSE

The purpose of this memorandum is to provide material and options responsive to BOCC direction concerning changes to the San Miguel County Affordable Housing impact mitigation.

At the October 20, 2021 San Miguel County Board of County Commissioner meeting, the BOCC directed Planning staff to examine the following options concerning Accessory Dwelling Units (ADU) and Affordable Housing impact mitigation:

1. Incentivize construction of deed restricted housing (ADU) as affordable housing impact mitigation on the site of the primary development, and require the units to be occupied, LUC 5-1303 E.
2. Exempt the square footage of ADUs, if deed restricted and occupied, from Floor Area subject to Employee Housing Impact Fee.
3. Propose a method (fee, penalty, cost disincentive) for roster of current county deed restricted ADUs that are vacant; require ADUs to be occupied.
4. Illustrate various county scenarios (mitigation rates of 37, 50, 60, 70%; Employee/Unit Subsidy of current 42,200/67250 and proposed 62,500/100,000.
5. Illustrate comparison of payments of current County Residential Employee Housing Impact Fee vs the Town of Telluride Payment-in-Lieu Fee.
6. Research affordable housing impact fee methods used by other entities and provide recommendation for a methodology to calculate fees to be assessed by County

BACKGROUND

In the unincorporated county, providing deed-restricted residential lots, building deed-restricted housing units, providing land for a future employee housing, and payment of an impact fee have been allowed as compliance options for mitigating affordable housing impacts. San Miguel County BOCC Resolution 2007-11 adopted the residential affordable housing impact fee and rescinded other provisions within the San Miguel County Land Use Code (LUC) related to residential affordable housing mitigation. LUC Section 5-1303 G. implemented the adopted affordable housing residential impact fee, which applies to all free market single-family & 2 family residential construction in the R-1 School District.

The county and other jurisdictions use multiple terms when referring to affordable housing requirements. The Resolution and Land Use Code use two terms: “affordable housing” and “employee housing”. Commissioners and staff have also used the term “Employee Dwelling Unit” while the LUC describes a specific type of unit in the Low Density (LD) and Medium Density (MD) zones as an “Accessory Dwelling Unit”, which may or may not be deed-restricted. Consistency in terminology is recommended in resolutions, codes and guidelines used by the county. When in doubt, refer to the definitions in the LUC.

1. **<u>Incentivize construction of deed restricted housing (ADU) as affordable housing impact mitigation on the site of the primary development, and require the units to be occupied, LUC 5-1303 E</u>.**

Certain communities and counties similar to San Miguel allow for the payment of an impact (or "in-lieu") fee in mitigation of required affordable housing. To encourage construction of units, the county could adopt a maximum square foot threshold at which it will allow the payment of a residential impact fee for affordable housing mitigation. Beyond that size, a deed-restricted ADU or caretaker unit (F zone) would be required. There would be an increase in the number of units required to be constructed and in the number of units built, and a corresponding decrease in the collection of residential employee housing impact fees.

This change to county impact fee standards could encourage the construction of units as desired by the BOCC.

LUC Section 5-1305 C. limits the use and occupancy of Affordable Housing to Employees, their spouses and children. In the unincorporated county an owner of an Accessory Dwelling Unit (ADU) may not sell it separately from the main single-family residence on a property, and may not use it as a short term rental. The county could consider amending the LUC to treat newly constructed ADUs as "Multi-family Units" that limit occupancy to qualified Employees, and require property owners meet certain occupancy requirements.

2. **<u>Exempt the square footage of ADUs, if deed restricted and occupied, from Floor Area subject to Employee Housing Impact Fee.</u>**

The Employee Housing Impact Fee currently applies to the construction of Accessory Dwelling Units, regardless of size, and to Caretaker units, LUC Section 5-1303 G XV. If accessory dwelling units or caretaker dwellings are built, that floor area is subject to payment of the Impact Fee.

If the property owner is required to or volunteers to deed-restrict a proposed ADU or caretaker unit structure as affordable housing for use and occupancy by qualified employees, the County could consider giving a level of credit to offset or mitigate the total Employee Housing Impact Fee.

3. **<u>Propose a method (fee, penalty, incentive) for roster of current county deed restricted ADUs that are vacant; require ADUs to be occupied.</u>**

Staff need to further research methods to propose to the BOCC to amend ADU occupancy requirements. While it can be written into future deed restrictions, whether owners of already deed-restricted units can be so obligated is less clear. This could include zoning incentives and financial assistance from the county in exchange for property owners offering existing deed restricted ADUs and caretaker units for affordable housing rentals. Planning staff with SMRHA could develop an ADU program for renting an ADU to stimulate property owners to long-term rent existing ADUs to qualified Employees.

4. **Illustrate various county scenarios (mitigation rates of 37, 50, 60, 70%; Employee/Unit Subsidy of current 42,200/67250 and proposed 62,500/100,000.**

The County's Employee Housing Impact Fee mitigation calculations are based on these parameters: number of employees generated, current service level, subsidy needed per employee, and credit toward future payment of TMV and Telluride taxes toward affordable housing. The current variables are square footage, 37% Mitigation rate, $42,200 per employee subsidy, $125 Credit per employee

Table 1 - Comparison of Fees resulting from requirements for Single-family and Duplex development; under different calculations

Current Scenario: 37% Mitigation; 42,200/67,250 Subsidy
Proposed Scenario1: Increase Subsidy to $62,500/$100,000
Proposed Scenario2: Current Scenario w/ Mitigation increased to 50%
Proposed Scenario3: Current Scenario w/ Mitigation increased to 60%
Proposed Scenario4: Current Scenario w/ Mitigation increased to 70%
Proposed Scenario5: Increase Subsidy to $62,500/100K and Mitigation to 70%

Square Footage	Current: 37% Mitigation	Proposed 1: $62,500/100K Subsidy	Proposed 2: 50% Mitigation	Proposed 3: 60% Mitigation	Proposed 4: 70% Mitigation	Proposed 5: $62,500/100K Subsidy /70% Mitigation
500	$ -	$ -	$ -	$ -	$ -	$ -
1000	$ -	$ -	$ -	$ -	$ -	$ -
1500	$ -	$ -	$ -	$ -	$ -	$ -
2000	$ 3,092	$ 4,579	$ 3,824	$ 4,386	$ 4,949	$ 7,330
3000	$ 4,388	$ 6,499	$ 5,397	$ 6,174	$ 6,950	$ 10,294
4000	$ 5,984	$ 8,863	$ 7,377	$ 8,449	$ 9,520	$ 14,100
5000	$ 7,995	$ 11,842	$ 9,918	$ 11,396	$ 12,875	$ 19,068
6000	$ 10,579	$ 15,667	$ 13,231	$ 15,271	$ 17,311	$ 25,639
7000	$ 13,951	$ 20,662	$ 17,611	$ 20,426	$ 23,242	$ 34,422
8000	$ 18,413	$ 27,271	$ 23,463	$ 27,348	$ 31,233	$ 46,257
9000	$ 24,379	$ 36,106	$ 31,347	$ 36,708	$ 42,068	$ 62,305
10000	$ 32,418	$ 48,013	$ 42,034	$ 49,431	$ 56,828	$ 86,164
11000	$ 43,320	$ 64,159	$ 55,589	$ 66,796	$ 77,002	$ 114,044
12000	$ 58,171	$ 86,154	$ 76,481	$ 90,565	$ 104,649	$ 154,990

5. **Illustrate comparison of payments of current County Residential Employee Housing Impact Fee vs the Town of Telluride Payment-in-Lieu Fee**

Property owners constructing residential structures within the Town of Telluride and County are subject to the payment of fees for affordable housing mitigation. In Telluride the fee payment is characterized as a Payment-in-Lieu and in the County as an Impact Fee. The fees in both are assessed largely on the proposed square footage of the structure, and employee generation rate. The County exempts residences 1,800 sf or less, based on an assumption that it will most likely be occupied by a local resident. The Town requires actual units constructed at a certain level.

Table 2 - Comparison of Fees resulting from requirements for Single-family and Duplex development

Square Footage	Telluride	County
500	$ 18,824	$ -
1000	$ 28,442	$ -
1500	$ 38,335	$ -
2000	$ 48,640	$ 3,092
3000	$ 70,624	$ 4,388
4000	$ 95,356	$ 5,984
5000	$ 123,797	$ 7,995
6000	$ 157,186	$ 10,579
7000	$ 197,581	$ 13,951
8000	$ -	$ 18,413
9000	$ -	$ 24,379
10000	$ -	$ 32,418
11000	$ -	$ 43,320
12000	$ -	$ 58,171
	Unit required	

6. **Research affordable housing impact fee methods used by other entities and provide recommendation for a methodology to calculate fees to be assessed by County**

The methodology adopted by San Miguel County differs from the Town of Telluride. It is based on the gap between the historical cost of building affordable housing projects and what their units can be affordably sold at. Documenting the total actual planning and construction costs of affordable housing is very complicated and staff intensive, especially when land is acquired by means other than market-rate purchases (i.e. Gold Run and Sunnyside projects). The cost of public-sector construction of affordable units often under-represents the real cost to produce units. The county employee housing impact fee is based on the construction costs used in the 2005 study.

The Town of Telluride previously employed the method currently used by the County from 2009-2018. It adopted a new methodology for calculating fees that could be assessed by the Town in lieu of the required affordable housing. The approach is based on the difference between the market price of housing and the price that is affordable for households for which the housing is intended. It is referred to as the Market-Affordability Gap approach. It is utilized by numerous Rocky Mountain region communities including Gunnison County and Pitkin County.

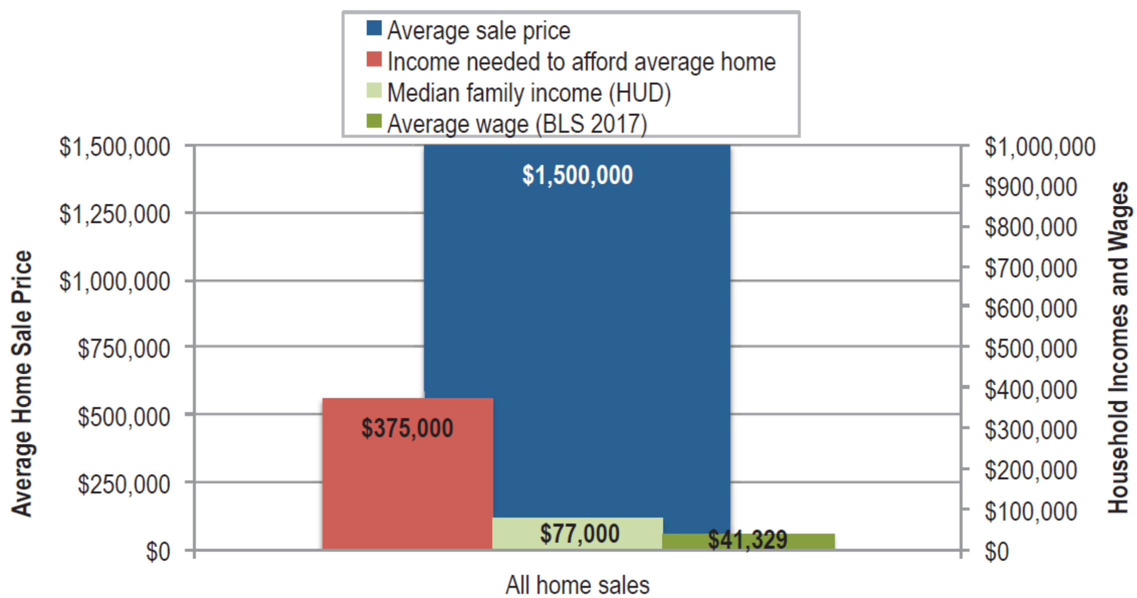
RECOMMENDATION

Staff has reviewed the methodology adopted by the county in 2007. At a minimum it is difficult to understand the basis from which variables were calibrated. It also has not been updated due to the difficulty in obtaining information and estimating costs of recently constructed affordable housing projects. The number of these recent projects is relatively small.

In comparison, the Market-Affordability Gap approach incorporates readily available data that can be updated frequently. It will result in an Impact Fee rate that adequately reflects the difference between the price to purchase a free market residence and a residence that is affordable for local households.

