



Archuleta County Development Services Department  
**ARCHULETA COUNTY PLANNING COMMISSION AGENDA**  
County Commissioners Meeting Room, 398 Lewis Street  
Public is welcome and encouraged to attend.

**REGULAR PLANNING COMMISSION MEETING FOR APRIL 27, 2016, 6PM**

**ROLL CALL**

**CONSENT:**

**OLD BUSINESS:**

**Two Rivers Gravel Pit Major Sand & Gravel Permit, Located At 12500 County Road 500**

C&J Gravel Products, Inc, of Durango, Colorado, represented by Nathan Barton, Wasteline, Inc., have applied for a Major Sand & Gravel Permit for the proposed Two Rivers Pit, to be located on property owned by the James A. Constant Jr Revocable Trust and Leila B. Constant Revocable Trust; at 12500 County Road 500, Pagosa Springs, CO.

C&J Gravel have requested a continuance of the public hearing to a date in June. The date and place of the continuance will need to be set by the Planning Commission.

Documents: [2015-035SG\\_TWORIVERSPIT\\_PC-20160427\\_STAFF\\_REPORT.PDF](#), [A1-2015-035SG\\_AREAMAPS.PDF](#), [A2-BARTON-TWORIVERSPIT-PC-CONTINUE-20160211.PDF](#), [A3-GRAVEL\\_PIT\\_LETTERS-20160421.PDF](#), [A3-PODOLL\\_OBJECTION\\_LETTER.PDF](#), [A3-PODOLL\\_OBJLETTER\\_ATTACHMENTS-A-E.PDF](#), [A3-TIMBERRIDGEHOA\\_OBJECTION\\_LETTER.PDF](#)

**NEW BUSINESS:**

**REPORTS, ANNOUNCEMENTS:**

**ADJOURN**

**NEXT MEETING: May 25, 2016**

**Work Session On Community Plan (As Time Allows)**

Please Note: Agenda items may change order during the meeting; it is strongly recommended to attend the meeting at the start time indicated.



Archuleta County  
Development Services—Planning Department  
1122 HWY 84  
P. O. Box 1507  
Pagosa Springs, Colorado 81147  
970-264-1390  
Fax 970-264-3338

## MEMORANDUM

TO: Archuleta County Planning Commission

FROM: John C. Shepard, AICP; Planning Manager

DATE: April 27, 2016

RE: Two Rivers Gravel Pit Major Sand & Gravel Permit, located at 12500 County Road 500  
Continued Public Hearing

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### EXECUTIVE SUMMARY

C&J Gravel Products, Inc, of Durango, Colorado, represented by Nathan Barton, Wasteline, Inc., have applied for a Major Sand & Gravel Permit for the proposed Two Rivers Pit, to be located on property owned by the James A. Constant Jr Revocable Trust and Leila B. Constant Revocable Trust; NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 10 and N $\frac{1}{2}$ SW $\frac{1}{4}$  and S $\frac{1}{2}$ NW $\frac{1}{4}$  Section 11, T33N R2W NMPM at 12500 County Road 500, Pagosa Springs, CO. C&J Gravel proposes to construct and operate a sand and gravel mining and processing facility on approximately 62.6 acres of the 100 acres of the property east of the San Juan River, in accordance with Colorado Division of Reclamation Permit M-2015-004.

At a special meeting on February 10, 2016, the Archuleta County Planning Commission continued the noticed public hearing to their regular meeting on April 27, 2016. **Applicants have now requested that the hearing be continued once more for sufficient time to review updated information.**

### REVIEW PROCEDURE

The *Archuleta County Land Use Regulations* Section 9.1.7 outlines submittal requirements for Sand, Soil, and Gravel Mining Operations. These include 13 items for local review, and a copy of the Colorado Division of Reclamation, Mining and Safety (CDRMS). These items were attached to the Planning Commission agenda for February 10<sup>th</sup>.

Revised notice of this hearing was published as a courtesy in the *Pagosa Springs Sun*, and mailed to neighboring property owners within 500' of the underlying parcel.

### DISCUSSION

Applicant's Representative met with County Development Services staff on 7/21/2015 for a Pre-Application meeting, as required by the *Archuleta County Land Use Regulations*, and an informal checklist was provided for a Sand & Gravel Permit. A Land Use Permit application was submitted on 12/17/2015, and completed on 12/24/2015. A Preliminary Traffic Impact Study and revised narrative was submitted on 1/29/2016 (received 2/1/2016).

On 2/10/2016 the Planning Commission voted to continue the public hearing. Additional information was requested in response to concerns highlighted by neighbors, including more specific information on gravel pit operations, and a more detailed traffic study and substantive mitigation of traffic impacts. Applicants have met with County and Town staff to discuss options to meet these concerns. They are working on revised reports, but would like additional time to refine their proposals.

#### RECOMMENDATION AND FINDINGS

The Planning Commission may continue the public hearing to a date certain, not in excess of 180 days, with direction to the Applicant as to specific issues to be resolved. The first continuance was granted at the request of staff. Applicants have requested a second continuance, to early June, to allow staff and the public enough time to review updated application materials demonstrating mitigation of impacts of the proposal. Given the high level of public interest to date, staff is looking for a larger meeting room for the Planning Commission's continued hearing.

#### PROPOSED MOTIONS

**I move to continue this public hearing of the Two Rivers Gravel Pit Major Sand & Gravel Permit, to a Special Meeting on \_\_\_\_\_ [date] for \_\_\_\_\_ O'clock [time] at \_\_\_\_\_ [meeting place].**

#### ATTACHMENTS.

Attachment 1: Area Map

Attachment 2: Staff letter to Barton, 2/11/16

Attachment 3: Public Comment through 4/21/16

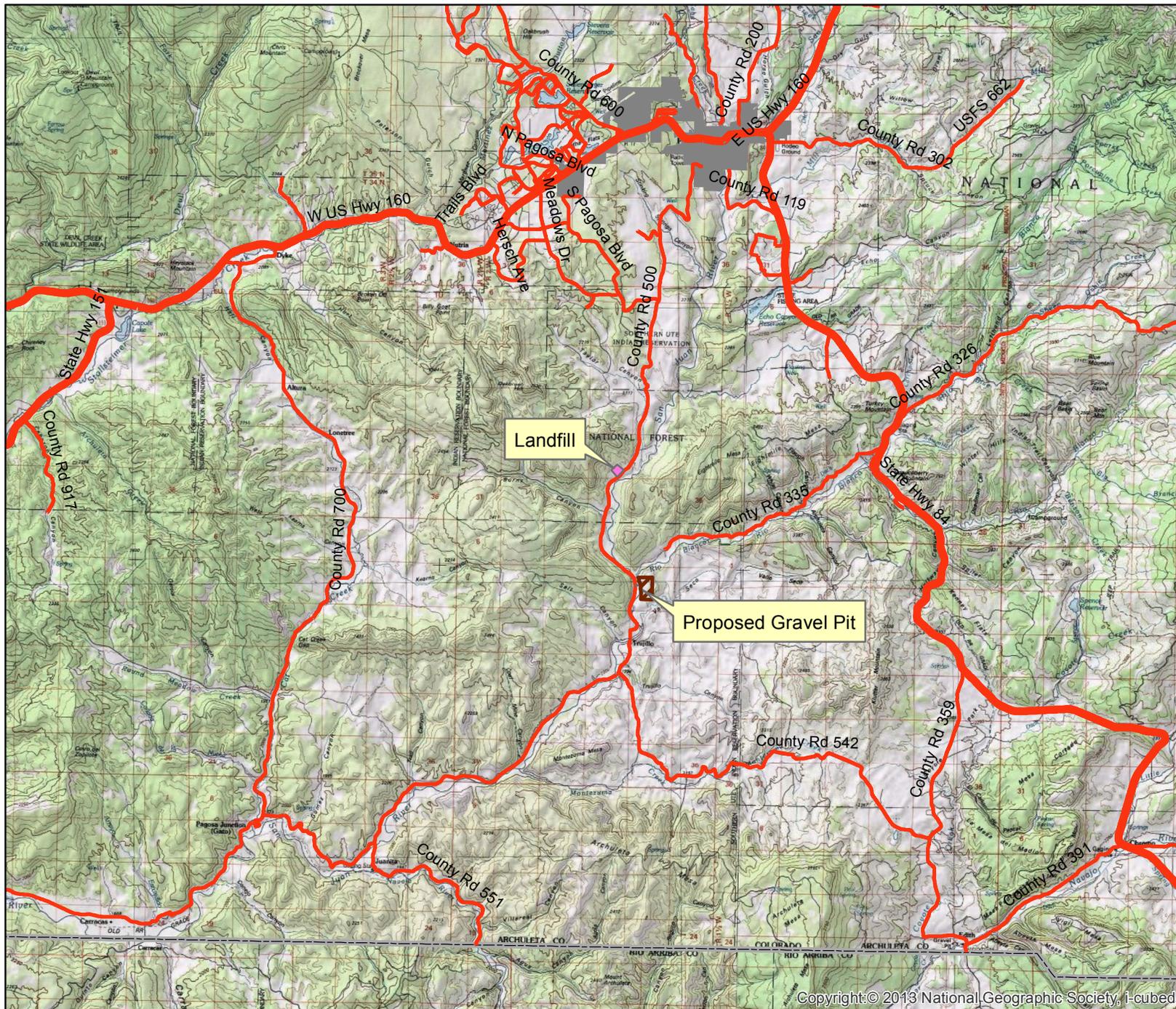


# Location Map

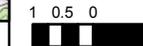
Two Rivers Pit  
Major Sand & Gravel  
Permit  
2015-035SG

### Legend

-  Highway
-  Primary Road
-  Landfill
-  Gravel Pit Area



1 0.5 0 1 Miles



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This map has been produced using various geospatial data sources. The information displayed is intended for general planning purposes and the original data will routinely be updated. No warranty is made by Archuleta County as to the accuracy, reliability or completeness of this information. Consult actual legal documentation and/or the original data source for accurate descriptions of locations displayed herein.

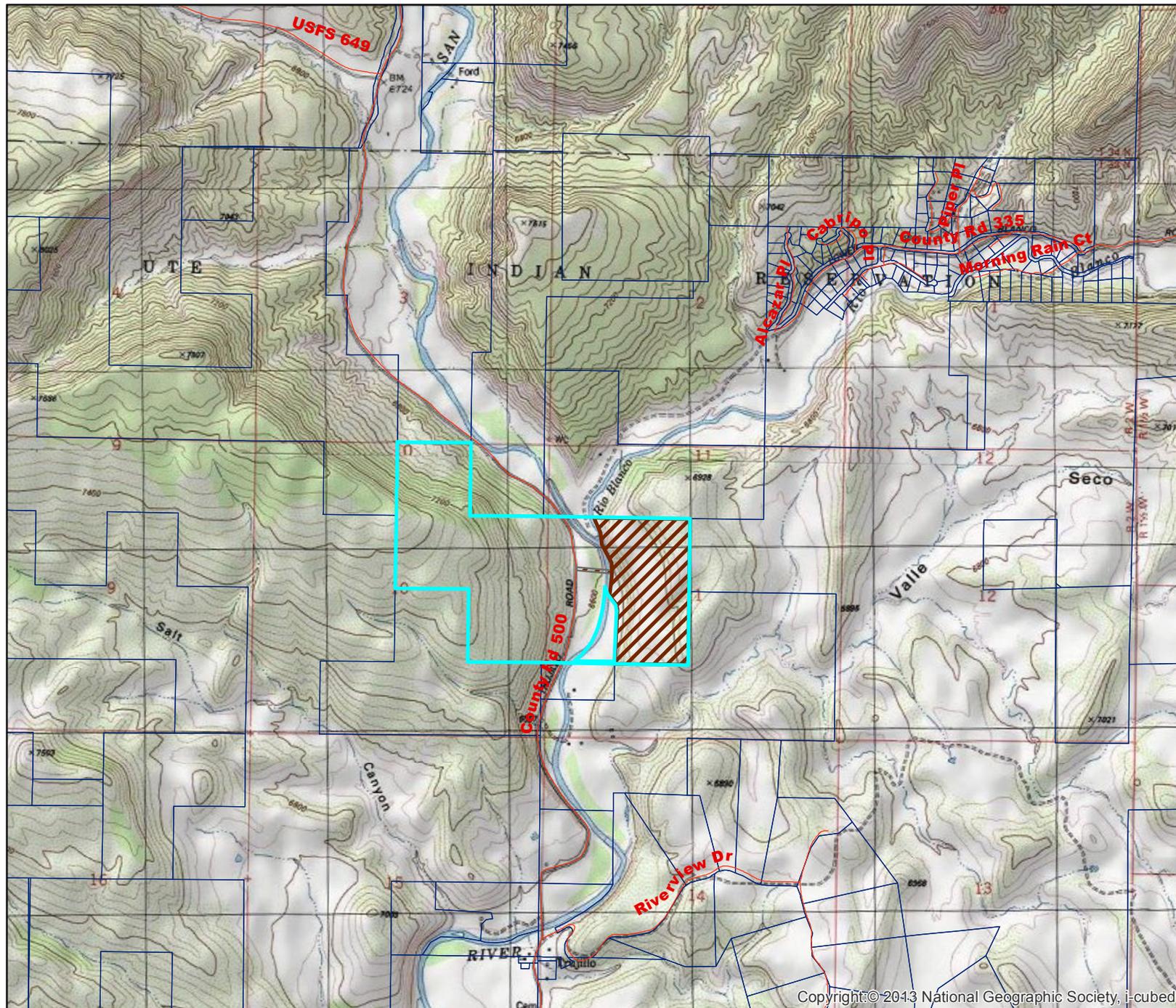


# Site Map

Two Rivers Pit  
Major Sand & Gravel  
Permit  
2015-035SG

### Legend

- Roads
- Parcels
- Project Location
- Gravel Pit Area



1,000500 0 1,000 Feet



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Development Services—Planning Department  
1122 HWY 84  
P. O. Box 1507  
Pagosa Springs, Colorado 81147  
970-264-1390  
Fax 970-264-3338

11 February 2016

Nathan Barton  
Wasteline, Inc.  
11501 Road 34,  
Mancos, CO 81328  
*Wasteline6@aol.com*

Re: Application 2015-035SG Two Rivers Gravel Pit Major Sand & Gravel Permit

Dear Mr. Barton:

On 10 February 2016, the Archuleta County Planning Commission continued your application for the Two Rivers Gravel Pit Major Sand & Gravel Permit, to their **regular meeting on 27 April 2016, 6:00 pm**, at the Archuleta County Administration Office Meeting Room, 398 Lewis Street, Pagosa Springs, Colorado. Depending on the level of public interest, the Planning Commission chair may consider moving the public hearing to a special meeting, with due notice.

John Gilliland of C&J Gravel was in attendance and addressed the Planning Commission. Additional information for a recommendation would be useful in two general areas:

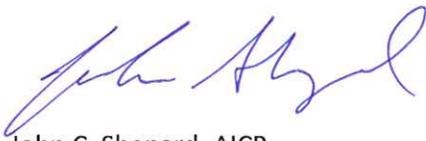
1. More specific information on gravel pit operations (i.e. proposed hours of operation, water/sanitary provision) with a 24x36" scaled site map, with details of the access and river crossing. The additional information on the access way, etc, provided 1/29/16 was helpful in this area. Additional operational concerns were highlighted by neighbors and submitted to the Planning Commission.
2. The broader question is substantive mitigation of traffic impacts, especially on County Road 500. Specific proposed mitigation measures, maximum (as well as average) daily loads, specific haul routes, and how trips would be tracked are a concern. Sections of CR500 are prescriptive easements. Sections of CR500 have alignment geometry that may not support larger trailers. Several neighbors submitted concerns with traffic safety. The County does not typically provide raw data for traffic studies; that is the responsibility of the applicant's engineers—existing County roads serving a new development must be upgraded when existing roads do not meet the Road Design Standards (Sec. 27.1.4.1(1)a). The Town of Pagosa Springs also repeated their offer to meet with you and work through their traffic concerns.

A public hearing had also been noticed before the Board of County Commissioners for Tuesday 1 March. I will request that the Board continue this hearing as well, to provide time for a recommendation from the Planning Commission. The County will re-notice these hearings at our expense. If you require additional time to present your case, you can request a further continuance, at your cost, to a future date.

The Land Use Regulations provide review agencies 21 days to review a complete application, although any additional information provided at least a week prior to the hearing will be included with the staff report.

If you have any questions about this approval, please contact me at 970.264.8383.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Shepard".

John C. Shepard, AICP  
Planning Manager

Cc: Perry Neil, C&J Gravel Products

Att: Additional public comment received

**John Shepard**

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**From:** Gadflymoj@cs.com  
**Sent:** Tuesday, April 05, 2016 4:36 PM  
**To:** Clifford Lucero; Michael Whiting; Steve Wadley  
**Cc:** John Shepard  
**Subject:** Meadows Drive Fiasco

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

**Hi All!**

**Gravel trucks traveling to and from the gravel pit via Meadows Drive is completely UNACCEPTABLE! Do I have to list the downsides to this asinine plan - property values, deterioration of the pavement, noise, traffic, etc, etc, etc. !  
**DEFEAT THIS PROPOSAL!!!****

**MOJIE ADLER  
3190 Meadows Dr  
731-4277**

## John Shepard

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**From:** Allen, Scott <sallen@southernute-nsn.gov>  
**Sent:** Friday, April 15, 2016 1:31 PM  
**To:** Steve Wadley; Michael Whiting; John Shepard  
**Subject:** gravel pit

Good Afternoon Gentlemen, It was with *extreme* alarm that we read Gary Waples' letter to the editor in this week's "*Sun*" in regard to the proposed gravel pit. We are hoping this is just a case of someone "crying wolf" because it seems *unimaginable* that the various residential neighborhoods mentioned could ever have the monstrosity of gravel trucks careening through their road ways. To even consider these various roads (Meadows, South Pagosa, Buttress et al) to be used by this sort of endeavor is truly ludicrous, and it would be *irresponsible* by our governing powers to allow it. The mix of gravel trucks and the residents who use these roads to walk their dogs, bicycle or jog...to name a few....would not work. It would be dangerous and susceptible to an inevitable tragic accident. Further, our roads would get chewed up and the dust and noise "pollution" would be intolerable; property values would obviously take a hit, and that would impact potential tax collection. It is a costly and *losing* proposition, any way one looks at it. Again, these roads service *neighborhoods* and we have a *zero tolerance* to the notion of a gravel pit pushing their product through them.

Kathleen Allen

Sincerely yours, Pagosa Springs residents of twenty years Brian and

## John Shepard

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**From:** Kevin Allison <kevinallison1@gmail.com>  
**Sent:** Saturday, March 26, 2016 12:45 PM  
**To:** John Shepard  
**Cc:** Toby Tollefsen; kim31lynn@hotmail.com  
**Subject:** Proposed Gravel Pit on County Road 500

Dear Mr. Shepard,

My wife and I are the owners of the home at 25 Castle Place in one of the Meadows subdivisions of PLPOA. Last week our neighbors let us know about the proposed gravel pit project and its potential impact on traffic levels along Cascade and Buttress. We are partial year residents of Pagosa and our home sits one block from one of the main proposed transportation corridors for the heavy dump trucks. I wanted to write and express our concern about the project as currently proposed. While we recognize the fact that people need to make a living and the county should be supportive of economic development, I would like to make the following points concerning this specific proposal:

- Home owners in the affected area purchased their properties for its peaceful rural qualities. They have also specifically bought into PLPOA and the very strict zoning in order to maintain this quality of life. The common thread through all of the PLPOA zoning restrictions are to maintain the rural quality and aesthetics of the area. The proposed project allows up to ***4 heavy dump trucks per hour to pass through these very quiet neighborhoods.*** This will damage property values and reduce future real estate development in the affected neighborhoods. This in turn will impact future county tax revenue through depressing property values in one of the most desirable residential areas in the county.

- The project will create very few jobs. I read in some of the documentation that somewhere between 6-10 jobs will be created at a facility that operates 120 days per year. A modest sized new restaurant would create more employment than this disruptive project.

- The proposed routing of the trucks passes through areas of Cascade and Buttress that are served by dirt roads. The dust and deterioration of the roads would be a major nuisance to residents in the vicinity of these roads and would increase maintenance costs of the roads. In addition, there are hills along Cascade and farther along Meadows and South Pagosa that would be subject to severe noise issues as heavily loaded dump trucks climbed these grades. For these impacts to potentially occur every 15 minutes under the peak traffic proposal would completely alter the character of the neighborhoods.

For these reasons I oppose the gravel pit project and request that you include this communication in the packet of resident responses going to the commissioners making the decision on the project. Thank you for your consideration.

Kevin Allison  
25 Castle Place

## John Shepard

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**From:** noreply@civicplus.com  
**Sent:** Tuesday, April 19, 2016 3:10 PM  
**To:** Sherrie Vick; John Shepard  
**Subject:** Online Form Submittal: Email Planning

If you are having problems viewing this HTML email, click to view a [Text version](#).

### Email Planning

To: Planning

Your Name:\* James E. and Leah Baxter

Your Email:\* hacc.geology@gmail.com

Add [ ]

Attachment: Convert to PDF?[ ]  
(GIF, JPG, JPEG, PNG, DOC, DOCX, XLS, XLSX, TXT)

Subject:\* Two Rivers Gravel Pit

Enter message:\*  
HARD COPY TO FOLLOW IN U.S. MAIL April 20, 2016 Mr. John Shepard, AICP Archuleta County Planning Manager Archuleta County Development Services P. O. Box 1507 Pagosa Springs, CO 81147 Re: Two Rivers Gravel Pit Dear Mr. Shepard, It has come to our attention that C & J Gravel Products, Inc. will have its application considered by the Archuleta County Planning Commission for a gravel pit on Trujillo Road, Pagosa Springs. According to the "Traffic Impact Study" that has been provided to the county, the list of "Possible Restrictions" (page 4) is expected to be flexible as a list of terms for coordinating and requesting approval to use any of the normally off-limit roads immediately follows (page 5). This gives no sense of security to residents. Quite the contrary, we would be ever fighting these exceptions. The eventuality of having the noise of truck travel on currently tranquil country roads, the added signage marring the landscape, the dust and/or the water trucks to keep the dust down are all unthinkable in terms of impact to the quality of life in this beautiful area. Also important to note regarding the geological suitability of the site, there are discrepancies in the information provided in the application. The site appears to be situated on a strath fluvial terrace, which means the mining could excavate into bedrock. This presents conflicts between the information provided in the mining plan and "Geological, Radiation, and Related Hazards" portion of the application. The USDA rating for soil suitability for gravel mining of the Valto very stony fine sandy loam is "Poor." Insufficient site-specific data are provided in the application materials to independently determine the geological suitability of this site for gravel mining, however, the information provided in the application suggests it is unsuitable. We also have concerns regarding the potential for surface water and shallow groundwater contamination from fuel spills occurring at the site. The application has not considered that a spill that infiltrates at the site could result in a long-term source of contaminant seepage to the river. For these reasons, we oppose the Two Rivers Gravel Pit and kindly ask for your support. Sincerely, James E. Baxter, P.G. Leah Ann Baxter 30 Hood Court Pagosa Springs, CO 81147

\* Indicates required fields.

