



COLORADO

**Division of Reclamation,
Mining and Safety**

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

April 15, 2016

John P. Ary
Fremont Paving & Redi-Mix, Inc.
839 MacKenzie Avenue
P.O. Box 841
Canon City, CO 81212

Angela M. Bellantoni Ph.D.
Environmental Alternatives Inc.
1107 Main Street
Cañon City, CO 81212

**Re: 44th Lane Project, DRMS File No. M-2016-009,
112 Construction Materials Reclamation Permit Application,
Preliminary Adequacy Review**

Dear Mr. Ary and Ms. Bellantoni:

On February 26, 2016, the Division of Reclamation, Mining and Safety (Division) deemed the above referenced application complete for the purposes of filing. Pursuant to Rule 1.4 the 90-day decision date for the application has been set for May 26, 2016. Please be advised on May 26, 2016, the application may be deemed inadequate and may be denied unless the following adequacy items are addressed to the Division's satisfaction. 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 one week prior to the decision date. Subsequent to receipt and review of the Applicant/Operator's response to these items the Division may identify additional adequacy items.

The review consisted of comparing the application material with specific requirements of Rules 3, 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 (Rules). As with most applications there are a few items that will require clarification of the existing information. Any inadequacies are identified under the respective exhibit headings.



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

- 1) None of the Mine Plan maps identified the location(s) where topsoil stockpiles will be stored. Pursuant to Rule 3.1.9(3), topsoil stockpiles shall be stored in places and configurations to minimize erosion and located in areas where disturbance by ongoing mining operations will be minimized. Such topsoil stockpile areas must be included in the affected area and are subject to all reclamation requirements. The Board may require immediate planting of an annual and/or perennial plants on topsoil stockpiles for the purpose of stabilization. Please identify on the Mine Plan Map(s), the location(s) where topsoil will be stockpiled and stored during mining.

EXHIBIT D - Mining Plan Rule 6.4.4

- 2) Neither the Mine Plan nor the Mine Plan Maps identified the location(s) where topsoil stockpiles will be stored and how the topsoil stockpiles will be protected from erosion. Pursuant to Rule 3.1.9(3), topsoil stockpiles shall be stored in places and configurations to minimize erosion and located in areas where disturbance by ongoing mining operations will be minimized. Such stockpile areas must be included in the affected area and are subject to all reclamation requirements. The Board may require immediate planting of an annual and/or perennial plant(s) on topsoil stockpiles for the purpose of stabilization. Rule 3.1.9 states, where it is necessary to remove overburden in order to mine the construction material, topsoil shall be removed and segregated from other spoil. If such topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be employed so that the topsoil is protected from erosion, remains free of any contamination by toxic material, and is in a usable condition for reclamation. To prevent erosion of the topsoil stockpiles the Division recommends seeding the topsoil stockpiles either during the growing season that the topsoil was stockpiled or no later than the following growing season after the topsoil was stockpiled. In conjunction with the Mine Plan Map(s), please identify in the Mine Plan the location(s) where topsoil will be stockpiled and stored during mining. Please also identify in the Mine Plan, how topsoil stockpiles will be protected as to affectively control erosion. Please provide a seed mix and application rate that will be used to seed the topsoil stockpiles. Please clarify the time of year when topsoil stockpiles will be seeded with a vegetative cover to protect the topsoil from erosion.
- 3) To effectively reestablish vegetative cover, please commit to salvaging at a minimum the top 6 inches of topsoil/growth medium, the Operator is encouraged to salvage more growth medium/topsoil in areas where the topsoil is deeper.
- 4) Many portions of phases 1 and 3 will daylight to the undisturbed lands on all sides. Please clarify how storm water will be managed during mining and reclamation at the following affected areas; processing plants, haul roads and phases 1 and 3.

