



October 22, 2019

Re: Horsefly Rock Source, File No. M-2019-010, Rationale for Decision to Approve a 110(c) Reclamation Only Application Over Objections.

Introduction

Herein, all references to the Act and Rule refer to the Colorado Mined Land Reclamation Act for the Extraction of Construction Materials, 34-32.5-101 *et seq.*, C.R.S. (the Act or Construction Materials Act), and Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (the Rules). Copy of the current Act and Rules area available on the Office's website at www.mining.state.co.us

On October 22, 2019, the Office of the Division of Reclamation Mining, and Safety (Office/Division) issued its decision to approve the application for the Horsefly Rock Source, file number M-2019-010. This document is intended to explain the process by which the Office arrived at its decision to approve the application.

The application for the Horsefly Rock Source was considered complete and filed on August 12, 2019. The application is for a 110c Operation consisting of 9.9 acres for the recovery of landscape materials. The site will be reclaimed to support a rangeland post mining land use. Pursuant to Rule 1.4.6 the Office scheduled an extended decision date for the application of Tuesday October 22nd, 2019.

On August 28, 2019, the applicant published a public notice in the Ouray County Plaindealer. As noted in that newspaper notice, the public comment period for the application closed on September 9, 2019. The Office received one timely non-agency comment/objection letters from Bruce and Kathy Bergman regarding the legal right of entry. The office also received one timely agency comment from the Colorado Division of Parks and Wildlife (CPW) regarding seasonal use restrictions based on the presence or winter wildlife range. The applicant responded to the CPW comments and that issue is considered resolved. Under Rule 1.6.2(1)(e)(ii), not all of the Owners of Record were noticed.

Rationale for Approval Regarding Legal Right of Entry

Pursuant to Rule 6.3.7 the Applicant is to provide documentation of the legal right to enter to conduct mining and reclamation. The objection received raised concerns regarding the legal commercial access on Mariposa Drive, legal deeded access to the Permit Area on Mariposa Drive, legal access through the Conerstone Development, and use of Mariposa Drive. On September 10, 2019 a copy of the objection was forwarded to the Applicant for response. On September 14, 2019 the Applicant responded to each



of the items contained within the Objection. The response to the Objection is enclosed with this document. In the response the Applicant outlined that Mariposa Drive is not proposed to be used in any part of the mining or reclamation activities conducted at the site. The applicant also provided a copy of the Access, Utility and Ditch Easement Agreement which adequately demonstrates that the Applicant has unrestricted, deeded and legal access through the Conerstone Development to Government Springs Road and to Davewood Road.

Pursuant to Rule 1.4.1(10), the Applicant has the burden of demonstrating that the application meets the minimum requirements of the Act, Rules and Regulations. The Applicant demonstrated that the application meets the minimum requirements of Rules 6.3.7, and C.R.S. 34-32.5-112 (1)(a)(IV).

Conclusion

On October 22, 2019, the Office determined the application satisfied the requirements of C.R.S. 34-32.5-115(4), and approved, over public objections, the permit for the Horsefly Rock Source, Permit No. M-2019-010.