



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, Colorado 80203

May 18, 2015

Steve O'Brian
Environment, Inc.
7985 Vance Dr., #205A
Arvada, CO 80003

Re: Leone Gravel Pit #2, Permit No. M-2006-085, 112 Construction Materials Reclamation Permit Amendment Application (AM-01), Preliminary Adequacy Review

Mr. O'Brian:

The Division of Reclamation, Mining, and Safety (Division) has completed its preliminary adequacy review of your 112 construction materials reclamation permit amendment application (AM-01). The application was called complete for review on May 12, 2015. All comment and review periods began on May 12, 2015. The decision date for this application is **August 10, 2015**.

The review consisted of comparing the application content with specific requirements of Rule 6.1, 6.2, 6.4 and 6.5 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials. In general the application was substantially adequate; however, as with most applications there are some items that will require clarification of the existing information. Any inadequacies are identified under the respective exhibit heading:

APPLICATION FORM:

On Page 2, General Description, please provide the number of miles and direction from the nearest town and the approximate elevation.

On Page 4, Description of Amendment or Conversion, you state "This amendment adds 366.67 acres more or less to an existing gravel mine." However, on Page 1, you state that 327.50 acres are being added to the permitted acreage (and this is what is shown on the maps submitted). Therefore, it appears that the correct added acreage is 327.50 acres. If this is correct, please change the added acreage listed here.

EXHIBIT A - Legal Description (Rule 6.4.1):

Adequate as submitted

EXHIBIT B - Index Map (Rule 6.4.2):

Adequate as submitted



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

- (a) Map C and Map C-1 submitted show landowner information for the parcels included in the proposed permit area. However, it is unclear on the map whether the Biber family and Randall and Joyce Howell also own the land immediately adjacent to the proposed permit area. On at least one of these maps, please show all immediately adjacent surface owners of record.
- (b) Adequate as submitted
- (c) Adequate as submitted
- (d) Adequate as submitted
- (e) Adequate as submitted
- (f) Adequate as submitted
- (g) Map C and Map C-1 submitted show the location of one fenceline, oriented NW-SE across the southern portion of the Biber parcel. However, you state that the Howells also own 3-strand wire fences on or within 200 feet of the affected land. Please be sure to show the locations of all permanent or man-made structures contained on the area of affected land and within two hundred (200) feet of the affected land on at least one of the maps submitted.
- (h) Adequate as submitted
- (i) Adequate as submitted

EXHIBIT D - Mining Plan (Rule 6.4.4):

The mining plan shall supply the following information, correlated with the affected lands, map(s) and timetables:

- (a) Adequate as submitted
- (b) Adequate as submitted
- (c) You state in this exhibit that "...all stormwater will be directed to holding ponds built on the mined area". Please describe in the text and/or indicate on the Mining Plan Map where these ponds might be constructed.
- (d) Adequate as submitted
- (e) In the Mining Timetable (Table D-1) you submitted with this exhibit, you state that the total area of Buffers and Setbacks is 184.80 acres, including 64.10 acres on the Howell parcel and 120.70 acres on the Biber parcel. Please describe in this exhibit and show on the Mining Plan Map the locations of these buffers and setbacks.



(f) Adequate as submitted

(g) Adequate as submitted

(h) Adequate as submitted

EXHIBIT E - Reclamation Plan (Rule 6.4.5):

Adequate as submitted

EXHIBIT F - Reclamation Plan Map (Rule 6.4.6):

Adequate as submitted

EXHIBIT G - Water Information (Rule 6.4.7):

Adequate as submitted

EXHIBIT H - Wildlife Information (Rule 6.4.8):

Adequate as submitted

EXHIBIT I - Soils Information (Rule 6.4.9):

Adequate as submitted

EXHIBIT J - Vegetation Information (Rule 6.4.10):

Adequate as submitted

EXHIBIT K - Climate (Rule 6.4.11):

Adequate as submitted

EXHIBIT L - Reclamation Costs (Rule 6.4.12):

- (1) Your reclamation cost estimate provided in this exhibit is based on a maximum disturbed area of 20 acres at any time in the proposed permit area located on the Biber property. Please be advised that the required financial warranty must include costs for reclaiming all land disturbed by the operation, including that located in the existing permit area and that located in the proposed permit area.

