



COLORADO
**Division of Reclamation,
Mining and Safety**
Department of Natural Resources
1313 Sherman Street, Room 215
Denver, CO 80203

September 20, 2019

Rhett Bennett
Black Mountain Sand Weld LLC
500 Main Street, Ste. 1200
Fort Worth, TX 76102

**Re: Black Mountain Sand Weld LLC; Lost Creek Mine; File No. M-2018-051;
112c Permit Application Amendment (AM-01) Second Adequacy Review**

Mr. Bennett,

The Division of Reclamation, Mining and Safety (Division/DRMS/Office) reviewed the content of the Black Mountain Sand Weld LLC (Black Mountain) 112c permit application amendment (AM-01) adequacy response dated September 12, 2019 for the Lost Creek Mine, File No. M-2018-051 and submits the following comments. The Division is required to issue a recommendation to the Board no later than October 9, 2019 since timely objections were received by the Office. Therefore, a response to the following adequacy review concerns should be submitted to the Division as soon as possible.

The review consisted of comparing the application amendment adequacy response with the specific requirements of Rules 1, 3, 6.1, 6.2, 6.4 and 6.5 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials effective date July 15, 2019. Any inadequacies are identified under the respective exhibit heading along with suggested actions to correct them.

Comments and Objections

1. The Applicant's response is adequate.
2. The Applicant's response is adequate.
3. The Applicant's response is adequate.
4. The Applicant's response is adequate.



1.6 Public Notice

5. The Applicant's response is adequate.
6. As required by Rule 1.6.2(e), please submit proof of the notice to all owners of record of surface and mineral rights of the affected land and the owners of record of all land surface within 200 feet of the boundary of the affected land including all easement holders located on the affected land and within 200 feet of the boundary of the affected land. Proof of notice may be return receipts of a Certified Mailing or by proof of personal service.

The Division did not receive proof of notice for the following owners of record of the surface and mineral rights of the affected land and the owners of record of all land surface within 200 feet of the affected land, including all easement holders located on the affected land and within 200 feet of the boundary of the affected land. Please provide proof of notice pursuant to Rule 1.6.2(1)(f) for the following owners of record:

- a. Black Mountain Land Company LP – Landowner
- b. Pinnacle Tower / Crown Castle – Communication Tower Easement
- c. Morgan County REA – Overhead Powerline Easement
- d. Wiggins Telephone – Underground Utility Easement
- e. Kinder Morgan – Utility Box Easement

The Applicant submitted Certified Mail Receipt tracking information for the following owners of record of all land surface within 200 feet of the boundary of the affected land, however the owners of record are not indicated on the Exhibit C maps. Please explain these discrepancies and revise the Exhibit C maps accordingly.

- f. Bank of Kansas City et al. Trustees
- g. H. Edwards Vollmers
- h. Stephen L. Beagler
- i. Westport Oil and Gas Company, LP

6.4 Specific Exhibit Requirements - Regular 112 Operations

The following items must be addressed by the Applicant in order to satisfy the requirements of C.R.S. 34-32.5-101 et seq. and the Mineral Rules and Regulations of the Mined Land Reclamation Board:

6.4.3 Exhibit C - Pre-Mining and Mining Plan Maps of Affected Land

7. The Applicant's response is adequate.
8. The Applicant's response is adequate.

9. The Applicant's response is adequate.
10. The Applicant's response is adequate.
11. The Applicant's response states Exhibit C6.1 shows the proposed relocation route around the southern portion of the project in Section 14, labeled as a 50' Utilities Easement. The teal colored lines indicating the existing Morgan County Quality Water District waterline and the proposed relocation route are hard to differentiate. Please update the Exhibit C maps to clearly identify and label the existing and proposed relocation route for the waterline and all other structures.
12. The Applicant's response is adequate.
13. The Applicant's response states Black Mountain has scheduled a survey company to locate all utilities and provide details on ownership and location. Please revise the Exhibit C maps to indicate the owner's name, type of structure and location of all significant, valuable and permanent man-made structures contained in the area of affected land and within two hundred (200) feet of the affected land based on the results of the survey.
14. The Applicant's response is adequate.

6.4.4 Exhibit D - Mining Plan

15. The Applicant's response is adequate.
16. The Applicant's response is adequate.

6.4.5 Exhibit E - Reclamation Plan

17. The Applicant's response states the proposed water quality testing parameters shown on Table E3 of the application were taken directly from Tables 3 and 4 of the State of Colorado Water Quality Commission's (WQCC) Regulation No. 41, The Basic Standards for Groundwater, which pertain to agricultural standards.

