



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215

Denver, Colorado 80203

November 20, 2015

Dave Hornung
Kit Carson County
P.O. Box 160
Burlington, CO 80807

RE: Adequacy Letter; Beattie Pit #1; Permit No. M-1982-098; Conversion Application (CN-01)

Dear Mr. Hornung,

The Division of Reclamation, Mining and Safety (Division) has reviewed the content of your permit Conversion Application (CN-01) for the Beattie Pit #1, File No. M-1982-098, and submits the following comments. **The Division is required to make an approval or denial decision no later than January 4, 2016; therefore, a response to the following adequacy review concerns should be submitted to the Division as soon as possible.** In order to allow the Division adequate time to review your responses to the adequacy issues, please submit your adequacy responses to the Division no later than December 28th.

The review consisted of comparing the application content with specific requirements of Rules 1, 3, 6.1, 6.2, and 6.4 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. Please title your response "Response to Adequacy Letter" and address the items below by their respective number. You may also (additional to each response in a cover letter) submit replacement pages to the application on file with the Division.

GENERAL

1. As required by Rule 1.6.2(d) and 1.6.5(2), please submit proof of publication in a newspaper of general circulation in the locality of the proposed mining operation.
2. As required by Rule 1.6.2(e), please submit proof of the notice to all owners of record of surface and mineral rights of the affected land and the owners of record of all land surface within 200 feet of the boundary of the affected land; this includes all easement holders located on the affected land and within 200 feet of the boundary of the affected land. Proof of notice may be return receipts of a Certified Mailing or by proof of personal service.
3. The Division received comments from the Division of Water Resources and Colorado Parks and Wildlife. The letters are attached for review. Please acknowledge the letters, address any comments within the letters, and make changes to the application as necessary.
4. To make the process more efficient, the Division has attached the new Performance warranty form which will need to be signed and notarized. The original will need to be returned prior to the permit conversion issuance.

6.4 SPECIFIC EXHIBIT REQUIREMENTS – REGULAR 112 OPERATIONS

The following items must be addressed by the Operator 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:



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

5. In accordance with Rule 6.4.3(a), update a previously submitted Exhibit C map or provide a new map which legibly portrays all adjoining surface owners of record.
6. In accordance with Rule 6.4.3(e), please update a previously submitted Exhibit C map or provide a new map which legibly portrays the type of present vegetation covering the affected lands.
7. In accordance with Rule 6.4.3(g), update a previously submitted map or provide a new map which shows the location of all permanent or man-made structures contained on the area of affected land and within 200 feet of the affected land; the map shall also contain labels of these structures which list the owner's name and type of structure. Specifically, please update the Exhibit C map to show the additional information for the power poles and County Road 31. Additionally, please add the fence line, which the Division observed during the pre-operational inspection, within the proposed permit boundary.

EXHIBIT D - Mining Plan (Rule 6.4.4):

8. If water diversions and impoundments will be created as a part of this operation, provide a description of these.
9. In accordance with Rule 6.4.4(g)(i), state the nature, depth and thickness of the ore body or deposit to be mined and the thickness and type of overburden to be removed (may be marked "CONFIDENTIAL," as per Paragraph 1.3(3)).
10. In accordance with Rule 6.4.4(g)(ii), state the nature of the stratum immediately beneath the material to be mined.
11. Specify if explosives will be used in conjunction with mining or reclamation.
12. The map which was submitted in Exhibit D possibly contains an error. Please review and revise the sentence numbered 4, which states the "Back slopes at a 3:0 ratio".

EXHIBIT E - Reclamation Plan (Rule 6.4.5):

13. Though indicated as Pastureland on page 4 of the application, please update the Exhibit E narrative and provide a description of the type of reclamation the Operator proposes to achieve in the reclamation of the affected land in per the requirements of Rule 6.4.5(2)(a).
14. In accordance with Rule 6.4.5(2)(b), provide a description comparing the proposed post-mining land use to other land uses in the vicinity.
15. In accordance with Rule 6.4.5(2)(c), provide a description of how the reclamation Plan will be implemented to meet each of the applicable requirement of Rule 3.1
16. In accordance with Rule 6.4.5(2)(e), provide a plan or schedule indicating how and when reclamation will be implemented. Such plan or schedule shall not be tied to any specific date but shall be tied to implementation or completion of different stages of the mining operation as described in Subparagraph 6.4.4(1)(e). The plan or schedule shall include:
 - (i) An estimate of the periods of time which will be required for the various stages or phases of

- reclamation;
- (ii) A description of the size and location of each area to be reclaimed during each phase; and
 - (iii) An outline of the sequence in which each stage or phase of reclamation will be carried out. (The schedule need not be separate and distinct from the Reclamation Plan, but may be incorporated therein.)