You state in Exhibit D that all but 36.80 acres of the existing 180 acres permitted have been disturbed and are in various stages of reclamation. This would mean that 143.20 acres have been disturbed in the existing permit area. However, you state that reclamation is partially or totally complete on approximately 74.55 acres. Does this mean that 68.65 acres in the existing permit area have been disturbed but are not in reclamation? Is this unreclaimed area being used by the operation (e.g. for processing, stockpiling)? Please clarify here how many acres in the existing permit area have been disturbed and specify what reclamation tasks are left for each portion (by acreage) so that the Division can estimate reclamation costs associated with the existing permit area.

If the operation intends to maintain a maximum disturbance of 20 acres, this must include all disturbed land in the entire permit area that has not been reclaimed in accordance with the approved reclamation plan. With this in mind, does the operator intend to disturb only 20 acres at any time



within the entire permit area, including both the Howell and Biber properties?

If, at a later date, the operator intends to disturb more than 20 acres, the maximum allowed disturbance could be revised with the submittal of a Technical Revision.

EXHIBIT M - Other Permits and Licenses (Rule 6.4.13):

Adequate as submitted

EXHIBIT N - Source of Legal Right to Enter (Rule 6.4.14):

In this exhibit, you provided an adequate lease agreement between the operator and Randall and Joyce Howell, and an adequate access agreement between the operator and the Howells, the Bibers, and the Stanley H. Biber Family Trust for use of the existing ranch road that crosses both properties.

However, the letter provided for the proposed permit acreage owned by John and Terri Biber and The Stanley H. Biber Family Trust is not adequate because it is not notarized. You state in this exhibit that a lease for the Biber parcel will be submitted to the Division as soon as it is available. Please be aware that either a copy of access lease for the Biber parcel or a signed statement by the landowner(s), acknowledged by a Notary Public, stating that the operator has legal right to enter and mine, must be submitted to the Division before the Amendment can be approved.

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

Of the three owners of record listed, please specify which ones are owners of subsurface rights of the affected land, and which ones are owners of surface of the affected land.

EXHIBIT P - Municipalities Within Two Miles (Rule 6.4.16):

Adequate as submitted

EXHIBIT Q - Proof of Mailing of Notices to County Commissioners and Soil Conservation District (Rule 6.4.17):

Adequate as submitted

EXHIBIT R - Proof of Filing with County Clerk and Recorder (Rule 6.4.18):

Adequate as submitted

EXHIBIT S - Permanent Man-Made Structures (Rule 6.4.19):

The Division was able to find an adequate structure agreement provided with the original application for the high-pressure gaslines present in the existing permit area.

You state in this exhibit that structure agreements for the property fences present on and within 200 feet of the proposed affected area are included in the lease agreements with the respective owners. However, this information could not be found in the lease agreements provided to the Division.



In accordance with Rule 6.4.19, when mining operations will adversely affect the stability of any significant, valuable and permanent man-made structure located within 200 feet of the affected area, the applicant may either:

- (a) Provide a notarized agreement between the applicant and the person(s) having an interest in the structure, that the applicant is to provide compensation for any damage to the structure; or
- (b) Where such an agreement cannot be reached, the applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or

Please provide one of the items listed above for each owner of a property fence present on and within 200 feet of the proposed affected area.

ADDITIONAL INFORMATION:

Prior to approval of this Amendment, you must provide the Division with proof of publication and proof of all required notices pursuant to Rule 1.6.2(1)(g).

This concludes the Division's preliminary adequacy review of this application. Please remember that the decision date for this amendment application is August 10, 2015. **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. In order to allow the Division adequate time to review your responses to any adequacy issues, please submit your adequacy responses to the Division no later than two weeks prior to the decision date.**

Please note that any changes or additions to the application on file in our office must also be reflected in the public review copy, which has been placed with the Las Animas County Clerk and Recorder.

If you have any questions, please contact me at the Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at 303-866-3567, extension 8129, or by email at amy.eschberger@state.co.us.

Sincerely,



Amy Eschberger
Environmental Protection Specialist

CC: Frank Leone, Jr.
Leone Sand and Gravel, LLC
2400 E. Main St.
Trinidad, CO 81082

Wally Erickson, DRMS

