

October 13, 2016

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

**RE: Adequacy Review #3; 112c Construction Materials Reclamation Permit Application;
Pueblo County Aggregate Project; DRMS File No. M-2016-009**

Dear Mr. Ary,

The Division of Reclamation, Mining and Safety (Division/DRMS) has reviewed the content of the Fremont Paving & Redi-mix, Inc. (Applicant) 112c permit application, amendment to the application, and the Adequacy Review Response #2 for the Pueblo County Aggregate Project, File No. M-2016-009, and submits the following comments.

During the public comment period for the original application and the public comment period for the amendment to the application, the Division received timely objections. Pursuant to Rule 1.4.9(2)(a) and 1.7.4(2), the Division has scheduled the application for a Mined Land Reclamation Board Hearing for consideration during the November 16-17, 2016 Board Meeting. **Pursuant to Rule 1.4.9, on or before October 21, 2016, the Division shall issue its recommendation to the Board for approval, approval with conditions, or denial of the application; 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 3 days prior (October 18, 2016) to the recommendation date. 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 #3; M-2016-009".

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

81. The Applicant submitted 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, required by Rule 1.6.2(1)(e). Using the certified mail numbers, the Division determined that the notices sent to CO Department of Transportation, Pueblo County Board of County Commissioners, Thomas and Nancy Bregar, Pueblo County Public Works Department, Thomas and Mari Rusler, Bryan Crites, and Black Hills Energy were sent after the close of the public comment period which ended on August 4, 2016. Please clarify this discrepancy and provide the Division with a copy of the notice that was sent to these individuals.



82. The amendment's Addendum A was not submitted with the amendment to the application nor the Adequacy Response #2, as referred to in the Adequacy Review Item #5. Please provide the Addendum A for the amendment to the application.

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

83. The seven Exhibit C Maps include a sheet reference in the bottom right corner of each map. The seventh map, Exhibit C-5 Map, is referred to as Sheet 5 of 7, which makes it appear that there are two additional maps. Please revise this numbering sequence to reduce the confusion of the total number of Exhibit C Maps.
84. The Exhibit C-1a Map contains a solid white line across the top portion of the map which blocks the identification of a type of structure owned by Centa & Co. LLC. Please remove this and re-submit the Exhibit C-1a Map for further review.
85. Footnote #1 on Exhibit C-1a and C-1b Maps is a brief legal description describing the area of the permit area. This description does not account for the Sections in which the haul roads are located in. Please revise this footnote on both maps.
86. Footnote #1 on Exhibit C-4a and C-4b Maps states that the proposed permit boundary encompasses approximately 1,194 acres. Please revise this footnote on both maps to reflect the correct proposed acreage.
87. The Exhibit C-3 Vegetation Map does not show the type of present vegetation covering the affected lands within 2,500' east and west of 40th Lane. Please revise this map to reflect the type of present vegetation covering the affected lands in this area.
88. The Exhibit C-5 Map provides haul road interstation subsets/details. The figures depict a 24-foot wide road and a similar sized permit boundary, but the Applicant proposes a 30-foot wide haul road, that is centered in a 60-foot wide permit boundary. Please clarify this discrepancy and revise these map figures.
89. Footnote #1 on the Exhibit C-5 Map provides information for the State of Colorado access permit. This description only include information for Section 35. Please revise this to include the information that the Section 20 State lands are included in the access permit.

EXHIBIT D - Mining Plan (Rule 6.4.4):

90. The new Exhibit D, provided in the Adequacy Response #2, refers to the site multiple times as the 44th Lane Project. Please revise this to Pueblo County Aggregate Project
91. In the fifth paragraph on page 5 of the Mine Plan, the Applicant refers to a table of Total Affected Area by Phase. Adequacy Response #2 revised the name of this table and the Mine Plan narrative needs to be revised as well.

EXHIBIT E - Reclamation Plan (Rule 6.4.5):

92. In the response to Adequacy Review Item #29, the Applicant proposes a small area around each phase known as "Other Mining Related Disturbances" where heavy equipment may be stored or maneuvered during reclamation, and where other ancillary activities may be necessary. Please provide details on the reclamation of this area.

93. The last paragraph of the Reclamation Plan states that upon commencement of reclamation, the area will be monitored for noxious weeds and appropriate methods to manage weed growth will be implemented. Noxious weed monitoring and treatment will need to occur throughout the life of mine instead of just once reclamation has commenced. Please revise this statement.
94. Within Section 6B of the submitted Weed Management Plan, the Applicant states that the operator will develop an IWM plan in the event a weed species is identified on site. Please note, the Applicant will need to submit a Technical Revision to the Division for review and approval for any additions or revisions to the proposed Weed Management Plan.
95. Please provide details on the reclamation of the six asphalt-paved locations on the North and Southwest Haul Roads.
96. Please provide details on the reclamation of the bridge that will be constructed to cross the Bessemer Irrigation Ditch. As discussed with the Applicant during the September 22, 2016 Pre-operation Inspection, please provide a signed and notarized letter from the landowner if this bridge is requested to be a permanent feature and to be used by the landowner after the operation. Additionally, a permanent feature, such as this bridge, will need to be identified on the Reclamation Plan Map(s).

