

**BEFORE THE  
GALLATIN COUNTY COMMISSION**

**GALLATIN COUNTY  
STATE OF MONTANA**

**IN THE MATTER OF THE REQUEST BY  
TMC, INC. (MORGAN FAMILY GRAVEL  
PIT) FOR CONDITIONAL USE PERMIT  
FOR A OPERATION THAT MINE SAND  
AND GRAVEL OR OPERATIONS THAT  
MIX CONCRETE OR BATCH ASPHALT**

**FINDINGS OF FACT  
AND  
ORDER**

PURSUANT to the Interim Regulations for Operations that Mine Sand and Gravel or Operations that Mix Concrete or Batch Asphalt (“Interim Regulation”) adopted by Gallatin County Commission Resolution No. 2008-053 pursuant to authority found in §76-2-206, MCA and the Gallatin County Growth Policy, the Gallatin County Commission (Commission) in a public hearing on November 5, 2008 reviewed the proposed Morgan Family Gravel Pit operation application, and Staff Report dated November 5, 2008 to determine if the information submitted meets the requirements of the Interim Regulations and the Gallatin County Growth Policy, and in addition, to listen to public testimony concerning the application and to consider written comments.

THEREFORE, with completion of the review and the receipt of all public input, the Commission being fully advised of all matters presented regarding this application, the Commission makes the following Findings of Fact:

## FINDINGS OF FACT

### I.

The application for the Morgan Family Gravel Pit submitted by Morrison-Maierle, Inc., on behalf of TMC, Inc., (“Applicant”) was made on July 31, 2008 and deemed sufficient to meet the Interim Regulation application requirements on August 4, 2008. Pursuant to Section 6 of the Interim Regulation, a public hearing was scheduled for November 5, 2008. Notice of the hearing was given in the *Bozeman Daily Chronicle* on October 19<sup>th</sup> and 26<sup>th</sup>, 2008. Adjoining property owners were notified by certified mail, return receipt requested. A public hearing before the County Commission was held on November 5, 2008.

### II.

Applicant requested a Conditional Use Permit (“CUP”) to mine sand and gravel on a 52.96-acre parcel. The proposed operation will commence in three phases and will operate for a period of ten years beginning on the date the Montana Department of Environmental Quality (“MDEQ”) issue their Open Cut and Mining Permit.

### III.

The property is described as the Southeast One-Quarter (SE ¼) Less Right of Way (ROW) & Less Cemetery Section 35, Township Two South (T2S), Range Four East (R4E), P.M.M., Gallatin County, Montana. In general, the property is located on the northeast corner of Highway 191 (Gallatin Road) and Zachariah Lane approximately one and one-half miles north of the community of Gallatin Gateway.

#### **IV.**

The subject property is an un-zoned portion of the County and is subject to the Gallatin County Growth Policy (“Growth Policy”).

#### **V.**

The Gallatin County Planning Department caused the Applicant submittal to be forwarded for comments to the Gallatin County Road & Bridge Department (County Road Department), the Montana Department of Transportation (MDT), the Gallatin County Local Water Quality Department, the Gallatin City-County Health Department, the Montana Department of Environmental Quality, the Farmers Canal Company, the Association of Gallatin Agricultural Irrigators, and the Gallatin County Floodplain Administrator.

#### **VI.**

The Operator has obtained an approved weed management plan from the Gallatin County Weed District (Weed District). The Operator will also enter into a Memorandum of Understanding with the Weed District (Conditions 32).

#### **VII.**

The Gallatin County Subdivision Regulation (Sect. 12) and Montana Code Annotated 76-3-103 and 76-3-208, indicate that a lease or rental of portions of a parcel may require subdivision review.

#### **VIII.**

Section 6.1 of the Interim Regulation, provided below, contains the required findings for approval. Please note the Applicant’s submittal material contains a detailed discussion of the required approval criteria.

6.1. Conditional Use. A Conditional Use Permit (CUP) shall be obtained prior to commencing work onsite for all new Operations or the expansion of existing Operations following the CUP procedure described below. Granting of a CUP is contingent upon fulfillment of conditions imposed by the Commission pursuant to Section 6.3 and the requirements of Section 6.4.