The housing problem is described in the 2019 *Impacts of Affordable Housing on the Telluride Area Economy and Community*. It identified that home prices far exceed what employees can afford to pay for housing, In 2018, the average sale price of residences in San Miguel County was approximately $1.5 M (about $600 per square foot), which is affordable for a household making $375,000. In comparison, the median family income was $77,000, which means an "affordable" home price of about $308,000.

San Miguel County
Average Price of Residential Homes Sold,
Income Needed to Afford Average Home and Actual Incomes and Wages, 2018



Sources: San Miguel County Housing Needs Assessment, 2018; Quarterly Census of Employment and Wages (QCEW), Dept. of Housing and Urban Development (HUD) MFI.

The Market-Affordability Gap methodology is recommended by Planning staff for calculating fees applicable to the San Miguel County affordable housing requirements. It is transparent and relatively simple and can be expressed in a per-unit, per-employee and per-square-foot amounts. Staff proposes to prepare a report concerning a county implementation of Market-Affordability Gap approach methodology for determining residential impact fees for Planning Commission and Board of County Commissioner review at future meeting. If directed, staff can also prepare LUC amendments, requiring the construction of ADUs or caretaker units for houses above a certain size, and the deed-restriction of those units.

EXHIBITS:

A. Excerpt: The Housing Problem, 2019 Impacts of Affordable Housing on Telluride Area Economy & Community p. 10
B. Excerpt: Section 5, Housing Costs, San Miguel County 2018 Housing Needs Assessment pp. 30-37
C. San Miguel County LUC Section 5-13, Accessory Dwelling Units and Affordable Housing

(All attachments as well as other studies and documents related to Affordable Housing are available on-line at https://www.sanmiguelcountyco.gov/490/Other-Resources)

The Housing Problem

Less than half (44%) of the estimated 6,190 homes in the Telluride area house full-time residents. This means that about 2,712 housing units are occupied by year-round residents, with the remaining 3,477 units occupied by temporary visitors and owned by second homeowners.

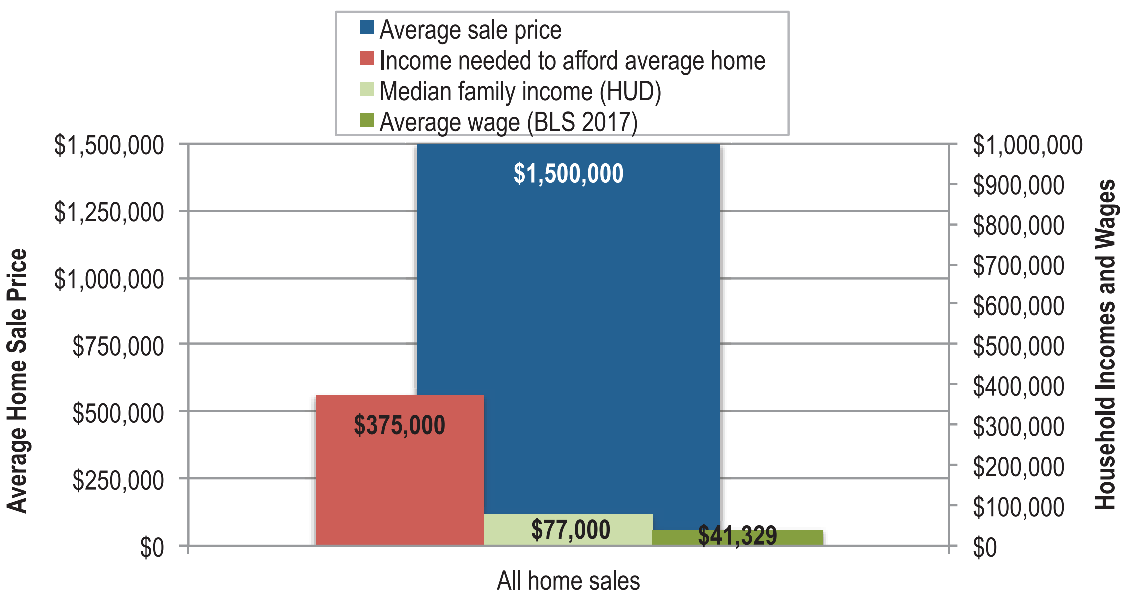
Average Residential Sale Price (County)
$1,500,000

Home Price The Median Local Household Can Afford
$308,000

Home prices far exceed what locals can afford to pay for housing. In 2018:

- The average sale price of residences in San Miguel County was just under $1.5MM (about $600 per square foot). This is affordable for households earning about $375,000 per year.[2]
- In comparison, the median family income in San Miguel County was $77,000, which means an "affordable" home price of around $300K.

San Miguel County
Average Price of Residential Homes Sold,
Income Needed to Afford Average Home and Actual Incomes and Wages, 2018



Sources: San Miguel County Housing Needs Assessment, 2018; Quarterly Census of Employment and Wages (QCEW), Dept. of Housing and Urban Development (HUD) MFI.

[2] This data is for San Miguel County as a whole, as provided in Figure 36, p. 31 of the San Miguel County Housing Needs Assessment 2018. The median sale price was slightly lower in Telluride and slightly higher in Mountain Village than reported for the county as a whole. Sales in the other parts of the county were significantly lower, meaning that the County median sale price ($1.5MM) is likely conservative for the Telluride area defined in this report. The conclusion is the same – homes are too expensive for those making their living in the area.

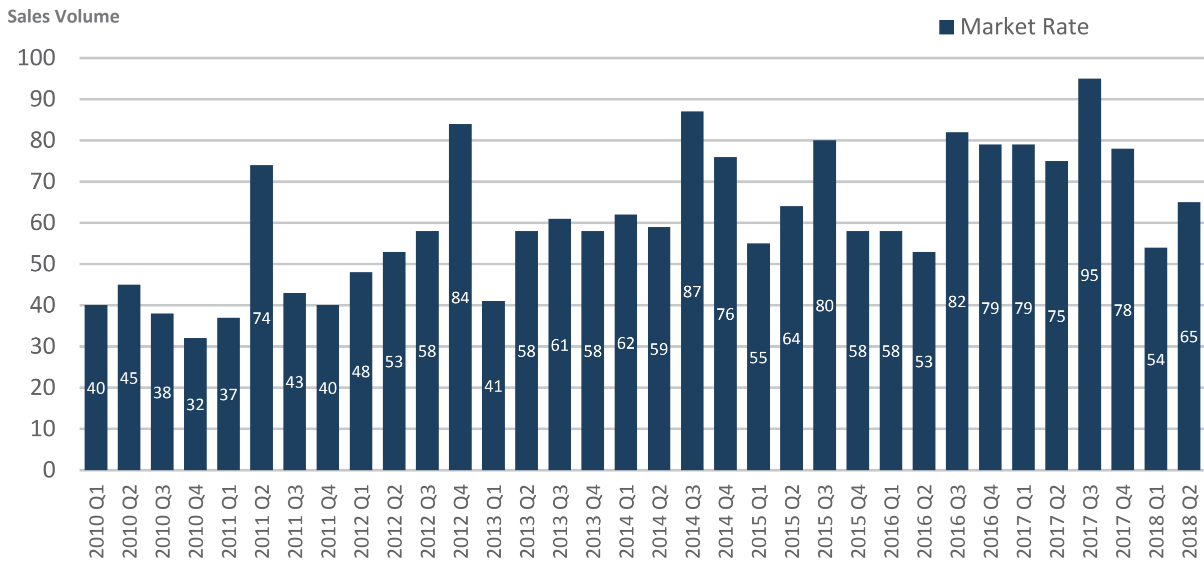
5. HOUSING COSTS

This section provides a summary of current housing costs in San Miguel County. Pricing and cost data is summarized for market rate, deed-restricted, for-sale, and rental units.

Market Rate Ownership

- Since 2010, there has been an average of 61 sales per quarter or 245 sales per year in San Miguel County. Since 2016, sales volume has averaged 72 sales per quarter or nearly 290 sales per year (**Figure 23**).
- Roughly half of homes sold since 2013 were priced for households earning over 250 percent of the area median income (AMI). The remaining half of sales were relatively evenly distributed across households earning more than 31 percent AMI up to 250 percent AMI (**Figure 24**).
- The average sales price in San Miguel is currently (as of Q2 2018) just under $1.5 million. This is approximately $250,000 less than pre-recession levels but represents a recovery of approximately $500,000 per unit when compared to average sales prices in 2011 and 2012. Average prices in Mountain Village were just over the county average, while average prices in Telluride were roughly 25 percent lower than the countywide average. Average prices in other areas of San Miguel County were estimated at just over $500,000 per unit (**Figure 25**).
- As of Q2 2018, the average price per square foot for market rate sales was estimated at just over $600 per square in San Miguel County. The average price foot in Telluride was estimated at approximately $775 per square foot and the average price in Mountain Village matched the countywide average of $600 per square foot. The average price in other areas of San Miguel County was estimated at $275 per square foot (**Figure 26**).
- Examples of market rate product sold at prices affordable to households earning less than 100 percent of AMI include very small studios with limited kitchen facilities. They are typically condominiums designed and marketed for guests.

Figure 23
Market Rate For-Sale Housing Sales Volume, San Miguel County, 2010-2018



