



September 13, 2019

J.C. York
J&T Consulting, Inc.
305 Denver Ave., Suite D
Fort Lupton, CO 80621

Re: DPG Pit, File No. M-2019-028, 112 Construction Materials Reclamation Permit Application, Adequacy Review No. 2

Mr. York:

The Division of Reclamation, Mining and Safety (Division) has completed its second adequacy review of the application materials submitted for the DPG Pit. The decision date for the application is currently set for September 30, 2019.

The Division has identified adequacy items in the application materials requiring clarification or additional information. These items are identified below under their respective exhibit heading, and are numbered sequentially. The item numbers referenced in this letter correlate with the Division's adequacy items identified in its review letter dated July 10, 2019.

Exhibit C – Pre-mining and Mining Plan Map(s) of Affected Lands (Rule 6.4.3):

- 1) The revised C-1 Pre-Mining Plan Map states the Total Permit / Affected Lands Area = 227.52 acres. Additionally, the revised Exhibit D text states the permit boundary will encompass approximately 227.52 acres which will all be affected acreage. However, page 1 of the application form is proposing a permitted acreage of 228.02 acres. Please be sure the proposed permit area/affected area is consistent throughout all application materials, including on page 1 of the application form.

Exhibit D – Mining Plan (Rule 6.4.4):

- 2) The operator's response to item no. 14 states the proposed maximum disturbed area has been calculated for the initial mining phase and areas that will be disturbed. However, the response does not specify the proposed maximum disturbed area. Based on the revised Exhibit L map and bond estimate submitted, it appears the operator is proposing a maximum disturbed area of 92.55 acres. Please confirm the operator is proposing a maximum disturbed area at this time of 92.55 acres.

Exhibit J – Vegetation Information (Rule 6.4.10):

- 3) The operator's response to item no. 44 states a determination has been completed by the (U.S) Army Corps of Engineers, and a copy has been provided to DRMS. However, the Division was unable to find this determination letter in the materials submitted. Please provide a copy of this determination.



Exhibit L – Reclamation Costs (Rule 6.4.12):

- 4) The operator's response to item no. 28 states that costs to reclaim the buried dewatering pipe to extend from the recharge pond to the river have been included in the revised Exhibit L bond calculation. However, the Division could not find costs for this item in the revised bond estimate provided. Please be sure the bond estimate includes costs to reclaim the dewatering pipe.
- 5) The Division accepts the operator's proposal to submit a combination of dedicated water shares and \$150,000 to cover administrative costs for converting the water shares to augmentation use in lieu of submitting 100% of costs for installing the Phase 1 slurry wall. This unique bonding approach only applies to Phase 1 mining. Therefore, prior to opening up Phase 2, the operator must submit a Technical Revision to increase the maximum disturbed area and to re-evaluate the required financial warranty accordingly. If, at that time, the operator can provide a letter from the State Engineer's Office approving the Phase 1 and 2 slurry wall enclosure, then the operator would be required to post 20% of total installation costs for that enclosure, and the dedicated water shares will no longer be necessary. Please be advised, upon application approval, the operator would have one calendar year to submit the affidavit for dedicated water shares along with the required financial warranty to receive permit issuance.

Exhibit S – Permanent Man-made Structures (Rule 6.4.19):

- 6) The operator's response to item no. 53 states the certified mail receipts (showing structure agreements were attempted for all owners of structures located within 200 feet of the proposed affected land boundary), were sent along with the letters to match the receipts in response to the Division's July 12, 2019 email. The Division has reviewed the materials submitted and has the following comments:
 - a. The operator has provided a copy of the Certified Mail Receipt and the proof of notice to all owners of record of the affected land and the owners of record of all land surface within 200 feet of the affected land boundary for PDC Energy Inc. However, the Division could not find a copy of the structure agreement mailed to this entity. Please provide a copy of the structure agreement that was mailed to PDC Energy Inc.
 - b. The operator has provided a copy of the Certified Mail Receipt and the proof of notice to all owners of record of the affected land and the owners of record of all land surface within 200 feet of the affected land boundary for Kerr-McGee Oil & Gas Onshore LP. However, the Division could not find a copy of the structure agreement mailed to this entity. Please provide a copy of the structure agreement that was mailed to Kerr-McGee Oil & Gas Onshore LP.
- 7) The operator has provided an executed structure agreement only for the structures owned by DPG Farms LLC. However, there are several other structures located within the proposed affected lands boundary which will be impacted (removed) by the mining operation, for which no agreement has been submitted. The operator is proposing to maintain a minimum 200 foot setback from all such structures until an agreement can be reached with the structure owner. The Division accepts this

proposal. Therefore, the operation must keep a minimum 200 foot setback from all structures not owned by DPG Farms LLC until a notarized agreement between the operator and the structure owner acknowledging their structure will be impacted by the operation has been provided to the Division.

Additional Item(s):

- 8) Please remember that, pursuant to Rule 1.6.2(1)(c), 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 County Clerk and Recorder. Pursuant to Rule 6.4.18, you must provide our office with an affidavit or receipt indicating the date this was done.

This concludes the Division's second adequacy review of your application. Please ensure the Division sufficient time to complete its review process by responding to these adequacy items no later than one week prior to the decision date, by **September 23, 2019**.

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,



Amy Eschberger
Environmental Protection Specialist

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Michael Cunningham, DRMS