



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

1313 Sherman Street, Room 215
Denver, CO 80203

July 3, 2017

Mr. Bruce Humphries
Regulatory Permits Management, Inc.
22151 E. Euclid Pl.
Aurora, CO 80016

Re: Tracy and Ed Grimes; Dill Pit; File No. M-2009-077; 110 to 112 Construction Materials Reclamation Permit Conversion Application Package (CN-01) Adequacy Review

Mr. Humphries:

The Division of Reclamation, Mining and Safety (Division/DRMS) reviewed the content of the Tracy and Ed Grimes 110 to 112 construction materials conversion permit application for the Dill Pit, File No. M-2009-077 and submits the following comments. The Division is required to make an approval or denial decision no later than August 10, 2017 therefore; a response to the following adequacy review concerns should be submitted to the Division as soon as possible.

The review consisted of comparing the conversion application content with specific requirements of Rules 1, 3, 6.1, 6.2, 6.4 and 6.5 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 heading along with suggested actions to correct them.

1.6 Public Notice

1. As required by Rules 1.6.2(d) and 1.6.5(2), please submit proof of publication in a newspaper of general circulation in the locality of the proposed mining operation.

The Division received proof of publication in the Ranchland News via email from the Applicant on June 13, 2017. No response is required from the Applicant.

2. As required by Rule 1.6.2(e), please 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 lands, including all easement holders located on the affected land and within 200 feet of the boundary of the affected



lands. Proof of notice may be return receipts of a Certified Mailing or by proof of personal service.

The Division received copies of the Certified Mail Receipts and Return Receipts via email from the Applicant on June 6, 2017 and June 19, 2017.

- a. The Division did not receive proof of notice of all Owners of Record of mineral rights of the affected land pursuant to Rule 1.6.2(e)(i).
- b. The Division did not receive proof of notice to the following Owner of Record of easements within 200 feet of the boundary of the affected land pursuant to Rule 1.6.2(e)(ii):
 - i. Owner of the underground gas mains located northeast of the access road
- c. During the Pre-Operational inspection conducted on June 30, 2017, utility markers for a telephone line and a fiber optics line were observed in the easement for Highway 24. Please provided proof of notice for the utility structure owner for the telephone line, fiber optic line and all other utilities located in the Hwy 24 easement and within 200 feet of the boundary of the affected land.

Please submit proof of notice in the form of return receipts of a Certified Mailing or by proof of personal service.

3. The Division received comments from Colorado Parks and Wildlife, History Colorado, and Colorado Division of Water Resources. The letters are attached for review. Please address the comments noted in the letters and make any changes to the application as needed.

6.4 Specific Exhibit Requirements - Regular 112 Operations

The following items must be addressed by the Applicant in order to satisfy the requirements of C.R.S. 34-32.5-101 et seq. and the Mineral Rules and Regulations of the Mined Land Reclamation Board:

6.4.3 Exhibit C - Pre-mining and Mining Plan Maps of Affected Lands

4. The Applicant states on Exhibit C there are no gas lines within 200 feet of the proposed affected land. As required by Rule 1.1(3), affected lands include but shall not be limited to private ways, roads, except those roads which existed prior to the date on which notice was given or the permit application was made to the office and which were constructed

for purposes unrelated to the proposed mining operation and which will not be substantially upgraded to support the mining operation. The Exhibit C map indicates two underground gas main lines within 200 feet of the access road to the Dill Pit. Please update Exhibit C to indicate the name of the owner of the oil and gas lines pursuant to Rule 6.4.3(b).

5. Please update Exhibit C to indicate the type of present vegetation covering the affected lands pursuant to Rule 6.4.3(e).
6. Please update Exhibit C to indicate the location and owner of all utilities located in the Hwy 24 easement and within 200 feet of the boundary of the affected land.
7. The Applicant states in Exhibit D - Mining Plan the slopes of the west side of the pit will be final mined at 4H:1V. The General Notes section on Exhibit C states the final mine slope shall not exceed a grade greater than 3' horizontal to 1' vertical (3H:1V). Please update the general notes section on Exhibit D to indicate the final west pit slope of 4H:1V.
8. The Applicant states mined slope areas within both Phase 1 and Phase 2 shall not be mined within a 15 foot wide buffer offset. The current 110c Dill Pit permit conditions require a 25 foot offset from the East Right-of-Way of County Road 189 and a 39 foot offset from the edge of the road base of County Road 189 based on the Slope Stability Analysis dated June 7, 2010. Please clarify if the Applicant intends to change the current offset requirement from CR189 and provide justification for the change.
9. The Applicant states mined slope areas within both Phase 1 and Phase 2 shall not be mined within a 15 feet from the existing drainage paths. Based on the observations from the Pre-Operational inspection conducted on June 30, 2017, the Operator has mined through the existing drainage path of the ephemeral stream in the current permit area. Please clarify if the Applicant intends to mine through the drainages in the additional areas or maintain a 15 foot offset. Additionally, please explain how the drainage channel will be reestablished during site reclamation.