Source: FlexMLS; Economic & Planning Systems

Figure 24
Market Rate Sales Distribution by AMI, San Miguel County, 2013-2018

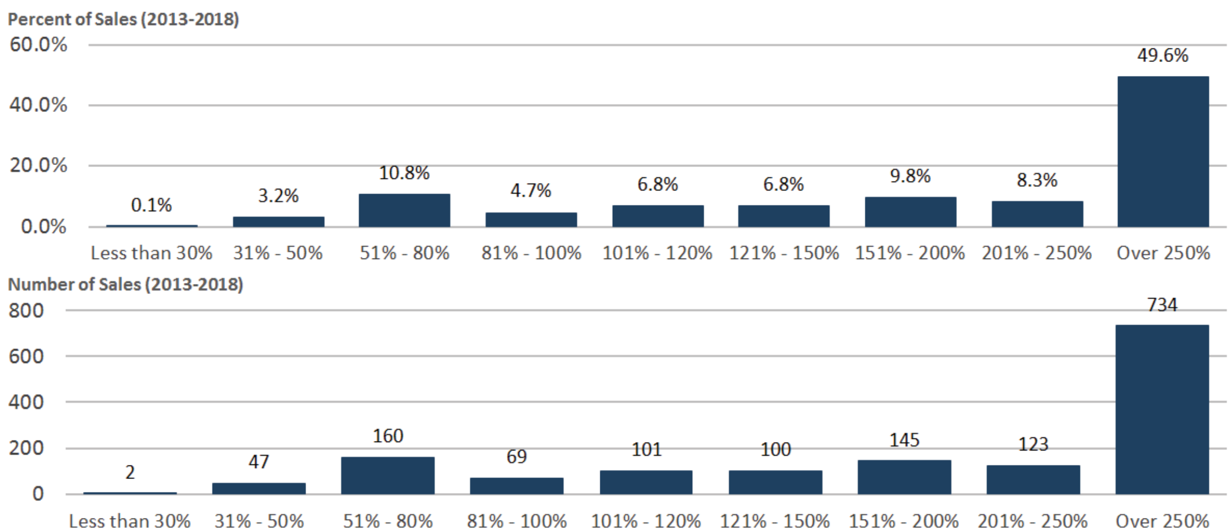
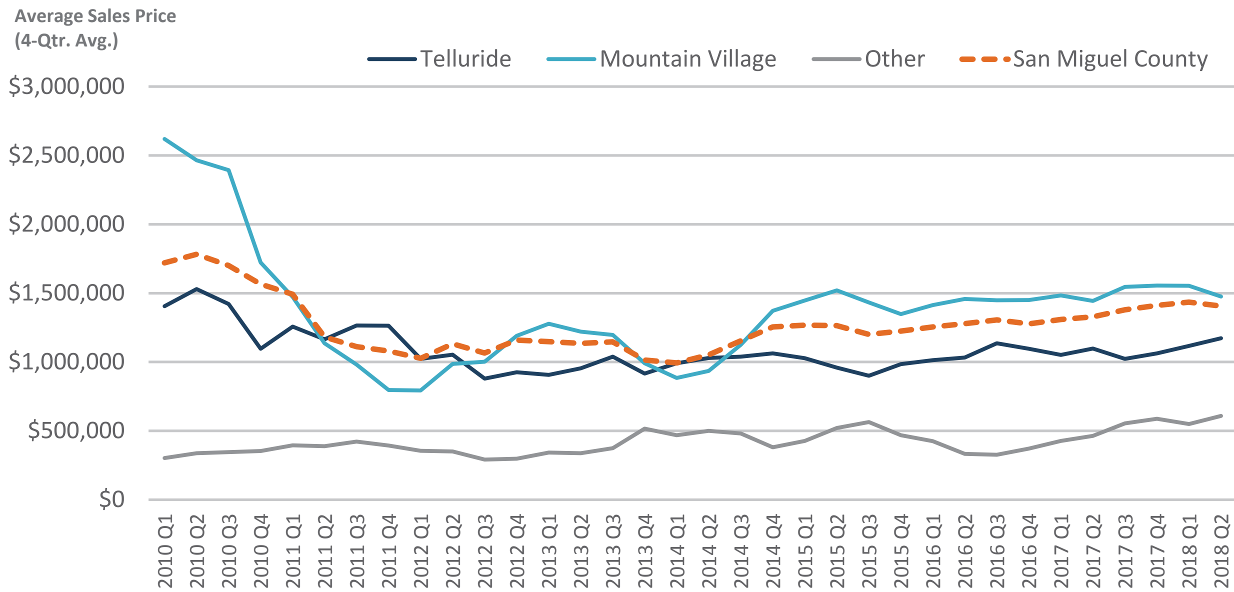
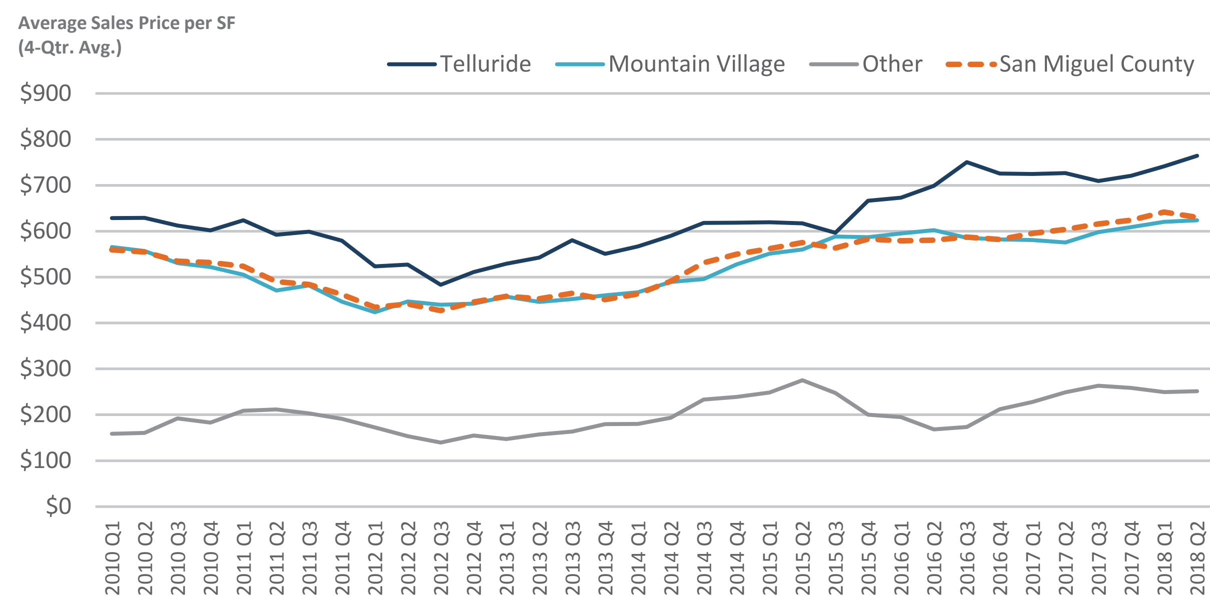


Figure 25
Market Rate Avg. Sales Price, San Miguel County, 2010-2018



Source: FlexMLS; Economic & Planning Systems

Figure 26
Market Rate Avg. Sales Price per Sq. Ft., San Miguel County, 2010-2018

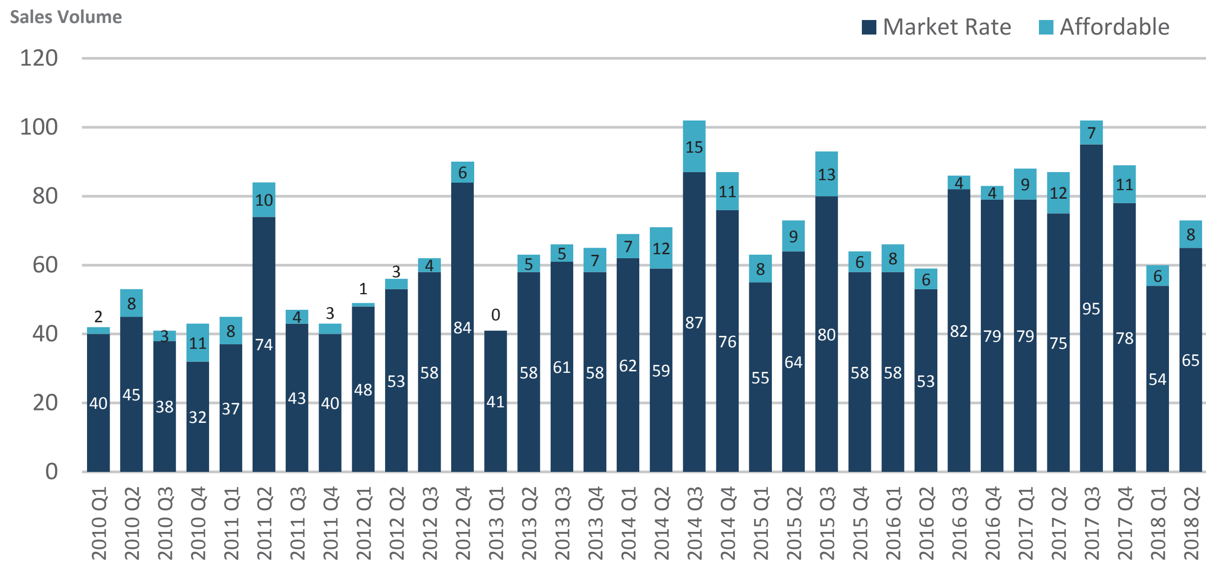


Source: FlexMLS; Economic & Planning Systems

Deed-Restricted Ownership

- Historically, deed-restricted sales have represented roughly 10 percent of total sales on an annual and quarterly basis. Since 2010. There has been an average of approximately 7 deed-restricted sales per quarter or 28 sales per year (**Figure 27**).
- The majority of deed-restricted sales were affordable to households earning between 51 percent and 120 percent of AMI. Between 2013 and 2018, approximately 30 percent of sales were affordable for households earning between 51 percent and 80 percent AMI, 25 percent of sales were affordable for households earning between 81 percent and 100 percent AMI, and 17 percent of sales were affordable for households earning between 101 percent and 120 percent AMI (**Figure 28**).
- Generally, the sales price of deed-restricted homes is approximately 30 percent of the price of market rate homes in San Miguel County. In Q2 2018, the average sales price of a deed-restricted home in San Miguel County was estimated at just over $400,000 per unit. Current average home prices for deed-restricted housing has not yet reached pre-recession averages of over $500,000 per unit (**Figure 29**). It is important to note that for this data point, the deed restricted sales includes all types of restrictions, including those with price caps and those that float with the market based on local employment requirements.
- On a price per square foot basis, the average price of a deed-restricted home is approximately 55 percent of the average for market rate homes. Current prices in San Miguel County are estimated just under $350 per square foot. This is approximately 55 percent higher than pre-recession levels (**Figure 30**).
- Between 2007 and 2017, approximately 36 percent of total deed-restricted sales occurred in Lawson Hill (SMC R-1), 39 percent of sales were properties in Telluride, 24 percent of sales were properties in Mountain Village, and 2 percent of sales were properties located in other areas (**Table 14**).
- Since 2015, the highest average sales price was for deed-restricted units was located in Lawson Hill. Average prices in Lawson Hill average $376,000 per unit. Average prices in Mountain Village were just slightly lower than prices in Lawson Hill at an average of nearly $340,000 per unit. Average sales prices in Telluride were approximately $230,000 per unit (**Table 15**).
- In 2017, there were 137 applicants for deed-restricted housing. Of these applicants, approximately 43 percent were for ownership units and 57 percent were for rental units. Nearly 15 percent of all applications were for ownership units priced at less than 80 percent AMI. There were approximately twice as many applications for rental units priced at less than 80 percent AMI (**Table 16**).

Figure 27
For-Sale Housing Sales Volume, San Miguel County, 2010-2018(Q2)



Source: FlexMLS; Economic & Planning Systems

Figure 28
Deed-Restricted Sales Distribution by AMI, San Miguel County, 2013-2018