CUPs shall be issued by the Commission only upon finding:

- a. The Operations conform to the objectives of the applicable growth policy having jurisdiction over the proposed Operations site (Gallatin County Growth Policy or the Belgrade Growth Policy, and the Four Corners Community Plan) and the purposes and intent of this Interim Regulation;
- b. The Operations will not have significant adverse impacts on nearby properties, property values, nearby land uses, or nearby residents;
- c. The Operations will not have significant adverse impacts on groundwater, streams, or wetlands or, if significant adverse impacts are identified, the Applicant shall enter into a written agreement with Gallatin County providing for mitigation, including the provision of financial security, for the identified impacts;
- d. The Operations will not have significant adverse impacts on public services and facilities or, if significant adverse impacts are identified, the Applicant shall enter into a written agreement with Gallatin County providing for mitigation, including the provision of financial security, for the identified impacts;
- e. The Operations meet all other applicable federal, state or local regulations, including the Requirements of section 6.4 below; and
- f. A public hearing, after notice has been given, has been held.

## IX.

On Tuesday, October 28, 2008 the Gallatin County Planning Board (“Planning Board”) reviewed the proposed subdivision and receive public comment. The Planning Board received all required documents prior to the public hearing for review. Those documents included application reports, plans, and staff report. The Planning Board

adopted the staff summary report and suggested conditions that were submitted to the Board.

The Board took public comment. Comments supporting the application stated that vegetative berms and the topography of the subject property would limit the amount of noise leaving the site. Opposing comments argued that the additional noise generated by gravel pit operation would be noisy and a detriment to the enjoyment of his property. Carol Lee-Roark entered comments in opposition of the project arguing that once the land use conversion occurred that use would continue irreparably changing the nature of the area.

Staff provided a synopsis of the salient points concerning the proposed operation and presented two additional packets of information which included condition modifications agree to by the applicant and written public comment submitted to the Planning Department.

Board discussion focused on a number of points including ground water quality, air quality, noise mitigation, traffic safety, Growth Policy compliance, and the need for gravel resources for the benefit of the County. The Gallatin County Planning Board voted (5:3) to recommend approval of the Morgan Family, LLC gravel pit to the County Commission. The Board found the proposed gravel pit met the minimum requirements of the Interim Zoning Regulations, was found to be compliant with the Growth Policy, and through mitigative measures sufficiently addressed public health and safety of the County. Additionally, the Board found through the cumulative effects of the suggested conditions that all federal, State, and local regulations were addressed.

Board member's Amsden, Kimball-Robinson, and Richardson voted in opposition of the proposed gravel pit. In their dissenting opinion they cited the proposed operation was inconsistent with the intent of the Growth Policy, did not provide sufficient measures to address the negative impacts the gravel pit will have on the environment and argued the location of the proposed gravel pit was in direct conflict with the intent ongoing Gallatin Gateway neighborhood planning process.

The Board suggested the following changes:

1. Add condition – No operation shall commence on Sunday (Condition #10)
2. Edit condition #20

*Prior to issuance of a Land Use Permit, the Applicant and the Montana Department of Transportation shall enter into a Memorandum of Agreement (MOA) for future highway and intersection improvements on U.S. Highway 191 (Gallatin Road) and submit a copy of the executed MOA shall be submitted to the Gallatin County Planning Department. Notwithstanding the above, all improvements required by MOA with the MDT shall be completed prior to issuance of a Land Use Permit.*

3. Edit condition #37

*Where adjacent residential dwellings are located within 1000 feet or have an unobstructed view of the facility, the Applicant shall construct a fence made of natural material and of adequate height and screening capacity to adequately visually screen the operation from the residential dwelling. This requirement applies to existing residential dwellings and to any residential dwellings constructed after operations have begun.*

## X.

In the public hearing on November 5, 2008, the Commission considered the Staff report, applicant presentation and testimony during the public hearing. In addition to comments submitted in writing public testimony was provided by eleven individuals including Jane Ward, Betty Conard, Jim Brown, Dewitt Ward, Paul Shennum, Carole

Lee-Roark, Deb Walberg, Vannesa White, Lee Durham, Sue Krizenawsky and Jerry Rice. Comments were focused the effects the operation will have on adjacent property values, future land use, the excessive length of the permit, haul truck and machinery noise, the location of the asphalt batch plant, hours of operation, devaluation of property and the relation to property tax, the effects on ground water, and non-compliance with the Growth Policy.

