



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215

Denver, Colorado 80203

December 14, 2018

John Higgins
Smithburg Family Partnership, LLLP
27451 County Road 3H
Genoa, CO 80818

**Re: Incompleteness Notice, 112c Construction Materials Amendment Application (AM-02)
Higgins Pit II, Permit No. M-2012-013**

John Higgins:

On December 6, 2018, the Division of Reclamation, Mining and Safety (Division) received your 112 Construction Materials Reclamation Permit Amendment Application (AM-02) package for the Higgins Pit II, Permit No. M-2012-013. Preliminary review of the information received determined that the following items must be received before the Division can consider your application as being submitted/filed and technical review can begin. The Applicant is reminded that according to Rule 1.10.1(1) the Applicant shall clearly describe where in the original application and supporting documents the information not included in the amendment application may be found. Please respond to this Incompleteness Notice with the requested information and summarize each response to the numbered items below, in a cover letter titled "Response to Incompleteness Notice: M-2012-013".

APPLICATION FORM:

1. Item 3. On page one Permitted acreage (new or existing site) was left blank. Please indicate the acreage values requested and submit a replacement page one of the application form.
2. Item 5.1. On page one the incidental commodities to be mined was left blank. Please indicate the volume of incidental commodities to be mined (5.1) or if no incidental commodities will be mined, please indicate "N/A" on 5.1 and submit a replacement page one of the application form.
3. Item 10. On page two the primary mine entrance location provided latitude and longitude coordinates that do not accurately depict the mine entrance. Currently the mine entrance plots, using Google Earth, approximately 900 feet to the northwest of the current entrance. Please provide updated mine entrance coordinates and submit a replacement page two of the application form.
4. Item 11. On page three the Company Name has been left blank as part of the Applicant/Operator and Inspection Contact. Please provide the name of the company and submit a replacement page three of the application form.
5. Responsibilities. Question #10 on page 6 is initialed and the type of organization is a Limited Liability Limited Partnership as indicated on 1.1. Please provide the power of attorney authorizing the signature of the representative.



6. Certification. On page eight the company name was incorrectly filled out the company name needs to match 1.1 on page 1. The title of the person signing needs to be completed. The notary section needs to reflect the changes mentioned above. Please submit a new page eight.

EXHIBIT A - Legal Description (Rule 6.4.1):

7. The legal description must identify the affected land and be wholly adequate for field location of the property. It can be in the form of metes and bounds survey or a description by reference to township, range and section to at least the nearest quarter quarter section. Where applicable, the street address or lot numbers may be used. Please clearly mark and submit an Exhibit A.

EXHIBIT B – Index Map (Rule 6.4.2):

8. An index map showing the regional location of the affected land and all roads and other access to the area. A standard U.S. Geological Survey topographic quadrangle or equivalent is acceptable. Scale criteria need not be followed for this map. Please clearly mark and submit an Exhibit B.

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

9. One or more maps may be necessary to legibly portray the following information:
- (a) all immediately adjacent surface owners of record;
 - (b) the name and location of all creeks, roads, buildings, oil and gas wells and lines, and power and communication lines on the area of affected land and within two hundred (200) feet of all boundaries of such area;
 - (c) the existing topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of the affected land;
 - (d) the total area to be involved in the operation, including the area to be mined and the area of affected lands (see definition of "Affected Land");
 - (e) the type of present vegetation covering the affected lands; and
 - (f) in conjunction with Exhibit G - Water Information, Subsection 6.4.7, if required by the Office, further water resources information will be presented on a map in this section.
 - (g) Show the owner's name, type of structures, and location of all permanent or man-made structures contained on the area of affected land and within two hundred (200) feet of the affected land.
 - (h) In conjunction with Exhibit I - Soils Information, Subsection 6.4.9, soils information may be presented on a map in this section;
 - (i) Aerial photos, if available, may be included in this section.

Please clearly mark and submit an Exhibit C.

EXHIBIT D – Mining Plan (Rule 6.4.4):

10. The mining plan shall supply the following information, correlated with the affected lands, map(s) and timetables:

- (a) description of the method(s) of mining to be employed in each stage of the operation as related to any surface disturbance on affected lands;
- (b) earthmoving;
- (c) all water diversions and impoundments; and
- (d) the size of area(s) to be worked at any one time.
- (e) an approximate timetable to describe the mining operation. The timetable is for the purpose of establishing the relationship between mining and reclamation during the different phases of a mining operation. You will not be required to meet specific dates for initiation, or completion of mining in a phase as may be identified in the timetable. This does not exempt you from complying with the performance standards of Section 3.1. Such timetable should include:
 - (i) an estimate of the periods of time which will be required for the various stages or phases of the operation;
 - (ii) a description of the size and location of each area to be worked during each phase; and
 - (iii) outlining the sequence in which each stage or phase of the operation will be carried out.
 - (iv) (Timetables need not be separate and distinct from the mining plan, but may be incorporated therein.)
- (f) a map (in Exhibit C - Pre-Mining and Mining Plan Maps(s) of Affected Lands, Subsection 6.4.3) may be used along with a narrative to present the following information:
 - (i) nature, depth and thickness of the ore body or deposit to be mined and the thickness and type of overburden to be removed (may be marked "CONFIDENTIAL," as per Paragraph 1.3(3)); and
 - (ii) nature of the stratum immediately beneath the material to be mined in sedimentary deposits.
- (g) identify the primary and secondary commodities to be mined/extracted and describe the intended use; and
- (h) name and describe the intended use of all expected incidental products to be mined/extracted by the proposed operation.