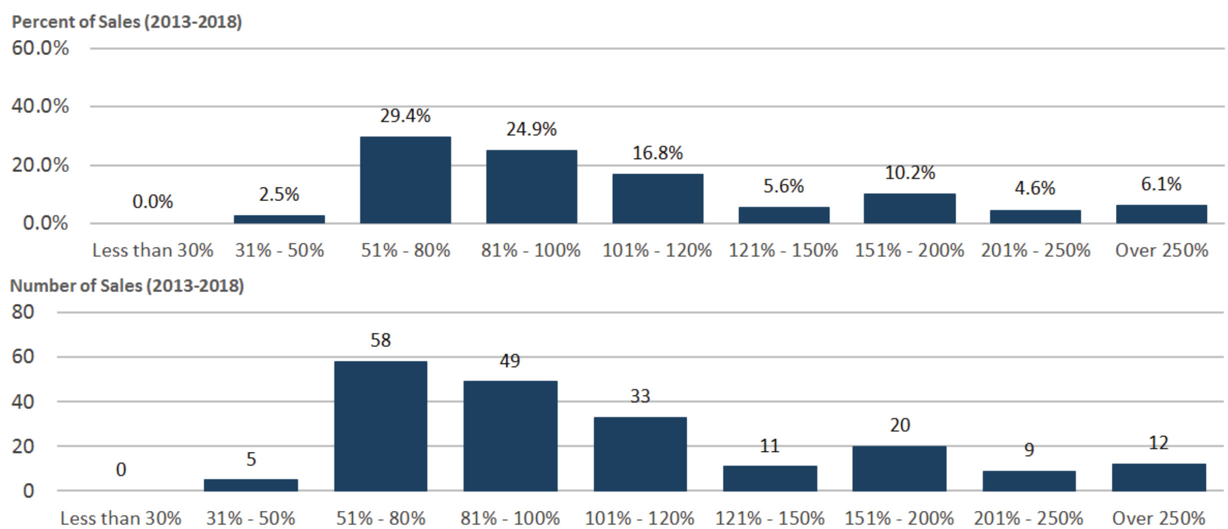
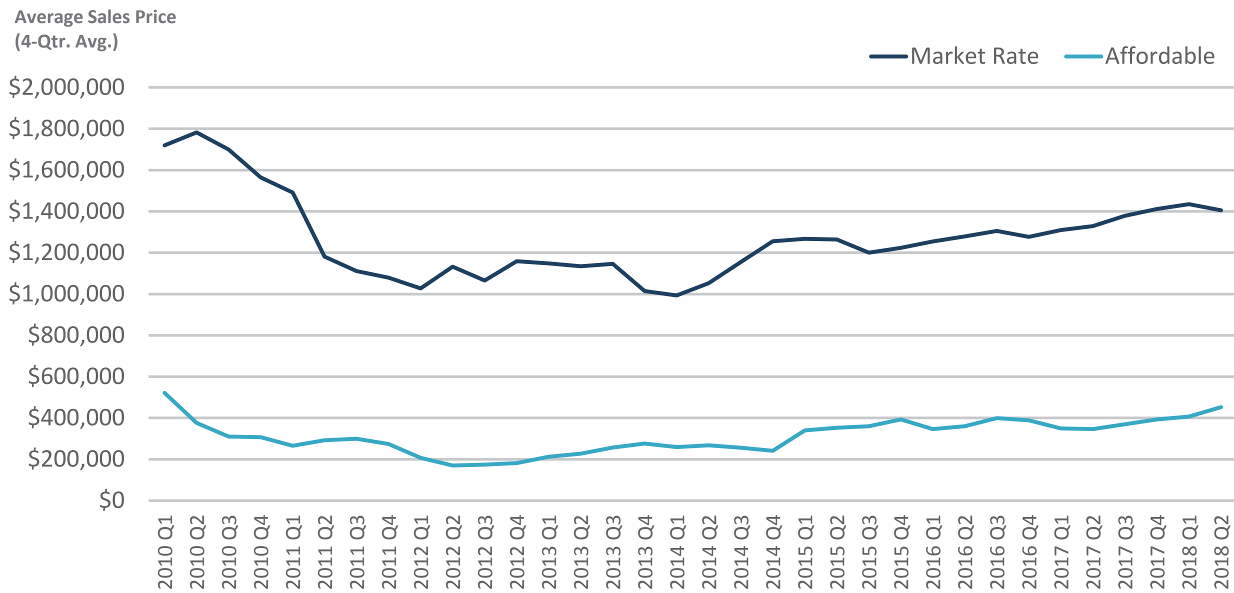
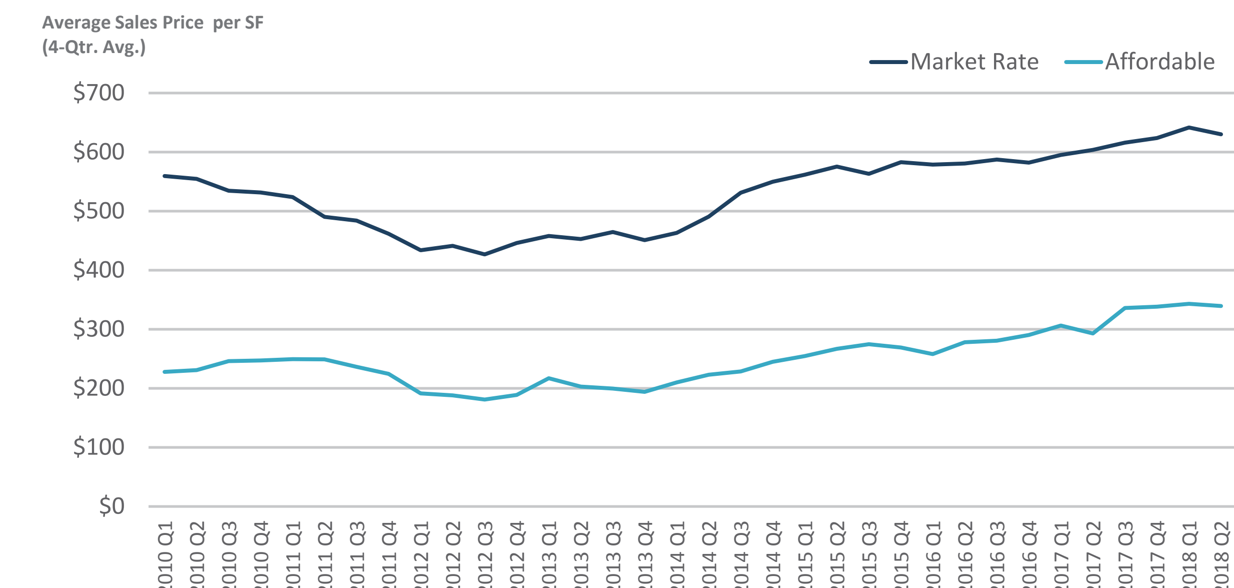


Figure 29
Sales Price, Market Rate and Affordable, San Miguel County, 2010-2018



Source: FlexMLS; Economic & Planning Systems

Figure 30
Price per Sq. Ft., Market Rate and Affordable, San Miguel County, 2010-2018



Source: FlexMLS; Economic & Planning Systems

Table 14
Deed-Restricted Sales, 2007-2017

Description	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2007-2017 Average	Total	% of Total
SMC R-1	22	4	4	3	3	3	12	12	25	13	17	11	118	36%
SMC Price Capped	1	0	0	0	0	0	0	0	1	1	1	0	4	1%
Telluride	7	4	13	16	19	5	2	22	10	9	22	12	129	39%
Telluride EDU	0	1	0	0	0	0	0	0	0	1	0	0	2	1%
Mountain Village	16	7	6	3	4	1	6	13	8	10	4	7	78	24%
Total	**46**	**16**	**23**	**22**	**26**	**9**	**20**	**47**	**44**	**34**	**44**	**30**	**331**	**100%**

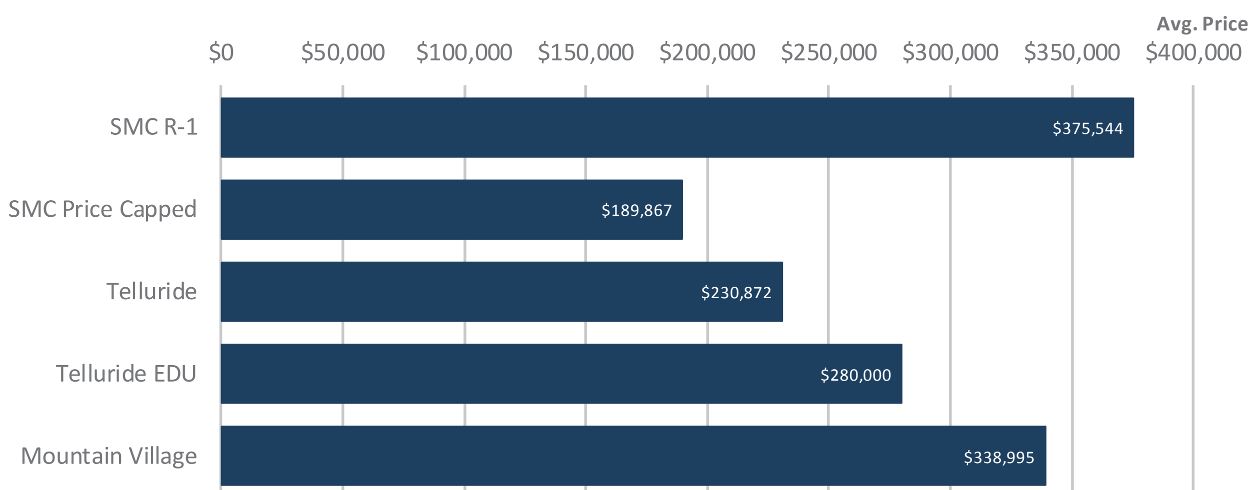
Source: SMRHA 2017 Annual Report; Economic & Planning Systems

Table 15
Deed-Restricted Price by Location, 2007-2017

Description	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Average '07-'17	'15-'17
SMC R-1	$340k	$370k	$319k	$308k	$503k	$206k	$274k	$256k	$278k	$408k	$441k	$337k	$376k
SMC Price Capped	$317k	N/A	N/A	N/A	N/A	N/A	N/A	N/A	$111k	$247k	$212k	$222k	$190k
Telluride	$164k	$193k	$275k	$253k	$255k	$216k	$217k	$217k	$248k	$182k	$263k	$226k	$231k
Telluride EDU	N/A	$440k	N/A	N/A	N/A	N/A	N/A	N/A	N/A	$280k	N/A	$360k	$280k
Mountain Village	$433k	$515k	$273k	$375k	$342k	$110k	$294k	$320k	$253k	$436k	$328k	$334k	$339k

Source: SMRHA 2017 Annual Report; Economic & Planning Systems

Figure 31
Deed-Restricted Average Price by Location, 2015-2017



Source: SMRAH 2017 Annual Report; Economic & Planning Systems

Table 16
Deed-Restricted Applicants, 2017

Description	SMC	Telluride	Mountain Village	Total	% of Total
Purchase					
Less than 80%	6	13	2	21	15.3%
80%-100%	4	5	1	10	7.3%
100.1%-120%	4	6	1	11	8.0%
120.1%-180%	5	3	2	10	7.3%
Over 180%	4	3	0	7	5.1%
Subtotal	**23**	**30**	**6**	**59**	**43.1%**
Rent					
Less than 80%	17	17	14	48	35.0%
80%-100%	2	6	5	13	9.5%
100.1%-120%	2	4	4	10	7.3%
120.1%-180%	2	2	2	6	4.4%
Over 180%	0	1	0	1	0.7%
Subtotal	**23**	**30**	**25**	**78**	**56.9%**
Total	**46**	**60**	**31**	**137**	

Source: SMRHA 2017 Annual Report; Economic & Planning Systems

SECTION 5-13: ACCESSORY DWELLING UNITS AND AFFORDABLE HOUSING

5-1301 General

This section of the Code establishes standards for accessory dwelling and affordable housing.

5-1302 Accessory Dwelling Units

5-1302 A. Applicability

One accessory dwelling unit per lot or parcel may be approved in the HD, MD and LD Zone Districts (only within the Telluride Region as defined in the Telluride Regional Area Master Plan) subject to compliance with the standards in this section. Refer to sections 3-4 and 4-7 for procedures and submission contents.

5-1302 B. Standards

I. An accessory dwelling unit shall not be:

a. Rented for a term less than six months.

II. An accessory dwelling unit shall:

a. Provide off-street parking in compliance with Section 5-702;

b. Be limited to a maximum size of 800 square feet;

c. Be built in accordance with the County's adopted Uniform Building Code;

d. Be attached to the main residence, unless either no higher than 16 feet or located within a customary residential accessory building, such as a garage;

e. Not in combination with the principal residence exceed the maximum allowable floor area of the applicable zone district; and

f. Comply with the San Miguel County Sanitation Regulations.

5-1303 Affordable Housing in the Telluride R-1 School District

To promote affordable housing, impact mitigation shall be required as a condition of approval pursuant to this Code for the following types of development in the Telluride R-1 School District: office, restaurant and retail, hotel, residential and ski area, based on the formulas in this section. In the interest of maintaining fairness and simplicity, all fractions shall be rounded down to the nearest whole number.

5-1303 A. Office, Restaurant, Retail and other Commercial Development

Office, restaurant, retail and other commercial development has been found to generate 3 employees per 1,000 gross square feet (gsf). Developers of these use types shall mitigate 15 percent of this impact based on the amount of gsf approved pursuant to this Code, as follows:

I. Each new office, restaurant and retail development shall be required to build deed-restricted housing for one employee for every 2,250 gsf;

II. No mitigation shall be required for developments of less than 2,250 gsf.

5-1303 B. Hotel Development

The number of employees that need to be housed as impact mitigation for hotel development shall be determined using the following formula (based on the definition of "population density"):

I. Divide the total number of hotel units by two (2) (to get the equivalent number of condominium units);

II. Multiply that number by three (3) (to get the residential density equivalent in number of persons; 3 persons per condominium unit); and

III. Calculate 15 percent of the residential density equivalent (and round down to the nearest whole number) to determine how many employees shall be housed to mitigate 15 percent of the impact of the hotel development.

5-1303 C. Residential Subdivision or Multi-family Development

I. One of every three lots in each new residential Subdivision shall be deed-restricted using the R-1 Housing deed restriction specified in Section 51304 or as approved by the BOCC.

II. One of every three units in each new Multi-family Development shall be deed-restricted using the R-1 Housing deed restriction specified in Section 5-1304 or as approved by the BOCC.

III. Subdivisions that previously mitigated their impacts through the provision of deed restricted lots or cash-in-lieu shall be exempt from further mitigation.

5-1303 D. Ski Area Development

I. Each ski area development that creates new base facilities in San Miguel County shall provide housing for 15 percent of its employees during all seasons; and

II. For each new ski lift added to an existing ski area, the ski area operator shall provide housing for two ski area employees.

