EIB 12-02

KI-STONE
ENVIRONMENTAL

PO Box 8345
ALBUQUERQUE NM 87198
MOBILE : 505-980-9313

June 13, 2012

Secretary,
New Mexico Environmental Improvement Board
1190 St. Francis Drive, Runnels Bldg Rm N2153
PO Box 5469
Santa Fe, New Mexico 87502

Re: Appeal to : Denial of Relocation Application No. 3617R3
(IDEA ID No 26649 PRN20120003 RockCon S & Gravel No 1. Crusher

In accordance with the NMED Air Quality Bureau letter of May 15, 2012, presented below is our official appeal to the New Mexico EIB regarding our permit relocation application. We specifically request a hearing with the EIB. Specific points of the appeal are as follows:

Current Re-location Denial

The current project site proposed is located on 10 acres of barren land between the interchange of I-10 and I 25. The project is for the crushing and recycle of highway material for I10/I25 interchange rebuild on the southern end of Las Cruces, NM. The project site is ideal with respect to minimizing construction emissions and truck traffic fugitive emissions as well as reduced combustion emissions from truck traffic associated with the interchange rebuild. According to AQB the project relocation was denied based on the following:

1. The distance to the nearest "occupied structure" is the NM State University Land north of the interchange at a distance less than the ¼ guideline used in the GCP-2 permit.

The above denial for re-location is inconsistent with previous permitting actions allowed by the NMED AQB. We present the following history.

LaBajada Hill Railrunner project -Relocation Approval – 2008

A relocation approval to La Bajada Hill site along I-25 (New Mexico Railrunner project) was applied to the NMED Air Quality Bureau for the completion of the asphalt and blasting material recycle element of the Rail-runner project in March 2008. This project was approved even though it didn't meet the Air Quality Bureau (AQB) guidelines for a ¼ mile setback from an "occupied" structure.

Based on Rock-Cons discussions with NMED AQB, the project was deemed worthy of relocation due to the reduced impact of "overall pollution" from material handling and truck transportation emissions. The emissions would have been significantly greater had the recycle pile had to be transported to another approvable location 3 miles distant (to be processed and returned) from the LaBajada Hill location.

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Additional public notice was requested by AQB and completed by RockCon (via letters delivered to the rest-stop/residential area at the top of La Bajada hill prior to permit relocation to the RailRunner Site). Further, Rock-Con was specifically given 90 days to complete the project. Project references for this appeal include:

- Additional Public notice (Rest-Stop letter 042608.pdf)
- Relocation Approval Letter - See attached (3617 Relo approval La Bajada Hill.pdf)
- Project Mapping for La Bajada Site. (Santa fe relocation Map 1 & 2.pdf)

Summary - Basis of Appeal

The requested project for the current relocation under this appeal exceeds the distances to the nearest "occupied structure" *in comparison* to the previously approved La Bajada location. Further we believe that there is no legal definition for "occupied structure" in the current NMED 20NMAC regulations.

In addition this project location has more available land area (10 acres for the I25/I10 project vs. 7.5 ac for the La Bajada location) More specifically the actual GCP-2 permit is identical to the previously approved location for La Bajada Hill Railrunner project. The project also would provide for an overall "net reduction" in air quality emissions impacts to the City of Las Cruces metropolitan area during construction re-build on the I-10/I-25 Interchange.

Respectfully Submitted,

Andrew A. Frye
Senior Environmental Scientist

Cc: Mr. Chris Brosious - RockCon
Mr. Richard Goodyear , Bureau Chief - Air Quality Bureau
Felicia.Orth@state.nm.us
Sally.Worthington@state.nm.us
David.Martin@state.nm.us

Attachments:
Rest-Stop letter 042608.pdf
3617 Relo approval La Bajada Hill.pdf
Santa fe relocation Map 1 & 2.pdf

New Mexico
ENVIRONMENT DEPARTMENT

Air Quality Bureau
1301 Siler Road, Building B
Santa Fe, NM 87507-3113
Phone (505) 476-4300
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BILL RICHARDSON
Governor