- 5) Pursuant to Rule 6.4.4(f)(i), please describe the depth and thickness of the deposit to be mined and the thickness and type of overburden to be removed.
- 6) Pursuant to Rule 6.4.4(f)(ii), please describe the nature of the stratum immediately beneath the material to be mined.
- 7) Based on review of recent aerial photography and a discussion with the Operator's Consultant the east-west haul road from 36th Lane to the proposed mine site, is absent and will have to be constructed to support mining. Based on the aerial photography portions of the east-west haul road could exist as a basic two track road, not suitable for haul trucks. It appears that nearly the entire east-west haul road from 36th lane to the site will have to be constructed prior to the commencement of the mining operation and will nearly exclusively serve the mining operation. The Applicant/Operator will need to construct the haul road and dramatically improve existing sections of the two track to support mining operations. Rule 1.1.(3) defines affected lands as the surface of an area within the state where a mining operation is being or will be conducted, which surface is disturbed as a result of such operation. Affected lands include but shall not be limited to private ways, roads, except those roads excluded pursuant to this Rule 1.1(3), and railroad lines appurtenant to any such area; land excavations; exploration sites; drill sites or workings; refuse banks or spoil piles; evaporation or settling ponds; work, parking, storage or waste discharge areas; and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from or are used in such operations are situated. All lands shall be excluded that would be otherwise included as land affected but which have been reclaimed in accordance with an approved plan or otherwise, as may be approved by the Board. Affected land shall not include off-site roads which existed prior to the date on which notice was given or permit application was made to the office and which were constructed for purposes unrelated to the proposed mining operation and which will not be substantially upgraded to support the mining operation. Because the east-west haul road did not exist prior to the 112c application being filed and substantial upgrades must be made to existing two track to support the mining operation, the east-west haul road will be affected land as defined by Rule 1.1(3) and will need to be included within the affected land boundary. The Applicant/Operator will need to include the entire footprint of the east-west road within the affected land boundary of this application. The Applicant/Operator will need to file an Amendment to a 112c Permit Application in Review to include all of the proposed affected land for the east-west haul road. There is no fee for an amendment to an application in review. The Amendment to a 112c Permit Application in Review will need to include amended Mine Plan Maps and amended Reclamation Plan Maps, the amended maps shall clearly depict the affected land boundary including the entire foot print of the east-west haul road. The Amendment application will need to reflect the new total affected area. Because the required Amendment Application to the 112c Permit Application in review will amend the area and location of the affected land, the amendment shall include but is not limited to the following updated items and exhibits:

- i. Application form
 - ii. EXHIBIT A Legal Description
 - iii. EXHIBIT B Index Map
 - iv. EXHIBIT C Pre-Mining and Mining Plan Map(s) of Affected Lands
 - v. EXHIBIT F Reclamation Plan Map
 - vi. EXHIBIT G Water Information
 - vii. EXHIBIT L Reclamation Costs
 - viii. EXHIBIT M Other Permits and Licenses
 - ix. EXHIBIT N Source of Legal Right-To-Enter
 - x. EXHIBIT O Owners of Record of Affected Land (Surface Area) and Owners of Substance to be Mined
 - xi. EXHIBIT Q Proof of Mailing of Notices to County Commissioners and Conservation District
 - xii. EXHIBIT R Proof of Filing with County Clerk or Recorder
 - xiii. EXHIBIT S Permanent Man-Made Structures
- 8) There are four separate mining processing facility areas identified on the Mine Plan Map. Each facility is associated with its prospective phase. Will the topsoil in the proposed processing facility areas be salvaged and segregated prior to the commencement of mining of the specific phase?
- 9) Pursuant to Rule 6.4.4(a)(i), please specify if explosives will be used in conjunction with the mining or reclamation. If explosives will be used please consult with the Division. . If explosives will be used the Applicant/Operator must demonstrate pursuant to Rule 6.5(4), Geotechnical Stability Exhibit, that off-site areas will not be adversely affected by blasting.

