



COLORADO

**Division of Reclamation,
Mining and Safety**

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

August 21, 2018

Aggregate Industries – WCR, Inc.
Attn: Joel Bolduc
1687 Cole Boulevard, Suite 300
Golden, Colorado 80401

**RE: Hazeltine Mine, M-2004-031
Technical Revision No. 6, (TR06), Adequacy Review No. 2**

Dear Mr. Bolduc,

The Colorado Division of Reclamation, Mining, and Safety (DRMS or Division) received TR06 on July 12, 2018. The Division has reviewed the technical revision and had identified several adequacy review items that were listed in the Division's July 17, 2018 adequacy Review Letter. The Division received your response to the adequacy review letter on August 10th, 2018. The original adequacy review items identified by the Division are listed below followed by the Aggregate Industries – WCR, Inc. (AI) response to the item. If the item is resolved or if additional issues were identified, they are cited below:

1. When the Bull Seep receives water from the Fulton Ditch from the southwest corner turnout on the Orr property, it is likely a large amount of this flow will enter the open Orr Drain and flow into the pit. According to the Tetra Tech designs submitted for the Orr Drain with Amendment No. 1 (AM01), the drain was not designed to convey the surface flows from the Bull Seep. Please explain and/or demonstrate the Orr Drain is sized sufficiently to convey flows from the Bull Seep when it receives water turned out from the Fulton Ditch. Or, provide a revised design and plan to modify the Orr Drain to accommodate the additional flow.
 - a. **AI's Response:** Please see the attached memo (Exhibit A) from Tetra Tech that documents the Orr Drain size is sufficient to handle Bull Seep flows.
 - b. **DRMS Response:** Resolved
2. Please provide documentation Aggregate Industries – WCR, Inc. (AI) has the legal water rights and approval of the Colorado Division of Water Resources to capture surface flows from the Bull Seep in the pit. The Permanent Plan; as required by the Mined Land Reclamation Board (Board), must function with little maintenance and continually pumping water from the pit is not an acceptable permanent solution.
 - a. **AI's Response:** Please see the attached letter (Exhibit B) from Division of Water Resources that allows water from the Bull Seep to pass through the pit given proper accounting takes place and water is not stored in the pit.
 - b. **DRMS Response:** The letter from the Division of Water resources does allow for the temporary inflow, accounting and pumping/discharge procedure AI is committing to. This plan is a temporary solution. However, it appears based on this letter long term storage of flows from the Orr drain have not been approved. As pumping water on a



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continual basis is not a permanent solution (as AI recognized further in the adequacy response letter) and water rights do not appear to have been obtained to impound inflows from the Orr Drain on a permanent basis, this item remains outstanding and will need to be addressed.

3. If AI cannot address the issues identified in items #1 and #2 above, AI will need to provide a revised Permanent Plan that addresses how surface flows from the relocated Bull Seep will be managed so the Orr property will remain dry and the Orr Drain functional when water is turned out into the Bull Seep from the Fulton Ditch. DRMS and AI have had several meetings to discuss various options to address this issue. The Division believes AI should consider working with the owners of the Fulton Ditch to move the turnout for the Bull Seep downstream a sufficient distance from the Orr property.
 - a. **AI's Response:** AI believes the responses above address paragraphs 1 and 2 and thus a response to paragraph 3 is not necessary at this time.
 - b. **DRMS Response:** AI has not adequately addressed Item #2 as discussed above. TR06 has not provided a viable revision to the permanent plan for the Orr property to ensure mitigation measures will function year round with little maintenance as required by the May 14, 2018 Mined Land Reclamation Board (Board) Order for MV-2018-008 and MV-2015-003. The Board's order further requires implementation of the revised permanent plan within 30 day of the approval of the revision. AI's adequacy response letter requested additional time to work with the City of Thornton to develop a permanent plan.

The Division believes there are two options that could be incorporated into the Permanent Plan TR06 Revision. The first option, a plan must be submitted for the legal impoundment of long-term and permanent flows from the Orr Drain into the Hazeltine Reservoir. For TR06, AI could commit to obtaining approval from the Division of Water Resources to impound inflows from the Orr drain. Given the thirty day implementation requirement from the May 14, 2018 Board Order, AI will need to commit to submitting evidence to DRMS that they have applied to the Division of Water Resource for approval to impound inflows from the Orr Drain. AI will need to submit this documentation to DRMS within 30 days of the approval of the revision. Should AI and the City of Thornton come to an agreement that the City will obtain the necessary approvals to impound flows from the Orr drain, AI will not be released from the site until the Division of Water Resources approves long-term/permanent inflows from the Orr drain into the Hazeltine Reservoir. AI would need to submit clear and verifiable evidence the City of Thornton will commit to obtaining approval from the Division of Water Resources to impound permanent flow from the Orr Drain prior to the approval of TR06.

The second option, AI will need to provide a revised Permanent Plan that addresses how surface flows from the relocated Bull Seep will be managed so the Orr property will remain dry and illegal impoundment from flows from the Orr Drain will not occur when

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water is turned out into the Bull Seep from the Fulton Ditch. Implementation of this plan will be required within 30 days of approval of the Technical Revision.

The Division is required to issue a decision on TR06 by September 12, 2018. Failure to obtain approval of the revision will violate the Board's order and may result in additional enforcement action. If you have any questions feel free to contact me at (303) 866-3567, extension 8120.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jared Ebert", with a stylized flourish at the end.

Jared Ebert

Environmental Protection Specialist III

EC: Joel Bolduc, AI joel.bolduc@aggregate-us.com
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