



**COLORADO**

**Division of Reclamation,  
Mining and Safety**

Department of Natural Resources

1313 Sherman Street, Room 215  
Denver, CO 80203

October 19, 2015

Mr. Fred J. Marvel  
Brannan Sand and Gravel Company, L.L.C.  
2500 East Brannan Way  
Denver, CO 80229

**Re: Pit 29, DRMS Permit No. M-1980-183, Approval of Amendment No.2 (AM-02)**

Dear Mr. Marvel:

On October 14, 2015, the Division of Reclamation, Mining and Safety (Division) approved the Amendment application submitted to the Division on December 12, 2014, addressing the following:

*Permanent Groundwater Mounding Mitigation Plan.*

The terms of AM-02 approved by the Division are hereby incorporated into Permit No. M-1980-183. All other conditions and requirements of Permit No. M-1980-183 remain in full force and effect.

The estimated liability amount of \$1,377,450.00 exceeds the \$568,900.00 performance bond currently held. If you have not already done so, please submit additional bond in the amount of \$808,550.00. You must submit a Financial Warranty in this amount and an updated Performance Warranty in order for AM-02 to be final. Please select a type of financial warranty from Rule 4.3. Then contact us so that we can provide you with the appropriate warranty form. We have enclosed a Performance Warranty form with this letter for your use.

Please be advised that the Mined Land Reclamation Board (Board) Order issued November 13, 2014, requires the Operator to implement the permanent plan within 30 days of the Division's approval. Also the Financial Warranty associated with AM-02 must be in place prior to the commencement of activities approved through AM-02.

If you need additional information please contact me at the Division of Reclamation, Mining and Safety, 1313 Sherman St., Room 215, Denver, CO 80203, by telephone at 303-866-3567, extension 8131, or by email at [Tyler.ODonnell@state.co.us](mailto:Tyler.ODonnell@state.co.us).

Sincerely,

Tyler O'Donnell  
Environmental Protection Specialist

Enclosure: Performance Warranty

ec: Wally Erickson, DRMS  
Alex Schatz, Brannan

Tom Hatton, Applegate Group  
Eugene J. Riordan, Esq., Vranesh and Raisch





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### **PERFORMANCE WARRANTY**

Permittee: Brannan Sand and Gravel Company, L.L.C.

Operation: Pit 29

Permit No: M-1980-183

***This form has been approved by the Mined Land Reclamation Board pursuant to sections 34-32-117, C.R.S., of the Mined Land Reclamation Act and 34-32.5-117, C.R.S., of the Colorado Land Reclamation Act for the Extraction of Construction Materials. Any alteration or modification of this form, without approval by the Board shall result in the financial warranty being invalid and result in the voiding of any permit issued in conjunction with such invalid financial warranty and subject the operator to cease and desist orders and civil penalties for operating without a permit pursuant to sections 34-32-123, C.R.S., of the Mined Land Reclamation Act and 34-32.5-123, C.R.S., of the Colorado Land Reclamation Act for the Extraction of Construction Materials.***

KNOW ALL MEN BY THESE PRESENTS, THAT:

WHEREAS, the Colorado Mined Land Reclamation Act, C.R.S. 34-32-101 et seq. (the "Act"), as amended, and the Colorado Land Reclamation Act for the Extraction of Construction Materials, C.R.S. 34-32.5-101 et seq. (the "Act"), as amended, provides that no permit may be issued under the Act until the Mined Land Reclamation Board (the "Board") receives a performance warranty (or warranties) that is a written promise to comply with all applicable requirements of the Act.

WHEREAS, Brannan Sand and Gravel Company, L.L.C. (the "Permittee"), has applied for a permit to conduct a mining operation known as Pit 29 (the "Operation") on certain lands in Adams County, Colorado. These lands are described in the permit application, as amended and Supplemented, and are referred to herein as the "Affected Lands".