6.4.4 Exhibit D - Mining Plan

10. The Applicant states topsoil and overburden will be placed in stockpiles until needed for site reclamation. Please commit to seeding the topsoil and overburden stockpiles within 180 days of placement with the approved Reclamation Plan seed mixture to stabilize and protect the stockpiles from erosion pursuant to Rule 3.1.9.
11. The Applicant states the new location of the ephemeral drainage which transects the mining area is shown on the Reclamation Plan Map. The location of the ephemeral drainage is shown in the same location on the Mining Plan Map and Reclamation Plan

Map. Please clarify if the location of the drainage will be altered by the proposed mining activity and provide design details for the relocated drainage channel.

6.4.5 Exhibit E - Reclamation Plan

12. The Applicant states the final grade of all interior pit slopes will be 3H:1V or less in response to Rule 6.4.5(f). In Exhibit D - Mining Plan the Applicant stated the slopes of the west side of the pit will be final mined at 4H:1V. Please explain this discrepancy and update the Reclamation Plan accordingly.
13. The approved Reclamation Plan for the current Dill Pit states the maximum gradient on reclaimed slopes will be 4H:1V or flatter to accommodate the rangeland use. The proposed Reclamation Plan state all slopes except the west slope will be reclaimed to a 3H:1V slope. The post mining land use for the conversion application will remain rangeland. Please explain and justify the change in reclaimed slope gradient when the post mining land use remains the same as the approved permit.
14. The Applicant states fifty (50) western sand cherry trees will be planted along the ephemeral drainage in response to Rule 6.4.5(2)(f)(iv). The Applicant states no tree planting is proposed in response to Rule 3.1.10(2). Please explain this discrepancy and update Exhibit E as required.

6.4.6 Exhibit F - Reclamation Plan Map

15. The Applicant states in Exhibit D - Mining Plan the slopes of the west side of the pit will be final mined at 4H:1V. The General Notes section on Exhibit F states the final mine slope shall not exceed a grade greater than 3' horizontal to 1' vertical (3H:1V). The Legend on Exhibit F indicates a proposed slope arrow of 3H:1V for the west slope. Please update the general notes section and legend on Exhibit F to indicate the final west pit slope of 4H:1V.
16. Please update Exhibit F to indicate the name of the owner of the oil and gas lines as required by Item #4 above.
17. Please update Exhibit C to indicate the location and owner of all utilities located in the Hwy 24 easement and within 200 feet of the boundary of the affected land.
18. Please update Exhibit F to indicate the location of the fifty (50) western sand cherry trees to be planted along the ephemeral drainage during reclamation.

6.4.12 Exhibit L - Reclamation Costs

19. The Applicant states the Grimes wish to keep the access road for their future use for site access for Item #3 in Exhibit L. The Applicant states in response to Rule 3.1.11 of the proposed Reclamation Plan the access road may be left as part of post mining land use.

At this time, which roads are to be left has not been determined. The Applicant will seek approval from the DRMS if the access road is to be left as part of the post mining land use. Please explain this discrepancy and update the exhibits as needed.

20. The Applicant states if reclamation has not begun in Phase 1 by the time Phase 2 begins mining, then the Phase 2 bond will be posted. Please commit to submitting a technical revision with an updated overall site reclamation cost estimate prior to mining Phase 2. The technical revision must be approved by the Division and any additional financial warranty must be accepted by the Division prior to any mining related disturbance in Phase 2.
21. The Division estimated the cost to reclaim Phase 1 of the proposed Dill Pit conversion application based on the information submitted by the Applicant at \$160,000.00. A copy of the bond estimate is attached for review.

6.4.13 Exhibit M - Other Permits and Licenses

22. The Applicant states a Colorado Department of Public Health and Environment Air Pollution Emission Notice (APEN) Permit may need to be revised for the conversion application. Please commit to providing the Division a copy of the approved permit when available.
23. The Applicant states a Colorado Water Quality Control Commission Stormwater Discharge Permit has been approved for the site. Please provide the Division with a copy of the approved permit.
24. The Applicant states an Elbert County Special Use Permit application is in process. Please commit to providing the Division a copy of the special use permit when available.

6.4.14 Exhibit N - Source of Legal Right to Enter

25. The Division did not receive a source of Legal Right to Enter for the mineral rights owners for the propose conversion area. Please provide a description of the basis for legal right of entry to the site and to conduct mining and reclamation for all Owners of Record for the mineral rights of the affected land pursuant to Rule 6.4.14.

6.4.18 Exhibit R - Proof of Filing with County Clerk and Recorder

26. Please provided an affidavit or receipt indicating the date on which the revised application information required to address this adequacy letter was placed with the Elbert County Clerk and Recorder for public review, pursuant to Subparagraph 1.6.2(1)(c).

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. 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.

27. Please provide the Division with copies of the notarized structure agreements with all owners of the structures on and within 200 feet of the affected area of the proposed mine site.

Please be advised the Dill Pit conversion application may be deemed inadequate, and the application may be denied on August 10, 2017, 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 August 10, 2017 and request for additional time. The extension request must be received no later than the decision date. If you have any questions, please contact me at peter.hays@state.co.us or (303) 866-3567 Ext. 8124.

Sincerely,



Peter S. Hays
Environmental Protection Specialist

Enclosures - Colorado Parks and Wildlife, History Colorado, and Colorado Division of Water Resources comment letters; DRMS Financial Warranty Estimate

Ec: Wally Erickson; Division of Reclamation, Mining & Safety
Ed Grimes, Permittee