

BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

DRAFT PREHEARING ORDER

IN THE MATTER OF THE 112c PERMIT APPLICATION OF NORTH WELD
COUNTY WATER DISTRICT, LAMB LAKES; FILE NO. M-2018-039

The Mined Land Reclamation Board (“Board”), through prehearing officer Jason Musick (“PHO Musick”) and pursuant to Rule 2.7 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (“Rule”), conducted a prehearing conference on October 26, 2018 in Fort Collins, Colorado. The Board, having considered this order, as proposed by the PHO Musick, and having considered any subsequent objections or comments from the parties, hereby enters the following Prehearing Order for the captioned proceeding:

I. BACKGROUND

North Weld County Water District (“Applicant”) filed a new 112c permit application with the Division of Reclamation, Mining and Safety (“Division”) on July 25, 2018 file number M-2018-039 (“Application”). During the required period of notice of the Application filing, the Division received written comments and objections to the Application. As part of its review, the Division generated two (2) adequacy review letters. The Applicant addressed all adequacy issues to the Division’s satisfaction. On October 22, 2018, the Division determined the Application to have satisfied the requirements of section 34-32.5-115(4), C.R.S. and issued its recommendation to approve the Application with conditions.

II. FORMAL PUBLIC HEARING

The Formal Public Hearing on this matter will occur on November 14-15, 2018 at the Centennial Building, 1313 Sherman Street, Room 318, Denver, Colorado 80203, during the Board’s monthly November 2018 meeting. The Board’s meeting on November 14, 2018 (unless noticed otherwise) will begin at 9:00 a.m.

The Formal Public Hearing in this matter concerns whether the Board should approve the Applicant’s application with conditions in accordance with the Colorado Land Reclamation Act for the Extraction of Construction Materials (Article 32.5 of Title 34, C.R.S.; the “Act”) and the Rules. The Board’s resolution of this matter, including findings of facts and conclusions of law, will be based on the Board’s

review of the Application, testimony presented by the parties and the Division at the hearing, and exhibits the Board admits into the record at this hearing.

In this matter, the Applicant bears the burden of proving that the Application meets the requirements set forth in the Act and Rules. If the Applicant meets this burden, any denial by the Board must be based upon one of the grounds provided in section 34-32.5-115(4), C.R.S.

III. PARTIES

Applicant:

North Weld County Water District
32825 County Road 39
P.O. Box 56
Lucerne, CO 80646

Objector:

Maureen DeCoursey
316 West Street
Fort Collins, CO 80521

Eight (8) objectors forfeited party status by failing to attend the prehearing conference in accordance with Rule 2.7.3:

Susan Amador
Ben Pfeffer
Hayes Seubert
Hilary White
Cosmo Catalano
Maya Ortega
Cheryl Distaso
Amy Fleshman

The remaining objector is referred to herein as “Objector.”

The Division is advisory staff to the Board in this matter, not a party. As used herein, “party” or “parties” shall mean the Applicant and Objector, or both, as the context indicates.

IV. ISSUES

Presentations to the Board by the parties and the Division shall be limited to the following issues:

1. Reclamation Plan. Whether the Application adequately addresses concerns about the proposed post-mining land use of Developed Water Resources.
2. Hydrologic Balance. Whether the Application adequately addresses concerns regarding drainage/flood control and concerns regarding groundwater flows.

3. Wildlife. Whether potential impacts of operations on wildlife have been adequately addresses in the application.
4. Public Use. Whether the Application adequately addresses concerns regarding public access and the use of affected lands.