WHEREAS, in its application for the permit, the Permittee has agreed to be bound by all requirements of the Act and all applicable rules and regulations of the Board, as amended from time to time.

WHEREAS, the Board has determined, in accordance with the Act, that the estimated costs of reclamation with regard to those affected lands in Adams County which are now or may become subject to the permit are those amounts for the stated periods of time as set forth in the financial warranty, which may be amended from time to time to reflect revised estimates of said costs of reclamation.



WHEREAS, the Permittee hereby gives the Board a performance warranty pursuant to Section 34-32-117(2) or Section 34-32.5-117(2) of the Act, and herein promises the Board that it will comply with all applicable requirements of the Act with regard to those Affected Lands.

NOW, THEREFORE, the Permittee hereby promises the Board that it will comply with all applicable requirements of the Act and rules and regulations of the Board with respect to the Affected Lands.

FURTHER, the Permittee hereby promises the Board that it will comply with all of the terms of the application for a permit, as amended and supplemented, as well as any conditions attached to the permit by the Board.

FURTHER, the Permittee promises the Board, pursuant to 34-32-112(2)(d) or 34-32.5-112(1)(c)(iv) of the Act, that it has the lawful authority to enter upon the Affected Lands to conduct mining operations, including, but not limited to, reclamation. The Permittee further recognizes the right of the Board to enter to reclaim lands affected by the operation.

The description of lands herein is for convenience of reference only, and no error in such description, nor any revision of the permitted mining area, nor the disturbance by the Warrantor of lands outside of the permitted mining area shall alter or diminish the Permittee's obligation hereunder, which shall extend to the reclamation of all such lands disturbed.

The obligation of the Permittee hereunder is such that, if the Permittee shall successfully comply with the requirements of the Act, applicable rules and regulations, and the permit, then the Board, upon a finding that the Permittee has so complied, shall release this performance warranty, and the Permittee from its obligation hereunder, to the extent that the Board determines that such compliance has been accomplished. The obligation of the Permittee hereunder shall continue until released in whole or in part by the Board in accordance with applicable law.

In further satisfaction of the requirements of the Act, the Permittee promises to be responsible for the cost of reclamation up to the amount established by the Board and has attached hereto its financial warranty, which may be amended from time to time. The Permittee agrees that it will maintain a financial warranty (or warranties) for the estimated costs of reclamation in good standing for the entire life of the permit. Please note that under the provisions of the Colorado Mined Land Reclamation Act and the Colorado Land Reclamation Act for the Extraction of Construction Materials, any Applicant or Permittee that submits proof, acceptable to the Board or Division of Reclamation, Mining and Safety, that an Applicant or Permittee is a unit of County or Municipal government, or is a department or division of State government, the Applicant or Permittee is not required to submit or post any other instrument of financial responsibility but hereby promises to be responsible for the cost of reclamation up to the amount specified by the Board.

If the Board determines that the Permittee is in default under this performance warranty and has failed to cure such default, although written notice of such default and ample time to cure such default have been given, the Permittee's financial warranty shall be subject to forfeiture.

This performance warranty may be executed in multiple copies, each of which shall be treated as an original, but together they constitute only one agreement, the validity and interpretation of which shall be governed by the laws of the State of Colorado.

This performance warranty may be executed in multiple copies, each of which shall be treated as an original, but together they constitute only one agreement, the validity and interpretation of which shall be governed by the laws of the State of Colorado.

The provisions hereof shall bind and inure to the benefit of the parties hereto and their successors and assigns.

SIGNED, SEALED AND DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Brannan Sand and Gravel Company, L.L.C. (SEAL)  
Permittee

By: \_\_\_\_\_

Title: \_\_\_\_\_

**NOTARIZATION OF PERMITTEE'S ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission expires: \_\_\_\_\_

APPROVED:  
State of Colorado  
Mined Land Reclamation Board  
Division of Reclamation, Mining and Safety

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Division Director