



## COLORADO

Division of Reclamation,  
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215  
Denver, CO 80203

DATE: March 2, 2018

RE: Rationale for Recommendation for Conditional Approval of a 112c Application with  
Public Objections, Loveland Ready-Mix Concrete, Inc., Knox Pit, File No. M-2017-036

### Introduction

Herein, all references to the Act and Rules refer to the Colorado Land Reclamation Act for the Extraction of Construction Materials, 34-32.5-101 et seq., C.R.S. (the Act), and to the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (the Rules or Rule). Copy of the Act and Rules are available through the Division's web site at <http://mining.state.co.us>.

On March 2, 2018, the Division of Reclamation, Mining and Safety (DRMS, Division or Office) issued its recommendation to approve with conditions the permit application for the Knox Pit, File No. M-2017-036, over public objections. This document is intended to explain the process by which the Division arrived at its recommendation for conditional approval, over public objections, and respond to the issues raised by the objecting parties and commenting agencies. The Division reserves the right to further supplement, amend, modify, or clarify this document and recommendation with additional details as necessary.

### Summary of the Review Process

Loveland Ready-Mix Concrete, Inc. (LRM or Applicant) filed the application with the Division on September 7, 2017. The application was deemed complete for the purposes of filing and for review on September 18, 2017. The application describes a construction materials mining operation with on-site processing of mined materials to include crushing, screening, washing and production of concrete products. The permit boundary includes 127 acres. Of the 127 acres, the mining operation is anticipated to affect the majority of the area with the exception of some areas within the proposed mining set-backs shown on the Exhibit C, Sheet 3 and 4 maps. Some of the area within the proposed setbacks may be used for topsoil and overburden storage placed in berms to provide a visual barrier. Affected lands would be reclaimed to support Pastureland post-mining land use. Notice of the filing occurred in accordance with the requirements of the Act and Rules. The public comment period closed on November 8, 2017. During the public comment period the Division received written comments from the following individuals and agencies:



Colorado Mined Land Reclamation Board

Page 2

March 2, 2018

Timely Letters of Objection:

<b>Person or Entity</b>	<b>Date Objection Received</b>
Craig Greenwell	11/2/2017
Terry Waters	11/5/2017
Matthew and Jayme Tilley	11/6/2017
John Gross	11/6/2017
Jennifer Scheimann	11/7/2017
Patty McElwaine	11/7/2017
Leslie Patterson	11/7/2017
Dr. Mandy Kotzman	11/7/2017
Ruth Wallick	11/7/2017
Pia Jensen	11/8/2017
Nic Koontz	11/8/2017
No Laporte Gravel Corp	11/8/2017
Peter Waack	11/8/2017
Amy Maddox	11/8/2017
Chalon Kintzley	11/8/2017
Dana Horne	11/8/2017
Jason Allely	11/8/2017
Kelly Kintzley	11/8/2017
Leah Kintzley	11/8/2017
Leah Salmans	11/8/2017
Raymond Kintzley	11/8/2017
Sarah Allely	11/8/2017
Erin Crowgey	11/8/2017
Erica and Piers Daniell	11/8/2017
Mark Baker, Esq.	11/7/2017

Timely Commenting Agency:

<b>Agency</b>	<b>Date Comment Received</b>
Colorado Division of Water Resources	9/26/2017

Office of Archaeology and Historic Preservation (History Colorado)	10/17/2017
Army Corps of Engineers	10/3/2017

Un-timely Commenting Agency:

Agency	Date Comment Received
Colorado Parks and Wildlife	3/1/2018

Parties Who Have Withdrawn:

Person or Entity	Date Withdrawal Form Received
Pia Jensen	2/23/2018

The Division forwarded copies of all comments to the Applicant and scheduled the application for a hearing before the Colorado Mined Land Reclamation Board (the Board) and a Pre-hearing Conference. The Division provided notice of the scheduled Board hearing and Pre-hearing Conference to all parties and interested persons. Due to the timely objections, on the decision date the Division would not make a decision on the application, but rather a recommendation to the Board.

