



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

1313 Sherman Street, Room 215  
Denver, CO 80203

May 31, 2019

Kacy Flemons  
LGI Homes – Colorado, LLC  
14205 SE 36<sup>th</sup> Street, Suite 100  
Bellevue, WA 98006

**Re: Borrow Site for Bennett Crossing Filing 2 (Parcel 1), 111(1)(b) Application No. M-2019-029  
Adequacy Review No. 1**

Dear Mr. Flemons,

The Colorado Division of Reclamation, Mining and Safety (DRMS or Division) received the above referenced application on May 24, 2019. The application was deemed complete for review on May 30, 2019. The Division is required to issue a decision on the application on June 14, 2019. The following adequacy review items will need to be addressed prior to the approval of the application.

**Mining Plan – Exhibit C, Rule 6.3.3**

1. For item #2 of Exhibit C, the applicant checked multiple boxes for the depth of topsoil to be salvaged. Please clarify what the applicant anticipates the average range of topsoil depth to be salvaged at the site.
2. Surface water/precipitation will be intercepted by the affected land. Please describe the practices that will be implemented to protect the surface water system from erosion and sedimentation?

**Reclamation Plan – Exhibit D, Rule 6.3.4**

3. Item #2 indicates the applicant plans to restore the vegetation cover to 70% of the pre-disturbance levels. The performance standard for revegetation is defined by Rule 3.1.10(1), which indicates land shall be revegetated in such a way as to establish a diverse, effective, and long-lasting vegetative cover that is capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizer, and is at least equal in extent of cover to the natural vegetation of the surrounding area. Please acknowledge this performance standard.
4. The reclamation plan narrative (item #5) indicated 4-6 inches of topsoil will be replaced over the affected land and the reclamation plan map indicates 6-8 inches will be replaced. Please clarify the proposed topsoil replacement depth.

**Municipalities within a Two-mile Radius – Exhibit H, Rule 6.3.8**

5. Please provide the phone number for the town of Bennett, Colorado.



**Permanent Man-Made Structures – Exhibit L, Rule 6.3.12**

6. In Exhibit B, the applicant identified five permanent man-made structures within 200 feet of the affected land. Exhibit L included a copy of the first page of the example structure damage agreement with four of the five structures listed on the agreement. For each of the five structures, the applicant must attempt to obtain structure damage agreements. Please provide the following:
  - a. Copies of the structure agreements for each of the structures listed in Exhibit B.
  - b. Documentation damages agreements were attempted to be obtained. This could include copies of cover letters for the damage reimbursement agreements and certified mail receipts documenting the damage agreements were sent to the various structure owners. Or, if these agreements were hand delivered please provide documentation to this effect.

**Financial Warranty**

7. The application included an Affidavit of Authority signed by the insurance company, but not by LGI Homes – Colorado, LLC. Confirmation of the legal authority of the individual signing all financial warranty documents on behalf of LGI Homes - Colorado, LLC is required by the Division. You may do so by either providing a copy of your company resolution of authorized officer authority to sign financial warranty documents on behalf of LGI Homes - Colorado, LLC or by completing and notarizing the attached Affidavit of Authority. The Affidavit of Authority is also available on our website, <https://mining.state.co.us>, Forms tab, drop down Warranty Forms. Should you have questions regarding this issue, please contact Barbara Coria with DRMS at (303) 866-3567 ext. 8148.

This concludes the Division's preliminary review of the application. As indicated above, the Division is required to issue a decision on the application on June 14, 2019. All of the adequacy issues noted above will need to be addressed prior to the Divisions approval of the application. If you need additional time to address the issues cited above, please request and extension of the decision date. If you have any question, please feel free to contact me at [Jared.Ebert@state.co.us](mailto:Jared.Ebert@state.co.us) or at (303) 866-3567 ext. 8120.

Sincerely,



Jared Ebert  
Environmental Protection Specialist, DRMS

Enclosure: 1.) *Affidavit of Authority*

ec: Jed Sonnenshein, Fox Rothschild LLP, [jsonnenshein@foxrothschild.com](mailto:jsonnenshein@foxrothschild.com)

# STATE OF COLORADO

---

DIVISION OF RECLAMATION, MINING AND SAFETY  
Department of Natural Resources

1313 Sherman St., Room 215  
Denver, Colorado 80203  
Phone: (303) 866-3567  
FAX: (303) 832-8106



## **Documentation of Legal Authority to Execute Financial Warranty Documents**

*The Colorado Mined Land Reclamation Board ("Board") has adopted the attached Affidavit of Authority to Execute Financial Warranty Documents pursuant to the Mined Land Reclamation Act (C.R.S. § 34-32-101 et. seq.) and the Land Reclamation Act for the Extraction of Construction Materials (C.R.S. § 34-32.5-101 et. seq.). The Board and the Division of Reclamation Mining and Safety ("Division") have determined that, in order to carry out the financial warranty requirements set forth in C.R.S. §§ 34-32-117 and 34-32.5-117 with reasonable diligence, it is prudent to verify the legal authority of the individual signing all necessary documents.*

*Accordingly, you must provide confirmation of the legal authority of the individual signing all Financial Warranty Documents to the Division. You may do so either by submitting a resolution of the decision-making body of your company that authorizes an individual to sign the Financial Warranty Documents on the company's behalf, or by completing and notarizing the attached affidavit. The Division reserves the right to require the attached affidavit in all circumstances. Please note that if you are a sole proprietor who is executing documents on your own behalf, documentation of legal authority is unnecessary.*

## Affidavit of Authority to Execute Financial Warranty Documents

Before me this day, the undersigned \_\_\_\_\_ [name of authorized person], in his/her capacity as \_\_\_\_\_ [title of authorized person] ("Affiant"), personally appeared and, being first duly sworn upon oath said:

1. This affidavit is being executed and submitted on behalf of \_\_\_\_\_ [name of business organization], a(n) \_\_\_\_\_ [legal form of business organization, e.g., corporation, partnership, limited liability company, etc.], in good standing in the State of Colorado (the "Company").
2. It is in the interest of the Company to execute certain financial warranty documents associated with file number \_\_\_\_\_ (DRMS file number), which are required by the Colorado Mined Land Reclamation Board and Division of Reclamation Mining and Safety pursuant to Colorado law ("Financial Warranty Documents").
3. Affiant is duly authorized to sign such Financial Warranty Documents on behalf of the Company and to bind the Company to the same.
4. Affiant is not prohibited or limited by the Company's governing documents or by any applicable law from executing the Financial Warranty Documents.
5. Affiant will inform the Division of Reclamation Mining and Safety within thirty (30) days in the event that his/her authorization to execute Financial Warranty Documents on the Company's behalf is terminated.

Further, Affiant sayeth not.

\_\_\_\_\_  
Affiant's Name

\_\_\_\_\_  
Signature

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

Notary Public \_\_\_\_\_

My Commission Expires \_\_\_\_\_