



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

DATE: October 22, 2018

RE: Rationale for Recommendation for Conditional Approval of an 112c Application with Public Objections, North Weld County Water District, Lamb Lakes, File No. M-2018-039

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 October 22, 2018, the Division of Reclamation, Mining and Safety (DRMS, Division or Office) issued its recommendation to approve with conditions the permit application for the Lamb Lakes site, File No. M-2018-039, 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

North Weld County Water District (NWCWD or Applicant) filed the application with the Division on July 25, 2018. The application was deemed complete for the purposes of filing and for review on July 26, 2018. The application describes primarily a reclamation operation to create lined water storage reservoirs. The proposed permit area encompasses a portion of the Home Office Mine, operated by Martin Marietta Materials, Inc. (DRMS Permit No. M-1977-439). If the Lamb Lakes application is approved the applicable area will be released from the Home Office Mine permit. Mining at the site is nearly complete; however, additional marketable material is proposed to be excavated. Previous mining created three pit excavations that are currently filled with groundwater. The Applicant proposes to de-water the existing pits, install a slurry wall around the excavations, recover any marketable material from the bottom of the pits and complete reclamation of the site. On-site processing such as crushing and screening is proposed. The proposed permit boundary includes 128.8 acres. Affected lands would be reclaimed to support the proposed developed water resource post-mining land use. Notice of the filing of the application occurred in accordance with the requirements of the Act and Rules. The Applicant published the required notice in the Fort Collins Coloradoan once a week for four consecutive weeks beginning on July 30, 2018 and ending on August 20, 2018. The public comment period closed on



September 10, 2018. During the public comment period the Division received written comments from the following individuals and agencies:

The Division received written objections from the following people in accordance with Rule 1.7.1(2)(a) within the public comment period:

First Name	Last Name	Date Received
Susan	Amador	8/10/2018
Ben	Pfeffer	8/12/2018
Hayes	Seubert	8/20/2018
Hilary	White	8/23/2018
Cosmo	Catalano	9/3/2018
Maya	Ortega	9/5/2018
Cheryl	Distaso	9/5/2018
Amy	Fleshman	9/6/2018
Maureen	DeCoursey	9/7/2018

Timely Commenting Agency:

Agency	Date Comment Received
Colorado Division of Water Resources	8/7/2018
Office of Archaeology and Historic Preservation (History Colorado)	8/29/2018
Army Corps of Engineers	8/13/2018
Colorado Parks and Wildlife	8/14/2018

Parties Who Have Withdrawn:

Person or Entity	Date Withdrawal Form Received
None	N/A

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

During the review period the Division generated two adequacy letters. The Applicant addressed all adequacy issues to the Division's satisfaction. Therefore, on October 22, 2018, the Division determined the application 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. Prior to initiating dewatering operations, slurry wall construction and mining, NWCWD shall submit and receive approval of a Technical Revision to the groundwater monitoring plan. The Technical Revision shall include the results of the baseline water level sampling, final monitoring well locations and well construction information, trigger levels for possible mitigation and baseline water levels, if possible, for any wells within 650 feet of the pit edge on the west side of the Cache La Poudre River.
- II. Prior to slurry wall installation and excavation, NWCWD shall submit and receive approval of a Technical Revision to Exhibit S for Permanent Man-made Structures. This Technical Revision shall include the results and findings of the stability analysis to be conducted after pit dewatering in accordance with Rule 6.4.19(b).

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

The timely objections and comments received by the Division have been categorized as issues pertaining to the Reclamation Plan, Hydrology, Wildlife and Public Use. 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. Reclamation Plan

- a. ***Concerns about the proposed post-mining land use of Developed Water Resources; specifically, concerns about changing the current state of the land to water storage reservoirs. (4)***

The property is currently owned by the City of Greeley and the Tri-Districts (Fort Collins-Loveland Water District, North Weld County Water District and East Larimer County Water District). The Applicant designated the post-mining land use as Developed Water Resources in accordance with Rule 3.1.1. Exhibit E, explains the land use is consistent with existing and future land uses in the area. The ponds that currently exist at the site were former pit excavations permitted under the Home Office Mine (Permit No. M-1977-439). According to the Applicant, the proposed Lamb Lakes operation will continue to operate under an approved Larimer County Special Use Permit. DRMS sent notice to Larimer County

and the City Manager of Fort Collins on July 26, 2018. Neither entity commented, objected or provided any feedback regarding the application and proposed post-mining land use of the site. DRMS found the Applicant provided all of the information required for a Reclamation Plan in accordance with Rule 6.4.5 to describe how the post-mining land use would be created. This post-mining land use complies with the requirements of Rule 3.1.1.

