AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Planning Commission Major Impact Project Recommendation; Gunnison Valley Properties, LLC; Tomichi Gravel Pit; LUC #2012-10

Action Requested: Motion

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:
Gunnison Valley Properties, LLC - Tomichi Pit, Preliminary/Final Plan recommendation, request for a year-round sand and gravel operation on 134-acres of a 220-acre parcel; 61-acres of which will be excavated. The operation will include the extraction, crushing, screening, washing and stockpiling of approximately 200,000 tons of sand and gravel per year. Asphalt and concrete batching is also proposed to be conducted at the facility.

Fiscal Impact: None.

Submitted by: Neal Starkebaum **Submitter's Email Address:** nstarkebaum@gunnisoncounty.org

Finance Review: ○ Required ● Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ● Required ○ Not Required

Comments:

Reviewed by: GUNCOUNTY1\ATREZISE Discharge Date: 12/16/2013 Certificate of Insurance Required Yes ○ No ●

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\MBIRNIE Discharge Date: 12/16/2013

○ Consent Agenda ● Regular Agenda ○ Worksession Time Allotted: 20 minutes

Agenda Date: 1/7/2014 Follow Up Agenda Date:

Revised April 2013

Gunnison County Community
Development Department
Offices of Planning, Building and Environmental Health
221 N. Wisconsin St., Ste. D
Gunnison, CO 81230
Phone: (970) 641-0360 Fax: (970)641-8585

December 13, 2013

TO: **Board of County Commissioners**
Matthew Birnie, County Manager
David Baumgarten, County Attorney

FROM: **Neal Starkebaum**
Assistant Director

SUBJECT: **Tomichi Pit – Gunnison Valley Properties, LLC**

Attached, please find the Planning Commission Recommendation and the Board of County Commissioners draft Resolution. The Resolution has been reviewed by the County Attorney's Office.

TO:	**Planning Commission**
SUBJECT:	**Major Impact Project Recommendation Preliminary/Final Plan Gunnison Valley Properties, LLC Tomichi Gravel Pit LUC #2012-10**
PREPARED BY:	**Neal Starkebaum, Assistant Director Community Development Department**
PLANNING COMMISSION MEETING DATE:	**November 15, 2013**
APPLICANT:	**Gunnison Valley Properties, LLC 234 North Main Street, Suite 3A Gunnison, CO 81230**
REPRESENTED BY:	**Ben Langenfeld, Project Engineer Greg Lewicki and Associates 11541 Warrington Court Parker, CO 80138**

At its regular meeting on November 15, 2013, the Planning Commission unanimously approved the following Preliminary/Final Plan Recommendation, as amended, moved by AJ Cattles and seconded by Kent Fulton:

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*"**PRELIMINARY PLAN PROVIDES DETAILED SOLUTIONS AND DESIGN.** Preliminary Plan review requires the applicant to formulate detailed, designed/engineered solutions to the issues and concerns identified during Sketch Plan review, and to address, in a site-specific manner, all other issues that are relevant to the Preliminary Plan. The burden in the Preliminary Plan review is on the applicant to provide detailed information and mitigation proposals for evaluation."*

Section 7-103: C., Gunnison County Land Use Resolution

***"PRELIMINARY AND FINAL PLANS MAY BE COMBINED**. The Preliminary Plan and Final Plan may be combined and processed together based upon consideration of the following factors: design, size, public concern, public facilities and services."*

Section 7-103: C. 1., Gunnison County Land Use Resolution

***"FINAL PLAN FORMALIZES PROJECT.** The purpose of the Final Plan review procedure is to provide a permanent and accurate public record of the development plan: exact size, shape and location of all approved activities and uses, and, as applicable, lots, blocks, streets, easements and other parcels of land within the development, together with all applicable protective covenants, conditions, use restrictions and design and development criteria. A Final Plan or plat shall conform in all respects to the Preliminary Plan previously reviewed and approved by the Board and shall incorporate all modifications and special conditions required by the Board."*

Section 7-103: D., Gunnison County Land Use Resolution

Planning Commissioner Warren Wilcox recused himself from review of this project.

PROJECT DESCRIPTION:
Gunnison Valley Properties, LLC, represented by Ben Langenfeld, Project Engineer, Greg Lewicki and Associates, is requesting a land use change permit for a construction materials processing operation, to be known as the Tomichi Pit.

The Tomichi Pit site will be used for the production of construction materials such as sand, gravel, concrete, and asphalt. This will require the development of a 73 acre operation, (roads, mining pit, etc.) as part of a 134.5 acre project. This includes the mining pit, internal roads, berms, sediment ponds, processing area, office area, fuel storage, stockpiles, and all other operation related development.

The pit will operate year-around, although operations will likely be minimal in the winter. Most mining will take place from early April to late October. Material will be stockpiled on site during the summer for sale during the rest of the year to continue to supply construction industry needs. Some mining may take place in the off-season, but that is expected to be less than 30% of total annual production. The most common winter activities will be site maintenance and sales from stockpiles.

Mining operations at the Tomichi Pit will involve the extraction, crushing, screening, and washing of an expected average production of 200,000 tons of sand and gravel per year. The estimated resource of the Tomichi Pit is 5.3 million tons, based upon production of 200,000 tons/year, will take approximately 27 years to mine and reclaim. The Tomichi Pit will be a wet pit, requiring dewatering during the mine life. Lowering the water table within a sand and gravel pit during operations is a commonly accepted practice in the construction materials mining industry. The pit area will be excavated beginning in the southeast corner of the property and will migrate from the southeast to the northwest as the resource is extracted and processed, with reclamation occurring concurrently with the mining operations, pursuant to the State Division of Reclamation and Mining Safety permit.

All processing activities will take place in the southeast corner of the property. Concrete and/or asphalt batching operations will be conducted on the site, and an office building with scales, is also proposed. The pit will operate from 7 a.m. to 6 p.m., Monday – Saturday. Once mining and reclamation are complete, the resulting lake, wetlands, and surrounding lands are proposed to be set aside as wildlife habitat.

The applicant has proposed significant on-site mitigation in the form of berming and landscaping adjacent to Highway 50 and the Signal Peak Industrial Park, to provide permanent visual buffering of the proposed operation to travelers on Highway 50 and nearby residential areas. Additionally, the applicant has agreed to provide sound level and air quality (PM10) testing/monitoring to ensure compliance with noise and air quality standards to minimize off-site impacts to surrounding lands.

LOCATION:
The site is located in the NE/4 SE/4 NW/4 Section 4 and the NE/4NE/4 Section 5, Township 49 North, Range 1 East, N.M.P.M., 43188 Highway 50, generally described as being approximately 1/2 mile east of the City of Gunnison, south of Highway 50 to Tomichi Creek, and west of Signal Peak Industrial Park.

SURROUNDING LAND USES:
East – Industrial/Residential - Signal Peak Industrial Park
West – Agricultural land (Gunnison Valley Properties, LLC)
North - Residential (across Highway 50)
South - Colorado Parks and Wildlife property

PHASING AND RELATIONSHIP TO APPROVED SKETCH PLAN:
A Preliminary Plan is required to address all of the areas presented in the approved Sketch Plan, to be consistent with the approved Sketch Plan and to specifically address and comply with the conditions stated in the Board's approval. If the Preliminary Plan represents a significant variation from the approved Sketch Plan, that variation must be clearly and completely identified or described. The Preliminary Plan may address phases that are projected to be phases of the Final Plan, though all studies and engineering design are required to address the entirety of the project.

This Preliminary/Final Plan application does not represent a significant variation from the approved Sketch Plan and no phasing is proposed for the Tomichi Pit.

Section 7-103: General Review Process for Major Impact Projects, identifies the following:

C. 1. Preliminary and Final Plans May Be Combined. The Preliminary Plan and Final Plan may be combined and processed together based upon consideration of the following factors: design, size, public concern, public facilities and services.

The Board of County Commissioners determined at Sketch Plan approval, that upon consideration of the design, size, public concern, public facilities and services, the Preliminary and Final Plan could be combined for this project.

DOCUMENTS INFORMING THIS REVIEW AND ACTION:
This review and recommendation incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application, including all exhibits, maps, references and documents.

