

June 12, 2019

Mike Bynum
Colorado Milling Company, LLC
50 West 100 South St.
Moab, UT 80342

Re: Gold Hill Mill, Permit No. M-1994-117, Decision to Deny a 110(2) Hard Rock Reclamation Permit Amendment Application (Revision No. AM-1)

Dear Mr. Bynum:

The amendment application (Revision No. AM-1) for the Gold Hill Mill, Permit No. M-1994-117, was filed for review with the Division of Reclamation, Mining and Safety (Division or Office) on January 4, 2018. During the application review period, the Division issued a total of four adequacy review letters. The application decision date was extended at the operator's request a total of six times past the original decision date of February 5, 2018 to January 4, 2019, the 365th day from the application filing date. The operator submitted a seventh extension request on January 5, 2019 to extend the application decision date past the 365th day from the application filing date. This request was scheduled for consideration by the Mined Land Reclamation Board (Board) in accordance with Rule 1.4.1(9). The Board approved the operator's extension request in the Board Order issued on March 7, 2019, setting the new application decision date for May 21, 2019, and ordering the operator to submit all materials in an approvable form no later than one week prior to the decision date, by May 14, 2019.

On May 17, 2019, the operator submitted a response to the Division's 3rd adequacy review letter (sent January 14, 2019). After reviewing this response, the Division determined the application had outstanding adequacy issues that had not been sufficiently addressed by the operator. These adequacy issues were detailed in the Division's 4th adequacy review letter sent to the operator on May 21, 2019. Therefore, the operator failed to submit all materials in an approvable form by the May 14, 2019 Board-Ordered deadline, and the operator failed to address the outstanding adequacy issues by the application decision date of May 21, 2019. The unresolved adequacy issues include the following:

1. The operator did not adequately demonstrate how disturbances to the prevailing hydrologic balance of the affected land and of the surrounding area and to the quantity or quality of water in surface and groundwater systems both during and after the mining operation and during reclamation will be minimized, as required by C.R.S 34-32-116(7)(g) and Rule 3.1.6(1); or how areas outside of the affected land will be protected from slides or damage occurring during the mining operation and reclamation, as required by C.R.S. 34-32-116(7)(h). Specifically, the operator has not specified how the Times Mine Bulkhead will be managed and operated to prevent any unauthorized discharges from the mine, which would have the potential to impact downgradient landowners and Left Hand Creek.



2. The operator did not specify how much water will be used in conjunction with the operation, as required by Rules 3.1.6(1)(a) and 6.3.3(1)(h) and (j). The operator's estimated annual water usage for the mill greatly exceeds the maximum volume of water the operator is authorized (per Court approved Water Decree) to withdraw from Left Hand Creek during irrigation season, by 10,599,670 gallons. The operator acknowledged the discrepancy, but did not further clarify how much water will be used in conjunction with the operation.
3. The mining plan map submitted with the application did not fully meet the requirements of Rule 6.3.5(2)(a), which requires the operator to outline and label on the map the permit boundaries described in Exhibit A – Legal Description. Additionally, in the operator's response to this item (received on June 6, 2019), a new adequacy issue pertaining to this matter was introduced. The operator stated a survey had been requested from a registered mineral surveyor, which would include a legal description of the permit boundaries proposed near Left Hand Creek. Therefore, the Division was unable to accurately identify the affected area which corresponds to the application.
4. The reclamation plan map submitted with the application (particularly for the mill site) did not fully meet the requirements of Rule 6.3.5(3), which requires the map to show the gradient of all reclaimed slopes sufficient to describe the post mine topography; to indicate where vegetation will not be established and the general area(s) for shrub or tree planting; to state the average thickness of replaced overburden by reclamation area or phase; and to state the average thickness of replaced topsoil by reclamation area or phase.

Therefore, on June 12, 2019, the Division determined the amendment application submitted for Permit No. M-1994-117 did not satisfy the requirements of C.R.S. 34-32-115(4)(c) and (g), and 34-32-116(7)(g) and (h), and denied the application.