EXHIBIT E - Reclamation Plan Rule 6.4.5

- 10) Pursuant to Rule 6.4.5(1)(a), please provide a description of the type(s) of reclamation the Operator/Applicant proposes to achieve in the reclamation of the affected land, why each was chosen, and a general discussion of methods of reclamation as related to the mechanics of earthmoving.
- 11) Pursuant to Rule 6.4.5(2)(d), to insure the establishment of a diverse and long-lasting vegetative cover, the Operator shall employ appropriate techniques of site preparation and protection such as mechanical soil conditioning by discing and ripping; mulching; soil amendments and fertilizers; and irrigation. Please clarify how the seed bed will be prepared prior to final seeding. Please explain the types of equipment that will be used for seed bed preparation. Please include the direction that equipment will be run over reclaimed slopes (parallel, perpendicular, ect), pit floor (north-south, east-west, ect.), and the rest of the affected area.

- 12) Pursuant to Rule 6.3.1.5(3), please explain how mining and final grading will occur in a manner as to effectively control erosion and siltation of the affected land and, how areas outside the affected land will be protected from damage.
- 13) Pursuant to Rule 3.1.10(6), methods of weed control shall be employed for all prohibited noxious weed species, and whenever invasion of a reclaimed area by other weed species seriously threatens the continued development of the desired vegetation. Weed control methods shall also be used whenever the inhabitation of the reclaimed area by weeds threaten further spread of serious weed pests to nearby areas. Many weed species, both annual and noxious thrive in disturbed areas, such as a mine site. As a preemptive measure, please develop a weed control and management plan for both annual weeds and noxious weeds. This plan should be developed in consultation with the county extension agency, or weed control district office and should include; potential species that could develop within the affected land, specific control measures to be applied, a schedule for when control measures will be applied and a post-treatment monitoring plan.
- 14) Pursuant to Rule 6.4.5(1)(a), please provide a comparison of the proposed post-mining land use to other land uses in the vicinity and to adopted state and local land use plans and programs.
- 15) The seed mix provided in the 112c permit application describes a seed mix with 6.45 pure live seeds per acre (see table below).

Seed Mix	Rate –PLS LBS / Acre	Seeds per SQ. FT	Cost /Acre
Blue Grama - Native	0.50	8.16	\$5.19
Switchgrass - Pathfinder	0.70	6.25	\$3.79
Sand Dropseed	0.05	5.97	\$0.35
Little Bluestem - Native	1.10	6.57	\$15.74
Sideoats Grama - Vaughn	4.10	13.46	\$46.17
Totals Seed Mix	6.45	40.41	\$71.24

The proposed seed mix yields 40.41 seeds per square foot, which is relatively low and will most likely yield poor revegetation success. For better revegetation success, the Division recommends that the seed mix have 80 to 120 seeds per square foot. Please either revise the seed mix and/or seeding rates to contain more seeds per square foot. Also please consider adding a forb(s) and a shrub(s) to the seed mix.

- 16) Pursuant to Rule 6.4.5(2)(d), please specify the proposed time of year that final seeding will take place.

- 17) Pursuant to Rule 6.4.5(2)(f)(i), please specify the maximum anticipated slope gradient or expected ranges of reclaimed slopes (horizontal:vertical ratio).
- 18) Pursuant to Rule 6.4.5(2)(f)(v), please specify the anticipated minimum depth or range of depths for those areas where topsoil will be replaced. Please commit to replacing at a minimum 6 inches of topsoil evenly throughout the affected land.
- 19) It appears that the pit floor will be a hard rocky conglomerate and/or a shale. The Reclamation Plan states that the pit floor will be covered with overburden/waste rock. Please clarify the minimum thickness of overburden/waste rock that will be spread throughout the pit floor. The overburden/waste rock will be a valuable subsoil, thicker depths will help aid in reclamation success.
- 20) It appears that the pit floor will be a hard rocky conglomerate and/or a shale. The Reclamation Plan states that the pit floor will be covered with overburden/waste rock. Prior to the replacement of the overburden/waste rock will the pit floor be ripped or fractured?