PLANS/REPORTS/SUBMITTALS:
Plans, reports, letters and other submittal documents informing this recommendation include, but are not limited to:

- Preliminary/Final Plan application, including all exhibits, appendices and maps.
- PowerPoint Presentation – "Tomichi Pit" - Ben Langenfeld, Greg Lewicki and Associates, presented at the June 7, 2013 work session.
- Additional submittal – "Tomichi Pit – Traffic Analysis Letter" Curtis D. Rowe, P.E. PTOE, Vice President, Kimley-Horn and Associates, Inc., dated August 21, 2013
- Appraisal Report – "Proposed Gravel Facility" Charles A. Peterson and Associates, dated August 24, 2013
- Tomichi Pit Modified Berm Plan Map 4.1 - Ben Langenfeld, Greg Lewicki and Associates, September 4, 2013.
- Additional submittals dated October 3, 2013 including a PM10 Monitoring Plan – Tomichi Gravel/Asphalt Operation, Rule Engineering, LLC
- Written comments from L. Richard Bratton, October 11, 2013
- *Landscape Plan – Tomichi Pit*, Ben Langenfeld, Greg Lewicki and Associates, dated November 1, 2013

COMPLIANCE WITH SKETCH PLAN APPROVAL:

The Board of County Commissioners unanimously approved the Sketch Plan, with the following conditions on January 18, 2013. There were no substantive changes made to the Preliminary/Final Plan application. BOCC Sketch Plan conditions are in bold; the applicant's comments from the Preliminary/Final Plan submittal on compliance with those conditions follows:

a. **A detailed mitigation plan, addressing the standards of *Section 13-119: Standards to Ensure Compatible Uses*, as well as other measures to mitigate issues raised during this Sketch Plan review, including a detailed, comprehensive landscaping & screening plan for Highway 50 and areas adjacent to Signal Peak Industrial Park F#1.**

The best mitigation tactic for visual impact of any industrial operation is to block the view of it. Therefore, the Tomichi Pit makes prodigious use of berms throughout the life of the mine. As shown in the visual point renderings, (Attached as Exhibit A) there are four berms used at the Tomichi Pit.

Highway Berm

The highway berm will be a roughly 10 foot tall berm running along the northeast side of the property, as near to the highway as is practical. Given the life of the mine (20+ years), this berm will be a permanent construction, with small trees planted along the berm to encourage an aesthetically pleasing appearance. This berm will provide the best visual impact mitigation for drivers on US-50 as they come into Gunnison.

No berm is constructed west of the site entrance, so as not to block the view of the valley for westbound drivers. This balances the desire to protect the view of drivers from the bulk of the pit's activity, while still allowing the benefit of the Tomichi Creek valley. The material for this berm will be generated during the initial topsoil stripping of the site.

Processing Berm

The processing berm will be a roughly 30 foot tall berm along the north and west sides of the processing area. This berm will be built using overburden and topsoil stripped from the processing area during operational startup, and will be vegetated immediately after construction. It will be in place until mining of the Stage 2 pit is complete. At this point in time, the processing berm will be removed, the material used for reclamation, and the processing area will be mined out.

Most equipment in the processing area will be hidden by the berm throughout the operation. The only exception to this would be the taller silos associated with an asphalt plant, which typically are 70 feet tall. Blocking the view of such tall equipment is impractical.

Signal Peak Berm

A 10 foot tall berm will be constructed between the Tomichi Pit processing area and the Signal Peak Industrial Park to obscure the view of the processing operations from Signal Peak Lane. The majority of the traffic on Signal Peak Lane is related to the industrial and commercial activity in the Industrial Park, and therefore the smaller berm combined with tree planting will be sufficient to mitigate the visual impacts of the processing site on Signal Peak Lane.

Stage 2 Pit Berm

A 10 foot tall berm will be built around the west and north side of the Stage 2 pit to obscure the mining operations in that pit. This berm will be built with topsoil and overburden from the stripping of the Stage 2 pit, and will be seeded with the berm seed mix upon construction. This berm will be removed at the end of the mining of Stage 2 and used for its reclamation.

b. Site plan for the proposed locations of all concrete and asphalt batching operations, including setbacks from property lines.

Maps 4.1 – 4.6 show the site plan details including the location of the processing activities throughout mine life. A processing area is shown on these maps; the processing equipment and activities will take place anywhere within this area.

c. Site plan identifying all internal haul roads.

Maps 4.1 - 4.6 show the route of internal hauls roads over the life of the mine.

d. A description and details of the program for long-term PM 10 air quality monitoring, with methodology acceptable to the Colorado Department of Public Health and Environment, including dust control mitigation measures.

Dust generated by mining operations and traffic will be the largest air pollutant of concern at the Tomichi Pit. This pollutant can be minimized by employing the following Best Management Practices (BMPs):

1. Revegetation of berms and long term (>90 day) soil and overburden stockpiles
2. Watering of short term and product stockpiles at least once per week during the operating season (April 15 to October 15)
3. Watering of internal haul roads weekly, and more if necessary
4. Gravelling of the main access road and any internal road that is not moving during the life of the operation.
5. Usage of covered haul trucks for product leaving the site
6. Baghouses on all applicable plants

The other sources of air pollution on site are fumes and exhaust from the operation of plants. Usage of appropriate low-sulfur fuels and proper equipment maintenance will minimize the production of pollutants. These plants are all regulated by CDPHE, and copies of the permit will be maintained onsite per CDPHE rules.

Monitoring identified particulate emissions (PM2.5 & PM10) will be conducted annually at the time of peak production for the site (typically sometime between June 15th and August 15th of each year). Data gathering will be conducted in accordance with the *Ambient Air Pollution and Meteorological Monitoring Guidance* document published by CDPHE, and the therein referenced EPA standards for measurement. Data gathering will be conducted by a qualified person. The results of this monitoring will be available for inspection by Gunnison County.

Sampling for particulate monitoring (PM10 and PM2.5) will be conducted using an industry standard instantaneous pump with preloaded filter that has been appropriately calibrated. This will likely provided by the qualified person contracted to conduct particulate monitoring or the operator if the qualified person works for the operator. The filters will be sent to an approved lab for analysis after sampling.

The operator may forgo annual monitoring if CDPHE does not believe it is necessary given the operational constraints and mitigation measures. Also, the operator may conduct a screening model of the operation to demonstrate that the operation will not produce particulate pollutants that are close enough to permit limits to necessitate monitoring.

e. A plan for air quality mitigation, specific to the concrete and asphalt batch plants, regarding air quality monitoring, odor and opacity controls.

Fumes and exhaust from the operation of plants are all regulated by CDPHE, and copies of the permit will be maintained onsite per CDPHE rules. Usage of appropriate low-sulfur fuels and

proper equipment maintenance will minimize the production of pollutants.

f. A plan for noise mitigation, initial noise level testing, both on and off-site locations that may be affected by the operations and a program for periodic noise monitoring.

Noise impacts at the Tomichi Pit will be primarily from the operation of the crusher and screener equipment at the processing facility on the south end of the mine. Equipment traffic (trucks, dozers, etc.) will generate secondary noise impacts. Tomichi Pit will use a variety of BMPs to mitigate or reduce noise generated as part of mining at the Tomichi Pit. These BMPs include:

- Berms around the processing area and between the operation and US-50.
- Minimizing the use of jake-brakes on trucks
- Securing truck tailgates tightly
- Limiting truck speed
- Only operating during the day
- Quiet back up alarms for mobile equipment such as dozers

Since one of the neighboring properties is zoned Residential, Tomichi Pit will be held to the state noise limit for operations adjacent to Residential properties, based on the Colorado Revised Statute for noise

As part of mitigating the noise impacts of the Tomichi Pit, a noise monitoring plan will be executed to ensure that noise levels do not exceed state limits. Prior to operations commencing, noise data will be gathered at two points near the project area, as shown on Map 4.0. The first location will be on the fence line between the southeast end of the property and the one neighboring residential property. The second location for noise level testing will be across US-50 from the site access. These locations will be used for initial noise level testing as well as ongoing monitoring during the operation. Each location is near neighboring homes and business that could be negatively affected by excessive noise levels from the Tomichi Pit. Such neighbors are a priority for noise impact mitigation.

At each location a 24-hour sound level sample will be taken, using the appropriate equipment and methodology and overseen by a qualified person. The initial sound level data gathered will be used to establish the natural baseline for comparison once the operation commences. All noise sampling will be conducted between June 15 and August 15 of a given year, as this is the time of greatest activity at a typical construction materials operation. Noise monitoring results will be documented and kept onsite, and be available for review upon request.

g. The applicant shall address concerns related to potential impacts of the operation and pit dewatering on the Tomichi Creek fishery.

The Tomichi Pit will require the dewatering of the ground water exposed within the mining pits during most of its mine life. This will be accomplished using a dewatering trench installed around the active mining floor to a depth of three feet. These trenches will run to a pit pump located in the southwest corner of each pit, which will be installed four feet below the pit floor. The pit pump will pump the water up a pipe and into the nearby sediment pond. Each sediment pond discharges into a nearby natural drainage channel. The sediment pond discharges will be NPDES discharge points that are monitored for water quality according to Colorado Department of Public Health and Environment standards under a CDPHE discharge permit.

Dewatering is a common gravel mining practice, with numerous pits throughout the state of Colorado discharging clean water from their operations. By digging dewatering trenches several feet below the active pit floor, and locating the dewatering pump several feet below the pit floor,

the water pumped into the sediment pond is essentially clean ground water. The sediment ponds provide an additional safety factor and a practical location for the NPDES discharge point. The sediment pond designs can be seen on Map 5.0, and the dewatering trench example routes can be seen on DRMS Map C-2.

h. The applicant shall address the existing use of the agricultural irrigation water and identify provisions to ensure that the water and delivery is not adversely impacted.