V. WITNESSES AND EXHIBITS

Pursuant to Rule 2.6(2), all parties and the Division must exchange witness and exhibits at the prehearing conference. During the prehearing conference, the Applicant, Objector, and the Division agreed to provide witness lists, exhibit lists, and exhibits that are not in the Division's file by October 29, 2018 by 5:00 p.m. and is provided as follows:

Witnesses

For the Applicant: North Weld County Water District:

- Eric Reckentine – District Manager, North Weld County Water District
- Richard Raines – Water Resources Manager, Tri-Districts
- Jennifer Petrzela – Water Resources Operations Manager, City of Greeley
- Bill Schenderlein – Project Manager, Blue Earth Solutions, LLC

For the Objector:

- Randolph Fischer – Environmental Engineering Consultant
- Dave Myers – Land Conservation Manager, City of Fort Collins
- Jeff Borg – Political Science Faculty, Front Range Community College
- David Anderson – Director, Colorado Natural Heritage Program
- Maureen DeCoursey – Principle Consultant, DeCoursey and Associates

For the Division:

- Russ Means – Minerals Program Supervisor
- Michael Cunningham – Senior Environmental Protection Specialist
- Jared Ebert – Environmental Protection Specialist III

Exhibits

For the Applicant: North Weld County Water District

- Public Record for DRMS File No. M-2018-039
- Preliminary Slope Stability Evaluation

For the Objector:

- No Exhibit List was provided by the Objector.

For the Division:

- Public Record for Division File No. M-2018-039, available on Laserfiche at <http://mining.state.co.us>

VI. PROCEDURE

The Division, parties, and members of the public shall make presentations in the following order. The time limits set out below are maximum limits; however the Board, in its discretion, may allow additional time. The Board has the right to limit any duplicative or irrelevant testimony.

All parties and the Division will be afforded an opportunity to conduct cross-examination of any witnesses that testifies during each presentation. Time used for cross-examination of a witness shall count against the time limit of the cross-examining party or the Division. Time used to respond to questions by members of the Board shall not count against the time limit of the responding party or the Division.

PHO Musick solicited and considered input from the parties and the Division at the prehearing conference regarding the time requested to make presentations at the hearing, and recommends that following procedure for approval by the Board:

A. Board Consideration and Adoption of the Prehearing Order

The Board shall consider this draft Prehearing Order for adoption. The Board, in its discretion, will hear any objections to the proposed Prehearing Order at that time and make any necessary amendments prior to adopting the Prehearing Order.

B. Introduction – Division:

The Division shall have ten (10) minutes in which to present an overview of the Application.

C. Presentation – Applicant – North Weld County Water District:

The Applicant shall have fifteen (15) minutes in which to make a presentation to the Board regarding all issues outlined above.

D. Presentation – Objector

The Objector shall have fifteen (15) minutes in which to make a presentation to the Board regarding all issues outlined above.

E. Presentation – Division:

The Division shall have fifteen (15) minutes in which to make a presentation to the Board regarding all issues outlined above.

F. Rebuttal Statement – Applicant

The applicant shall have twenty (20) minutes to make a rebuttal statement, and shall be limited to responding to issues addressed in the presentations of the other parties or the Division.

G. Rebuttal Statement – Objector

The Objector shall have twenty (20) minutes to make a rebuttal statement, and shall be limited to responding to issues addressed in the presentations of the parties or the Division.

H. Rebuttal Statement – Division

The Division shall have twenty (20) minutes to make a rebuttal statement, and shall be limited to responding to issues addressed in the presentations of the parties.

I. Closing Statement – Division

The Division shall have five (5) minutes to make a closing statement.

J. Closing Statement – Objector

The Objector shall have ten (10) minutes to make a closing statement.

K. Closing Statement – Applicant

The Applicant shall have ten (10) minutes to make a closing statement.

Dated this _____ day of November 2018

BY: _____, Chairperson
Mined Land Reclamation Board

CERTIFICATE OF SERVICE

I, Jason Musick, hereby certify that on this 30 day of October, 2018, I deposited a true copy of the foregoing Draft Prehearing Order in the United States Mail, postage paid, addressed to the following:

Erick Reckentine
North Weld County Water District
32825 County Road 39
P.O. Box 56
Lucerne, CO 80646

Maureen DeCoursey
316 West Street
Fort Collins, CO 80521

Bill Schenderlein
Blue Earth Solutions, LLC.
P.O. Box 2427
Fort Collins, CO 80522

Richard Raines
Tri-Districts
4424 Laporte Ave
Fort Collins, CO 80521



October 30, 2018
