



## COLORADO

Division of Reclamation,  
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215  
Denver, Colorado 80203

November 21, 2018

Judy Sprague  
Arkins Park Stone Corporation  
5975 NCR 27  
Loveland, CO 80538

**Re: Sprague Red Lyons, Permit No. M-1981-057, Technical Revision No. 1 (TR-1), Preliminary Adequacy Review**

Ms. Sprague:

On November 20, 2018, the Division of Reclamation, Mining, and Safety (Division) received your Technical Revision request (TR-1) for the Sprague Red Lyons site, Permit No. M-1981-057. The requested revision addresses the following items:

*Remove area of residential area from the quarry and reclamation plan, to remain "as-is" per landowner.*

The Division has identified the following adequacy items that need to be addressed before an approval of TR-1 can be issued:

- 1) The revision application includes a letter from Coffey Engineering and Surveying that states "A revised Mining Plan Map and Acreage Reduction request will be provided to DRMS upon approval of the Technical Revision". However, the revision application submitted includes a filled out Acreage Reduction form. Pursuant to Rules 4.14.2(a) and 4.17.1(3), release requests (full or partial) must be sent via Certified Mail and be separate from other types of communication to the Office.

Therefore, please be advised, the Division is unable to process the Acreage Reduction request that was mailed with the Technical Revision via standard mail. The Division recommends the operator wait until this revision is approved, then submit the Acreage Reduction request via Certified Mail separate from other types of communication.

- 2) The description of the proposed revision provided on the cover sheet includes language regarding removal of the residential area from the quarry and reclamation plan. Please be advised, a Technical Revision can only be submitted to request a change in the permit which does not have more than a minor effect upon the approved or proposed reclamation plan, as described by Rule 1.1(49). The Division cannot approve a partial release of the permit area through a Technical Revision. Therefore, the Division recommends the operator submit a revised cover sheet that does not include language about releasing the residential area.



Based on previous discussions with the operator, the Division believes the intent of the Technical Revision is to revise the reclamation plan to allow Quarry 3 to remain as-is for residential use, including leaving a small section of steep highwall as an amphitheater and not revegetating the quarry, per the landowner's request. If this is correct, the Division recommends the operator use this language on the revised cover sheet.

- 3) In order for the Division to approve a request to leave Quarry 3 as-is for reclamation, the operator must submit a notarized letter from the landowner confirming his desire to leave Quarry 3 as-is to use the small section of highwall with steep slopes as an amphitheater and to not have the quarry revegetated. It appears this letter has been obtained, as a copy was emailed to the Division on November 7, 2018 for preliminary review prior to mailing the revision application. Please mail the original notarized letter from the landowner with the updated application.
- 4) The revision application includes a revised Reclamation Plan Map of the Quarry 3 area which shows the location of the proposed residence, the associated access road, and a water well. Please confirm these are the only new structures in this area (including any underground and above ground utilities) installed since the permit was last revised in 1999. Please provide a notarized structure agreement with the owner(s) of any new structures located on or within 200 feet of the affected lands (see enclosed structure agreement form).
- 5) Please be advised, permit revisions (including revised maps) can only be approved through the Technical Revision or Amendment process, and not through an Acreage Reduction process. Typically, after the Division has approved an Acreage Reduction request, the operator must submit a Technical Revision to revise the Mining and Reclamation Plan Maps to show the reduced permit area. In this case, the Division could not approve an Acreage Reduction for Quarry 3 without the operator first submitting a Technical Revision to leave this area as-is per the landowner's request, and to show locations of new structures in this area that will remain for reclamation. The Division believes this is the intent of the revision submitted.

Given the operator's desire to release Quarry 3 from the approved permit area, and the fact that a Technical Revision is currently under review, the operator has two options: 1) Submit revised Mining and Reclamation Plan Maps with this revision, showing the entire permit area consisting of 59.7 acres, and identifying the area to be requested for release (in a future submittal), or 2) Submit a follow-up Technical Revision after submittal and approval of an Acreage Reduction request to provide the revised Mining and Reclamation Plan Maps.

Either way, the revised Mining Plan Map should comply with the requirements of Rule 6.4.3 and include all structures located on or within 200 feet of the affected lands (including any new structures since the last permit revision in 1999), and the revised Reclamation Plan Map should comply with the requirements of Rule 6.4.6 and show all features and structures to remain for reclamation.



The decision date for this revision is set for **December 20, 2018**. However, please allow the Division sufficient time to complete the review process by submitting your response no later than one week prior to the decision date, by December 13, 2018. If additional time is needed to submit a response, an extension request must be received by our office by the decision date.

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](mailto:amy.eschberger@state.co.us).

Sincerely,



Amy Eschberger  
Environmental Protection Specialist

Encl: Structure Agreement Form

EC: Shari Swenson, Arkins Park Stone at: [shari@arkinsparkstone.com](mailto:shari@arkinsparkstone.com)  
Michael Cunningham, DRMS at: [michaela.cunningham@state.co.us](mailto:michaela.cunningham@state.co.us)



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

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## **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