



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources
1313 Sherman Street, Room 215
Denver, Colorado 80203

September 19, 2016

James McCormick
McCormick Excavating & Paving, LLC
30887 Hwy 24
Stratton, CO 80836

RE: Adequacy Review; Stewart Pit II, Permit No. M-2009-010, 110c to 112c Conversion; CN-01

Dear Mr. McCormick,

The Division of Reclamation, Mining and Safety (Division/DRMS) has reviewed the content of the McCormick Excavating & Paving, LLC (Applicant) 110c to 112c Construction Materials Reclamation Permit Conversion Application for the Stewart Pit II, Permit No. M-2009-010, and submits the following comments. **The Division is required to make an approval or denial decision no later than September 26, 2015; therefore, a response to the following adequacy review concerns should be submitted to the Division as soon as possible.** Please respond to this letter with the requested additional/updated information on permit replacement pages and/or exhibits and summarize each response in a cover letter titled "Adequacy Review Response CN-01; M-2009-010".

The review consisted of comparing the application and the amendment to 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.

GENERAL

1. As required by Rule 1.6.2(1)(d) and 1.6.5(2), 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(1)(e), 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. Proof of notice may be return receipts of a Certified Mailing or by proof of personal service.
3. The Division received comments from the History Colorado and the Division of Water Resources. The letters are attached for review. Please acknowledge the letters, address any comments within the letters, and make changes to the application, if necessary.
4. The Addendum A of the application, which is required to be a signed affidavit that the notices were posted in accordance with Rule 1.6.2(1)(b), was not submitted. Please provide the Addendum A for the application. The Division has attached a sample notice for Addendum A.



5. The Division has attached the new Performance Warranty form which is required to be filled out, notarized, and returned prior to permit issuance.

GENERAL - Maps

6. Rule 6.2.1(2) states that all maps, except the index map, must conform to the following criteria: show the name of the Applicant; must be prepared and signed by a registered land surveyor, professional engineer, or other qualified person; give the date prepared; identify and outline the area which corresponds with the application; and shall be prepared at a scale that is appropriate to clearly show all elements that are required to be delineated by the Act. Also, a map scale, appropriate legend, map title, date and a north arrow shall be included. Please review all the maps in the application, make changes as necessary to comply with Rule 6.2.1(2), and re-submit these maps for further review.

EXHIBIT D - Mining Plan (Rule 6.4.4):

7. Exhibit D provides information that the mined material may be screened, if necessary. Please provide more detail regarding the potential processing of the material and specifically address if the processing equipment will be mobile or permanent.
8. Please describe how stormwater will be controlled on the proposed disturbance during mining. The Division recommends constructing a small berm or installing silt fences to prevent sediment from leaving the mining area and entering the small drainage between Phase 1 and Phase 2.
9. The Applicant proposes to have a phased mining/bonding operation. Please commit to contacting the Division for approval prior to disturbing any new phases. The request shall include the estimated reclamation costs that would be required for opening the additional phase. The Division will review and calculate a new Final Warranty amount, issuing a Surety Increase revision if necessary. Once the additional amount is posted the Operator will be approved for the new phase.

Please note that the Operator may, at any point throughout the life of the mining operation, request a Surety Reduction for completed reclamation tasks or an Acreage Reduction for portions of the permit that have achieved final reclamation.

10. The Exhibit D Mining Plan Map does not identify the permit boundary. Additionally, the map does not identify the location where topsoil and overburden stockpiles will be stored. Please update this map with the permit boundary and the location(s) where topsoil and overburden will be stockpiled and stored during mining.
11. Please describe how topsoil stockpiles will be protected from erosion. 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. Seeding with the approved reclamation seed mixture will help create a beneficial seed bank to aid in final reclamation.

12. Please indicate if fuel and oil will be stored on-site. If so, please clarify how all hydrocarbons will be stored. Additionally, specify the location of fueling tanks and indicate that there is a Spill Prevention Control and Countermeasure (SPCC) plan in place and that the SPCC plan will be implemented prior to storage of fuel or oil products. This can be done by submitting a letter to the Division, on company letterhead, affirmatively stating that the plan has been implemented. The Operator does not need to submit a SPCC plan to the Division; however, it must be available for review at the facility or the nearest field office during an inspection.

EXHIBIT E - Reclamation Plan (Rule 6.4.5):

13. 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.
14. Please specify if mulch will be used to reclaim the lands. Please specify what type and rate of mulch will be used as well as if it will be crimped into the soil.
15. The Applicant proposes a seed mixture of Blue Gramma, Western Wheat Grass, and Buffalo Grass at 25 lbs./acre. The Division believes this mixture is not diverse enough and the applicant didn't provide the PLS rate for each species. The Division recommends the Applicant contact the Natural Resource Conservation Service (NRCS) to get a site, and post-mining land use, specific reclamation seed mixture. This mixture should have a variety of cool and warm native grass species, as well as a forb/shrub component, if applicable.

EXHIBIT F - Reclamation Plan Map (Rule 6.4.6):

16. The Exhibit F Reclamation Plan Map does not identify the permit boundary. Additionally, the map does not portray the final land use as required by Rule 6.4.6(b). Please update this map with the permit boundary and include a statement that the final land use is Pastureland.

EXHIBIT I - Soils Information (Rule 6.4.9):

17. The Applicant provided a list of soil unit description and information various soil units, but did not include a soils map. Please submit a map in accordance with Rules 6.4.3(h) and 6.4.9(1).

EXHIBIT L – Reclamation Costs (Rule 6.4.12):

18. The Division will calculate a cost estimate based on the responses to this adequacy letter. The Applicant will be provided copy of that reclamation cost estimate for review before the decision date.
19. The Applicant submitted a cost estimate in Exhibit L of the application. The Conversion Application will be incorporating the adjacent M-1985-195 permit within the proposed permit boundary. The reclamation cost estimate does not include information on existing disturbances within this area (Phase 2). Please submit a new cost estimate for the Division's review which includes the cost to reclaim the current disturbances within Phase 2. Please note, this does not have to be the cost to

reclaim the “worst case scenario” of Phase 2, but only the current disturbances. Please provide the Division with Phase 2 current disturbances specifics (acreage disturbed, amount of topsoil stockpiled, any grading to achieve the approved slope, etc.) and indicate all existing disturbances within the permit boundary on an Exhibit C pre-mining Plan Map.

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

20. 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 Applicant. Submit proof that the public review copy has been updated with a copy of the response to this adequacy letter.

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

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*
- (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.*

21. The structure agreements submitted for the fences and the overhead utility line were not notarized and do not meet the requirements of Rule 6.4.19. The structure agreement submitted for the overhead utility line is on the Applicant’s letter head and not the utility company’s letterhead, so this does not meet the requirements of Rule 6.4.19(c). Please re-submit these agreements in accordance with Rule 6.4.19; the Division recommends using the attached Sample Structure Agreement Form.
22. The Applicant did not provide information nor agreements for the County Road 26 and fiber optic line (as observed during a January 5, 2015 site inspection). Please clarify and submit information regarding the compliance with Rule 6.4.19 for any structure located within 200’ of the permit boundary. These structures will need to be included on an Exhibit C map in accordance with Rule 6.4.3(g).

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 Stewart Pit II permit may be deemed inadequate, and the application may be denied on September 26, 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 September 26,**

2016, and the request for a specific amount of 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

Enclosure: History Colorado Comment Letter
 Division of Water Resources Comment Letter
 Performance Warranty Form M2009010
 Sample Notice Form (Addendum A)
 Sample Structure Agreement Form

EC: Wally Erickson; Division of Reclamation, Mining & Safety