EXHIBIT F - Reclamation Plan Map (Rule 6.4.6):

97. Footnote #7 on Exhibit F-1a Reclamation Plan Map is illegible due to the Revegetation Seed Mix table. Please correct this and submit the map for further review.
98. The diagonal hatching of Mining Section C on the Reclamation Plan Maps is hard to identify and locate. Please outline these areas similar to the Reclamation Plan Maps submitted on June 10, 2016.

EXHIBIT I - Soils Information (Rule 6.4.9):

99. The Applicant did not address Adequacy Item #60 properly. The Applicant provided information regarding the Haverson, Heldt, Midway, Bloom, Fort, and Rocky Ford Series. The Applicant has also provided information regarding the RfA, and RfB soil units. Please provide the map unit description and information print-outs for soil units Bc, Mpa, and Mv.

EXHIBIT L – Reclamation Costs (Rule 6.4.12):

100. Within Exhibit L, the Applicant states that the Southwest Haul Road is the preferred route for hauling from Phase 1 and therefore includes acreage and costs only associated with the Southwest Haul Road. However, in Exhibit D, the Applicant proposes that internal and external North Haul Road will be constructed for Phase I. Please clarify this discrepancy.
101. The Division has completed the Financial Warranty calculation for the proposed operation. **The reclamation cost estimate has been calculated in the amount of \$699,828.00;** this covers the cost to reclaim the Phase I, and the North and Southwest Haul Roads, as proposed in the Mining and Reclamation Plans. Please review the enclosed figures as soon as possible and contact our office if you have any questions or find any calculation errors. Please note, the response to this adequacy may impact this estimate and the Division may prepare an updated estimate following the receipt of Adequacy Response #3.

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

102. The documents provided in response to Adequacy Item #69 do not comply with Rule 6.4.14. The Division interprets these document as a signed a notarized statement from the land owners which reiterates the terms of the purchase agreement regarding ingress and egress, rather than a valid legal right to enter. Furthermore, the notary on the Pike Peak Home Center document is missing the date. Please provide a description of the basis for legal right of entry to the site and to conduct mining and reclamation for the property owned by Pikes Peak Home Center, Inc. and Martin Valadez. This may be a copy of access lease or a signed statement by the landowner and acknowledged by a Notary Public stating the Operator/Applicant has legal right to enter and mine.

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

- 103.** Proof that the public review copy has been updated with a copy of the Adequacy Response #2 was not included in Adequacy Response #2. Please submit proof that the public review copy has been updated with a copy the Adequacy Response #2.
- 104.** 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 Pueblo 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):


- 105.** The new Exhibit S, provided with the responses to Adequacy Review #2, lists that the agreement with Public Service Co. of Colorado aka Xcel Energy for the electrical distribution and transmission powerlines was updated September 9, 2016. This updated agreement was not provided in Exhibit S. Please submit the updated agreement.
- 106.** The new Exhibit S, provided with the responses to Adequacy Review #2, states that an engineering report from Andy Jesik of Jesik Consulting is included for the Bessemer Irrigation Ditch. The engineering report was not included with the materials submitted. Please submit an appropriate engineering evaluation that demonstrates the Bessemer Irrigation Ditch shall not be damaged by activities occurring at the mining operation. The demonstration shall be for the crossing of the ditch as well as a small section of the haul road which is within 200 feet of the ditch near the section line between Section 19 and Section 20.
- 107.** The new Exhibit S, provided with the responses to Adequacy Review #2, lists that the agreement with Black Hills Energy for the electrical distribution lines. This agreement was not provided in Exhibit S. Please submit the agreement.
- 108.** The Exhibit C-1a has identified an additional gas line located near 40th Lane. Please provide documentation that additional gas line is covered under the January 13, 2016 structure agreement with Colorado Interstate Gas Company LLC or provide a new/update agreement.
- 109.** The Division observed additional structures or evidence of additional structures during the September 22, 2016 Pre-operation Inspection that are not identified on an Exhibit C map or Exhibit S. Please verify the following structures are within 200 feet of the proposed affected lands and if so, comply with Rule 6.4.19 for each structure: underground utility line along the west side of 36th Lane, overhead utility line on the east side of 36th Lane, underground utility line on the west side of 40th Lane, overhead utility line on the east side of 40th Lane, underground utility line on the north side of Olsen Road, overhead utility line on the Bregar property, underground and overhead utility line on the north side of McHarg Road, irrigation lateral and

underground utility line on the north side of Highway 50, and a possible underground gas line on the north side of Highway 50.

This concludes the Division's adequacy review of this application and the amendment to the application. This letter shall not be interpreted to mean that there are no other technical deficiencies in your application and the amendment to the application. Other issues may arise as additional information is supplied. Be advised that the 112c permit application for the Pueblo County Aggregate Project permit may be deemed inadequate, and the application may be recommended to be denied on October 21, 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 review period. This will be done upon receipt of a written waiver of the Applicant's right to a decision by October 21, 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: Reclamation Cost Estimate M2016009

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

CC: Angela M. Bellantoni; Environmental Alternatives Inc.
1107 Main Street, Cañon City, CO 81212