## XI.

In Board discussion, the Commission evaluated all submitted information, Applicants' testimony, and the requirements of the Interim Zoning Regulation with suggested conditions of approval. Commissioner Skinner made a motion to approve the requested Morgan Family LLC gravel Pit Conditional Use Permit. Commissioner White seconded the motion. The Commission adopted staff findings and amended the Conditions of approval (4:32:10). In accordance with the Interim Regulation, the Commission considered the following criteria as a basis to approve, conditionally approve or disapprove of the CUP, and found as follows (complete findings can be found on the recorded Commission hearing dated Wednesday, November 5, 2008):

- 1. Does the proposed operation conform to the objectives of the Gallatin County Growth Policy and the purposes and intent of this Interim Regulation?**

### **Water Quality**

The Commission found that through adequate mitigation measures, the operation will protect both surface water and groundwater quality. In addition to requirements imposed by MDEQ and identified in the DRAFT ER, this operation will protect surface water quality by containing all surface runoff onsite, ensuring a 75-foot

horizontal setback from the Farmer's Canal, and entering into an agreement with the Farmer's Canal Ditch Company. The Commission continued finding that these measures, in addition to requirements imposed by MDEQ, will adequately protect surface water quality. To protect groundwater quality, the conditions of approval require the Applicant to monitor groundwater quality throughout the life of the operation and require the Applicant to maintain a one to four-foot vertical separation between the high groundwater level and active mining. Finally, requiring an agreement with the Farmer's Canal Ditch Company related to impacts to the ditch water will also protect groundwater quality as groundwater and surface water are unified.

### **Air Quality**

The Commission found that air quality would not be adversely affected by the proposed operation. Specifically, the operation is required as a condition of approval to obtain a permit under the Clean Air Act, if required by MDEQ. Second, the operation is required by the conditions of approval to prevent impacts to air quality through the use of tactifiers or other dust control measures on all driving surfaces and stockpiles of material, the seeding and irrigation of topsoil stockpiles, and proper loading and/or covering of all loads leaving the operation.

### **Soils**

Through Conditions of approval, topography, and permit requirements the Commission found that adequate measures are in place to mitigate adverse effects on soils and will protect soil erosion. Specifically, the topography of the subject site is



generally low angle which minimizes water runoff and erosion. The operation is required as a condition of approval to obtain a permit under the Opencut Mining Program which, in part, through the MDEQ permit conditions, will mitigate potential negative externalities caused by the operation. In addition, the Applicant will be required by the conditions of approval to secure an approved Weed Management Plan from the Gallatin County Weed District. The Plan is in force for the duration of the operation.

### **Industrial / Commercial Areas Compliance**

Through keen analysis of the proposal, the temporary land use conversion, connectivity, and the intended future use of the subject property the Commission found the proposed action is in compliance with the Growth Policy. The Commission noted the operation will not adversely burden existing infrastructure by its nature and that the dispersion of gravel mines inherently mitigates infrastructure demands. *Growth Policy* objectives will be further realized through dust control measures, noise abatement, hours of operation and monitoring. Additionally the Commission found that through direct access to Highway 191 would further minimize infrastructure demands.

- 2. Will the operation have significant adverse impacts on nearby properties, property values, nearby land uses, or nearby residents or, if significant adverse impacts are identified, has the applicant provided for adequate mitigation, including the provision of financial security, for the identified impacts?**

The Commission found that the proposed operation would not have significant effects nearby properties, property values, nearby land uses, or nearby residents. Through the cumulative effect of suggested conditions and proposed mitigation plan

possible negative externalities are effectively mitigated. Specifically, the comprehensive noise suppression plan (Condition 22 – 28), the dust suppression and control plan (Condition 29 – 32), the visual impact mitigation plan (Condition 38), and the roadway improvement measures required by Montana Department of Transportation (MDT) that the potential significant adverse impacts were sufficiently mitigated to meet the requirements of the Interim Regulations.

