



## COLORADO

Division of Reclamation,  
Mining and Safety

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

February 5, 2019

Rick Ensminger  
3500 Highway 6  
Haxtun, CO 80731

**RE: Adequacy Review, 112c Construction Materials Amendment Application (AM-01)  
Ensminger Pit #2, Permit No. M-2010-036**

Dear Mr. Ensminger,

The Division of Reclamation, Mining and Safety (Division) has reviewed the content of your Construction Materials 112c Permit Amendment Application (AM-01) for the Ensminger Pit #2, Permit No. M-2010-036, 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. In order to allow the Division adequate time to review your responses to the adequacy issues, please submit your adequacy responses to the Division no later than one week prior to the decision date. Please respond to this Adequacy Review with the requested information and summarize each response to the numbered items below, in a cover letter titled "Adequacy Review Response AM-01, M-2010-036".

The review consisted of comparing the application content with specific requirements of Rules 1, 3, 6.1, 6.2, and 6.4 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.

### **GENERAL**

1. As required by Rule 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(1)(e), 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 land. Proof of notice may be return receipts of a Certified Mailing or by proof of personal service.
3. The Division received comments from History Colorado. This letter is attached for review. Please acknowledge the letter, address any comments within the letter, and make changes to the application as necessary.

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

4. In accordance with Rule 6.4.3(g), please show the owner's name, type of structure, and location of all structures contained on the area of affected land and within 200 feet of the affected land. The pipeline owned by Tallgrass Energy is identified and labeled on the Exhibit C – Site Map, however the Division observed an overhead utility line located in the southwest portion of the site which is not. Additionally, the owner of County Road 1 and County Road 3 is not labeled nor is the County Road 16 identified and labeled. Please revise the Exhibit C – Site Map and resubmit it for further review.



5. The Applicant appears to be proposing a mining plan with a 200-foot buffer on the inside of the west permit boundary, a 130-foot buffer on the inside of the north permit boundary, a 130-foot buffer on the outside of the east permit boundary, and a 200-foot buffer on either side of the Tallgrass Energy pipeline. Please clearly identify all of these areas on one of the Exhibit C maps. The Division requests the Applicant clearly delineate the buffer areas by using a cross-hatching or other means on the map.

**EXHIBIT D - Mining Plan (Rule 6.4.4):**

6. Please provide further detail regarding the potential on-site processing as mentioned in Exhibit D.
7. Since the Operator intends to continue to operate as a phased mining/bonding approach, please commit to contacting the Division for approval prior to disturbing any new tracts. The request shall include the estimated reclamation costs that would be required for opening the additional tract. The Division will review and calculate a new Final Warranty amount, issuing a Surety Increase revision if necessary. Once the additional amount is posted the Operator will be approved for the new tract.

\*Please note that the Operator may, at any point throughout the life of the mining operation, request a Surety Reduction for completed reclamation tasks or an Acreage Reduction for portions of the permit that have achieved final reclamation.\*

**EXHIBIT E - Reclamation Plan (Rule 6.4.5):**

8. The reclamation plan references an attached Phillips County Natural Resource Conservation Service recommendation regarding the reclamation seed mixture, however, this recommendation was not included in the amendment application. Please provide the Phillips County Natural Resource Conservation Service recommendation.

**EXHIBIT E - Reclamation Plan (Rule 6.4.5):**

9. Please identify the location, on the Exhibit F Reclamation Plan Map, of the two driveways which will remain for use by the landowner as discussed in the reclamation plan.
10. The final contour map appears to show sloping occurring within the 130-foot buffer along the northern permit boundary. Please revise this map to show post-mining topography precluded from this buffer area.

**EXHIBIT L - Reclamation Costs (Rule 6.4.12):**

11. Exhibit L references an effective mined area of 83.9 acres within the 108.0 acre permitted, however the Exhibit L calculation notes state the maximum disturbed area within the permit will be 76.4 acres (11.8 of which are the creek bed). Please explain the acreage discrepancy and revise the application as necessary.
12. The Division will calculate a cost estimate based on the responses to this adequacy letter. You will be provided copy of that reclamation cost estimate for review before the decision date.  
*No further response needed.*

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

13. Exhibit M references an attached zoning permit from Phillips County, however, this permit was not included in the amendment application. Please provide the Phillips County zoning permit.

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

14. During the completeness review the Application provided sufficient information associated with the legal right to enter to call the application complete for filing, however, please now provide the mineral deed of Marion Warren to demonstrate her deed does not specifically include sand and gravel within her mineral rights.

**EXHIBIT R – Proof of Filing with County Clerk and Recorder (Rule 6.4.18):**

15. Please note that any changes or additions to the application must also be reflected in the public review copy placed at the local County Clerk and Recorder by the Operator. Submit proof that the public review copy has been updated with a copy of the response to this adequacy letter.

**EXHIBIT S - Permanent Man-Made Structures (Rule 6.4.19):**

16. During the pre-operational inspection, the Division observed four additional structures that are not accounted for in Exhibit S. Exhibit S did not include County Road 3, County Road 16, and County Road 1 on the east, north, and west sides of the permit, respectively. Additionally, Exhibit S didn't include an overhead utility line located in near the southwest corner of the permit. Please submit documentation in accordance with Rule 6.4.19 for these structures.

This concludes the Division's adequacy review of this application. This letter shall not be interpreted to mean that there are no other technical deficiencies in your application. Other issues may arise as additional information is supplied. Please be advised the Amendment Application for the Ensminger Pit #2 permit 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 the request for additional time. This must be received no later than the deadline date.**

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 x8132**, or by email at [elliott.russell@state.co.us](mailto:elliott.russell@state.co.us).

Sincerely,



Elliott R. Russell  
Environmental Protection Specialist

Enclosures: History Colorado comment letter

Cc: Michael Cunningham, Division of Reclamation, Mining & Safety  
Randy Schafer; 40586 CR 21 Haxtun CO 80731