During the review period the Division generated four adequacy letters. The Applicant addressed all adequacy issues to the Division's satisfaction. Therefore, on March 2, 2018, the Division determined the application to have satisfied the requirements of Section 34-32.5-115(4) C.R.S. and issued its recommendation to approve the application with the following conditions:

- I. No less than 60 days prior to exposing groundwater and/or initiating dewatering operations, LRM shall submit to the Division the results of the baseline water quality monitoring. The results shall include an analysis of the water quality and a discussion of any exceedances of the table value standards for the analytes evaluated within the approved water monitoring plan.
- II. When the Operator has completed mining in each mine phase, they shall submit to the Division an as-built or record of drawing(s) certified by a professional engineer registered in the State of Colorado of the clay liner and perimeter drain for each phase of the operation (Phases 1 through 5). The registered professional engineer certification must demonstrate the liner and drain were installed to the required specifications. The registered professional engineer certified as-built or record drawing(s) shall be submitted the Division not less than 60 days prior to initiating mining in the next or subsequent phase.

Pursuant to Rule 1.4.1(12), a condition or limitation to approval of the application, unless consented by the Applicant, shall be treated as a denial. Therefore, if the Applicant rejects any of the following

conditions for approval, or portions of a condition, the Division's recommendation, by operation of Rule, automatically becomes a recommendation for denial of the application.

### **Issues Raised by the Objecting Parties and Commenting Agencies**

The timely objections/comments received by the Division have been categorized as issues pertaining to Enforcement, Hydrology, Permitting, Reclamation and Wildlife. These categories are listed below and titled with bold font. Under each category the specific issues are listed in bold and italic font. The number of objectors which raised the issue is indicated in parenthesis.

#### **1. Enforcement Issues**

##### ***a. Concerns regarding the lack of enforcement ability and timing for enforcement. (4)***

Section 3.2 and 3.3 of the Rules provides Division staff with the authority to conduct inspections of permitted mine sites and possibly unpermitted mine sites to determine whether the provisions of the Act and Rules have been complied with. Also, these Rules require the Division staff to promptly report to the Board any possible violation of a permit, law or the Rules of which they have knowledge whether obtained from personal inspection or from written reports. These Rules continue to outline the enforcement processes should a violation be found.

The Division routinely conducts inspections of mining operations and takes proper enforcement action. Many of these inspections are conducted as a result of a citizen's complaint. If a citizen's complaint pertains to an issue for which the Division does not have jurisdiction, the Division will forward the complaint to the proper jurisdiction.

The Board has directed the Division's staff to respond to citizen complaints within thirty days of receipt of the complaint. If a citizen complaint alleges either serious environmental problems associated with an operation or potential violation of approved conditions, Rules, or statutes, the Division shall conduct an inspection as soon as possible, but no more than five working days after receipt of the complaint.

#### **2. Hydrology**

##### ***a. Concerns regarding surface and groundwater quality. (19)***

The Division finds LRM has supplied the required information regarding water information in accordance with Rule 6.4.7.

LRM is proposing a closed surface water system intended to capture all stormwater produced on the site and that which currently runs onto the site. Stormwater will be directed toward the mine excavations and stormwater retention ponds. LRM affirmatively states that they will apply for a National Pollutant Discharge Elimination System permit from the Water Quality Control Division (WQCD) of the Colorado

Department of Public Health and Environment (CDPHE) should one be required. LRM further commits to submitting an application to the WQCD for stormwater coverage in accordance with Colorado Discharge Permit System General Permit for Stormwater Discharge Associated with Construction Activities. LRM will develop an operations Stormwater Management Plan (SWMP) for the facilities associated with sand and gravel mining and ancillary batch plant operations. The SWMP will be kept on site so the Division can review it during an inspection. The Division finds that the proposed plan meets the requirements of Rule 3.1.6(1), which requires disturbances to the prevailing hydrologic balance of the affected land and of the surrounding area and the quality of the water in the surface water system both during and after the mining operations and during reclamation shall be minimized.

Concerns have been raised regarding the mines potential impact to the groundwater quality. In accordance with Rule 3.1.7, operations that may affect groundwater quality shall comply with all state-wide groundwater quality standards established by the Water Quality Control Commission (WQCC). Given this, LRM has submitted a groundwater sampling and analysis plan. The Division required and LRM agreed to collect baseline water quality data sufficient to characterize existing groundwater quality. The WQCC Basic Standards for Groundwater Regulation 41 table values were used to establish the analyte list and analytical detection limits of the monitoring plan. LRM shall not expose groundwater or initiate dewatering operations until they have collected the required baseline water quality data. During the life of the operation, LRM will continue to monitor water quality and shall submit the results of water quality monitoring with their annual report. Through these measures, LRM will be required to comply with the applicable WQCC standards. The groundwater monitoring plan complies with Rule 3.1.7(7).

