

STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

1313 Sherman St., Room 215

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January 9, 2014

Mr. John P. Ary
Fremont Paving & Redi-Mix, Inc.
839 Mackenzie Avenue
P.O. Box 841
Cañon City, CO 81215

Ms. Angela M. Bellantoni
Environmental Alternatives, Inc.
1107 Main St.
Cañon City, CO 81212

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta Piñeda
Director

**Re: Evans #2 Pit, File No. M-2000-041,
Second Adequacy Review for Amendment 1 (AM-01)**

Dear Mr. Ary and Ms. Bellantoni:

The Division of Reclamation, Mining and Safety (Division) has completed its adequacy review of your response to our October 7, 2013 adequacy letter received on January 6, 2014. The current decision date for this application is January 10, 2014. Please be advised that if you are unable to satisfactorily address any concerns identified in this review before the decision date, **it will be your responsibility to request an extension of the review period.** If there are outstanding issues that have not been adequately addressed prior to the end of the review period, and no extension has been requested, the Division will deny this application.

The review consisted of comparing the application content with specific requirements of Rules 3.1, 6.4 and 6.5 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials. Any inadequacies are identified under the respective exhibit heading along with suggested actions to correct them. The original numbering sequence has been retained to enable tracking responses.

The following items must be addressed by the applicant in order to satisfy the requirements of C.R.S. 34-32.5-101 et seq. and the Mineral Rules and Regulations of the Mined Land Reclamation Board:

6.4.3 EXHIBIT C - Pre-mining and Mining Plan Map(s) of Affected Lands

1. Rule 6.4.3(a)... The response to this item is adequate.

2. Pursuant to Rule 6.4.3(c)... The response to this item is adequate.
3. Rule 6.4.3(f)... The response to this item is adequate.
4. Parcel 6 is not labeled on Exhibit C... The text identifying Parcel 6 is partially obscured, but, the response to this item is adequate.
5. Arrows are shown only in Phase II... The response to this item is adequate.
6. Rule 6.4.3(g)... The response to this item is adequate.

6.4.4 EXHIBIT D – Mining Plan

7. The current approved mining plan... The response to this item is adequate.
8. The recent approval of TR-03... The response to this item is adequate.
9. Pursuant to Rule 6.4.4(e)... The response to this item is partially adequate.
 - a. The Division acknowledges the Operator's desire for a phased bonding approach. The response to this item is adequate
 - b. Please provide a time table for various phases of the operation... The response to this item is partially adequate with respect to time tables and milestones. However, the following items need to be addressed:
 - i. Parcels 1, 2, and 3 – the response to this item is adequate. Please be aware that an interim bond cannot be released until interim reclamation is complete or the discussed third party bond is received by the Division.
 - ii. Parcel 4 – The response alludes to the “completion of 3H:1V slopes”. The current approved mining plan does not specify the slopes at which mining is to occur. This information is necessary to estimate the appropriate bond for reclamation liability. In addition, the Division cannot accept any reclamation plan (interim or final) that leaves groundwater exposed unless a Division of Water Resources approved augmentation plan is in place.
 1. Please specify what at what slopes active mining occurs (0.5H:1V, 1H:1V, etc.).
 2. Please revise the backfill elevation requirement for interim reclamation to at least 2 feet (3 feet preferred) above the expected static (i.e., assuming no dewatering) groundwater elevation, unless there is an approved augmentation plan in place. If there is an augmentation plan, please provide a copy. (Note: specify backfill elevation(s) based on the results presented in Hydrogeology Evaluation by Blue Earth Solutions, LLC (BES) and include the same elevation(s) in the Exhibit E Reclamation Plan).
 - iii. Parcel 5 – The response alludes to the parcel being backfilled to “a level above static groundwater”. Please revise the backfill elevation requirement for interim reclamation to at least 2 feet (3 feet preferred) above the expected static (i.e., assuming no dewatering) groundwater

elevation. Again, specify backfill elevation(s) based on the results presented in BES's Hydrogeology Evaluation.

- iv. Phase III – same comment and required response as that for Parcel 4 (see Item 9.b.ii above).