## John Shepard

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**From:** Rebecca Bradshaw <rbradshaw4849@gmail.com>  
**Sent:** Monday, March 28, 2016 4:24 PM  
**To:** John Shepard  
**Subject:** Proposed gravel pit on Trujillo Rd., Pagosa Springs, CO

Dear Mr. Shepherd,

Our names are Tim and Rebecca Bradshaw, and we live at 97 Evans Ct., Pagosa Springs. We recently moved to the Pagosa Meadows IV Subdivision because of the peaceful and beautiful neighborhood. So, when we heard of a gravel pit that may be located very near our home we were alarmed! There is nothing positive to be said for a gravel pit so close to us except we may save a few dollars when and if we need a load of gravel. The negatives far outweigh the positives. First, there is the wear and tear on our neighborhood roads. Also dump trucks are loud, throw rocks (no matter how well the load is covered) and create a large dust problem.

Then we come to the problem of living in close proximity to the pit itself. The constant noise, dust and traffic in and out of the pit is also a problem for our neighborhood. We once stayed in a vacation home in Fairplay, Co. within a mile or two of a gravel pit and the noise and dust ruined the enjoyment of the outdoor area. Is this what we will have to look forward to in our new neighborhood?

The peaceful solitude of our home and neighborhood would be destroyed if you build this gravel pit. You cannot give us a good reason to allow the loss of peace and the beauty we now enjoy. After all that is why we invested our life savings to become citizens of your town. We have retired here and hope to live here the rest of our lives. I hope you value the beauty of this part of town enough not to destroy our dream of living here.

Thank you,

Tim and Rebecca Bradshaw  
Home Phone: 970-731-1280

## John Shepard

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**From:** Denny Beaugureau <beaugur@cox.net>  
**Sent:** Thursday, March 10, 2016 5:51 PM  
**To:** John Shepard; Sherrie Vick  
**Subject:** Gravel Pit

Dear John and Sherrie,

I am writing in response to an article in the Pagosa Sun regarding a proposed gravel pit on County Road 500. We live on Buttress near where Meadows tees into it. We are bombarded daily by garbage trucks, dump trucks, and trailers going to and from the landfill. The road in front of our house is not paved, and the dust created by all this traffic is incredible, even when treated with magnesium chloride. The trucks invariably exceed the 35 MPH speed limit, and neither the sheriff nor the city will send out patrols to enforce the limit and ticket them, despite repeated requests. Any proposed transit between the gravel pit and Durango will inevitably lead to a route of CR500 to Cascade to Buttress to Meadows to SR160 to Durango and vice versa. That will only exacerbate the situation for us and our neighbors on Cascade, Buttress and CR500, which is, frankly, bad enough already! I urge you and the Planning Commission to disapprove the request for the gravel pit until such time as the roads are paved, speed limits are enforced, and alternate routes are established. One option on the latter, after the former two are completed, is to alternate days or weeks among Cascade, Bristlecone, and 8<sup>th</sup> Street to get to SR160.

Thank you for your consideration.

We request a response.

Denny and Lark Beaugureau

## John Shepard

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**From:** Brad <2coldnpagosa@gmail.com>  
**Sent:** Monday, March 21, 2016 7:57 AM  
**To:** John Shepard  
**Subject:** Re: proposed gravel pit

Dear John,

As a full-time resident living on S Pagosa Blvd I am deeply concerned about the proposed gravel pit on CR500. We currently witness too much traffic that heads towards CR500 and the dump, speeding down the road above the posted speed limit and scattering debris along the roadway. The addition of large dump trucks and belly dumps running the road would detract from the neighborhood and add tremendous noise not to mention wear and tear to an already volatile road. Jake brakes at times are currently used through the area.

I urge you to deny this proposal unless all traffic is mandated to follow CR 500 in to town then to 8th street. Even this will place incredible pressure downtown on this busy road with limited infrastructure to support such traffic.

Thank you for your consideration in this important matter.

Brad Carey  
1018 S Pagosa Blvd  
Pagosa Springs, CO  
970-769-1763

## John Shepard

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**From:** Faith Carey <bfwcarey2@hotmail.com>  
**Sent:** Monday, March 21, 2016 7:57 AM  
**To:** John Shepard  
**Subject:** Gravel pit

I am writing in response to the proposed gravel pit on CR 500. I am a full time resident living on South Pagosa Blvd. The amount of large trucks traveling on this road is significant as they pass through to go to the dump. It concerns me a great deal that this would increase with gravel truck traffic. Typically the drivers of these trucks do not cover their loads, obey speed limits and use their very loud jake brakes. I oppose the gravel pit and will be at the meeting to support my position. Thank you Faith Carey 1018 S Pagosa Blvd 970-769-4928

Sent from my iPhone

## John Shepard

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**From:** Brett Climie <climiebrett@gmail.com>  
**Sent:** Tuesday, April 05, 2016 12:28 PM  
**To:** John Shepard  
**Cc:** Elizabeth Crossley; Brett Climie  
**Subject:** GRAVEL PIT

Dear Mr. Shepard and County Commissioners:

As elected officials you have been entrusted with the decision making responsibility on behalf of the residence of Archuleta County. The decisions you make can impact the county and the neighborhoods within this county for many years to come. A positive decision can help with the growth and sustainability of this county, while a negative decision, of course, can do the exact opposite.

We, the residents of Pagosa Meadows-4 sub-division, feel you have one of these important decisions coming up in the near future. The gravel pit and its routes to and from this proposed pit on CR 500.

The proposed routes through our residential sub-division on Cascade, Buttress, Meadows and South Pagosa Blvd. can have a negative impact on the whole community, not just the residents living on these four roads. The increase in commercial trucks on these roads will impact everyone's lifestyle from health and safety to an enormous loss in home values.

These sub-divisions were built and sold as quiet, comfortable and enjoyable places to live. Meadows is an area where people walk, bike, horseback ride and enjoy the wildlife. To now take these same roads and run hundreds of large commercial gravel trucks through these areas will now dramatically impact the quality of life we now enjoy.

More importantly, it creates a health hazard with the dust and noise and a potential accident waiting to happen. There are many families living in Meadows with children that use these roads to get to and from the school buses, as well as to visit their friends that live throughout the area.

Again, you were elected to make good decisions on our behalf. Please make the right decision in not allowing these commercial vehicles to come through Meadows. The damage to the roads, cars / windshields, people biking, walking and horseback riding will be felt all the way from 160 south to the end of Buttress. These routes are simply not a good decision for our community.

Thank you very much for considering our input when making your decision.

Sincerely,

Brett Climie & Elizabeth Crossley  
Full-Time Residents of Pagosa Meadows-4 PLPOA  
1441 Buttress Ave.  
Pagosa Springs, CO 81147

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Brett & Libby

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eFax: 719-623-0296

Mobile: 562-708-4729 (Brett) or 562-881-6889 (Libby)

## John Shepard

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**From:** jpfhou@aol.com  
**Sent:** Monday, March 28, 2016 4:18 PM  
**To:** John Shepard  
**Subject:** Fwd: Proposed Trujillo Rd. gravel pit

Dear Mr. Shepard,

I am a homeowner who lives on Capricho Circle and I would like to express my opinion of the above referenced subject. When my husband and I were first informed that if this gravel pit is approved, heavy commercial gravel trucks would be routed through Timber Ridge, along Capricho Circle, onto South Pagosa Blvd. and through the intersection at Hwy. 160, we could not believe that such a plan was really under consideration.

Here are our reasons for opposing this project:

- 1) The route the trucks would traverse is through the middle of upscale residential developments. Many homeowners, especially senior citizens (including my 89 year old husband), enjoy walking each morning and evening along these same roads. Additionally, there are young children who live on our street and ride their bicycles with their dogs running along beside them. Having to share those two-lane roadways with huge gravel trucks would be an extremely dangerous situation. Also, the Capricho Circle/Timber Ridge roads are a favorite for bikers training for races. Many are the days when we see dozens of bikers outfitted in their training gear pedaling our streets. Gravel trucks up and down the roadway would definitely create a hazardous environment to these riders.
- 2) Another danger to citizens would be the presence of heavy gravel trucks going past two of our community's most prominent houses of worship, John Paul II Catholic Church and St. Patrick's Episcopal Church. As people are entering or leaving church services or functions, it increases the possibility of a collision between a gravel truck and automobiles as attendees pull out onto South Pagosa Blvd.
- 3) Another worrisome issue is the loaded gravel trucks rumbling past our Pagosa hospital. Many people arriving at the hospital are distracted due to an illness they or a family member are experiencing, or they are actually in the throes of an emergency medical issue. In times of such crises, drivers are not being as alert or careful as they might otherwise be behind the wheel. South Pagosa Blvd. is already a very heavily traveled road. Adding the enormous hazard such as these heavy trucks would pose is simply a recipe for a disaster.
- 4) As anyone who has ever driven through the intersection of North/South Pagosa Blvd. and 160 can attest, it is the busiest and most congested intersection in town. With people attempting to access City Market and all the restaurants and businesses in Uptown Center and vicinity, as well as fire trucks and emergency vehicles coming from the fire station, plus the extra traffic associated with the expansion of our hospital, who in their right mind would even consider adding a steady stream of commercial gravel trucks to the mix?
- 5) The road base under Capricho Circle is already collapsing due to the vehicular traffic into and out of Timber Ridge. When Capricho Circle was conceived and constructed, it was never designed to carry the amount or weight of what it has now turned into. We built our home in 1989 and our road was gravel. Timber Ridge was the Gomez Ranch, the Pagosa Lakes Ranch development didn't exist and the only cars passing our house were from the two other homes on the Circle. After the residents of Alpha banded together and prevented Timber Ridge residents access to 160 through their neighborhood, all the cars, trucks and construction vehicles into and out of Timber Ridge was dumped onto Capricho Circle. Our safe and quiet street suddenly became an expressway. Now to discover that the Archuleta Co. Planning Commissioners are being asked to approve a gravel pit which would steer all that heavy, dangerous and noisy truck traffic right through the middle of residential neighborhoods is beyond belief.

If this proposal is approved, our safety, well being and property values will be negatively impacted in alarming ways. Many of us have our life savings at stake in our Pagosa homes. We are there for the beauty and tranquility our slice of heaven provides. Please don't allow our residents, visitors to our churches and the fabulous Pagosa hospital be put in the risky position of sharing our two lane roads with commercial gravel truck traffic. There must be a better and wiser solution which would not put our safety, security and property values in jeopardy.

Sincerely,

Patricia Conger  
289 Capricho Circle  
(970) 731-4107



**Jacqueline E. Hill**  
Email: [Jacqui@podoll.net](mailto:Jacqui@podoll.net)

February 9, 2016

John Shepard  
Archuleta County Development Services  
Planning Department  
P. O. Box 1507  
Pagosa Springs, Colorado 81147  
[jShepard@archuletacounty.org](mailto:jShepard@archuletacounty.org)

*via E-mail*

Re: Objection to Major Sand & Gravel Permit for the proposed Two Rivers Pit by C&J Gravel Products, Inc. in Archuleta County, Colorado

Dear Mr. Shepard:

We represent Diamond T Ranch, LLC, the owner of property adjacent to the Two Rivers Pit proposed in the above referenced permit application. We understand that the Archuleta County Engineering Department is recommending that the Planning Commission **not** approve the project at this time, due in part to an insufficient traffic study. Our client would like to join in this objection and also address concerns regarding the applicant's insufficient plans for dust mitigation.

As recognized by County Engineering, the idea that 24 trucks per day hauling approximately 25 tons of gravel each will have "no significant impact" on traffic or air quality is simply without support. The Engineering Department seemed chiefly concerned with the increased traffic through the main streets in town; however the proposed pit would also have a significant impact on County Road 500, which leads to both the site of the proposed pit and the Diamond T Ranch. That road is a dirt road with already significant corrugation or "washboarding." The road near the site of the proposed pit is narrow and currently used primarily by local residents and guests. The increased traffic flow creates safety concerns for local residents and will have a significant impact on the character of the area, which has traditionally been quiet and serene. The increased stress on the road, and increased traffic flow will interfere with the usual commute of the individuals living along County Road 500.

This increased traffic flow, as well as the pit itself, will also create a significant amount of dust. Although the applicant indicates that it will treat the road "with mag-water or other [unidentified] dust control agents," the application shows no decreed water right which can be used

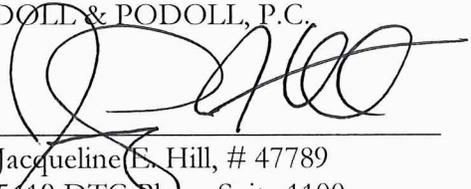
for the operation of the pit or dust control measures on the dirt road. It is unclear from both the County permit application and the application with the Division of Reclamation, Mining, and Safety, where any of the water needed for dust control on the roadways, dust control for mining, and for wash will come from. The applicant made vague references before DRMS to illegal and insufficient water rights held by the property owner, a 30-year "temporary industrial use" of agricultural rights without a proper decree, and a plan to get water from unidentified "other water rights holders."

There has been no realistic study presented to the County concerning the water to be used in the operation of the pit. The Application for a Reclamation Permit only contains unsubstantiated and grossly underestimated amounts of water. There is also no decreed water right or substitute supply plan which would demonstrate the availability of the water to be used for the operation of the pit and for dust control. The gross underestimation of the water needed for the operation of the pit must be resolved before a conditional use permit should issue from the County.

The Diamond T Ranch is directly and adversely affected by the proposed mining operation and its interests should be protected by the Board. There are several other deficiencies with the application, including access problems and imminent danger to the Harris Ditch, which diverts water from the San Juan River, traverses the Constant property in the vicinity of the proposed pit site, and fills a well on the Diamond T Ranch. These issues will be addressed in subsequent correspondence. Please send copies of further notices or correspondence regarding this matter to me at Podoll & Podoll, P.C., 5619 DTC Parkway, Suite 1100, Greenwood Village, Colo., 80111 or at the email provided below.

Very truly yours,

PODOLL & PODOLL, P.C.

By: 

Jacqueline E. Hill, # 47789  
5619 DTC Pkwy, Suite 1100  
Greenwood Village, Colorado 80111  
Telephone: (303) 861-4000  
Email: Jacqui@podoll.net

## John Shepard

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**From:** George Dougherty <gbeefman@gmail.com>  
**Sent:** Wednesday, March 16, 2016 3:17 PM  
**To:** John Shepard  
**Subject:** Gravel pit

John ..... Recently heard from my neighbors Beth and Toby Tollefsen regarding the proposed gravel pit and its routes coming and going from this pit.

I have read their email addressed to you and I believe it is spot on.

This is a residential neighborhood not a route designed for commercial vehicles. We have paid dues to PIPOA for many years which establishes us as a residential neighborhood.....you do not run commercial vehicles through a residential neighborhood on a daily basis.

We all bought out in this area for the peace and quiet along with the abundance of wildlife. Running commercial trucks through this area diminishes both, along with our property values. This neighbor was here long before this proposed gravel pit

Most importantly is the health hazard to everyone out in this area. This area is used heavily for walking and biking and enjoying the outdoors. This route through cascade, Meadows and South Pagosa Blvd would create dust that would not allow for any of the above activities. Inhaling these large amount dust cannot be good for either adults or children

Additionally, I have also experienced first hand being hit by rocks kicked up by the trash trucks along these routes .....this also is a hazard .....If you now add the high number of additional commercial gravel trucks ...someone is going to get hurt ..there are children and older adults in this area .....please take that into consideration also.

Lastly ....Pagosa has a mud season. Cascade and Buttress are at best terrible to navigate during mud season, or after any rain storm.

If you now add a few hundred commercial gravel trucks to the mix. ....what do you think these roads will be like. ....we all know the answer

We all ask that this proposal be denied

Thank you  
George Dougherty

Sent from my iPad

## John Shepard

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**From:** Debra Gatton <georgebrownbear@yahoo.com>  
**Sent:** Monday, April 18, 2016 1:05 PM  
**To:** John Shepard  
**Subject:** questions/concerns regarding proposed gravel pit on Trujillo Rd.

Hello Mr. John Shepard,

I think you are the correct person to send my inquiry to...

My name is Debra Gatton, my husband and I live at 96 Buckeye Place, just off South Pagosa Blvd. I am writing to learn more about the proposed gravel pit on Trujillo Road and to voice a few concerns plus a couple of questions:

My husband and I run on South Pagosa Blvd about three times a week, so we are very familiar with the road and traffic. There are frequently large trucks that appear to be hauling loads to the landfill using South Pagosa Blvd. Not only do we see the heavy loads, but on occasion, while inside our home, and definitely outside, we can hear the braking of the large trucks. According to my neighbor, and I am not sure this is true, commercial trucks aren't supposed to be using Cascade Ave, to connect from South Pagosa Blvd to Trujillo Road, as Cascade is considered residential. ??? If this is true, it's not enforced. Whether true or not, I am concerned that with a gravel pit even more large trucks will be on South Pagosa Blvd. Besides the noise issue, the road itself already has a lot of wear and tear - large and wide cracks are all along the road, plus it is rutted where the tires travel and becomes quite hazardous when wet/icy.

Another concern I have pertains to the fact that many people travel on South Pagosa Blvd for road biking, walking, and running and there is not any sort of paved shoulder. Several times I have witnessed cars and pick up trucks passing in double yellow areas to either get around road bikes or pass those of us who actually obey the posted speed limit. I am very concerned that if trucks going to a proposed gravel pit on Trujillo Road plan on using South Pagosa Blvd there will be even more congestion and more chance for accidents to occur.

In summary, I would like to understand what a gravel pit on Trujillo Road would mean for potential truck traffic on South Pagosa Blvd? If indeed heavy trucks will be using South Pagosa Blvd back and forth many times daily I am very concerned about noise, wear and tear on the roads, and safety issues and want to understand how these issues will be addressed.

Thank you in advance for your time and acknowledging my concerns,

Debra Gatton

Board of Directors  
Pagosa Lakes Property Owners Association  
230 Port Ave  
Pagosa Springs, Colorado

John C Shepard, AICP  
Planning Manager

Sherrie Vick  
Planning Technician

I am writing concerning the proposed gravel pit being built on Trujillo Road. My home is at 802 Buttress, just past the end of the paved road. It is my understanding that all gravel trucks at the rate of 4 per hour will be traveling to and from the pit on Buttress and Cascade. The paving of South Pagosa Blvd., Meadows, and part of Buttress has already increased our traffic considerably over the years. When we built our home Cascade had a 30 mile speed limit and a "No Through Trucks" sign. Both of those signs disappeared and Buttress/Cascade became a race track. In the Summer it is a dust bowl, and in the Winter and Spring it is a mud pit. Can you imagine the mess we will have with the gravel trucks?

Last summer the air quality was unbreathable. I had never had any pulmonary problems until then, but had an onset of coughing, wheezing, and actually gasping for air. The physicians in Pagosa tried to break the attack without success. I had to go to a Pulmonologist in San Antonio to get relief. This is obviously already a health hazard, and it will only get worse. In addition, the noise pollution is unbearable, with the trucks downshifting traveling on Cascade.

Please help us get some relief from this hazard. We fear not only for our health, but for the economic loss, as we fear the value of our property will suffer. We came to the mountains for the clean, pristine air, and this situation threatens this for all of us. The obvious solution is to have the Gravel Pit and the City pave the rest of Buttress and Cascade. We will still

have the noise, but at least the dust and mud would be abated.

I understand that a cell tower in Pagosa Lakes was recently turned down. The PLPOA was requiring a road to be built. The detriment to our quality of life from the gravel pit traffic on an unpaved road is much more substantial than the cell tower that was turned down. We must have relief from this threat to our health and property values.

I would appreciate your support. We are dues paying members of the PLPOA and we need to know you are fighting for us and our quality of life.

Sincerely,

Barry L. Harrell MD

**CHARLES P. ANDREWS, M.D., P.A.**  
Pulmonary Diseases  
4410 Medical Drive, Suite 360  
San Antonio, Texas 78229  
(210) 614-2100

March 16, 2016

**RE: HARRELL, BARRY**

To Whom It May Concern:

Dr. Barry L. Harrell has been followed in our pulmonary office since November 2015. Prior to 2015, Dr. Harrell had no known respiratory illness. Starting in the summer of last year, he developed a very persistent cough and wheezing. The onset of those symptoms coincided with him being exposed to road dust, which permeates his home in Colorado. He notes that very near to his home in Pagosa Springs, Colorado, the paved road ends and there is a gravel road, which is extremely dusty.

On my evaluation of Dr. Harrell, I found that he has reactive airways. In my opinion, the onset of his persistent symptoms is more than coincidental with his exposure to heavy concentrations of dust. I have advised him to avoid such an exposure.

Sincerely,



Charles P. Andrews, M.D.