The Biebels No. 1 & 2 Ditch run through the north side of the site; this ditch will not be affected by mining operations. Water pumped from the pit may be discharged into this ditch in order to ensure ditch flows during pit dewatering. The ditch is shown on all plan view maps of the site. The Biebels Ditch has a decreed capacity of 45.99 cfs. Ditch flow ownership is as follows:

1. Gunnison Valley Properties, LLC: 48.90%
2. Colorado Parks and Wildlife: 19.20%.
3. Manning: 0.10%
4. Town of Gunnison: 14.58%

Portions of the water rights owned by Gunnison Valley Properties, LLC in the Biebels Ditch will be used to augment the consumptive uses of mining and reclamation activities at Tomichi. Other water rights in the ditch will not be affected. There is no formal easement associated with the ditch, but a minimum 40 foot buffer from the pit is being applied along the ditch for this application. This is to provide room for maintenance of the ditch during and after mining.
The Colorado Parks and Wildlife uses a tailwater ditch to irrigate portions of their property to the south. This ditch has been historically fed by tail water from the irrigation of the Tomichi site from the Biebels Ditch. The start of this ditch can be seen on *DRMS Map C-1* on the southeast corner of the permit area.

Gunnison Valley Properties, LLC will maintain the flow in this return ditch during mining by discharging some of the water from Outfall 001 (Stage 1 Sediment Pond discharge) into the return ditch channel. During reclamation, a new connection to the Biebel Nos. 1&2 Ditches will be added to the tailwater ditch. This is to facilitate CPW access to irrigation water they own for the eastern end of their property. CPW has informed Gunnison Valley Properties of its support of this plan in a letter which can be found in *Appendix E*.

i. A plan for water quality protection, in compliance with *Section 11-107: Protection of Water Quality. D. 2.*

In accordance with Section 11:107:D of the Gunnison County Land Use Resolution (LUR), a water quality protection plan has been assembled. Technical elements and information pertinent to the plan can be found in the DRMS permit application, the SPCC plan, the SWMP plan, portions of the water impacts discussion above, and in the main Preliminary/Final Plan application document. This subsection notes either the location of the information, or directly addresses the requirements of the LUR.

a) Topographic Features, Development and Property Lines
Maps 4.0-4.6 show the topography and development of the Tomichi Pit over the life of the operation. DRMS Map C-1 shows the property lines of the site.

b) Grading Plan
Grading and drainage plans can be found under Section 19. Grading and Drainage Plans of the LUR application.

c) Soil and Soil Stockpiles
Proposed stockpile locations can be found on Maps 4.0-4.6.

d) Equipment and Waste Material Storage
All storage areas can be found on Maps 4.0-4.6, as well as DRMS Map C-2. Spill containment structures and plans applicable to this site are described in the SPCC Plan in Appendix G.

e) Drainage Facilities
All drainage plans and facilities are covered in Section 19. Grading and Drainage Plans of the LUR application and Exhibit G of the DRMS application.

f) Water Quality Data
All water quality data applicable to this site is covered in the Water Quality Impacts section above.

g) Location of Proposed Permanent and Temporary Roads
The location of all roads constructed as part of the Tomichi Pit operations can be seen on Maps 4.0-4.6.

j. Demonstration of and compliance with all applicable standards in *Section 9-404: Site Location and Setbacks for Mining Operations and Section 9-405: General Development Standards for Mining Operations*.
See Separate Section in Compliance with the LUR Standards.

k. A plan for maintaining and preserving any cultural, historical or archeological resource identified or discovered during the mining operation.
A cultural survey conducted over the property by SWCA in 2009 identified and old railroad grade route running through the southeast portion of the site. This railroad grade will be removed as part of the preparation of the processing area prior to mining. During the remaining 26 years of the operation, no other identified cultural, historical, or archeological resources will be affected.
There is always the possibility at an excavation site of encountering archeological resources. At a site like Tomichi, the most likely of these to be found is remnants of human activity in the top few feet of excavation. During topsoil stripping, personnel will watch out for:

- Bones of any kind
- Stone tools such as arrowheads or fragments of such tools
- Stone rock piles and alignments
- Pottery fragments
- Fire pits or hearth features

A communication protocol will be in place for personnel to notify the mine manager or shift foreman of anything encountered. Operations in the immediate vicinity of any discovery will be put on hold until a qualified archeologist determines the appropriate course of action for preserving of the find.

l. A noxious weed control plan.
DRMS Exhibit E, section 5 for the Tomichi Pit weed control plan.

m. A spill control and prevention plan, and mitigation.
The Spill Prevention, Control and Countermeasures (SPCC) Plan is contained in Appendix G.

n. The applicant shall address how the development comports with *Section 13-102: Applicability. B. Development Shall Consider Municipal Three-Mile Plan.*
The Tomichi Pit comports with the City of Gunnison Three Mile Plan by placing industrial activity adjacent to existing industrial activity (Signal Peak), minimizing visual, water, air, and

other impacts with a detailed Impact Mitigation Plan, and providing sufficient buffers between operations and wetlands and wildlife habitat. The removal of agricultural land from the Three Mile Plan applicable area is necessary to exploit the gravel resource, which provides a clear economic benefit to the City and County of Gunnison. The only development within the 100-YR floodplain is a portion of the Stage 2 mining area, including the pit itself and its associated sediment pond. These act as hydrologic sumps, reducing the downstream flood level slightly.

o. The applicant shall contact the Manager of the Gunnison/Crested Butte Regional Airport for input regarding whether the location of the pits will create issues with Federal Aviation Administration guidelines related to waterfowl mitigation.
Gunnison Public Works officials were contacted regarding this specific issue, and informed the applicant that comments would be provided as part of the official response to the Gunnison County planning staff request for comment during the plan review process.

REFERAL AGENCIES:
A copy of the Preliminary/Final Plan was sent to the following entities/agencies requesting comments on the application:

- Gunnison County Wildlife Coordinator
- City of Gunnison
- Gunnison County Fire Protection District
- Colorado Department of Public Health and Environment
- Colorado Division of Water Resources
- Gunnison County Natural Resources Conservation District
- Colorado Parks and Wildlife
- Colorado Department of Transportation
- Gunnison County Public Works Department
- Gunnison County Emergency Services
- Division of Reclamation and Mining Safety

Referral Comments Received:
Colorado Division of Water Resources
Comments were received from Karlyn Armstrong, E.I.T., Water Resource Engineer, email of June 10, 2013:

We have reviewed the Preliminary Plan Submittal for the Tomichi Pit Sand and Gravel Operation to be located on the north side of Tomichi Creek in Section 4, Twp 49 N, Rng 1 E, New Mexico PM. The disturbed area will total around 70 acres. The operation will include extraction, crushing, screening, and washing of approximately 200,000 tons of sand and gravel per year. Asphalt and concrete will also be produced at this facility.

According to the applicant, these pits will be dug below the existing groundwater table. During the mining process the pits will be dewatered; some of this water will be used for on-site uses. After the mining process the pits will be allowed to fill with groundwater. On-site water uses during the mining process will include dust suppression, crushing and screening operations, washing operations, a concrete plant, personnel facilities, and wetland irrigation. Post mining water uses will include evaporation from approximately 40 acres of exposed groundwater.

The applicant proposes the use of an existing augmentation plan that has been approved by the State Engineers Office to cover the onsite uses at the pit. However, the court case mentioned in the application is not decreed for use at the Tomichi Pit. The applicant submitted an application to the Water Court in 2012, court case no. 12CW67, however this case is not yet decreed. Until a decree is in place we will refrain from commenting on the applicant's ability to augment all of the proposed

uses as the application can change prior to a decree being issued.

Prior to beginning mining operations, the applicant will need to obtain a court decreed Plan for Augmentation, or Substitute Water Supply Plan approved by this office, that covers all mining and post-mining depletions including wetland irrigation. They will also need to obtain a well permit from this office that allows them to expose groundwater in a gravel pit. The applicant should note that in order to qualify for a Gravel Pit Substitute Water Supply Plan or gravel pit well permit from this office, they will need to obtain a DRMS permit.

So long as the applicant obtains a legal water supply for their project and the required permits, this office has no objections to this application. If you or the applicant has any questions, please contact me in this office.

City of Gunnison – Planning and Zoning Commission

Comments were received from Greg Larson, Chair, City of Gunnison Planning and Zoning Commission, letter dated June 13, 2013:

Thank you for providing the opportunity to comment on the preliminary and final plan for the proposed Tomichi Pit. The following comments are based on the submitted application material and its relation to the Gunnison Three Mile Plan and Urban Growth Boundary, City of Gunnison, Colorado and the City of Gunnison Master Plan. Based on the existing Three-Mile Map, the property is designated as Rural Residential (1 unit per 5-35 or more acres) and is located outside of the Urban Growth Boundary.

