

**Applicability of Conditions of approval for Docket SU-96-18  
“Western Mobile Boulder Open Mining Special Use Review”**

*The following conditions of approval apply to all areas of the site, including the “Miller pit,” except as noted below. In the case of condition #16, a portion of this condition clearly does not apply to the Miller pit, and the only logical application of the remaining language of the condition is to apply it if there are historic sites listed in the report. Similarly, in condition #21., only a portion of the condition can possibly apply to the Miller pit, and the remaining portion has questionable applications. In these two cases, the language that does not apply is shown in bold type, and language that may or may not apply, depending on existing circumstances and a practical application of the condition, is highlighted in grayed type.*

*In other cases, the condition of approval cannot logically apply to the Miller Pit. In these cases, the condition is shown in bold type, and an explanation in italics follows.*

1. All mining allowed by this Docket shall be completed in 30 years, commencing on January 1, 2003. The post-mining reclamation phase of the operation shall be completed in three years (or within such longer time only if expressly authorized or required by the Colorado Mined Land Reclamation Board). The maximum time period for all mining-related activity under this permit shall be 33 years. However, all aspects of Section 4-605 of the Land Use Code, as amended, apply to this Special Use Review.
  
2. **The hours of mining operation and truck hauling at the Western Mobile site for work in phases one, two or three will be limited to Mondays through Fridays; during the period of daylight savings time the hours of operation shall be 8:00 am to 6:00 pm, and during the period of standard time the hours of operation shall be 8:00am to 4:00 pm, or daylight to dark (whichever is more restrictive). Only equipment maintenance, maintenance necessary to ensure compliance with required permits, and hauling will be allowed on Saturdays. The applicant may request that the Board of County Commissioners reconsider these Hours of operation at a regularly scheduled public hearing of the Board. In the even of an emergency, such as imminent flooding, fire, etc., the Applicant can operate outside of the allowed time frame, provided the County Land Use Director is immediately notified and the Applicant is instructed to either cease or continue operations based on the emergency situation. Mining and operations existing at the time of this approval may continue under the constraints imposed by the prior special use review. The operative term of art in this condition is “phases one, two or three ... .” These are defined areas that specifically relate to certain mining pods shown on the site specific development plan, and running from the west to the east. They only include new mining areas. The Miller pit was specifically left out of this listing so that it could continue operating under the previously approved hours of operation. This logic was based on the reasoning that there had been no complaints for the operation of the Miller pit, and it didn’t seem fair to require it to meet new hours of operation for no reason. So the new mining areas would be governed by the new hours, and Miller pit would not.**
  
3. If sustained winds exceed 30 MPH at mining sites, loading and hauling operations will cease

until the wind speed drops below 30 MPH. Crushing, conveying, and drilling operations may continue. Wind speed shall be measured at the mine site.

4. The Applicant shall obtain all applicable permits as required and necessary. This includes, but is not limited to: Floodplain Development permits, National Pollution Discharge Elimination System permits, Air Pollution Control Emission permits, Construction Materials Regular Operation (112) Reclamation permits, Water Discharge permits, and any well permits or temporary substitute supply plans required by the State Engineer. The operation of any aspect of this proposal that does not comply with the terms and conditions of all required permits shall be grounds for a revocation hearing before the Board of County Commissioners.

5. This use must comply with all state noise standards and state fugitive dust standards.

6. Special Use Review approval is contingent upon all terms, conditions, and commitments of record being met.

7. Periodic Reviews:

(A) The Special Use Review approval shall be subject to both interim and on-going review and assessment. The cost of studies or data produced by the Applicant as part of the required reviews, as well as of the County Staff's time to process the reviews, shall be borne by the Applicant.

(B) Interim reviews shall occur ( as measured from the date in which mining begins in Phase I) at the end of one, three, and five and then occur every five years thereafter. Interim reviews shall be conducted to determine that operations comply with all permits, terms, conditions, and commitments of record. Special interim reviews will be conducted five years prior to the commencement of mining of Phase II and Phase III to determine whether the terms and conditions of approval are sufficient or require amendments. In the course of these reviews, which shall be conducted as duly-noticed public hearings before the Planning Commission and the Board, new conditions of approval may be imposed and original conditions may be modified, reduced or waived to accommodate changing technology, knowledge of new health concerns, or other new information not available at the time of this approval.

(C) The Applicant shall also submit to the County Land Use Department copies of any annual reports mandated by the Colorado Mined Land Reclamation Board.

