

May 9, 2017

Jay Wagner
Wagner Construction, Inc.
1850 E 1st Street
Craig, CO 81625



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

***RE: Wagner Rock Pit, File No. M-1999-018, Construction Material Regular (112) Operation
Reclamation Permit Conversion Application Package-Adequacy Review #1***

Dear Mr. Wagner:

The Division of Reclamation, Mining and Safety (Division) is in the process of reviewing the above referenced conversion application in order to ensure that it adequately satisfies the requirements of the Colorado Land Reclamation Act for the Extraction of Construction Materials (Act) and the associated Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (Rules). During review of the material submitted, the Division determined that the following issue(s) of concern shall be adequately addressed before the application can be considered for approval.

APPLICATION Form:

Please answer #10 completely. If using UTM coordinates you must give an easting and northing.

The Division notes that the elevation listed in your application is 7,200 ft. Based on the description of the proposed permit boundary the actual elevation ranges from 6,295 ft. to 6,510 ft. The majority of the pit is located at approximately 6,490 ft. You may wish to revise this information to allow for more accurate bonding calculations as elevation plays a key role in equipment efficiency. This is not cited as an actual deficiency in your application.

APPLICATION PACKAGE:

Per Rule

6.4.1

EXHIBIT A - Legal Description

	(1)			(b), location of the main entrance to the site reported as latitude and longitude, or the Universal Transverse Mercator (UTM) Grid as determined from a USGS topographic map.
	(2)			The main entrance to the mine site shall be located based on a USGS topographic map showing latitude and longitude or Universal Transverse Mercator (UTM). The operator will need to specify coordinates of latitude and longitude in degrees, minutes and seconds or in decimal degrees to an accuracy of at least five (5) decimal places (e.g., latitude 37.12345 N, longitude 104.45678 W). For UTM, the



				operator will need to specify North American Datum (NAD) 1927, NAD 1983, or WGS 84, and the applicable zone, measured in meters.
				Please depict the original 110c permit boundary, not just the excavated area. It may also be helpful to delineate the total affected acreage to date.
				GPS locations of corners markers might also be helpful to field verify the permit boundary in the future. A metes and bounds survey description not required if a township, range, and section, to at least the nearest quarter-quarter section is provided. This is not cited as an actual deficiency in your application.
				Map does not meet requirements of Rule 6.2.1(2). Please include Applicant Name, also the Pit name on Map is "Wagner Pit" application states "Wagner Rock Pit".
6.4.2	EXHIBIT B - Index Map			
	An index map showing the regional location of the affected land and all roads and other access to the area. A standard U.S. Geological Survey topographic quadrangle or equivalent is acceptable. Scale criteria need not be followed for this map.			
	Map included is identical to the index map, not a regional map. Should be a smaller scale map showing areas adjacent to the pit. Also this map does not need to include the legal description.			
6.4.3	EXHIBIT C - Pre-mining and Mining Plan Map(s) of Affected Lands			
	One or more maps may be necessary to legibly portray the following information:			
		(a)		all adjoining surface owners of record;
				May include a text box stating that the pit is entirely within the Nancy Lyn Ranch.
		(c)		the existing topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of the affected land;
				For clarity this is recommended to be its own map. Please include an outline of the current affected area and the proposed permit boundary.
		(d)		the total area to be involved in the operation, including the area to be mined and the area of affected lands (see definition of "Affected Land");
				Current disturbance map states that only 12.5 acres have been affected to date. Previous DRMS maps show a larger amount (approx. 15.1 ac). Affected lands includes all land disturbed by mining to date (including

			<p>unreleased reclaimed lands). The maps provided show a different affected land footprint than satellite imagery.</p> <p>In the future if you wish to increase the operations footprint you should increase the total affected lands.</p>
		(e)	the type of present vegetation covering the affected lands; and
		(f)	in conjunction with Exhibit G - Water Information, Subsection 6.4.7, if required by the Office, further water resources information will be presented on a map in this section.
			Stormwater retention ponds and ditches are present on site, please include these features on your map.
		(g)	Show the owner's name, type of structures, and location of all significant, valuable, and permanent man-made structures contained on the area of affected land and within two hundred (200) feet of the affected land.
			<p>Fences are considered structures. Please label them accordingly on your map.</p> <p>After field locating the permit boundary a cistern is located near the northwest corner. If this structure is within 200 ft. of the affected lands please include a structure agreement. Or make a statement that none is needed.</p>
		(h)	In conjunction with Exhibit I - Soils Information, Subsection 6.4.9, soils information may be presented on a map in this section;
			No map presented in Exhibit I.
Additional Questions:			If any features such as fuel storage, offices/shops, scales, designated haul routes, are to be used for this operation please identify them on the map.
			Maps should depict the current 9.74 ac permit boundary, current affected land to date, proposed permit boundary and proposed affected area (if different than the current mining map).
			The mining plan map should have the final (end of mining) excavation boundary marked, not just the current excavation to date.
			Map does not meet the requirements of Rule 6.2.1(2)(a),(b), and (c)
			Please indicate the direction in which mining extraction will proceed.

