

AME

STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY
Department of Natural Resources

1313 Sherman St., Room 215
Denver, Colorado 80203
Phone: (303) 866-3567
FAX: (303) 832-8106



50-1

APPLICATION FORM FOR TRANSFER OF MINERAL PERMIT AND SUCCESSION OF OPERATORS

ADMINISTRATIVE INFORMATION

Permit Information

Permit Number: M-1981-279 112c

RECEIVED

Operation Name: Hancock Gravel Pit

OCT 27 2016

Permittee Information

Contact Person: Lex Nichols

Division of Reclamation,
Mining & Safety

Company Name: Otero County

Street Address: 13 West 3rd Street, Suite 208

City: La Junta

State: CO Zip: 81050

Phone: (719) 383-3035

Email (optional): lnichols@otero.gov.org

112c
✓ fee
✓ Ann Rep
CW 1/21/16
due 2/1/17
✓ no Enfor/Infr
✓ correct

Prospective Successor Information

Contact Person: John P. Ary

Company Name: All-Rite Paving & Redi-Mix, Inc.

Street Address: 30783 East Hwy 50

City: La Junta

State: CO Zip: 81050

Phone: (719) 275-1280

Email (optional): jp@arycorp.com


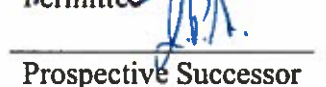
Other Reclamation Permits held by Prospective Successor (if applicable):

North River Pit M-1999-005 Rocky Ford South Pit M-1977-222

| | |
|-----------------------------------|-----------------------------|
| Lamar Pit M 1987-079 | SHARP Gravel Pit M 2012-036 |
| Verhoeff Gravel Pit #1 M 2014-025 | Stonewall #1 M 2013-053 |
| MOONEY Hills M 2007-007 | |
| Proctor Pit M 2009-054 | |
| MOONEY 5804 Altura Pit M 2010-012 | |

DESIGNATION OF REVIEW TIMELINE

As explained above, the Permittee and Prospective Successor may waive their right to receive a decision on an Application within 30 days in order to allow the Division to calculate the required Financial Warranty before issuing its decision. Permittee and Prospective Successor must initial one of the following two options to designate their choice. If Permittee and Prospective Successor cannot agree, the Division will render its decision within 30 days.


Permittee

Prospective Successor

I have reviewed the information provided in this Application Packet, as well as the applicable Act and Rules. Having been fully informed, I wish to WAIVE MY RIGHT TO A DECISION ON MY APPLICATION WITHIN 30 DAYS.

Permittee

Prospective Successor

I have reviewed the information provided in this Application Packet, as well as the applicable Act and Rules. Having been fully informed, I wish to MAINTAIN MY RIGHT TO A DECISION ON MY APPLICATION WITHIN 30 DAYS.

The Prospective Successor must provide an adequate Financial Warranty or *conditional* replacement Financial Warranty, consistent with the designation above. Hard Rock and Construction Materials Rule 4.3 describes the various acceptable types of Financial Warranties. Each Financial Warranty must be submitted on the Board's approved forms (available online at <http://mining.state.co.us/Mineral%20Forms.htm>).

DUE DILIGENCE CERTIFICATION

The Board wishes to ensure that Prospective Successors are fully informed of their duties and obligations should they become Successor to the Permit. Accordingly, the Prospective Successor must carefully review the items below and must initial indicating its agreement and understanding.



If the Application is approved, the Prospective Successor will assume all liability for the reclamation of the affected land, and for compliance with the Hard Rock Act and Rules or the Construction Materials Act and Rules, as applicable (available online at <http://mining.state.co.us/Rules%20and%20Regs.htm>). Successor will be liable for any pre-existing conditions or violations, whether known or unknown at the time of the SO. It is the Prospective Successor's sole responsibility to investigate the operation prior to filing an Application.