5-1303 E. Size, Location and Occupancy of Mitigation Units

Deed restricted housing constructed as affordable housing may be occupied by any person(s) qualifying under the deed restriction established by these County regulations or as approved by the Board of Commissioners. Families may occupy larger units or portions thereof if at least one member of the family qualifies under the deed restriction, and additional occupants also must qualify under the deed restriction.

I. Deed restricted housing constructed as affordable housing impact mitigation shall provide:

a. At least 350 sq. ft. of space and

b. Full living, kitchen and sanitation facilities for each employee required to be housed.

II. Affordable housing units shall be constructed on the site of the primary development, except as allowed by the Board of County Commissioners.

III. Affordable housing units shall be constructed simultaneously with the primary development. In residential subdivisions, the required affordable housing lots platted shall be available to qualified employees at the same time that free market lots are offered for sale.

5-1303 F. Summary of Impact Mitigation Standards for Affordable Housing

Development Type	Employees Generated	Mitigation Level	Mitigation Required
Office	3/1,000 gsf	15%	1 / 2,250 gsf
Restaurant	3/1,000 gsf	15%	1 / 2,250 gsf
Retail	3/1,000 gsf	15%	1 / 2,250 gsf
Hotel	1.5/unit	15%	0.225 / unit
Ski Area	Year-round & Seasonal	15%	All Seasons
Residential Subdivisions		37%	1 / 3 lots
Multi-unit Projects		37%	1 / 3 units

5-1303 G. Employee Housing Impact Fee/Mitigation

I. The employee housing Impact Fee/Mitigation applies to all Development for which a Building Permit application is applied for and approved by the County, unless exempted from payment of the employee housing Impact Fee/Mitigation pursuant to Section 5-1303. G. XI of this Code, or that has otherwise fully mitigated its Employee Housing Impacts in accordance with the applicable LUC provisions. The employee housing Impact Fee/Mitigation applies to:

a. the new construction of a Building for which a Building Permit is required under the County's Building codes;
b. the construction of an addition to an existing Building for which a Building Permit is required under the County's Building Code; or
c. a change in use where the new use generates more employees than the previous use generated.

II. The purpose of the employee housing Impact Fee/Mitigation is to require the applicable development to pay to mitigate the impacts of development and land use to the employee housing stock managed or controlled by the County or its authorized designee, the San Miguel Regional Housing Authority.

III. The variables used in calculating the employee housing Impact Fee have been adopted by the Board of County Commissioners based upon research conducted by RPI Consulting. The variables include: the number of employees generated by the types of development, current level of service (i.e., how many employees working in the R-1 School District are living in deed-restricted housing), the subsidy needed per employee to construct employee housing, and the credit developers receive for future payment towards employee housing through Town of Mountain Village and Town of Telluride sales taxes.

IV. The employee housing Impact Fee constitutes a fee of general applicability within the County and as such shall be applicable to all property located within the Telluride R-1 School District in the unincorporated County.

V. Responsibility for Administration and Collection of Employee Housing Impact Fee. The employee housing Impact Fee will be determined by the County's Building Department or any other entity determined by the Board of County Commissioners to collect such employee housing Impact Fee. The Building Department will determine the Square Footage of Floor Area of a project for purposes of calculating the required employee housing Impact Fee. The Planning Office will make all other determinations and interpretations regarding employee housing Impact Fee administration required to properly implement these regulations, including, but not limited to, the calculation of any applicable credit as defined in this Code. The County intends to use the money solely for defraying the cost of capital facilities for deed-restricted, affordable housing pursuant to State of Colorado Statute 29-20-104.5.

VI. When Employee Housing Impact Fee is Calculated and Due. The employee housing Impact Fee shall be a condition of a receipt of a Development Permit and shall be calculated and paid at time of issuance of a Building Permit.

VII. Calculation of Employee Housing Impact Fee. The employee housing Impact Fee shall be calculated based upon the type of Development authorized to be constructed by the Building Permit, the number of employees generated by the development, and the total Square Footage of Floor Area proposed to be constructed as authorized by the Building Permit.

VIII. Determination of Square Footage of Floor Area subject to Employee Housing Impact Fee. The determination of the Square Footage of Floor Area of a Building that is subject to the employee housing Impact Fee will be calculated based on the San Miguel County Land Use Code, and the Department's policies, procedures and methods of calculating Square Footage of Floor Area under this Code.

IX. Mixed Use Buildings. For Buildings that are mixed use (e.g., Commercial/Industrial/Residential Buildings) the employee housing Impact Fee/Mitigation will be applied as follows:

a. Residential area will be charged the employee housing Impact Fee for Residential Development.
b. Commercial area will be required to provide employee housing Impact Mitigation for that Commercial Development, Hotel Development, and Ski Area Development which ever applies.

X. Multiple Types of Buildings on One Lot. All Buildings constructed on the same Lot or Parcel will be charged the employee housing Impact Fee/Mitigation based on the Building Permit issued for that Building.

XI. Exemptions to the Employee Housing Impact Fee/Mitigation. An employee housing Impact Fee/Mitigation will not be required to be paid or constructed for the following categories of Development:

a. Any Single-family Residence, Duplex, Multi-family unit or Lot that is Deed-Restricted under the County R-1 Housing Deed Restriction, Covenant or other restriction approved by the Board of County Commissioners is exempt from paying the Impact Fee.
b. Change of Use. Change of use without adding additional Square Footage of Floor Area or without increasing employee generation as determined herein will not result in the assessment of an employee housing Impact Fee/Mitigation.
c. Residential or Commercial Remodels. Commercial or Residential interior remodels that do not involve the construction of additional Square Footage or without increasing employee generation as determined herein will not result in the assessment of an employee housing Impact Fee/Mitigation.
d. Affordable Housing in Subdivisions. Existing or proposed subdivisions that include deed-restricted affordable housing units properly restrained through deed-restrictions from open market

sale or use to ensure that it is properly characterized as affordable housing, as such term is defined by this Code, may be given a level of credit to offset or mitigate the total employee housing Impact Fee assessed, unless there is an increase in the density or a change in use that increases employee generation. To evaluate and determine the level of credit assessed, the percent of deed-restricted, affordable housing units will be evaluated in relation to the impact mitigation required of that Development when approved.

e. Single-family Dwelling less than 1,800 sq. ft. of Floor Area. The Board of County Commissioners finds that residential improvements less than 1,800 sq. ft. are presumed to be occupied by local employees, and only residential improvements with a Floor Area of 1,800 sq. ft. or larger should pay employee housing Impact Fees based on the fact that residential improvements above 1,800 sq. ft. of Floor Area have a strong tendency for non-resident occupancy, and the employee generation for non-resident occupied residential structures (second homes) is significantly greater than that for resident-occupied improvements creating impacts beyond the County's ability to mitigate without a fee assessed for the development.

f. Other Exemptions. The Board of County Commissioners may grant additional exemptions and waivers of the employee housing Impact Fee/Mitigation when deemed to be in the public interest due to special circumstances or unique situations where the Development provides community benefit(s), or where the value of such benefit(s) meets or exceeds the mitigation that would otherwise be required.

XII. Employee Housing Impact Fee Credit for Sales/Use Taxes to be Paid. The need for a credit arises from the fact that occupants of new Residences in the unincorporated portion of the R-1 School District will be required to pay their share of the cost of housing the employees they generate, but they are also likely to buy goods in the town of Telluride and Mountain Village and therefore pay into the sales/use taxes earmarked in those towns for affordable housing. The sales/use tax credit used in the employee housing Impact Fee calculations has been calculated by RPI consulting and adopted by the Board of County Commissioners.

XIII. Right To Appeal Employee Housing Impact Fee Determination To Board of County Commissioners. Any person aggrieved by the decision of the Planning Office with respect to the administration of the employee housing Impact Fee under this Code will have the right to appeal such decision to the Board of County Commissioners pursuant to the Section 11903 of this Code. In addition, a developer may present alternative calculations of employee generation to the Board of County Commissioners for review and consideration.

XIV. Future Revisions to Employee Housing Impact Fee Regulations. The employee housing Impact Fee regulations may be reviewed periodically and relevant mitigation requirements adjusted as determined appropriate by the Board of County Commissioners.

XV. Employee Housing Impact Fee Calculation for Residential Development. The employee housing Impact Fee shall apply to the Development of Residences, as defined in this Code, whose housing impacts have not previously been mitigated. The employee housing Impact Fee also applies to:

a. New additions to existing detached Single-family Buildings. The fee shall be assessed only for the additional square footage beyond the 1,800 s.f. exemption threshold;
b. New additions to existing Multi-family Buildings;
c. Accessory Dwelling Units (regardless of size); and
d. Caretaker units (regardless of size).

XVI. Impact mitigation rate. All new Residential Development shall be assessed the Impact mitigation rate of thirty-seven percent (37%) employee service level, or a level as shall be amended from time to time by the Board of County Commissioners.

a. Appendix E, Table 1, of this Code sets forth the employee housing Impact Fee (per Residential unit) by year that will be assessed based on the size (sq. ft. of Floor Area) of the unit approved for each Development, pursuant to this Code.
b. Appendix E, Table 2, of this Code sets forth the construction mitigation rate each year for residential development.

XVII. The Residential employee housing Impact Fee calculation is as follows:

$$\{[(.070174e^{.000322*SF})*(\text{mitigation rate})] + [(sf * .0044) * (\text{mitigation rate for that year})]/40\}$$
$$\bullet \text{ per employee subsidy} - \text{Credit}) = \text{Impact Fee}$$

XVIII. Commercial Development is not required to pay an Impact Fee but is required to provide Affordable Housing Units as determined in Section 5 1303 A., 5-1303 B. and 5-1303 D.

The San Miguel County Building Dept. is responsible for determining the impact fee per Section 5-1303 F. V. above.

5-1304 R-1 Housing Deed Restriction

The following deed restriction shall be imposed on each parcel of real property designated as Affordable Housing pursuant to Section 5-1305 of the San Miguel County Land Use Code.

> 5-1304 Deed Restriction
>
> Subject Property: (Legal Description) ("Property")
>
> The ownership of the Property is hereby limited exclusively to Employees and their spouses maintaining primary and sole Residence in San Miguel County, Montrose County, Ouray County or Dolores County, Colorado, and to certain other persons and entities as permitted in Section 5-1305 of the San Miguel County Land Use Code, and the use and occupancy of the Property is hereby limited exclusively to such Employees who earn their incomes primarily within the Telluride R-1 School District and their spouses and children. Ownership, use and occupancy of the Property is subject to such definitions, exceptions and qualifications specified in Section 5-1305 of the San Miguel County Land Use Code, including but not limited to the following:
>
> > In the event Affordable Housing is sold, transferred and/or conveyed without compliance with Section 5-1305 of the San Miguel County Land Use Code, such sale, transfer and/or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported transferee. Each and every conveyance of Affordable Housing, for all purposes, shall be deemed to include and incorporate by this reference all terms of that certain Section 5-1305, including but not limited to those provisions governing the sale, transfer or conveyance of property.
>
> The foregoing restriction on ownership, use and occupancy constitutes a covenant that runs fifty (50) years from the date of recordation with the title to the Property as a burden thereon for the benefit of the Board of County Commissioners of San Miguel County, Colorado, or its designee, and shall be binding on the Owner, and on the heirs, personal representatives, assigns, lessees and licensees and any transferee of the Owner. The duration of this restriction and covenant shall extend for an initial period of fifty (50) years, and at the option of the Board of County Commissioners of San Miguel County, or its designee, may be extended for an additional period of fifty (50) years after public hearing and comment on the proposed extension. This restriction and covenant shall be administered by the Board of County Commissioners of San Miguel County, Colorado, or its designee, and shall be enforceable by any appropriate legal or equitable action, including but not limited to specific performance, injunction, abatement or eviction of non-complying Owners, users or occupants, or such other remedies and penalties as may be specified in Sections 1-16 and 5-1305 of the San Miguel County Land Use Code, or under law.