- 10. The revised mining plan ... false pit floor... The response to this item is partially adequate, in regards to survey control points. However, these survey control points need to be tied to groundwater elevations established in BES's Hydrogeology Evaluation. Please revise this response as detailed in Item 9.b, et seq. above.

6.4.5 EXHIBIT E – Reclamation Plan

Based on discussions with the Operator, their consultants, and the submittals received to date; the Division provides the following discussion and clarification as to what is necessary to obtain an approved reclamation plan. Please be aware that the Division's primary objective with respect to reclamation bonding is to hold, at any given time, sufficient bond to reclaim an active mine site to a beneficial use that does not expose groundwater (unless an approved augmentation plan is in place). Given the currently proposed interim and final reclamation plans, the Operator should also be aware that the interim reclamation does not necessarily need to be completed in order to release the interim reclamation bond. If the proposed Technical Revision is submitted, approved, and the appropriate bond for final reclamation is received, the Division may release the interim bond, without interim reclamation being completed. However, the interim bond must be sufficient to satisfy the primary objective. This approach provides the Operator and the Landowner with options that allows the Division to satisfy its primary objective while providing the Landowner and the Operator some flexibility in achieving the goal of a water storage project.

{Other options: Although it is not possible to transfer a portion of a permit through a succession of operator (SO) application, it is possible to "re-permit" over a portion of an existing permit. This approach would enable the transfer of control and reclamation liability from the Operator to the Landowner. Such a permit could be written to allow the current Operator to perform the day-to-day mine operations, while not being liable for reclamation. If this approach is of interest to the parties involved, a meeting with the Division to discuss specifics is recommended.}

- 11. The proposed reclamation plan... The response to this item is partially adequate. The Division will accept a Technical Revision to address the specific seed mix for final reclamation. However, the commitment must come from the Operator, not the Landowner. Please provide a commitment from the Operator to address the specific final reclamation seed mix in the proposed Technical Revision.
- 12. Please ... clarify when interim reclamation... The response to this item is partially adequate. The schedule and milestones are acceptable, However, as discussed in Item 9.b.ii above, the Division requires clarification as to what is required to construct the 3H:1V slopes.
- 13. The proposed interim reclamation for Parcel 4 and Phase III... The response to this item is adequate. However, based on other provided responses, the Division needs clarification on slope construction, backfill volumes and the availability of sufficient

backfill material, if the Operator wants credit for current backfill efforts and the avoidance of additional bond to import sufficient backfill volume. Please provide the following:

- a. Clarification as to pit floor elevation and certification (such as by the surveyor alluded to in the Item 10 response). This will information ensure the appropriate volumes are considered for the interim bond calculation.
 - b. Please also provide information on the currently unused/available stockpiled volume of both backfill material and topsoil/growth media.
14. The proposed final reclamation plan... The response to this item is partially adequate. As discussed in Item 11, The Division will accept a Technical Revision to address the specifics for final reclamation. However, the commitment must come from the Operator, not the Landowner. Please provide a commitment from the Operator to address the final reclamation specifics in the proposed Technical Revision.

6.4.6 EXHIBIT F – Reclamation Plan Map

15. There remains one discrepancy in the Parcel areas shown on the Exhibit F Mine Plan Map when compared to Table 1 – Phase and Parcel Interim and Final Reclamation. Parcel 5 is listed as 30 acres in Table 1 and 31 acres on Exhibit F. Please make appropriate corrections to make Table 1 and Exhibit F consistent.
16. Please clarify ... Parcel 5... The response to this item is adequate.

6.4.7 EXHIBIT G – Water Information

17. Rule 6.4.7(2)... The response to this item is adequate.
18. Provide estimate of project water requirements... The response to this item is adequate.
19. Please indicate the projected amount... The response to this item is adequate.
20. Please provide a list and locations of all registered alluvial wells... The response to this item is partially adequate. There are four wells shown on Exhibit C that are not listed, nor summarized in Table 3, Permitted Wells within 600 ft of Permit Boundary. The missing well ID numbers are: 46202, 15833, 48028, and 10658, if read correctly off the small font on Exhibit C. Please revise Table 3 to include theses four wells and their pertinent information.
21. Division will require the Operator to mitigate... The response to this item is adequate.
22. Groundwater monitoring locations... By way of the stated commitment to provide monthly water levels in the annual report, the response to this item is adequate for the commitment to install monitoring wells as well as providing monthly monitoring data.