3. **Will the operation have significant adverse impacts on groundwater, streams, or wetlands or, if significant adverse impacts are identified, has the applicant provided for adequate mitigation, including the provision of financial security, for the identified impacts?**

The Commission discovered the proposed operation will not enter the ground water under normal operations. As conditions of operation permitted by the MDEQ and conditions of CUP approval ground water penetration is prohibited. Additionally, comments received from the Farmers Canal Company stated there are minimal effects on the agricultural water user facility. Therefore, evaluating the conditions of approval for their cumulative efficacy the Commission found the proposed operation would sufficiently mitigate the mines impacts on groundwater, streams, and wetlands. Specifically, the environmental quality mitigation (Condition (12 – 18), the integration of MDEQ approval requirements (Condition 42), and the ground water monitoring program would provide sufficient mitigation to protect water quality and quantity.

Additionally the Commission found the one to four foot separation between active mining operation and the estimated ground water level would provide two benefits. First, adequate separation would prevent potential impacts on ground water.

Secondly, after reclamation the separation may improve the productivity of the land for agriculture through sub-irrigation and provide a natural filtration for fertilizers. There are no hazardous materials stored on site. Finally, the Commission found the ground water quality and quantity program would provide additional measure of mitigation for water resources.

4. **Will the operations have significant adverse impacts on public services and facilities or, if significant adverse impacts are identified, the Applicant provided for adequate mitigation, including the provision of financial security, for the identified impacts?**

The Commission found that having only one pit does not benefit the general public. The Commission stated that with the condition of approval the operation will not have adverse impacts on public services. The dedicated access 2,200 feet north of Zachariah Lane with acceleration and deceleration lanes effectively mitigates adverse affects and allows safe and efficient traffic mobility.

5. **Has or will the operations be required to meet all other applicable federal, state or local regulations, including the Requirements of section 6.4 of the Interim Regulation; and**

The Commission found all federal, state and local regulations will be met through the operation plan and Conditions of approval.

6. **Has a public hearing, after notice has been given, been held?**

Pursuant to §6.5(d) of the Interim Regulation legal notice of the Commission hearing and Planning Board discussion and recommendation was sent to property owners adjacent to and 1,000 feet of the subject property via certified mail. Property owners between 1,000 feet and one mile were notified via US Mail. Notice was also

published in the *Bozeman Daily Chronicle* on October 19<sup>th</sup> and 26<sup>th</sup>, 2008. A public meeting was held on November 5, 2008.

In conclusion the, the Commission evaluated all submitted information and the requirements of the Interim Regulation, compliance with the Gallatin County Growth Policy, approval of the Gallatin County Planning Board, and public comment. Commissioner Skinner made a motion to approve the CUP, which was seconded by Commissioner White. After consideration of all matters presented to them regarding this CUP application, the Commission determined that with the conditions below, the CUP for the Morgan Family Gravel Pit, complies with the Interim Regulation, Gallatin County Growth Policy, and voted unanimously to approve the CUP (3:0 vote), subject to the conditions suggested by Staff and modifications made by the Commission.

### **ORDER**

IT IS HEREBY ORDERED that the Conditional Use Permit for the Morgan Family Gravel Pit is approved, subject to the conditions listed below. Final approval shall be contingent upon completion and compliance with these conditions:

1. For the duration of the operation, all facets of the operation shall be in substantial compliance with the information, discussion, and proposed mitigation included in the application for this CUP. Any deviation from the proposals suggested in the application materials may be considered a violation of this condition.
2. Unless otherwise authorized by these conditions of approval, prior to commencing any onsite mining or processing operations, Applicant shall demonstrate compliance with any pre-operating conditions of approval contained herein and obtain a Land

Use Permit from the Gallatin County Planning Department. No fee shall be charged for the Land Use Permit.