The Planning and Zoning Commission recognizes the potential benefits of this proposed use. The Planning and Zoning Commission ask that the following issues be addressed during the review of this LUR application:

- *visual impact to the City's entrance with consideration of buffers, screening and other mitigation measures;*
- *ground water quality issues with industrial operations because Tomichi Creek is designated as the potential Gunnison Rising domestic water supply;*
- *coordination between the Colorado Department of Transportation (CDOT), Gunnison County and the City as part of this Three-Mile Plan review and the US Highway 50 Access Control Plan, initiated by CDOT and the City;*
- *the Air Pollutant Emission Notice and Mitigation Plan to address air quality impacts.*

Knowing that trees are used a visual and sound buffer, the City would ask that the landscaping be maintained in a living state.

Colorado Parks and Wildlife Comments:

Comments were received from J Wenum, Area Wildlife Manager-Gunnison, Colorado Parks and Wildlife, dated July 15, 2013:

I understand there have been questions regarding the Tomichi Pit proposal and potential impacts to the Tomichi Creek fishery from water discharge from the proposed pit. Colorado Parks and Wildlife staff has discussed these issues with the proponent's consultants on several occasions.

CPW does not have sufficient data to confirm or deny potential impacts. Generally, we suspect there will not be significant issues from the dewatering process notably if water is pulled from the lower portions of the pit. We anticipate those waters will be cooler in temperature than water in the creek. There are several factors that could influence this however. These include: temperatures may be affected by retention time in ditches and in the pond, and the depth of the pond. The volume of the releases compared to flows in Tomichi Creek will likely be important for example: when stream-flows are high enough to dilute even warm pond releases, impacts would be minimal. The operational period could also affect temperatures. Warm releases would likely only be a concern the summer (June through August) and during the afternoon/evening (when water temperatures typically increase). Impacts may be able to be minimized by managing the timing of releases if it was determined that the release of warm water from the pond was a problem. There might also be some ability to modify pond design or outflow location (from deeper, cooler water) to not result in surface releases that are warmer than the Tomichi Creek temperatures, especially during dry periods when we would expect to see elevated temperatures.

Additionally, adding water to the Tomichi Creek system, especially during low flow periods should prove beneficial to the aquatic resource. As you are aware during dry years Tomichi Creek is frequently dewatered in the lower stretches to the point that water quantity and temperature are of concern. Thus, any additional water in the lower stretches should be helpful.

I hope this helps some in resolving the pit dewatering and discharge issue. We recently monitored temperatures in a nearby pit during dewatering and compared them to Tomichi Creek temperatures and found them to be similar.

COMPLIANCE WITH APPLICABLE SECTIONS OF THE *GUNNISON COUNTY LAND USE RESOLUTION:*

Section 9-100: *Uses Secondary to a Primary Residence.*
Not applicable. No secondary uses are proposed as part of this application.

Section 9-200: *Special Residential Uses.*
Not applicable. No special residential uses are proposed as part of this application.

Section 9-300: *Commercial and Industrial Uses.*
Applicable, the construction materials processing is an industrial use. The Preliminary/Final Plan application is consistent with the standards and requirement of this Section.

Section 9-404: Site Location and Setbacks for Mining Operations.
The Tomichi Pit is located east of Gunnison, CO, south of US Highway 50, north of Tomichi Creek, and immediately west of the Signal Peak industrial park. The pit and related disturbance boundaries have all been designed to fall outside of Gunnison County setbacks for construction material mining operations. The table below shows the distance from the nearest example of each type of item a setback is required from. See Maps 4.0-4.6 for the location of all project elements in relation to the appropriate setback.

Land Use	**Minimum Distance to Tomichi Pit Mining Operations**
Public Roads	No public road within 300 feet
Natural Water Body	100 feet

Federally-Designated Wilderness, Parks or Recreation Areas, or Federal Campgrounds	>1,000 feet; None known within half a mile
Dedicated open space or public park	>1,000 feet
Residential structures	160 feet to the nearest; Concrete and asphalt plants will be kept >250 feet away
Public cemetery	None known within ½ mile
Adjacent property, ROW, or ditch	>30 feet from Biebels No.1 & 2 Ditch (nearest ditch); >50 feet from all property lines
Sensitive wildlife habitat	No sensitive wildlife habitat known within 200 feet of the permit boundary

Section 9-405: General Development Standards for Mining Operations
A. Access and Transportation Plan
As part of the Preliminary Plan application, Gunnison Valley Properties, LLC has developed the following Access and Transportation Plan in accordance with Section 9-403: D. 10 of the Land Use Resolution.

The Tomichi Pit will limit its sales based on the Colorado Department of Transportation access permit for the site's intersection with US Highway 50. Currently, this is the access for the agricultural and residential structures on site, but will be used by the Tomichi Pit for mine access, *Map 4 – Development Layout*. Based on the Level 2 Traffic Study conducted by Kimley-Horn (*Appendix C*), the peak traffic for the Tomichi Pit will be 42 Passenger Car Equivalents (PCEs) per hour. This will occur at both the AM and PM peak travel hours, when employees arrive/leave the site in addition to trucks hauling sold material offsite. This 42 PCE will be the limit of traffic from the site. This will be the traffic volume for the CDOT access permit as well. Any combination of trucks or cars may make up this limit at peak traffic times.

Additional information, "Tomichi Pit – Traffic Analysis Letter" Curtis D. Rowe, P.E. PTOE, Vice President, Kimley-Horn and Associates, Inc., dated August 21, 2013 reiterated that the traffic analysis noted:

> Based on the analysis presented herein, the following recommendations are provided:
>
> - Based on both the previous CDOT Auxiliary Turn Lane analysis for project traffic turning volumes, as well as the operational analysis, no turn lanes are recommended along US 50 for the Tomichi Access intersection.
> - It is recommended that the northbound access approach to US 50 be signed with a Rl-1"STOP" sign. A Rl-1"STOP" sign for the southbound approach at the access intersection should be considered as well.
> - Appropriate sight visibility exists for the US-50 Tomichi Pit access roadway intersection in accordance with CDOT State Highway Access Code requirements.

The Tomichi Pit will operate year around, but most of the activity will take place between April 15th and October 15th each year. Some site maintenance, materials sales, and topsoiling/overburden stripping may take place during the off season. The mine will operate between 7 am and 6 pm Monday through Saturday, unless a specific job requires seven day a week operations. In the case of such job, the County will be notified at least 15 days prior to the initiation of said job. No temporary shutdowns or closures are anticipated during the life of this

mine.

The primary impacts of truck traffic related to the mining operation will be dust and noise from the haul trucks entering and leaving the site. Noise impacts will be minimized through best management practices for haul trucks such as: only using jake-brakes in case of emergencies, proximity based back-up alarms, and properly securing tailgates. Trucks on site will be limited to a 15 mph speed limit. Dust generation from traffic will be reduced through periodic road watering and the covering of sand and gravel material in trucks. Trucks hauling sand and gravel off site will be covered.

1. Road Damage and Maintenance
   Gunnison Valley Properties, LLC will work with Gunnison County Public Works and the Colorado Department of Transportation (CDOT) to ensure that all operation related transportation activities will be in compliance with local, state, and federal requirements. This includes limitations on truck weight, seasonal traffic limits, and paying the cost of maintenance of roads and bridges that is a result of Tomichi Pit's traffic contributions.

2. Traffic Routing
   The expected distribution of traffic leaving and entering the site can be found in the Kimley-Horn traffic study. All traffic related to Tomichi Pit will travel along US Highway 50. The direction of the main traffic source, haul trucks, will likely be distributed between east bound US 50 and west bound US 50, 30%-70%. Particularly large construction projects may affect traffic direction.

3. Mitigation to Provide Dust Control and Effects of Load Loss
   Tomichi Pit will use best management practices including tight tailgates, tarps, road watering, magnesium chloride spraying, and others to minimize dust generation by traffic on and off site.

4. Truck and Crusher Noise
   A noise monitoring plan will be executed to ensure that noise levels do not exceed state limits. Prior to operations commencing, noise data will be gathered at three points near the project area, as shown on Map 4.1. The first location will be on the fence line between the southeast end of the property and the one neighboring residential property. The second location for noise level testing will be across US-50 from the site access. These locations will be used for initial noise level testing as well as ongoing monitoring during the operation. Each location is near neighboring homes and business that could be negatively affected by excessive noise levels from the Tomichi Pit. At each location a 24-hour noise sample will be taken, using the appropriate equipment and methodology and overseen by a qualified person. The initial noise data gathered will be used to establish the natural baseline for comparison once the operation commences. All noise sampling will be conducted between June 15 and August 15 of a given year, as this is the time of greatest activity at a typical construction materials operation.

