



COLORADO

Division of Reclamation, Mining and Safety

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

June 21, 2018

Steve O'Brian
Environment, Inc.
7985 Vance Dr. #205A
Arvada, CO 80003

**Re: 22 West Pit, File No. M-2017-032, 112c Reclamation Permit Application,
Adequacy Review No. 2**

Mr. O'Brian:

The Division of Reclamation, Mining and Safety (Division) has completed its second adequacy review of the above referenced application. All comment and review periods for the application began on August 18, 2017 when the application was called complete for filing purposes. The decision date for the application is currently set for July 10, 2018.

The Division has identified the following additional adequacy items requiring clarification or information, identified under their respective exhibit heading and numbered sequentially:

Exhibit D – Mining Plan (Rule 6.4.4):

- 1) The revised mining plan and maps propose two “options”, one of which (Option 1) would consist of expanding the pond westward and leaving the pre-law disturbed area to the northeast undisturbed, and the other (Option 2) would consist of expanding the pond westward and also eastward, mining through the pre-law disturbed area to the northeast. The Exhibit L – Reclamation Cost Map appears to be consistent with Option 1 in that this scenario does not include disturbing the pre-law area to the northeast.

Despite what the mining plan map shows for Option 1, the Applicant is proposing to be bonded for what is shown on the Exhibit L map, which shows no more than 14.47 acres of groundwater to be exposed, with the two pre-law areas to remain undisturbed. Therefore, please acknowledge that prior to disturbing additional land or exposing additional groundwater than what is shown on the Exhibit L map, the Applicant will be required to submit a Technical Revision to revise the Exhibit L map and cost estimate accordingly.

- 2) Looking at the mining plan map and Exhibit L map submitted, it appears the maximum disturbed area for Option 1 would be 27.75 acres [38.35 acres (permit area) – 9.03 acres (NE pre-law area) – 1.57 acres (NW pre-law area)]. Is this correct? If not, please specify the maximum disturbed area for Option 1, including ponds, mined areas, stockpiling/storage areas, and roads.



For Option 2, it appears the entire permit area of 38.35 acres would be considered the maximum disturbed area. Is this correct? If not, please specify the maximum disturbed area for Option 2, including ponds, mined areas, stockpiling/storage areas, and roads.

- 3) The acreages listed in the revised Mining Timetable do not correlate with the acreages shown on the two mining plan maps submitted. For example, on Option 1, the timetable shows a total lake area of 12.68 acres, but the Exhibit C-1 mining plan map shows a total lake area of 18.56 acres. On Option 2, the timetable shows a total lake area of 12.68 acres during that phase, while the Exhibit C-2 mining plan map shows a total lake area of 25.48 acres during that phase.

Additionally, on Option 1, the timetable shows a setbacks/plant site area of 6.12 acres, while the Exhibit C-1 map shows a plant site area of 8.93 acres. On Option 2, the timetable shows a setbacks/plant site area of 12.61 acres, while the Exhibit C-2 map shows a plant area of 3.78 acres.

Please correct any discrepancies between the acreages given in the timetable and the acreages shown on the correlated mining plan maps.

- 4) In the mining plan text (above the mining timetable), it states the total area to be mined is 15.60 acres. However, in the timetable, for Option 1, the mined area is 19.55 acres, which is more than 15.60 acres. Please explain or correct any discrepancies between the mining plan text and the mining timetable.

Exhibit E – Reclamation Plan (Rule 6.4.5):

- 5) The revised reclamation plan states that for Option 1, the excavated shorelines will not be retopsoiled as no topsoil will be available on site if the pre-law area to the northeast will not be redisturbed. The plan also indicates the shorelines will not be revegetated. The Applicant proposes reclaiming new shorelines by sloping and grading only.

Please be advised, while other disturbed areas, such as the plant site, could remain for industrial use without retopsoiling and revegetating, all pond shorelines shall either be retopsoiled and revegetated or stabilized with riprap or other means.

Please revise the reclamation plan to include one of the above mentioned options for reclamation of pond shorelines, and remove any language indicating shorelines will not be reclaimed beyond sloping requirements. Please indicate the estimated volume of material (topsoil or riprap) to be used for reclamation, the anticipated source for the material (generated on site or imported), and the haul/push distance (if generated on site) or approximate travel distance between the source and the mine site (if to be imported).