EXHIBIT G – Water Information (Rule 6.4.7):

17. The submitted Reclamation Plan's Final Contour Map shows a small drainage ravine in the northwest portion of the site. This drainage was also observed during the 10/15/15 Pre-Operational Inspection. Please commit to ensuring stormwater remains on site by constructing a barrier (i.e a small berm) across this drainage during the mining phase or commit to obtaining a Storm Water Management Plan from the Water Quality Control Division of the Colorado Department of Environment and Public Health.

EXHIBIT H – Wildlife Information (Rule 6.4.8):

18. In accordance with Rule 6.4.8(1)(c), provide a description of the presence and estimated population of threatened or endangered species, from either federal or state lists, within the vicinity of the application area.
19. In accordance with Rule 6.4.8(1)(d), provide a description of the general effect during and after the proposed operation on the existing wildlife in the area. Within this description please identify but not limited to the following: temporary and permanent loss of food and habitat, interference with migratory routes, and the general effect on the wildlife from increased human activity, including noise.

EXHIBIT J – Vegetation Information (Rule 6.4.10):

20. In accordance with Rule 6.4.10(1)(a), provide quantitative estimates of cover and height for the vegetation described in Exhibit J of the application.
21. The Application states that the proposed expansion area is located between an irrigated circle and a dryland farm ground. After reviewing an aerial image, the Division cannot locate this irrigated circle. Please clarify this statement or update the application if necessary.

EXHIBIT L - Reclamation Costs (Rule 6.4.12):

22. The narrative within Exhibit L states that the area of excavation will be mined at a slope of 2:1 and finished at 3:1. The Division could not find a reference within the Mining Plan that the slopes would be mined at 2:1. Please clarify this statement and update the application, either Exhibit D or Exhibit L, to reflect this.
23. The narrative within Exhibit L also states that the slopes will be fertilized following a soil test. The Division could not find a reference within the Reclamation Plan that the site would be fertilized nor if soil tests would be done. Please clarify this statement and update the application, either Exhibit E or Exhibit L, to reflect this.

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

24. The last sentence within Exhibit N narrative is likely incomplete. Please revise this to include that permission was obtained by Robin Lee Liming Living Trust and Kristy Liming Living Trust to access additional material and properly reclaimed the mined area.

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

25. 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 was placed with the Kit Carson County Clerk and Recorder by the Operator. Please submit proof that the public review copy has been updated and a copy of the response to this adequacy letter has been added to it.

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

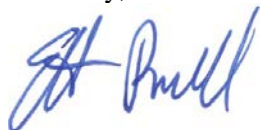
When mining operations will adversely affect the stability of any significant, valuable and permanent man-made structure located within 200 feet of the affected area, the applicant may either:

- (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*
 - (c) Where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have “no negative effect” on their utility.*
26. Please submit a notarized agreement between the Operator and the persons having interests in the fence line within the proposed area in the southern, eastern, and northern portions of the site (observed during the 10/15/15 Pre-Operation Inspection), or submit other documentation in accordance with Rule 6.4.19. A sample structure agreement form has been enclosed with this adequacy letter.

This concludes the Division's adequacy review of this application. This letter shall not be interpreted to mean that there are no other technical deficiencies in your application. Other issues may arise as additional information is supplied. **Please be advised the Conversion Application for the Beattie Pit #1 permit may be deemed inadequate, and the application may be denied on January 4, 2016, unless the above mentioned adequacy review items are addressed to the satisfaction of the Division.** If more time is needed to complete the reply, the Division can grant an extension to the decision date. This will be done upon receipt of a written waiver of the Applicant's right to a decision by January 4, 2016 and the request for additional time. This must be received no later than the deadline date.

If you need additional information or have any questions, please contact me at Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at **303-866-3567 x8132**, or by email at elliott.russell@state.co.us.

Sincerely,



Elliott R. Russell
Environmental Protection Specialist

Enclosures: Division of Water Resources comment letter
 Colorado Park and Wildlife comment letter
 Performance Warranty Form

Cc: Wally Erickson, Division of Reclamation, Mining & Safety