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CPA:th

## John Shepard

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**From:** Barry Harrell <blharrell@earthlink.net>  
**Sent:** Sunday, March 13, 2016 8:59 PM  
**To:** John Shepard  
**Subject:** Gravel Pit

Mr. Shepard: I am Barry Harrell, and reside at 802 Buttress. I am very concerned about the added traffic on Buttress that the proposed gravel pit will certainly cause. When South Pagosa/Buttress and Meadows were partially paved several years ago our traffic increased tremendously, even though a no through traffic sign was posted on Cascade. That sign and all attempts to slow down traffic disappeared. There is no traffic control. Vehicles routinely fly by our house at 50 mph. The dust from the traffic last summer was so bad that for the first time in my life I had a pulmonary condition requiring medical attention. Pagosa physicians failed to relieve my symptoms. I had to seek a specialist in San Antonio which required several months of inhalation and oral therapy. I will not be able to tolerate additional dust filled air in the future. The added volume of gravel trucks will continue to diminish the air quality and the value of our homes. If Walmart had to pave the streets to accommodate the extra traffic, then the gravel pit and/or city should pave Buttress and Cascade. Thank you for your consideration.

Barry Harrell

Sent from my iPad

## John Shepard

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**From:** Richard Harris <richardharris1957@yahoo.com>  
**Sent:** Tuesday, March 29, 2016 5:32 AM  
**To:** John Shepard  
**Subject:** Gravel Pit on County Road 500

Dear Mr. Shepard,

It has come to my attention that Large Truck Traffic is going to significantly increase on S. Pagosa Blvd., and Buttress Avenue due to new demands from the gravel pit on County Road 500.

As a property owner on those roads, I am very concerned about increased road noise, wear & tear, and general safety of pedestrians, animals and children. There is little in the way of speed/traffic control, and I routinely see large trucks exceeding the posted 35MPH speed limit, sometimes as high as 60MPH. Additionally, half of Buttress Avenue is a dirt road. There will be serious road destruction and constant dust and air pollution as a result of the heavy traffic.

I enjoy walking my dog and jogging daily, and as you may know, there are no sidewalks or road shoulders to protect citizens. This new commercial route is a recipe for disaster and future fatalities.

I would appreciate your attention to this matter and a further explanation of what the mitigation plan is for the home owner.

Thank you,

Richard Harris  
498 Buttress Ave.

## John Shepard

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**From:** noreply@civicplus.com  
**Sent:** Saturday, April 16, 2016 9:49 AM  
**To:** Sherrie Vick; John Shepard  
**Subject:** Online Form Submittal: Email Planning

If you are having problems viewing this HTML email, click to view a [Text version](#).

### Email Planning

**To:** Planning

**Your Name:\*** Gregory and Melinda Homan

**Your Email:\*** glhoman@comcast.net

**Add** [ ]

**Attachment:** Convert to PDF? [ ]  
(GIF, JPG, JPEG, PNG, DOC, DOCX, XLS, XLSX, TXT)

**Subject:\*** Two Rivers Gravel Pit

**Enter message:\*** Dear Mr Shephard, As land owners at 241 Castle Place in Meadows 4 Pagosa Springs we are extremely concerned about the proposed Two Rivers Gravel Pit on Trujillo Rd. At the meeting on April 27th we hope that you will move to recommend Disapproval to the Board of County Commissioners, of Two Rivers Gravel Pit Major Sand & Gravel Permit, with Disapproval Findings A and B of the staff report. Sincerely, Melinda and Greg Homan

\* indicates required fields.

View any uploaded files by [signing in](#) and then proceeding to the link below:  
<http://www.archuletacounty.org/Admin/FormHistory.aspx?SID=3189>

The following form was submitted via your website: Email Planning

Your Name:: Gregory and Melinda Homan

Your Email:: glhoman@comcast.net

Add Attachment:: No file was uploaded

Subject:: Two Rivers Gravel Pit

Enter message::

Dear Mr Shephard,

As land owners at 241 Castle Place in Meadows 4 Pagosa Springs we are extremely concerned about the proposed Two Rivers Gravel Pit on Trujillo Rd. At the meeting on April 27th we hope that you will move to recommend Disapproval to the Board of County Commissioners, of Two Rivers Gravel Pit Major Sand & Gravel Permit, with Disapproval Findings A and B of the staff report.

Sincerely,  
Melinda and Greg Homan

Additional Information:

Form submitted on: 4/16/2016 9:49:28 AM

Submitted from IP Address: 174.56.48.79

Referrer Page: <http://www.archuletacounty.org/index.aspx?NID=93>

Form Address: <http://www.archuletacounty.org/Forms.aspx?FID=155>

## John Shepard

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**From:** Richard Humm <rhum260@gmail.com>  
**Sent:** Monday, March 28, 2016 6:48 PM  
**To:** John Shepard  
**Cc:** george dougherty; bethandtoby12@gmail.com; Juli Morelock; HUMM Linda  
**Subject:** Proposed Gravel Pit

John-

We recently learned of the proposed gravel pit on/near Trujillo Rd. and the probable routing of trucks. We (and many of our neighbors) regularly walk along Cascade, Buttress, So. Pagosa Blvd. and Meadows. The traffic and associated road damage are already bad as a result of trucks going to & from the land fill. In addition to further deterioration of road conditions from more heavy-load truck traffic, that traffic would be dangerous, unhealthy because of dust and a significant nuisance to many local residents. We are very much against the proposed siting of the gravel pit and hope you will oppose it as well.

Thank you.

Richard & Linda Humm  
59 Cascade Ave., Pagosa Springs

## John Shepard

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**From:** Pam Kircher <pk@pamkircher.com>  
**Sent:** Friday, February 05, 2016 10:37 AM  
**To:** John Shepard  
**Cc:** Pam Kircher  
**Subject:** Gravel Pit Hearing comments prior to Feb. 10 meeting

**Importance:** High

To the Archuleta County Planning Commission:

I am the northern next-door neighbor to the proposed gravel pit on Trujillo Road. My husband and I live in our home at 11000 CR 500 full-time throughout the year. We honor the the Constants' right to use their property as they see fit and are not complaining about the noise that will become a part of our lives as a result of a gravel pit. We would simply need to modify our expectations of peace and quiet that we have enjoyed for the past 20 years.

However, we are very concerned about the public safety hazard that gravel trucks will bring to the drivers along Trujillo Road. The double-S curve at about 7 miles is notoriously dangerous during all seasons and the transfer station trash trucks going to the landfill at the 9-mile site already pose a hazard to other drivers. However, there are other dangers as well. In the last couple of years, two accidents have occurred as cars have fallen off a 20-foot embankment at about the 9.7 mile area. Miraculously, no one was killed in the tumble down the mountainside. Tall embankments without shoulders are a common occurrence along Trujillo Road and accidents are not at all uncommon.

Currently, the road itself becomes nearly un-navigable about 3 or 4 times a year, necessitating big efforts by the road crews to bring it up to "standard." If gravel trucks are added to the mix, that process will be greatly intensified and speeded up.

Before you make a decision on the safety of Trujillo Road, please do drive down to the 12.5 marker and see for yourself the extent of the impact of the gravel trucks on the environment--and the safety hazard that the trucks pose for drivers on Trujillo Road.

Thank you for considering my comments.

Pam Kircher  
11000 CR 500  
264-6129

## John Shepard

---

**From:** noreply@civicplus.com  
**Sent:** Saturday, April 16, 2016 3:31 PM  
**To:** Sherrie Vick; John Shepard  
**Subject:** Online Form Submittal: Email Planning

If you are having problems viewing this HTML email, click to view a [Text version](#).

### Email Planning

To: Planning

Your Name:\* Rex & Anne Marie Kemp

Your Email:\* dg2colo@gmail.com

Add [ ]

Attachment: Convert to PDF?[ ]  
(GIF, JPG, JPEG, PNG, DOC, DOCX, XLS, XLSX, TXT)

Subject:\* Two Rivers Gravel Pit

Enter message:\* Mr. Shepard: My wife and I live on Meadows Dr, not far from Buttress Ave. We recognize that roads are built primarily for the use of vehicle traffic. However, since there are no sidewalks, foot traffic must also use these same roads. Weather permitting I walk, sometimes accompanied by my wife, 6 times a week from our home to pick up our mail on Buttress Ave. At times, we also ride bikes for the same purpose. The one way distance is approximate 0.7 miles or 1.4 miles total. And occasionally we walk to neighbors homes. Traffic is relative light and typically we would see 4-6 autos on our round trip. The drivers of these vehicles almost always recognize that they need to share the road and not force us to the gravel apron which could be wet or snow covered. These drivers almost always move well into the middle of the road to pass us safely and allows a safe journey without resorting to poor walking surfaces. If truck traffic is allowed to the degree that the Two Rivers Gravel Pit operations proposes, our walks will become increasingly hazardous. Big trucks are not as likely to have the room or inclination to give us a generous berth. Additionally, noise is an issue. Living near the corner of Harvard and Meadows we do hear autos coming to a stop or accelerating from a stop. Some truck traffic is also heard, mostly associated with building projects. They make much more noise, but are relative few in number. But constant traffic from a gravel pit operation would be frequent, thus disturbing our relatively peaceful conditions. I cannot fathom the thought that frequent truck traffic would become a daily occurrence. We moved here for the views, the people, and the relative solitude that currently exists. Please don't disturb our small view of heaven by putting trucks at our front door. Respectfully, Rex & Anne Marie Kemp

\* Indicates required fields.

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<http://co-archuletacounty.civicplus.com/Admin/FormHistory.aspx?SID=3190>

The following form was submitted via your website: Email Planning

Your Name:: Rex & Anne Marie Kemp

Your Email:: dg2colo@gmail.com

Add Attachment:: No file was uploaded

Subject:: Two Rivers Gravel Pit

Enter message:: Mr. Shepard:

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I cannot fathom the thought that frequent truck traffic would become a daily occurrence. We moved here for the views, the people, and the relative solitude that currently exists.

Please don't disturb our small view of heaven by putting trucks at our front door.

Respectfully,

Rex & Anne Marie Kemp

## Sherrie Vick

---

**From:** noreply@civicplus.com  
**Sent:** Wednesday, February 10, 2016 9:50 AM  
**To:** Sherrie Vick; John Shepard  
**Subject:** Online Form Submittal: Email Planning

If you are having problems viewing this HTML email, click to view a [Text version](#).

### Email Planning

To: Planning

Your Name:\* Debbie McAlister  
Your Email:\* ksmcalister@centurytel.net

Add [        ]  
Attachment: Convert to PDF?[ ]  
(GIF, JPG, JPEG, PNG, DOC, DOCX, XLS, XLSX, TXT)

Subject:\* Two rivers gravel pit

Enter message:\* I would like to express my concerns regarding the 2 rivers gravel pit on county road 500, my first concern is the condition of the road and the impact gravel trucks will have. The road bed was raised and narrowed last fall many vehicles found themselves off the road and in the ditch these last several weeks due to snow, speeding gravel trucks will only make this worse. I am also concerned about wildlife migration the area to be considered where two rivers converge is a large wildlife area and this may disrupt habitat. Thirdly, now that county road 500 has been designated as a scenic by way, we will have an increase in tourist traffic they may not appreciate gravel trucks driving down the middle of the road at a high rate of speed. I know I do not. Thank you for your time and consideration, Debbie McAlister

\* indicates required fields.

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<http://co-archuletacounty.civicplus.com/Admin/FormHistory.aspx?SID=3040>

The following form was submitted via your website: Email Planning

Your Name:: Debbie McAlister

Your Email:: ksmcalister@centurytel.net

Add Attachment:: No file was uploaded

Subject:: Two rivers gravel pit

## John Shepard

---

**From:** Ella <eomouno@gmail.com>  
**Sent:** Saturday, April 09, 2016 12:41 PM  
**To:** John Shepard  
**Subject:** Re: Two Rivers Gravel Permit

John we were gone for two weeks which the road was graded on Cascade Ave. at the time of our departure when we returned the road is as bad as usual. Please make a trip to see this washboard bomb sounding horrible road. What year and month was there a Survey monitoring traffic on this road?

Thank you

Ella

Sent from my iPad

On Mar 15, 2016, at 7:53 AM, John Shepard <[jShepard@archuletacounty.org](mailto:jShepard@archuletacounty.org)> wrote:

The County standard is gravel roads with over 700 trips per day should be paved when new development occurs. County Road 500 doesn't have that much traffic—the gravel pit will not generate many more trips, but we are concerned with the proportion of trucks and their impact on the entire road network. This is one reason we asked for more detailed traffic studies.

Majestic Dr. is in the Town of Pagosa Springs (as is the proposed new bridge which somebody else had brought up). They are also concerned with impacts on town roads and have also asked for additional traffic studies.

John C. Shepard, AICP  
Planning Manager  
[jShepard@archuletacounty.org](mailto:jShepard@archuletacounty.org)

---

**From:** Ella [<mailto:eomouno@gmail.com>]  
**Sent:** Monday, March 14, 2016 7:17 PM  
**To:** John Shepard  
**Subject:** Re: Two Rivers Gravel Permit

John how can you pave Majestic which has hardly any kind of traffic But you can tell us that this is progress and allow much more traffic In our residence doesn,t make much since to me can you reply about A small traffic getting paved and a substantial traffic disaster being Ignored.

Thank you

Ella Olson

Sent from my iPad

On Mar 14, 2016, at 4:20 PM, John Shepard <[jShepard@archuletacounty.org](mailto:jShepard@archuletacounty.org)> wrote:

Mr & Mrs Olson- Thank you for your message. I've heard from several of your neighbors, and have driven your street as recently as last week.

Cascade, Buttress/S. Pagosa and Meadows are on the County's Primary Road Network. As the County grows, they are likely to become busier, especially since we haven't built other primary roads. However, new development must mitigate its impacts, and the Applicants have been asked to do more detailed traffic studies before their next hearing before the Planning Commission on 4/27.

John C. Shepard, AICP  
Planning Manager  
Archuleta County Development Services  
PO Box 1507  
Pagosa Springs, CO 81147  
970-264-1390  
[JShepard@archuletacounty.org](mailto:JShepard@archuletacounty.org)

To: Planning

Your Name: \* Mark and Ella Olson  
Your Email: \* [Eomouno@gmail.com](mailto:Eomouno@gmail.com)

Add [ ]  
Attachment: Convert to PDF? [ ]  
(GIF, JPG, JPEG, PNG, DOC, DOCX, XLS, XLSX, TXT)

Subject: \* Gravel Pit

Enter message: \* Dear John, We have lived on Cascade Ave. for about 13 plus years and have complete our concerns about the trash trucks coming and going up and down Cascade when the No trucks were to to use Cascade. With this gravel pit going in would create a lot more noise for us which we live on The east side and when just a slight wind blows we get horrible noise and has created my husband to have bad dust allergies. Hen these trucks go up and they make the road very washboard which Creates an accident waiting to happen and makes a horrible bomb like noise When they hit a rutt. This will make traffic so bad that the speed limit So high the wildlife on our street will be destroyed. The road really needs to Be paved and speed limit and different roads need to take on this. Hope you will see our concerns and make it right. Thank you for your time and sometime take a ride out I can see what we are concerned about. Mark and Ella Olson 265 Cascade Ave.

\* indicates required fields.

## John Shepard

---

**From:** noreply@civicplus.com  
**Sent:** Sunday, March 13, 2016 5:22 PM  
**To:** Sherrie Vick; John Shepard  
**Subject:** Online Form Submittal: Email Planning

If you are having problems viewing this HTML email, click to view a [Text version](#).

### Email Planning

To: Planning

Your Name:\* Mark and Ella Olson  
Your Email:\* Eomouno@gmail.com

Add Attachment: [ ] Convert to PDF?[ ]  
(GIF, JPG, JPEG, PNG, DOC, DOCX, XLS, XLSX, TXT)

Subject:\* Gravel Pit

Enter message:\* Dear John, We have lived on Cascade Ave. for about 13 plus years and have complained to Zaday about the trash trucks coming and going up and down Cascade when the No threw trucks were to to use Cascade. With this gravel pit going in would create a lot more dust to us which we live on The east side and when just a slight wind blows we get horrible dust and has created my husband to have bad dust allergies. Hen these trucks go up and down they make the road very washboard which Creates an accident waiting to happen and makes a horrible bomb like noise When they hit a rutt. This will make traffic so bad and with the speed limit So high the wildlife on our street will be destroyed. The road really needs to Be paved and speed limit and different roads need to take on this. Hope you will see our concerns and make it right. Thank you for your time and sometime take a ride out here to see what we are concerned about. Mark and Ella Olson 265 Cascade Ave.

\* indicates required fields.

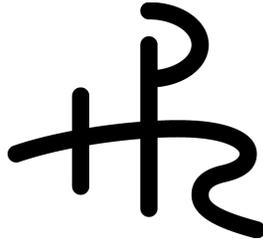
View any uploaded files by [signing in](#) and then proceeding to the link below:  
<http://www.archuletacounty.org/Admin/FormHistory.aspx?SID=3113>

The following form was submitted via your website: Email Planning

Your Name:: Mark and Ella Olson

Your Email:: Eomouno@gmail.com

Add Attachment:: No file was uploaded



**PINON HILLS RANCH  
PROPERTY OWNERS ASSOCIATION, INC.**

Mr. John Shepard  
Archuleta County Development Services  
Planning Department  
PO Box 1507  
Pagosa Springs, CO 81147  
[jshepard@archuletacounty.org](mailto:jshepard@archuletacounty.org)

March 27, 2016

RE: Objection to the proposed Two Rivers Pit submitted by C&J Gravel Products, Inc.

Dear Mr. Shepard,

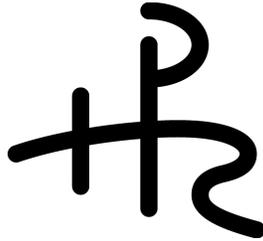
On behalf of the **45 residential lot owners** of Pinon Hills Ranch (Phase 1 & 2), I write to express our strong objection to the proposed commercial gravel pit. We ask that you and the Planning Commission deny this project and allow no conditions in which an approval could be granted.

Pinon Hills Ranch (PHR) is located approximately 2,600 linear feet due south of the subject property. PHR is a residential subdivision approved in 2003 through the Colorado Common Interest Ownership Act. PHR has an active Association made up of its 45 lot owners, a Master grazing lease, natural springs, a common area directly on the San Juan River for fishing and provides its residents with a peaceful rural place to reside.

The idea of a commercial gravel pit being approved this close to a large residential subdivision brings up a number of serious issues for the PHR Association members. A few points to consider are:

1. The significant increase in heavy truck traffic on CR 500 is a hazard. CR500 already suffers in quality and can be difficult to drive, even in passenger cars, during parts of the year. The County does not have the resources to improve the road. There are often cars found in the ditches, large potholes, wash-boarding and slick surfaces. Some extra gravel supplied to the County as proposed by Two Rivers is not going to solve this problem and should not be a reason to allow a commercial gravel pit in this location.
2. The noise of blasting and crushing rock combined with the heavy equipment transports will have a significant negative impact on the residents along CR 500 and those within PHR. This entire area south of Pagosa is currently a peaceful and serene part of the County and not an appropriate place to stick a loud, hazardous, and environmentally unfriendly commercial use.

Pinon Hills Ranch Property Owners Association, Inc.  
P.O. Box 2935 Pagosa Springs, CO 81147  
[markd@mind.net](mailto:markd@mind.net) Ph: 541-621-8393



**PINON HILLS RANCH  
PROPERTY OWNERS ASSOCIATION, INC.**

3. The land south and east of Pagosa Springs is an important *mule deer wildlife corridor*. Large populations of deer can be found on PHR throughout the fall and winter. These deer travel in from the north and that access way would be clearly impacted by blasting, noise, trucks, etc. occurring only a short distance from PHR.
4. Gravel trucks driving over the Two Rivers Pit bridge across the San Juan river multiple times per day will leave excess sediment washing off the bridge into the River. Just upstream from Two Rivers Pit is one of the largest conservation easements in Colorado protecting 7 miles of the San Juan. Just downstream from Two Rivers Pit is the Diamond T Ranch whose owners have done significant River restoration to improve the river and fish habitat. Allowing a gravel pit will negate a lot of good work done to improve the fishery and river health over the past decade.
5. There is no good access to Pagosa Springs for these large trucks. Either they traverse through Timber Ridge, one of the nicest residential subdivisions in town, or they have to pass by the School and neighborhoods coming into town from the south. Neither is a good option for safety and quality of life for County residents.

Thank you for considering our input during your continued review of this project. We trust that the right thing will be done for the residents along all of CR500 as well as the river, fishery, and wildlife currently thriving south of Pagosa Springs. A denial is the best choice for this project and for the residential communities south of Pagosa Springs.

Regards,

Mark DiRienzo

President

Pinon Hills Ranch Property Owners Association, Inc.

Pinon Hills Ranch Property Owners Association, Inc.

P.O. Box 2935 Pagosa Springs, CO 81147

[markd@mind.net](mailto:markd@mind.net) Ph: 541-621-8393

received  
3/01/2016

Hello John,

First, thanks again for calling back last Tuesday to discuss my ideas regarding the proposed gravel pit on CR 500. To refresh you, my residence is on Cascade Ave and my concerns center on the fact that the increased heavy truck traffic that the gravel operation will generate will make what is already a bad situation worse.

At its inception, Cascade Ave was not intended to be a through traffic road. My understanding is that Cascade was originally built by the Aspen Cascade Ranch owners, with an agreement with Archuleta county that the maintenance would be the county's responsibility. As late as the early 2000s there was in fact a sign at the corner of Buttress and Cascade stating "No through Traffic". However, the situation deteriorated over time with increasing use of Cascade as a portal to south CR 500. When one of my neighbors (who has since moved) brought this to the attention of county officials their response was that the no through traffic policy was unenforceable and hence the sign was removed, resulting in Cascade now being used as a major thoroughfare to south CR 500 from the west and northwest side of the town/county.

Because the landfill is located on CR 500, Cascade is also now the main route (and conceivably only) used by the three trash companies operating in the county, as well as all construction and private individuals needing to go to the landfill from the west and northwest side of the town/county. The vehicles range from the large trash pick-up/compaction trucks, to dump trucks to pickups to cars or pickups towing trailers behind. These large heavy vehicle (often traveling faster than necessary) caused much wear and tear on Cascade creating washboard surfaces uphill and downhill as well as numerous potholes and significant erosion after rains. In addition, significant noise and dust accompanies the degradation of the road surface and is even more noticeable when the trucks and trailers return from the landfill empty (rattles, clunks and thunks). This considerable noise, dust and wear on is also evident on the unpaved part of Buttress. The inclined/sloped part of Cascade is graded multiple times per year in an attempt to smooth out the washboard surface, fill in pot holes, and thus decrease the dust and noise generated but the problem rapidly reoccurs. The same is true for the unpaved section of Buttress, although maybe less so because it is flat.

