



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources
1313 Sherman Street, Room 215
Denver, Colorado 80203

January 15, 2019

James MacDonald
APC Southern Construction Co. LLC
14802 West 44th Ave.
Golden, CO 80403

**RE: Preliminary Adequacy Review; 112 Construction Materials Application;
Franciscotti Pit #2; File No. M-2018-058**

Dear Mr. MacDonald,

On November 29, 2018, the Division of Reclamation, Mining and Safety (Division) deemed the above referenced application complete for the purposes of filing. Pursuant to Rule 1.4 the 90-day decision date for the application has been set for February 27, 2019. Please be advised on February 27, 2019, the application may be deemed inadequate and may be denied unless the following adequacy items are addressed to the Division's satisfaction. Please be advised that if you are unable to satisfactorily address any concerns identified in this review before the decision date, it will be your responsibility to request an extension of the review period. If there are outstanding issues that have not been adequately addressed prior to the end of the review period, and no extension has been requested, the Division will deny this application. In order to allow the Division adequate time to review your responses to any adequacy issues, please submit your adequacy responses to the Division no later than one week prior to the decision date. Subsequent to receipt and review of the Applicant/Operator's response to these items the Division may identify additional adequacy items. Please respond to this Adequacy Notice with the requested additional/updated information on permit replacement pages and summarize each response in a cover letter titled "Adequacy Response; M-2018-058".

Rule 1.6.2(e)(ii)

1. Please provide the Division proof that all land owners within 200 feet of affect lands have been noticed.

EXHIBIT A Legal Description (6.4.1)

2. Please clarify the following, in Exhibit A the legal description states the permit area is 329.9 acres more-or-less however, the first page of the Application states the permitted acreage is for 339 acres.

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

3. Mining Plan Map, the path of the OHE line is not completely depicted across the site, there is no buffer indicated for the Dan Mahan Ditch or the power poles, and there are no details or locations for the earthen berms that are proposed to be left at the site. Finally, please indicate the proposed locations for topsoil stockpiles in Phases 2, 3 and 4. Please revise the map with the mentioned items or provide an explanation for not including the revisions.



4. Pre-Mining Map, the path of the OHE line is not completely depicted across the site, the owner of the cemetery has been left blank, and the owner of the OHE line and county roads that border the permit boundary are missing. Please revise the map with these items or provide an explanation for not including the revisions.
5. Soil and Vegetation Map, the path of the OHE line is not completely depicted across the site, there are soil survey map units on the map that are not defined in the legend, specifically units; 22, 45, MtA, 91, and 41. The vegetation inventory table does not match the table provided in Exhibit J. Please revise the map addressing these items or provide an explanation for not including the revisions.

EXHIBIT D – Mining Plan (Rule 6.4.4)

6. In section 6.4.4(a). Please clarify or indicate how far away the topsoil stockpiles are proposed to be in relation to active mining activities, this haul distance will aid in bonding calculations.
7. In section 6.4.4(a) second to last paragraph. Please clarify or revise the one of the following statements “..minimize any high walls (sic)..” which contrasts with the statement made in Exhibit E 3.1.5(3) “No highwalls are planned at this open pit mine.” If highwalls are going to be part of the mining plan the Division will need estimated dimensions of those highwalls in order to perform bond calculations.
8. In section 6.4.4(c), neither the Highline Canal nor the Thompson Arroyo are shown on any of the maps provided. Please revise the maps to show the location of the canal and arroyo or reword the section.
9. In section 6.4.4(f), the depth of the deposit to be mined may reach 40 feet in depth. A review of local groundwater well logs indicates that groundwater is well within this range, please verify that groundwater is within 40 feet of ground surface. The Division requests that the Operator/Applicant commit to notifying the Division immediately if groundwater is exposed during mining and to backfill 2 feet over any areas where there has been any exposed groundwater. Finally, add a similar statement to Exhibit G as it relates to the protection of exposed groundwater.

