



**BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF GUNNISON, COLORADO**

**RESOLUTION NO. 2014-3**

**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 15<sup>th</sup> and August 15<sup>th</sup>), 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 15<sup>th</sup> and August 15<sup>th</sup>).
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.

**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   Houck  , seconded by Commissioner   Swenson  , and passed on this   7<sup>th</sup>   day of January, 2014.

**BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF GUNNISON, COLORADO**

By:   *Paula Swenson*    
Paula Swenson, Chairperson

By:   (Absent)    
Phil Chamberland, Commissioner

By:   *Jonathan Houck*    
Jonathan Houck, Commissioner

ATTEST:  
  *[Signature]*    
Deputy County Clerk