If the Application is approved, the Successor will be solely responsible for maintaining the mining and reclamation operations in compliance with the Reclamation Permit. The Permit includes the original approved Application, along with any and all subsequent revisions, amendments, and conversions thereto. It is not uncommon for a Permit to include dozens of documents that span many years. It is the Successor's sole responsibility to obtain a full and complete copy of the Permit and to understand the extent of his/her/its obligations thereunder. Permit documents may be purchased from the Division of Reclamation, Mining and Safety (the "Division") upon request or viewed on the Division's website at <http://drmsweblink.state.co.us/drmsweblink/search.aspx?dbid=0>



If the Application is approved, the Successor must submit Annual Fees and Annual Reports to the Division on the anniversary date of the Reclamation Permit. For hard rock and designated mining operations, consult C.R.S. § 34-32-127(2) for the amount of the Annual Fee. For construction materials operations, consult the C.R.S. § 34-32.5-125 for the amount of the Annual Fee. Required annual reporting information is described in Hard Rock and Construction Materials Rule 1.15 and in the Annual Report Form provided by the Division. Failure to submit Annual Fees or Annual Reports may result in enforcement action.

**APPLICANTS' AGREEMENT TO REQUEST TRANSFER
OF MINERAL PERMIT AND SUCCESSION OF OPERATORS**

WHEREAS, on February 1 , 1981 Permit Number M-1981-279 ("Permit") was granted to Otero County ("Permittee"), pursuant to which Permit, Permittee has engaged in a mining operation located in Otero County, Colorado.

WHEREAS, The Permit includes and incorporates any and all subsequent Amendments, Technical Revisions and/or Conversions.

WHEREAS, Permittee wishes to assign the entire Permit, along with all associated rights and responsibilities to All-Rite Paving & Redi-Mix Inc. ("Prospective Successor"), and Prospective Successor wishes to become Successor Permittee under the Permit.

WHEREAS, Prospective Successor has inspected the mining and reclamation operations and is fully aware of the conditions thereof.

WHEREAS, Prospective Successor understands that the Reclamation Plan (the "Plan") is an integral part of the Permit and is required by law. Prospective Successor has had an opportunity to thoroughly review the Plan, understands that the Plan has not been completed and that, if Prospective Successor becomes Successor, he/she/it will assume full responsibility for the completion of the Plan.

NOW THEREFORE, Permittee and Prospective Successor hereby agree, for their own benefit and for the benefit of the State, as follows:

Prospective Successor agrees to accept all of the conditions of the Permit, including the condition that the operation remains in compliance with all applicable laws and regulations, and to perform all of the obligations of the Permittee under the Permit.

Prospective Successor agrees to complete the Plan, and to assume all liability for the same, as to all areas presently disturbed, as well as to all areas hereafter disturbed.

Prospective Successor agrees to submit to the Division of Reclamation, Mining and Safety ("Division"), Performance and Financial Warranties, as required by applicable law and regulations, which will be substituted for the Performance and Financial Warranties previously filed by the Permittee, if and when the Division approves a Transfer of Mineral Permit and Succession of Operators ("SO") and releases the latter Warranties.

Prospective Successor represents to the State that, to the best of its knowledge, information and belief, it is not in violation of any of the provisions of the Mined Land Reclamation Act (C.R.S. § 34-32-101 *et. seq.*) ("Hard Rock Act") and associated Rules (2 C.C.R. 407-1) ("Hard Rock Rules") or the Land Reclamation Act for the Extraction of

Construction Materials (C.R.S. § 34-32.5-101 *et. seq.*) ("Construction Materials Act") and associated Rules (2 C.C.R. 407-4) ("Construction Materials Rules"), with respect to any other operation conducted by the Prospective Successor in the State of Colorado.

Permittee and Prospective Successor hereby request that the Mined Land Reclamation Board ("Board") approves their SO Application, recognizes the Prospective Successor as Successor Operator under the Permit, accepts the Prospective Successor's Performance and Financial Warranties, and releases the current Permittee's Performance and Financial Warranties.

SIGNED, SEALED AND DATED this 31st day of March, 2016.