5. Post-Operational Access to Mine Site
   The mining access to the site will only be partially reclaimed at the end of mining. This reclamation will consist of removing the portions of roadway on the site that were only needed for mining activities. The improved access to US 50 will remain as the general site access. No impoundments of hazardous material will be necessary as part of the Tomichi Pit's operation or reclamation. Fencing and gated access to the property may be installed during reclamation to protect reclamation activities. Any hazardous materials used on site during mining (diesel fuel, asphalt hot-mix, etc.) will be removed during final reclamation.

B. Rock Crusher, Asphalt Plant, and Cement Batch Plant

A crusher/screener system, asphalt plant, wash plant, and concrete batch plant will all be used

at the Tomichi Pit. These plants will be located in the processing area shown on Maps 4.0-4.6.

C. Impacts on Environmental and Cultural Resources

1. Water

The water impacts associated with the Tomichi Pit are the dewatering of the pit during mining, the effect of disturbed ground on runoff, and the effect of operations on neighbors water.

Ground Water Information

Two test wells were installed on the Bratton property west of the Tomichi Pit in 2001 as part of investigation by West Water Associates (WWA) into quality and quantity of the water within the alluvial aquifer passing through the area.

2. Avoidance of Sensitive Areas

The Tomichi Pit does not affect any sensitive areas as defined in the Land Use Resolution. (See comments from CPW)

3. Air Quality

Dust generated by mining operations and traffic will be the largest air pollutant of concern at the Tomichi Pit. This pollutant can be minimized by employing the following Best Management Practices (BMPs):

- Revegetation of berms and long term (>90 day) soil and overburden stockpiles
- Watering of short term and product stockpiles at least once per week during the operating season (April 15 to October 15)
- Watering of internal haul roads weekly, and more if necessary
- Gravelling of the main access road and any internal road that is not relocated during the life of the operation.
- Usage of covered haul trucks for product leaving the site
- Baghouses on all applicable plants

The other sources of air pollution on site are fumes and exhaust from the operation of plants. Usage of appropriate low-sulfur fuels and proper equipment maintenance will minimize the production of pollutants. These plants are all regulated by CDPHE, and copies of the permit will be maintained onsite per CDPHE rules.

Air Monitoring

Monitoring identified particulate emissions (PM10) will be conducted three times annually at the time of peak production for the site (typically sometime between June 15th and August 15th of each year), from three sampling points (See amended Map 4.1.) The sampling points have been located to provide the best representative locations for sampling of PM 10. Data gathering will be conducted in accordance with the *Ambient Air Pollution and Meteorological Monitoring Guidance* document published by CDPHE, and the therein referenced EPA standards for measurement.

Rule Engineering, an independent engineering firm with significant experience in air quality sampling in Colorado, will perform the sampling. This is identified in the *PM10 Monitoring Plan – Tomichi Gravel/Asphalt Operation*, Rule Engineering, LLC. The results of this monitoring will be provided to Gunnison County.

4. **<u>Significant Cultural, Historical, and Archeological Resources</u>**
The vast majority of resources identified by SWCA survey from 2009 will be unaffected by mining or reclamation operations at the Tomichi Pit. A small portion of old railroad grade has been identified (Site 5GN363.7) in the mining areas. This is part of the old Denver, South Park, and Pacific (DSP&P) railroad that passed through Gunnison Valley. There is always the possibility at an excavation site of encountering archeological resources. At a site like Tomichi, the most likely of these to be found is remnants of human activity in the top few feet of excavation. During topsoil stripping, personnel will watch for:

- Bones of any kind
- Stone tools such as arrowheads or fragments of such tools
- Stone rock piles and alignments
- Pottery fragments
- Fire pits or hearth features

A communication protocol will be in place for personnel to notify the mine manager or shift foreman of anything encountered. Operations in the immediate vicinity of any discovery will be put on hold until a qualified archeologist determines the appropriate course of action for preserving of the find.

D. Mine Wastes and Hazardous Materials

Hazardous materials expected to be present on site during mining consist exclusively of petroleum products and similar materials. These will be stored in accordance with the EPA required SPCC plan for the site. The mining of sand and gravel and production of construction materials at the Tomichi Pit will not generate any waste material that will have a chance to leachate toxic or acidic materials.

Sediment generated by mining will be contained within the site by the mine pit and sediment ponds. Mine water discharges will be regulated by CDPHE process water and stormwater discharge permits.

E. Visual Impacts

Visual impacts will be mitigated by the construction of three 10' berms, and planting of trees, along the perimeter of the site, as identified on the *Landscape Plan – Tomichi Pit*, Ben Langenfeld, Greg Lewicki and Associates, dated November 1, 2013

F. General Operations

1. **<u>Compliance with MSHA</u>**
All operations at Tomichi Pit will be conducted in line with all state, federal, and local safety regulations that apply.

2. **<u>Hours of Operation</u>**
The Tomichi Pit will operate year around, but most of the activity will take place between April 15th and October 15th each year. Some site maintenance, materials sales, and topsoiling/overburden stripping may take place during the off season. The mine will operate between 7 am and 6 pm Monday through Saturday, unless a specific job requires seven day a week operations. In the case of such job, the County will be notified at least 15 days prior to the initiation of said job. No temporary shutdowns, or closures are anticipated during the life of this mine.

3. **<u>Phasing of Mining Operations</u>**
The Tomichi Pit will not be phased.

4. **Fire Protection**

The entire Tomichi Pit area falls within the low wildfire hazard area for Gunnison County. Gunnison Valley Properties, LLC will work with the Gunnison County Fire Protection District to ensure that appropriate access and materials are available.

5. **Fencing**

Existing fences on site that do not have to be disturbed as part of mining activities will be preserved. DRMS Maps C-2 and F show the mining and reclamation conditions of fences on site. Fencing may be added to the site to ensure that non-employees, livestock, and wildlife are kept out of the site for their own safety.

6. **Noise**

Noise impacts at the Tomichi Pit will be primarily from the operation of the crusher and screener equipment at the processing facility on the south end of the mine. Equipment traffic (trucks, dozers, etc.) will generate secondary noise impacts. Tomichi Pit will use a variety of BMPs to mitigate or reduce noise generated as part of mining at the Tomichi Pit. These BMPs include:

- Berms around the processing area and between the operation and US-50.
- Minimizing the use of jake-brakes on trucks
- Securing truck tailgates tightly
- Limiting truck speed
- Only operating during the day
- Quiet back up alarms for mobile equipment such as dozers

A noise monitoring plan will be executed to ensure that noise levels do not exceed state limits. Prior to operations commencing, noise data will be gathered at three points near the project area, as shown on Map 4.1. The first location will be on the fence line between the southeast end of the property and the one neighboring residential property. The second location for noise level testing will be across US-50 from the site access. These locations will be used for initial noise level testing as well as ongoing monitoring during the operation. Each location is near neighboring homes and business that could be negatively affected by excessive noise levels from the Tomichi Pit. At each location a 24-hour noise sample will be taken, using the appropriate equipment and methodology and overseen by a qualified person. The initial noise data gathered will be used to establish the natural baseline for comparison once the operation commences. All noise sampling will be conducted between June 15 and August 15 of a given year, as this is the time of greatest activity at a typical construction materials operation.

G. Post-Operational Land Use

The reclamation plan for the Tomichi Pit is shown on DRMS Map F and in Exhibit E of the DRMS permit application. The reclamation conditions of the site will be accomplished contemporaneously with the mining operation, which will reduce the impact of reclamation activities. Since the initial state of the site will not require any restoration or rehabilitation, the priority for reclamation is to reclaim the Tomichi Pit effectively. The post-operational land use of the Tomichi Pit will be wildlife habitat.

Section 10-104: ***Locational Standards for Commercial, Industrial, and other Non-Residential Uses.***
Not applicable. This section is superseded by Section 9-404: Site Location and Setbacks for Mining Operations A. Supersedes Locational Standards.

Section 11-103: ***Development in Areas Subject to Flood Hazards*****.**
The 100-year floodplain of Tomichi Creek is outside of the mining and processing areas of the permit area, except for the pit and sediment pond in the Stage 2 mining area. Mining operations are allowed within the 100-year floodplain. *Map 4.1 – Development Layout, Greg Lewicki and Associates 05/07/13.*

Section 11-104: ***Development in Areas Subject to Geologic Hazards*****.**
Not applicable, the subject parcel is not in an area of geologic hazards.

Section 11-105: ***Development in Areas Subject to Wildfire Hazards.***
Applicable, the subject parcel is in an area of low wildfire hazard. A copy of the application was referred to Gunnison Fire Protection District for review and comment. No comments were received.

Section 11-106: ***Protection of Wildlife Habitat Areas.***
Applicable, the subject parcel is not located within sensitive wildlife habitat. The application was referred to Colorado Parks and Wildlife (CPW) and comments were received from J Wenum, Area Wildlife Manager-Gunnison, Colorado Park and Wildlife, dated July 15, 2013. (See above). No significant impacts to wildlife were identified.

