



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

October 2, 2019

Robert and Lauren Berry  
3871 Black Feather Trail  
Castlerock, CO 80104

**RE: Notice of Filing Deficiencies, 110(1) Hardrock Application  
Robert Michael #1-A, File No. M-2019-050**

Dear Mr. and Mrs. Berry,

On September 18, 2019, the Division of Reclamation, Mining and Safety (Division) received the 110(1) Limited Impact Operation Reclamation Permit Application for the Robert Michael #1-A operation and assigned it File No. M-2019-050. Pursuant to Rule 1.4.1(8), the Division has determined the application contains deficiencies which prevent the application from being considered filed. The following filing deficiencies must be addressed before the Division can consider the application as being filed and the technical adequacy review can begin. Please respond to this Notice of Deficiencies with the requested information and summarize each response to the numbered items below, in a cover letter titled "Response to Deficiencies, M-2019-050".

**Application Form**

1. Question 6, Page 1 of the application form identifies "Robert and Lauren Berry through BLM Mining Claim" as the surface owner of the affected land. It is the Division's understanding that the Applicants have the subsurface mineral rights to the affected land through an unpatented mining claim with the BLM, but the surface of the affected lands is still public land. A review of the Park County assessor website shows the United States Forest Service is the owner of the affected lands. Please revise Page 1 to reflect the correct surface owner or demonstrate that the Applicants own the surface.
2. Question 8, Page 1 of the application form shows the type of the proposed mining operation is a "Placer" operation. The Division believes the proposed operation should be characterized as a "Surface" mining operation rather than a "Placer" mining operation as the operation is not proposing to mine into a stream bed alluvium. Please revise Question 8 to reflect the correct type of mining operation.

**EXHIBIT G – Source of Legal Right-to-Enter (Rule 6.3.7)**

3. The United States Forest Service (USFS) is the surface owner of record for the affected lands. The Division considers an approved Mine Plan of Operations (MPO) or an accepted Notice of Intent (NOI) from the USFS as the demonstration of the Applicant's surface legal right of entry to the site to conduct mining and reclamation in accordance with Rule 6.3.7. Please submit documentation which shows the USFS has approved or conditionally approved a MPO or has accepted a NOI for the proposed operation.
4. The Applicants state they are the subsurface owner of record for the affected lands through a BLM mining claim. Please submit appropriate documentation which shows Robert and Lauren Berry are the claimants of the unpatented mining claim for where the proposed operation is located.



**EXHIBIT I - Proof of Filing with County Clerk (Rule 6.3.9):**

5. Any changes or additions to the application on file with the Division, must also be reflected in the public review copy in accordance with Rule 1.6.2(2). Please submit proof that the public review copy has been updated with a copy of this letter and associated response.

**EXHIBIT J - Proof of Mailing of Notices to Board of County Commissioners and Soil Conservation District (Rule 6.3.10):**

6. The application did not included the proof of filling with the local Soil Conservation District, as required by Rule 6.3.10. In accordance with Rule 1.6.2 (1)(a)(ii), please submit Proof of Notice in the form of a certified mail return receipt or a date-stamped copy of the notice acknowledging receipt by the local Soil Conservation District. Please note, the Teller-Park Conservation District has a mailing address of PO Box 2027, Woodland Park, CO 80866.

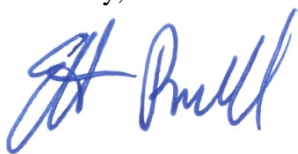
Your 110(1) Limited Impact Operation Reclamation Permit Application will not be considered filed until the information listed above is received and found sufficient to begin our review. A decision date will be established 30 days from the date of receipt and acceptance of all of the requested information. Additionally, if you have already published notice you will need to republish notice, but only after the Division considers the application filed; the Division will notify you when you should initiate publication of your notice. This notice must be published once within ten (10) days of the date your application is considered submitted. The final date for receiving comments is the 10th day after the publication or the next regular business day.

Pursuant to Rule 1.4.1(8), you have sixty (60) days from the date of this letter to submit all necessary documents that the Division needs for an application to be considered filed. If, at the end of the sixty day period, the application has not been determined to be filed with the Division, the Division may deny the application and terminate the application file. **The response to this Notice of Filing Deficiencies is due on or before December 2, 2019.**

This letter shall not be interpreted to mean that there are no other deficiency or adequacy requirements in your application. The Division will review your application to determine whether it is adequate to meet the requirements of the Act after submittal of all required items.

If you need additional information or have any questions, please contact me at Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at **303-866-3567 x8132**, or by email at [elliott.russell@state.co.us](mailto:elliott.russell@state.co.us).

Sincerely,



Elliott R. Russell  
Environmental Protection Specialist

ec: Jason Musick with the Division of Reclamation, Mining & Safety  
Robert Berry, [debitcard@msn.com](mailto:debitcard@msn.com)