



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215

Denver, Colorado 80203

January 17, 2019

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

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

Mr. Higgins:

On January 10, 2019, the Division of Reclamation, Mining and Safety (Division) received your Response to our Incompleteness Notice for the 112c Construction Materials Amendment Application (AM-02) package for the Higgins Pit II, Permit No. M-2012-013. Your corrected sheets and additional information were adequate with one exception that is listed below. The following item must be received before the Division can consider your application as being submitted/filed and technical review can begin. Please respond to this Follow-up Incompleteness Notice with the requested information and summarize each response to the numbered items below, in a cover letter titled "Response to Follow-up Incompleteness Notice: M-2012-013, AM-02".

APPLICATION FORM:

- 1. Item 3.** During a permit file review for AM-02 it was discovered that the permit area on file is 52.66 acres not 51.66 acres. In tracing down the discrepancy this is what we were able to determine. The pit was originally permitted by Blattner Energy in 2012 for 86.02 acres with 0.64 acres being allowed for the access road. During the acreage release (AR-01) in 2013 of 38.36 acres, the maps did not include the access road as part of the permitted area. Amendment application (AM-01) in 2014 the total acreage that was approved was 5 acres. However, only 4 acres were shown on the associated maps for a difference in total permit acreage of 52.66 (approved) compared to 51.66 (shown on maps), the maps did not include the access road in the permit boundary. A review of the current access road, using Google Earth Pro, indicates it is approximately 0.76 acres in size. Including the access road into the permit boundary will approximately match the acreage that the Division has already approved. If the applicant would like to add additional acreage to allow for other access roads it would be appropriate at this time. Please update the permitted acreage to be 52.66 and revise total acreage in permit area to be 70.52 (52.66 + 17.86) acres. All maps will need to be updated to include the access road as part of the permit area and revise and update the acreage totals on the application form.
- 2. Item 10.** On page two the primary mine entrance location provided latitude and longitude coordinates do not accurately depict the mine entrance location. The coordinates provided plots the mine entrance, using Google Earth Pro, approximately 4,600 feet to the west of what appears to be the current entrance. Please provide updated mine entrance coordinates and submit a replacement page two of the application form.



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

3. Provide a description of the basis for legal right of entry to the site and to conduct mining and reclamation, for Owners of Record described in Rule 1.6.2(1)(e)(i). This may be a copy of access lease, deed, abstract of title, or a current tax receipt. A signed statement by the Landowner and acknowledged by a Notary Public stating that the Operator/Applicant has legal right to enter and mine is also acceptable. Please clearly mark and submit an Exhibit N.

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

4. 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.

Pursuant to Rule 1.4.1(8), you have sixty (60) days from the date of the first Incompleteness Notice 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