<u>Gunnison Sage-grouse</u>
The application was referred to Jim Cochran, Gunnison County Wildlife Coordinator.
Comments were received from Jim Cochran, Gunnison County Wildlife Coordinator, dated August 8, 2012, related to impacts to Gunnison Sage-grouse. No impacts to the Gunnison Sage-grouse were identified.

Section 11-107: ***Protection of Water Quality*****.**
Not applicable in context with this section, as no disturbance is within 100 feet of a waterbody. A wetlands delineation was approved by the Army Corp of Engineers, June 19, 2008, SPK-2008-549 CW, signed by Ken Jacobsen, Chief, Colorado West Regulatory Branch. All mining operation are outside of delineated wetlands. The applicant has submitted a plan for water quality protection, including a Spill Prevention Control and Countermeasure (SPCC) Plan to prevent discharges of oil and maintain equipment and materials to control and remediate any spills.

Section 11-108: ***Standards for Development on Ridgelines.***
Not applicable. The site is not located on a ridgeline.

Section 11-109: ***Development that Affects Agricultural Lands.***
Not applicable, the subject parcel will not directly affect adjacent agricultural lands. There are agricultural lands to the west, owned by the applicant, that have been used for grazing.

Section 11-110: ***Development of Land beyond Snowplowed Access*****.**
Not applicable, the site is not located beyond snowplowed access.

Section 11-111: ***Development on inholdings in the National Wilderness.***
Not applicable, the site is not located on a National Wilderness Inholding.

Section 11-112: ***Development on Property above Timberline.***
Not applicable, the site is not located above timberline.

Section 12-103: ***Road System***.
Applicable, a copy of the application was referred to Gunnison County Public Works and the Colorado Department of Transportation. The applicant has identified the locations of the road access and haul roads.

Section 12-104: ***Public Trails***.
There is no public trail existing or proposed on this site.

Section 12-105: ***Water Supply*****.**
The applicant indicates that their consultant has determined that water for the proposed gravel operation is available and will require an augmentation plan. John T. Howe, in a letter dated May 15, 2012 notes:

> I am an attorney with the law firm of Hoskin Farina & Kampf, Professional Corporation, in Grand Junction, Colorado, and have practiced water law in Colorado for more than twenty (20) years.
>
> The Tomichi Pit is located on lands owned by Gunnison Valley Properties, LLC (Applicant). Various water rights and a general plan for augmentation were approved for the Gunnison Rising project in Case No. 06CW123, Water Division 4, in a Decree entered April 3, 2012 (Decree), a copy of which is enclosed with this letter. The Decree established, among other things, the consumptive use credits applicable to various water rights owned by Applicant, including the water rights that are the subject of this letter. Further, many of the terms of the Decree are strong indicators of the feasibility of success of an application for the water rights and augmentation plan that will be required for the Tomichi Pit.
>
> The Tomichi Pit will require a water right and well permit for depletions caused by interception of groundwater and the resulting surface evaporation and evapo-transpiration of wetlands upon final reclamation, together with an augmentation plan for replacement of out- of-priority depletions. The amount and timing of depletions caused by the Tomichi Pit by evaporation and evapo-transpiration are shown on the enclosed table prepared by Duane Helton of D. Helton Consulting, LLC (Table). Mr. Helton is the engineer that performed the engineering for Applicant in Case No. 06CW123, and will be the consultant in connection with this application and the related plan for augmentation.
>
> The proposed Tomichi Pit is located on lands irrigated by the Biebel Ditches Nos. 1 and 2 (Biebel Ditches). As proposed, the Tomichi Pit will ultimately dry up 108.92 acres of land historically irrigated by the Biebel Ditches. The consumptive use credits for the Biebel Ditches were established by the Decree.
>
> The Table, based on the consumptive use credits established in Case No. 06CW123, shows water availability from dry up of the land historically irrigated by the Beibel Ditches during the irrigation season. During the irrigation season, the dry up provides more water than is needed for replacement of the depletion caused by evaporation and evapo-transpiration of the Tomichi Pit upon final reclamation.
>
> The Table shows that some depletions will occur outside of the irrigation season, specifically during the months of March, April and October. Replacement water from the Aspinall Unit will be purchased by Applicant from the Bureau of Reclamation.
>
> Based on the Table and the augmentation plan approved in Case No. 06CW123,

> Applicant will be able to meet the legal standards for entry of a decree. The water case to obtain a decree for the water right for the Tomichi Pit and the related augmentation plan is feasible, and likely to succeed.

The Tomichi Pit will consume water in three ways: water used for mining operations, water evaporating from the lake upon reclamation, and water consumed by personnel on the site.

The mining operation will use water to minimize dust generated by traffic on the internal haul road, to minimize dust during crushing and screening operations, and water will be consumed during pit dewatering. Once mining and reclamation are complete, water will be consumed by evaporation across the lake surface. Potable water will be brought on site for personnel to consume during operations.

WestWater and Associates constructed two test ground water wells on the Donna Bratton property to the west of the Tomichi Pit area in the same aquifer. Water from these wells was analyzed for quality and quantity. The report summarized that the water was of very good and acceptable for direct consumption, and that the potential of the Tomichi Creek alluvium would be capable of production rates of 350-600 gpm.

1. **Water Sufficient for Landscaping**
   Water will not be used for berm landscaping, since the seed mix used on the berms will be a dryland mix. The irrigation of dryland areas during revegetation leads to water demanding species pushing out dryland species. This can lead to revegetation failure in these areas if the irrigation is ever removed. Irrigation water will be used for the trees identified in the landscaping plan.

2. **Fire Prevention and Fire Suppression**
   Based on WestWater's evaluation of the ground water aquifer and the water demands of the operation, there will be an excess of at least 245 gpm available.

3. **Evidence of Surface Water Right**
   An augmentation plan for the Tomichi Pit has been approved by the State Engineer's Office to cover the ground water consumptive use with water rights from the Biebels No. 1 & 2 ditch. This augmentation plan will use water that is available from water court decree 06CW123.

Section 12-106: *Sewage Disposal/Wastewater Treatment.*
Not applicable. No sewage disposal is proposed at the site. Employees will utilize sano-lets for sanitary facilities.

Section 12-107: *Fire Protection*.
The proposed development is located within the Gunnison Fire Protection District.

Section 13-103: *General Site Plan Standards and Lot Measurements.*
See Section 9-405: General Development Standards for Mining Operations

Section 13-104: *Setbacks from Property Lines and Road Rights-of-Way.*
See Section 9-404: Setbacks for Mining Operations.

Section 13-105: *Residential Building Sizes and Lot Coverages.*
Not Applicable.

Section 13-106: *Energy and Resource Conservation.*
Applicable, this section will be applied at the time of building permit application for the office.

Section 13-107: *Installation of Solid Fuel-Burning Devices*
Not applicable, no solid fuel-burning devices are proposed.

Section 13-108: *Open Space and Recreation Areas*
Applicable, the proposed development is within the City of Gunnison Three-Mile Plan, however there are no adopted standards in the Intergovernmental Agreement for open space, therefore the county standards apply. Major impact projects for commercial and industrial uses are required to comply with Section 13-111: Landscaping and Buffering and Section 13-104: Setbacks from Property Lines and Road Right-of-Way. The applicant complies with Section 13-104, and Section 13-111 is specifically not applicable to mining operations. The applicant will incorporate significant landscaping into the overall perimeter of the site to provide buffering of the mining activities and the final reclamation of the mined areas will be lakes, which will provide for passive open space.

Section 13-109: *Signs.*
Applicable, identification signs are permitted for the individual use and may be obtained through the sign permit process.

Section 13-110: *Off-Road Parking and Loading.*
Applicable, individual uses are required to comply with this Section**.** The applicant has identified sufficient areas for parking.

Section 13-111: *Landscaping and Buffering.*
Section 13-111 is specifically not applicable to mining operations. However, the applicant has identified significant berming and landscaping to be incorporated into the overall perimeter of the site to provide buffering to other uses in the area.

Section 13-112: *Snow storage*.
Applicable, the applicant has identified adequate snow storage on the site.

Section 13-113: *Fencing*
Applicable, all fencing shall comply with this section.

Section 13-114: *Exterior Lighting.*
Applicable, all exterior lighting will comply with the requirements of Section 9-301: D.6. *Exterior Lighting.*

Section 13-115: *Reclamation And Noxious Weed Control.*
Applicable, reclamation is required and will be concurrent with mining at the Tomichi Pit. *Exhibit E* of the State Division of Reclamation and Mining Safety application contains the reclamation plan for the Tomichi Pit. *DRMS Map F* shows the reclamation condition for the site. A noxious weed control plan is contained in the *DRMS Exhibit E, section 5 for the Tomichi Pit weed control plan.*

Section 13-116: *Grading and Erosion Control.*
Applicable, grading and erosion control planning is required within the requirements of the State Division of Reclamation and Mining Safety permit and will be concurrent with requirements of the State permit for the mining activities.