2. Hydrologic Balance

a. Concerns regarding drainage/flood control. (1)

The Cache la Poudre River is less than 100 feet from the existing lakes and flood control structures are not currently designed or installed at the site. The Applicant committed to designing and incorporating flood control structures such as off-channel spillways and hard-point structures to prevent lateral migration of the river from intercepting and damaging the site and slurry walls. These structures would be designed to manage the inflow and outflow of floodwaters through the pit. Further, the Applicant committed to obtaining the required Larimer County Flood Hazard Development Permit which will require the Applicant to design flood control structures in accordance with accepted standards. The Applicant committed to providing DRMS with a copy of the Larimer County Flood Hazard Development Permit once it has been obtained as well as the designs for the flood control structures. The plan to design and implement appropriate flood control structures will minimize the disturbance to the prevailing hydrologic balance of the affected lands and of the surrounding area in accordance with Rule 3.1.6.

b. Concerns regarding the impacts of the proposed operation on groundwater flows. (1)

The Applicant will replace depletions to the Cache La Poudre River covered under an approved Temporary Substitute Water Supply Plan obtained from the Colorado State Engineer's Office (SEO). Once the slurry wall liner is installed around the lakes, losses of the groundwater through evaporative loss will cease. Groundwater mounding and shadowing may occur as a result of the installation of the slurry wall. The Applicant cites groundwater in the Cache la Poudre alluvium near the site has a saturated thickness less than 20 feet and is less than 10 below the surface. The slurry wall will be keyed into the shale bedrock and extend close to the surface. The Applicant states it is difficult to quantify exact groundwater elevation changes resulting from slurry wall installation but that changes will likely be most pronounced immediately adjacent to the slurry wall with groundwater returning to normal elevations over a relatively short distance away from the slurry wall. Given the depth of the groundwater up gradient from the slurry wall, the Applicant has asserted the impact of mounding will be minimal. Also, the location of the Fort Collins Irrigation Canal Ditch may intercept water mounding up gradient of the slurry wall, thereby limiting the impacts from water mounding. The Applicant states shadowing impacts down gradient of the site are not likely due to the location of the Cache La Poudre River.

The Applicant has committed to a groundwater level monitoring plan. The Applicant will install eight water monitoring wells around the site. These wells will be used to collect baseline ground water levels for 18 months prior to operation commencement. During and after the operation these wells will also be

monitored to evaluate the operation's impact on the groundwater regime. In addition, any private well within 650 feet of the pit bank west of the river will also be monitored (provided the well owners grant access). The Applicant committed to a mitigation plan should well owners be impacted by the operation. Also, the Applicant has provided a mitigation plan to be implemented in the event the effects of groundwater mounding and shadowing are not minimized. The Division finds the Applicant supplied all of the information required by Rule 6.4.5 regarding the Reclamation Plan and Rule 6.4.7 regarding water information. The proposed monitoring plan will allow further evaluation of the impacts of the hydrologic balance both during and after the mining operation. Finally, appropriate mitigation measures proposed by the Applicant will minimize any impacts to the groundwater system in accordance with Rule 3.1.6.

3. Wildlife

a. Concerns about the proposed operation's impact on wildlife. (4)

Exhibit H of the application provides the required information regarding wildlife in accordance with Rule 3.1.8 and Rule 6.4.8. There are no known threatened or endangered species within the proposed site boundary. Bald eagles may utilize the site, however there are no known nest sites within the site boundary. The Applicant acknowledges the mining and reclamation activities may disturb some wildlife within the proposed site. To mitigate this, the Applicant will limit the total disturbance at any one time. The Applicant proposes to mine the site in three phases ranging from 9 to 31 acres in size. Each of these areas have already been previously mined and the affected area outside of the bottom of the exiting pits will be affected by the installation of the slurry wall. In general, the installation of the slurry wall will consist of a trench 3 to 5 feet wide and 100 to 150 feet long at any one time with a small work area for equipment and mixing and placing slurry material. The slurry is mixed and placed into the trench and the area is backfilled and graded. This small affected area will move around the pit excavations as the slurry wall is installed. Additional mined material will only be excavated from the bottom of the current pits. On August 16, 2018, DRMS received comments from Colorado Parks and Wildlife (CPW) regarding the proposed operation. Based on CPW's review of the proposal, they do not have any biological concerns regarding this matter. The Division finds the Applicant addressed all of the requirements of Rule 6.4.8. As CPW does not have any biological concerns regarding this operation, the Division finds all aspects of the Mining and Reclamation Plans take into account the safety and protection of wildlife on the mine site as required by Rule 3.1.8.

4. Public Use

a. Concerns raised regarding public access and use of the affected lands. (4)

In accordance with Rule 3.1.4, on lands owned by the Operator, the Operator may permit the public to use the same for recreational purposes, except in areas where such use is found by the Operator to be hazardous or objectionable. Public use of the property is at the sole discretion of the land owner(s) and the Applicant. The Act and Rules do not authorize the Division to dictate public access to an active mining operation.

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 current, and future land uses (7)

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 Larimer County.

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 July 26, 2018, the Division provided notice of the permit application to Larimer County and the City of Fort Collins. These entities have not indicated any conflict with local zoning or land use regulations for the proposed operation. Further, in accordance with Exhibit M of the application, the Applicant indicated the proposed operation will continue to operate under the existing Special Use permit issued by Larimer County.

b. Concerns regarding noise pollution and aesthetic impact and quality of life. (3)

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 Larimer County.

c. Concerns regarding adverse impacts to recreation. (4)

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

d. Concerns regarding dust and air pollution. (2)

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 affirmatively stated 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 should 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 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 indicated long-term stockpiles are not anticipated and temporary stockpiles would continually be used for concurrent reclamation and seeding the stockpiles would not be practical during the operation.

Conclusion

Therefore, on October 22, 2018, the Office determined the application satisfied the requirements of C.R.S. § 34-32.5-115(4), and issued its recommendation to approve with conditions the Construction Materials 112 application for Lamb Lakes, File No. M-2018-039.