3. The operation shall be permitted to operate for a period ten years from the date of issuance of the MDEQ Opencut Permit. However, at the end of the third year, commencing upon the date of issuance of the Opencut Mining Permit from MDEQ, Applicant shall initiate review by the Board of County Commissioners for compliance with applicable regulations and these operating conditions. Upon a showing the operation has been in substantial compliance with all applicable conditions of approval, the Gallatin County Commission may expand the approval for the remainder of the permitted ten year term. Failure to obtain Commission approval prior to the expiration of the third year shall be a violation of this condition. All other enforcement provisions pursuant to the Regulation shall apply at all times.
4. Prior to issuance of a Land Use Permit, the Applicant shall submit an executed copy of the Lease Agreement between landowner and Applicant with an attached legal description to the Gallatin County Planning Department for a determination of whether the Lease constitutes a "subdivision by lease". If the Lease is determined to constitute a "subdivision by lease" the Applicant shall obtain approval for the subdivision prior to commencing operations. Should the legal description for the leasehold or the terms of the lease change during the course of this CUP, the Applicant must submit any changes to the Gallatin County Planning Department.
5. No concrete processing facilities shall be installed on the site without a change to these conditions of approval.
6. Prior to commencement of the wash plant operation, the Applicant shall provide proof of a temporary change in use of surface water rights by the Montana DNRC and/or provide evidence of the installation and registration of a 35 gpm exempt well.

#### **Hours of Operation**

7. Hours of operation for all facets of the operation, including but not limited to off-site truck hauling, gravel crushing and asphalt mixing, shall be restricted to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturdays unless adjacent property owners are adequately notified of temporary extended hour demand periods. Extended demand hours for special projects are: 6:00 a.m. to 8:00 p.m., Monday through Friday. Extended hours cannot exceed more than four consecutive weeks or more than eight weeks in any six month period. Prior to commencing temporary extended hour operations operator shall notify adjacent property owners within 1,000 feet from the edge of the permitted area at least seven (7) days but not more than 15 days prior to commencing addition operations. Notification shall be in writing and via certified mail.

8. Saturday operations for normal as well as for temporary extended demand times are limited to material hauling and equipment maintenance only. No other operations are permitted.
9. No gravel crushing shall occur on Saturdays.
10. No operations shall commence on Sunday.
11. Upon notification from Salesville Cemetery, operator shall cease all operations during the requested time period to accommodate cemetery services.

### **Environmental Quality**

12. Prior to issuance of a Land Use Permit, the Applicant shall provide adequate on-site sanitary facilities for employees. The facilities shall be screened from view.
13. Prior to issuance of a Land Use Permit, the Applicant shall enter into a binding Memorandum of Agreement with the Farmer's Canal Ditch Company (FCDC) indicating any mitigation measures, including possible lining of the canal in the area adjacent to the operation, to be undertaken before, during, and after operations to protect the water quality and quantity in the Farmer's Canal. Notwithstanding the above, no surface disturbance or storage of materials or equipment of any kind shall occur closer than 75 horizontal feet from the edge of the embankment on the Farmer's Canal as described in finding #11.
14. Mining shall at all times maintain a one to four (1 - 4)-foot vertical separation between annual high ground water level and lowest level of mining activity. Vertical separation will promote sub-irrigation on the site after reclamation and is estimated to be between 1 – 4 feet above high ground water level.
15. If, at any time during operations any other environmental permit, such as required by the federal Clean Air Act or Clean Water Act, are required by any other federal, state, or local permitting agency, the Applicant shall obtain approval for the appropriate permit and provide a copy of the application and approval to the Gallatin County Planning Department.
16. Prior to commencing active mining operations, Applicant shall install at least two off site monitoring wells in locations to be determined by consultation with Gallatin County to monitor for water quality. Applicant shall collect adequate baseline data in said wells prior to commencing active mining operations and shall monitor water quality on no less than a monthly basis during the course of the operation. All data collected shall be provided to the Gallatin Local Water Quality District and the Planning Department on a six month basis.

17. Prior to issuance of a Land Use Permit, drainage plans for the operation shall be submitted and approved by MDEQ.
18. The applicant shall not store hazardous materials such as unleaded fuel onsite. Diesel fuel shall be contained in a manner prescribed by MDEQ.