Notwithstanding the foregoing, this Deed Restriction shall automatically terminate upon the failure to exercise the Option to Purchase the Property granted in any Option to Purchase Affordable Housing by and between the San Miguel County Housing Authority and the holder of a first mortgage and subsequent issuance of a public trustees deed to the holder of a promissory note or governmental agency guaranteeing, insuring or acquiring the note (except San Miguel County, the Housing Authority or any successor, a Project Developer as defined in the Land Use Code or any non-profit affordable housing corporation) secured by a first deed of trust encumbering the Property. The date of termination shall be the date of recording the Public Trustee's Deed conveying the Property.

In addition, San Miguel County expressly reserves the right to terminate this Deed Restriction as to the Property upon recording a Termination Agreement in the office of the Clerk and Recorder of San Miguel County executed by all of the then owners of the Property and the Board of County Commissioners.

5-1305 Guidelines, Rules and Regulations Governing Affordable Housing in the Telluride R-1 School District

5-1305 A. Purpose

This Section shall govern the ownership, use and occupancy of Affordable Housing in the Telluride R-1 School District of San Miguel County, including all "Employee Apartment" and "Employee Dormitory" dwelling units (defined on the Final Plat for Filing 1, Telluride Mountain Village) platted prior to the adoption of the Land Use Code. These guidelines, rules and regulations are intended to help preserve a sufficient supply of Affordable Housing to meet the needs of locally employed residents in the Telluride R-1 School District while allowing customary free-market (unrestricted) practices to influence sale and rental of Affordable Housing as much as possible. The Housing Authority may adopt less restrictive regulations than those that follow in this Section 5-1305, on a temporary basis only, to address extenuating circumstances as necessary to achieve the purpose of the County R-1 Housing Deed Restriction.

5-1305 B. Definitions

I. "Acknowledgement of Deed Restriction" shall mean that document executed by the Owner of Affordable Housing in which the Owner acknowledges and agrees to comply with the Deed Restriction (see Section 5-1305 F.V.).

II. "Acquisition Costs" shall mean the aggregate of:

a. "Original Purchase Price," which is the gross amount paid by the Owner to acquire the Property; plus

b. "Initial Construction Costs," which is the gross amount paid by the Owner both to construct a dwelling unit on unimproved Affordable Housing Property and to obtain a certificate of occupancy for such dwelling unit; plus

c. "Home Improvements Costs," which is the gross amount paid by the Owner for improvements to such dwelling unit after issuance of certificate of occupancy, not to exceed 10 percent of the aggregate of the Original Purchase Price plus Initial Construction Costs.

III. "Affordable Housing" shall mean residential dwelling units in the Telluride Region that are permanently deed restricted by the County's R-1 Housing Deed Restriction to limit use and occupancy to persons (and their families) who live and earn their livings primarily in the R-1 School District of San Miguel County, or such other deed restriction as approved by the BOCC.

IV. "Affordable Housing Project" shall mean all the Affordable Housing granted approval by a single preliminary plat approved by the San Miguel County Board of Commissioners.

V. "Certificate of Qualification" shall mean that document in which the Housing Authority certifies an Owner as a Qualified Owner or an occupant as an Employee according to the Deed Restriction (see Section 5-1305 F.V.).

VI. "Deed Restriction" shall mean Land Use Code Section 5-1304.

VII. "Employee" shall mean a person who has earned his living primarily within the Telluride R-1 School District by having worked there an average of 30 hours per week for at least eight months of the past year and maintains primary and sole Residence in San Miguel County, Montrose County, Ouray County or Dolores County. The Housing Authority shall determine whether a person qualifies as an Employee based on criteria including, but not limited to, percent of income earned within the Telluride R-1 School District, place of voter registration, place of automobile registration, drivers license address, income tax records and public service involvement within the Telluride R-1 School District community. A person not otherwise meeting the definition of Employee may be qualified as an Employee by the Housing Authority or its designee if that person is more than 60 years of age and has been employed in the Telluride R-1 School District for at least five out of the previous eight years. Determination of Employee eligibility by the Housing Authority's designee may be appealed to the Housing Authority.

VIII. "Home Improvement Costs" shall mean only those costs associated with improvements or fixtures erected, installed or attached as permanent, functional, non-decorative features of the Property, for purposes of conserving energy or water, benefiting seniors or disabled persons, protecting health and safety, or adding to or finishing permanent storage or living space. Home Improvement Costs shall not cover repair, replacement or maintenance; landscaping, hot tubs, steam showers, saunas or similar features; modifying decks or balconies; upgrading appliances, plumbing, mechanical fixtures, carpets or other interior items included in original construction; and installing or upgrading decorative features including lights, window coverings and similar items. The Housing Authority must approve all items proposed for inclusion under Home Improvement Costs.

IX. "Housing Authority" shall mean the San Miguel County Housing Authority established by the San Miguel County Board of Commissioners or its successors.

X. "Live-work Housing" shall mean a multi-family structure located within the Low Intensity Industrial (I) Zone containing Affordable Housing dwelling units, and industrial space. The number of industrial units may not exceed the number of Affordable Housing dwelling units in each structure.

XI. "Non-occupant Owner" shall mean a person, group or entity that owns one or more Affordable Housing Multi-family Units pursuant to Land Use Code Section 5-1305 C.IX.

XII. "Option to Purchase" shall mean the Option to Purchase Affordable Housing agreement which may be entered into by and between San Miguel County, the Owner and the holder of a first mortgage that grants the Housing Authority the right to acquire the Subject Property in event of a foreclosure (see Section 5-1305 F.V.).

XIII. "Owner" shall mean an Employee, Project Developer or Housing Authority holding fee title to Affordable Housing.

XIV. "Project Developer" shall mean a person, group, organization, agency or other entity holding fee title to Affordable Housing and to which either:

a. Final Plat approval for Affordable Housing is granted by the San Miguel County Board of Commissioners;

b. Development Permit approval for an entire Affordable Housing project is granted by the San Miguel County Planning Director;

c. An entire Affordable Housing Project is wholly sold, conveyed or otherwise transferred by a Project Developer in accordance with the provisions of the Section 5-1305;

d. Fee title to an "Employee Apartment" or "Employee Dormitory" unit in the Telluride Mountain Village has been legally conveyed;

e. Land zoned for Affordable Housing is sold, conveyed, or otherwise transferred for the purpose of constructing Affordable Housing for resale to qualified Employees in conformance with a contractual agreement with the Housing Authority executed prior to such sale, conveyance or transfer; or

f. Land zoned for Affordable Housing is sold, conveyed, or otherwise transferred for the purpose of constructing Affordable Housing for resale to qualified Employees in conformance with a contractual agreement with the Housing Authority executed prior to such sale, conveyance or transfer. Notice is hereby given that if the Housing Authority has reasonable cause to believe that a Project Developer under this definition is not actively developing and marketing lot(s) and/or unit(s) in conformance with such contractual agreement, the Housing Authority may purchase the lot(s) and improvements at the same price the Project Developer paid, plus any other remedies included in a specific contractual agreement. In the event the original lot has been subdivided and partially sold, the Housing Authority may pay a prorated amount based on the price the Project Developer paid.

XV. "Property" shall mean the real estate subject to the R-1 Housing Deed Restriction and the improvements thereon.

XVI. "Qualified Owner" shall mean:

a. an Employee, Project Developer, or Non-occupant Owner whose right to own Affordable Housing has been certified by the Housing Authority, or
b. the Housing Authority, San Miguel County or the Town of Telluride.

XVII. "Residence" shall mean the principal or primary home or place of abode of a person, meaning that home or place of abode in which a person's habitation is fixed and to which he, whenever absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of such absence. A Residence is a permanent building, or part thereof, including a house, condominium, apartment, room in a house or mobile home. No vacant lot shall be considered a Residence.

a. In determining what is the principal or primary place of abode of a person, the following circumstances relating to such person may be taken into account: Business pursuits, employment, income sources, residence for income or tax purposes, age, marital status, Residence of parents, spouse and children, if any, leaseholds, situs of personal and real property, voting registration and motor vehicle registration.

b. A person shall not be considered to have gained residence in San Miguel County, Montrose County, Ouray County or Dolores County, Colorado while retaining his home or domicile elsewhere. If a person moves to any location outside San Miguel County, Montrose County, Ouray County or Dolores County, Colorado he shall be considered to have lost his Residence in San Miguel County, Montrose County, Ouray County or Dolores County, Colorado.

5-1305 C. Ownership, Use and Occupancy Regulations

I. The ownership of Affordable Housing shall be limited exclusively to Employees and their spouses and to Project Developers and Non-occupant Owners, the Housing Authority or its designee, the San Miguel County Board of Commissioners and the Town of Telluride.

II. No Employee shall be permitted to own or occupy Affordable Housing if such Employee, such Employee's spouse or such Employee's dependent owns any material interest, direct or indirect, in a "Single-family Residence," "Condominium" or "Lot" zoned for "Residential Use" (as such terms are defined in Article 6 of this Land Use Code) located elsewhere in San Miguel County, Montrose County, Ouray County or Dolores County. This prohibition includes partial or full corporate ownership established for the purpose of evading this provision or to provide beneficial interest sufficient to permit use and occupancy by the owner or part owner. In addition, Affordable Housing Single-family Residences and Duplexes must be owner-occupied and may not be rented, except as permitted by the Housing Authority pursuant to Section 5-1305 G.I.

III. The use and occupancy of Affordable Housing shall be limited exclusively to Employees, their spouses and children and other immediate family members.

IV. An Affordable Housing unit shall be the primary and sole Residence of the occupying Employee(s).

V. A Qualified Owner shall sell Affordable Housing only to a Qualified Owner and shall rent or otherwise limit occupancy of Affordable Housing only to Employees.

VI. An Employee shall not engage in any business activity in Affordable Housing other than Home Occupations, as defined in this Code.

VII. An Owner shall occupy or rent Affordable Housing only in accordance with this Section 5-1305 and shall not allow Affordable Housing to be used, sold or otherwise transferred for use in a trade or business.

VIII. The terms of this Section 5-1305 of the San Miguel County Land Use Code shall constitute covenants running with the Property, as described in the R-1 Housing Deed Restriction (Section 5-1304 A.), as a burden thereon, for the benefit of, and shall be specifically enforceable by, the San Miguel County Board of Commissioners or its designee, by any appropriate legal action including but not limited to specific performance, injunction, eviction of non-complying owners and/or occupants, and/or by any of the enforcement and remedy provisions of Section 1-16 of this Land Use Code.

IX. Any person, group, organization, agency or other entity may own one or more Affordable Housing "Multi-family Units" (as defined in Article 6 of this Land Use Code). Ownership of Multi-family units shall be subject to the Owner limiting occupancy of the Affordable Housing Multi-family Unit only to qualified Employees. On or prior to assuming ownership of an Affordable Housing Multi-family Affordable Unit, the Owner shall execute and record an Acknowledgement of Deed Restriction in the property records of San Miguel County.

X. Free Market Property owned by an applicant shall not be transferred to any other person or persons or other entities for the purpose of evading these regulations.

5-1305 D. Procedure for Qualifying Affordable Housing

Property becomes designated as Affordable Housing when the San Miguel County Board of Commissioners or its designee and the Owner of the Property execute and record with the Office of the Clerk and Recorder of San Miguel County a final plat containing the County R-1 Housing Deed Restriction (Section 5-1304) or a separately recorded document imposing the County R-1 Housing Deed Restriction on the Property. Prior to the issuance of a certificate of occupancy for each "Employee Apartment" and "Employee Dormitory" unit, the Owner shall subject the unit to the County R-1 Housing Deed Restriction through proper execution and recordation of that document, as described in this Section 5-1305 D.

5-1305 E. Procedure for Purchasing and Occupying Affordable Housing

An Employee may not purchase or occupy Affordable Housing until he has:

I. Submitted a standard application provided by the Housing Authority with all required documentation to the Housing Authority or its named designee;

II. Appeared before the Housing Authority or its designee to testify as to the veracity of evidence of employment supplied to the Housing Authority or its designee in a manner proscribed by the Housing Authority or its named designee;

III. In the case of intended purchase, recorded a copy of the Housing Authority's written certification of the Owner's qualification with the Office of the Clerk and Recorder of San Miguel County. In the case of intended rental occupancy, delivered a copy of the Housing Authority's written certification of the Employee's qualification to the Owner;

IV. Provided a signed copy of a lease or other occupancy agreement, if the Affordable Housing is rented, to the Housing Authority or its named designee; and

V. Paid an application fee in an amount set by Board of County Commissioners resolution, to the Housing Authority for processing his qualification application.