***b. Concerns regarding the impact of the mining operation dewatering on surrounding groundwater levels. (19)***

LRM modeled the potential impacts of the groundwater levels at the mine and the surrounding area during the proposed mining and reclamation operation. During mining of the five phases, drawdown of the alluvial aquifer was predicted to occur. The largest off-site drawdowns are anticipated during the mining phase north of the Little Cache La Poudre Ditch. No wells are known to exist in this area. On the south side of the mine, three wells are predicted to be impacted by dewatering operations. The Applicant has committed to monitoring water levels within 14 monitoring wells installed at the site and several adjacent neighbors wells during the life of the mine. LRM commits to mitigating impacts to affected wells and has proposed a trigger level where mitigation measures may be initiated if necessary.

Similarly, LRM has predicted slight groundwater mounding up-gradient of the permits west boundary and near the water management pond. The most significant predicted mounding is due to reinjection into the water management pond. If groundwater level monitoring shows mounding, LRM will take action to determine the cause of the change, initiate mitigation measures and will explore long-term solutions.

As mining and reclamation proceed, LRM will install a perimeter drain along the outer perimeter of the excavation that will serve to dewater the toe of the highwall to maintain stability. Once the gravel pit

perimeter is entirely sealed, the perimeter drain will serve to route groundwater around the lined pit by maintaining a high permeability area adjacent to the compacted backfill.

The Division finds the Applicant has supplied the information required by Rule 6.4.7 and the operation will minimize disturbances to the prevailing hydrologic balance of the affected land and surrounding areas both during and after mining with respect to existing groundwater levels.

***c. Concerns regarding the impact of groundwater drawdown on adjacent trees. (4)***

The proposed mine site is not located within a riparian area and the Division finds it unlikely the adjacent ornamental vegetation would be reliant on groundwater and would likely rely more on surface irrigation. Given the temporary nature of the drawdown at the site and LRM's proposed plan to mitigate the impacts to adjacent well owners to insure use of their wells for irrigation continues, the Division finds the operation will not adversely affect the surrounding vegetation.

***d. Concerns regarding the effectiveness of the proposed perimeter drain. (12)***

LRM has provided a demonstration the perimeter drain has been designed to adequately move groundwater around the perimeter of the lined pits. LRM has also provided a groundwater level monitoring plan that will allow both LRM and the Division to evaluate the effectiveness of the drain both during mining and reclamation.

***e. Concerns regarding flooding, flood management and mapping. (2)***

The Division has reviewed the proposed site's location in relation to the Federal Emergency Management Agency (FEMA) Floodplain maps provided by the City of Fort Collins. The Knox Pit permit boundary is located outside of the FEMA High Risk Floodway, High Risk 100 year Floodplain and the Moderate Risk 100/500 year Floodplain (please see the map below). Regarding surface water management, LRM has designed the site to direct surface flow into the pit basins and designated stormwater sumps.

### 3. Permitting Issues

*a. Concerns regarding missing application Exhibits (Exhibits C and G). (2)*

The application included Exhibits C and G. When the application was first submitted the Exhibit C maps were incorrectly scanned into the Division's imaged document system (Laserfiche). Once the Division became aware of this issue the oversight was promptly corrected. These maps, as well as the entire permit application package, were available for public review at the Division's office and at the County Clerk and Records Office, as required under the Act and Rules.

***b. Concerns regarding the description of the site location. (1)***

The Exhibit B index map submitted with the application is found to meet the requirements of Rule 6.4.2, as it shows all roads and other access to the area. The map background image appears to be a standard U.S. Geologic Survey topographic quadrangle map.

***c. Concerns regarding the climate information. (1)***

The Division found the climate information, Exhibit K, compliant with the requirements of Rule 6.4.11.

***d. Concerns regarding the public notice. (12)***

Rule 1.6.2(1)(d)(vi) requires the Applicant to indicate the location and final date for submitting statements of support or objection with the Office. The Applicant's public notice indicated comments must be in writing and must be received by the Division not more than 20 calendar days after the last date of the newspaper publication. The publication dates are included at the end of the newspaper notice. Therefore, the final date for submitting statements of support or objection with the Office was provided in the newspaper notice, as required under Rule 1.6.2(1)(d)(vi).

**4. Reclamation Plan**

***a. Concerns regarding discrepancies of the proposed post mining land use. (12)***

LRM is the owner of the surface of the proposed affected land and the substance to be mined. The pre-mining land use of the site is primarily pastureland. Initially, LRM proposed two post-mining land uses for the site; Pastureland and shelter and cover for wildlife. LRM later clarified Pastureland as the post-mining land use for all affected lands to be consistent with their plan for the site once mining is complete. Pastureland is consistent with the historic and pre-mining land use described by the Applicant and as observed by the Division during the pre-operational inspection. The proposed description of the post-mining land use meets the requirements of Rules 6.4.5(2) and 3.1.1.