### **Roadway Improvement and Traffic Safety**

19. Prior to issuance of a Land Use Permit, the Applicant shall provide the Planning Department a copy of the approved MDT approach permit.
20. Prior to issuance of a Land Use Permit, road signage, approved by the Gallatin County Road and Bridge Department and/or the Montana Department of Transportation in accordance with the Manual on Uniform Traffic Control Devices (MUTCD), shall be installed along all main travel routes to alert vehicular and pedestrian traffic to the presence of heavy trucks.
21. If required by MDT, and prior to issuance of a Land Use Permit, the Applicant and the Montana Department of Transportation shall enter into a Memorandum of Agreement (MOA) for future highway and intersection improvements on U.S. Highway 191 (Gallatin Road) and submit a copy of the executed MOA shall be submitted to the Gallatin County Planning Department. Notwithstanding the above, all improvements required by MDT shall be completed prior to issuance of a Land Use Permit.

### **Noise Suppression**

22. Applicant shall to the greatest extent possible enclose all pumps or other noise producing systems within appropriate noise containment apparatus.
23. Applicant shall employ a polyurethane/rubber screen fabric for the screening plant(s) associated with the crusher to absorb sound.
24. Notwithstanding any other condition, if audible backup alarms are installed on any on-site equipment all backup alarms shall be Mine Safety and Health (MSHA) – approved and be of a type utilizing a manually adjustable, ambient-sensitive, direction sound technology, or utilize strobe light alarms to ensure a backup alarm does not sound unless and until an object in motion behind or to the rear of the equipment is detected.
25. Equipment selection shall be commensurate with geographic location to minimize noise.
26. High-grade mufflers or other sound-dampening devices shall be installed on all diesel powered generators and equipment to reduce noise impacts.

27. Applicant shall, using a certified specialist, measure noise levels on a monthly basis during active operations at the same locations as depicted in Figure 3 of the Applicant's Environmental Assessment (EA). Noise levels shall be measured using the same techniques as used to determine the ambient noise levels discussed on pg. 13 of the EA. Acceptable noise levels measured during active operations shall in no circumstance exceed 10 dBA above the existing day-night average noise level ( $L_{dn}$ ) or as reported on Table 1 of the Applicant's Environmental Assessment (EA, pg. 17). Applicant shall provide all data to the County Planning Department on a routine basis for the term of the CUP.
28. The use of jake (compression) brakes on hauling trucks shall be prohibited.

### **Dust Suppression and Control**

29. Prior to issuance of a Land Use Permit, the Applicant shall complete a Permit Determination process with the MDEQ Air Resources Management Bureau and provide documentation of completion to the Planning Department.
30. Dust abatement shall be performed consistently and conscientiously to limit the impacts to the air quality of surrounding properties and the general air quality of Gallatin County. To comply with the above, the operator may be required to continuously spray water on all materials during the crushing process and use tactifier on fines storage so no dust emanates from any stored materials. Applicant shall spray magnesium chloride (or other dust control measures as approved by the Gallatin Count Road and Bridge Department) on interior roads so that no dust emanates from interior roads.
31. All haul trucks leaving the facility shall be adequately covered or properly loaded to prevent unsafe amount of material from escaping onto public roads.
32. Gravel storage piles shall not exceed 24 feet in height measured from the current natural grade.

### **Noxious Weed Management**

33. Prior to issuance of a Land User Permit, the Applicant shall obtain an approved Weed Management and Revegetation Plan ("Plan") from the Gallatin County Weed District ("Weed District"). The approved Plan must address weed control operations for the duration of this CUP. Upon obtaining a Land Use Permit, the Applicant shall immediately begin implementation of the Plan.

Notwithstanding the above, all areas disturbed by construction, including areas on-site and areas off-site, including stockpiled topsoil, overburden berms and roads shall be controlled for noxious weeds and revegetated in accordance with the rules, regulations, standards and requirements of the Weed District.



All areas of stockpiled topsoil and overburden berms shall be adequately irrigated for the duration of this CUP to ensure seeding is successful and plant growth adequately controls erosion and weed growth.