DIANE DENISH
Lieutenant Governor

RON CURRY
Secretary

JON GOLDSTEIN
Deputy Secretary

April 28, 2008

CERTIFIED MAIL NO.7005 1820 0001 5707 3763
RETURN RECEIPT REQUESTED
And by FACSIMILE

Chris Brosious
Owner
H and H Brosious, LLC
9521 Signal Ave. NE
Albuquerque, NM 87122

NSR Air Quality Permit No. RE1-3617R1
Rock-Con
TEMPO No. 26649 - PRN20080001
AIRS No. 35-777-1213
FACILITY TYPE CON-Materials

Re: Response to Relocation Application for Rock-Con

Dear Mr. Brosious:

This letter is in response to your relocation application dated March 14, 2008 to relocate the Rock-Con facility near La Cienega, New Mexico. The application was received by the Department on April 14, 2008.

The application review has been completed and the **relocation has been approved**. A 90 (ninety) day enforcement discretion is granted for the facility's inability to comply with GCP Permit Section III.C., Table III.C.1. Siting Restrictions, #b. The section and table specifies a minimum distance of ¼ mile from the perimeter of the Area of Operation to any existing state park, recreation area, schoolyard, private residence, office building, or other occupied structure.

The Department authorizes this facility to be located in Township 15N, Range 07E, Section 13, adjacent to the Rest Area along the I-25 frontage road, on the northeast side of La Bajada Hill. The nearest town is La Cienega, approximately 4 miles to the north, in Santa Fe County, at the location specified in the relocation application (UTM Coordinates: UTMH 395,244 m, UTMV 3,932,037 m, UTMZ 13).

Operation of this facility must comply with Air Quality Permit number GCP-3617R1 (excluding the 90 day enforcement discretion sited above for Section III.C.), the Air Quality Control Act, and any applicable regulations and standards pursuant to NMSA 1978, Section 74-2-7-H. Per 20.2.72.202.D.3.d NMAC, the following conditions apply at this approved location, and can not

be carried forward to any future sites. These conditions apply in addition to or instead of conditions in the existing permit.

1. **Condition 1:** The earliest date that installation of equipment can begin at the approved location is 4/29/2008 (at least 15 days after receipt of application).
2. **Condition 2:** The latest date that operation of equipment can continue at this location is 7/28/2008 (90 days after relocation).
3. **Condition 3:** The crusher plant shall limit the source of material to what has been excavated to date for the railroad construction; a new pit at this location is not allowed.

If you have questions about this permit please call me in Santa Fe at (505) 476-4341.

Sincerely,

Melinda Owens
Environmental Scientist
Permits Section
Air Quality Bureau

cc: Ki-Stone Environmental

KI-STONE
ENVIRONMENTAL

420 SAN PABLO, NE
ALBUQUERQUE NM 87108
MOBILE : 505-980-9313

April 26, 2008

Resident Caretaker and/or Office Manager
La Bajada Rest-Stop Area
I-25
Santa Fe , New Mexico

SUBJECT: **CRUSHING AND SCREENING OF MATERIAL**
LA BAJADA HILL / REST-STOP LOCATION
NEW MEXICO RAIL RUNNER PROJECT

Dear Resident / Office Manager:

This letter is to provide you additional notice that Rock-Con will be relocating west of the Rest-stop Area for a temporary crushing and screening operation. The temporary operation will operate under the rules of the New Mexico Air Quality Bureau and is for the purpose of crushing, screening, and finally remove/utilize the current road construction debris piles at the project site.. We believe that this element of the project is anticipated to take no longer than 90 days to complete.

