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**MEMORANDUM**

TO: Division of Reclamation and Mining Safety

FROM: Wesley S. Knoll, Esq.

RE: Non-compliance with mitigation responsibilities described in DRM&S Permit No. M-2008-082, Morton Lakes Pit, operated by Ready Mixed Concrete Company.

The Mined Land Reclamation Board issued a 112c Mining and Reclamation Permit on January 26, 2010 to the Ready Mixed Concrete Company ("RMCC") for their proposed operation at the Morton Lakes Pit facility, Permit No. M-2008-082. After issuance the permit has been amended once (Morton Lakes Amendment AM-01) and gone through four technical revisions. (TR-001, TR-002, TR-003, TR-004). However, neither the technical revisions, nor the amendment acknowledge RMCC's dewatering and mining of certain stages of the facility without first lining those stages. RMCC's Water Information, attached as Exhibit G to the original permit application was not updated to correspond with the changes to RMCC's operation.

The original Exhibit G to the permit application states that there would be minimal impacts to the groundwater levels surrounding the pits, as the pits would be lined with slurry walls prior to dewatering the pits. On July 18, 2016, RMCC requested an amendment to Permit No. M-2008-082 including a revised mining plan which continued to state that "prior to dewatering mining stages 4-7, a soil-bentonite slurry wall will be installed around the perimeter of each mining stage." In its February 10, 2017 Adequacy Review Response, RMCC relied on the report it had previously commissioned for its original permit, which assumed the gravel pits would be lined with a bentonite slurry wall liner prior to dewatering and excavation. However, in September 2016 RMCC filed and Substitute Water Supply Plan request to dewater multiple pits without first lining them with a bentonite slurry wall liner and had begun excavation and dewatering of Stage 6 as early as November 2016. RMCC failed to acknowledge their dewatering of unlined pits in their Adequacy Review Response, instead implying that their plans to line the pits prior to mining had remain unchanged.

RMCC is not in compliance with its own monitoring and mitigation plan as proposed in the February 10, 2017 Adequacy Review Response and was not in compliance on the date that it submitted the Adequacy Review Response. The Adequacy Review Response states that "if groundwater monitoring indicates that there has been a non-seasonal change from measured pre-

mining groundwater levels of two (2) feet or more above or below historic groundwater levels, over a period of three (3) consecutive months, the Applicant will determine if any nearby operating wells have been adversely affected and, if so, appropriate steps will be taken to remediate any such impacts.” RMCC’s groundwater monitoring Well 107, as shown on the attached monitoring well data (Attachment 1), shows that since the data was first collected, there was a steady decline in groundwater at the well site. RMCC did not contact A&W to determine whether it had experienced any adverse effects to its well when monitoring well reached its third month of sustained decline.

DRM&S approved RMCC’s Morton Lakes Amendment AM-01, without any acknowledgement to the current dewatering of unlined pits, on March 6, 2017. On April 17, 2017 RMCC requested a Technical Revision to Permit No. M-2008-082, TR-004, which requested approval from DRM&S for mining Stage 6B, without mention that the pit would be dewatered without first lining the pit with a bentonite slurry wall liner. In review of RMCC’s permit, there does not seem to be any mention that Stage 6 would be mined without first being lined with a bentonite slurry wall. The information relied on for the mitigation plan discussed in Exhibit G of the original permit and the Morton Lakes Amendment AM-01 contemplates the lining of Stage 6 prior to mining. A new mitigation plan, consistent with actual operations, should be required for continued mining under Permit No. M-2008-082.

In November of 2017 A&W noticed a decline in the productivity of the A&W Well (Well Permit No. 61793-F). On January 4, 2018 A&W contacted RMCC to notify them that the A&W Well pump was experiencing cavitation believed to be caused by a decrease in the water table from RMCC’s dewatering of Stage 6B. On January 11, RMCC provided a report prepared by Bishop-Brogden Associates, Inc. (“BBA”) which concluded that the A&W Well would be able to continue to pump at its permitted pumping rate provided the static water level in the well did not drop below 20 feet and estimated the then current static water level at 17.6 feet below ground level. See Attachment 2. This was inconsistent with what A&W was experiencing. A&W communicated its concerns to RMCC, and the parties agreed to allow BBA to conduct a pump test on the well and collect additional information on the A&W Well. The BBA well pump test confirmed that cavitation of the well pump results at permitted pumping levels. See Attachment 3. The adverse impacts to A&W have gone unmitigated for over four months.

The adverse impacts to A&W’s well can be attributed to RMCC modifying their operating plans without updating their mitigation plan. RMCC has completed mining in Stage 6, but intended to continue to dewater Stage 6 to allow for storage and processing of produced aggregates. After A&W provided RMCC with notice that A&W intended to file this complaint, RMCC filed a request to amend its Substitute Water Supply Plan, which details RMCC’s plan to fill Stage 6B with water to a level of 12 feet above the bottom of the pit in an attempt to mitigate its adverse impacts to A&W’s well. It is unknown whether this will mitigate the adverse impacts to A&W’s well, and how long it will take for A&W to see results from this measure. Meanwhile, RMCC continues to operate without a comprehensive mitigation plan that is responsive to its current operations. A&W believes that an updated mitigation plan is necessary as RMCC intends to continue to dewater unlined gravel pits, including Stage 6A. A&W requests that an updated mitigation plan expressly state RMCC’s responsibility to fully mitigate adverse impacts to A&W’s permitted pumping rate.

Enclosures: Monitoring Well Data, BBA Report, Well Test Report