5-1305 F. Procedure for Selling and Renting Affordable Housing

I. No Affordable Housing may be sold or rented without submission of written notice of intent to sell or rent the Affordable Housing to the Housing Authority. Such written notice must be submitted to the Housing Authority or its designee at least 30 days prior to offering or listing for sale or five days prior to leasing of the Property.

II. In the event an Owner desires to sell Affordable Housing, the Owner may sell the unit himself or list and sell the unit through a real estate broker licensed in the State of Colorado. The Owner or broker, if any, shall promptly advertise the Affordable Housing for sale to qualified Employees. The seller shall upon closing of a sale pay a fee to the Housing Authority in an amount equal to one percent of the sales price. This one-percent fee shall include a Deed Restriction Administration fee in an amount set by Board of County Commissioners resolution. If the one-percent fee imposed by this section is not paid when due, that fee, all costs of collection of that fee and interest shall constitute a perpetual lien on the property. The County may foreclose this lien in the same manner as other property tax liens of the County.

The seller shall not be required to pay the one-percent Deed Restriction Administration fee if the seller has already purchased another County Deed-Restricted Unit or if the seller purchases another County Deed-Restricted Unit no more than six months after closing on the sale of the County Deed-Restricted Unit that the seller is selling. If the seller has not yet purchased another County Deed-Restricted Unit, the seller shall make arrangements, to the satisfaction of the Housing Authority's Designee, to place the one-percent Deed Restriction Administration fee in escrow. The one-percent Deed Restriction Administration fee shall remain in escrow until the first to occur of the following two events:

(1) The seller purchases another County Deed-Restricted Unit, and has not purchased any material interest in any other residential property in San Miguel, Montrose, Ouray or Dolores County in the interim, in which case the one-percent Deed Restriction Administration fee shall be refunded to the seller; or

(2) The end of six months after the seller closes on the sale of the County Deed-Restricted Unit that the seller is selling, and the seller has not purchased another County Deed-Restricted Unit, in which case the one-percent Deed Restriction Administration fee shall be paid to the Housing Authority.

III. In the event an Owner desires to rent Affordable Housing, the Owner may rent the unit himself or rent the unit through a real estate broker licensed in the State of Colorado. The Owner or broker, if any, shall promptly advertise the Affordable Housing for rent to qualified Employees. The Owner shall pay a Deed Restriction Administration fee set by Board of County Commissioner resolution for each Employee signing a lease for an Affordable Housing unit. If the administration fee is not paid promptly upon execution of a lease, that fee, all costs of collection of that fee and interest shall constitute a perpetual lien on the property. The County may foreclose this lien in the same manner as other property tax liens of the County.

IV. For rentals of Affordable Housing only, the Housing Authority shall qualify an Employee for occupancy based upon demonstration of intent to be employed for at least eight months within the next 12 months. In making a determination about the applicant's intent, the Housing Authority may rely upon evidence including but not limited to: work patterns and written references, income tax records, current employment within the Telluride R-1 School District, percent of income earned from employment sources and public service involvement.

V. As part of all sales and other transfers of Affordable Housing, the following documents shall be executed and recorded in the Office of the Clerk and Recorder of San Miguel County (in addition to recordation of the Deed Restriction on the appropriate plat for the Subject Property):

a. an Acknowledgement of Deed Restriction, in which the Owner acknowledges and agrees to abide by all terms and conditions of the Deed Restriction;

b. a Certificate of Qualification, in which the Housing Authority certifies that the Owner is a Qualified Owner under the provisions of the Deed Restriction;

c. any other contractual agreements that apply to the Affordable Housing unit that are necessary to evidence the Housing Authority's conditions of approval of the sale.

VI. If Fannie Mae (FNMA)-type financing is used to purchase an Affordable Housing unit, as determined by the Housing Authority, the Housing Authority shall permit the Owner and the holder of the first deed of trust an Option to Purchase agreement which grants an option to the Housing Authority, San Miguel County, or the Town of Telluride to purchase the Affordable Housing in the event of a default in financing. FNMA-type financing is limited to commercial banking and lending institutions licensed to engage in mortgage lending practices in the State of Colorado.

5-1305 G. Rental Regulations

I. An Owner may not rent Affordable Housing for any period of time without the written approval of the Housing Authority, as evidenced by a written certification signed by the Housing Authority or the Board of Commissioners or its designee, and such rental shall be subject to the Housing Authority's conditions of approval.

II. Prior to occupancy of Affordable Housing by an Employee, or any renter, the Employee must be approved by the Housing Authority pursuant to all qualification requirements set forth in this Section 5-1305.

III. A signed copy of the lease or other occupancy agreement must be provided to the Housing Authority prior to occupancy by an Employee, pursuant to Section 5-1305 E.IV.

IV. In no case shall the rental deposit required by an Owner exceed twice the monthly rental, and in no case shall an Owner require that the rent for more than one month be paid in advance.

V. Nothing herein shall be construed to require the Housing Authority or any other entity to protect or indemnify an Owner against any loss attributable to rental, including but not limited to non-payment of rent or damage to Affordable Housing, nor shall the Housing Authority or any other entity be responsible for locating an Employee to occupy Affordable Housing in the event that no Employee occupant is found by the owner.

5-1305 H. Violations

I. The Housing Authority may require at any time that an Owner verify within five days of such request by the Housing Authority that:

a. The Owner is a Qualified Owner and/or

b. Any particular tenant is a qualified Employee.

II. In the event an occupant of Affordable Housing does not or no longer qualifies as an Employee, the Housing Authority may require that occupant to:

a. Vacate rental Affordable Housing within 60 days, or re-qualify as an Employee within that period; or

b. Vacate Affordable Housing he owns and cause it to be listed for sale pursuant to Section 5-1305 F. within one year, or re-qualify as an Employee within that period.

III. In the event a violation is discovered, the Housing Authority shall provide a written notice of violation to the Owner detailing the nature of violation. Said notice shall state that the Owner may request a hearing before the Housing Authority within 15 days from the date of notice of violation to determine the merits of the allegations and to discuss remedies of the violation. If the Owner fails to request a hearing, the violation is considered to be conclusively determined.

IV. Default by an Owner in payments or other material obligations due or to be performed under a promissory note secured by a deed of trust encumbering Affordable Housing ("Secured Obligations") by an Owner shall constitute a violation of this Section 5-1305 and of Section 1-1504 of the San Miguel County Land Use Code. Each Owner shall notify the Housing Authority in writing immediately upon receipt by the Owner or his agent of any notification received from a lender, or its assigns, of past due payments or default in payment or other obligations due or to be performed under a promissory note secured by a first deed of trust, as described herein, within five calendar days of the Owner's notification from lender, or its assigns, of said default of past payments.

5-1305 I. Remedies

I. There is hereby reserved to the Housing Authority any and all remedies provided by law and by Section 1-16 of this Land Use Code for violation of this Section 5-1305 or any of its terms. In the event of litigation with respect to any or all provisions of this Section, the prevailing party in such litigation shall be entitled to recover damages and costs, including reasonable attorney's fees.

II. In the event Affordable Housing is sold, transferred and/or conveyed without compliance with this Section 5-1305, such sale, transfer and/or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported transferee. Each and every conveyance of Affordable Housing, for all purposes, shall be deemed to include and incorporate by this reference all terms of this Section 5-1305, including but not limited to those provisions governing the sale, transfer or conveyance of Property.

III. In the event an Owner fails to remedy any violation, the Housing Authority may resort to any and all available legal action, including but not limited to injunction or specific performance of this Section 5-1305 requiring the sale of Affordable Housing by the Owner. The costs of such sale shall be charged against the proceeds of the sale, with the balance being paid to the Owner.

IV. Nothing herein to the contrary withstanding, if an Employee Owner of Affordable Housing no longer qualifies to own Deed Restricted housing, based on the definition of Employee in Section 5-1305 B. and/or the Ownership Use and Occupancy Regulations in Section 5-1305 C. and fails to requalify within one year but continues to make all required principal and interest payments on an Affordable Housing ownership unit, he must offer the property for sale, and he must accept a bid equal to or exceeding, the aggregate of his (i) Original Purchase Price, plus (ii) Initial Construction Costs, if any, plus (iii) Home Improvements Costs, if any, not to exceed 10 percent of the aggregate of the Original Purchase Price plus Initial Construction Costs, if any. As used in this Section 5-1305 I.IV., "Original Purchase Price" means the gross amount paid by such Employee Owner to acquire the Affordable Housing ownership unit; "Initial Construction Costs" means, if and only if the Affordable Housing ownership unit when acquired by such Employee Owner was an unimproved lot, the gross amount paid by such Employee Owner to construct a dwelling unit on such unimproved lot and to obtain a certificate of occupancy for such dwelling unit, and "Home Improvement Costs" means the gross amount paid by such Employee Owner for improvements to such dwelling unit after issuance of a certificate of occupancy for such dwelling unit. Real estate commissions, the Real Estate Transfer Assessment (RETA), closing costs, appraisals, and any other costs not approved by the Housing Authority shall not be allowed to be incorporated into the listing price once the one year requalification period has ended. The Owner shall not be required to accept a bid that requires the Owner to carry back any portion of the purchase price by a note. If no bids are submitted that equal or exceed his original purchase price plus proven home improvements, he does not have to accept any, and he, his spouse and/or his children may continue to occupy the unit (without violating the provisions of Section 5-1305 H.II.b.), provided that the Property continues to be offered for sale through a real estate broker licensed in the State of Colorado and any bid equal to or exceeding the Original Purchase Price plus Initial Construction Costs plus Home Improvements Costs is accepted.

5-1305 J. Foreclosure

I. The Housing Authority may require the Owner to sell Affordable Housing that becomes subject to a default in order to avoid commencement of any foreclosure proceeding against the Affordable Housing, regardless of whether the Housing Authority has received notice pursuant to Section 5-1305 H.IV. In the event the Housing Authority determines that sale of the Property is necessary, the Owner shall immediately offer the Property for sale or enter into a Standard Exclusive Right to Sell Listing contract, with price and terms not to exceed prevailing price and terms for similar lots or units in the then-current Affordable Housing market, on forms approved by the Colorado Real Estate Commission. The seller shall promptly advertise the Affordable Housing for sale to qualified Employees. The seller shall upon closing pay a fee to the Housing Authority of one percent of the sales price. In the event of a listing of Affordable Housing pursuant to this Section, the Housing Authority may require the Owner to sell the Affordable Housing unit or units to an Employee who submits the highest bid that satisfies the owner's Secured Obligations received at least 10 days prior to the expiration of the redemption period.

II. Pursuant to the specific terms of an Option to Purchase (if this agreement has been offered, accepted and executed between the Owner, the holder of the first deed of trust and the Housing Authority), with and recorded Pursuant to the specific terms of an Option to Purchase, to be executed simultaneously with and recorded immediately subsequent to the first deed of trust, the terms of which are incorporated into this Section 5-1305 by this reference as if fully set forth herein, the Deed Restrictions contained herein shall terminate in the event of foreclosure by the holder of the promissory note secured by a first deed of trust on the respective Affordable Housing and subject to the issuance of a public trustee's deed to the holder of the promissory note or governmental agency guaranteeing, insuring or acquiring the note from the holder, provided that the Housing Authority, the San Miguel County Board of Commissioners and/or the Telluride Town

Council is granted an option to acquire the public trustee's certificate of purchase within 30 days after the issuance thereof for an option price not to exceed the sum for which the property was sold at foreclosure sale with interest from the date of sale, together with any taxes paid or other proper charges as provided by law, with interest from the date such expense was paid. Such interest shall be charged at the default rate if specified in the original instrument or, if not so specified, at the regular rate specified in the original instrument. If applicable, in the event the Housing Authority exercises its option to purchase, the Housing Authority may resell or hold, own or rent the Affordable Housing, subject to the provisions of this Section 5-1305.