PERMITTEE

Otero County

Name of Permittee

By

[Signature]
Signature of Officer

Public Works Director
Title of Officer

PROSPECTIVE SUCCESSOR

All-Rite Paving & Redi-Mix Inc.

Name of Prospective Successor

By

[Signature]
Signature of Officer

President
Title of Officer

NOTARY FOR PERMITTEE

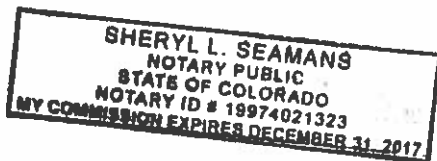
STATE OF COLORADO)
COUNTY OF OTERO) ss.:

The foregoing instrument was acknowledged before me this 6th day of October, 2016,
by Lex Nichols as Public Works Dir. of Otero County.

Notary Public

My Commission Expires

[Signature]
12/31/2017



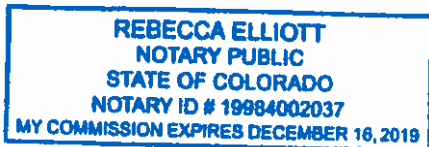
NOTARY FOR PROSPECTIVE SUCCESSOR

STATE OF Colorado)
COUNTY OF Fremont) ss.:

The foregoing instrument was acknowledged before me this 29th day of March, 2016,
by John P. Aey as _____ of All Rite Paving & Redi Mix, Inc

Notary Public [Signature]

My Commission Expires Dec 16 2019



STATE APPROVAL
[for completion by Division]

- (a) The Board hereby approves the transfer of permit number M1931-279 from _____ to _____.
- (b) The Board hereby recognizes _____ as Successor Operator under such Permit.
- (c) The Board hereby accepts the Performance and Financial Warranties submitted by Successor and hereby releases _____, as former Permittee from all obligations under its Performance and Financial Warranties. The Board further releases all affected financial warrantors from obligations under Financial Warranties associated with the former Permittee.

STATE OF COLORADO
DEPARTMENT OF NATURAL RESOURCES
MINED LAND RECLAMATION BOARD
DIVISION OF RECLAMATION, MINING AND SAFETY

By: _____
Division Director

Date Executed: _____

AME

M 1981-279

Application Checklist

- ☒ **Application Form:** Complete the form located on page 5.
- ☒ **Application Fee:** Include check payable to Colorado Division of Reclamation, Mining and Safety.
- ☒ **Performance Warranty:** Complete the form located on page 11.
- ☐ **Financial Warranty:** Submit the appropriate Financial Warranties or conditional replacement Financial Warranties using the forms posted on the Division's website (available online at <http://mining.state.co.us/Mineral%20Forms.htm>).
- ☒ **Demonstration of Legal Right to Enter:** Identify the owners of all surface and mineral rights, obtain the documentation described above, and submit to the Division.
- ☒ **Structure Agreements:** Obtain new Structure Agreements if Permittee had been required to do so.

RECEIVED

OCT 27 2016

Division of Reclamation,
Mining & Safety

?
operator
name

inc?
not signed
by Black Hills
Energy

AME

RIGHT to ENTER

646131
1 of 6

10/4/2016 8:01 AM
AGRMT R\$0.00 D\$0.00



Sharon Sisroy
Otero County Clerk

AGREEMENT

M1981-279

THIS AGREEMENT is made and entered into this 30th day of OCT., 2016, by and between **WILLIAM G. HANCOCK and KAREN K. HANCOCK**, hereinafter referred to as "Hancock", and **BOARD OF COUNTY COMMISSIONERS OF OTERO COUNTY, COLORADO**, hereinafter referred to as "Otero County", and **ALL-RITE PAVING & REDIMIX, INC.**, hereinafter referred to as "All-Rite Paving".