EXHIBIT E – Reclamation Plan (Rule 6.4.5):

10. Section 6.4.5(2)(e), if the applicant proposes to leave the haul roads as part of the Reclamation Plan please provide a signed notarized letter from the land owner requesting these features remain as part of the final Reclamation Plan.
11. Same as item 7 above.
12. Section 3.1.5(4), please better define or clarify “....after mining has moved away far enough....”
13. Section 3.1.5(9), please revise the statement to read “The Operator/Applicant does not propose to **import** material to **the site** for the purposes of backfill.”
14. Section 3.1.5(10), please revise the first sentence of the section to read “All mined material will be handled in such a manner so as to prevent any unauthorized **release of** pollutants to the surface drainage system.”
15. Section 3.1.6(d), please indicate on the Mining Plan map the location and details associated with the earthen berms and what material will be used to construct them.
16. Section 3.1.9(7), please revise to the second to last sentence of this section to read “The manure, **if used**, must contain.....” Additionally, please provide a statement about how the mulch will be crimped.
17. Section 3.1.12, the Operator/Applicant proposes to mark out the affected land boundary which is proposed to be 339 or 329.9 acres. Please commit to marking out both the affected boundary as well as placing monuments to delineate the disturbed area boundary of 95.6. Does the Operator/Applicant plan on increasing the maximum disturbance over time?

18. Section 6.4.5(e)(ii), please clarify if the maximum disturbed land area, comprised of land being mined and in reclamation, is 95.6 acres or if the 95.6 acres references only land that will be in reclamation.
19. Section 6.4.5(f)(iii), please make the seeding table in this section match the table on the Reclamation Plan Map.
20. Section 6.4.5(f)(vi), the depth of topsoil presented is 1-6 inches which is different from the 3-6 inches proposed in section 6.4.5 (1), please clarify. The Division encourages the Operator/Applicant to replace topsoil at a depth of 3-6 inches on all reclaimed lands.

EXHIBIT F – Reclamation Plan Map (Rule 6.4.6):

21. As mentioned previously the earthen berms that are proposed to be left at the site after mining are not shown on the Reclamation Plan Map. Please indicate on the map where the berms are proposed to be located. Please comment on the reestablishment of the Dog Springs Arroyo, currently it does not appear that the area will completely drain resulting in a large pooling area.

EXHIBIT G – Water Information (Rule 6.4.7):

22. Is the northern boundary of the proposed permit in the floodplain of the Huerfano River?

EXHIBIT H – Wildlife Information (Rule 6.4.8):

23. Please forward any recommendations from Colorado Department of Wildlife to the Division if/when any are received.

EXHIBIT J – Vegetation Information (Rule 6.4.10):

24. As mentioned previously in number 5, the vegetation inventory table does not match the table provided in Soil and Vegetation Map in Exhibit C, please make the tables consistent.
25. As part of Rule 6.4.10(e) please provide the estimates of carrying capacity for rangelands on or in the vicinity of the affected land.

EXHIBIT L – Reclamation Costs (Rule 6.4.12):

26. The first line item in the reclamation cost estimate is for overburden. Please clarify how thick the overburden is at the site, how the volume stated was calculated and indicate on the appropriate maps where the overburden stock piles will be located.

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

27. A copy of the Conditional Use Permit in Huerfano County, CUP #18-015, was not provided as indicated. Please provide a copy of the permit.

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

28. During review of this section the Division would like to bring to the attention of the Operator/Applicant that the current lease agreement is set to expire on February 2, 2020. It is the responsibility of the

Operator/Applicant to maintain Legal Right of Entry at all times during mining and the Division requires a copy of any updated agreements.

EXHIBIT S – Permanent Man Made Structures (Rule 6.4.19):

29. In the section labelled Site 2, the Dan Mahan Ditch is misspelled please make consistent with labels on the maps. Additional clarification is needed on when the ditch may be in use and please clarify when the ditch is active will all mining at the site cease or will mining activity move away from the ditch, this narrative also needs to be added to the Mining Plan?
30. Please provide structure agreement for the county roads that border the site on two sides as they are within 200 feet of proposed mining activity.

Please respond to these adequacy issues no later than one week before the decision deadline, to ensure ample time for the Division to complete its review prior to its decision deadline. The decision deadline on this application is February 27, 2019. If additional time is required to respond to these adequacy issues please submit a written request for extension of the review period. The Division reserves the right to further supplement this document with additional adequacy issues and details as necessary.

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; Division of Reclamation, Mining & Safety