Please commit to conduct four (4) quarters of groundwater quality analysis for the complete list of parameters listed on Tables 1 - 4 to establish a baseline prior to reducing the testing parameters for the life of the mining operation to the parameters listed on Tables 3 and 4, unless the Applicant provides justification for not sampling a parameter. Please note the Division will require a full suite analysis prior to final release of the site if the sampling parameters are reduced during the mining operation.

18. The Applicant's response is adequate.
19. The Applicant's response is adequate.

20. The Applicant's response is adequate.

6.4.6 Exhibit F - Reclamation Plan Map

21. The Applicant's response is adequate.

6.4.8 Exhibit H - Wildlife Information

22. The Applicant's response is adequate.

23. The Applicant's response is adequate.

6.4.12 Exhibit L - Reclamation Costs

5. The Division calculated the cost for an independent contractor to reclaim the site based on the information submitted by the Applicant in the amendment application at \$19,500,000.00. A copy of the Division's bond estimate is attached for review.

6.4.14 Exhibit N - Source of Legal Right to Enter

24. The Applicant's response is adequate.

6.4.15 Exhibit O - Owner(s) of Record of Affected Land (Surface Area) and Owners of Substance to be Mined

25. The Applicant's response is adequate.

6.4.18 Exhibit R - Proof of Filing with County Clerk and Recorder

26. Please provide an affidavit or receipt indicating the date on which the revised application amendment information required to address this adequacy letter and for the information provided by the Applicant since the initial amendment application documents were placed with the Weld County Clerk and Recorder for public review, pursuant to Subparagraph 1.6.2(1)(c).

6.4.19 Exhibit S - Permanent Man-made Structures

Where the affected lands are within two hundred (200) feet of any significant, valuable and permanent man-made structures, the Applicant may either:

- a. provide a notarized agreement between the Applicant and the person(s) having an interest in the structure, that the Applicant is to provide compensation for any damage to the structure; or
- b. where such an agreement cannot be reached, the Applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or

- c. where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have "no negative effect" on their utility.

27. The Applicant's response states Black Mountain will continue to identify other potential utilities and easement holders at the site; a surveying company has been contracted to complete an 811 search of the property within the coming weeks. If additional utilities or other easement holders are identified by this search, Black Mountain will attempt to obtain a notarized structure agreement or notarized letter per Section 6.4.19 of the Rules and provide a copy to the Division.

Please note the Division is unable to recommend approval of the application amendment until all easement owners are identified and noticed pursuant to Rule 1.6.2(1)(e) and all structure owners are identified and structure agreements are provided to the Division pursuant to Rule 6.4.19 or the Applicant commits to maintain a 200 feet offset from the utility until an agreement is obtained from the structure owners and revises the Exhibit C maps accordingly.

Additional Adequacy Items

6.4.3 Exhibit C - Pre-Mining and Mining Plan Maps of Affected Land

28. The revised Exhibit C6.1 and C6.2 maps eliminated several labels from the previously submitted Exhibit D-1 Map dated June 24, 2019. Please revise the Exhibit C maps to include the labels for Setting Pond (Yrs 1-3 example), Topsoil Stockpile (Yr5, example), Settling Pond (Yrs 4-6, example).

6.4.5 Exhibit E - Reclamation Plan

29. The Applicant lists the parameters on Table E3 for Tables 3 and 4 of the State of Colorado Water Quality Commission's (WQCC) Regulation No. 41, The Basic Standards for Groundwater without the associated standards. Please revise Table E3 to indicate the standards for Tables 3 and 4.

6.4.14 Exhibit N - Source of Legal Right to Enter

30. The Applicant states John S. Painter is listed in Weld County records as a mineral owner for all or portions of Sections 3, 10, 11 and 14. Please update Exhibit N to indicate Mr. Painter as an owner of the substance to be mined and provide the source of the Applicant's legal right to enter and initiate a mining operation on the affected land.

6.4.15 Exhibit O - Owner(s) of Record of Affected Land (Surface Area) and Owners of Substance to be Mined

31. The Applicant states John S. Painter is listed in Weld County records as a mineral owner for all or portions of Sections 3, 10, 11 and 14. Please update Exhibit O to indicate Mr. Painter as an owner of the substance to be mined.

Please be advised the Lost Creek Mine application amendment may be deemed inadequate, and the application amendment may be denied on October 9, 2019, 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 October 9, 2019 and request for additional time. This must be received no later than the deadline date.

If you have any questions, please contact me at peter.hays@state.co.us or (303) 866-3567 Ext. 8124.

Sincerely,



Peter S. Hays
Environmental Protection Specialist

Enclosure – Reclamation Cost Estimate

Ec: Michael Cunningham; Division of Reclamation, Mining & Safety
Kira Coff; Millcreek Engineering
Brittany Schamaun; Black Mountain Sand Weld LLC