- 6) The revised Reclamation Timetable does not correlate with the two reclamation plan maps provided. For starters, the Options appear to be reversed on the maps from what they should be, given that Option 1 should include leaving the northeastern pre-law area undisturbed and a



smaller pond. On the reclamation plan maps, the industrial area is shown to be 3.78 acres in size, while on the timetable, it is shown as 3.75 acres (a slight difference). Also, on the reclamation plan maps, the pond size is shown to be 22.12 acres in size for what should be Option 1, while on the timetable, it is shown as 29.33 acres for Option 1. Additionally, on the reclamation plan maps, the pond size is shown to be 29.03 acres for Option 2, while on the timetable, it is shown as 22.12 acres. Finally, the timetable shows a larger undisturbed acreage for Option 2, which should be the reverse, as Option 1 would disturb less land.

Please correct any discrepancies between the acreages given in the reclamation timetable and the acreages shown on the correlated reclamation plan maps, and be sure the Options are listed correctly.

- 7) Please be informed, Rule 3.1.5(9) states that an operator may backfill structural fill material generated within the permitted area into an excavated pit within the permit area as provided for in the permit. [This means all backfilling activities must be accounted for in the permit, even if the material is generated on site.]

If an operator intends to backfill inert structural fill generated outside of the approved permit area, the operator must provide notice (in the form of a Technical Revision) of any proposed backfill activity not identified in the approved reclamation plan. [Note that Technical Revisions are required for any proposed activities not already authorized in an approved permit. In this case, the activities could be incorporated into the permit prior to approval.]

Additionally, Rule 3.1.5(9) requires operators to maintain a Financial Warranty at all times adequate to cover the cost to stabilize and cover any exposed backfilled material. The Technical Revision (or new permit application) should include but is not limited to:

- (a) a narrative that describes the approximate location of the proposed activity;
- (b) the approximate volume of inert material to be backfilled;
- (c) a signed affidavit certifying that the material is clean and inert as defined in Rule 1.1(20);
- (d) the approximate dates the proposed activity will commence and end, however, such dates shall not be an enforceable condition;
- (e) an explanation of how the backfilled site will result in a post-mining configuration that is compatible with the approvable post-mining land use; and
- (f) a general engineering plan stating how the material will be placed and stabilized in a manner to avoid unacceptable settling and voids.

The Applicant indicates a desire to maintain the flexibility of armouring pond shorelines with concrete rubble without committing to this reclamation activity or including costs in the reclamation bond for the activity. Please note, the Division holds operators accountable for



completing the reclamation plan as approved, and must also hold costs in the reclamation bond for the plan that is proposed by the Applicant. The details of the reclamation plan will be considered permit commitments upon Division approval of the application. Therefore, if the Applicant wishes to keep the reclamation task of backfilling and/or armouring pond shorelines with concrete rubble, more details will be required, including estimated volumes to be placed, approximate locations where the material will be placed (indicated on the Exhibit L map), and equipment used for completing this task. Additionally, the Applicant should be sure to include costs for completing this task in the Exhibit L reclamation bond estimate.

If the Applicant wishes not to commit to armouring pond shorelines at this time, then please remove all language from the mining and reclamation plans referring to this activity. The reclamation plan could always be revised in the future to incorporate this activity, by submittal of a Technical Revision.

Please note, if the Applicant chooses not to stabilize pond shorelines with riprap/concrete rubble, the reclamation plan must include retopsoiling and revegetating pond shorelines, and costs for these tasks must be included in the Exhibit L reclamation bond estimate.

Exhibit F – Reclamation Plan Map (Rule 6.4.6):

- 8) The reclamation plan maps provided for the two proposed options do not correlate with the mining plan maps for the two options. Based on the mining plan maps, Option 1 would consist of leaving the northeastern pre-law area undisturbed and a smaller pond, while Option 2 would consist of mining through the northeastern pre-law area and leaving a larger pond. However, the reclamation plan maps are labeled the opposite, with Option 2 leaving the northeastern pre-law area undisturbed. Please correct the reclamation plan map labels so the two options correlate with the options shown in the mining plan maps.
- 9) As mentioned previously, pond shorelines must either be retopsoiled and revegetated for reclamation or stabilized by some other method such as armouring with riprap. Only the proposed swim area with 5H:1V slope gradients may remain as a sandy beach with no revegetation. Please be sure this is indicated on the reclamation plan maps, showing shorelines that will be either retopsoiled and revegetated or armoured with riprap.