WHEREAS, on or about October 30, 2006, LEE HANCOCK and ELEANOR HANCOCK (Lessor) entered into the "Hancock Gravel Pit Lease Agreement" wherein the Lessor granted, demised, leased and let exclusively unto Lessee (Otero County) for the purpose of:

1. Revegetation of the area mined by the County;
2. Removal of stock piled materials including limestone, sand, gravel and other soil,

as may be found in and on all that certain tract of land situated in the County of Otero, State of Colorado, described as follows, to-wit:

Certain portions of the SE ¼ of Section 26, located in Township 23 South of Range 57 West of the 6th P.M. (See Exhibit "A" attached hereto).

and

WHEREAS, on April 12, 2010, Eleanor Hancock passed away and her interest in the property passed to Lee Herbert Hancock by virtue of their joint tenancy ownership interests; and

WHEREAS, on July 19, 2012, Lee Herbert Hancock, a.k.a. Lee H. Hancock, a.k.a. Lee Hancock, passed away; and

WHEREAS, on October 17, 2012, William G. Hancock and Nancy Lee Morris were appointed as Co-Personal Representatives of the Estate of Lee Herbert Hancock, a.k.a. Lee H. Hancock, a.k.a. Lee Hancock, Deceased, and Letters Testamentary were issued to William G. Hancock and Nancy Lee Morris on said date; and

WHEREAS, by way of Personal Representative's Deed recorded on December 19, 2013, at Reception Number 637048 of the Otero County Clerk and Recorder Records, the Co-Personal Representatives mentioned above transferred the interest of said Lee Herbert Hancock to William G. Hancock and Nancy Lee Morris as tenants in common; and

WHEREAS, by way of Quit-Claim Deed recorded December 19, 2013, at Reception Number 637049 of the Otero County Clerk and Recorder Records, Nancy Lee Morris transferred her interest in the subject property to William G. Hancock and Karen K. Hancock, as joint tenants, and said individuals are now the owners of the property in question and the successors to said Lee Herbert Hancock, a.k.a. Lee H. Hancock, a.k.a. Lee Hancock; and



WHEREAS, the term of the aforementioned lease was for "the period that it takes to revegetate the mined area to the satisfaction of the Colorado Mined Land Reclamation Act"; and

WHEREAS, Hancock and Otero County desire to terminate the aforementioned Lease Agreement and All-Rite Paving desires to lease the aforementioned property and to enter into its own Lease Agreement with Hancock; and

WHEREAS, All-Rite Paving has agreed to assume and complete the reclamation requirements as concerns the area previously mined by Otero County, Colorado, to the satisfaction of the Colorado Division of Reclamation, Mining and Safety; and

WHEREAS, the parties wish to put their agreement in writing in this regard;

NOW, THEREFORE, based on good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. With regard to the property subject to the "Hancock Gravel Pit Lease Agreement" dated October 30, 2006, described as:

All that certain tract of land situated in the County of Otero, State of Colorado, described as follows, to-wit:

Certain portions of the SE $\frac{1}{4}$ of Section 26, located in Township 23 South of Range 57 West of the 6th P.M. (See Exhibit "A" attached hereto).

the parties agree as follows:

- (a) Hancock and Otero County agree to terminate the aforementioned Lease Agreement, and by way of separate Agreement, Hancock shall agree to release Otero County from any claim or liability under said Lease Agreement and to hold harmless Otero County as concerns the same.
- (b) Hancock and All-Rite will enter into a Lease Agreement concerning the property above-described.
- (c) All-Rite Paving agrees to:
 - (1) Assume all liability for the reclamation of the affected land and for compliance with the Hard Rock Act and Rules or the Construction Materials Act and Rules, as applicable, and to hold Otero County harmless from any claim of any nature as concerns said reclamation.
 - (2) Be liable for any pre-existing conditions or violations, whether known or unknown at the time of the transfer of Reclamation Permit No. M-1981-279.



(3) Be solely responsible for maintaining the mining and reclamation operations in compliance with Reclamation Permit No. M-1981-279, including any revisions, amendments and conversions thereto.

(4) Comply with any and all terms and conditions of the Reclamation Plan, which is an integral part of Reclamation Permit No. M-1981-279, and to assume full responsibility for the completion of the Plan.