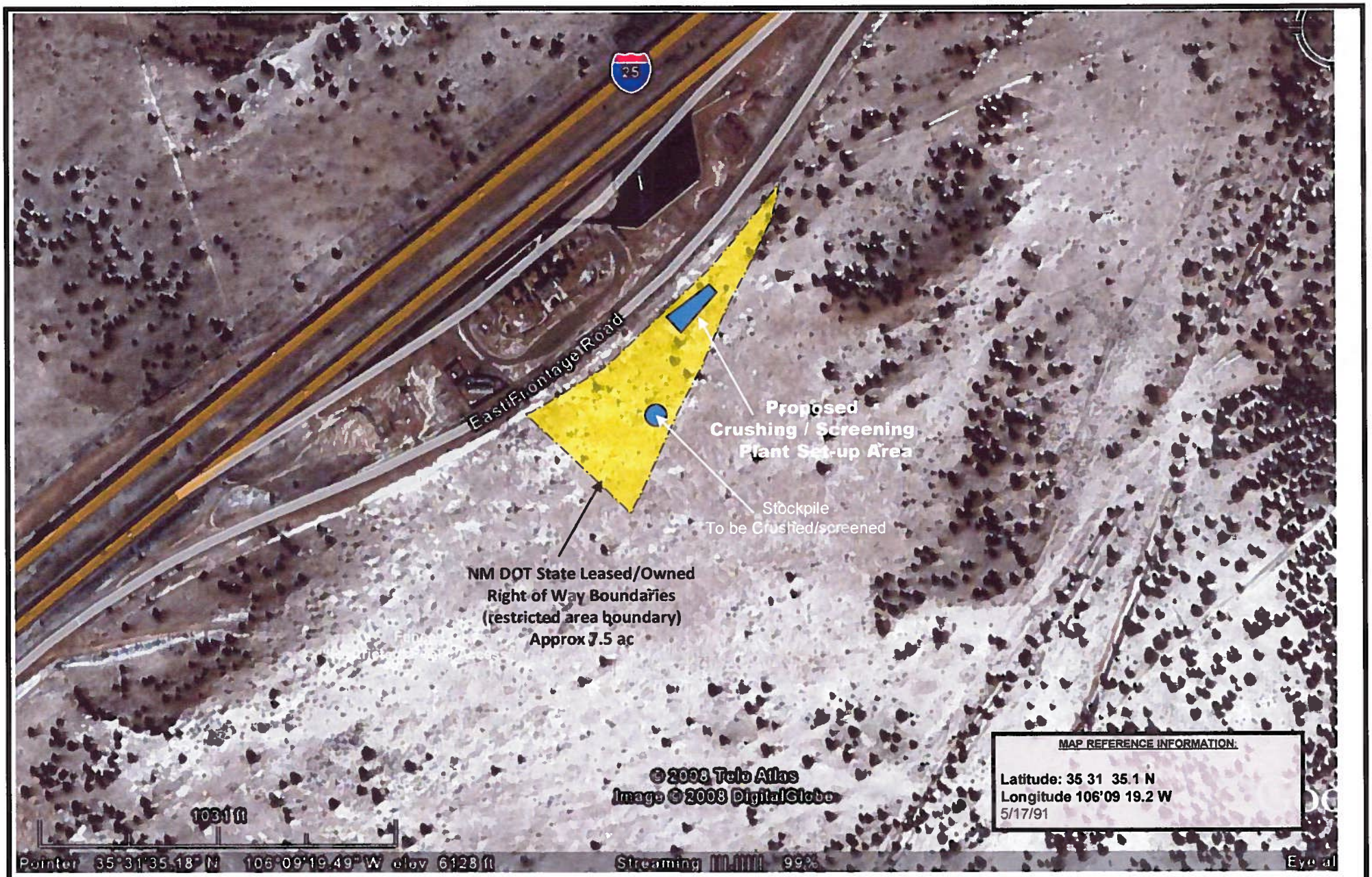
This project is being performed for the New Mexico Rail-runner under sub-contract to Twin Mountain who is working for New Mexico Department of Transportation (NMDOT). The NMDOT contact is Paul Lindberg at 827-5100. The New Mexico Environment Contact is Richard Goodyear at 505-476-4300. I have included a copy of the public notice that was posted at the project site with this letter.

If you have any questions or concerns, please contact either the State Government contacts above or call me at (505) 508-3568.

