



**COLORADO**  
Division of Reclamation,  
Mining and Safety  
Department of Natural Resources

1313 Sherman Street, Room 215  
Denver, CO 80203

January 14, 2019

Steve O'Brian  
Environment, Inc.  
7985 Vance Dr. #205A  
Arvada, CO 80003

**Re: McAtee Construction Company; Riverside Pit; File No. M-1976-056; 112 Construction Materials Reclamation Permit Amendment Application Package (AM-02) Adequacy Review**

Mr. O'Brian,

The Division of Reclamation, Mining and Safety (Division/DRMS) reviewed the content of the McAtee Construction Company 112 construction materials permit amendment application for the Riverside Pit, File No. M-1976-056 and submits the following comments. The Division is required to make an approval or denial decision no later than February 25, 2019 therefore; a response to the following adequacy review concerns should be submitted to the Division as soon as possible.

The review consisted of comparing the amendment application content with specific requirements of Rules 1, 3, 6.1, 6.2, 6.4 and 6.5 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials. Any inadequacies are identified under the respective exhibit heading along with suggested actions to correct them.

**1.6 Public Notice**

1. As required by Rules 1.6.2(d) and 1.6.5(2), please submit proof of publication in a newspaper of general circulation in the locality of the proposed mining operation.
2. As required by Rule 1.6.2(e), please submit proof of the notice to all owners of record of surface and mineral rights of the affected land and the owners of record of all land surface within 200 feet of the boundary of the affected lands, including all easement holders located on the affected land and within 200 feet of the boundary of the affected lands. Proof of notice may be return receipts of a Certified Mailing or by proof of personal service.



3. The Division received comments from the Division of Water Resources and the Office of Archaeology and Historic Preservation. The letters are attached for review. Please address the comments noted in the letters and revise the amendment application accordingly.

#### **6.4 Specific Exhibit Requirements - Regular 112 Operations**

The following items must be addressed by the Applicant in order to satisfy the requirements of C.R.S. 34-32.5-101 et seq. and the Mineral Rules and Regulations of the Mined Land Reclamation Board:

##### **6.4.3 Exhibit C - Pre-mining and Mining Plan Maps of Affected Lands**

4. Please update the Exhibit C maps to indicate the 40 feet offset from each side of the centerline of the Xcel Energy owned overhead powerlines.
5. Please update the Exhibit C maps to indicate the 200 feet offset from the buried powerline adjacent to the east permit line on the West Area until a structure agreement is signed by the utility owner.

##### **6.4.4 Exhibit D - Mining Plan**

6. On Page 7, the Applicant states Xcel requires a 40 foot setback around each pole so that distance is the setback used on each side of the centerline of the poles to allow access and protect them from mining. Please provide the Division with a copy of the structure offset agreement between Xcel Energy and McAtee Construction Company.
7. On Page 8, the Applicant states there is no specific R.O.W. widths listed in the deed for the buried powerline adjacent to the east permit line on the West Area and McAtee is working with the power company to allow mining within 200 feet.

On Page 59 in the Geotechnical Stability Exhibit, the Applicant proposes an offset of 40 feet from the working face of the mining excavation from the powerline. Please commit to maintaining a 200 feet offset from the underground powerline until a structure agreement is obtained from the power company. Please commit to providing the Division with a copy of the approved structure agreement prior to mining within 200 of the buried powerline.

##### **6.4.7 Exhibit G - Water Information**

8. On Page 15, the Applicant states the long-term exposure of groundwater post-1981 is covered under augmentation plans with Logan Well Users Association, Cases #2007CW0300 and #17CW3062. Please provide the Division with copies of the augmentation plan cases for review.

9. On Page 15, the Applicant states minor revisions may be necessary to the permit since they are increasing the amount of lake areas when mining is complete. Please commit to revising the augmentation agreements prior to exposing more than the currently approved groundwater exposure amount.
10. The site was significantly affected by a flood event in 2013 which altered Lake Robert and deposited material in the southeast section of the East Lake area adjacent to the Lowline Ditch. It appears the mine site is within the 100-year floodplain of the South Platte River. In the event of a significant flood event (100-year flood) it is likely the mine site would be captured by the Lowline Ditch and/or the South Platte River. Where mining will occur within 400 feet of the river channel, a flood analysis and flood control plan must be evaluated and submitted for Division review and acceptance.

The flood analysis should quantify the velocity and volume of flows expected on site from a 100-year flood event, as well as the elevation of the 100-year base flood event and its relation to the elevation of any proposed spillways and embankments. The flood control plan should address mitigation measures including pit side armoring, river side armoring, inflow and outflow channels, or other appropriate measures.

The Applicant shall provide the flood elevations to be expected under a “worst case” flooding scenario and specific mitigation measures to be implemented to minimize the potential for any offsite impacts.

Riverside berms are proposed in the Riverside Pit amendment application, which may be prone to erosion during a flood event. The potential for “berms” around gravel pits to be damaged during flooding is discussed in detail in the 1987 Urban Drainage and Flood Control District (UDFCD) Publication “Technical Review Guidelines for Gravel Mining Activities within or Adjacent to 100-year Floodplains.” Strips of native ground or constructed fill between the stream and the gravel pit, and generally aligned with the flow direction of the river are referred to in the UDFCD document as riverside berms.

Engineered inflow and outflow structures are intended to mitigate possible slope failure during flood events for these berms. The Riverside Pit is outside of the jurisdictional boundaries of the UDFCD, however the technical floodplain factors which led to the formation of the UDFCD guidance publication still apply and will be used to review the adequacy of the flood mitigation structures proposed for the site.

Please provide a flood analysis and flood control plan satisfying the requirements of the UDFCD for the expected 100-year flood event during the life of the operation and after final reclamation for the Riverside Pit.

#### **6.4.12 Exhibit L - Reclamation Costs**

11. The Division estimated the cost to reclaim the site based on the information submitted by the Applicant in the amendment application and the current financial warranty estimate based on AM-01 at \$175,000.00, an increase of \$43,800.00 from the currently held amount of \$131,200.00. A copy of the bond estimate is attached for review.

#### **6.4.18 Exhibit R - Proof of Filing with County Clerk and Recorder**

12. Please provide an affidavit or receipt indicating the date on which the revised amendment application information required to address this adequacy letter was placed with the Logan County Clerk and Recorder for public review, pursuant to Subparagraph 1.6.2(1)(c).

#### **6.4.19 Exhibit S - Permanent Man-made Structures**

Where the 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 may 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.
13. Please provide the Division with copies of the notarized structure agreements with all owners of the structures on and within 200 feet of the affected area of the proposed amended mine site.

Please be advised the Riverside Pit amendment application may be deemed inadequate, and the application may be denied on February 25, 2019, unless the above mentioned adequacy review items are addressed to the satisfaction of the Division. If more time is needed to complete the reply, the Division can grant an extension to the decision date. This will be done upon receipt of a written waiver of the Applicant's right to a decision by February 25, 2019 and request for additional time. The extension request must be received no later than the decision date.

If you have any questions, please contact me at [peter.hays@state.co.us](mailto:peter.hays@state.co.us) or (303) 866-3567 Ext. 8124.

Sincerely,



Peter S. Hays  
Environmental Protection Specialist

Enclosures - Division of Water Resources and the Office of Archaeology and Historic  
Preservation letters, Bond Estimate for AM-02

Ec: Michael Cunningham; Division of Reclamation, Mining & Safety