



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, Colorado 80203

October 4, 2018

Daniel Robinson
Robinson Sons Inc.
1228 East 7th Street
Trinidad, CO 81082

**Re: Robinson Sons Gravel Pit No. 1, Permit No. M-2008-076
Amendment Application (Revision No. AM-01), Preliminary Adequacy Review**

Mr. Robinson:

The Division of Reclamation, Mining and Safety (Division) has completed its preliminary adequacy review of the above referenced Amendment application. All comment and review periods for the application began on September 24, 2018, when the application was called complete for filing purposes. The decision date for the application is set for **December 24, 2018**.

The review consisted of comparing the application content with specific requirements of the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials. The Division has identified adequacy items requiring clarification or additional information. These items are identified below under their respective exhibit heading, and are numbered sequentially.

Exhibit A – Legal Description (Rule 6.4.1):

Acceptable as submitted.

Exhibit B – Index Map (Rule 6.4.2):

Acceptable as submitted.

Exhibit C – Pre-Mining and Mining Plan Map(s) of Affected Lands (Rule 6.4.3):

- 1) Please label the county road located at the eastern edge of the proposed affected area.
- 2) Please show the owner's name, type of structure, and location of all permanent, man-made structures contained on the area of affected land and within 200 feet of the affected land. Map C-1 does not include owner names for the structures identified. Additionally, the Division was unable to locate any fences on the map, although the legend includes a symbol for fences. The Division is aware of at least one fence present along the southern edge of the affected area that is not shown on the map.



- 3) Maps C-1 and C-2 include a brown dashed line around the gas well pads and access roads. However, the Division could not find this symbol in the legend provided. Do these lines represent mining setbacks? Please provide a description for this symbol in the legend. Additionally, any proposed setbacks for the operation should be shown on the mining plan map (Map C-2).
- 4) Please show the proposed topsoil and overburden storage areas on Map C-2.

Exhibit D – Mining Plan (Rule 6.4.4):

- 5) The application proposes a maximum disturbed area at any time of 25 acres, including mining areas, haul roads, and processing areas. However, according to the Division's inspection report for November 23, 2016, the operator has already disturbed a total of 25.96 acres. The Division understands the operator may be excluding the 6.74 acres of disturbance adjacent to the county road, as these areas will not be re-mined. However, all disturbed areas that have not been fully reclaimed and released by the Division must be included in the maximum disturbed area at any time. Please revise the proposed maximum disturbed area to include, at a minimum, the existing disturbance.
- 6) Please describe any setbacks the operation will maintain from structures and/or boundaries. Please be sure this description correlates with any setbacks shown on the mining plan map.
- 7) The application states that an approximate timetable to describe the mining operation is shown on Map C-2. This map shows the proposed disturbed areas with associated acreages. However, the Division was unable to find a mining timetable or any sequencing information on this map. Please indicate the proposed mining sequence/direction of mining on Map C-2.
- 8) Table D-1 provides acreages for the various disturbances within the proposed affected area. This table indicates that a total of 53.74 acres will require reclamation, which correlates with the total acreages shown on Map C-2. However, Table E-3 in Exhibit E indicates a total of 74.34 acres will be reclaimed to pastureland. Please explain and/or correct this discrepancy.
- 9) The application states if topsoil stockpiles will not be used for more than one full growing season, they will be seeded with western wheatgrass. Please provide a seed rate for this temporary seed mix as PLS/acre.

Exhibit E – Reclamation Plan (Rule 6.4.5):

- 10) Please provide more details on how the disturbed areas near the county road (and creek) will be reclaimed, including an estimated timeline for completion.
- 11) The application proposes a post-mining land use of pastureland and residential development. However, the reclamation plan is centered on reclaiming the site for pastureland use. Please commit to providing more details on the proposed residential use for the site through submittal of a Technical Revision once this information is known. This revision should include a revised



reclamation plan map showing the locations(s) of any proposed residential structures, and provide demonstration that the site is zoned for residential use.

- 12) The application proposes maintaining a floating bond for 25 acres of disturbance. As mentioned above, the existing disturbance exceeds 25 acres. Therefore, please revise this acreage to cover, at a minimum, the existing disturbance.
- 13) Table E-3 shows that 74.34 acres will be reclaimed to pastureland, and 99.76 acres + 6.5 acres of gas well pads and access roads will be undisturbed. However, Table D-1 in Exhibit D shows that 53.74 acres will be reclaimed, and 120.36 acres + 6.5 acres of gas well pads and access roads will be undisturbed. Please explain and/or correct these discrepancies.
- 14) The application does not include details on how the scale house and ramp, and office trailer will be reclaimed. Please provide more details in this exhibit on how these features will be reclaimed. For any structures to be demolished, please include their components, dimensions, and how the demolished materials will be disposed of (on site or hauled off site). If any materials will be disposed of on site, please describe the proposed location(s) of disposal.