				If the north pit boundary daylights out at 60' deep please show on maps where the excavated footprint will be. Additional land will need to be affected.
6.4.4	EXHIBIT D - Mining Plan			
The mining plan shall supply the following information, correlated with the affected lands, map(s) and timetables:				
		(a)		description of the method(s) of mining to be employed in each stage of the operation as related to any surface disturbance on affected lands;
				Please describe how rock material will be mined (extraction method, processing, transportation). Are various pieces of equipment utilized for different phases of mining, if so specify.
		(c)		all water diversions and impoundments; and
				Currently stormwater retention ponds are located on the south side of the affected lands. If stormwater features such as berms or ponds are to be employed they need to be described.
				"No runoff, impoundment, or ground water can affect the excavation or affect the hydrologic balance, pre or post mining. Measures will be taken to minimize disturbances to the hydrologic balance." These are conflicting statements. Beyond diversion and impoundments water does not have to be discussed in this exhibit but rather should be referenced in Exhibit G.
		(d)		the size of area(s) to be worked at any one time.
				Please specify the maximum disturbance at any given time. This includes all affected land that has not been reclaimed and released (excavations, stockpiles, parking, roads, etc.) You may wish to employ phased mining where possible.
		(e)		An approximate timetable to describe the mining operation. The timetable is for the purpose of establishing the relationship between mining and reclamation during the different phases of a mining operation. An Operator/Applicant shall not be required to meet specific dates for initiation, or completion of mining in a phase as may be identified in the timetable. This does not exempt an Operator/Applicant from complying with the performance standards of Section 3.1. If the operation is intended to be an intermittent operation as defined in Section 34-32.5-103(11)(b), C.R.S., the Applicant should include in this exhibit a statement that conforms to the provisions of Section 34-32.5-103(11)(b), C.R.S. Such timetable should include:

				If no phases are being used please describe the following with regard to the maximum affected land.
			(i)	an estimate of the periods of time which will be required for the various stages or phases of the operation;
			(ii)	a description of the size and location of each area to be worked during each phase; and
			(iii)	outlining the sequence in which each stage or phase of the operation will be carried out.
	(Timetables need not be separate and distinct from the mining plan, but may be incorporated therein.)			
		(f)		A map (in Exhibit C - Pre-Mining and Mining Plan Maps(s) of Affected Lands, Subsection 6.4.3) may be used along with a narrative to present the following information:
			(i)	nature, depth and thickness of the deposit to be mined and the thickness and type of overburden to be removed (may be marked "CONFIDENTIAL," pursuant to Paragraph 1.3(3)); and
				Removal of overburden is mentioned, what is the estimated depth of overburden needing to be removed to extract the mined deposit?
				Nature, depth and thickness of deposit being mined. Mine plan simply states maximum excavation of 60'. That will include topsoil and overburden.
			(ii)	nature of the stratum immediately beneath the material to be mined in sedimentary deposits.
Additional questions				DRMS Specification 20.0 is part of the IMP Bid specifications book and IMP does not have regulatory oversight. Please reference the appropriate act and rules. CRS. 34-32.5 or Minerals Rules for Extraction of Construction Materials-Rule 3. Reclamation efforts only need to be addressed in exhibit E.
				Seed mix blend name is inadequate. Please include the species, variety, PLS/AC applied and method that interim reclamation of topsoil piles will conducted at.
				Will fuel or other hazardous products be stored on site? If so please describe the manner in which they will be stored?

				Are there any buildings, roads or other improvements to be used for mining? If so please describe them and specify if they are permanent features. Include dimensions and building materials of features.
				Describe where stockpiled material will be stored.
				What is the slope of mined excavated highwalls? A 2:1 slope is mentioned, will you mine at a 2:1 or mine vertical then backfill upon final reclamation to a 2:1?
				Please include a commitment that if ground water is encountered you will backfill at least 2 feet above that level. And that upon encountering groundwater, the Office of State Engineer and the Division will be notified.
6.4.5	EXHIBIT E - Reclamation Plan			
	<p>DRMS Specification 20.0 is part of the IMP Bid specifications book and IMP does not have regulatory oversight. Please reference the appropriate act and rules. CRS. 34-32.5 or Minerals Rules for Extraction of Construction Materials-Rule 3.</p> <p>Please address the following site wide or based on specific post mining area, whichever is most appropriate.</p>			
	(1)			In preparing the Reclamation Plan, the Operator/Applicant should be specific in terms of addressing such items as final grading (including drainage), seeding, fertilizing, revegetation (trees, shrubs, etc.), and topsoiling. Operators/Applicants are encouraged to allow flexibility in their plans by committing themselves to ranges of numbers (e.g., 6"-12" of topsoil) rather than specific figures.
	(2)			The Reclamation Plan shall include provisions for, or satisfactory explanation of, all general requirements for the type of reclamation proposed to be implemented by the Operator/Applicant. Reclamation shall be required on all the affected land. The Reclamation Plans shall include:
		(a)		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, the amount of acreage accorded to each , and a general discussion of methods of reclamation as related to the mechanics of earthmoving;
		(c)		A description of how the Reclamation Plan will be implemented to meet each applicable requirement of Section 3.1;
		(d)		Where applicable, plans for topsoil segregation, preservation, and replacement; for stabilization, compaction, and grading of spoil; and for revegetation. The revegetation plan shall contain a list of the preferred

				species of grass, legumes, forbs, shrubs or trees to be planted, the method and rates of seeding and planting, the estimated availability of viable seeds in sufficient quantities of the species proposed to be used, and the proposed time of seeding and planting;
				In this section please address topsoil handling. For simplicity you may wish to use the same seed mix as your final general ag mix.
				General Agriculture veg area- Please state that all compacted areas to be seeded will be ripped 18-24" prior to topsoil replacement. Also include an estimate of the areas requiring being ripped based on the current operation. This should be where all stockpiles were, roads or general storage was previously.
				How will erosion be mitigated on slopes where fill is being used to construct the 2:1 slopes? 60' deep at a 2:1 is approximately a 135' long slope. Will any sort of benching or pocking be used to break up the slope?
		(e)		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;
				Need to be more specific then saying competed within 5 years. Should be specific for each stage/step within each of the post mining types.
			(ii)	A description of the size and location of each area to be reclaimed during each phase; and
				General Agriculture Vegetation Area-it's stated that 2.6 acres currently will be revegetated. Is 2.6 acres just the north facing pit slopes or does that include the flat areas to the south?
				Please give a size for the hay storage area. (if 2.6 ac zone 1, 4 ac zone 3 then should be approx. 6+ ac of zone 3 which is not proportional on reclamation map)
				Please note that if you revise the mining plan to show a larger affected area for future mining the acres associated with each post-mining land use may also need to be changed.
	(The schedule need not be separate and distinct from the Reclamation Plan, but may be incorporated therein.)			

		(f)		A description of each of the following:
			(ii)	Seeding - specify types, mixtures, quantities, and expected time(s) of seeding and planting;
				Seeding rates are specific to the method used. Please describe seeding with regard to drill rates and include a statement that for all methods other than drill that the rates will be doubled.
				Whose seasonal timing recommendations are you following? Please list what those recommendations are.
				Dry land seed mix listed does not add up to 100%. Seed mix should be listed as a LBS of PLS/Acre for each species including the specific variety at the drill seed rate. Rather than a total poundage to be applied and % composition of each species.
			(iii)	Fertilization - if applicable, specify types, mixtures, quantities and time of application;
				How will fertilizer be applied
			(iv)	Revegetation - specify types of trees, shrubs, etc., quantities, size and location; and
				In the general agriculture veg area will any container stock of trees or shrubs be planted?
			(v)	Topsoiling - specify anticipated minimum depth or range of depths for those areas where topsoil will be replaced.
				Topsoil should be applied to all areas that are anticipated to be seeded. Maps show in addition to the side slopes a flat area to the south of the pit being seeded.
Additional Questions				General Ag Veg area: Who determines if/when mulching is necessary. If mulching please also state that mulch will be crimped into place.
				Hay storage area- reiterate that no topsoil, overburden or seeding will occur in this area.
				Hay storage area-please give an estimate of the volume and/or depth of graveled material that will be graded on the pit floor. Also clarify if this material will constantly reside on the pit floor or if upon final reclamation it will be transported from stockpiles to the pit floor and graded.

				Graveled storage area- reiterate that no topsoil, overburden or seeding will occur in this area.
				Graveled farm storage- it's stated that all non-excavated affected areas will remain gravelled for farm equipment. This does not correlate to the reclamation map. Where some portions on top in the southwest corner are vegetated.
				Graveled storage area-please give an estimate of the volume and/or depth of gravelled material that will be graded on the in the storage area. It is the Division's assumption that nearby existing stockpiles will be utilized for areas where residual gravel is already not present.
				Roads are considered mine related features. If all will be removed how will the hay storage area be accessed? Will the mine access road into the pit bottom remain?
				Please include a noxious weed management plan.
6.4.6	EXHIBIT F - Reclamation Plan Map			
	The map(s) of the proposed affected land, by all phases of the total scope of the mining operation, shall indicate the following:			
	For clarity it may be best to submit multiple maps.			
		(a)		The expected physical appearance of the area of the affected land, correlated to the proposed mining and reclamation timetables. The map must show proposed topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of all reclaimed lands; and
		(b)		Portrayal of the proposed final land use for each portion of the affected lands.
				All affected land should have a post-mining land use associated with it.
				If any roads are to remain post mining please include them on the map. Likewise if there are any permanent structures (fences).
				Upon final reclamation topsoil and overburden piles should be removed, thus they should not be on the reclamation map.
				The affected land boundary will need to be increased to daylight out the north slope.

				Survey location information is not required on this map. You may wish to display the mine site at a larger scale to make features easier to display.
				Rule 6.2.1(2) applies to the reclamation maps. (a), (b), and (c)
6.4.7	EXHIBIT G - Water Information			
	(1)			If the operation is not expected to directly affect surface or groundwater systems, a statement of that expectation shall be submitted.
				Currently stormwater ditches and retention ponds are present. Please describe why these features are necessary and how they will be employed to maintain the hydrologic balance.
				Comments were received regarding the Murphy/Biscup Spring. Please provide additional information to support that your operation will not have effects on water as previously stated. Or if you now believe it might please address Rule 6.4.7(2) listed below.
	(2)			If the operation is expected to directly affect surface or groundwater systems, the Operator/Applicant shall:
		(a)		Locate on the map (in Exhibit C) tributary water courses, wells, springs, stock water ponds, reservoirs, and ditches on the affected land and on adjacent lands where such structures may be affected by the proposed mining operations;
		(b)		Identify all known aquifers; and
		(c)		Submit a brief statement or plan showing how water from de-watering operations or from runoff from disturbed areas, piled material and operating surfaces will be managed to protect against pollution of either surface or groundwater (and, where applicable, control pollution in a manner that is consistent with water quality discharge permits), both during and after the operation.
	(5)			The Operator/Applicant shall affirmatively state that the Operator/Applicant has acquired (or has applied for) a National Pollutant Discharge Elimination System (NPDES) permit from the Water Quality Control Division at the Colorado Department of Health, if necessary.
				Please state if this permit is necessary.
6.4.8	EXHIBIT H - Wildlife Information			

	(1)			In developing the wildlife information, the Operator/Applicant may wish to contact the local wildlife conservation officer. The Operator/Applicant shall include in this Exhibit, a description of the game and non-game resources on and in the vicinity of the application area, including:
				The Division believes that despite being a historical farm that there are wildlife populations. Please consult with Colorado Parks and Wildlife to address the following questions.
		(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.
Additional Statements				CPW comment reflects that this is an ongoing operation and that no additional impacts are anticipated. However the minimum information as required by the Rule still needs to be addressed.
6.4.9	EXHIBIT I - Soils Information			
	(1)			In consultation with the Soil Conservation Service or other qualified person, the Operator/Applicant shall indicate on a map (in Exhibit C) or by a statement, the general type, thickness and distribution of soil over the affected land. Such description will address suitability of topsoil (or other material) for establishment and maintenance of plant growth. The above information shall satisfy "completeness" requirements for purposes of determination of date of filing.
	(2)			If necessary, at its discretion, the Board may require additional information on soils or other growth media to be stockpiled and used in revegetation to be submitted subsequent to the filing and notification of "completeness" of the application.
				It is unclear if soil report is for the permit area. A map symbol is reference but no map is included. Additionally weathered shale is listed while the permit application references a basalt as the parent material. Please consult NRCS or include a web soil survey of the entire permit area.