Filing and obtaining Division approval of the amendment application was a corrective action required for Violation No. MV-2017-036 in the Board Order issued on October 30, 2017, with the application deadlines extended in the Board Order issued on March 7, 2019. Therefore, the operator's failure to complete the corrective actions by the deadlines specified in the Board Order is considered a failure to comply with the conditions of an order, permit or regulation pursuant to C.R.S. 34-32-124(1). Accordingly, this matter has been set for consideration by the Board at its June 26-27, 2019 meeting, as detailed in the notices sent to the operator on January 11, 2019 and March 29, 2019.

The Cease and Desist Order issued for the operation in the October 30, 2017 Board Order is still in effect given that Violation No. MV-2017-036 has not been resolved. The cease and desist applies to all activities outside the approved affected land boundary of the Gold Hill Mill, with the exception of activities necessary to protect the environment and public safety and authorized by the Division in writing, and specifically applies to the installation, replacement, maintenance, or use of any off-site infrastructure intended to convey or store water for the operation. Please be advised, the Division would consider pumping water into or out of the mine workings (including any pump tests) to be a violation of the Cease and Desist Order at this time, as all aspects of the underground water storage proposal submitted in the amendment application are considered "off-site" given the application was denied.

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In accordance with Rule 1.4.11, if you wish to appeal the Office's decision on your amendment application, you must petition for a hearing before the Board within sixty (60) days of the date of the Office decision (by August 11, 2019). Such a petition for a hearing must state how you are directly and adversely affected or aggrieved by the Office's decision, and how your interests are entitled to protection under the Act. The petition must list and explain any issues you believe should be considered by the Board at the Hearing on the matter. The petition for a hearing must specifically state the application or file number assigned by the Office (M-1994-117).

If you have any questions, you may contact me by telephone at 303-866-3567, ext. 8129, or by email at amy.eschberger@state.co.us.

Sincerely,

A handwritten signature in blue ink that reads "Amy Eschberger".

Amy Eschberger
Environmental Protection Specialist

Attachment: Certificate of Service

CC: Michael Cunningham, DRMS
Russ Means, DRMS
Scott Schultz, AGO

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CERTIFICATE OF SERVICE

I, Amy Eschberger, hereby certify that on this 12th day of June, 2019, I deposited a true copy of the foregoing document, Re: Gold Hill Mill, Permit No. M-1994-117, Decision to Deny a 110(2) Hard Rock Reclamation Permit Amendment Application (Revision No. AM-1), in the U.S. Mail, postage prepaid, addressed to all entities listed below with a mailing address provided. On the same date, an electronic copy of said document was sent via email to all entities listed below with an email address provided.

Mike Bynum Colorado Milling Company, LLC 50 West 100 South St. Moab, UT 80342 Sent via Certified Mail: 7014 2120 0001 7871 0885	Boulder County Parks & Open Space Attn: Tina Burghardt 5201 St. Vrain Road Longmont, CO 80503
Mark A. Steen Colorado Milling Company, LLC P.O. Box 1523 Longmont, CO 80502	Boulder County Land Use Department Attn: Denise Grimm P.O. Box 471 Boulder, CO 80306
Veruska Trask 1627 Gold Run Road Boulder, CO 80302	City of Boulder Public Works 1739 Broadway Boulder, CO 80306
Norman Skarstad & Cynthia Michaels 10180 Lefthand Canyon Drive Jamestown, CO 80455	Colorado Division of Water Resources Attn: Sarah Brucker 1313 Sherman Street, Room 821 Denver, CO 80203
Chris and Leslie Finn 960 Pine Gold Hill Boulder, CO 80302	Office of Archaeology and Historic Preservation Attn: Steve Turner 1200 Broadway Denver, CO 80203
Gretchen Diefenderfer 9147 Sunshine Canyon Drive Boulder, CO 80302	U.S. Army Corps of Engineers Attn: Eric A. Laux 1616 Capitol Avenue Omaha, NE 68102
Amy Fortunato & James McCumber 4891 Licksillet Rd. Jamestown, CO 80455	Kory MacFarlane Only via email at: macrockarms@gmail.com
Joe Grant 855 Main St. Gold Hill, CO 80302	Tony Vrba Gold Hill Town Meeting Community Only via email at: tonyvrrba@gmail.com
Robert de Haas Pine Brook Water District 1903 Linden Drive Boulder, CO 80304	Dick Cole Only via email at: goldhillcole@gmail.com



Amy Eschberger

June 12, 2019

Date