EXHIBIT F - Reclamation Plan Map Rule 6.4.6

- 21) The seed mix listed on the Reclamation Plan Map 1 of 1 list the following species (see table below):

Seed Mix	Rate –PLS LBS / Acre	Seeds per SQ. FT	Cost /Acre
Blue Grama - Native	0.50	8.16	\$5.19
Buffalograss - Native/Plains	1.65	1.59	\$22.26
Sideoats Grama - Vaughn	1.82	5.97	\$20.49
Western Wheatgrass - Native	4.80	12.12	\$14.64
Needlegrass, Green - Lodorm	1.92	7.98	\$10.37
Totals Seed Mix	10.69	35.83	\$72.94

This list provided on the Reclamation Plan Map differs from the seed mix provided in the Reclamation Plan. Please clarify.

- 22) In the footnote section of the Reclamation Plan Map 1 of 1 the footnotes indicate that only 2 inches of topsoil will be spread over the affected land. 2 inches of topsoil/growth medium is insufficient to reclaim the site properly, please commit to spreading a minimum of 6 inches of topsoil/growth medium over all of the affected land.

EXHIBIT G - Water Information Rule 6.4.7

- 23) Pursuant to Rule 6.4.7(3), please provide an estimate of the projected water requirements for washing rock, dust suppression, and ect, please included flow rates and annual volumes for the development, mining and reclamation phases of the project.
- 24) Pursuant to Rule 6.4.7(4), please indicate the projected amount from each of the sources of water to supply the project water requirements for the mining operation and reclamation.

EXHIBIT H - Wildlife Information Rule 6.4.8

- 25) Pursuant to Rule 6.4.8(1), please include a description of the game and non-game resources on and in the vicinity of the application area, including:
- a. a description of the significant wildlife resources on the affected land;
 - b. seasonal use of the area;
 - c. the presence and estimated population of threatened or endangered species from either federal or state lists; and
 - d. a description of the general effect during and after the proposed operation on the existing wildlife of the area, including but not limited to 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.
- 26) Rule 3.1.8(1) states that all aspects of the mining and reclamation shall take into account the safety and protection of wildlife on the mine site, at processing sites, and along all access roads to the mine site with special attention given to critical periods in the life cycle of those species which require special consideration (e.g., elk calving, migration routes, peregrine falcon nesting, grouse strutting grounds). In the 112c application the Applicant/Operator has identified an active Golden Eagle nest. As currently proposed in the application the all phases haul road enters and exits the site in the southwest corner of the affected land, the all phases haul road encroaches into the ½ mile and ¼ mile buffer zone around the Golden Eagle nest. By placing the all phases haul road within the ½ mile and ¼ mile buffer zone around the Golden Eagle nest, the Applicant/Operator has failed to comply with Colorado Parks and Wildlife's (CPW) Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors document attached to CPW's comment letter dated September 2, 2012. By placing the haul road within the ½ mile and ¼ mile buffer zones around the Golden Eagle nest the Applicant/Operator has also failed to protect the active Golden Eagle nest as required by Rule 3.1.8(1). Please revise the Mine Plan and Reclamation Plan to eliminate all new surface occupancy and human encroachment as

specified within the Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors document provided by Colorado Parks and Wildlife.

EXHIBIT L - Reclamation Costs Rule 6.4.12

- 27) Please see the enclosed reclamation cost estimate. The Division primarily used the information provided in the Exhibit L Reclamation cost estimate provided in the 112c application to calculate the Division's required Financial Warranty. Please review the enclosed cost estimate, and provide any comments you may have. The Division will set the required Financial Warranty for this operation at \$360,000.00. The required Financial Warranty may change as new information is provided through the response to the adequacy review letter and subsequent documents.

