



# Greg Lewicki And Associates, PLLC

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December 18, 2020

Benjamin R. Wilson  
Project Manager  
Colorado West Regulatory Section  
US Army Corps of Engineers  
400 Rood Avenue, Room 224  
Grand Junction, CO 81501

**Subj: SPK-2020-00743; USACOE Comments on DRMS application - Peak Ranch Resource, Permit M2020-041**

Mr. Wilson:

This letter is in response to your letter of September 30, 2020 documenting the U.S. Army Corps of Engineers' (USACOE) comments on the 112c Construction Materials Reclamation Permit Amendment Application submitted on August 19, 2020, Permit M2020-041.

**Corps of Engineers' Jurisdiction:**

*The Corps of Engineers' jurisdiction within the study area is under the authority of Section 404 of the Clean Water Act for the discharge of dredged or fill material into waters of the United States (WOTUS). WOTUS include, but are not limited to, rivers, perennial or intermittent streams, lakes, ponds, wetlands, marshes, wet meadows, and seeps. Project features that result in the discharge of dredged or fill material into WOTUS will require Department of the Army authorization prior to starting work.*

**Wetland Delineation Report:**

*Documents provided as part of your request for comment indicate that a delineation of aquatic resources has been conducted but a detailed report regarding this matter was not provided. The applicant should prepare a wetland delineation report, in accordance with the "Minimum Standards for Acceptance of Preliminary Wetlands Delineations" and "Final Map and Drawing Standards for the South Pacific Division Regulatory Program" under "Jurisdiction" on our website at <https://www.spk.usace.army.mil/Missions/Regulatory.aspx> and submit it to this office for verification.*

**Response**

A wetland delineation report was prepared by Ecological Resource Consultants, Inc. and it will be submitted to the USACOE.

**Discharge of Dredged or Fill Material into waters of the United States (WOTUS):**

*Based on the information provided, the project plans include implementing a minimum 25-foot setback between surface mining activities and potential wetlands, but the construction of associated infrastructure (e.g., access road, widening of Colorado State Highway 9) may require the placement of fill material into WOTUS. A range of alternatives should be considered for all project features that will involve the discharge of dredged or fill material into WOTUS and every effort should be made to avoid project features which require the discharge of dredged or fill material into WOTUS. In the event it can be clearly demonstrated that there are no practicable alternatives to filling WOTUS, mitigation plans should be developed to compensate for the unavoidable impacts resulting from project implementation.*

**Response**

The 25-foot setback provided is in response to a Summit County requirement. Peak Materials intended to keep all improvements out of the wetlands; however, an access into the site is required and, for safety reasons, CDOT is requiring that

the access point into the site align with Elk Run Road. In aligning the site access with Elk Run Road, we will impact some of this wetland area. We are submitting the wetland delineation report to the USACOE and requesting a jurisdictional determination. If the jurisdictional determination indicates that the wetlands are WOTUS, Peak Materials will work with the Corps to obtain potential impact authorization under Section 404 of the Clean Water Act and develop compensatory mitigation, as required. Site plans are currently under design and development attempting to minimize impacts. Peak Materials will further coordinate with the USACOE once plans are developed.

Thank you for your consideration. If you have any questions or need any additional information, please let me know.

Sincerely,



Ben Langenfeld, P.E.  
Greg Lewicki and Associates

Enclosures:

CC: Eric Scott, DRMS  
April Kroner, Summit County Planning Director

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