Since we spoke I have talked to several of my neighbors (and they in turn have spoken to several more who may/may not contact you; Mercer, Tollefsen, Beurgureau, Olsen, Harrell, Kurt-Mason) and we all feel that the potential impact from this increased truck traffic would be significant and deleterious to quality of life. We do not feel however that it is proper for us to deny someone's business opportunity. One potential solution to the road degradation, dust and noise on Cascade Ave and Buttress Ave would be to pave both roads as they pass by exiting residences. This would not entail the entirety of either one: Buttress only to the corner where it intersects Cascade and Cascade down the incline to the point where the Aspen Cascade Ranch begins (no more residential development past here). While expensive at first, the cost could be shared with the gravel pit operators in exchange for their use of the roads, and the upkeep of the road would be potentially less expensive to the county than the repeated gradings and magnesium chloride application now used on the gravel portions of these roads. A second possibility would for the county to require gravel pit traffic to use non-residential routes via US 84 via CR 359 and CR 542; or CR 700.

I hope this adequately explains my concerns and those of my neighbors and that the Archuleta County Planning Commission takes this into consideration when deciding to permit or not permit the gravel pit operation.

Sincerely,  
Howard Strahlendorf  
300 Cascade Ave  
731-2340

## John Shepard

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**From:** Jean & Howard Strahlendorf <pairadocs@centurylink.net>  
**Sent:** Friday, March 25, 2016 12:36 PM  
**To:** John Shepard  
**Subject:** Gravel Pit  
**Attachments:** EPA b13s02-2.pdf

Hi John,

There's been considerable interest in the neighborhood concerning the proposed gravel pit. I've read through the two PDF docs that were appended to the Feb Planning Commission meeting and although I see mention of some environmental impact assessments regarding wildlife and flora I see nothing regarding the health effects of dust and particular matter generated not only at the crushing site but also on the haul routes. I have attached a report and include a link below by the EPA dating way back to the late 1990s addressing this issue. Of particular interest is the discussion relating particulate size to health effects and how the ROAD SURFACE, WIND CONDITIONS, TERRAIN, SPEED OF VEHICLE, TRUCK TYPE, TRUCK WEIGHT and TRUCK DRAFT (TURBULANCE AT REAR OF TRUCK) contribute to creation of a dust plume with micron size particulate. Please refer to sections 1, Introduction; and 2, Source Description for a discussion of the factors involved and how to analyze these. Please forward this on to the other members of the Planning Commission.

A similar analysis is requisite in this case because greater than 90% of the haul routes are on unpaved roads and this small particulate matter can provoke serious health consequences.

<https://www3.epa.gov/ttnchie1/ap42/ch13/bgdocs/b13s02-2.pdf>

Sincerely,

Howard Strahlendorf

received  
4/11/2016

Hi John,

Just checking to see if you've received the revised/additional mitigation plan(s) for the Two Rivers Gravel pit. I would appreciate a copy as soon as you do. Last week I also noticed several traffic counting devices strategically placed on several of the proposed routes for the gravel trucks that prompted several questions/points that maybe you can clear up.

- Has the Two Rivers Pit application already received Colorado Mined Land Reclamation Division (MLRD) approval on all fronts? Because of its proximity to, and elevation above, the San Juan River, I'm particularly concerned about environmental impacts of spilled petroleum products, lubricants, antifreeze etc. from the machinery and trucks, as well as polluted water from on-site dust mitigation entering the San Juan River. Also, because of its proximity to the Ute Reservation land, has a study been done to insure no culturally important indigenous artifacts/antiquities or other important archeological features will be destroyed?
- In the application there is extensive discussion regarding the traffic situation along CR 500 immediately adjacent to their road/drive access to their bridge. But, has the County Engineer made a thorough study of the potential traffic situation(s) along the *entire length* of CR 500, if such large trucks, some with tandem trailers, are allowed to travel the road. I'm specifically referring to the "S"-curves between miles 8 and 11, none of which have significant shoulders or guard rails. Even with a reduction in speed limits at these areas, can these areas really be considered safe? I know from personal experience that speed limits on Buttress and Cascade are meaningless. Also, there is a "blind" curve just south of the transfer station. Is the line of sight adequate around the curves and is the radii of the curves sufficient to allow two vehicles, one a large truck possibly towing another long trailer, to meet and pass without incident?
- The application contains discussion of particulate matter mitigation at the pit site, but nothing is mentioned regarding the proposed haul routes. Perhaps that is forthcoming in the requested additional materials, but several points need to be considered that can not be addressed with a traffic count alone. What exactly does the 700 ADT for a road in Archuleta county mean, and how does one reconcile average daily trips with a state or federal (EPA) air quality emission standard? ADT seems to be a meaningless unit of measure when trying to determine the amount of pollution generated by a vehicle. It is well documented by federal studies that myriad factors are at play when determining the particulate matter generated by a vehicle, e. g., size, weight, number of axles and tires, speed, turbulence under carriage, rear draft turbulence, road surface conditions, humidity etc. To cite an example, a federal study dealing with the interstate highway system found that a *single* (i. e., 1) fully loaded 18-wheeler weighing 80,000 pounds caused the same impact on the road as 2600 cars! Granted this is a semi on concrete pavement, but the same laws of physics are at work regardless of the size of the truck or the surface. Thus, for a 40,000 pound gravel truck, the equivalent is 1300 cars for each trip of the truck on paved or gravel roads. This single truck trip obviously exceeds the 700 ADT county requirement for mitigation. (Maybe the County should use equivalent metrics when evaluating the impact of the trash hauling trucks.)
- What are the weight restrictions for the roads in the county? Are residential roads the same as designated county roads (CR designations)? Are all roads constructed to the same standards, and are therefore suited to carry even the heaviest weight vehicles?
- Does the county have a noise restriction on commercial vehicles other than use of mufflers on engine brakes? Does it set a decibel level not to exceeded, such as 70db for all vehicles?
- What are the current air quality standards for the County concerning PM 10 and PM 2.5? The Colorado Air Quality Standards as posted on the CDPHE web site, and declared as effective 02/15/13, seem to say for the Pagosa Springs Attainment/Maintenance Area, either the EPA standard of 35 micrograms/cubic meter for PM 2.5 and 150 micrograms/cubic meter for PM 10 per day or 946 pounds per day for PM 10 is the limit. But is this for the entire County or a specified area; who determines if the standards are being met, and how often are measurements taken?



Once again thanks for your time and I look forward to your response.  
Howard Strahlendorf

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Once again thanks for your time and I look forward to your response.  
Howard Strahlendorf

## John Shepard

---

**From:** Toby Tollefsen <bethandtoby12@gmail.com>  
**Sent:** Friday, March 11, 2016 1:19 PM  
**To:** John Shepard  
**Subject:** Gravel Pit

Dear John,

We are writing in response to the proposed gravel pit on County Road 500. We live on the gravel part of Buttress and already are overwhelmed with garbage trucks, dump trucks, contractors flying by with trailers on the way to the dump. The speed limit is 35 but many of the vehicles go by at much higher speeds. Some we suspect are as fast as 50 mph. We have made numerous calls asking for the sheriff to enforce the speed limit to no avail. All this traffic makes for terrible dust in the summer. It has significant health issues as the dust is so thick your eyes are gritty & breathing it aggravates allergies. There is also the safety factor. There are new neighbors with kids, my neighbor has a small grandchild and these commercial vehicles fly by all day long. The black trash trucks are the worst. Last summer we were on the sharp curve where South Pagosa turns into Buttress had to take the ditch as the trash truck rounded the corner so fast that it was half in our lane in order to make the curve at the speed he was going.

Now there is a possibility of a gravel pit on CR 500! That will increase the commercial traffic ten fold. When we purchased this property we checked to be sure Cascade was not a through road for trucks. There was a no through truck sign. Mysteriously it disappeared. Now our road is washboarded and full of pot holes and Cascade, well it is a mess and the trucks gear up to go up the grade while bouncing on the washboard making a lot of noise.

This is a **residential neighborhood in a planned subdivision in PLPOA**. This is not some rural county road. The loss of the no through traffic sign on Cascade allowing all the commercial vehicles has already diminished our home value and the added commercial traffic of belly dumps will certainly diminish our home value even more.

We are requesting that you do not approve the gravel pit due to the significant loss of quality of life & property value for those who live on South Pagosa Blvd, Meadows, Buttress & Cascade.

If the gravel pit were to be approved there would need to be measures taken to fix some of the major problems associated with additional traffic.

Paving the road from Meadows to Cascade and down to CR 500. (You are thinking of spending 7 million on a bridge, spend a fraction of that on paving a road that is already used heavily for commercial traffic through a residential neighborhood)

Require gravel pit traffic to use non-residential routs- US 84 via CR 359 and CR 542 or CR 700. Establish an alternate route.

The speed limit is 35 mph, have a speed limit for commercial vehicles 25 mph. Maybe this will slow them down some. (We have spoken with Elite trash company and they agree that 35 mph is too fast currently on the gravel road & their trucks do go slower which helps a lot)

We are asking that you take all this into consideration when deciding to permit or not permit the gravel operation.

Thank you for your time.  
Beth & Toby Tollefsen  
706 Buttress Ave 731-2838

## John Shepard

---

**From:** Toby Tollefsen <bethandtoby12@gmail.com>  
**Sent:** Wednesday, April 13, 2016 1:07 PM  
**To:** John Shepard  
**Subject:** Cascade

Good afternoon John,

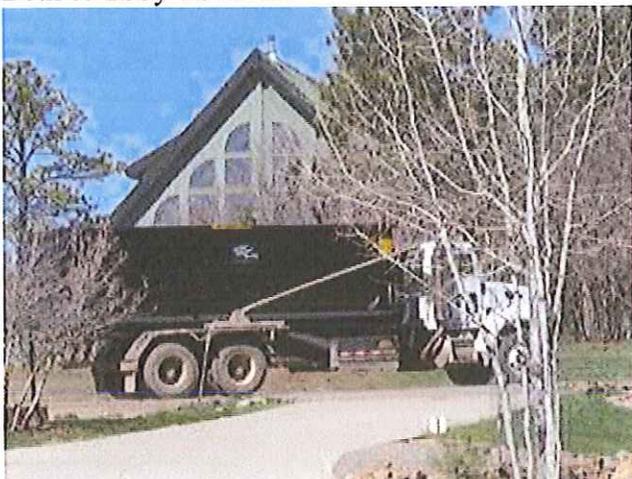
I'm sure you have received several e-mails regarding the gravel pit so we will make this short. We would like to ask you to make a quick trip up Cascade in the next few days. We do not know the exact date that Cascade & Buttress were last graded, but it was a few days after our first e-mail regarding the gravel pit which was approximately March 11. We do appreciate the grading that happened right away, however Cascade was washboarded not even a week later. Today if you were to drive up Cascade you will see how badly it is washboarded and it has only been a month. While working in my yard today the noise of the trucks going up and down the road sounded like railroad cars crashing together but a slightly higher pitch. If you have ever heard empty rail cars quickly stopping and the noise they make it will give you an idea of the level of noise created.

We have attached a photo of the trucks that are THE worst. It is magnified if the truck also has a trailer attached behind. The regular pickup trucks the contractors use with the dump trailers behind are also bad as they bounce on the washboarding. I'm sure you know where this is leading. If this gravel pit were to happen the increased traffic of 6 dump trucks per hour will really tear up Cascade and Buttress (& the paved roads) even faster. The county would need to grade every week or two to keep up the road in a safe condition. For those of us who live here, it would be a nightmare of noise and dust as well.

We thank you for your time & really hope you drive up Cascade to see how bad it is already without the added traffic of thousands of graded dump trucks that will happen per summer. We ask you drive up Cascade at the 35 mph to get the full effect of the washboarding, noise & dust.

Sincerely,

Beth & Toby Tollefsen



To: The Archuleta County Planning Commission  
Cc: County Commissioners

My husband and I live on Trujillo Road and would like to express our concerns regarding the proposed Two Rivers Pit located at 12500 County Road 500/Trujillo Road.

Trujillo Road is a somewhat improved dirt road with tight curves, unstable edges, and is very narrow in many areas with no shoulders. This road is hard to drive as it is without the additional traffic of the proposed gravel trucks which would have significant impact on the road and would also pose a big safety hazard.

Another point that surprisingly has never been mentioned in the reviews of the project, is that the grazing land on both sides of Trujillo Road (especially where the two rivers, the Rio Blanco and the San Juan River, converge) is a major elk habitat and elk migration corridor. The increased traffic would have a huge impact on the animals and maybe even endanger their well-being.

The San Juan River along Trujillo Road has a huge recreational value. At mile marker 11 is the landing point and pick-up for the river rafters coming from town and also the canoe and kayak launching point. Besides this, there are swimming and fishing spots, used by locals as well as tourists.

Trujillo Road is also a scenic drive to Pagosa Junction. Both tourists and locals come out to watch elk and deer, also mountain lions, bears and bald-eagles.

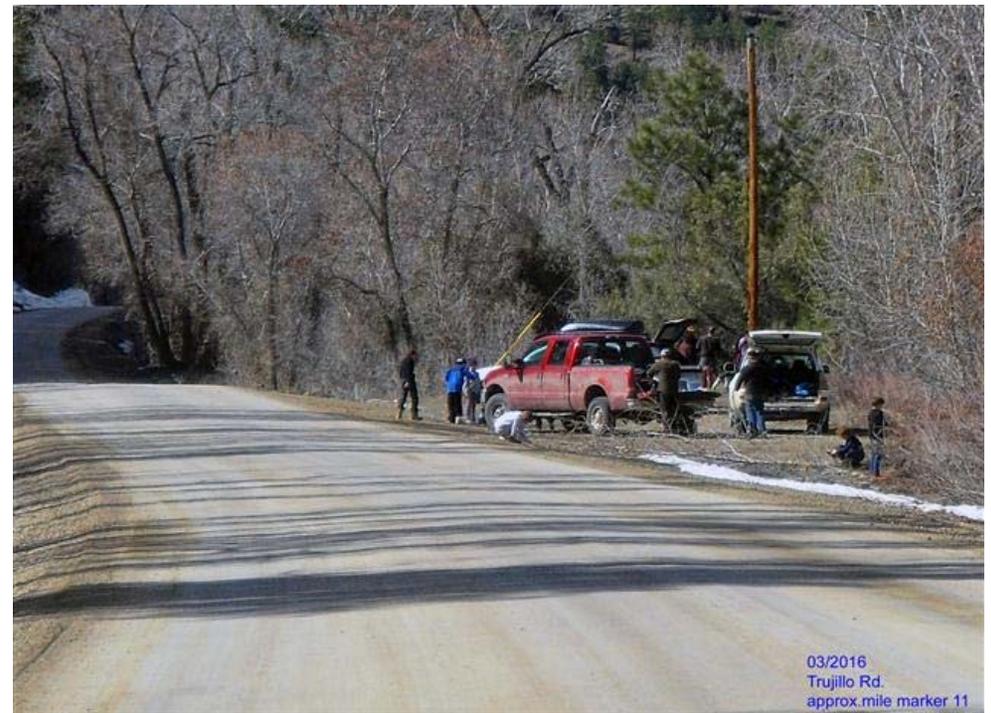
Without even taking into consideration the locals, do you think our tourists will appreciate the noise, dust, washboard, and potholes caused by the additional projected 24 belly-dump trucks per day (which might become 50 to 70 trucks during the peak summer season) on top of the garbage trucks that are already using the road to the landfill?

And I don't even want to mention the impact the trucks would have on the downtown area and all residential areas between Trujillo Road and Hwy. 160 and the cost to maintain these roads for the next 20 years.

Thank you very much for your time and consideration,

Karla & Heiko Weber

Attached: 4 photos picturing the road condition of Trujillo Road in 2015/2016



## John Shepard

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**From:** gbw@centurytel.net  
**Sent:** Saturday, April 09, 2016 7:50 PM  
**To:** Clifford Lucero; Steve Wadley; Michael Whiting; John Shepard  
**Subject:** Gravel Pit truck routes

Commissioners: Lucero, Wadley, Whiting, Planning Manager Shepard

It has come to the attention of residents living on Buttress, Meadows Drive, South Pagosa, and in Timber Ridge, that a proposal has been made to allow trucks leaving from and returning to the proposal gravel pit the ability to utilize one of these routes as their access to highway 160. According to the Gravel Pit Application for C&J Gravel Products INC.

### TRUCKS

"A variety of trucks will be used to haul materials from the Pit, including single dump trucks, semi-dump trucks, and trucks with pups.  
Most commonly used will be dump trucks with pups. Average haul for all vehicles will be 25 tons per vehicle".

### TRAFFIC COUNTS AND SCHEDULES

"Assuming an average hauled 70,000 tons per year, 25 tons/vehicle, and 120 hauling days per year, average truck traffic will be 23.33 trucks per day". (Of course this is one way plus the return trip, makes 46 trucks per day rumbling down our residential roads)

### ROUTES

"Based on anticipated markets during the life of the pit", (25-30 years) "traffic on public highways is assumed to be 90% northbound and 10% southbound on CR-500. CR-500 connects to various county roads and city streets before connecting to either SH-160 west or in Pagosa Springs or SH-84 southeast of Pagosa Springs". The Significant information here is " CR-500 connects to various county roads and city streets". Exactly what does this mean? Could it mean Buttress, Meadows Drive, South Pagosa, and in Timber Ridge? All the information indicated above is buried on page 140-141 of the Gravel Pit Application.

Those of us living on the proposed truck routes are adamantly opposed to this proposal. These are residential developments where residents moved to have a peaceful environment void of trucks rambling up and down our road, causing noise pollution, road damage, safety issues for youngsters playing, riding bikes, etc., to say nothing of what this would do to property values. A few years ago, those of us living on Buttress and Meadows experienced a situation where for several months we experienced trucks coming from Trujillo to highway 160 and back.

To put it lightly, it was terrible!!!! We had to listen to trucks rumbling up and down the road, inconsiderate drivers unnecessarily using their Jake breaks, to say nothing of the damage they were doing to our road. The noise level and rumbling was so irritating, residents couldn't go out on their decks to enjoy a cup of coffee and read a book...this is not the environment we bought into when we purchased our homes in the Meadows. Meadows Drive was paved a few years back and was guaranteed to last twenty years. I suggest you Commissioners take a ride down it now ...it's a mess.

I believe it is absolutely absurd for a gravel pit developer to attempt locating their Pit nowhere close to access to a highway, but instead expect residents to give up their quiet and tranquil life to listen to rumbling and Jake breaks.

You as our representatives should tell the developers to find another location for the Pit where they have access to a highway, find other truck routes that will not disturb residents of existing developments, or hit the road. You have an obligation to the residents of these developments to vote NO on this gravel Pit proposal unless they make significant changes to their truck routes. You have an obligation to represent the home owners who have large investments in their homes, and stand to lose significant value in those investments should you approve this proposal. You owe your NO vote to the homeowners, as you are representing us not a business entity.

Gary Waples  
2980 Meadows Drive  
Pagosa Springs, CO



Virus-free. [www.avast.com](http://www.avast.com)



**Robert C. Podoll**  
Email: rob@podoll.net

March 14, 2016

John C. Shepard, AICP  
Planning Manager  
Archuleta County Planning Department  
PO Box 1507  
Pagosa Springs, CO 81147

*Via E-mail*

Re: Two Rivers Gravel Pit  
Major Sand & Gravel Permit Application  
By C&J Gravel Products, Inc.

Dear Mr. Shepard:

As previously indicated in our correspondence of February 9, 2016, we represent Diamond T Ranch, LLC, the owner of property adjacent to the site of the proposed Two Rivers Gravel Pit. The locations of the Constant and Diamond T Ranch Properties are shown on Exhibit A, attached hereto. The Diamond T Ranch receives water from the Harris Ditch. The Harris Ditch diverts water from the San Juan River, traverses the Constant Property in the immediate area of the proposed Two Rivers Pit, and fills a pond on the Diamond T Ranch which is used for irrigation of agricultural lands. The Diamond T Ranch also maintains 3 wells on its property which provide water to homes on the property. We write to voice our objection to the Major Sand & Gravel Permit Application ("Application") submitted by C&J Gravel Products, Inc. ("C&J").

The Application is deficient in several respects. A large scale gravel mining operation would interrupt the peace and serenity of the surrounding landowners. The operation would substantially affect the air and water quality of the surrounding areas, as well as the scenic quality of the Diamond T Ranch and other adjoining properties. The proposed gravel mining operation would also be incompatible with surrounding land uses.

Further, the Applicant has demonstrated insufficient mitigation plans for the pit's impact on county roads, Diamond T Ranch's water rights, and the Harris Ditch. The Applicant has also

failed to show a legal right of access to the proposed pit site. Consistent with the Archuleta County Land Use Regulations, the permit application should be denied.

**The Access to the Pit**

In 2003, the Constants attempted to obtain a permit for a gravel mine in the same area as the now-proposed Two Rivers Pit. The Colorado Department of Reclamation, Mining and Safety (“DRMS”) was concerned about the impact of the mining operation on the Harris Ditch. The Constants had made no arrangements to provide for the safety of the ditch or the ground water. Rather than revising their application to provide for the safety of surrounding natural resources, the Constants sued the neighboring property owner (our client’s predecessor) alleging that the neighbor had no interest in the Harris Ditch.

The litigation commenced by the Constants was resolved through a Settlement Agreement between the parties on October 9, 2005, a copy of which is attached hereto as Exhibit B (the “Settlement Agreement”). The Settlement Agreement recognized the ditch rights of the neighbor and acknowledged an easement through the Constant Property for the Harris Ditch. It also provided for the safety of the Harris Ditch by an agreement that the ditch and easement rights could not be changed without the approval of our client’s predecessor. The Agreement further provided that the Constants could build a bridge over the ditch (although it would be an interference with the ditch and easement rights) if the bridge design were agreed to by the neighbor.