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

- 28) The NRCS Pueblo Field Office was the intended recipient of the required notice. The Applicant/Operator mailed the Notice to 1626 Highway 50 West, Pueblo, CO 81008, which appears to be an incorrect address for the NRCS Pueblo Field office (enclosed document from the NRCS's website). The Division believes that the 44th lane project is located within the South Pueblo County Conservation District at 200 South Santa Fe Ave, 4th Floor Pueblo, CO 81003. The Division made this determination based on maps available from the Colorado Department of Agriculture's website <https://www.colorado.gov/pacific/agconservation/conservationboard>. Please submit proof of actual delivery or proof of mailing by Certified Mail, return receipt requested, of notice of the 112c application to the South Pueblo County Conservation District.

General Comments and Questions

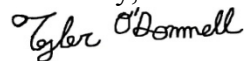
- 29) Please provide proof of the local newspaper publication required by Rule 1.6.5. Proof of publication may consist of either a copy of the last newspaper publication that includes the date published, or a notarized statement from the newspaper.
- 30) Please provide proof of mailing or serving a copy of the public newspaper notice, to all owners of record of the 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 lands, as required by Rule 1.6.2(1)(e).
- 31) Pursuant to Rule 1.6.2(2), please demonstrate that the Applicant's response to these adequacy issues have been placed with the application materials previously placed with the County Clerk or Records Office, and made available for public review.
- 32) Please address the attached comment from Colorado Parks and Wildlife.

John P. Ary
Freemont Paving & Redi-Mix, Inc.
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33) Please address the attached comment from the Colorado Division of Water Resources.

Please respond to these adequacy issues no later than one week before the decision deadline, to ensure ample time for the Division to complete its review prior to its decision deadline. The decision deadline on this application is May 26, 2016. If additional time is required to respond to these adequacy issues please submit a written request for extension of the review period. The Division reserves the right to further supplement this document with additional adequacy issues and details as necessary.

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.

Sincerely,


Tyler O'Donnell
Environmental Protection Specialist

Enclosure: DRMS reclamation cost estimate
Screen shot from NRCS Website
Comment letter from Colorado Parks and Wildlife
Comment letter from Colorado Division of Water Resources

cc: Wally Erickson, DRMS

Yuma, Colorado 80759-0116
Phone: 970-848-5605

Area 3 Field Offices

Fax number for all Area 3 offices: 844-496-7213

Canon City Field Office - Fremont County (Fremont SC-732)
248 Dozier Avenue
Canon City, Colorado 81212-2704
Phone: 719-275-4465

Cheyenne Wells Field Office - Cheyenne County (Cheyenne CD-714)
215 North 1 West, PO Box 850
Cheyenne Wells, Colorado 80810-0850
Phone: 719-767-5648

Colorado Springs Field Office - El Paso County (El Paso CD-811, Central Colorado CD-713)
5610 Industrial Pl., Suite 100
Colorado Springs, Colorado 80916-1722
Phone: 719-632-9598

Eads Field Office - Kiowa County (Kiowa County CD-800)
409 E. Lowell, PO Box 845
Eads, Colorado 81036-0845
Phone: 719-438-5851

Hugo Field Office - Lincoln County (High Plains CD-737, Prairie CD-798)
318 5th Street, PO Box 127
Hugo, Colorado 80821-0127
Phone: 719-743-2408

Lamar Field Office - Prowers County (Prowers CD-762) (Limestone Graveyard Watershed Project)
1501 South Main Street
Lamar, Colorado 81052-3823
Phone: 719-336-3437

Las Animas Field Office - Bent County (Bent County CD-703 & Limestone Graveyard Watershed Project)
760 Bent Avenue
Las Animas, Colorado 81054-1755
Phone: 719-456-0120

Northeast Prowers CD - Prowers County (Northeast Prowers CD-753 & Wolf Creek Watershed Project)
100 South Swafford Street
Holly, Colorado 81047
Phone: 719-537-6635 719-537-6506

Pueblo Field Office - Pueblo County (Turkey Creek CD-781, South Pueblo County CD-807)
200 South Sante Fe Avenue
Pueblo, Colorado 81003-4270
Phone: 719-543-8386



