



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

1313 Sherman Street, Room 215
Denver, CO 80203

July 11, 2019

Ken Coulson
Coulson Excavating Company, Inc.
3609 North County Road 13
Loveland, CO 80538

Re: Kirtright Pit, M-1986-123
Surety Increase Notice (SI02), Corrective Actions Overdue

Dear Mr. Coulson,

The Colorado Division of Reclamation, Mining and Safety (DRMS or Division) conducted an inspection at the above referenced site on November 28, 2018. During that inspection, the Division cited the following problem:

INSPECTION TOPIC: Hydrologic Balance

PROBLEM: A permanent plan for augmentation has not been obtained for the exposed groundwater at this site. This is a problem related to 34-32.5-116(4)(h) of the Colorado Revised Statutes and 3.1.6(1)(a) of the Construction Materials Rules and Regulations governing injury to existing water rights.

CORRECTIVE ACTIONS: The Operator shall submit documentation to the Division that they have applied for a permanent plan for augmentation with the Office of the State Engineer by the corrective action due date.

CORRECTIVE ACTION DUE DATE: 2/04/19

The Division extended the corrective action deadline to March 6, 2019 per the request of your consultant Peter Wayland. On March 6, 2019 the Division received a copy of a report to be used in the submittal of a permanent augmentation plan for the Brownwood Pit (M-1979-059), Kirtright Pit (M-1985-123) and the Gardels Pit (M-2005-033). However, based on several conversations with Mr. Wayland, filing of the permanent augmentation plan with the applicable water court has been delayed. In the interim, DRMS is aware you have filed an application to renew the temporary substitute water supply plan with the Colorado Division of Water Resources (DWR) for this site and that plan has yet to be approved. According to Mr. Wayland, the permanent plan for augmentation should be filed by the end of July of this year and that he is working with the DWR on the renewal of the temporary substitute water supply plan. Given this, Coulson Excavating Company, Inc. (Coulson), will need to submit evidence the permanent plan for augmentation has been filed with water court and the temporary substitute water supply plan has been renewed with DWR by **August 10, 2019**. The Division may seek a violation of 34-32.5-116(4)(h) of the Colorado Revised Statutes for failure to minimize disturbances to the prevailing hydrologic balance of the affected land and the surrounding area and 3.1.6(1)(a) of the



Construction Materials Rules and Regulations governing injury to existing water rights if this has not been addressed by the deadline.

Given the augmentation plan has not been approved and the temporary substitute water supply plan has not been renewed, the Division must hold a bond sufficient to comply with the reclamation plan and address the liability associated with the ponds at the site. The Division has conducted an estimate of the reclamation liability at the site and found it to be **\$4,815,790.00**. This estimate is enclosed. The Division currently holds a corporate surety in the amount of \$58,400.00. Coulson will need to either submit an additional financial warranty in the amount of \$4,757,390.00 or submit a replacement warranty in the full amount by **September 9th, 2019** in accordance with Rule 4.2.1(2). If the additional financial warranty is not received by September 9th, 2019, Coulson may be scheduled for a Formal Board Hearing for possible revocation of the permit.

If you have any questions, please feel free to contact me at Jared.Ebert@state.co.us or at (303) 866-3567 ext. 8120.

Sincerely,



Jared Ebert

Environmental Protection Specialist III

Certified Mail No.: **7018 2290 0001 8923 6996**

Return Receipt Requested

Enclosure: 1.) July 11, 2019, *CIRCES Cost Estimate, Kirtright Pit, M-1986-123*

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