



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215

Denver, Colorado 80203

February 21, 2019

James McCormick
McCormick Excavation and Paving LLC
30887 Hwy 24
Stratton, CO 80836

**Re: Incompleteness Notice, 110c Construction Materials New Permit Application
Rudder Pit, Permit No. M-2019-008**

Mr. McCormick:

On February 12, 2019, the Division of Reclamation, Mining and Safety (Division) received your 110 Construction Materials New Reclamation Permit package for the Rudder Pit, Permit No. M-2019-008. 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. 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-2019-008".

APPLICATION FORM:

1. Item 1.1 On page one the Type of organization currently reads "Corporation Limited Liability". Please reword to read "Limited Liability Corporation" and submit a replacement page one of the application form.
2. Item 3 On page one the new permitted acreage listed is 9 acres. However, in Exhibit E the dimensions of the proposed pit is 200 feet wide by 2156 feet long which totals 9.9 acres. Please resolve the discrepancy by updating the permit acreage or adjusting the pit dimensions and submit a replacement page one of the application form.
3. Items 5.1/5.2 On page one the incidental commodities to be mined was incorrectly filled out. Please indicate the type and 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 "N/A" on the associated line on 5.2. Please submit a replacement page one of the application form.
4. Item 7 On page three the name of the owner of the subsurface rights of affected land was left blank. Please provide the name of the owner and submit a replacement page three of the application form.
5. Item 10 On page three the quarter/quarter section was left blank. Please provide the missing information and submit a replacement page three of the application form.
6. Items 12/13 On page four the Primary future and Primary present land use. The box that was checked for each of these is Developed Water Resources, this category is typically reserved for water impoundments that are constructed out of clay liners or slurry walls. The Division recommends revising the land use to match the



adjacent land use, either rangeland or pastureland. Please update the land use and submit a replacement page four of the application form.

7. Responsibilities. Question #10 on page five is initialed, since the permittee is a Limited Liability Corporation the question does not require initials. Please indicate “N/A” for the question and submit a replacement page five of the application form.
8. Certification. On page one, Item 1.1 of the application form the Applicant indicated the type of organization as a Limited Liability Corporation (LLC). Please provide the corporate seal on page seven of the application form, if the corporation does not have a seal please indicate “No Seal”. Please update and submit a new page seven.

EXHIBIT C – Mining Plan (Rule 6.3.3):

9. The Division has reviewed the Mining Plan and the associated map in Exhibit E and would like additional clarification on a few items. Typically this would be done through an adequacy review but the answers may have impacts on how to proceed with the application.
 - Item (e) of the mining plan states that the haul road will use existing roads that the land owner uses to check cattle. A review of aerial imagery (dated 2017) using Google Earth Pro the road, indicated to be used, does not appear to sufficient enough to maintain haul traffic while the pit is in use and may require maintenance and substantial upgrades. If these things were to occur the area would have to be included into the permit boundary. Adding the area to permit would exceed the 9.9 acre limit of a 110c permit and the operator would need to apply for a 112c permit. Please provide additional information regarding the conditions of the current road and possibility of improvements that may be needed if mining were to occur at the site. Finally, the proposed haul road is next to a fence line that which would need a structure agreement if it were brought into the permit area.
 - Item (f) of the mining plan states that there will be no major disturbances to the land. Please provide clarification if material will be stockpiled at the site for load out or if trucks will be loaded directly while in the creek bed. Describe how mining will occur in the creek bed and how the extent of mining will be determined, i.e. bank to bank not to disturb vegetated banks or just confined to the bank full area? How will the walls of the excavation be sloped? How will head cutting outside the permit boundaries be prevented?
 - Item (i) excavating during the summer months may encounter groundwater, if groundwater is encountered the Division recommends covering the groundwater with at least 2 feet of material.
 - Item (n), please indicate that there are no secondary commodities to be mined.
 - Item (o), please indicate that there are no incidental products to be mined.

EXHIBIT E – Reclamation Map (Rule 6.3.5):

10. The dimensions given on the map have a total area of 9.9 acres which is inconsistent with page one of the application. Please provide an explanation of the difference in areas.

Your 110c New Permit 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 two consecutive weeks, starting 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 April 22, 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