Prior to closure of the mining operation the developer shall fulfill all requirements of the Plan and obtain a Memoranda of Understanding from the Weed District. If the Applicant has failed to complete all requirements of the Plan the Applicant shall enter into an Improvements Agreement with the Gallatin County Board of County Commissioners. The Improvements Agreement shall state that any revegetation and/or weed control required to be completed prior to closure of the operation shall be conducted during the next season where revegetation and weed control work can reasonably be accomplished.

### **General Operating Conditions**

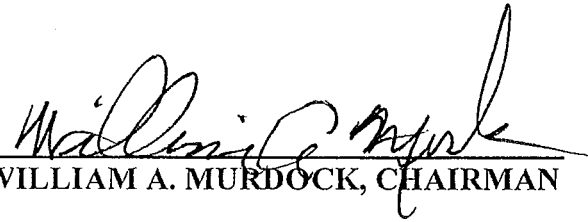
34. All lighting used on site shall be directed in such a way as to be contained completely within the boundaries of the property and shall no emanate beyond the property lines. All lighting shall be hooded, screened or directed in a manner that it shall not be detrimental to the adjoining property owners or the neighborhood. Lights shall be extinguished at the close of business each day, with the exception of limited security lighting.
35. Applicant shall prepare a landscape plan for the frontage along Highway 191 and present the plan to the County Planning Department for comment. The landscape plan need not be approved by Gallatin County. The plan should provide the Applicant information on how to landscape the entire frontage to alleviate visual impacts associated with the operation. This plan may include the planting of trees, historic fencing, or other mechanisms.
36. The operator shall enforce safety measures, including preventing overfilled trucks, covering loads, educating truck drivers, and monitoring driver performance.
37. Fuel containment measures shall be utilized as required by the application to MDEQ.
38. The Applicant, in consultation with each adjacent landowner and any landowner with a residence within 1500 feet of the boundaries of the operation whose property is located to the north, south, and east of the operation, shall make a best effort to create a vegetative buffer plan that visually screens all phases of the operation from view of each applicable residence.

If, after consultation with the landowners described above, a topsoil stockpile sufficiently screens a required residence the requirement for a vegetative buffer shall not apply.


All vegetative buffers required to be installed for any applicable residence shall be installed prior to commencement of operations under Phase I and shall be adequately irrigated to ensure reasonable survival of the buffers. All vegetative buffers shall be protected from damage from wildlife. Vegetation should include native plants, shrubs and trees including evergreens. Applicant shall maintain the vegetative buffers for the life of the operation.

39. Prior to issuance of a Land Use Permit, the Applicant shall notify the Gallatin Gateway Rural Fire District regarding all access, parking, fire suppression, and emergency evacuation plans.
40. Blasting operations may only occur upon a minimum of 24 hour written notice to all landowners within 2,500 feet of the site.
41. All parking areas for employee vehicles and company vehicles shall be provided onsite.
42. Applicant shall notify the Gallatin County Planning Department within 24 hours if any violation of these conditions of approval or any violation of any operating condition required by MDEQ is reported to MDEQ.
43. All conditions of approval imposed by MDEQ under the Open-cut Mining Act shall be incorporated herein and constitute conditions of approval of this CUP and shall be enforceable as such by Gallatin County.
44. These conditions run with the land and shall be binding on the Applicant, landowner, and all successors in interest to the Applicant and landowner.
45. Prior to issuance of a Land Use Permit, the Applicant shall record with the Gallatin County Clerk and Recorder a copy of the signed and attested Findings of Fact and Order including these conditions of approval.
46. Nothing in this condition shall prevent the Applicant from stripping and stockpiling topsoil, constructing the access road(s) or making improvements to US 191 prior to obtaining a valid Land Use Permit.
47. Applicant shall obtain a Land Use Permit within one year of approval of this CUP. A single one-year extension may be granted. Failure to obtain a Land Use Permit within this time frame shall result in the approval of this CUP being voided.

GALLATIN COUNTY COMMISSION

  
WILLIAM A. MURDOCK, CHAIRMAN

DATE 11/26/08

  
JOE P. SKINNER, MEMBER

DATE 11/26/08

  
R. STEPHEN WHITE, MEMBER

DATE 11/27/08

ATTEST:

  
CHARLOTTE MILLS,  
CLERK & RECORDER