**8. The perimeter of all new active areas to be disturbed by mining and reclamation operations shall be monumented on the ground for the duration of the mining period. No mining activities shall occur outside of these defined areas. The monuments shall not be removed until reclamation has occurred in accordance with the plans approved by the Colorado Mined Land Reclamation Board. *Since this applies to new areas, and since the mined areas of the Miller pit have long since been established, it would serve no purpose to apply this condition to the Miller pit.***

**9. Approval of this application shall not be construed to mean that the County is:**

**(A) in any way obligated to implement any of the items noted on any of the documents labeled as the "Lyons Site Comprehensive Land Plan" in which references are made to the Historic Bunkhouse, Future Land Use Alternatives, Enhance Gateway Entry, Post-mining Land Use Alternatives, and Potential Regional Trail Linkage; and**

**(B) bound to approve any of the above referenced elements, or any other elements or uses which are otherwise regulated by the Land Use Code. *This was a clarification condition meant to ensure that the plans that were submitted as part of the application, and which referenced certain possible future improvements, did not bind the county in any way to construct these improvements.***

10. Outside storage, and the storage of fuel, oil, and grease, as well as the repair of equipment and machinery, and portable offices shall all be considered as accessory uses to this approval, provided that all applicable regulations of Section 4-516 of the Land Use Code, as amended, are met.

**11. Staff shall have the opportunity to review, participate in, and make recommendations on all reclamation plans prior to Colorado Mined Land Reclamation Board approval. Weed management plans shall be completed and incorporated into all reclamation plans. The County reserves the right to consider any future proposed changes to the approved reclamation plan to be substantial changes to this special use approval, to the extent such changes may affect post-mining land use, the visual impacts of reclamation, compatibility of the proposed plan with surrounding land uses, or other land use issues within the zoning jurisdiction of the Board of County Commissioners. *The reclamation plans for the Miller pit have been done for some time. Portions of the old plans have already been implemented. Only in the rare event that the applicant decided to request an amendment to the old plans would this provision apply.***

**12. A final site plan and landscape plan shall be reviewed and approved by the Board of County Commissioners at a regularly scheduled business meeting, and without a Special Use Review amendment for: 1) the proposed office/scale house, and 2) the proposed landscape buffer by the processing site. The purpose of the plans shall be to fix and describe final floor areas, operational areas, parking areas, and plant species and locations, all in accordance with applicable requirements of the Land Use Code. *This provision was only meant to apply to the area where a new office and scale house, and certain landscaping next to the processing site are proposed to be located.***

13. Any exterior lighting or signs associated with this use must be in compliance with applicable provisions of the Land Use Code, as amended.

14. This approval recognizes the uses represented in this application, as well as prior open mining and attendant accessory uses previously approved and amended through prior actions. This includes up to 200 average daily trips, not to exceed 240 trips per day; the accessory use of a portable crusher and screen, and accessory processing of sand and gravel including crushing, screening, washing, and stockpiling; the use of the Burlington Northern Railroad for the purpose of hauling sand and gravel; the installation of a low water crossing of St. Vrain Creek, the use of

a gravel scale, access and use of State Highway 66 as a haul route; the transfer of sand and gravel from the Miller (Gregory) Pit to the existing aggregate processing area; and the use of existing gravel silos and loading areas.

**15. The applicant shall submit a final Development Plan, and a Development Agreement, both in conformity with this approval, for County staff review and approval prior to recordation.** *Not applicable, this work is already done.*

**16. In accordance with the recommendations of A Class III Cultural Resource Inventory of Western Mobile's Proposed Lyons Sand and Gravel Operations Boulder County, Colorado, November, 1997, the mining pod adjacent to site 5BL7045 shall be revised to avoid disturbance of the site.** All other sites which are listed in the above mentioned report as eligible for inclusion in the National Register of Historic Places, and which are impacted by mining operations shall be documented in accordance with all applicable provisions of National Register Bulletins prepared by the National Park Service, U.S. Department of the Interior. *Again as above, it would be unlikely for this to apply to any parts of the Miller pit, as this area has already been mined, and no additional work that would impact this inventory is expected to occur.*

17. To the extent possible, measures shall be taken to insure that winter water draw downs do not negatively impact wetland vegetation of fisheries in reclamation ponds.

**18. Final mining boundaries in the West Plant parcel shall preserve the wetland area known as "14 A." Final mining boundaries of the area adjacent to wetlands known as "11. A" in the West Plant parcel shall be determined after a new assessment of the wetlands is reviewed by the County Parks and Open Space Department. The new assessment shall be conducted one year prior to any mining in this area.** *Not applicable.*

19. Adverse impacts on vegetation and neighboring wells caused by de-watering or other mining operations that result in lower ground water levels outside of mining boundaries shall be mitigated.

20. Surface irrigation shall be used to establish native grasses when beneficial. All reclaimed areas shall be left free from grazing until vegetation has successfully established.

