



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

1313 Sherman Street, Room 215
Denver, CO 80203

March 12, 2019

Bill Schenderlein
Blue Earth Solutions, LLC
P.O. Box 2427
Fort Collins, CO 80522

**Re: Connell Resources, Inc.; Lazy Two Pit; File No. M-2019-001;
112 Construction Materials Reclamation Permit Application Package Adequacy Review**

Mr. Schenderlein,

The Division of Reclamation, Mining and Safety (Division/DRMS) reviewed the content of the Connell Resources, Inc. 112 construction materials permit application for the Lazy Two Pit, File No. M-2019-001 and submits the following comments. The Division is required to make an approval or denial decision no later than April 18, 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 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, the Office of Archaeology and Historic Preservation and The Army Corps of Engineers. The letters are



attached for review. Please address the comments noted in the letters and revise the application accordingly.

4. The Division sent the Applicant a copy of the timely objection letter from Phillip K. MacLean on March 8, 2019. Please inform the Division how the Applicant intends to address the jurisdictional issues raised by Objector.

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:

6.4.4 Exhibit D - Mining Plan

5. On Page 5, the Applicant states items owned by the applicant or property owner located within the proposed permit area such as un-improved roads, fences, water wells and associated pumps, and other structures may be removed or relocated during mining and reclamation. The Source of Legal Right to Enter submitted in Exhibit N did not include language allowing the Applicant to remove or relocated structures owned by the landowners, Lazy Two Ranch LLC and Duane and Lynn Ross. Please provide structure agreements to remove or relocate structures with the landowners in Exhibit S or revise Exhibit D accordingly.
6. On Page 7, the Applicant states for setbacks adjacent to a man-made structure not owned by the applicant that are less than 25 feet, an agreement will (be) obtained from the property owner or an engineering slope stability analysis will be performed. Please commit to providing a structure agreement or stability analysis for all man-made structures within 200 feet of the affected area, not only structures with setbacks less than 25 feet.
7. On Page 8, the Applicant states highwalls associated with the active mining face and approximately 500 feet of side slope on both sides of the mining face will require dozing, grading, topsoiling and revegetation. The Mining Plan states the nearly vertical highwalls will be backfilled, not dozed, during reclamation. Please explain the method for regrading the highwalls and revised the Mining Plan accordingly.
8. On Page 9, the Applicant states a portable asphalt plant may also be used on the site as needed. Please commit to submitting a technical revision, pursuant to Rule 1.9, to revise the Mining Plan prior to the operation of the plant. The technical revision must include proof of all required zoning and permitting requirements to operate the plant.

9. On Page 9, the Applicant states the office/scale house area may be used for employee parking, equipment fueling/lubricating, or equipment storage. Please clarify if the equipment fueling/lubrication area will be a dedicated area with spill prevention and hydrocarbon contaminant systems. Please provide a description of the design and operation of the area, including any sumps if present.
10. On Page 10, in the General Overview of the Reclamation Plan section the Applicant states reclaimed mine pit side slopes will be created by backfilling the near vertical mining highwalls with overburden. In the Materials Handling section, the Applicant states all available topsoil material will be used for backfilling. The use of topsoil for backfill material is not preferable to the Division. Please explain this discrepancy and commit to backfilling the mine highwalls with overburden and using all available topsoil for reclamation as a growth media.
11. On Page 11, the Applicant states it is estimated that approximately one million cubic yards (cyds) of combined topsoil and overburden will be available for backfilling. As required by Rule 3.1.9(1) and as stated by the Applicant in the Mining Plan, topsoil shall be removed and segregated from overburden. Please explain this discrepancy and commit to segregating topsoil from overburden and using all available topsoil for reclamation as a growth media, not for backfilling.

6.4.7 Exhibit G - Water Information

12. On Page 16, the Applicant states the only registered groundwater well within 600 feet of the proposed permit area is owned by the proposed permit property owner. Please confirm the property owners to the south of the proposed mine site, Richard and Charleen Mellott and the property owners to the southwest of the proposed mine site, Beverly Burris do not have permitted wells on their properties.
13. On Page 16, the Applicant states water is primarily used for dust control and is trucked from off-site sources. Please provide the source of the water and evidence the water is permitted for mining/industrial use.
14. On Page 16, the Applicant states the proposed mining operation will have no effect on site water resources. Please confirm groundwater will not be exposed by the mining operation and provide evidence of the anticipated groundwater elevation at the location.

6.4.12 Exhibit L - Reclamation Costs

15. On Page 24, the Applicant states if available a minimum of 6 inches of growth medium will be placed on all disturbed areas following backfilling, scarifying, and/or rough grading. On Page 12 of the Reclamation Plan, the Applicant states 6 inches of topsoil

will be placed on the pit floor and 1 foot of topsoil will be placed on backfilled pit slopes. Please explain this discrepancy and revise the cost estimate accordingly.

16. The reclamation cost scenario provided by the Applicant is not sufficient for the Division to accurately calculate the cost of reclamation that would be incurred by the State. Please provide all information necessary to calculate the cost of reclamation broken down into the various major phases of reclamation pursuant to Rule 6.4.12(1). Please include the anticipated equipment types, material volumes and haul distance for each reclamation task, at minimum.

6.4.14 Exhibit N - Source of Legal Right to Enter

18. During the pre-operational inspection, the Applicant stated Connell Resources, Inc. was in the process of purchasing the parcel owned by Lazy Two Ranch LLC. Please commit to providing a copy of the transferred deed to the parcel when available.

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

19. Please provide an affidavit or receipt indicating the date on which the revised application information required to address this adequacy letter was placed with the Weld 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.
20. Please provide the Division copies of the notarized structure agreements with all owners of the structures on and within 200 feet of the affected area of the proposed mine site.

21. During the pre-operational inspection, a new permanent man-made structure, an overhead power line, which was not identified in the application was observed within 200 feet of the proposed affected area. The powerline was located adjacent to the southwest corner of the proposed permit boundary, running north from the intersection of WCR 21 and WCR 118 along the west side of WCR 21 to the driveway of the property owned by JEM Ranch, Inc. Please revise Exhibit S and Exhibit C-1 Map to indicate the powerline and the owner of the powerline.

Please be advised the Lazy Two Pit application may be deemed inadequate, and the application may be denied on April 18, 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 April 18, 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 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, The Army Corps of Engineers, Phillip K. MacLean objection letter

Ec: Michael Cunningham; Division of Reclamation, Mining & Safety
Kevin Anderson; Connell Resources, Inc.