COLORADO

Parks and Wildlife

Department of Natural Resources

Pueblo Service Center - Area 11
600 Reservoir Road
Pueblo, CO 81005
P 719.561.5300 | F 719.561.5321

RECEIVED

APR 06 2016

**DIVISION OF RECLAMATION
MINING AND SAFETY**

March 29, 2016

Tyler V. O'Donnell
Colorado Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, CO 80203

March 24, 2016

Re: 44th Lane Project, File No. M-2016-009, Receipt of 112 Construction Materials Reclamation Permit Application

Mr. Tyler O'Donnell,

Colorado Parks and Wildlife has received a request to comment on the reclamation permit application for the Fremont Paving and Redi-Mix Gravel Mine, located directly south of Olson Rd, between 41 ½ Lane and 42nd Lane in Pueblo County, CO. CPW District Wildlife Manager, Gretchen Holschuh, and CPW Conservation Biologist, Ed Schmal, conducted a site visit in March 2016.

CPW commented on the gravel mine's potential wildlife impacts on September 2, 2012. The letter is included in the document at the Pueblo County Clerk and Records Office, 6.4.8 Exhibit H Wildlife Information.

Strict adherence to the recommendations made in the previous comment letter, are critical to ensure native seed mixes are utilized in the reclamation process. The establishment of non-native vegetation, such as Russian Knapweed, is of particular concern in disturbed areas and roadways. CPW strongly recommends contacting the NRCS (Natural Resources Conservation Service), for guidelines and comprehensive seed mixes suitable for revegetation of the area.

Proper reclamation, from a wildlife perspective, involves not only stabilizing the soil and establishing ground cover, but fostering plant communities with a diversity of species and plant types (grasses, broadleaf forbs, and woody vegetation) which will fully serve the nutritional and cover needs of wildlife. All reclamation seed mixes should be comprised of native seed only, suited to on-site soil types, and mirror native plant communities. All reseeding should be completed in a timely manner and should be monitored for success and noxious weed establishment.



EPH

Colorado Parks and Wildlife appreciates the opportunity to comment on this reclamation permit application. Please call the CPW Pueblo Area 11 Service Center at (719) 561-5300 if you have any further wildlife questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Trujillo". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Trujillo".

Michael Trujillo
CPW Area Wildlife Manager



COLORADO
Division of Water Resources
Department of Natural Resources

Office of the State Engineer
1313 Sherman St, Suite 818
Denver, CO 80203

Response to Reclamation Permit Application Consideration

DATE: March 30, 2016
TO: Tyler V. O'Donnell, Environmental Protection Specialist
CC: Division 2 Office; District 14 Water Commissioner
FROM: Caleb Foy, P.E.
RE: 44th Lane Project, File No. M-2016-009
Operator: Fremont Paving & Redi-Mix, Inc.
Contact: Angela Bellantoni, (719) 275-8951
Sec. 25, Twp. 21S, Rng. 63W, 6th P.M., Pueblo County

CONDITIONS FOR APPROVAL

- ☒ The proposed operation does not anticipate exposing groundwater. Therefore, exposure of ground water must not occur during or after mining operations. If stormwater is contained on-site, it must infiltrate into the ground or be released to the natural stream system within 72 hours, or all work must cease until a substitute water supply plan, or augmentation plan approved by water court, is obtained. Reclamation plans must ensure water will not be retained onsite for more than 72 hours unless an augmentation plan approved by water court is obtained.
- ☒ The proposed operation will consume water by: ☐ evaporation, ☒ dust control, ☐ reclamation, ☐ water removed in the mined product, ☐ processing, ☐ other:.
- ☒ Other: All water used on-site for mining needs shall be a legal supply of water provided by an appropriate supplier.

COMMENTS: The local Water Commissioner, Steve Stratman, may be contacted at (719) 250-1657 or Steve.Stratman@state.co.us regarding legal supplies of water in the area.