Section 13-117: *Drainage, Construction and Post-Construction Stormwater Runoff.*
Applicable, the applicant submitted a detailed drainage, construction and stormwater runoff plan. This plan is designed to satisfy the requirements of Section 13-117 of the Gunnison County Land Use Resolution. All calculations of runoff are based on the 100-Year, 24-Hour storm event for the Gunnison, CO area. The rainfall for this event is taken from the NOAA Atlas 2, Volume III Colorado.

Baseline Surface Water Drainage
A map showing the stormwater runoff directions that exist on the Tomichi Pit site (*Map 3 - Surface Hydrology*). The mining operation at Tomichi Pit will change the baseline conditions on the site in two steps. The first will be the excavation of the sand and gravel pits, the second is the creation of the reclaimed lakes. Runoff quantities have been calculated for each scenario using the same procedure as the baseline conditions. For the mining conditions, the removal of vegetation from the disturbed area increases the curve number for portions of the stormwater basins. This would increase the runoff on site. However, the creation of mine pits allows the site to contain more runoff then it generates. Once the pit slopes are reclaimed, the curve number for the site will lower some. The topographic changes to the site still will trap some runoff in the lake areas.

Most of the pre-mine permit area drains to Tomichi Creek, but a portion of the area runoff is intercepted by various ditches as shown on *Map 3 - Surface Hydrology*. These ditch interceptions have been ignored in all calculations. None of the permanent berms will alter the stormwater flows over the whole site. There is more than enough capacity in both the mining pits and above the water level in the reclaimed lakes to contain the runoff that drains to them. The net result effect on the overall drainage of the site is a decrease in the runoff that leaves the site. The runoff captured by the pit during mining will either work its way through the alluvium and join the local ground water regime or pass through the pit dewatering system before discharge into the local wetlands and water bodies. The dewatering system provides sediment control through both the placement of the pit pump several feet below the active pit floor and a sediment pond. Runoff that flows into the reclaimed lakes after mining will join the local groundwater regime.

Section 13-118: *Water Impoundments.*
Not applicable, this project does not propose a water impoundment that is greater than 99-acre feet.

Section 13-119: *Standards to Ensure Compatible Uses.*
Applicable, the applicant has submitted a detailed berming and landscaping plan, titled *Landscape Plan – Tomichi Pit*, Ben Langenfeld, Greg Lewicki and Associates, dated November 1, 2013, for the pit and processing areas, adjacent to Highway 50 and Signal Peak Industrial Park, to provide permanent buffering mitigation of the proposed operation to travelers on Highway 50 and nearby residential areas. Additionally, the applicant will provide sound level and air quality testing/monitoring to ensure compliance with noise and air quality standards to minimize off-site impacts to surrounding lands.

Article 15: *Right-to-Ranch Policy.*
This section is applicable.

DOCUMENTS INFORMING THIS REVIEW AND ACTION:
This review and recommendation incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application, including all exhibits, maps, references and documents.

WORK SESSIONS:
The Planning Commission conducted work sessions on the Preliminary/Final plan on:
June 7, 2013
June 21, 2013
November 15, 2013

SITE VISIT:
The Commission conducted a site visit on June 21, 2013. The Commission viewed the proposed pit operation area and the surrounding neighborhood.

JOINT PUBLIC HEARING:
The Planning Commission and the Board of County Commissioners conducted a joint public hearing on August 2, 2013, which was continued to September 6, 2013. The public hearing was closed at that time; written comment was accepted until October 10, 2013.
Oral Comments were received from:

- Area residents Robert Delahay, Steve & Mary Kay Fry, Arron & Paula MacLennan all spoke against the project, citing concerns with visual, noise, air quality, water quality, and traffic impacts.
- Ramon Reed noted concerns with proposed berming mitigation.
- Butch Clark noted concerns with dust and potential odors, and the need for monitoring of the site.
- Donna Bratton, noted she has lived near the proposed project for 37 years and many things have changed in the area in that time, including the homes that have been built in proximity to the property.
- Neighbor Jack Cullinan spoke in favor of the project.

Written comments were received from:

- Ramon Reed, letter, June 18, 2013, noting requested consideration regarding the berms, landscaping, traffic visibility and the traffic study.
- Aaron and Paula MacLennan, letter, September 6, 2013, noting concerns with noise, odors, traffic, potential impacts to their well and visual impacts.
- Jack Cullinan, letter, August 2, 2013, noting that you have to find the high quality gravels where they are located, and that traffic impacts will not be significant.
- Cameron Dierks, email of October 9, 2013, stating his opposition to the project and concerns with his well.
- Sally and Shan Hays, letter, October 10, 2013, noting concerns with noise, air quality, and traffic impacts.

All testimony, both written and oral, is hereby incorporated as part of this record of review and evaluation.

FINDINGS:
The Commission finds that:

1. The proposed project is classified as a Major Impact Project based upon classification found in *Section 7-101: Projects Classified as Major Impact Projects E.* Large Construction Materials Operations. Any sand, gravel or quarry operation providing material that will operate for more than two years, pursuant to *Division 9-400:* Exploration, Extraction and Processing of Minerals and Construction Materials. The definition of Construction Materials Processing "*means any activities associated with the extraction, storage or preparation of construction materials for use, including but not limited to, crushing, screening, washing, slabbing, polishing, grinding, concrete or asphalt preparation, batching or recycling, or other*

such action". The process of batching asphalt or concrete is defined by the *Gunnison County Land Use Resolution* as Construction Materials Processing.

2. The approval shall be memorialized by Board Resolution/Certificate of Major Impact. Approval shall not be effective until the Resolution is recorded with the Gunnison County Clerk and Recorder.

3. Section 9-404: Site Location and Setbacks for Mining Operations supersedes the locational standards in Section 10-104: Locational Standards for Commercial, Industrial and Other Non-Residential Uses.

4. The applicant has proposed significant berming and landscaping adjacent to Highway 50 and the Signal Peak Industrial Park, as mitigation, to provide permanent buffering to minimize the potential visual and noise impacts from the operation of the gravel pit. The Planning Commission finds the mitigation acceptable to minimize potential visual impacts to the traveling public on Highway 50 and to neighboring properties.

5. The applicant has submitted plans for air quality and sound level testing and monitoring, before and after the pit is fully operational, to ascertain potential off-site impacts. If the tested levels are recorded above sound level thresholds and/or air quality standards for PM10, the operator shall provide a plan to reduce levels below County/State thresholds.

6. Pursuant to *Section 7-102: Standards of Approval for Major Impact Projects*, the Commission finds that this Preliminary/Final Plan complies with the standards of approval and requirements of the *Resolution*. The applicant has addressed mitigation of potential impacts to the neighborhood, the use is compatible with and in character with existing industrial land uses in the area and the Commission has evaluated this for its integration of the standards of the *Resolution*.

7. This review and Recommendation incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application, including all exhibits, references and documents, as included therein.

RECOMMENDATION:
The Gunnison County Planning Commission, having reviewed all the documentation submitted to the County and included within the Planning Office file relative to this Preliminary/Final Plan application, site observations and public testimony and having reached the above cited Findings, recommends to the Board of County Commissioners that LUC #2012-10, Gunnison Valley Properties, LLC, Tomichi Pit Preliminary/Final Plan be approved with the following conditions:

CONDITIONS:

1. This permit is limited to activities described within this application, and as depicted on the site plans submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution.*

2. The Applicant and/or Operator shall perform all sound level and PM10 testing and monitoring, including baseline ambient sound level and PM10 levels prior to the commencement of operations. The Operator shall conduct sound level and PM10 testing three times annually at the time of peak production (typically between June 15th and August 15th), at the locations

identified on amended Map 4.1, the first three operating years. The applicant shall provide copies of all resultant test reports to the Community Development Department. In the event that monitoring results show the Tomichi Pit exceeds County/State standards/thresholds, the Operator shall provide Gunnison County with a remediation plan and follow up sampling within 90 days. In the event that the test results do not exceed County/State standards/thresholds, testing for sound levels and PM10 shall be only be required once in the fourth and fifth operating years (typically between June 15th and August 15th).

3. A Development Improvement Agreement, subject to approval by the Gunnison County Attorney, shall be executed by the Board of County Commissioners, addressing the Highway 50 intersection improvements and the berming and landscaping, identified in the following plans:

- *Roadway Improvement Plan for State Highway 50 at Tomichi Gravel Pit,* Kimley-Horn and Associates, Inc., *Sheets 1-6*, April 10, 2013
- *Landscape Plan – Tomichi Pit*, Ben Langenfeld, Greg Lewicki and Associates, dated November 1, 2013

4. A performance bond, letter of credit or other means of surety acceptable to the Board of County Commissioners be required to cover the cost of the Highway 50 intersection improvements and the berming and landscaping, as identified on plan noted in Condition #3, plus 25 percent; such costs as detailed by the applicant's engineer, and that said surety is retained by Gunnison County.