Please clearly mark and submit an Exhibit D.

EXHIBIT E – Reclamation Plan (Rule 6.4.5):

11. (1) In preparing the Reclamation Plan, you should be specific in terms of addressing such items as final grading (including drainage), seeding, fertilizing, revegetation (trees, shrubs, etc.), and topsoiling. You are encouraged to allow flexibility in your plans by committing to ranges of numbers (e.g., 6" 12" of topsoil) rather than specific figures.

(2) The Reclamation Plan shall include provisions for, or satisfactory explanation of, all general requirements for the type of reclamation proposed to be implemented by you. Reclamation shall be required on all the affected land. The Reclamation Plans shall include:

- (a) a description of the type(s) of reclamation you propose to achieve in the reclamation of the affected land, why each was chosen, the amount of acreage accorded to each, and a general discussion of methods of reclamation as related to the mechanics of earthmoving;
- (b) a comparison of the proposed post mining land use to other land uses in the vicinity and to adopted state and local land use plans and programs. In those instances where the post mining land use is for industrial, residential, or commercial purposes and such use is not reasonably assured, a plan for revegetation shall be submitted. Appropriate evidence supporting such reasonable assurance shall be submitted;
- (c) a description of how the Reclamation Plan will be implemented to meet each applicable requirement of Section 3.1;
- (d) where applicable, plans for topsoil segregation, preservation, and replacement; for stabilization, compaction, and grading of spoil; and for revegetation. The revegetation plan shall contain a list of the preferred species of grass, legumes, forbs, shrubs or trees to be planted, the method and rates of seeding and planting, the estimated availability of viable seeds in sufficient quantities of the species proposed to be used, and the proposed time of seeding and planting;
- (e) a plan or schedule indicating how and when reclamation will be implemented. Such plan or schedule shall not be tied to any specific date but shall be tied to implementation or completion of different stages of the mining operation as described in Subparagraph 6.4.4(1)(e). The plan or schedule shall include:
 - (i) an estimate of the periods of time which will be required for the various stages or phases of reclamation;
 - (ii) a description of the size and location of each area to be reclaimed during each phase; and
 - (iii) an outline of the sequence in which each stage or phase of reclamation will be carried out.

(The schedule need not be separate and distinct from the Reclamation Plan, but may be incorporated therein.)

- (f) a description of each of the following:

- (i) final grading - specify maximum anticipated slope gradient or expected ranges thereof;
- (ii) seeding - specify types, mixtures, quantities, and expected time(s) of seeding and planting;
- (iii) fertilization - if applicable, specify types, mixtures, quantities and time of application;
- (iv) revegetation - specify types of trees, shrubs, etc., quantities, size and location; and
- (v) topsoiling - specify anticipated minimum depth or range of depths for those areas where topsoil will be replaced.

Please clearly mark and submit an Exhibit E.

EXHIBIT F – Reclamation Plan Map (Rule 6.4.6):

- 12.** The map(s) of the proposed affected land, by all phases of the total scope of the mining operation, shall indicate the following:
- (a) the expected physical appearance of the area of the affected land, correlated to the proposed mining and reclamation timetables. The map must show proposed topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of all reclaimed lands; and
 - (b) portrayal of the proposed final land use for each portion of the affected lands.

Please clearly mark and submit an Exhibit F.

EXHIBIT G – Water Information (Rule 6.4.7):

- 13.** (1) If the operation is not expected to directly affect surface or groundwater systems, a statement of that expectation shall be submitted.
- (2) If the operation is expected to directly affect surface or groundwater systems, you shall:
- (a) locate on the map (in Exhibit C) tributary water courses, wells, springs, stock water ponds, reservoirs, and ditches on the affected land and on adjacent lands where such structures may be affected by the proposed mining operations;
 - (b) identify all known aquifers; and
 - (c) submit a brief statement or plan showing how water from dewatering operations or from runoff from disturbed areas, piled material and operating surfaces will be managed to protect against pollution of either surface or groundwater (and, where applicable, control pollution in a manner that is consistent with water quality discharge permits), both during and after the operation.
- (3) You must provide an estimate of the project water requirements including flow rates and annual volumes for the development, mining and reclamation phases of the project.

(4) You must indicate the projected amount from each of the sources of water to supply the project water requirements for the mining operation and reclamation.

(5) You must affirmatively state that the Operator/Applicant has acquired (or has applied for) a National Pollutant Discharge Elimination System (NPDES) permit from the Water Quality Control Division at the Colorado Department of Health, if necessary.