In April, 2006, the parties executed an Addendum to the Settlement Agreement, which described the fundamental design of a bridge to be constructed over the Harris Ditch. A copy of the Addendum is attached as Exhibit C. The Addendum provided that the approved bridge design would have at least 30 feet between abutments, each abutment 15 feet from the center line of the Harris Ditch.

In August, 2012, James Constant informed Diamond T Ranch, LLC by letter that he intended to construct a bridge across the Ditch to be completed in 2013. That letter is attached

hereto as Exhibit D. He wrote that the bridge would comply with the Settlement Agreement and would not be rated to support gravel trucks. To quote from Mr. Constant's letter: "We **do not** plan on mining gravel and the bridge will **not** be rated to support a truck filled with gravel." (emphasis in original). The bridge over the Harris Ditch was constructed in early 2013. It does not comply with the Settlement Agreement, and according to the representations of C&J Gravel Products, it was designed and built to support gravel trucks.

Any bridge over the Harris Ditch would constitute an interference with the ditch rights of the Diamond T Ranch. Although our client's predecessor agreed to the design of a bridge to be built over the ditch without unreasonably compromising the ditch rights, the Constant's bridge was not built to the agreed specifications. The opening beneath the bridge is only 14-feet wide — too narrow to accommodate the large construction equipment necessary for the maintenance of the Ditch. This is a material violation of the Settlement Agreement.

Mr. Barton's contentions to the contrary in the county permit application — that "the distance between the exterior faces of the bridge abutments on either side of the Harris Ditch" are in compliance with the Addendum and that "the clearance between the elements protecting the abutments are adequate for equipment to move through for maintenance of the Harris Ditch" (See County Application: *Engineering Evaluation Report* 8(a)) — are without foundation. Mr. Barton's indication that the Ditch has not been cleaned during the two previous seasons since the bridge was constructed seems to be an implicit recognition of its inaccessibility. (See County Application: *Engineering Evaluation Report* 9(i)). The distance between abutments interferes with maintenance and repair of the ditch.

The Diamond T Ranch has commenced suit in Archuleta District Court, Case No. 2015cv30152 to vindicate its ditch and easement rights and compel the removal of the bridge. The Application for Conditional Use Permit is deficient because the Applicant cannot show legal access to the pit. No permit should issue until the applicant has legal access rights to the pit. (AC Land Use Reg. 9.2.5(17)).

**Compatibility of Gravel Mining Operations with Surrounding Uses (9.1.6.3)**

The property surrounding the proposed pit has a multitude of uses which cannot fairly be classified as “*primarily* agricultural, forestry, or industrial.” (AC Land Use Reg. 9.1.6.1(1)). For example, the Diamond T Ranch’s property is zoned for mixed agricultural and residential use. There are multiple residences on the property, some of which are the primary residence for families with small children. James Waterman also has a residence on his adjoining property, as does Eagle Shadow Ranch LLC immediately south on County Road 500.

There are several subdivisions along County Road 500 zoned exclusively for residential use which will be affected by the almost 25 trucks per day coming to and from the Pit. As recognized by the County Engineer the Applicant’s mitigation plan for this disturbance is inadequate. (AC Land Use Reg. 9.1.6.1(2)). To the extent the Applicant updates its mitigation plan consistent with the County Engineer’s request for a traffic study, we request the right to review the same.

The proposed site and equipment used for its operation will be visible from the Diamond T Ranch and the Applicant has not mitigated this visual disturbance to the extent reasonably possible. (AC Land Use Reg. 9.1.6.1(3-4)). Aside from the constant stream of gravel trucks traversing the adjoining property, the Applicant intends to excavate on a mesa. (*See Photo of Pit Site, Exhibit E*). While ultimately the pit may be “between 20 and 60 feet below the original terrain” (*See County Application: Synopsis of Two Rivers Pit Project*), as planned, it will take between 25 and 30 years before the pit reaches its ultimate depth. In the meantime it will be an eyesore to the Diamond T Ranch and its residents, its guests and its customers. The Applicant has stated that it would mitigate visual impact, but no mitigation arrangements have been made.

Likewise no arrangement has been made to mitigate the noise generated from the heavy gravel excavation equipment and washing equipment planned for the site. The Applicants bare references to the maps in the DRMS Package is insufficient for County approval. (*See County Permit Application: Itemized listing*). Applicant also proposes a permit length greater than

County Regulations (25-30 years where County permit is not to exceed 20 years). These County Regulations were included for the protection of the community and impacted landowners. Without plans to mitigate the effect on neighboring property, the permit should be denied.

### **Water Requirements**

#### *Lack of Decreed Water Rights*

As was addressed in our February 9 letter, the Application shows no decreed water right which can be used for the operation of the pit or dust control measures. It is unclear from both the County Permit Application and the Application with DRMS, where any of the water needed for dust control on the roadways, dust control for mining, and for wash will come from.

In conjunction with the forthcoming traffic study, an analysis of the water needed to mitigate dust on County Road 500 should be required and the applicant should be obligated to actually obtain the necessary water rights prior to issuance of a permit by the County. Assurance before the Planning Commission and DRMS of a future intent to get necessary water rights isn't sufficient to satisfy AC Land Use Reg. 9.1.7(12).

#### *Pollution of Water in the Ditch*

In 2003 when the Constants first applied to the Division of Reclamation Mining and Safety for a reclamation permit, the application was not approved because the Constants failed to demonstrate that the pit would not disturb the "hydrologic balance," including the Harris Ditch. As discussed above, during the present round of State evaluation, the Constants and C&J drew the perimeter of the pit so that the Harris Ditch was outside DRMS review. They also baldly asserted that there would be no disturbance to the hydrologic balance and therefore no plan to minimize disturbance was presented. The MLRB merely accepted the Applicant's representation that no disturbance would occur. It certainly did not consider disturbances to the hydrologic balance or a plan by the Applicant to minimize them.

AC Land Use Reg. 9.1.7(11)(e) requires a vicinity impact analysis of, among other things, potential water pollution and does not include the 200-foot limitation of DRMS.

The plans for the proposed pit include drainage ditches on the uphill side of the access road to the proposed pit flowing to the mouth of the Harris Ditch. Further, the drainage ditch on the downhill side flows directly into the Harris Ditch. These ditches are a direct path for sediment and rocks to fill and pollute the water flowing through the Harris Ditch. The Applicants also indicate their intent to use pesticide in the pit which will flow into the Harris Ditch and cause potentially permanent harm to the Diamond T's irrigation systems and agriculture. There has been no mitigation plan presented to either DRMS or this body that would warrant the issuance of a county permit.

*Groundwater*

The pit is located to the East of and above the Harris Ditch. There is a danger that rocks, water runoff and sediment would end up in the ditch, affecting its use and operation. When asked about the safety of the ditch, the Applicant responded to the Division of Reclamation Mining and Safety that it planned to construct a berm to protect the ditch, but such a berm would create its own safety issues concerning the groundwater. Although the Applicant asserts that no groundwater would be affected by the pit operations, no study was done to determine the groundwater levels at the pit. The Diamond T Ranch operates wells which could be affected by a disturbance to the quality of the groundwater. It is also not clear that the berm would intercept all runoff and sediment from the gravel operation.

While the Applicant had every opportunity to work with the Division of Reclamation Mining and Safety to design the operation of the pit to protect the groundwater and the Harris Ditch, the Applicant has made no investigation concerning the effects of the operation of the pit on the area water and has not actually obtained *any* water rights for use in the pit.

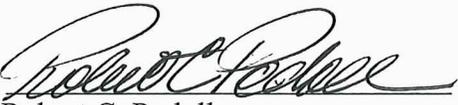
Until the Applicant can show a legal right of access, provisions to improve the County Road, provisions to protect the area water, provisions to control dust, a reasonable water usage study, valid water rights to operate the pit including dust control, and reasonable provisions for the protection of the Harris Ditch, the Conditional Use Permit should not issue.



John C. Shepard, AICP  
Planning Director  
Archuleta County Planning Department  
March 14, 2016  
Page 7 of 7

Please send copies of further notices or correspondence regarding this matter to me at Podoll & Podoll, P.C., 5619 DTC Parkway, Suite 1100, Greenwood Village, Colo., 80111 or at the email provided below. Very truly yours,

PODOLL & PODOLL, P.C.

By:   
Robert C. Podoll  
Jacqueline E. Hill  
5619 DTC Pkwy, Suite 1100  
Greenwood Village, Colorado 80111  
Telephone: (303) 861-4000  
Email: Rob@podoll.net  
Email: Jacqui@podoll.net

# Exhibit A

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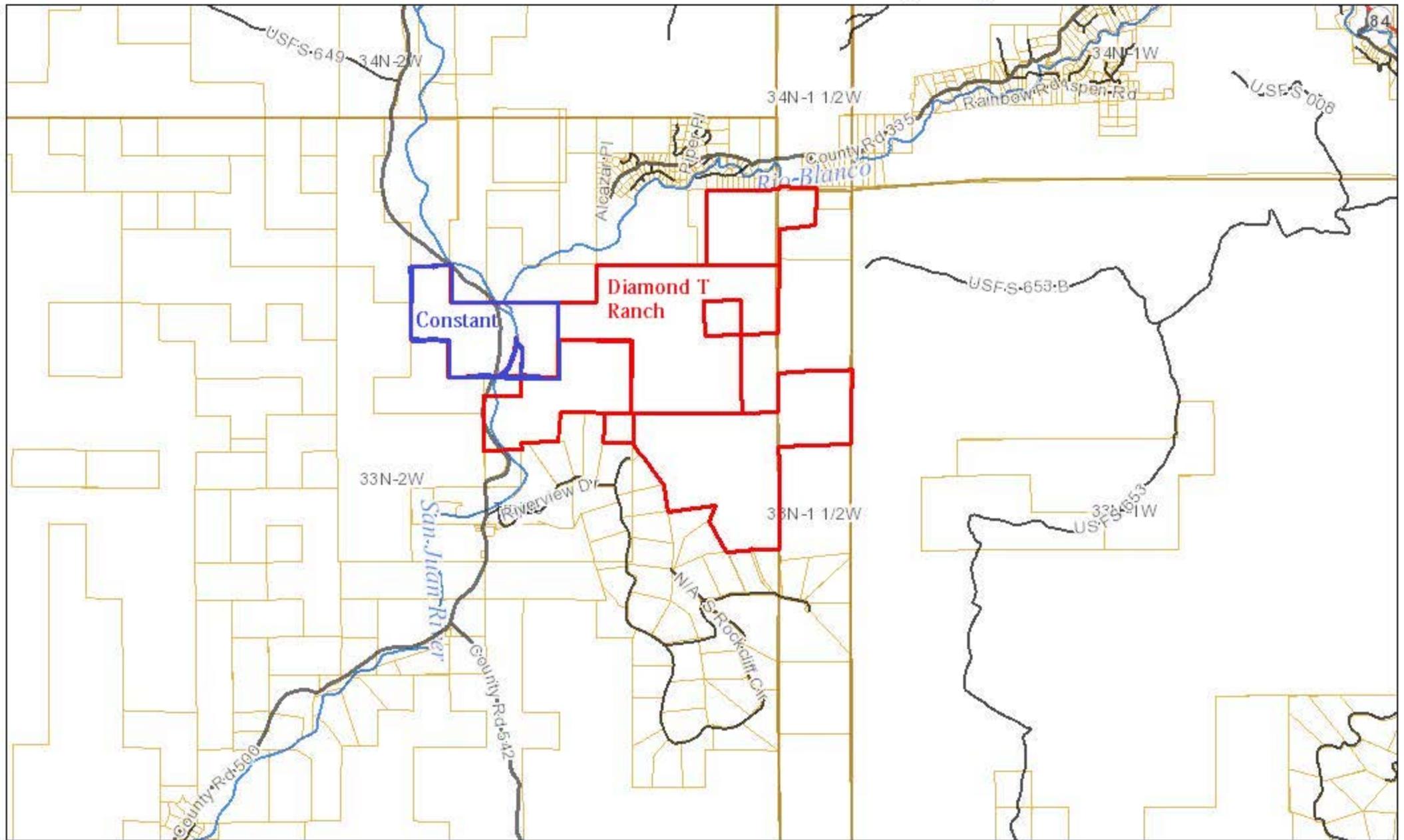
to Objection Letter by Diamond T Ranch, LLC

Two Rivers Gravel Pit

Major Sand & Gravel Permit Application

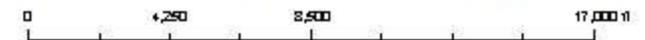
C&J Gravel Products, Inc.

# Diamond T Ranch and Constant Property



Acheule County Department of Information Systems

June 17, 2015



1 inch = 5,759 feet

1 inch = 1.09 miles

# Exhibit B

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to Objection Letter by Diamond T Ranch, LLC

Two Rivers Gravel Pit

Major Sand & Gravel Permit Application

C&J Gravel Products, Inc.



### SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Settlement Agreement") is effective this 19<sup>th</sup> day of October, 2005, by and between James A. Constant, Jr., and Leila B. Constant and the James A. Constant, Jr. Revocable Trust and the Leila B. Constant Trust, whose address is 12500 County Road 500, Pagosa Springs, Colorado 81147 (hereinafter collectively referred to as "Constant"), and Quince Associates, LP, and The Richard A. Berlanti Trust, whose addresses are 777 South Wadsworth Blvd., Suite 4-280, Lakewood, Colorado 80226 (hereinafter jointly referred to as the "Berlanti Trust"). Constant and the Berlanti Trust will be referred to jointly as the Parties.

#### I. RECITALS

WHEREAS, Berlanti Trust owns real property described in Exhibit A, which is attached hereto and incorporated herein (the "Berlanti Trust Property");

WHEREAS, Berlanti Trust is the sole owner of the water rights described in Exhibit B, which is attached hereto and incorporated herein (the "Water Rights");

WHEREAS, Constant owns the real property described in Exhibit C, which is attached hereto and incorporated herein (the "Constant Property");

WHEREAS, the Water Rights are transported to the Berlanti Trust Property by the Harris Ditch ("Ditch"), which diverts from the San Juan River at a point south of the confluence of the Rio Blanco and San Juan rivers by means of a rock berm diversion, traverses the Constant Property and property owned by James Waterman (the "Waterman Property"), and terminates at the Berlanti Trust Property, where the water is used for irrigation. The Water Rights are the only water rights carried by the Ditch;

WHEREAS, Berlanti Trust uses an access road adjacent to the Ditch from the Waterman Property on the west side of the Ditch to the headgate and across the Ditch by means of a culvert to the east side (the "Access Road") for access, maintenance and repair of the Ditch, primarily utilizing a backhoe and trackhoe. The Ditch and Access Road are located within an easement across the Constant Property and the Waterman Property;

WHEREAS, Berlanti Trust is the owner of or sole claimant to, and beneficiary of, the Ditch and the easement for the Harris Ditch and the Access Road;

WHEREAS, on May 28, 2004, Constant commenced a civil action against a predecessor in interest to the Berlanti Trust by filing a Complaint in Case No. 04CV75 in the Archuleta County district court (the "Litigation");

WHEREAS, on November 5, 2004, Berlanti Trust purchased the Berlanti Trust Property from the previous owner, Quince Associates, LP;

WHEREAS, Constant and Berlanti Trust desire to amicably resolve all claims that were or could have been asserted in the Litigation; and

**RECORDER'S NOTE:  
THIS IS A COPY**



WHEREAS, each party hereto has had the full opportunity, after consultation with counsel, to evaluate this Settlement Agreement and enters into it of its own free and voluntary act, with full knowledge of the binding and conclusive nature of this Settlement Agreement.

## II. CONSIDERATION

Constant and Berlanti Trust, for and in consideration of the releases, agreements, and undertakings contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agree to a full and final compromise and settlement of their differences in accordance with the terms and conditions set forth herein.

## III. AGREEMENT

1. The Recitals and Consideration set forth above are incorporated herein as essential terms of this Settlement Agreement.

2. Ditch and Access Road Easement. The Parties hereby confirm that an easement exists for the Ditch and Access Road as described in Exhibit D attached hereto and incorporated herein plus a rock berm (the "Easement"). The rock berm included within the Easement may extend a maximum of 100 feet from the mouth of the Ditch into the San Juan River, unless a longer berm is reasonably necessary to enable Berlanti Trust to divert the Water Rights due to low flow in the San Juan River, as determined by the Berlanti Trust's water engineer ("Berlanti Trust Engineer"). If the Berlanti Trust intends to extend the berm beyond the 100 feet, it will provide written notice to Constant pursuant to and as governed by paragraph 7 below of its intent to do so and provide written confirmation from the Berlanti Trust Engineer of the need to extend the berm. Berlanti Trust will use reasonable and good faith efforts to minimize the length of the berm, including within the 100 feet. Berlanti Trust will not use rocks located on the Constant Property outside of the Easement without Constant's permission. Berlanti Trust's counsel shall provide a copy of the proposed Exhibit D to Constant's counsel for approval. If the Parties' counsel are unable to agree upon the terms in the proposed Exhibit D, either counsel may request that the terms be mediated with Robert E. Crane and such mediation shall be held as soon as reasonably possible. Within 5 days of the parties agreeing on the form of Exhibit D, Constant shall execute an easement deed for the Easement in the form to be attached hereto as Exhibit D for recording in the real property records of Archuleta County, Colorado. Constant shall allow Berlanti Trust to access the Ditch above the headgate from the bed of the San Juan River and shall provide reasonable access to and from the San Juan River, other than during periods of high water.

3. Changes to the Easement. Access to all sections of the Easement at all times is critical to the operation, maintenance and stability of the Ditch. Berlanti Trust shall maintain the existing culvert at the headgate until the bridge discussed in Section 4 is constructed, and such bridge shall be used to provide access to both parties across the Ditch. Constant agrees that it will not make any changes to the Ditch, Access Road or Easement without written approval of Berlanti Trust, which approval shall not be unreasonably withheld, except as otherwise set forth herein.

4. Proposed Bridge. Constant may construct a bridge across the Ditch as long as the improvements do not unreasonably interfere with Berlanti Trust's use, operation, maintenance, repair or replacement of the Ditch, Access Road or Easement. Constant proposes building a



bridge to be designed by Mitchell Constant ("Constant's Engineer") to cross the San Juan River. Constant's Engineer and Berlanti Trust's Engineer will cooperate to develop a bridge design that will not unreasonably interfere with Berlanti Trust's use, operation, maintenance, repair or replacement of the Ditch, Access Road or Easement. If Berlanti Trust's Engineer and Constant Engineer's are unable to agree to a bridge design on or before December 1, 2005, the Parties agree that within 14 days thereafter Constant's Engineer and Berlanti Trust's Engineer will enter into mediation with Robert E. Crane in an effort to agree to a bridge design that does not unreasonably interfere with Berlanti Trust's use, operation, maintenance, repair or replacement of the Ditch, Access Road or Easement. If the Parties are unable to agree to a bridge design after mediation, they may pursue this remaining issue in the Litigation or otherwise. Any inability to reach an agreement on the bridge design shall not affect the enforceability of the remaining provisions of this Settlement Agreement.

5. Dismissal of Court Action. Within 5 business days of reaching agreement on the bridge design contemplated in paragraph 4 above, the Parties shall execute and file a stipulation for dismissal with prejudice of the Litigation.

6. Fence. Within fourteen (14) days, Constant shall install a gate in the fence or remove a portion of the fence that will enable Berlanti Trust to access the Ditch north of the headgate on the east side of the Ditch. If Berlanti Trust believes that the fence otherwise interferes with Berlanti Trust's use, operation, maintenance, repair or replacement of the Ditch, Berlanti Trust will notify Constant of such interference, and the Parties will in good faith attempt to resolve the identified conflict. Berlanti Trust shall make reasonable efforts to close and secure all gates on or entering the Constant Property.

7. Notice of Maintenance Activities. Except in an emergency, Berlanti Trust shall give Constant 24-hours written notice by facsimile or email before conducting maintenance activities in the Easement with heavy equipment. This notice obligation shall be personal to James A. Constant, Jr. and Leila B. Constant and their immediate heirs and shall not run with the land.

8. Indemnification -- Constant. Constant agrees to indemnify and hold Berlanti Trust harmless and keep it free from any and all liability and claim for damages, costs, losses and expenses resulting from, arising out, or in any way connected with, the occupation, use, improvement of, or any changes to, the Easement by Constant, their agents, employees, invitees, or guests, or resulting from water or flood damage caused by the negligent construction, operation, maintenance, repair or replacement of any alteration to, or improvement of, the Ditch, Access Road, Easement, bridge, or adjacent structures by Constant.

9. Indemnification -- Berlanti Trust. Berlanti Trust agrees to indemnify and hold Constant harmless and keep it free from any and all liability and claim for damages, costs, losses and expenses resulting from, arising out, or in any way connected with, the occupation, use, or improvement of the Easement by Berlanti Trust, its agents, employees, invitees, or guests, except that Berlanti Trust shall not be responsible in any way for any alteration to, or improvement of, the Ditch, Access Road or Easement by Constant. Berlanti Trust shall not be liable to Constant if Constant's occupation or use of the Easement is hindered or disturbed without fault on the part of Berlanti Trust.



10. Release of all Claims – Constant. Constant, for itself, and its executors, successors, predecessors, former, present and future affiliates, administrators, assigns, officers, directors, employees, managers, partners, agents, representatives, parents, divisions, subsidiaries, and attorneys, hereby forever releases, forgives and discharges Berlanti Trust, its successors, predecessors, former, present and future affiliates, administrators, assigns, officers, directors, employees, managers, partners, agents, representatives, parents, divisions, and subsidiaries and attorneys of and from any and all claims, liabilities, demands, actions, causes of action, suits, debts, obligations, promises, acts, agreements, costs, expenses, attorneys' fees and damages whatsoever, in law or in equity, that they may, shall have against Berlanti Trust and those entities and persons specified above, whether known or unknown, suspected or unsuspected, arising out of or relating to the claims that were or could have been asserted in the Litigation, except for any and all claims that arise from this Settlement Agreement or that may arise hereafter.