Notwithstanding the event of foreclosure by the holder of the promissory note secured by a first deed of trust on the respective Affordable Housing, if an Option to Purchase agreement was neither offered nor executed between the Owner, the holder of the first deed of trust, and the Housing Authority, then the deed restrictions contained herein shall not terminate and the property will maintain its restricted status.

III. In the event that the Housing Authority exercises the option pursuant to the terms of that certain Option to Purchase, described above, and thereafter acquires title to the Property, the Housing Authority and/or its designee may sell the Affordable Housing or rent it to qualified Employees until sale is affected.

5-1305 K. Notices

Any notice, consent or approval required under this Section 5-1305 shall be provided in writing by certified mail, return receipt requested, properly addressed and with postage fully prepaid, to the Housing Authority address provided below or to the Owner at an address provided by that Owner at the time of qualifying Affordable Housing (per Section 5-1305 D.). Addresses may be changed with written notice to all other parties to this Section.

Address for the Housing Authority:

San Miguel County Housing Authority
c/o San Miguel Regional Housing Authority
P.O. Box 840
Telluride, CO 81435

5-1305 L. General Provisions

I. Forms of Documents. All forms of documents referred to in Section 5-1305 F.V. (including the Acknowledgement of Deed Restriction, the Certificate of Qualification and the Option to Purchase) shall be approved by the

County Attorney prior to use.

II. Further Actions. The parties to any agreement contemplated under this Section 5-1305 agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Section or any agreement or document relating hereto or entered into in connection herewith.

III. Gender and Number. Whenever the context so requires in this Section 5-1305, the neuter gender shall include any or all genders and vice versa, and the use of the singular shall include the plural and vice versa.

IV. Non-discrimination. No Employee shall be discriminated against on the basis of race, national origin, sex, color, creed or physical infirmity.

V. Personal Liability. The Owner shall be personally liable for any violations of the provisions in Section 5-1305.

VI. Severability. Whenever possible, each provision of this Section 5-1305 shall be interpreted in such a manner as to be valid under applicable law; however, if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating any remaining provision.

VII. Successors. Except as otherwise provided herein, the provisions and covenants contained in this Section 5-1305 shall inure to and be binding upon the heirs, successors and assigns of the parties.

VIII. Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this Section shall be valid against any party hereto, except on the basis of a written instrument executed by the parties to the R-1 Housing Deed Restriction. However, the party for whose benefit a condition is inserted shall have the unilateral right to waive such condition.

5-1306 Additional Affordable Housing Provisions

5-1306 A. Purpose of this Section

This Section sets forth additional, temporary rights of ownership and usage of Affordable Housing that may be permitted upon Housing Authority review, which shall not be considered a part of the Deed Restriction. All definitions contained in Section 5-1305 shall apply in this Section 5-1306.

5-1306 B. Project Developer Approvals

The provisions of this Section 5-1306 B. are intended to provide incentives to construct Affordable Housing on unimproved land so zoned.

I. Any person, group, organization, agency or other entity may apply to the Housing Authority for approval as a Project Developer for construction of one or more Affordable Housing dwelling units.

II. A prospective Project Developer shall submit a written application to the Housing Authority containing:

a. the name of the Project Developer;

b. a description of the Project, including location, lot number(s), lot size(s), unit size(s), and general construction characteristics;

c. a description of financing for the Project, including the name of the lending institution for land and/or construction, terms of the loan and repayment schedule;

d. a business and marketing plan for the Project, including plans for resale, name of listing agent, expected time period needed for resale, estimated costs of construction, expected sale price and profit; or, if the Project is intended for rental, expected rents and proposed management agent; and

e. qualifications of the Project Developer and any Project contractor(s) or management agent(s).

III. The Housing Authority's designee shall approve a prospective Project Developer as a Qualified Owner if the Housing Authority's designee finds that:

a. all information required by Section 5-1306 B. has been provided; and

b. the qualifications of the prospective Project Developer and/or any Project contractor(s) are adequate and sufficient to give reasonable assurance to the Housing Authority that the Project will be completed as contemplated in the application.

IV. Decisions made by Housing Authority's designee in regard to applications made under this Section 5-1306 B. may be appealed to the governing Board of the Housing Authority.

V. Approval of a Project Developer shall be evidenced by a contract executed by and between the Project Developer and the Housing Authority, which shall be recorded as a covenant against the Affordable Housing Property. Such contract shall refer to and incorporate the contents of the Project Developer application as required herein. The form of such contract shall be approved by the County Attorney.

VI. If the Housing Authority has reasonable cause to believe that a Project Developer under this definition is not actively developing and marketing lot(s) and/or unit(s) in conformance with such contractual agreement, the Housing Authority may purchase the lot(s) and improvements at the same price the Project Developer paid, plus any other remedies included in a specific contractual agreement. In the event the original lot has been subdivided and partially sold, the Housing Authority may pay a prorated amount based on the price the Project Developer paid.

5-1306 C. Exceptions to Definition of Employee

I. The Housing Authority may grant exceptions to the definition of Employee at Section 5-1305 B.VII. of the Land Use Code either as discretionary exceptions, administrative exceptions, or staff exceptions. Applications for discretionary or administrative exceptions require payment of the standard fee for One-step County Review as established by Board of Commissioners Resolution adopting or modifying Land Use Application Review Fees.

II. As a condition of discretionary or administrative exceptions, the Housing Authority may require the execution of a contractual agreement between the Housing Authority and the Employee setting forth the terms of the exception to be recorded as a covenant against the Affordable Housing Property. The form of such contract shall be approved by the County Attorney.

III. Applications for discretionary exceptions to Section 5-1305 shall be heard by the governing Board of the Housing Authority:

a. Conditions for discretionary exception:

i. The Owner of an Affordable Housing Property desires a leave of absence greater than one year for purposes of travel, schooling, temporary job assignment or other reasonable purpose, or;

ii. The applicant establishes other compelling circumstances, which shall not include financial hardship, justifying an exception.

IV. Applications for administrative exceptions to Section 5-1305 shall be reviewed and may be approved by the Staff of the San Miguel Regional Housing Authority with the consent of the governing Board of the Housing Authority:

a. Conditions for administrative exception:

i. The Owner of an improved Affordable Housing Property desires a period of time, not to exceed twenty four (24) months from the date of acquisition of the second property, in which to own both an improved Affordable Housing Property and an unimproved Affordable Housing Property with the limitation that the twenty four month period of time is designed to allow the Owner to construct the necessary improvements on the unimproved Affordable Housing Property so that the previously unimproved property is occupied and used by the Owner as the primary residence, provided the Owner sells the improved Affordable Housing Property to a qualified Employee within the twenty four month period. Pursuant to the specific agreement between the Housing Authority and Owner, failure to timely sell the Affordable Housing Property may result in a forced sale, including, but not limited to, the available remedies of Section 5-1305 I. IV;

ii. The Owner of an improved Affordable Housing Property desires a period of time, not to exceed twenty four (24) months from the date of acquisition of the second property, in which to own both an improved Affordable Housing Property and an unimproved Free Market Property with the limitation that the twenty four month period of time is designed to allow the Owner to construct the necessary improvements on the unimproved Free Market Property, provided the Owner sells the Affordable Housing Property to a qualified Employee within the twenty four month period. Pursuant to the specific agreement between the Housing Authority and Owner, failure to timely sell the Affordable Housing Property may result in a forced sale, including, but not limited to, the available remedies of Section 5-1305 I. IV;

iii. The Owner of an improved Free Market Property desires a period of time, not to exceed twenty four (24) months from the date of acquisition of the second property, in which to own both an improved Free Market Property and an unimproved Affordable Housing Property with the limitation that the twenty four month period of time is designed to allow the Owner to construct the necessary improvements on the unimproved Affordable Housing Property so that the property is occupied and used by the Owner as the primary residence, provided the Owner sells the improved Free Market Property within the twenty four month period. Pursuant to the specific agreement between the Housing Authority and Owner, failure to timely sell the improved Free Market Property may result in a forced sale of the Affordable Housing Property, including, but not limited to, the available remedies of Section 5-1305 I. IV; or

iv. The Owner of an unimproved Affordable Housing Property desires a period of time, not to exceed twelve (12) months from the date of acquisition of the second property, in which to own both an unimproved Affordable Housing Property and an improved Affordable Housing Property with the limitation that the twelve month period of time is designed to allow the Owner to move into the improved Affordable Housing Property and to sell the unimproved Affordable Housing Property to a qualified Employee within the twelve month period. Pursuant to the specific agreement between the Housing Authority and Owner, failure to timely sell the Affordable Housing Property may result in a forced sale of either property, including, but not limited to, the available remedies of Section 5-1305 I. IV;

V. Applications for staff exceptions to Section 5-1305 shall be reviewed and may be approved by the staff of the San Miguel Regional Housing Authority for a leave of absence for purposes of travel, schooling, temporary job assignment or other reasonable purpose not to exceed a total of twelve (12) months in any five (5) year period of time.

VI. Submission Requirements. An application for either a discretionary, administrative or staff exception shall include, at a minimum, an affidavit from the applicant describing the circumstances and reasons why exception is necessary, and shall include the following minimum information:

i. Proof and history of employment in San Miguel County;

ii. A statement as to whether the applicant owns any other property inside or outside San Miguel County;

iii. The nature and extent of the applicant's community commitments and involvement; and

iv. A statement describing any change in circumstances warranting an exception.

a. San Miguel Regional Housing Authority Review. Discretionary and administrative exception applications shall first be reviewed by the Staff of the San Miguel Regional Housing Authority and a recommendation shall be made to the Housing Authority. Pursuant to Section 5-1306 C. V., staff of the San Miguel Regional Housing Authority shall be the reviewing entity for staff level exceptions. Any challenge to a staff exception decision must be filed in writing with the governing Board of the Housing Authority by an affected or aggrieved party to the staff decision within 14 days of the staff decision. In reviewing the appeal, the governing Board of the Housing Authority shall consider the staff decision based on the exception requested by the applicant. The Housing Authority shall affirm the staff decision or take action as it shall deem necessary to remedy the staff decision.

b. Fee. Applications for discretionary or administrative exceptions shall include payment of the standard fee for One-step County Review.

c. Other Requirements. Any discretionary or administrative exceptions which may be granted pursuant to this section shall require a written agreement approved by the County Attorney and shall include such terms, security, conditions, remedies as the Housing Authority may require in its sole discretion, including, without limit, measures to ensure compliance with any such agreement. The County may withhold building permits, issue stop work orders, assess penalties, seek specific performance or require improvement agreements or impose other conditions to secure an exception.

d. Review Standards. All applications for discretionary or administrative exceptions must be found, in the sole discretion and judgment of the Housing Authority, to be consistent with the purpose and intent of Section 5-1305 of the Land Use Code.

VII. An exception to the definition of Employee shall be granted to enable listing on the title a co-borrower who is not an Employee, if a co-borrower is necessary for an Employee to qualify for financing to purchase an

Affordable Housing Property. Such exception shall be granted upon:

a. receipt of a letter from the Lender on behalf of the Employee that states:

   i. the co-borrower's name and relationship to the Employee,

   ii. a co-borrower is necessary for the Employee to qualify for financing to purchase the Affordable Housing Property in question,

   iii. it is necessary for the co-borrower to be listed on the title to the Affordable Housing Property; and,

b. execution of a contract by and between the Employee, the co-borrower and the Housing Authority providing for sale of the unit in the event the co-borrower takes full title to the Affordable Housing Property for any reason. Such contract shall require that the co-borrower contact the Housing Authority immediately upon taking full title to the Affordable Housing Property. Within 60 days of the date the co-borrower takes full title, the co-borrower must accept a bid equal to or exceeding the Acquisition Cost of the Property as defined in Section 5-1305 B.II. The form of such contract shall be approved by the County Attorney. Application for approval of a co-borrower shall be made to the Housing Authority and shall be subject to such additional Housing Authority conditions as may be in effect at the time of application.

AGENDA ITEM

TITLE:
Request: Staff discussion of SMC Master Plan Amendment regarding Housing

Presented by:
Time needed:

RECOMMENDED ACTION/MOTION:

INTRODUCTION/BACKGROUND:

FISCAL IMPACT:

ATTACHMENTS:

Description: