



COLORADO

**Division of Reclamation,
Mining and Safety**

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

May 12, 2017

Randy Schaefer
40586 Co. Road 21
Haxtun, CO 80731

**RE: PVRE Pit #1, M-2017-009, New 110 Construction Materials Reclamation Permit
Application, Adequacy Review No. 3**

Dear Mr. Schaefer:

The Colorado Division of Reclamation, Mining, and Safety (Division) received your response to the Division's adequacy review electronically on May 12, 2017. The Division must receive a hard copy of the response to confirm it is consistent with the electronic response prior to the approval of the application. There are several adequacy review items that will need to be addressed prior to the Division's approval of the application. Below is a list of the adequacy review items that the Division identified in our initial adequacy review and Platte Valley Real Estates, LLC's (PVRE) responses to these items. Adequacy Review items that the Division considers resolved have been deleted from the list. If additional information or issues have been identified based on your response they are discussed below.

Rule 6.3.3. Exhibit C – Mining Plan

10) Has "Jack's Lane" been constructed? If so, please provide a description of this road and a picture of this road and indicate if the road will be improved to support the mining operation. Based on the definition of "Affected Land" in Rule 1.1(3), roads must be included as affected land unless the road existed prior to the date on which a permit application was made to the Office and which was constructed for purposes unrelated to the proposed mining operation and which will not be substantially upgraded to support the mining operation. Also, per Rule 6.3.3(g), new or improved roads must be included as part of the permitted acreage. If the road does not exist, it must be included in permit acreage, and given that the proposed permit area is already 9.9 acres including this road would require the applicant to withdraw this 110 Limited Impact Operation application and submit a 112 application or reduce the proposed permit area below the 10 acre Limited Impact Operation threshold.

- a. **PVRE, LLC. Response:** Jack's Lane is a new road which will service Platte Valley Industrial Park, a new subdivision which is currently being proposed by Platte Valley Real Estate LLC and is under review by Logan County. We would argue that the primary function of this roadway is to serve the new industrial lots being created in the Platte Valley Industrial Park subdivision. It will be in place and serve that function for many years above and beyond the life of this pit. A copy of the subdivision plat is attached. The gravel pit operation will simply be using a roadway built for the industrial



property owners. The subdivision roadway has not been included in the 9.9 acres at this time.

- b. **DRMS Response:** Per Rule 1.1(3) and 6.3.3(g), new or improved roads must be included as part of the permitted acreage. C.R.S. 34-32.5-103(1) states for a road not be considered as part of the affected land it must have been in existence before a permit application was filed with the office. As this road is not currently in existence, the acreage associated with it must be included in the permit acreage/affected land acreage. Since the proposed permit area is already 9.9 acres including this road would require the applicant to withdraw this 110 Limited Impact Operation application and submit a 112 application or reduce the proposed permit area below the 10 acre Limited Impact Operation threshold while including the road acreage. If the latter option is chosen, the applicant will need to file a Technical Revision to the application in accordance with Rule 1.8. The revision shall include revised application Exhibits as applicable to account for including the road area within the permit boundary.

Exhibit 6.3.4, Exhibit D – Reclamation Plan

- 15) The Division has reviewed the reclamation cost estimate submitted. The backfilling and grading cost and topsoil replacement cost will depend on how you address the adequacy review items above. Also, please address the following issues:
 - b. The reclamation plan and mining plan narrative indicate that it is not clear if groundwater will be exposed and fill the pit area. Based on the Division's knowledge of the area and of a nearby mine site, it is very likely the operator will encounter ground water at shallow depths likely near the 7 foot depth. The cost estimate submitted is based on the assumption that a ground water pond will be created. In order to address the financial liability associated with the exposure of groundwater, the operator must first obtain a permanent augmentation plan from the Office of the State Engineer (SEO) prior to exposing ground water or the permittee may post a bond to either:
 - i. Option A: backfill the pit to at least two feet above the static ground water level.
 - ii. Option B: install an impervious clay liner or slurry wall to isolate the pit from the ground water table.

Either supply evidence a permanent plan for augmentation has been obtained for the exposure of groundwater or provide an estimated cost for either bonding for option A or B discussed above. Or, you may commit to not exposing groundwater until a permanent plan for augmentation has been obtained for the entire projected area of exposed groundwater. If the latter option is chosen please revise the mining plan with this commitment.

- iii. **PVRE Response:** We are currently in discussion concerning a permanent plan for augmentation. To allow time to complete that plan, we are hereby committing not to exposing groundwater until a permanent plan for augmentation has been obtained for the entire projected area of exposed groundwater.

- iv. **DRMS Response:** PVRE has committed not to expose groundwater until a permanent plan for augmentation has been obtained for the entire projected area of exposed groundwater. Given this, the Division will place a stipulation to the approval of this application that PVRE must submit evidence to the Division that a permanent plan for augmentation has been obtained prior to exposing groundwater.
- c. The reclamation plan indicates the entire pit area will have overburden and topsoil replaced. The cost estimate only estimates that cost to replace topsoil over 2.4 acres. Please revise the estimate for topsoil replacement to cover the entire 9.9 acre affected area with topsoil.
 - v. **PVRE Response:** Assuming the pit's final disposition is a pond, it will be impossible to place overburden and topsoil on slopes under water. They will be placed around the perimeter and on any slope down to water's edge. Our estimate of that area is 2.4 acres. The cost estimated has been revised to include an increased depth of 17" (1.42') but does not reflect covering the entire 9.9 acres. I am also including a cost estimate showing top soil replacement for 9.9 acres but do not believe that will be the end result.
 - vi. **DRMS Response:** The applicant has committed to not exposing groundwater until a permanent plan of augmentation has been obtained. Given this, a pond may not be created initially so the Division's cost estimate will include the cost of spreading topsoil and overburden over the entire 9.9 acres. Once the applicant has obtained a permanent plan of augmentation and a pond can be created, the applicant can request a surety reduction to reduce the amount of bond needed to only spread topsoil/overburden over the areas above the waterline.
- e. Please revise the estimate for revegetation for the entire 9.9 acre affected area.
 - vii. **PVRE Response:** We can provide an estimate for revegetation that would include the entire 9.9 acres, but that seems to fly in the face of facts. Looking at a google earth map of the immediate area (see attached) shows that any excavation that has occurred in this immediate area has resulted in a pond. The proximity to the South Platte River and the high water table almost make this a certainty.
Again, assuming the pit's final disposition is a pond, re-vegetation will not be possible for the entire 9.9 acres. The cost estimate is based on revegetation of that area projected to lie outside the pond. I am also including a cost estimate showing top soil replacement for 9.9 acres but do not believe that will be the end result.
 - viii. **DRMS Response:** Similar to the item above, since the applicant has committed to not exposing groundwater until a permanent augmentation plan has been obtained, a pond will not be created initially. Given this, the Division's cost estimate will include the revegetation of the entire 9.9 acre affected area.

Reclamation Cost Estimate

- Typically, the Division conducts a cost estimate based on the reclamation plan and the reclamation cost estimate supplied with the application at this point in the review process. Given adequacy review item #10 and the new road, either the mining and reclamation plan will need to be changed to include the road within this permit area or a 112 application will need to be submitted. Given this, the Division cannot conduct a cost estimate at this time.

This concludes the Division's review of the PVRE Pit #1 application adequacy review response. The Division is required to issue its decision for the application on May 17, 2017. The Division has identified several adequacy review issues that will need to be addressed prior to the Division's approval of the application. If you need additional time to address these issues, you must request an extension of the decision date in writing prior to the decision date. If the decision date arrives and there are outstanding adequacy review issues and an extension has not been granted the Division may deny the application.

Please do not hesitate to contact me with questions, my phone number is (303) 866-3567 ext. 8120, my e-mail address is jared.ebert@state.co.us.

Sincerely,



Jared Ebert
Environmental Protection Specialist III

CC: Dan E. Long, Platte Valley Real Estate, LLC.