



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources
1313 Sherman Street, Room 215
Denver, Colorado 80203

November 1, 2017

Thomas Joseph
Colorado Backhoe Service
25193 South Road
Pueblo, CO 81006

**RE: Adequacy Review, 110c to 112c Construction Materials Conversion Application (CN-01)
The Orr Pit, Permit No. M-2009-074**

Dear Mr. Joseph,

The Division of Reclamation, Mining and Safety (Division) has reviewed the content of the Colorado Backhoe Service (Applicant) 110c to 112c Construction Materials Reclamation Permit Conversion Application (CN-01) for The Orr Pit, Permit No. M-2009-074, and submits the following comments. **The Division is required to make an approval or denial decision no later than November 9, 2017; therefore, a response to the following adequacy review concerns should be submitted to the Division as soon as possible.** To allow the Division adequate time to review your responses to the adequacy issues, please submit your adequacy responses no later than three working days before the decision 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 CN-01, M-2009-074".

The review consisted of comparing the application with specific requirements of Rules 1, 3, and 6 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

1. As required by Rule 1.6.2(1)(d) and 1.6.5(2), submit proof of publication in a newspaper of general circulation in the locality of the proposed mining operation. *Adequate as submitted on September 21, 2017 - no further response needed*
2. As required by Rule 1.6.2(1)(e), 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 land. Proof of notice may be return receipts of a Certified Mailing or by proof of personal service. *Adequate as submitted on September 21, 2017 - no further response needed*
3. The Division received comments from Pueblo County, History Colorado and Division of Water Resources. The letters are attached for review. Please acknowledge the letters, address any comments within the letters, and make changes to the application, if necessary.



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

4. Proof of the notice to all surface owners of record within 200 feet included Mike & Judith Gerber, however, these landowners were not identified on the CN-01 Maps. According to online information from the Pueblo County Assessor, it appears the parcel of land identified on the CN-01 Maps as being owned by as Carl Prutch (located southwest of the southwest corner of the proposed permit) is actually owned byt Mike & Judith Gerber. Please correct this parcel identification and add Mike & Judith Gerber in the list of owners within 200 feet on the on the CN-01 Maps (C, C-1, F). Please update the list of adjoining owners in Exhibit O as well.
5. The maps submitted with CN-01 contain a list of structure owners and structures, however, these maps do not depicts the location of each structure as required by Rule 6.4.3(g). Please revise at least one of the Exhibit C maps and identify the location of all permanent man-made structures contained on the area of affected lands and within 200 feet.

EXHIBIT D - Mining Plan (Rule 6.4.4):

6. The Exhibit D Mine Plan proposes a scale and scale house will be placed near the access point to the site. Please identify the location of the scale and scale house on the Mine Plan Map. Please also discuss the reclamation details of these structures. If the Applicant proposes to leave the scale and scale house as a part of the Reclamation Plan for the landowner's use, please provide a signed a notarized letter from the landowner(s) requesting for these features remain as a part of the final reclamation. Additionally, if the scale and scale house will be left as a part of the reclamation, please identify the location of it on the Reclamation Plan Map.
7. Within the Exhibit D Mine Plan (Page 8) and Exhibit E Reclamation Plan (Page 18), the applicant proposes to seed soil and overburden stockpiles which remain undisturbed for more than one year with a cover crop of western wheatgrass at a rate of 2 pounds-PLS/100 square feet. Later in the Mine Plan, on Page 9, the Applicant states a different species and seeding rate for this activity. Please correct this discrepancy. Upon further review, the Division believes this seeding rate is in error as it yields an extremely high seeds per square foot rate. The Division understands this cover crop seeding rate will be high to help prevent wind and water erosion on the soil and overburden stockpiles, however a rate more in the range of 40 PLS/acre of western wheat grass (yielding 101 seeds per square foot) would be more reasonable.

EXHIBIT E - Reclamation Plan (Rule 6.4.5):

8. The Applicant proposes to leave the access roads as a part of the Reclamation Plan for the landowner's access to the site. Please provide a signed a notarized letter from the landowner(s) requesting for the access roads to remain as a part of the final reclamation for their access.
9. The Exhibit E Reclamation Plan states the working face will be limited to 200 feet, however the Exhibit D Mine Plan and Exhibit L Reclamation Costs both state the working will be limited to 400 feet. Please correct this discrepancy.

10. The Exhibit E Reclamation Plan refers to a wildlife statement prepared by the Colorado Parks & Wildlife. Please provide this wildlife statement as it has not been included in CN-01 materials.
11. The Applicant proposes to stabilize the 20.51 acre “Farm Yard” area by graveling it. Please provide the type of gravel and thickness of gravel which will be placed on the area for reclamation. Please clarify if this material is currently located on-site and will be protected and reserved for reclamation throughout the life of mine. Please identify the location(s) of the reclamation gravel stockpile(s) on the Exhibit C Mine Plan Map.
12. The Applicant proposes to reclaim the affected lands to a mixture of commercial, rangeland, and “farm yard”. In accordance with C.R.S. 34-32.5-115(4)(d), please demonstrate the proposed future use is not contrary to the laws or regulations of Pueblo County. If the applicant is unable to demonstrate compliance with the county at this time, the Division will require a temporary reclamation plan to be proposed. This temporary reclamation plan should involve the stabilization of all affected lands by means of a vegetative cover. After CN-01 is approved and the Applicant can demonstrate the proposed future use is not in conflict with the county, the Applicant may submit a Technical Revision to discuss the graveling of the “farm yard”.

EXHIBIT G – Water Information (Rule 6.4.7):

13. Within Exhibit G, the Applicant refers to a US Army Corps of Engineers letter regarding the determination the two small wet areas from the pre-permit disturbance are non-jurisdictional wetlands. Please provide this letter as it has not been included in CN-01 materials.

EXHIBIT I - Soils Information (Rule 6.4.9):

14. The Exhibit I narrative contains an acreage typo on page 23. Please revise 33.75 acres to 13.75 acres.

EXHIBIT L – Reclamation Costs (Rule 6.4.12):

15. The Division will calculate a cost estimate after applicable adequacy items are addressed. The Applicant will be provided copy of the cost estimate for review before the decision date.

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

16. Any changes or additions to the application on file in our office must also be reflected in the public review copy. Please 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):

17. The Applicant has submitted certified mailing receipts for structure agreements sent to the structure owners, however, has not submitted any of the necessary documents to comply with Rule 6.4.19.

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This concludes the Division's adequacy review of CN-01. This letter shall not be interpreted to mean that there are no other technical deficiencies in CN-01, as other issues may arise when additional information is supplied. Be advised that the 110c to 112c Construction Materials Reclamation Permit Conversion Application for The Orr Pit may be deemed inadequate, and the application may be denied on November 9, 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 November 9, 2017 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: Pueblo County Comment Letter
History Colorado Comment Letter
Division of Water Resources Comment Letter

Cc: Wally Erickson, Division of Reclamation, Mining & Safety
Steve O'Brian with Environment, Inc., 7985 Vance Dr., #205A, Arvada, CO 80003