

STATE OF
COLORADO

Ebert - DNR, Jared <jared.ebert@state.co.us>

**Request for Extension of Time for Prehearing Conference and Hearing, Knox Pit,
File No. M-2017-036**

Ebert - DNR, Jared <jared.ebert@state.co.us>

Wed, Feb 28, 2018 at 3:53 PM

To: Pete Waack <chetek65@yahoo.com>

Cc: Patty McElwaine <pdmcelwaine@yahoo.com>

Dear Mr. Waack,

The Division is in receipt of your request to extend the date of the Pre-hearing Conference and Board hearing for the consideration of the Knox Pit, application No. M-2017-036. The Division understands your concern that the public has had limited time to review Loveland Ready-Mix's response to the adequacy review. Your e-mail asserts the Adequacy Review response received by the Division on February 14, 2018 should be considered an "amendment" to the application in accordance with Rule 1.1(6). The Division disagrees. In order for the adequacy response to constitute an amendment LRM would have to propose a change which increases the affected land acreage, or otherwise have a significant effect upon the Reclamation Plan. Upon review of the February 14, 2018 submittal, LRM is not requesting an increase in the affected land. The Division has determined the information submitted is for the purposes of detailing, clarifying or explaining parts of the application the Division had identified as adequacy issues during the review and, therefore, does not constitute an amendment pursuant to Rule 1.8.1(4). The majority of the information submitted by LRM clarified and detailed the standard operating procedures for water sampling, which the Division had requested. Also, LRM responded to each of the objections received during the comment period. As many of the objections raised similar issues, and issues the Division also raised during the adequacy review, LRM's response is similarly redundant and repetitive, which makes the submittal longer in terms of page number.

Regarding the dates set for the Division to issue its recommendation (March 2, 2018) and the Pre-hearing Conference. In accordance with Rule 2.7.1(5) the Division is required to hold the Pre-hearing Conference at least 10 days prior to the Board hearing. Given the March 21, 2018 Board hearing date, the Division is required to hold the pre-hearing conference prior to March 11, 2018. As this date was a Sunday, the Division considered the week of March 5th to the 9th as dates for the Pre-hearing Conference. Given the availability of the meeting room and coordinating the various schedules of the Division staff who will participate in the Pre-hearing Conference, March 8th, 2018 was the date selected. Rule 1.4.9(2)(c) requires the Division to send its recommendation at least three working days prior to the Pre-hearing Conference. In accordance with this Rule, the Division set the recommendation date at March 2, 2018.

The Division has determined the February 14, 2018 submittal does not constitute an amendment, therefore the Applicant is not required to initiate new notices or a publication in accordance with Rule 1.8.1(3) and Rule 1.6.6. The public is welcome to submit comments regarding adequacy review responses, however the provisions to be considered a party still apply in accordance with Rule 1.7.1.

This request can be further discussed at the Pre-hearing Conference scheduled on March 8th, 2018. Alternatively, as a Party to this matter, you could formally file this request with the Board, as outlined in Rule 2.6.

Sincerely,

On Tue, Feb 27, 2018 at 10:09 AM, Pete Waack <chetek65@yahoo.com> wrote:

[Quoted text hidden]

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Jared Ebert

Environmental Protection Specialist III



COLORADO
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