11. Release of all Claims – Berlanti Trust. Berlanti Trust for itself, and each of its executors, successors, predecessors, former, present and future affiliates, administrators, assigns, officers, directors, employees, managers, partners, agents, representatives, parents, divisions, subsidiaries, and attorneys, hereby forever releases, forgives and discharges Constant, its successors, predecessors, former, present and future affiliates, administrators, assigns, officers, directors, employees, managers, partners, agents, representatives, parents, divisions, and subsidiaries and attorneys of and from any and all claims, liabilities, demands, actions, causes of action, suits, debts, obligations, promises, acts, agreements, costs, expenses, attorneys' fees and damages whatsoever, in law or in equity, that they may, shall have against Constant and those entities and persons specified above, whether known or unknown, suspected or unsuspected, arising out of or relating to the claims that were or could have been asserted in the Litigation, except for any and all claims that arise from this Settlement Agreement or that may arise hereafter.

12. Covenant Not to Sue. The Parties agree and covenant not to institute, cause to be instituted or cooperate in or facilitate the institution of any action against each other in which liability is in any way to be predicated upon any of the claims released in this Settlement Agreement, and the Parties agree to indemnify and hold each other harmless from and against all expenses, including reasonable legal fees and costs, incurred by them in defending against any claim in which either has participated in violation of this Covenant Not to Sue. This paragraph 12 may be pled by any or all of the Parties as a defense to any such claim and in any such action, and may be pled by way of counterclaim, third-party complaint or cross claim in any such claim or action. Nothing in this Settlement Agreement shall be deemed to waive any right Berlanti Trust has to object to any future gravel pit application submitted by Constant, nor to waive any right Constant may have to seek approval, judicial or otherwise, of any bridge which they desire to construct, whether or not approved as set forth in Section 4 hereof.

13. No Admission of Liability. The Parties understand that by entering into this Settlement Agreement, they do not admit any liability on the claims in the Litigation, and nothing in this Settlement Agreement shall be construed to be an admission of any liability whatsoever in connection with the allegations in the Litigation.

#### IV. MISCELLANEOUS

14. Warranties of Authority. The parties to this Settlement Agreement, and each of them, expressly warrant and represent to the other Parties that they have the full right, title and



authority to enter into this Settlement Agreement as provided herein and that no approvals or consents of any other persons, entities or agencies are necessary to effect the same.

15. Legal Remedies. Berlanti Trust and Constant shall have all remedies available at law or in equity for violations of this Settlement Agreement, including but not limited to special and compensatory damages.

16. Legal Fees. In the event of any action, proceeding or litigation between Constant and Berlanti Trust concerning this Settlement Agreement, the prevailing party shall be entitled to collect its reasonable legal fees and costs. Any litigation to enforce the terms of this Settlement Agreement shall be commenced in Archuleta County, Colorado and venue shall be restricted to such county.

17. Binding Effect. Except as provided under paragraph 7 above, this Settlement Agreement shall extend to, inure to the benefit of, and be binding upon Constant and its successors and assigns (including subsequent owners of the Constant Property, or any part thereof), and upon Berlanti Trust, its successors (including subsequent owners of the Berlanti Trust Property, or any part thereof), legal representatives and assigns. Except for the notice provisions contained in paragraph 7 above, this Settlement Agreement shall constitute an agreement running with the Constant Property and the Berlanti Trust Property. This Settlement Agreement shall be recorded in the real property records of the Archuleta County Clerk and Recorder.

18. Notices. Except as otherwise provided in this Settlement Agreement, all notices required or authorized to be sent by one party to the other shall be in writing and shall be personally delivered, faxed, emailed or deposited in the United States registered or certified mail, sufficient postage prepaid, return receipt requested, addressed as follows:

**To Berlanti Trust:**  
The Richard A. Berlanti Trust  
c/o John P. Hill, Jr.  
777 South Wadsworth Blvd., Suite 4-280  
Lakewood, CO 80226

**To Constant:**  
James and Leila Constant  
12500 County Road 500  
Pagosa Springs, CO 81147  
Fax: (970) 264-4621  
Email: 61791c@pagosa.net

Notices personally delivered, faxed or emailed shall be deemed sent and received on the date on which delivery is made. Notices given by mail shall be deemed to have been sent, delivered, and received three (3) days after the date the same are placed in the United States mail. Either party may change its address for notice by giving the other party notice of such change in the manner specified in this section.

19. Severability. If any term or provision of this Settlement Agreement, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Settlement Agreement shall not be affected thereby, and each remaining term and provision of this Settlement Agreement shall be valid and enforceable to the fullest extent permitted by law.



20. Execution. Each Party agree to execute another copy of this Settlement Agreement before a notary for recording purposes within two business days of being requested to do so by the other Party hereto.

IN WITNESS THEREOF, this Settlement Agreement is approved, agreed to and executed on the date first written above.

**JAMES A. CONSTANT**

**LEILA B. CONSTANT**

James A. Constant

Leila B. Constant

State of Colorado )  
 ) ss.  
County of Archuleta )

Subscribed, sworn to and acknowledged before me by James A. Constant on this 31<sup>st</sup> day of OCTOBER, 2005.

Witness my hand and seal.  
My commission expires: 1-19-2008

Sara Baber  
Notary Public

State of Colorado )  
 ) ss.  
County of Archuleta )

Subscribed, sworn to and acknowledged before me by Leila Constant on this 31<sup>st</sup> day of OCTOBER, 2005.

Witness my hand and seal.  
My commission expires: 1-19-2008

Sara Baber  
Notary Public

**JAMES A. CONSTANT, JR.  
REVOCABLE TRUST**

**LEILA B. CONSTANT REVOCABLE  
TRUST**

By James A. Constant, Jr.  
James A. Constant, Jr., Trustee

Leila B. Constant  
Leila B. Constant, Trustee

State of Colorado )  
 ) ss.  
County of Archuleta )

Subscribed, sworn to and acknowledged before me by James A. Constant, Jr., as Trustee of the James A. Constant, Jr. Revocable Trust, on this 31<sup>st</sup> day of OCTOBER, 2005.







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9 of 23

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June Madrid  
Archuleta County

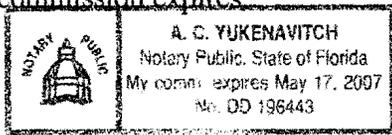
**THE RICHARD A. BERLANTI TRUST**

By Richard A. Berlanti  
Richard A. Berlanti

State of ~~Colorado~~ Florida )  
County of Palm Beach ) ss.

Subscribed, sworn to and acknowledged before me by Richard A. Berlanti, as Trustee of The Richard A. Berlanti Trust, on this 9 day of JAN, ~~2005~~ 2006.

Witness my hand and seal.  
My commission expires:



A. C. Yukenavitch  
Notary Public

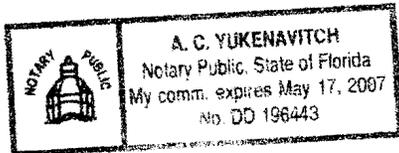
**QUINCE ASSOCIATES, L.P, a Maryland limited partnership**

By Richard A. Berlanti  
Richard A. Berlanti

State of ~~Colorado~~ Florida )  
County of Palm Beach ) ss.

Subscribed, sworn to and acknowledged before me by Richard A. Berlanti on this 9 day of JAN, ~~2005~~ 2006.

Witness my hand and seal.  
My commission expires:



A. C. Yukenavitch  
Notary Public



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June Madrid  
Archuleta County

**EXHIBIT A TO SETTLEMENT AGREEMENT  
BERLANTI TRUST PROPERTY**

Lots 4, 5, 6, 7 and 8; and the S1/2W1/4SW1/4 of Section 11; the NW1/4NW1/4 and Lot 3, LESS AND EXCEPT the South 12 acres of said Lot 3 of Section 14, Township 33 North, Range 2 West, N.M.P.M., Archuleta County, Colorado.

Street Address: 2500 County Road 500, Pagosa Springs, Colorado 81147

Ditch No.137.

---- HARRIS DITCH.

Priority No.198.

Concerning this ditch the Court finds:--

1. That the name of said ditch is the Harris Ditch, and that the claimant is Emilio Lujan.

2. That the headgate of said ditch is located on the east bank of the San Juan River, from which stream it derives its supply of water, at a point about 600 feet below the mouth of the Blanco River, in Archuleta County, Colorado; from which ~~the~~ headgate said ditch runs in a general southerly direction.

3. That the dimensions of said ditch as originally constructed were 2-1/2 feet in width at the top, 2 feet in width at the bottom, 1-1/2 feet in depth, grade 1-inch to the rod, length 3/4 of a mile; carrying capacity over one cubic foot of water per second of time.

4. That the original construction of said ditch was commenced on June 1, 1907, from which time the appropriation of water therethrough by original construction would, ordinarily, date; but that the claims of said ditch were not presented in the prior adjudications of this District and that, therefore, said priority must take effect and be given priority number subsequent to the last priority adjudicated in the 1912 Decree as amended, and in its proper consecutive order as compared with other priorities similarly situated and similarly estopped. That said original ditch was completed with reasonable diligence.





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12 of 23 AGR

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June Madrid  
Archuleta County

5. That through said ditch as originally constructed the owner thereof has appropriated and applied water to the actual direct irrigation of 10 acres of land lying under the same; that said land is porous and gravelly bottom land, and requires a considerable head of water; and that the amount of water so used and reasonably necessary for the irrigation of said land, is one-half of a cubic foot of water per second of time.

That said ditch should be numbered as Ditch No.137; and should be awarded Priority No.198 in said Water District, with historic date of appropriation of June 1, 1907, but to take effect in rank of priority in accordance with said priority number hereby awarded.

IT IS, THEREFORE, ADJUDGED AND DECREED That said Harris Ditch is hereby numbered as Ditch No.137; and for direct irrigation of said 10 acres of land by virtue of appropriation by original construction, for the benefit of the party or parties entitled to the enjoyment thereof, said ditch is awarded and decreed Priority No.198 in said Water District No.29, in and to the extent of one-half cubic foot of water per second of time; subject to all the general limitations in the above general decree expressed.



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13 of 23 AGR RS\$116.00 DS\$0.00

Archuleta County

### FIRST ENLARGEMENT OF THE HARRIS DITCH

Priority No. 1968-282

Concerning this enlargement, the Court finds:

The name of the enlargement is First Enlargement of the Harris Ditch, and the claimants are Dotty Birdsall and Kay Williamson.

The headgate of the ditch is located at a point on the East bank of the San Juan River, from which it derives its supply of water, at a point 600 feet below the mouth of the Blanco River in Archuleta County, Colorado.

The date of initiation of original appropriation was April 25, 1967.

The capacity of the ditch is now 10 cubic feet of water per second of time and claim is made for 5.5 additional cubic feet of water per second of time for the irrigation of 85 additional acres of land, and livestock water.

IT IS ORDERED that First Enlargement of the Harris Ditch is awarded, Priority No. 1968-282, with priority date of April 25, 1967, for 5.5 cubic feet of water per second of time for livestock and irrigation purposes; subject to the general provisions of this decree.



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**EXHIBIT C TO SETTLEMENT AGREEMENT  
CONSTANT PROPERTY**

The NW1/2SW1/4 and the S1/2NW1/4 of Section 11; and the NW1/4NE1/4, the S1/2NE1/4 and the NE1/4SE1/4 of Section 10; Township 33 North, Range 2 West, N.M.P.M., Archuleta County, Colorado

Street Address: 12500 County Road 500, Pagosa Springs, Colorado 81147



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Archuleta County



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June Madrid  
Archuleta County

(5)

**EASEMENT DEED**

This Easement Deed is made this 18<sup>th</sup> day of April, 2006, by and between the James A. Constant, Jr. Revocable Trust and the Leila B. Constant <sup>Revocable</sup> Trust, whose addresses are 12500 County Road 500, Pagosa Springs, Colorado 81147 (hereinafter jointly "GRANTOR"), and The Richard A. Berlanti Trust dated January 16, 1996, whose address is 777 South Wadsworth Blvd., Suite 4-280 Lakewood, Colorado 80226 ("GRANTEE") pursuant to the Settlement Agreement and Release entered into between the GRANTOR and GRANTEE on October 19, 2005, in Case No. 04CV75, Archuleta County District Court ("Settlement Agreement").

GRANTOR, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration paid by the GRANTEE to the GRANTOR, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold and conveyed, and by this Easement Deed does grant, bargain, sell, convey and confirm to the GRANTEE, its successors and assigns forever, a permanent, non-exclusive easement on, under and to the property described on Exhibits 1 and 2 attached hereto and incorporated herein by this reference, located in Archuleta County, Colorado (together, the "Constant Parcel Easement"), for the purposes ("Purposes") of:

1. Using, operating, maintaining, inspecting, repairing and replacing, in whole or in part, a ditch known as the Harris Ditch, the adjacent access road, a diversion rock berm located in the San Juan River, and all necessary subsurface and surface appurtenances for the transportation of 6 cubic second feet of water decreed to the Harris Ditch in Civil Action No. 308 on June 5, 1928, and in Case No. 308 on December 19, 1968 in the District Court, and for the operation and control of the Harris Ditch;
2. Lining and piping the Harris Ditch in whole or in part; and
3. Cutting and clearing trees, brush, debris and other obstructions on the Constant Parcel Easement that interfere with the activities set forth in paragraphs 1 and 2.

STATE DOCUMENTARY  
DATE: 9-6-06  
\$ 10

The GRANTEE shall:

- A. Limit the movement of vehicles, equipment and agents across the Constant Parcel Easement to that which is reasonably necessary to achieve the Purposes.
- B. Use reasonable and good faith efforts to minimize the length of the berm, as described in Exhibit 1.

Return:

RUSSELL & PIETERSE LLC  
P O BOX 2673  
Telluride, CO 81435





20608559 9/6/2006 8:18 AM June Madrid  
3 of 5 EAD R\$26.00 D\$0.00 Archuleta County



20611211 11/20/2006 2:45 PM June Madrid  
17 of 23 AGR R\$116.00 D\$0.00 Archuleta County

**Exhibit 1 to Easement Deed  
Easement for Rock Berm Diversion Structure**

The easement for the rock berm diversion structure for the Harris Ditch extends from the line described as L40 on Exhibit 2 into the San Juan River a maximum of 100 feet, unless a longer berm is reasonably necessary to enable GRANTEE to divert its decreed water rights due to low flow in the river, as determined by GRANTEE's engineer under the terms and conditions set forth in the Settlement Agreement.

# EASEMENT DESCRIPTION LOCATED IN A PORTION OF SECTION 11, T33N, R2W, N.M.P.M.



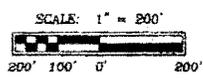
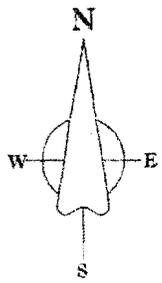
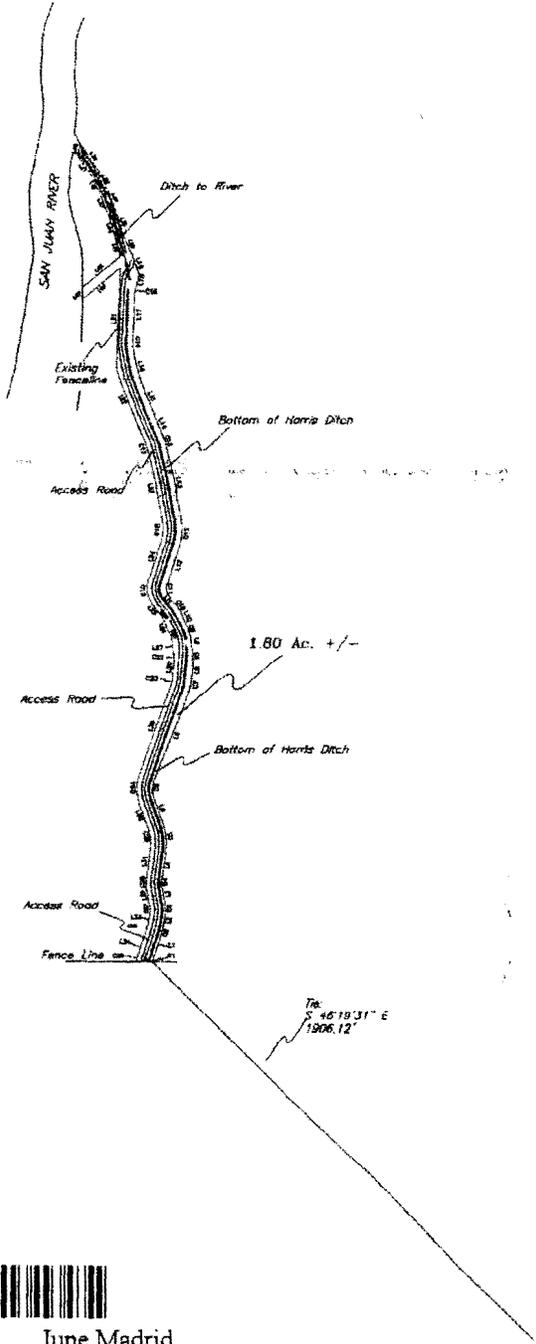
20608559      9/6/2006 8:18 AM      June Madrid  
4 of 5      EAD      R\$26.00      D\$0.00      Archuleta County

LINE AND CURVE TABLE FOR THE CONSTANT EASEMENT

| CURVE | DELTA ANGLE | RADIUS  | ARC LENGTH | CHORD BEARING | CHORD LENGTH |
|-------|-------------|---------|------------|---------------|--------------|
| C1    | 05°14'00"   | 47.40'  | 4.33'      | N 24°16'31" E | 4.33'        |
| C2    | 06°56'08"   | 186.57' | 29.41'     | N 14°16'48" E | 29.38'       |
| C3    | 18°37'20"   | 87.44'  | 25.42'     | N 00°06'47" E | 28.29'       |
| C4    | 22°10'35"   | 32.30'  | 12.50'     | N 03°20'30" E | 12.43'       |
| C5    | 30°11'27"   | 126.86' | 66.85'     | N 06°34'38" E | 66.08'       |
| C6    | 45°06'27"   | 60.76'  | 47.83'     | N 02°56'47" E | 46.91'       |
| C7    | 77°50'28"   | 116.66' | 36.33'     | N 11°39'45" E | 36.18'       |
| C8    | 20°13'53"   | 102.90' | 36.33'     | N 03°05'36" W | 36.15'       |
| C9    | 27°17'25"   | 82.54'  | 39.31'     | N 19°10'18" W | 38.94'       |
| C10   | 21°32'26"   | 97.78'  | 36.76'     | N 42°35'19" W | 36.55'       |
| C11   | 68°22'34"   | 20.47'  | 24.43'     | N 00°19'51" W | 23.01'       |
| C12   | 25°03'45"   | 148.41' | 64.92'     | N 05°28'25" E | 64.40'       |
| C13   | 11°33'04"   | 186.34' | 37.57'     | N 16°52'29" W | 37.50'       |
| C14   | 20°11'07"   | 116.83' | 41.19'     | N 01°13'35" W | 40.98'       |
| C15   | 19°34'41"   | 41.43'  | 14.18'     | N 12°08'54" E | 14.09'       |
| C16   | 11°32'27"   | 141.34' | 28.47'     | S 16°52'10" E | 28.42'       |
| C17   | 24°15'43"   | 703.41' | 43.79'     | S 05°52'26" W | 43.46'       |
| C18   | 81°30'53"   | 65.47'  | 70.29'     | S 04°05'22" E | 66.97'       |
| C19   | 24°37'28"   | 52.78'  | 22.66'     | S 34°07'49" E | 22.51'       |
| C20   | 32°37'53"   | 37.54'  | 21.56'     | S 21°00'32" E | 21.03'       |
| C21   | 22°47'47"   | 37.90'  | 23.04'     | S 04°22'35" E | 22.89'       |
| C22   | 19°01'23"   | 71.66'  | 23.79'     | S 11°04'13" W | 23.68'       |
| C23   | 44°03'59"   | 92.76'  | 78.19'     | S 02°25'33" W | 73.35'       |
| C24   | 30°14'46"   | 89.86'  | 47.96'     | S 05°45'16" E | 47.59'       |
| C25   | 20°18'00"   | 68.30'  | 24.55'     | S 02°24'12" W | 24.43'       |
| C26   | 18°04'55"   | 90.44'  | 16.80'     | S 00°07'05" E | 16.72'       |
| C27   | 06°53'27"   | 151.57' | 23.62'     | S 14°18'08" W | 23.50'       |
| C28   | 12°34'30"   | 84.40'  | 18.52'     | S 16°33'40" W | 18.49'       |

| LINE | BEARING       | DISTANCE |
|------|---------------|----------|
| L1   | N 18°44'52" E | 58.79'   |
| L2   | N 09°25'27" E | 25.37'   |
| L3   | N 07°44'48" W | 47.10'   |
| L4   | N 08°31'07" E | 68.77'   |
| L5   | N 19°36'28" W | 56.70'   |
| L6   | N 22°42'07" E | 216.36'  |
| L7   | N 07°01'20" E | 28.66'   |
| L8   | N 05°31'36" W | 26.57'   |
| L9   | N 21°49'05" W | 21.34'   |
| L10  | N 34°50'48" W | 23.12'   |
| L11  | N 18°00'18" E | 91.77'   |
| L12  | N 11°05'57" W | 169.68'  |
| L13  | N 22°43'11" W | 48.46'   |
| L14  | N 20°13'40" W | 90.82'   |
| L15  | N 14°03'02" W | 85.07'   |
| L16  | N 02°21'33" E | 90.01'   |

|     |               |         |
|-----|---------------|---------|
| L18 | N 15°52'21" E | 26.64'  |
| L19 | N 20°47'15" W | 46.75'  |
| L20 | N 25°10'35" W | 47.78'  |
| L21 | S 02°28'48" W | 222.48' |
| L22 | S 20°41'29" E | 185.60' |
| L23 | S 11°08'57" E | 167.95' |
| L24 | S 18°00'18" W | 87.39'  |
| L25 | S 34°50'48" E | 28.96'  |
| L26 | S 21°49'05" E | 26.53'  |
| L27 | S 05°31'36" E | 30.83'  |
| L28 | S 07°01'20" W | 30.54'  |
| L29 | S 20°34'58" W | 214.81' |
| L30 | S 19°36'26" E | 57.43'  |
| L31 | S 06°31'07" W | 67.32'  |
| L32 | S 07°44'48" E | 47.63'  |
| L33 | S 08°28'27" W | 25.24'  |
| L34 | S 18°44'52" W | 54.54'  |
| L35 | S 87°55'58" E | 43.24'  |
| L36 | N 18°12'51" W | 58.34'  |
| L37 | N 22°40'41" W | 58.11'  |
| L38 | N 28°31'55" W | 34.83'  |
| L39 | N 34°43'45" W | 60.30'  |
| L40 | S 12°56'27" W | 27.05'  |
| L41 | S 34°43'45" E | 60.48'  |
| L42 | S 25°33'06" E | 32.98'  |
| L43 | S 22°40'54" E | 58.67'  |
| L44 | S 18°12'51" E | 56.87'  |
| L45 | S 14°49'41" E | 41.90'  |
| L46 | S 53°32'47" W | 111.68' |
| L47 | S 00°14'51" E | 24.79'  |
| L48 | N 53°32'47" E | 111.84' |