(5) Comply with any and all terms and conditions of the Mined Land Reclamation Act, the Hard Rock Act and associated Rules, and the Land Reclamation Act for the Extraction of Construction Materials and associated Rules.

2. That Hancock, Otero County and All-Rite agree to sign any and all paperwork required by the Colorado Division of Reclamation, Mining and Safety to transfer Mining Permit No. M-1981-279 from Otero County to All-Rite.

IN WITNESS WHEREOF, the parties execute this Agreement this 3RD day of October, 2016.


WILLIAM G. HANCOCK

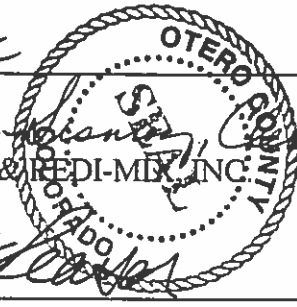

KAREN K. HANCOCK

BOARD OF COUNTY COMMISSIONERS OF
OTERO COUNTY, COLORADO

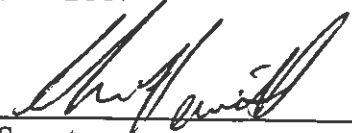
By 
Chairman

Attest: 
ALL-RITE PAVING & READY-MIX, INC.

By 
President



ATTEST:


Secretary



646131
4 of 6

10/4/2016 8:01 AM
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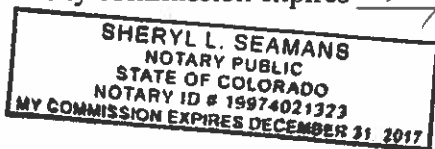
Sharon Sisnroy
Otero County Clerk

STATE OF COLORADO)
) ss.
County of Otero)

The foregoing agreement was acknowledged before me this 3RD day of October, 2016, by WILLIAM G. HANCOCK.

WITNESS my hand and official seal.

My commission expires 12/31/2017.



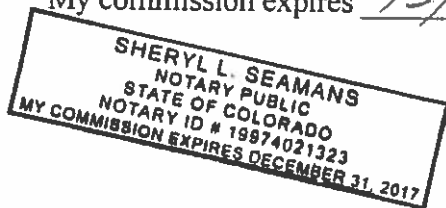
Sheryl L. Seamans
Notary Public

STATE OF COLORADO)
) ss.
County of Otero)

The foregoing agreement was acknowledged before me this 3RD day of October, 2016, by KAREN K. HANCOCK.

WITNESS my hand and official seal.

My commission expires 12/31/2017.



Sheryl L. Seamans
Notary Public



STATE OF COLORADO)
) ss.
 County of Otero)

646131
 5 of 6

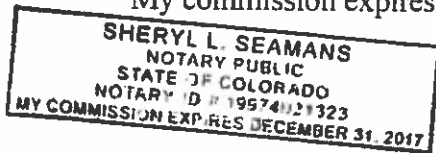
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Sharon Sisroy
 Otero County Clerk

The foregoing agreement was acknowledged before me this 3rd day of October, 2016, by JIM BALDWIN, Chairman of the Board of County Commissioners of OTERO COUNTY, COLORADO.

WITNESS my hand and official seal.

My commission expires 12/31/2017.



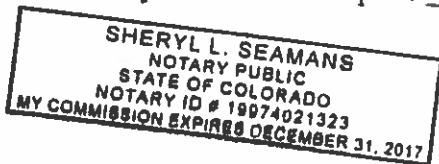
Sheryl L. Seamans
 Notary Public

STATE OF COLORADO)
) ss.
 County of Otero)

The foregoing agreement was acknowledged before me this 3rd day of October, 2016, by Herb K Pearson, President and Sheri Hewitt, Secretary of ALL-RITE PAVING & REDI MIX, INC. General Manager

WITNESS my hand and official seal.

My commission expires 12/31/2017.