6.4.12 EXHIBIT L – Reclamation Costs

23. Revised Exhibit L. The response to this item is partially adequate. The response to this item indicates the costs are only for Parcels 1 – 4. There are two tasks missing (Fremont Paving's power line removal and backfilling to 2 or 3 feet above static groundwater) from

Table 4 and one that requires clarification (slope rebuilding). In order to satisfy the requested phased bonding approach for interim reclamation, the Division also requires interim reclamation cost estimates for Phases II and III. Any approval of a permit or revision with a phased bonding approach includes a commitment from the Operator to notify the Division of the intent to progress into the next phase of mining and provide the Division with the additional bond prior to proceeding with the next phase of mining. Please provide the following:

- a. Clarification on the volume of material and associated cost needed for slope rebuilding.
- b. Volume estimate and associated cost for completing backfill to the 2 or 3 feet above static, non-dewatering groundwater elevation.
- c. Cost estimate to remove the power line owned by Fremont Paving.
- d. Separate reclamation cost estimates for Phases II and III (*Note: for the phased approach, these will not be required until the that particular phase is initiated*).
- e. A commitment from the Operator to notify the Division and provide additional bond prior to entering the next phase of mining.

6.4.13 EXHIBIT M – Other Permits and Licenses

24. The response to this item is partially adequate. Comments from Pueblo County confirm that a 1041 is required by the County prior to the commencement of final reclamation of Parcel 4 and Phase III. Furthermore, due to the nature of the pending approach to revise the permit for final reclamation using a Technical Revision (TR), the Division must ensure Pueblo County is notified of the proposed change in land use (requiring a 1041) as TRs do not require notices be sent by the Division. Please provide a formal commitment from the Operator to notify the Pueblo County of the pending land use change prior to initiating final reclamation

6.4.14 EXHIBIT N – Source of Legal Right to Enter

25. The originally approved Exhibit N... The response to this item is adequate..

6.4.15 EXHIBIT O – Owner(s) of Record of Affected Land (Surface Area) and Owners of Substance to be Mined

26. Please submit an updated Exhibit ... The response to this item is adequate..

6.4.17 EXHIBIT Q – Proof of Mailing of Notices to Board of County Commissioners and Soil Conservation District

27. Pursuant to Rule 1.6.2(1)(a)(ii)... The response to this item is adequate..

6.4.18 EXHIBIT R – Proof of Filing with County Clerk and Recorder

28. Please provide the return receipt... The response to this item is adequate..

6.4.19 EXHIBIT S – Permanent Man-Made Structures

29. The response to this item is adequate..

January 9, 2013

Other Concerns

30. The Division has received comments... No direct response to this item was provided. Items a, b, and d were addressed in Table 5, Permits and Licenses of the response. Please respond to Item 30c below:

- a. US Army Corps of engineers – The Table 5 response to this item is adequate.
- b. Pueblo County Department of Planning and Development – The Table 5 response to this item is adequate.
- c. Southwest Farms, Inc. – address adverse effect on the balance of groundwater.
NO RESPONSE WAS PROVIDED. PLEASE PROVIDE A RESPONSE.
- d. Division of Water Resources – The Table 5 response to this item is adequate.

Please remember that the decision date for this application is Friday, January 10, 2014. As previously mentioned if you are unable to provide satisfactory responses to any inadequacies prior to this date, **it will be your responsibility to request an extension of time to allow for continued review of this application.** If there are still unresolved issues when the decision date arrives and no extension has been requested, the application will be denied. If you have any questions, please contact me at (303) 866-3567, ext. 8169.

Sincerely,



Timothy A. Cazier, P.E.
Environmental Protection Specialist

Enclosures

ec: Tom Kaldenbach, DRMS
Angela Bellantoni, EAI
DRMS file