Bearings based on the north line of the NW1/4NW1/4 of Section 20, T33N, R2W, N.M.P.M. monumented as shown herein.  
Reference Bearing N 08° 01' 56" E



20611211      11/20/2006 2:45 PM      June Madrid  
18 of 23      AGR      R\$116.00      D\$0.00      Archuleta County



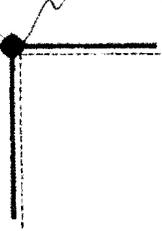
CONSTANT PARCEL EASEMENT LEGAL DESCRIPTION

A easement for the use, operation, maintenance, inspection, repair, and replacement of the Arroyo Ditch, (the "Ditch") and the road adjacent to the Ditch (the "Access Road") both of which are located in a portion of Section 11, Township 34 North, Range 2 West, N.M.P.M., in Archuleta County, Colorado, being more particularly described as follows, to wit:

Beginning on the easterly bank of the said ditch from whence the South 1/4 Corner of said Section 11 bears S 69° 32' 00" E, 1871.43 feet; Thence along the arc of a curve to the right with a delta angle of 05° 14' 00" and a radius of 47.40 feet for a distance of 4.33 feet; Thence N 18° 44' 52" E, 58.79 feet; Thence along the arc of a curve to the left with a delta angle of 08° 58' 00" and a radius of 188.57 feet for a distance of 29.41 feet; Thence N 09° 25' 39" E, 25.37 feet; Thence along the arc of a curve to the left with a delta angle of 18° 37' 20" and a radius of 87.44 feet for a distance of 28.42 feet; Thence N 07° 44' 48" W, 47.10 feet; Thence along the arc of a curve to the right with a delta angle of 22° 10' 35" and a radius of 32.30 feet for a distance of 12.50 feet; Thence N 08° 31' 07" E, 58.77 feet; Thence along the arc of a curve to the left with a delta angle of 30° 11' 27" and a radius of 126.88 feet for a distance of 88.85 feet; Thence N 12° 35' 26" W, 58.70 feet; Thence along the arc of a curve to the right with a delta angle of 45° 06' 27" and a radius of 50.76 feet for a distance of 47.83 feet; Thence N 22° 42' 07" E, 216.36 feet; Thence along the arc of a curve to the left with a delta angle of 17° 30' 28" and a radius of 116.66 feet for a distance of 38.33 feet; Thence N 07° 01' 20" E, 28.68 feet; Thence along the arc of a curve to the left with a delta angle of 20° 13' 53" and a radius of 102.90 feet for a distance of 36.33 feet; Thence N 03° 11' 36" W, 26.57 feet; Thence along the arc of a curve to the left with a delta angle of 27° 17' 25" and a radius of 82.54 feet for a distance of 38.31 feet; Thence N 21° 49' 05" W, 21.34 feet; Thence along the arc of a curve to the left with a delta angle of 21° 32' 29" and a radius of 97.76 feet for a distance of 36.75 feet; Thence N 34° 50' 48" W, 23.12 feet; Thence along the arc of a curve to the right with a delta angle of 68° 22' 34" and a radius of 20.47 feet for a distance of 24.43 feet; Thence N 18° 00' 18" E, 81.77 feet; Thence along the arc of a curve to the left with a delta angle of 25° 03' 45" and a radius of 148.41 feet for a distance of 64.92 feet; Thence N 11° 05' 57" W, 169.89 feet; Thence along the arc of a curve to the left with a delta angle of 11° 33' 04" and a radius of 186.34 feet for a distance of 37.57 feet; Thence N 22° 43' 11" W, 43.46 feet; Thence N 20° 12' 40" W, 90.02 feet; Thence N 14° 03' 02" W, 48.07 feet; Thence along the arc of a curve to the right with a delta angle of 28° 11' 07" and a radius of 116.93 feet for a distance of 47.19 feet; Thence N 02° 21' 33" E, 90.01 feet; Thence along the arc of a curve to the right with a delta angle of 19° 34' 41" and a radius of 41.43 feet for a distance of 14.76 feet; Thence N 16° 59' 21" E, 26.84 feet leaving the easterly bank; Thence N 20° 12' 40" W, 27.02 feet to a point on the easterly bank of the main ditch that carries water from the San Juan River and includes the head gate for releasing water into the aforementioned ditch; Thence N 25° 10' 35" W, 47.78 feet along the easterly bank of the ditch that carries water from the San Juan River; Thence N 18° 12' 51" W, 58.54 feet along the said easterly bank; Thence N 22° 14' 54" W, 69.71 feet along the said easterly bank; Thence N 25° 33' 08" W, 34.83 feet along the said easterly bank; Thence N 14° 43' 43" W, 80.30 feet along the said easterly bank to the edge of the San Juan River as it was located September 12, 2005; Thence S 12° 55' 27" E, 27.02 feet along the said easterly bank to the westerly bank of the ditch that carries water from the San Juan River; Thence S 34° 43' 49" E, 60.49 feet along the said westerly bank; Thence S 25° 33' 08" E, 12.47 feet along the said westerly bank; Thence S 22° 40' 54" E, 58.67 feet along the said westerly bank; Thence S 18° 15' 51" E, 58.87 feet along the said westerly bank; Thence S 14° 49' 41" E, 41.80 feet along the said westerly bank to the northerly bank of an overflow ditch that returns water to the San Juan River; Thence S 23° 32' 47" W, 171.66 feet along the said northerly bank to the edge of the San Juan River; Thence S 00° 14' 51" E, 24.79 feet along the edge of the San Juan River to the southerly bank of said overflow ditch; Thence N 53° 32' 01" E, 111.66 feet along the said southerly bank to an existing fence line; Thence S 02° 26' 48" W, 222.46 feet along an existing fence line; Thence S 20° 41' 26" E, 185.60 feet along the westerly toe of the existing maintenance road; Thence along the westerly toe of the maintenance road the following bearings and distances; Thence along the arc of a curve to the right with a delta angle of 11° 32' 27" and a radius of 141.34 feet for a distance of 28.47 feet; Thence S 11° 05' 57" E, 187.96 feet; Thence along the arc of a curve to the right with a delta angle of 24° 15' 43" and a radius of 103.41 feet for a distance of 43.79 feet; Thence S 18° 00' 18" W, 87.39 feet; Thence along the arc of a curve to the left with a delta angle of 21° 30' 53" and a radius of 85.47 feet for a distance of 70.29 feet; Thence S 34° 50' 48" E, 28.80 feet; Thence along the arc of a curve to the right with a delta angle of 24° 37' 28" and a radius of 52.78 feet for a distance of 22.68 feet; Thence S 21° 49' 05" E, 26.53 feet; Thence along the arc of a curve to the right with a delta angle of 32° 37' 53" and a radius of 37.54 feet for a distance of 21.38 feet; Thence S 05° 31' 36" E, 30.03 feet; Thence along the arc of a curve to the right with a delta angle of 22° 47' 47" and a radius of 57.90 feet for a distance of 23.04 feet; Thence S 07° 01' 20" W, 30.34 feet; Thence along the arc of a curve to the right with a delta angle of 18° 01' 23" and a radius of 71.66 feet for a distance of 23.79 feet; Thence S 20° 34' 59" W, 214.81 feet; Thence along the arc of a curve to the left with a delta angle of 44° 03' 59" and a radius of 97.76 feet for a distance of 75.19 feet; Thence S 19° 36' 28" E, 57.43 feet; Thence along the arc of a curve to the right with a delta angle of 30° 34' 46" and a radius of 89.86 feet for a distance of 47.96 feet; Thence S 08° 31' 07" W, 87.22 feet; Thence along the arc of a curve to the left with a delta angle of 20° 18' 00" and a radius of 89.30 feet for a distance of 24.55 feet; Thence S 07° 44' 48" E, 47.83 feet; Thence along the arc of a curve to the right with a delta angle of 19° 04' 55" and a radius of 50.44 feet for a distance of 18.80 feet; Thence S 08° 25' 37" E, 25.24 feet; Thence along the arc of a curve to the right with a delta angle of 08° 53' 27" and a radius of 151.57 feet for a distance of 23.52 feet; Thence S 18° 44' 52" W, 54.54 feet; Thence along the arc of a curve to the left with a delta angle of 12° 34' 30" and a radius of 84.40 feet for a distance of 18.52 feet to an existing fence line; Thence S 87° 55' 58" E, 43.24 feet along an existing fence line to the point of beginning. Contains 1.80 acres, more or less.



North 1/4 Corner  
Section 11, T34N, R2W, N.M.P.M.  
Found a GLO Brass Cap



ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT, OR NO ENDEAVOR ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS AFTER THE DATE OF THE CERTIFICATION SHOWN HEREON.

|                                                                                    |                        |      |
|------------------------------------------------------------------------------------|------------------------|------|
| <b>COSTER</b>                                                                      |                        | REV: |
| 473 LEWIS STREET SUITE A<br>P O BOX 4130<br>FAGOSA SPRINGS - CO 81157-4130         |                        | REV: |
| 970-264-1120 office<br>970-264-1123 fax<br>landsurvey@comcast.net                  |                        | REV: |
| SCALE: 1" = 200 FEET                                                               | DRAWN BY: DDC          |      |
| DATE: FEB. 13, 2006                                                                | CHECKED BY: DDC        |      |
| SHEET 1 OF 1                                                                       | DWG: WATERMAN/CONSTANT |      |
| EASEMENT DESCRIPTION<br>LOCATED IN A<br>PORTION OF SECTION 11, T34N, R2W, N.M.P.M. |                        |      |

# Exhibit C

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to Objection Letter by Diamond T Ranch, LLC

Two Rivers Gravel Pit

Major Sand & Gravel Permit Application

C&J Gravel Products, Inc.



**ADDENDUM TO SETTLEMENT AGREEMENT AND RELEASE**

THIS IS AN ADDENDUM to the Settlement Agreement and Release (“Agreement”) entered into on October 18, 2005, by and between James A. Constant, Jr., and Leila B. Constant and the James A. Constant, Jr. Revocable Trust and the Leila B. Constant Trust, whose address is 12500 County Road 500, Pagosa Springs, Colorado 81147 (hereinafter collectively referred to as “Constant”), and Quince Associates, LP, and The Richard A. Berlanti Trust, whose addresses are 777 South Wadsworth Blvd., Suite 4-280, Lakewood, Colorado 80226 (hereinafter jointly referred to as the “Berlanti Trust”). Constant and the Berlanti Trust will be referred to jointly as the Parties.

Pursuant to paragraph 4 of the Agreement, the Parties acknowledge that discussions occurred between Steve Harris and Mitch Constant regarding the design of a bridge to span the Harris Ditch, and that Steve Harris and Mitch Constant, and the Parties, agree to the following specifications for a bridge to be built by the Constants over the Harris Ditch:

1. To cross the Harris Ditch north of the existing head gate and culvert, a bridge shall be constructed. The bridge shall consist of two abutments, one on either side of the Harris Ditch. The abutments shall be a minimum of 30 feet apart, approximately 15 feet on either side of the Ditch centerline, providing a minimum bridge span of 30 feet. The bridge deck shall be no greater than 20 feet wide. Clearances from the bottom of the lowest point of the bridge girder to the bottom of the Harris Ditch (ditch invert) shall be 12 feet. These bridge dimensions shall provide access for ditch cleaning equipment to travel under the bridge for operation and maintenance purposes.

2. During construction of the bridge over the Harris Ditch, the existing ditch alignment and water flow shall not be modified or impeded. Photographs shall be taken before and after construction to insure that the ditch is restored to its original condition above and below the proposed bridge. A sketch of the bridge is attached hereto and incorporated herein as Exhibit A. The sketch is for conceptual purposes only.

3. This Addendum is intended to be in addition to, and not to modify, the terms and conditions of the Agreement, and therefore all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS THEREOF, this Settlement Agreement is approved, agreed to and executed on the date first written above.

*Signatures on following pages*



**JAMES A. CONSTANT**

**LEILA B. CONSTANT**

James A. Constant

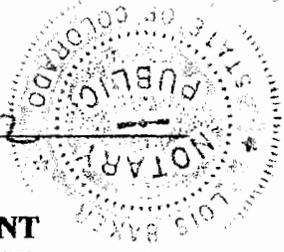
Leila B. Constant

State of Colorado )  
 ) ss.  
County of Archuleta )

Subscribed, sworn to and acknowledged before me by James A. Constant and  
Leila Constant on this 17<sup>th</sup> day of April, 2006.

Witness my hand and seal.  
My commission expires: 1-19-2008

Lois Baber  
Notary Public



**JAMES A. CONSTANT, JR.  
REVOCABLE TRUST**

**LEILA B. CONSTANT  
REVOCABLE TRUST**

By James A. Constant, Jr.  
James A. Constant, Jr., Trustee

Leila B. Constant  
Leila B. Constant, Trustee

State of Colorado )  
 ) ss.  
County of Archuleta )

Subscribed, sworn to and acknowledged before me by James A. Constant, Jr., as  
Trustee of the James A. Constant, Jr. Revocable Trust, on this 17<sup>th</sup> day of  
April, 2006.

Witness my hand and seal.  
My commission expires: 1-19-2008

Lois Baber  
Notary Public

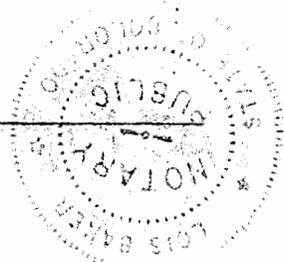


State of Colorado )  
 ) ss.  
County of Archuleta )

Subscribed, sworn to and acknowledged before me by Leila B. Constant, as  
Trustee of the Leila B. Constant Revocable Trust, on this 17<sup>th</sup> day of April,  
2006.

Witness my hand and seal.  
My commission expires: 1-19-2008

Lois Baber





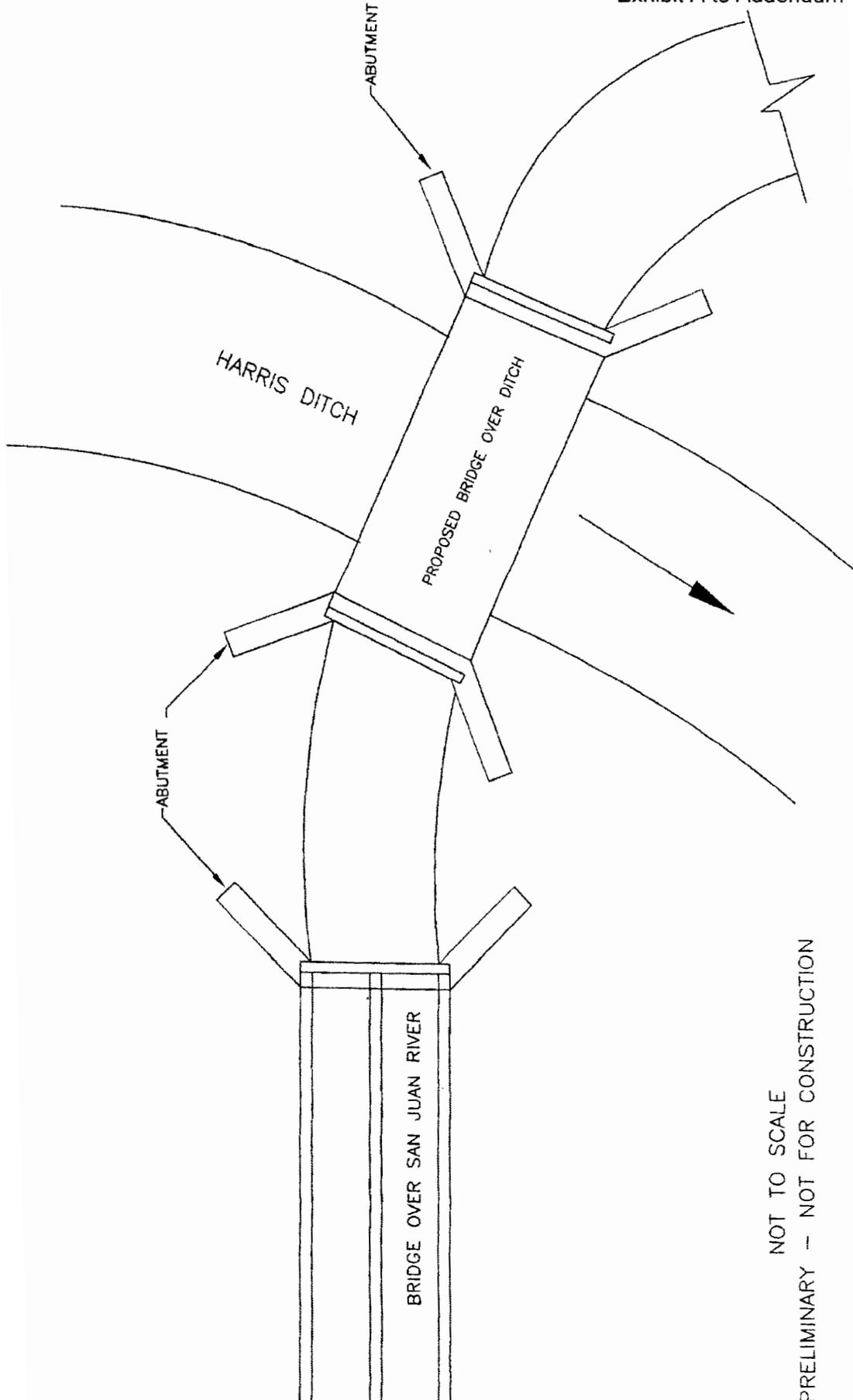


20611211  
23 of 23

AGR 11/20/2006 2:45 PM  
R\$116.00 D\$0.00

June Madrid  
Archuleta County

Exhibit A to Addendum



NOT TO SCALE  
PRELIMINARY - NOT FOR CONSTRUCTION

# Exhibit D

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to Objection Letter by Diamond T Ranch, LLC

Two Rivers Gravel Pit

Major Sand & Gravel Permit Application

C&J Gravel Products, Inc.

August 22, 2012

Mr. Richard Berlanti  
12800 County Road 500  
Pagosa Springs, Colorado 81147

Dear Mr. Berlanti,

In good faith we are letting you know that we are applying to various government agencies to construct a bridge on our property to be completed in 2013. The bridge would provide access to our 112 acres on the east side of the San Juan River currently inaccessible to us most of the year. We do not plan on mining gravel and the bridge will not be rated to support a truck filled with gravel.

The span of the bridge is 140 feet, beginning at the abutment we constructed in 2002. We plan to cross the Harris Ditch with a 30 foot span by 16 feet wide bridge with a minimum height of 12 feet from the bottom of the ditch meeting the criteria of our agreement. We will make every effort to insure that the Harris ditch will be maintained in its condition at time of construction and will take photos before during and after construction to resolve any questions about restoration of the ditch.

My son who is a civil engineer and I would like to meet with you on a weekend at your earliest convenience to answer any questions you may have.

Sincerely,



James Constant  
12500 CR 500

# Exhibit E

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to Objection Letter by Diamond T Ranch, LLC

Two Rivers Gravel Pit

Major Sand & Gravel Permit Application

C&J Gravel Products, Inc.





**Colorado's Timber Ridge Home Owner's Association  
and  
Colorado's Timber Ridge Metropolitan District**

April 21, 2016

Mr. John Shepard  
Archuleta County Planning Manager  
P.O. Box 1507  
Pagosa Springs, CO 81147

Dear John,

The Boards of Directors for both Timber Ridge HOA and Timber Ridge Metro District are 100% in support of our community which has serious objections to any haul route through Timber Ridge Ranch as proposed by Two Rivers Gravel Pit for their potential operations on Trujillo Road.

The streets in our beautiful equestrian community are used daily by walkers, joggers, and cyclists. Bristlecone Drive, the street proposed as a potential haul route, is our main connector for all streets in our developed and expanding community and is utilized by many, with no sidewalks. The gravel trucks would create an intolerable safety risk for vehicular traffic and pedestrians, cyclists, horses, etc. A recent transportation engineer's assessment of Bristlecone Drive sheds light upon the very hazardous conditions present. The conclusion of assessments of horizontal alignment, width of roadway, and vertical slope (reaching 10%) is that Bristlecone Drive is not appropriate for heavy truck traffic.

All the streets in Timber Ridge Ranch are maintained by our Metro District, not by Archuleta County, via a 10 mill levy upon all of our property owners. All owners also pay Archuleta County taxes for the benefit of other roads in the county. Any additional financial burden

Colorado's Timber Ridge HOA P.O. Box 5436 Pagosa Springs, CO 81147  
Colorado's Timber Ridge Metropolitan District P.O. Box 5601, Pagosa Springs, CO 81147

upon residents as a result of destructive gravel trucks would be overwhelming and unacceptable.

The negative impact on substantial property values with an accompanying loss of serenity due to increased noise, traffic, and dust since the lower section of Bristlecone is already quite dusty, are additional key objections.

Accompanying this letter is a Powerpoint presentation that we would like to share with you and the Planning Commission at the April 27th Planning Commission meeting. More detailed information is included addressing our objections and concerns. In addition, attached is the Bechtold Engineering report addressing current road safety findings.