Exhibit F – Reclamation Plan Map (Rule 6.4.6):

- 15) Map F-1 shows a total of 74.34 acres that will require reclamation after mining is completed. However, Map C-2 shows a total proposed disturbance of 53.74 acres. Please explain and/or correct this discrepancy.

Exhibit G – Water Information (Rule 6.4.7):

- 16) The Division's inspection report for November 23, 2016 details how mined areas adjacent to the county road have resulted in the capture of creek flow and the exposure of alluvial groundwater. The Division identified this issue as a failure to conduct mining and reclamation activities in a manner which minimizes disturbance to the prevailing hydrologic balance, and described it as part of the larger possible violation cited for offsite damage.

The Division understands the operator does not intend to affect surface or groundwater systems in future operations. However, the existing disturbances near the creek must be addressed. Please describe how the operation will mitigate these disturbances, and demonstrate compliance with the Colorado Division of Water Resources and the U.S. Army Corps of Engineers. The Division recommends the operator contact these two agencies and determine what permits, if any, are required for these disturbances.

- 17) The operator estimates less than 0.5 acre-feet of water will be required for the operation annually, mainly for dust control. Please indicate the anticipated source(s) for this water.



Exhibit H – Wildlife Information (Rule 6.4.8):

- 18) The application refers to an attached correspondence letter from Colorado Parks and Wildlife. However, the Division could not find this attachment in the materials submitted. Please submit the referenced attachment.

Exhibit I – Soils Information (Rule 6.4.9):

Acceptable as submitted.

Exhibit J – Vegetation Information (Rule 6.4.10):

- 19) The application refers to an attached vegetation inventory taken from the Trinidad field office of the Natural Resources Conservation Service. However, the Division could not find this attachment in the materials submitted. Please submit the referenced attachment.

Exhibit K – Climate (Rule 6.4.11):

Acceptable as submitted.

Exhibit L – Reclamation Costs (Rule 6.4.12):

- 20) The application provides a bond estimate for the proposed worst-case scenario where a maximum of 25 acres are disturbed. However, as mentioned above, the existing disturbance is 25.96 acres. Please revise the cost estimate to include costs for reclaiming, at a minimum, the existing amount of disturbance.
- 21) The bond estimate includes costs for backfilling no more than 1,000 feet of vertical highwall to slopes of 3H:1V. Please include this commitment in Exhibit D to have no more than 1,000 feet of highwall at any time with slopes steeper than 3H:1V.
- 22) The bond estimate includes costs for backfilling highwalls at a height of 12 feet. However, the mining plan indicates a maximum pit depth of 18 feet. Because the reclamation bond must cover conditions for the worst-case scenario, please revise the bond estimate to include costs for backfilling highwalls at a height of 18 feet.
- 23) Please describe how the operator intends to backfill highwalls (e.g., cut and fill method, backfill material stored on site, backfill material imported to site).
- 24) The bond estimate includes costs for retopsoiling and seeding 25 acres of disturbed land. Please revise this acreage to reflect, at a minimum, the existing disturbed areas.



- 25) Please provide more details on how the truck scale and office trailer will be demolished or removed for reclamation. What equipment will be used for demolishing/removing these structures? Will the materials be disposed of on site or hauled off site for disposal? If the materials will be disposed of on site, please indicate the anticipated location(s) on Map F-1. Please be sure the bond estimate includes all costs for demolishing/removing these structures, including costs for disposal.
- 26) The bond estimate does not include costs for mobilization and demobilization of equipment for reclamation. Please include these costs in the estimate, specifying the type and number of equipment to be used, and the nearest location from which this equipment could be obtained.

Exhibit M – Other Permits and Licenses (Rule 6.4.13):

- 27) Please specify whether a Substitute Water Supply Plan, Augmentation Plan, or well permit is required from the Colorado Division of Water Resources for this operation.
- 28) Please specify whether a Section 404 permit is required from the U.S. Army Corps of Engineers for this operation.

Exhibit N – Source of Legal Right to Enter (Rule 6.4.14):

Acceptable as submitted.

Exhibit O – Owner(s) of Record of Affected Land (Surface Area) and Owners of Substance to be Mined (Rule 6.4.15):

Acceptable as submitted.

Exhibit P – Municipalities Within Two Miles (Rule 6.4.16):

Acceptable as submitted.

Exhibit Q – Proof of Mailing of Notices to County Commissioners and Soil Conservation District (Rule 6.4.17):

Acceptable as submitted.

Exhibit R – Proof of Filing With County Clerk and Recorder (Rule 6.4.18):

Acceptable as submitted.