5. The hours of operation of the Tomichi Pit are limited to 7 a.m. - 6 p.m., Monday – Saturday**,** except as allowed under Section 9-405: F. 2. a. Temporary Operations Outside the Approved Hours of Operation.

6. The Operator shall comply with the applicable standards identified in *Section 9-405: General Development Standards for Mining Operations, Gunnison County Land Use Resolution*.

7. The Operator shall employ all Best Management Practices (BMP's) identified in the application to minimize noise, odor and fugitive dust.

8. Prior to the commencement of operations for the pit, the applicant shall provide copies of all applicable state or federal permits to the County Community Development Department.

9. Prior to commencement of operations, the Operator shall submit a fire protection plan to the Fire Marshall, Gunnison County Fire Protection District, for review and approval. The plan shall include identification of types and areas of fuel storage, hazardous materials storage, suppression, spill prevention, containment and response; employee training and personnel contact phone numbers in case of emergency. A copy of the approved plan shall be provided to the Community Development Department.

10. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

11. These permits may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.

12. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.

13. Approval of this Plan is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

RESOLUTION NO. 2013-___

A RESOLUTION APPROVING LAND USE CHANGE PERMIT NO. 2012-10
LAND USE CHANGE PERMIT FOR GUNNISON VALLEY PROPERTIES, LLC

TOMICHI PIT SAND AND GRAVEL OPERATION

WHEREAS, Gunnison Valley Properties, LLC, represented by Ben Langenfeld, Project Engineer, Greg Lewicki and Associates, has applied for a land use change permit for a construction materials processing operation, to be known as the Tomichi Pit.

The Tomichi Pit site will be used for the production of construction materials such as sand, gravel, concrete, and asphalt. This will require the development of a 73 acre operation, (roads, mining pit, etc.) as part of a 134.5 acre project. This includes the mining pit, internal roads, berms, sediment ponds, processing area, office area, fuel storage, stockpiles, and all other operation related development.

The pit will operate year-around, although operations will likely be minimal in the winter. Most mining will take place from early April to late October. Material will be stockpiled on site during the summer for sale during the rest of the year to continue to supply construction industry needs. Some mining may take place in the off-season, but that is expected to be less than 30% of total annual production. The most common winter activities will be site maintenance and sales from stockpiles.

Mining operations at the Tomichi Pit will involve the extraction, crushing, screening, and washing of an expected average production of 200,000 tons of sand and gravel per year. The estimated resource of the Tomichi Pit is 5.3 million tons, based upon production of 200,000 tons/year, will take approximately 27 years to mine and reclaim. The Tomichi Pit will be a wet pit, requiring dewatering during the mine life. Lowering the water table within a sand and gravel pit during operations is a commonly accepted practice in the construction materials mining industry. The pit area will be excavated beginning in the southeast corner of the property and will migrate from the southeast to the northwest as the resource is extracted and processed, with reclamation occurring concurrently with the mining operations, pursuant to the State Division of Reclamation and Mining Safety permit.

All processing activities will take place in the southeast corner of the property. Concrete and/or asphalt batching operations will be conducted on the site, and an office building with scales, is also proposed. The pit will operate from 7 a.m. to 6 p.m., Monday – Saturday. Once mining and reclamation are complete, the resulting lake, wetlands, and surrounding lands are proposed to be set aside as wildlife habitat.

The applicant has proposed significant on-site mitigation in the form of berming and landscaping adjacent to Highway 50 and the Signal Peak Industrial Park, to provide permanent

visual buffering of the proposed operation to travelers on Highway 50 and nearby residential areas. Additionally, the applicant has agreed to provide sound level and air quality (PM10) testing/monitoring to ensure compliance with noise and air quality standards to minimize off-site impacts to surrounding lands. The site is located in the NE/4 SE/4 NW/4 Section 4 and the NE/4NE/4 Section 5, Township 49 North, Range 1 East, N.M.P.M., 43188 Highway 50, generally described as being approximately 1/2 mile east of the City of Gunnison, south of Highway 50 to Tomichi Creek, and west of Signal Peak Industrial Park; and

WHEREAS, after a review of the Preliminary/Final Plan and all information, documentation and testimony related to it, the Gunnison County Planning Commission did, on November 15, 2013 forward a Recommendation of unanimous approval of that application to the Board of County Commissioners with certain Findings and Conditions:

FINDINGS:

1. The proposed project is classified as a Major Impact Project based upon classification found in *Section 7-101: Projects Classified as Major Impact Projects E.* Large Construction Materials Operations. Any sand, gravel or quarry operation providing material that will operate for more than two years, pursuant to *Division 9-400:* Exploration, Extraction and Processing of Minerals and Construction Materials. The definition of Construction Materials Processing "*means any activities associated with the extraction, storage or preparation of construction materials for use, including but not limited to, crushing, screening, washing, slabbing, polishing, grinding, concrete or asphalt preparation, batching or recycling, or other such action*". The process of batching asphalt or concrete is defined by the *Gunnison County Land Use Resolution* as Construction Materials Processing.

2. The approval shall be memorialized by Board Resolution/Certificate of Major Impact. Approval shall not be effective until the Resolution is recorded with the Gunnison County Clerk and Recorder.

3. Section 9-404: Site Location and Setbacks for Mining Operations supersedes the locational standards in Section 10-104: Locational Standards for Commercial, Industrial and Other Non-Residential Uses.

4. The applicant has proposed significant berming and landscaping adjacent to Highway 50 and the Signal Peak Industrial Park, as mitigation, to provide permanent buffering to minimize the potential visual and noise impacts from the operation of the gravel pit. The Planning Commission finds the mitigation acceptable to minimize potential visual impacts to the traveling public on Highway 50 and to neighboring properties.

5. The applicant has submitted plans for air quality and sound level testing and monitoring, before and after the pit is fully operational, to ascertain potential off-site impacts. If the tested levels are recorded above sound level thresholds and/or air quality standards for PM10, the operator shall provide a plan to reduce levels below County/State thresholds.

6. Pursuant to *Section 7-102: Standards of Approval for Major Impact Projects*, the Commission finds that this Preliminary/Final Plan complies with the standards of approval and requirements of the *Resolution*. The applicant has addressed mitigation of potential impacts to the neighborhood, the use is compatible with and in character with existing

industrial land uses in the area and the Commission has evaluated this for its integration of the standards of the *Resolution*.

7. This review and Recommendation incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application, including all exhibits, references and documents, as included therein.

CONDITIONS:

1. This permit is limited to activities described within this application, and as depicted on the site plans submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution.*

2. The Applicant and/or Operator shall perform all sound level and PM10 testing and monitoring, including baseline ambient sound level and PM10 levels prior to the commencement of operations. The Operator shall conduct sound level and PM10 testing three times annually at the time of peak production (typically between June 15th and August 15th), at the locations identified on amended Map 4.1, the first three operating years. The applicant shall provide copies of all resultant test reports to the Community Development Department. In the event that monitoring results show the Tomichi Pit exceeds County/State standards/thresholds, the Operator shall provide Gunnison County with a remediation plan and follow up sampling within 90 days. In the event that the test results do not exceed County/State standards/thresholds, testing for sound levels and PM10 shall be only be required once in the fourth and fifth operating years (typically between June 15th and August 15th).

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4. A performance bond, letter of credit or other means of surety acceptable to the Board of County Commissioners be required to cover the cost of the Highway 50 intersection improvements and the berming and landscaping, as identified on plan noted in Condition #3, plus 25 percent; such costs as detailed by the applicant's engineer, and that said surety is retained by Gunnison County.

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10. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

11. These permits may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.

12. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.

13. Approval of this Plan is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

AND WHEREAS, the Board of County Commissioners did receive and review the information within the Planning Commission's Recommendation, and considered it in evaluating this application;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that Land Use Change Permit No. 2004-18, Tomichi Pit, is hereby approved, subject to the conditions of the permit, as imposed by the Planning Commission;

THIS APPROVAL is affected noting that decision documentation includes, but is not limited to, the application and the entire Community Development Department Land Use Change Permit application file relative to this application. This approval is founded on each individual finding and requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

THIS RESOLUTION AND THE APPROVAL GRANTED HEREBY shall not be effective unless and until a copy is recorded in the Office of the Clerk and Recorder of Gunnison County.

INTRODUCED by Commissioner _____, seconded by Commissioner _____, and passed on this ___day of January, 2014.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Paula Swenson, Chairperson

By: _____
Phil Chamberland, Commissioner

By: _____
Jonathan Houck, Commissioner

ATTEST:

_____
Deputy County Clerk