Sheryl L. Seamans
 Notary Public



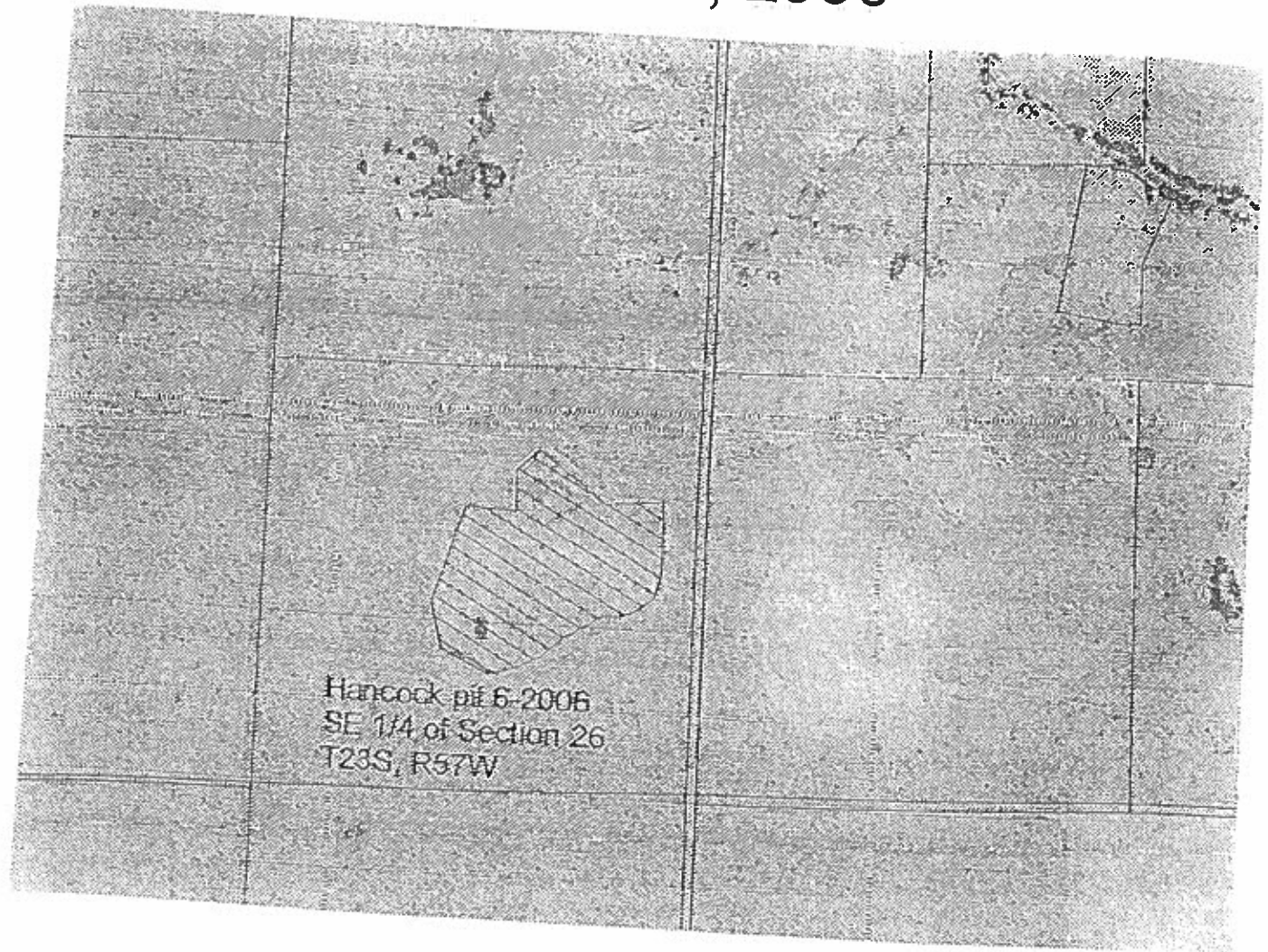
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6 of 6

10/4/2016 8:01 AM
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Sharon Sisroy
Otero County Clerk