Sincerely,

Andrew A. Frye
Environmental Consultant for Rock-Con

Cc: Chris Brosious - Rock-Con
Richard Goodyear - NMED

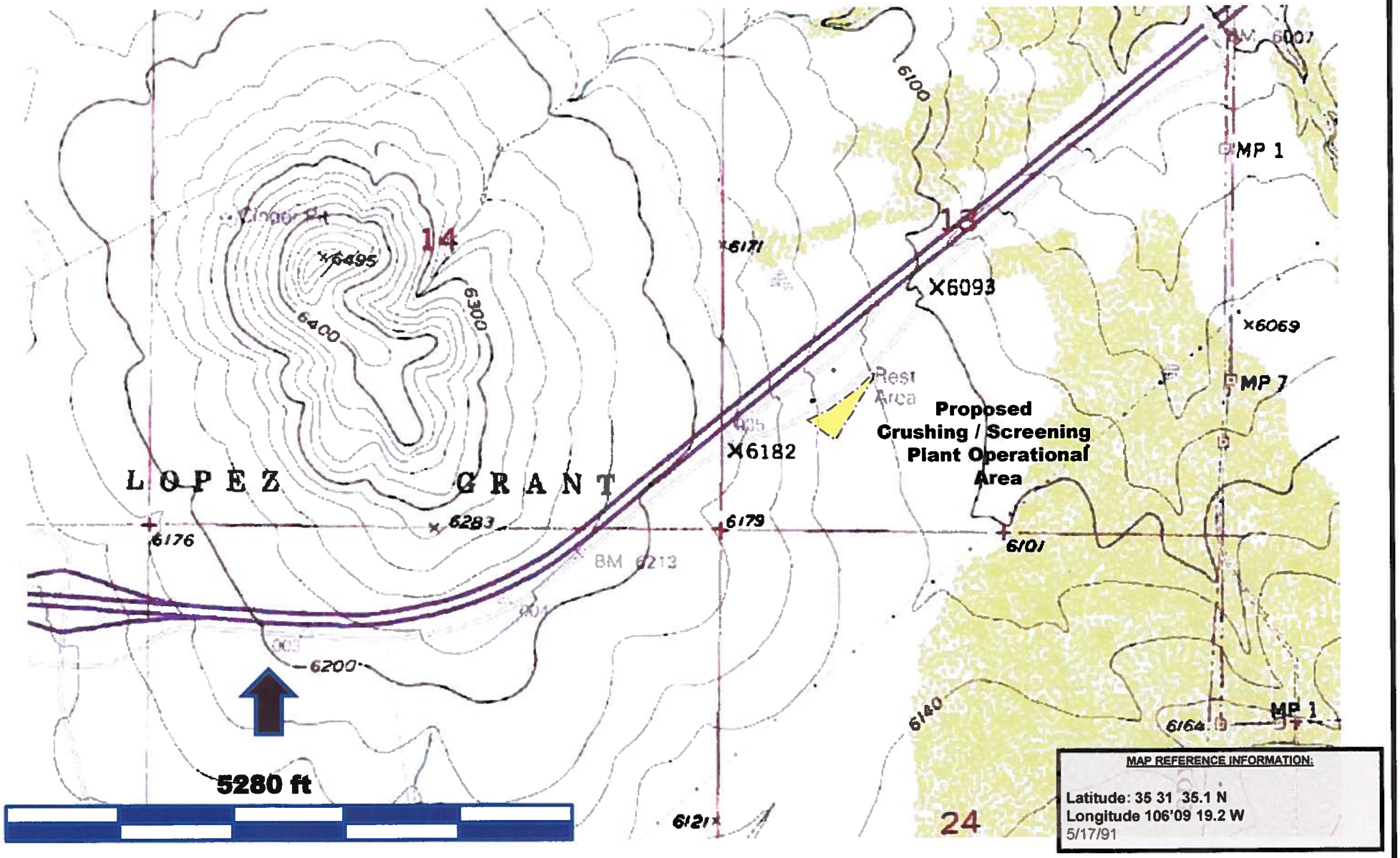


KI-STONE environmental
420 San Pablo, NE
Albuquerque, NM 87108
Phone: (505) 508-3568

Attachment B - Site Plot Plan -
GCP Permit Relocation – Rock-Con Crushing & Screening Plant
Santa Fe County, New Mexico

Project No.: 08-04

Date: April 2008



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Attachment C- Site Relocation Map
GCP Permit Relocation – Rock-Con Crushing & Screening Plant
Santa Fe County, New Mexico

Project No.: 08-04

Date: April 2008