Exhibit G – Water Information (Rule 6.4.7):

- 10) The Applicant has submitted a copy of the current Substitute Water Supply Plan (SWSP) in place by Valco, Inc. to cover all post-1981 exposed groundwater for the Rocky Ford East Pit (Permit No. M-1977-560), which includes the ponds in the proposed permit area for the 22 West Pit. This SWSP will expire on July 31, 2018.

The Applicant also submitted a copy of the request submitted to the Office of the State Engineer (SEO) on May 2, 2018 for renewal of the SWSP to cover up to 15 acres of post-1981 exposed groundwater at the 22 West Pit, for the period of August 1, 2018 to July 31, 2019.



Additionally, the Applicant submitted a copy of the gravel pit well permit application submitted to the SEO on May 15, 2018 to allow for a maximum allowed exposed groundwater surface of 29.32 acres at the 22 West Pit.

Based on the fact that exposed groundwater on site is currently covered by a valid well permit and SWSP (to expire July 31, 2018), and the Applicant has demonstrated they are working with the SEO to obtain the required well permit and SWSP to cover exposed groundwater on site past July 31, 2018, the Division could approve the permit application for 22 West Pit with the following stipulation:

Stipulation No. 1: The Applicant must provide documentation to the Division by July 31, 2018, that an updated well permit and Substitute Water Supply Plan (showing appropriate water shares have been committed to permanent augmentation) or water court approved Augmentation Plan has been obtained to cover all groundwater exposure at the 22 West Pit. If the Applicant is unable to provide this documentation by July 31, 2018, the Division will issue a Surety Increase to include costs for backfilling the pits to cover the post-1981 exposed groundwater to a depth of two feet above the static groundwater level.

Please acknowledge your acceptance of this stipulation for permit approval.

Exhibit L – Reclamation Costs (Rule 6.4.12):

- 11) As mentioned previously, pond shorelines must either be retopsoiled and revegetated for reclamation or stabilized by some other method such as armouring with riprap. Only the proposed swim area with 5H:1V slope gradients may remain as a sandy beach with no revegetation. Based on the Exhibit L – Reclamation Cost Map provided, the Division estimates approximately 800 feet of shoreline (excluding the concrete washout area) will require reclamation for the scenario depicted.

Please include costs in the bond estimate for at least one of the specified methods of reclamation for the approximate 800 feet of shoreline (either retopsoiling and revegetating or riprap placement). If topsoil or riprap material will need to be imported to the site for reclamation, please be sure to add a separate cost for this task.

Exhibit S – Permanent Man-Made Structures (Rule 6.4.19):

- 12) The Applicant has provided proof that all seven structure owners identified in Exhibit S were mailed structure agreements for the structures they own within 200 feet of the proposed affected land. The Applicant provided signed structure agreements for five of the seven structure owners. However, these agreements require revision in order for them to be considered properly executed, as detailed in the Division's Preliminary Adequacy Review letter. Structure agreements for City of Aurora and Donald Memeda have not been submitted.



The Applicant provided a geotechnical stability evaluation for the chainlink fence owned by Donald Memeda, for the powerline pole closest to the mine owned by Southeast Colorado Power Association, for the ditch owned by City of Aurora, and for Co Rd 22 owned by Otero County Commissioners. The evaluation does not include an analysis for structures located within 200 feet of the proposed affected land that are owned by Valco, Inc., Don Hansen, or Daniel L. Lytle. Therefore, prior to the application decision date, the Applicant must submit either:

- a. Properly executed structure agreements for these structure owners; or
- b. An appropriate engineering evaluation that demonstrates their structures shall not be damaged by activities occurring at the mining operation.

Additional Items:

- 13) Pursuant to Rules 1.6.2(1)(c) and 6.4.18, please provide an affidavit or receipt indicating the date on which a copy of the revised application (submitted to the Division on May 30, 2018) was placed with the Otero County Clerk and Recorder for public review.

This concludes the Division's second adequacy review of your application. If you are unable to satisfactorily address any concerns identified in this review before the decision date, currently set for July 10, 2018, it will be your responsibility to request an extension of the review period. Please ensure the Division sufficient time to complete its review process by responding to these adequacy issues at least one week prior to the decision date, by July 3, 2018.

If you have any questions, you may contact me by telephone at 303-866-3567, ext. 8129, or by email at amy.eschberger@state.co.us.

Sincerely,



Amy Eschberger
Environmental Protection Specialist

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