Hancock Gravel Pit

June 30, 2006



Hancock pit 6-2006
SE 1/4 of Section 26
T23S, R57W

Hancock pit 6-06.shp
Utsections.shp
Utparcels.shp

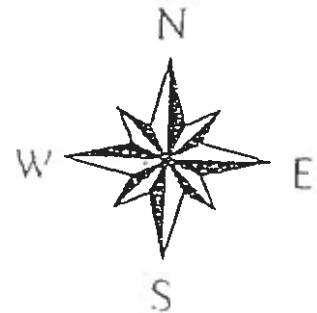


Exhibit "A"

PMG

STRUCTURE AGREEMENT

m1981-279



Seth Boutilier,
Supervisor/Electric Operations

105 South Victoria Avenue
Pueblo, Colorado 81003
Voice 719 546 6448
Seth.Boutilier@blackhillscorp.com

April 11, 2016

RECEIVED

Mr. John Ary
All-Rite Paving & Redi-Mix, Inc.,
PO Box 165
Canon City, Colorado 81215

OCT 27 2016

Division of Reclamation,
Mining & Safety

RE: Hancock Pit in the Southeast Quarter of Section 26, Township 23 South, Range 57 West, 6th
Principal Meridian, Otero County, Colorado

Dear Mr. Ary,

Dr. Bellantoni of Environmental Alternatives has contacted Black Hills Energy regarding ongoing mining and reclamation work at the Hancock Pit, location referenced above. Black Hills Energy currently owns a utility easement for electric power lines traversing the southeasterly corner of the pit. There is a 69,000 volt overhead transmission line in a 100' utility easement (Edgar easement B347 P428, August 25, 1937) as indicated by the blue line in the drawing below.



Pursuant to Black Hills' utility easement, access to all structures within the easement adequate to support construction, operation and maintenance of the electric lines therein must be maintained at all times. In addition ground clearance must not be compromised.

1. A mining setback of 100 feet longitudinally along the easement from each structure must be maintained with a 3:1 slope thereafter. A mining setback perpendicular to the easement equal to the distance from a structure to the edge of the easement must be maintained with a 3:1 slope thereafter. No decrease in ground-to-line clearance is allowed within the easement.
2. No seismic survey or blasting activity shall occur in the above-referenced location unless prior written consent is obtained from Black Hills Energy.
3. No permanent structures are to be located within the easement.
4. All Rite Paving & Redi-Mix, Inc., shall use all reasonable means to prevent any loss or damage to Black Hills Energy's facilities resulting from the construction, modification, replacement, repair, operation, or maintenance of All Rite Paving & Redi-Mix, Inc.'s mining and reclamation activities. Any costs incurred by Black Hills Energy as a result of this project shall be fully and immediately reimbursed by All Rite Paving & Redi-Mix, Inc..
5. All Rite Paving & Redi-Mix, Inc. agrees to indemnify and hold harmless Black Hills Energy from any damage, loss of property, income, injury, or loss of life associated with the use, operation, and other activities over, under, or across Black Hill Energy's existing electric utility line easement.

Please acknowledge receipt and acceptance of these terms and conditions by executing this document before a notary and returning to me at my address, listed above.

Should you have any questions or concerns, kindly contact me at 719 546 6448.

Very truly yours,

Black Hills/CO Electric Utility Company, LP, dba BLACK HILLS ENERGY

Seth Boutilier, Supervisor Electric Operations

This instrument has been received and accepted by All-Rite Paving & Redi-Mix.

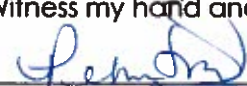
By:  (title)

ACKNOWLEDGEMENT

STATE OF COLORADO }
COUNTY OF FREMONT } ss

The foregoing instrument was acknowledged before me this 20th day of April, 2016 by John Ary, as vice president of All-Rite Paving & Redi-Mix.

Witness my hand and official seal:

Name: 
Notary Public

My commission expires:
Dec 16, 2019