***b. Concerns that the reclamation plan provides for an unacceptable change to the land and is inadequate. (7)***

The Division determined the proposed reclamation plan and post-mining land use compliant with the applicable requirements of Rules 6.4.5 and 3.1.

***c. Concerns that the reclamation plan does not restore the land to the pre-mining condition and the post mining topography does not restore the land to the approximate original contour. (2)***

C.R.S. 34-32.5-103(19) defines reclamation as the employment, during and after an operation, of procedures reasonably designed to minimize as much as practicable the disruption from an operation and provide for the establishment of plant cover, stabilization of soil, protection of water resources or other



measures appropriate to the subsequent beneficial use of the affected lands. Reclamation does not mean the restoration of the land to the pre-mine condition. The Act and Rules do not require an operator to restore the land to the approximate original contour. The Division determined the reclamation plan demonstrated compliance with the performance standards of Rule 3 and adequate to reclaim the site to the post-mining land use of Pastureland.

***d. Concerns that the sloping plan will not reclaim the site in a condition conducive to grazing. (11)***

LRM commits to reclamation slopes no steeper than 3H:1V. The pit slopes make up a relatively small portion of the reclaimed area. Other graded areas and the pit bottoms will have more gentle slopes. Based on the Divisions experience, 3H:1V slopes is widely used in the reclamation of mining operations throughout the State and is compatible with grazing species.

***e. Concerns regarding the possibility of standing water remaining in the pit. (3)***

During active mining the pit area will be dewatered by mechanical pumping. Stormwater will be diverted around the perimeter of the site and directed to retention ponds or sumps whereby the stormwater may infiltrate within 72 hours, in accordance with Division of Water Resources requirements. At final reclamation LRM has committed to obtain the water rights to authorize the retention of stormwater, if required by Division of Water Resources. The application demonstrates compliance with the requirements of Rule 3.1.6(1)(a), regarding compliance with water allocation laws.

***f. Concerns that the topsoil management plan is inadequate. (1)***

LRM will salvage and replace three feet of growth medium consisting of A and B soil horizons. All material from the C horizon, which may be used as additional cover, will be placed prior to the placement of the three feet of growth medium. The Division concurs with this plan and finds that it complies with the applicable requirements of Rules 6.4.5 and 3.1.9.

***g. Concerns regarding the adequacy of the seed mixture for establishing wildlife habitat. (13)***

As discussed previously, LRM is only proposing one post-mining land use of Pastureland. The Division has reviewed the Applicant's proposed seed mixture and finds it adequate for the post-mining land use. The Applicant's seed mixture is listed below:

Species	Mixture Percent
Intermediate Wheatgrass	30%
Slender Wheatgrass	25%
Pubescent Wheatgrass	25%
Russian Wildrye	10%
Western Wheatgrass	10%

\*Seed mixes will be designed to accomplish an application rate of 65 seeds per square foot.

## 5. Wildlife

### *a. Concerns that wildlife protection measures are inadequate. (13)*

With LRM's response to the Division's first adequacy review they provided details regarding how wildlife will be protected near the mining operation and processing sites. These measures include the following:

- phased mining plan with concurrent reclamation
- buffer zone around the Little Cache La Poudre Ditch
- safety berms around the pit excavations
- provide locations for egress from the pit area
- ten mile per hour speed limit for mine traffic
- Applicant has submitted a raptor nest monitoring and mitigation plan

By conducting concurrent mining and reclamation, the Applicant will limit the amount of land disturbed by the mining operation and allow wildlife to utilize un-mined areas and reclaimed areas throughout the life of the operation. Colorado Parks and Wildlife (CPW) did not provide the Division comments during the comment period regarding the operation in accordance with Rule 6.4.8(2). However, the Division consulted with Shane Craig, District Wildlife Manager with CPW. Mr. Craig indicated CPW does not anticipate any negative impact to wildlife at this time from the proposed project. The Division finds the Applicant has adequately addressed the requirements of Rule 6.4.8 and Rule 3.1.8.