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

- 29) Please provide a list of all permanent, man-made structures located within 200 feet of the proposed affected land, and their respective owner(s).
- 30) Please indicate the structure owners from the list above with which the operator has obtained properly executed structure agreements. Pursuant to Rule 6.4.19(a), the agreement between the operator and the person(s) having an interest in the structure must be notarized, and include language that the operator will provide compensation for any damage to the structure (see enclosed structure agreement form).
- 31) The application includes a structure agreement with Colorado Interstate Gas Company on their letterhead, dated August 11, 2008. However, Map C-1 does not show any structures owned by this entity. Please be sure Map C-1 shows all permanent, man-made structures located within 200 feet of the proposed affected land, and specifies the owner(s) of each structure.
- 32) County Road 31.9 appears to be located partially within the proposed affected land boundary. Please provide proof that a structure agreement has been attempted with the owner of this structure. Proof may consist of a Certified Mailing receipt and a copy of the structure agreement that was sent to the structure owner. If an agreement has been reached with this owner, please provide a copy of the executed agreement to our office.

Geotechnical Stability Exhibit:

- 33) The engineering evaluation mentions that sufficient buffers will be maintained. Please specify the buffers that will be maintained by the operation to prevent any impacts to structures or offsite impacts from occurring during mining and reclamation.
- 34) The engineering evaluation calculates a Factor of Safety of 3.61 for a highwall with 3H:1V slopes. However, the application proposes having up to 1,000 feet of highwall with vertical slopes at any time. Please provide an evaluation for a highwall with vertical slopes, and include the estimated closest distance an active mining face will ever be to a permanent, man-made structure not owned by the operator.

This concludes the Division's preliminary adequacy review of your amendment application. Please ensure the Division sufficient time to complete its review process by responding to these adequacy issues by December 3, 2018.

Please remember that pursuant to Rule 1.6.2(1)(c), any changes or additions to the application on file in our office must also be reflected in the public review copy which was placed with the Las Animas County Clerk and Recorder. Pursuant to Rule 6.4.18, you must provide our office with an affidavit or receipt indicating the date this was done.



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

Sincerely,



Amy Eschberger
Environmental Protection Specialist

Encl: Structure Agreement Form

Ec: Ben Langenfeld, Greg Lewicki and Associates at: benl@lewicki.biz



An example Structure Agreement which meets the requirements of the Statutes is shown below.

Structure Agreement

This letter has been provided to you as the owner of a structure on or within two hundred (200) feet of a proposed mine site. The State of Colorado, Division of Reclamation, Mining and Safety (“Division”) requires that where a mining operation will adversely affect the stability of any significant, valuable and permanent man-made structure located within two hundred (200) feet of the affected land, the Applicant shall either:

- a) Provide a notarized agreement between the Applicant and the Person(s) having an interest in the structure, that the Applicant is to provide compensation for any damage to the structure; or
- b) Where such an agreement cannot be reached, the Applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or
- c) Where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have “no negative effect” on their utility. (*Construction Materials Rule 6.3.12 and Rule 6.4.19 & Hard Rock/Metal Mining Rule 6.3.12 and Rule 6.4.20*)

The Colorado Mined Land Reclamation Board (“Board”) has determined that this form, if properly executed, represents an agreement that complies with Construction Materials Rule 6.3.12(a), Rule 6.4.19(a), and C.R.S. § 34-32.5-115(4)(e) and with Hard Rock/Metal Mining Rule 6.3.12(a), Rule 6.4.20(a), and C.R.S. § 34-32-115(4)(d). This form is for the sole purpose of ensuring compliance with the Rules and Regulations and shall not make the Board or Division a necessary party to any private civil lawsuit to enforce the terms of the agreement or create any enforcement obligations in the Board or the Division.

The following structures are located on or within 200 feet of the proposed affected area:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

(Please list additional structures on a separate page)

CERTIFICATION

The Applicant, _____ (print applicant/company name),
by _____ (print representative's name), as _____ (print
representative's title), does hereby certify that _____ (structure owner) shall
be compensated for any damage from the proposed mining operation to the above listed structure(s)
located on or within 200 feet of the proposed affected area described within Exhibit A, of the Reclamation
Permit Application for _____ (operation name),
File Number M-____-_____.

***This form has been approved by the Colorado Mined Land Reclamation Board pursuant to its
authority under the Colorado Land Reclamation Act for the Extraction of Construction Materials and
the Colorado Mined Land Reclamation Act for Hard Rock, Metal, and Designated Mining Operations.
Any alteration or modification to this form shall result in voiding this form.***

NOTARY FOR PERMIT APPLICANT

ACKNOWLEDGED BY:

Applicant _____ Representative Name _____

Date _____ Title _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing was acknowledged before me this ____ day of _____, 20____, by
_____ as _____ of _____.

Notary Public My Commission Expires: _____

NOTARY FOR STRUCTURE OWNER

ACKNOWLEDGED BY:

Structure Owner _____ Name _____

Date _____ Title _____

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing was acknowledged before me this ____ day of _____, 20____, by
_____ as _____ of _____.

_____ My Commission Expires: _____

Notary Public