				Rule 6.4.3(1)(h) is not addressed in the mining maps. Please include it with your Exhibit I.
6.4.10	EXHIBIT J - Vegetation Information			
	(1)			The Operator/Applicant shall include in this Exhibit a narrative of the following items:
		(a)		descriptions of present vegetation types, which include quantitative estimates of cover and height for the principal species in each life-form represented (i.e., trees, tall shrubs, low shrubs, grasses, forbs);
				Areas primarily to the north and west of the existing pit are rangeland. Please address (a) for those areas.
				Description of agricultural wheat production areas is sufficient.
		(b)		the relationship of present vegetation types to soil types, or alternatively, the information may be presented on a map; and
	(2)			The Operator/Applicant shall show the relation of the types of vegetation to existing topography on a map in Exhibit C. In providing such information, the Operator/Applicant may want to contact the local Soil Conservation District.
				Not addressed under Exhibit C Rule 6.4.3(e)
6.4.11	EXHIBIT K - Climate			
	Provide a description of the significant climatological factors for the locality.			
	Please include quantitative climate data in addition to the qualitative narrative.			
6.4.12	EXHIBIT L - Reclamation Costs			
	(1)			All information necessary to calculate the costs of reclamation must be submitted and broken down into the various major phases of reclamation. The information provided by the Operator/Applicant must be sufficient to calculate the cost of reclamation that would be incurred by the state.
General Agriculture			<p>Include ripping cost. Provide acreage required.</p> <p>Volume of overburden/fill material necessary to create 2:1 Slopes (also include centroid distance to be hauled (if necessary), push distance and slope.</p> <p>Please provide the volume of topsoil to be applied, centroid distance to be hauled (if necessary), push distance and slope.</p>	

				Reclamation plan states approx. 2.6 acres to be seeded while Exhibit L states approx. 5 ac. These figures should match.
Hay storage				Volume of material needing to be moved to create drain. Volume of gravel to be trucked in and graded if not already present on pit floor.
Graveled Equipment storage				Volume of material needing to be moved to create drain.
				Include indirect cost (approx. 23.5% of total direct costs)
				*Note: Colors listed do not match reclamation map
6.4.13	EXHIBIT M - Other Permits and Licenses			
	A statement identifying which of the following permits, licenses and approvals the Operator/Applicant holds or will be seeking in order to conduct the proposed mining and reclamation operations: effluent discharge permits, air quality emissions permits, radioactive source material licenses, the State Historic Preservation Office clearance, disposal of dredge and fill material (404) permits, permit to construct a dam, well permits, explosives permits, highway access permits, U.S. Forest Service permits, Bureau of Land Management permits, county zoning and land use permits, and city zoning and land use permits.			
	Is a stormwater permit required for this operation?			
	Please be aware that as your operation increases in size it is your responsibility to revise or obtain new county permits if necessary.			
6.4.19	EXHIBIT S - Permanent Man-made Structures			
	Where the mining operation will adversely affect the stability of any significant, valuable and permanent man-made structure located within two hundred (200) feet of the affected land, the applicant may either:			
	A grazing fence and cistern may be within 200 ft. of the affected lands.			
		(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.
	Public Notice			
				<p>In addition, after the first publication you must mail or personally serve a copy of the notice described in Rule 1.6.2(1)(d) to all owners of record of surface rights to the affected land and all owners of record of lands that are within 200 feet of the boundary of the affected land (Rule 1.6.2(1)(e),(f))</p> <ul style="list-style-type: none">• Nancy Lyn Ranch

Please submit your response(s) to the above listed issue(s) by **Wednesday, May 31, 2017** in order to allow the Division sufficient time for review. Currently the decision due date has been set for June 12, 2017.

The Division will continue to review your application and will contact you if additional information is needed.

If you require additional information, or have questions or concerns, please feel free to contact me. Amy Yeldell at the Division of Reclamation, Mining and Safety, 1313 Sherman St., Room 215, Denver, CO 80203. Direct contact can be made by phone at 970-254-8511 or via email at amy.yeldell@state.co.us

Sincerely,



Amy Yeldell

Environmental Protection Specialist
Department of Natural Resources
Division of Reclamation, Mining and Safety
Phone: (970) 254-8511
Fax: (970) 241-1516

Ec:

Russ Means, Senior EPS, Grand Junction DRMS
Kerry Booth, Consultant