### *b. Concerns regarding the potential for wildlife poisoning by the consumption of reclaimed vegetation that has increased Selenium (Se) levels. (12)*

The objectors raise the concern that reclaimed vegetation established closer to the Pierre Shale bedrock poses a risk of Selenium (Se) poisoning to wild and domesticated animals. The objectors cited a study (McDowell et al. 2005) to substantiate this claim. According to the study, three experiments were conducted on sheep to evaluate the maximum tolerance levels of Se. Based on the findings of the report Selenium toxicosis was not found in any experiment. LRM plans to cover the reclaimed area and pit floor with three feet of cover material and growth medium. LRM argues the Pierre Shale has low hydraulic conductivity and is relatively dry and that the mechanism for moving constituents upward into the cover material will be by the slow process of molecular diffusion. Regardless, LRM has committed to sampling

vegetation after closure to evaluate if plant up-take of Se is an issue. Given the findings of the study supplied by the objectors, the proposed plan provided by LRM, and discussions with CPW, the application demonstrates the operation will be protective of wildlife resources.

***c. Request of a survey for Preble's Jumping Mouse. (12)***

Using the United States Fish and Wildlife Service (USFWS) Information, Planning and Conservation System (IPaC) resource online program, the Division evaluated the presence and potential habitat of Threatened and Endangered species at the site. The Division confirmed LRM's finding discussed in Section 10.1 of their application that no critical habitats exist within the project area for threatened and endangered species. Preble's Meadow Jumping Mouse is a threatened species which may occur within the project area. However, critical habitat for this species have been designated and the proposed project is outside of the critical habitat. CPW did not indicate Preble's Jumping Mouse to be of concern.

***d. Concerns that the bird list contained in the application is incomplete. (13)***

The Division understands that many wildlife species may utilize the proposed affected land. Mining may temporarily displace some wildlife species during the operation but they often can be found utilizing the mined area as well as the reclaimed area. Based on the Division's consultation with CPW, the proposed operation should not have a significant impact on wildlife resources in the area. Given this, the evaluation of species provided by LRM is found to be sufficient.

***e. Concerns regarding the impact the mining operations will have on raptors. (13)***

The Applicant conducted an Avian Survey on January 30, 2018. The survey found two magpie (*Pica hudsonia*) nests within the proposed mine area. Neither nest was active during the survey. No raptor, eagle, or owl nests were identified within the project area or adjacent areas. The survey included the results of a database search of the Colorado Oil and Gas Conservation Commission website. Based on this search, bald eagles nests were found to be 1.76 miles east and 4 miles northwest of the site. A gold eagle nest was found 2.1 miles northwest of the site and osprey nests were found ranging 1 to 4.6 miles from the site.

LRM has proposed a monitoring plan to identify raptor nests during the operation. The site will be surveyed during August of each year to insure there are not any nests within 600 feet of the scheduled mining area for the next year. Mining activities that are to take place within 400 feet of any identified nests will be adjusted to start during a non-nesting season. Based on the Division's consultation with CPW, no known nests occur in the vicinity of the proposed mining area. The Division finds LRM's raptor nest monitoring and mitigation plan sufficient.

***f. Concerns regarding the impact on the migration route of deer. (1)***

Based on the Division's consultation with CPW, the proposed permit area is not within the migration route or corridor for large ungulates such as deer, elk or antelope. A buffer zone will be maintained around the Little Cache La Poudre Ditch which may be used by wildlife as a travel corridor.

***g. Concerns that wildlife will not utilize the reclaimed area. (13)***

Affected lands will be reclaimed to support Pastureland post-mining land use. Wildlife habitat is not the goal for reclamation of the site. The Applicant proposes to revegetate the affected land with pasture grasses which provide cover and forage for wildlife species. The Applicant intends to plant trees and shrubs around the perimeter of the site which may also be utilized by wildlife.

***h. Concerns regarding the possible increase in automobile and wildlife accidents resulting in the change in animal movement because of the mining operation. (13)***

As discussed previously, the proposed permit area is not a migration route for large ungulates. Based on a discussion with CPW staff, deer have been known to utilize the Little Cache La Poudre ditch as a movement corridor. The Applicant has proposed a buffer zone around the ditch that will allow wildlife to continue to utilize this feature as a movement corridor. Also, given the phased manner of mining and reclamation, LRM will limit the amount of disturbed area and thereby minimize any disturbance to wildlife. As noted previously, LRM has proposed a 10 miles per hour speed limit to be maintained on-site which will minimize the potential for wildlife impact accidents with mine traffic.