21. The applicant shall follow the management recommendations established in the following reports prepared by Mr. Steve Jones: Habitat Use by Breeding Birds on Western Mobile, Inc. Lyons Property, August 1, 1997, and Habitat Conservation for Birds of Prey on Western Mobile Boulder, Inc. Lyons Property, August 30, 1997. **The applicant agrees to update the above cited studies within one year prior to any mining activity in each mining phase to determine if conditions have changed and whether management practices should be adjusted accordingly.** *This condition was written with the thinking that it would apply only to the new mining; the county staff really didn't contemplate it's strict application to the Miller pit. Consequently, there would have to be a test case to determine if the county could hold the applicant to this condition for the Miller pit. The last portion of this condition can logically only*

*apply to mining in a new phase after Miller, as the Miller pit is already nearing completion.*

**22. The mined portion of any mining pod in any phase shall be limited to 20 acres; if mining is underway in more than one pod at a time, the combined mining area shall not exceed 35 acres. For purposes of interpreting this condition, "combined mining area" shall mean any area that has been disturbed in preparation of mining, or in which mining is underway, or in which reclamation is underway.** *Again as above, this can logically only apply to new mining phases; the extent of the Miller pit was a physical reality long before this condition was adopted.*

23. Any increase of more than 10% in existing traffic on any haul route used by Western Mobile shall require a meeting between Western Mobile and County staff to determine if new traffic mitigation measures are warranted. Mitigation measures may include, but are not limited to a pro-rata share of the costs of any new climbing lanes, turning lanes, pavement rehabilitation, traffic control devices, and other measures necessary to correct adverse impacts to committed local or state capital improvement programs.

24. Western Mobile shall obtain written consent from the City of Longmont prior to crossing (either above or below ground) any existing Longmont water lines.

25. Any relocation of any ditch shall require the prior written consent of the ditch company.

26. Any new facilities located within the City of Longmont's electric service territory must comply with all applicable City regulations.

**27. Any highway improvements required by the Colorado Department of Transportation shall be implemented in accordance with all applicable statutes.** *The Miller pit doesn't generate enough traffic to trigger this requirement.*

28. With the exception of local deliveries, the Applicant agrees to prohibit operators of its trucks from using downshifting braking techniques (also known as "Jake-braking") whenever trucks are traveling more than 25 miles per hour, or are within a one-mile radius of any residential area.

29. The Applicant agrees to establish the water quantity and quality of wells of all adjoining property owners within 1,500 feet of the east boundary of the project perimeter prior to commencing operations of any new mining pod. In the event that mining operations cause a reduction by more than 10% in water quality or quantity, the Applicant agrees to take whatever measures are necessary to provide water equal or better in quantity and quality to the original conditions. In fulfilling this condition, the applicant shall be responsible for conducting industry recognized water quality/quantity analyses on at least an annual basis.

30. This use is limited to 200 average daily truck trips, not to exceed a maximum of 240 trips on any single day. The applicant may apply to request a larger number of truck trips in January, 2003, or one year after mining has begun in phase 1, whichever occurs first.

31. Use of rail hauling shall be limited to no more than 6 daily trips (3 in and 3 out), with no more than 35 cars per trip, and scheduled to occur only during non-peak traffic periods. The applicant shall be responsible for improving any at-grade rail crossings, including but not limited to traffic control devices, that are impacted by this project. Any such impacts shall be evaluated and upgraded in accordance with County Transportation Department standards prior to any use of rail haul routes.

32. The applicant shall ensure that all sand and gravel loads hauled from the Lyons site in any applicant owned or leased trucks or by haulers contracted to the applicant shall be covered with tarps to prevent fugitive dust and gravel from escaping during hauling.

33. Any and all successors, heirs, and assigns shall be subject to all terms and conditions of this Special Use review, including any and all amendments subsequent to the original date of approval of this Special Use.

34. The Board, at its sole discretion, may require intermittent or continuous consultant services or other arrangements for establishing existing conditions and to observe, detect, and record the operations of this use to ensure and demonstrate compliance or noncompliance with any and all applicable regulations, commitments of record, federal or state permits, and these conditions of approval. Any costs for these services and any equipment costs shall be borne by the Applicant.

35. No later than January of 2003, the applicant shall establish a community advisory committee which shall meet at least twice annually for the purpose of providing recommendations and feedback to the applicant, staff and the Board of County Commissioners. At least 60% of the committee's membership shall consist of property owners who reside within one mile of the site. The committee's recommendations shall be made available to the staff in the reviews described in condition number seven above. The committee shall continue to meet throughout the duration of the mining of the site, or until such time as 75% of its members decide that the committee's usefulness has ceased.