Please clearly mark and submit an Exhibit G.

EXHIBIT H – Wildlife Information (Rule 6.4.8):

14. In developing the wildlife information, you may wish to contact the local wildlife conservation officer. You must include in this Exhibit, a description of the game and non game resources on and in the vicinity of the application area, including:

- (a) a description of the significant wildlife resources on the affected land;
- (b) seasonal use of the area;
- (c) the presence and estimated population of threatened or endangered species from either federal or state lists; and
- (d) a description of the general effect during and after the proposed operation on the existing wildlife of the area, including but not limited to temporary and permanent loss of food and habitat, interference with migratory routes, and the general effect on the wildlife from increased human activity, including noise.

Please clearly mark and submit an Exhibit H.

EXHIBIT I – Soils Information (Rule 6.4.9):

15. In consultation with the Soil Conservation Service or other qualified person, you must indicate on a map (in Exhibit C) or by a statement, the general type, thickness and distribution of soil over the affected land. Such description will address suitability of topsoil (or other material) for establishment and maintenance of plant growth. The above information shall satisfy "completeness" requirements for purposes of determination of date of filing.

Please clearly mark and submit an Exhibit I.

EXHIBIT J – Vegetation Information (Rule 6.4.10):

16. (1) You must include in this Exhibit a narrative of the following items:

- (a) descriptions of present vegetation types, which include quantitative estimates of cover and height for the principal species in each life-form represented (i.e., trees, tall shrubs, low shrubs, grasses, forbs);

- (b) the relationship of present vegetation types to soil types, or alternatively, the information may be presented on a map; and
- (c) estimates of average annual production for hay meadows and croplands, and carrying capacity for range lands on or in the vicinity of the affected land, if the choice of reclamation is for range or agriculture.

(2) You must show the relation of the types of vegetation to existing topography on a map in Exhibit C. In providing such information, you may want to contact the local Soil Conservation District.

Please clearly mark and submit an Exhibit J.

EXHIBIT K – Climate Information (Rule 6.4.11):

- 17. Please provide a description of the significant climatological factors for the locality, clearly mark and submit an Exhibit K.

EXHIBIT L – Reclamation Costs (Rule 6.4.12):

- 18. All information necessary to calculate the costs of reclamation must be submitted and broken down into the various major phases of reclamation. You must provide sufficient information to calculate the cost of reclamation that would be incurred by the state.

Please clearly mark and submit an Exhibit L.

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

- 19. A statement identifying which of the following permits, licenses and approvals the Operator/Applicant holds or will be seeking in order to conduct the proposed mining and reclamation operations: effluent discharge permits, air quality emissions permits, radioactive source material licenses, the State Historic Preservation Office clearance, disposal of dredge and fill material (404) permits, permit to construct a dam, well permits, highway access permits, U.S. Forest Service permits, Bureau of Land Management permits, county zoning and land use permits, and city zoning and land use permits.

Please clearly mark and submit an Exhibit M.

EXHIBIT N – Source of Legal Right-To-Enter (Rule 6.4.14):

- 20. You must provide the source of your legal right to enter and initiate a mining operation on the affected land. Please clearly mark and submit an Exhibit N.

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

- 21. Please submit a complete list of all owners or show the owners on your map in Exhibit C, clearly mark and submit an Exhibit O.

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

22. Please list any municipality(s) within two miles of the proposed mining operation and address of the general office of each municipality, clearly mark and submit an Exhibit P.

EXHIBIT R - Proof of Filing with County Clerk (Rule 6.3.18):

23. Any changes or additions to the application on file with the Division, must also be reflected in the public review copy. Please submit proof that the public review copy has been updated or a copy of the response to this Incompleteness Notice has been added to it.

Your 112c AM-02 Application will not be considered submitted/filed until the information listed above is received and found sufficient to begin our review. Additionally, if you have already published notice you will need to republish notice, but only after the Division considers the application submitted; the Division will notify you when you should initiate publication of your notice. This notice must be published for four consecutive weeks, stating within ten (10) days of the date your application is considered submitted. The final date for receiving comments is the 20th day after the last publication or the next regular business day.

Pursuant to Rule 1.4.1(8), you have sixty (60) days from the date of this letter to submit all necessary documents that the Division needs for an application to be considered filed. If, at the end of the sixty day period, the application has not been determined to be filed with the Division, the Division may deny the application and terminate the application file. Should additional time be required to submit all the necessary documents an extension request can be submitted in writing for the Divisions consideration of extending the deadline.

The response to this Incompleteness Notice is due on or before February 12, 2019.

This letter shall not be interpreted to mean that there are no other completeness issues or technical deficiencies in your application. The Division will review your application to determine whether it is adequate to meet the requirements of the Act after submittal of all required items.

If you need additional information or have any questions, please contact me at Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at **303-866-3567 x8114**, or by email at patrick.lennberg@state.co.us.

Sincerely,



Patrick Lennberg
Environmental Protection Specialist

Cc: Michael Cunningham, DRMS