**6. Non-Jurisdictional Items**

In these proceedings, the Division's jurisdiction is limited to enforcement of the specific requirements of the Act and Rules. The Division considers all timely submitted comments in its review, but can address only the issues that directly relate to the specific requirements of an application as stated in the Act and Rules.

***a. Concerns regarding the mine operation being incompatible with historic, current, and future land uses and being in conflict with local Laporte Area Plan. (5)***

The Act and Rules do not specifically address issues of zoning and land use. Such issues are typically addressed at the local government level and not at the State government level. These issues should be addressed through the Larimer County permitting process.

According to Section 34-32.5-115(4)(d) C.R.S., the Board or Office may deny an application if the proposed operation is contrary to the laws or regulations of Colorado or the United States, including but not limited to all federal, state, and local permits, licenses, and approvals, as applicable to the specific operation. On September 18, 2017, the Division provided notice of the permit application to Larimer County. Larimer County has not indicated any conflict with local zoning, local regulations or the Laporte

Area Plan for the proposed mine operation. Further, in accordance with Exhibit M of the application, the Applicant has indicated they are in the process of obtaining a County Zoning and Land Use permit.

***b. Concerns regarding traffic, traffic safety, noise pollution, aesthetic impact and quality of life. (19)***

The Act and Rules do not specifically address traffic, traffic safety and road impacts for roads located off-site of a mining operation. Such issues are under the jurisdiction of Larimer County and the Colorado Department of Transportation. These issues should be addressed through the permitting processes of Larimer County and Colorado Department of Transportation.

The Act and Rules do not specifically address impacts to visually appealing landscapes, aesthetics, hours and/or days of operation, noise and sight pollution, and quality of life. Such issues are typically addressed at the local government level and not at the State government level. These issues should be addressed through the Larimer County permitting process.

***c. Concerns regarding adverse impacts to recreation and the negative impact to surrounding businesses. (10)***

The Act and Rules do not specifically address impacts to recreation and local businesses. Such issues are typically addressed at the local government level and not at the State government level. These issues should be addressed through the Larimer County permitting process.

***d. Concerns for devaluation of nearby property. (11)***

The Act and Rules do not specifically address issues regarding devaluation of nearby property. Such issues are typically addressed at the local government level and not at the State government level. These issues should be addressed through the Larimer County permitting process.

***e. Concerns regarding the concentration of mining operations and the cumulative impacts of multiple mine operations located in close proximity to one another. (14)***

The Act and Rules do not prohibit the concentration of mining operations and their cumulative impacts. Conversely, the Act and Rules anticipate mining operations will locate wherever mineable resources exist. The Act and Rules provide reclamation requirements to ensure affected lands are reclaimed to a beneficial use. The Act and Rules provide performance standards and environmental protection requirements, which apply throughout the life of mine. Pursuant to Rule 1.4.1(10), each application is reviewed, and ultimately approved or denied based on the Applicant's ability to demonstrate the application meets the requirements of the Act and Rules.

***f. Concerns regarding dust and air pollution. (12)***

The Act and Rules do not specifically address air quality issues. Such issues are under the jurisdiction of Larimer County and the Air Pollution Control Division (APCD) of the Colorado Department of Public Health and Environment (CDPHE). The Applicant has affirmatively stated that an APEN permit from the APCD addressing air pollution issues is being pursued.

The Act and Rules do not authorize the Division to regulate dust or air pollution issues. However, the protection and preservation of stockpiled topsoil is addressed under the performance standards of Rule 3.1.9. Pursuant to Rule 3.1.9(1), where it is necessary to remove overburden in order to expose the mineable materials, topsoil shall be removed and segregated from other spoil. If such topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be employed so that the topsoil is protected from erosion, remains free of any contamination by toxic or acid-forming material, and is in a usable condition for reclamation. The Division has determined one year to be an appropriate time frame for the establishment of a protective vegetative cover for stockpiled topsoil, and requires the same for all mining operations throughout Colorado. The Applicant has committed to establish vegetation on the topsoil stockpiles and committed to taking appropriate erosion control measures to stabilize topsoil stockpiles and berms.

***g. Concerns regarding the creation of habitat for mosquitos. (4)***

The Act and Rules do not specifically address this issue.

References:

McDowell, L.R. P.A. Davis, L.A. Cristaldi, N.S. Wilkinson, C.D. Buergelt and R. Van Alstyne, 2005. Selenium Toxicity for Ruminants - Paranoia or Precaution? Department of Animal Sciences University of Florida, Gainesville, 2005 Florida Ruminant Nutrition Symposium, Gainesville, Florida