Please be advised that there is considerable interest in this topic thus many community members have stated their desire and intent to attend this very important meeting. Barbara Kennedy, accompanied by Ivo Brieven, will be speaking on behalf of Timber Ridge Ranch.

Please feel free to contact us if you have any questions.

Sincerely yours,

Barbara Kennedy  
President, CTRHOA  
970-903-6327  
[barbarakennedy@ctrhoa.org](mailto:barbarakennedy@ctrhoa.org)

Ivo Brieven  
President, CTRMD  
970-731-2678  
[ivobrieven@ctrmd.org](mailto:ivobrieven@ctrmd.org)

# BECHTOLT ENGINEERING

3059 MAIN AVENUE  
DURANGO, CO. 81301  
970-259-7534  
970-259-7534 FAX

April 19, 2016

Ivo Brieven  
Colorado Timber Ridge Metro District  
P.O. Box 5601  
Pagosa Springs, Colorado 81147

Mr. Brieven:

At your request, we have conducted a geometric analysis of the suitability of Bristlecone Drive to accommodate heavy vehicles expected to be generated by the development of the Two Rivers Pit. Our analyses were based upon the topographic survey of the existing roadway provided by Pinnacle Surveying, Inc. As shown on Exhibit A, our analyses was limited to a section of Bristlecone Drive approximately 1000 feet in length, including its intersection with Cool Pines Drive

Our evaluation was based upon performance characteristics of typical heavy vehicles anticipated to be generated by the development of the Pit. Specifically, we evaluated the following roadway elements and their suitability to accommodate these vehicle types:

- Horizontal Alignment
- Width of Roadway
- Vertical Alignment

This study section of Bristlecone Drive is a paved section approximately 24' to 26' in width with a posted speed limit of 25 mph. The horizontal alignment consists of two (2) horizontal curves with the following measured centerline radii:

| Curve | Measured Centerline Radius |
|-------|----------------------------|
| A     | 106'                       |
| B     | 166'                       |

The vertical alignment through this section consists of grades varying from 5.5% to 10.0%.

To determine suitability of the horizontal alignment to accommodate heavy vehicles, we utilized two sources. The first are the Minimum Radius of Curvature criteria contained in the *Archuleta County Road and Bridge Design Standards and Construction Specifications*:

| Design Speed | Minimum Radius of Curvature |
|--------------|-----------------------------|
| 15           | 75                          |
| 20           | 125                         |
| 25           | 175                         |
| 30           | 250                         |

Based upon these criteria, Curve A is inadequate for a design speed of 20 mph and Curve B is inadequate for a design speed of 25 mph. However, these minimum radii are based primarily on the available stopping sight distances and the allowable lateral acceleration of passenger cars as they traverse the curves at the design speed. Although they are generally applicable to heavy vehicles, an assessment of the Minimum Radius of Curvature for heavy vehicles must include a consideration of the available lane and roadway widths. Our assessment of these elements was based upon the performance of two vehicles that are typical for pit operations:

- WB-50 Combination Vehicle that is representative of belly dump trucks
- SU Single Unit Vehicle that is representative of dump trucks

We have prepared Exhibits B, C, D, and E illustrating the performance of these vehicles through Curves A and B. As shown, the off-tracking of the Combination Vehicle encroaches either across the roadway centerline or off of the existing pavement. The encroachment of the Single Unit Vehicle is minimal with a small encroachment on the inside of the curve for the westbound movement.

The profile grade of a of a roadway often affects its suitability to accommodate the desired design vehicle. For example, Chapter 3 of *A Policy on Geometric Design of Highways and Streets*, published by the American Association of State Highway Official (AASHTO), 2004 states:

*“The recommended stopping sight distances are based on passenger car operation and do not explicitly consider design for truck operation. Trucks as a whole, especially the larger and heavier units, need longer stopping distances from a given speed than passenger vehicles. However, there is one factor that tends to balance the additional braking lengths for trucks with those for passenger cars. The truck driver is able to see substantially farther beyond vertical sight obstructions because of the higher position of the seat in the vehicle. Separate stopping sight distances for trucks and passenger cars, therefore, are not generally used in highway design.”*

*“There is one situation in which every effort should be made to provide stopping sight distances greater than the design values... . Where horizontal sight restrictions occur on downgrades, particularly at the ends of long downgrades where truck speeds closely approach or exceed those of passenger cars, the greater height of eye of the truck driver is of little value...”*

With profile grades up to 10%, it appears that Bristlecone Drive warrants a higher roadway standard related to the stopping sight distances and the adequacy of horizontal curves. However, for the purposes of this study, a detailed analysis and determination of the higher standard was not conducted.

Although these three roadway elements are often evaluated separately, a complete assessment must consider the factors jointly. Each factor typically affects the suitability of another factor. The assessment of the suitability to accommodate heavy vehicles of a specific horizontal curve is not only a function of the roadway centerline radius but also of the roadway grade and the width of the roadway. For example, the design centerline radius of a curve is often determined based upon the required vehicle stopping sight distance. However, the stopping sight distances increase

on roadways with significant grades. Operationally, a centerline radius on a significant grade may not be adequate even though the same curve in a flat area would function acceptably. Additionally, heavy vehicles require longer distances to stop and, because of their length, require more widths on curves.

In summary, our analysis of this section of Bristlecone Drive included an analysis of three individual roadway elements and their suitability to accommodate the anticipated heavy vehicles generated by the proposed Two Rivers Pit. From this analysis, it appears that there are significant safety implications that may occur should Bristlecone Drive be approved as a through haul route. It appears from our analyses that this section of roadway is inadequate to accommodate heavy vehicles on a routine basis. It is apparent that this section of Bristlecone Drive was not designed nor constructed to function as a through haul route and it is probable that significant safety issues may arise should it be designated as such. It should be noted that we did not evaluate the condition of the existing pavement structure or its ability to withstand the additional loadings created by anticipated heavy vehicle traffic, however it is unlikely that the roadway structure is sufficient to accommodate significant heavy vehicle traffic over an extended period of time.

Sincerely,

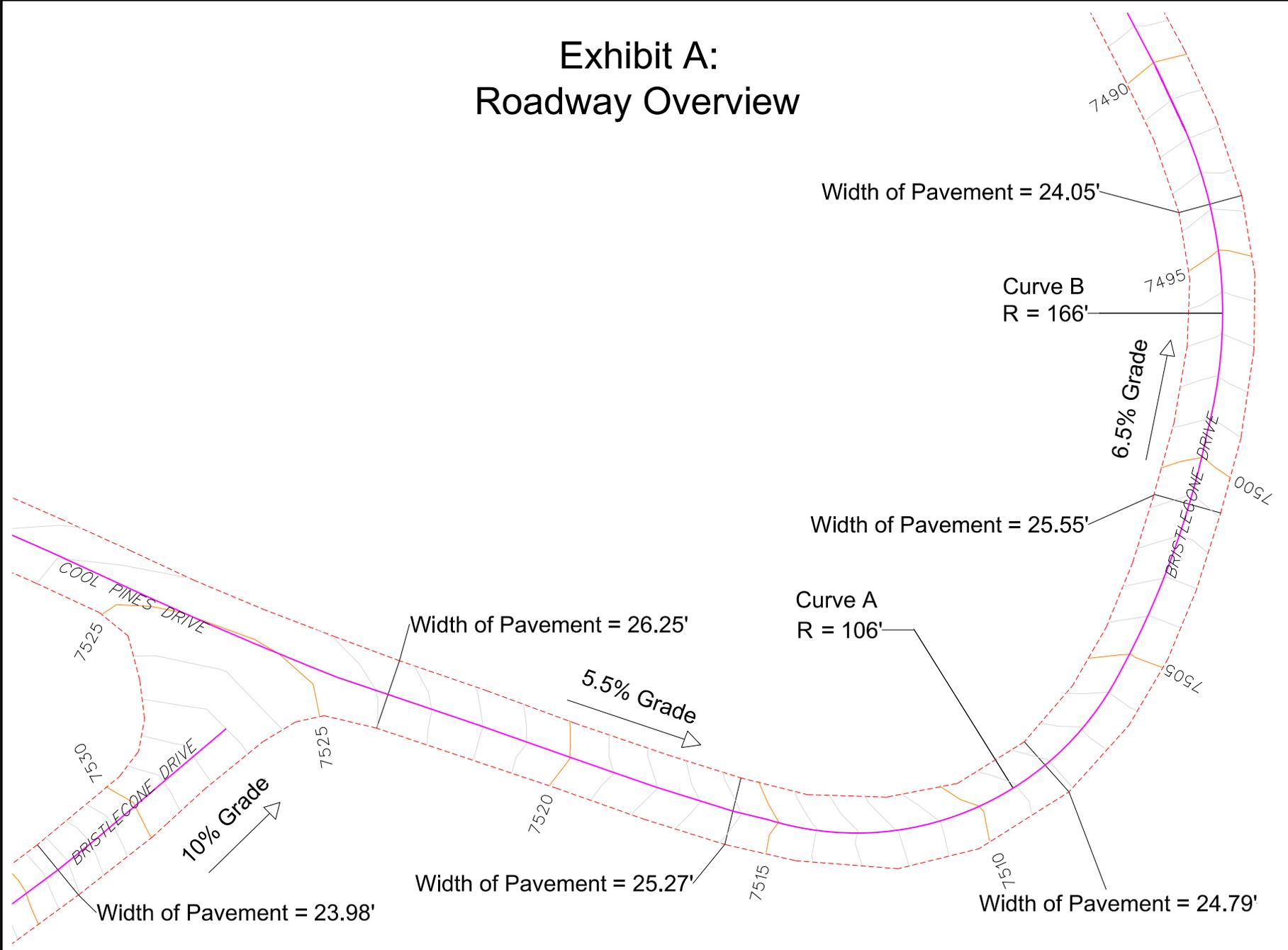


Richard D. Bechtolt, P.E.

# Exhibit A: Roadway Overview

**BECHTOLT**  
 3059 MAIN AVE  
 P.O. BOX 2683  
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 81301  
 TEL  
 970.259.7534  
 FAX  
 970.259.7472

SEAL:



ISSUED:  
 PRELIMINARY:  
 FINAL:  
 CONSTRUCTION:

PROJ. NO.  
 DESIGNER:  
 DETAILER:  
 CHECKED BY:  
 PRINT DATE:

| NO. | DESCRIPTION | DATE |
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|     |             |      |
|     |             |      |

SCALE:

SHEET NUMBER:

# Exhibit B: East Bound Combination Truck @ 25MPH

**BECHTOLT**

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CONSTRUCTION:

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DETAILER:  
CHECKED BY:  
PRINT DATE:

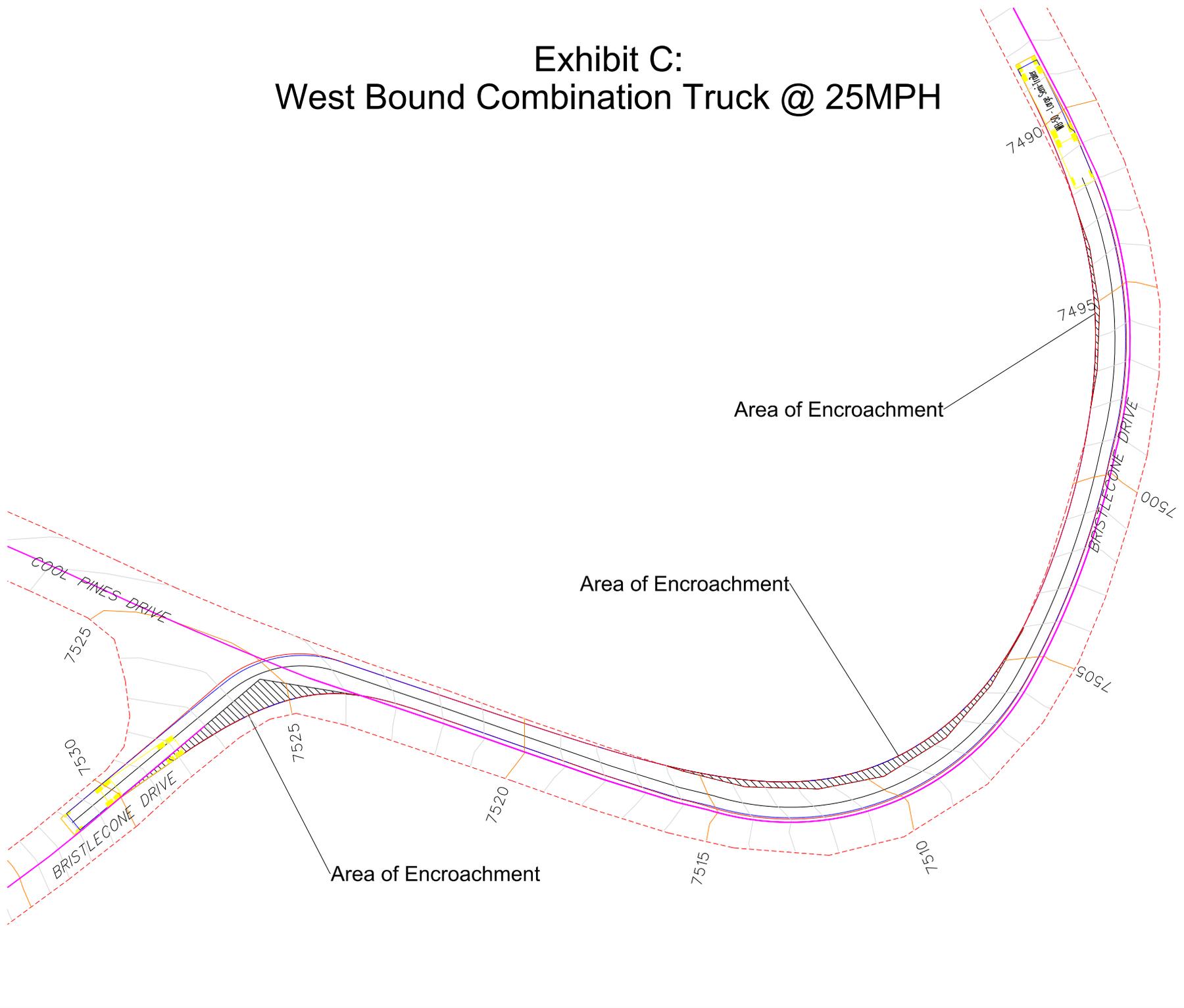
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SCALE:

SHEET NUMBER:

# Exhibit C: West Bound Combination Truck @ 25MPH



**BECHTOLT**  
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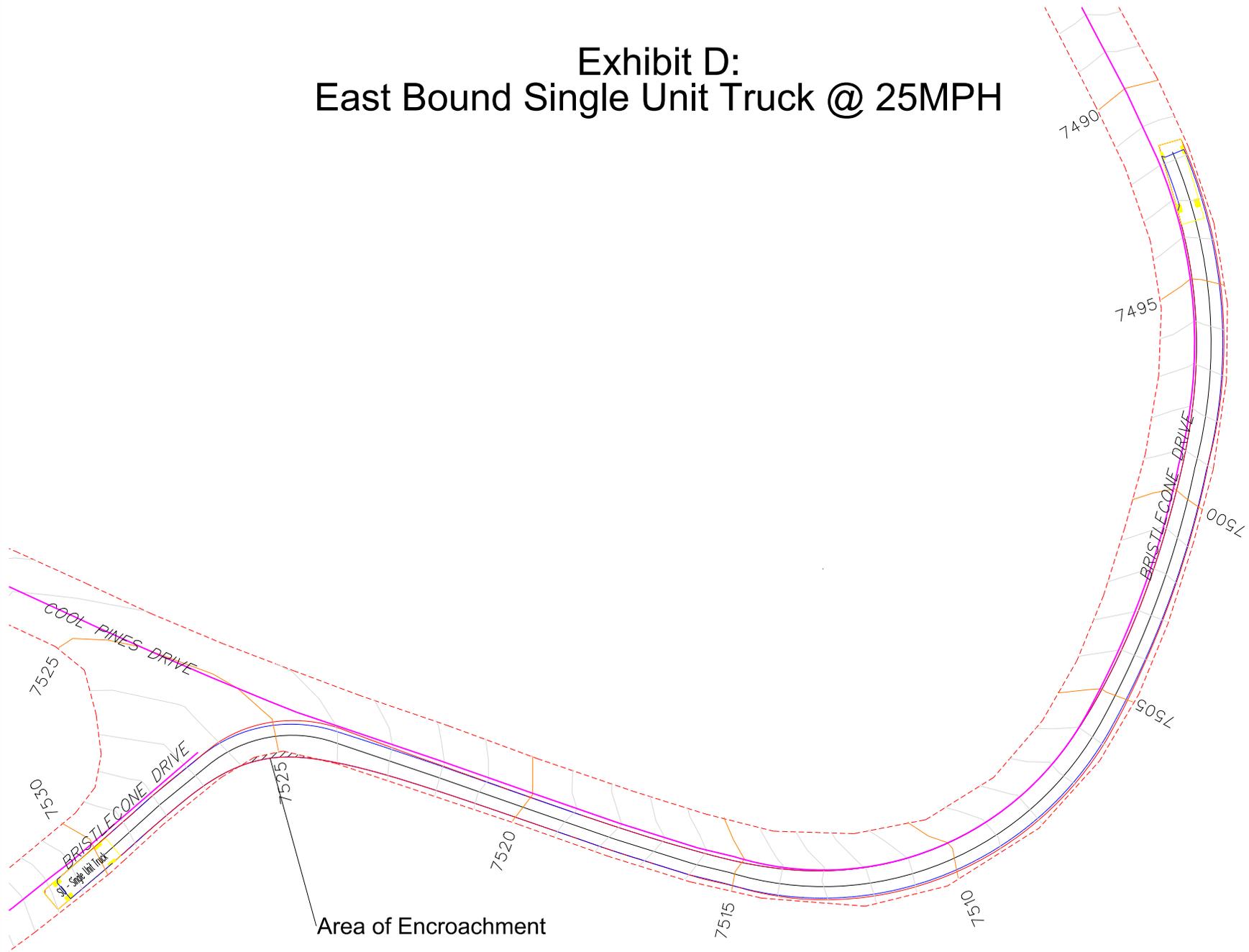
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SHEET NUMBER:

# Exhibit D: East Bound Single Unit Truck @ 25MPH



Area of Encroachment

**BECHTOLT**  
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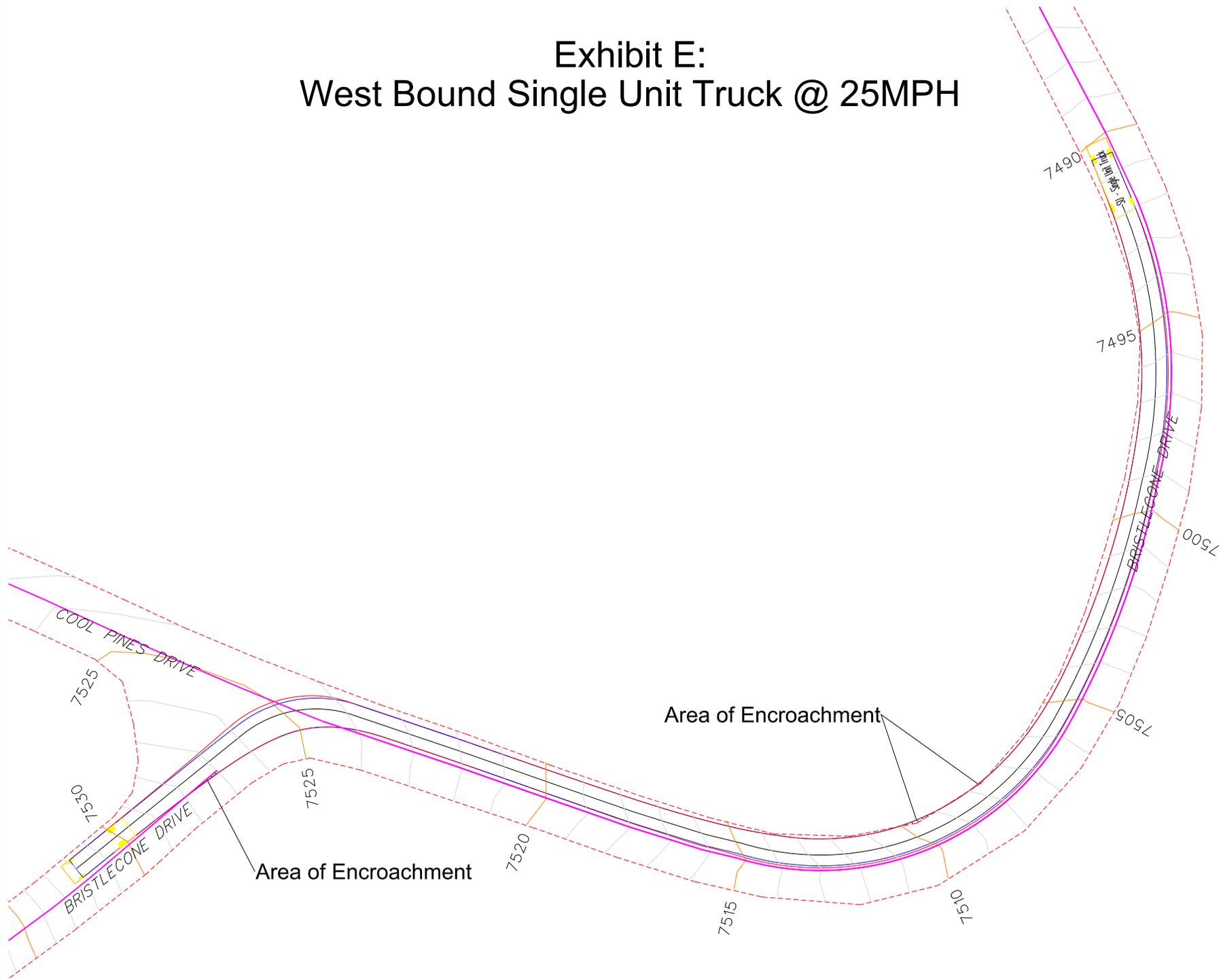
SHEET NUMBER:

# Exhibit E: West Bound Single Unit Truck @ 25MPH

**BECHTOLT**

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SEAL:



ISSUED:  
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