



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215

Denver, Colorado 80203

December 21, 2016

James McCormick
McCormick Excavating & Paving, LLC
30887 Hwy 24
Stratton, CO 80836

RE: Adequacy Review #2; CN-01; Stewart Pit II; Permit No. M-2009-010

Dear Mr. McCormick,

The Division of Reclamation, Mining and Safety (Division/DRMS) has reviewed the content of the McCormick Excavating & Paving, LLC (Applicant) 110c to 112c Construction Materials Reclamation Permit Conversion Application and the Adequacy Review Responses submitted on November 23, 2016, for the Stewart Pit II, Permit No. M-2009-010, and submits the following comments. **The Division is required to make an approval or denial decision no later than December 26, 2015; therefore, a response to the following adequacy review concerns should be submitted to the Division as soon as possible.** Please respond to this letter with the requested additional/updated information on permit replacement pages and/or exhibits and summarize each response in a cover letter titled "Adequacy Review Response #2 CN-01; M-2009-010".

The review consisted of comparing the application and the amendment to 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

23. As required by Rule 1.6.2(1)(e), the adequacy review response did not include proof of the notice to the owner of record of surface and mineral rights of the affected land (Grasser Construction Inc.). Please provide proof of notice in the form of a return receipt of a Certified Mailing or by proof of personal service. Please note, if Grasser Construction Inc. was not noticed when the public comment period was open, you will need re-notice this individual and extend the public comment period to them for an additional 20 days. In lieu of proof of notice and an extended comment period, the applicant may submit a signed and notarized letter from Grasser Construction Inc. stating that they are aware of the application and have no comment/objection to it.

EXHIBIT E - Reclamation Plan (Rule 6.4.5):

- 24.** The updated Reclamation Plan likely contains an error because it states that a seed mixture of Blue Gramma, Western Wheat Grass, and Buffalo Grass will be used, but then identifies six other species within the reclamation seed mixture. Please revise the Reclamation Plan to reflect the actual seed mixture.
- 25.** The Applicant proposes to use 2.25 PLS lbs/acre of Hycrest Crested Wheatgrass in the reclamation seed mixture. The Division understands that this species has forage value, but in the Division's experience, crested wheat grass is aggressive and can lead to a mono-culture on the reclaimed lands. The Division recommends either reducing the percentage from 15% to a maximum of 5% OR removing this species from the seed



mixture and replacing it with a different species like western wheatgrass. Similarly, the Applicant should re-consider using smooth brome as well.

The Division still recommends the Applicant contact the Natural Resource Conservation Service (NRCS) to get a site, and post-mining land use, specific reclamation seed mixture. To ensure appropriate revegetation, this mixture should contain a variety of cool and warm season native grass species, as well as an appropriate forb/shrub component, if necessary. Please submit a NRCS recommendation sheet, if applicable, which identifies the reclamation grass species and the PLS lbs/acre rate of each, and commit to implementing this mixture during reclamation.

EXHIBIT L – Reclamation Costs (Rule 6.4.12):

26. The Division has completed the Financial Warranty calculation for the proposed operation. **The reclamation cost estimate has been calculated in the amount of \$52,730;** this covers the cost to reclaim the proposed disturbance associated with the Stewart Pit II (north) and the current disturbance at the Stewart Pit (south). Please review the enclosed figures as soon as possible and contact our office if you have any questions or find any calculation errors. Please note, the response to adequacy item 24 may impact this estimate and the Division may prepare an updated estimate following the receipt of Adequacy Response #2.

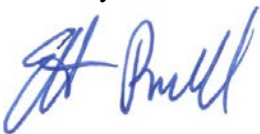
EXHIBIT R - Proof of Filing with County Clerk and Recorder (Rule 6.4.18):

27. Please note that any changes or additions to the application on file in our office must also be reflected in the public review copy, which was placed with the Kit Carson County Clerk and Recorder by the Applicant. Submit proof that the public review copy has been updated with a copy of the response to this adequacy letter.

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 Conversion Application for the Stewart Pit II permit may be deemed inadequate, and the application may be denied on December 26, 2016, 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 December 26, 2016, and the request for a specific amount of 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.

Sincerely,



Elliott R. Russell
Environmental Protection Specialist

Enclosure: Reclamation Cost Estimate CN01 M2009010

EC: Wally Erickson; Division of Reclamation, Mining & Safety