



**ELK CREEK**  
Sand & Gravel LLC  
think globally. act locally

Elk Creek Sand & Gravel LLC  
PO.Box 416  
Conifer CO 80433-0416

Michael Cunningham  
Sr Reclamation Manager  
Division of Reclamation Mining and Safety  
The Centennial Building  
1313 Sherman St., Rm. 215  
Denver, CO 80203

DRMS Permit # MLRB 1978-208 112 © permit conversion to terminate violation

Partial submittal

10/16/19

Dear Mike

Please find attached a partial submittal. There appears to be some confusion, as queries we made to staff regarding some ambiguity and confusion in the language at conflict with the violation conditions giving rise to the 112© application were at odd, and the Applicant/Operator has not yet received any answers from staff regarding this or other. Please see attached status regarding the application

Given that we are in an abbreviated submission window, and that we had insufficient time to complete the tasks necessary, I am reluctantly only able to provide a partial submittal at this time, given that I am still awaiting responses, and other, for the necessary attachments.

As I continue to receive materials I shall continue to provide these to staff.

Please let me know if you have questions

Regards

Moore, J  
w/ attachments



## REQUEST FOR EXTENSION

we would appreciate your office providing us with an additional 60 days to complete our preliminary submittal. Such time is fundamental to ensure

- Reasonable timeframe for negotiations with landowner/holder into whose adjacent property the State has requested that we extend our operations (we do not have fee title to this property) (EX O and CERTIFICATIONS)
- Reasonable time for negotiations with others with whom we are expecting some questions regarding certification ( EX O and CERTIFICATIONS et al)
- Reasonable time for negotiations with utilities in re the final pit configuration ( EX O and CERTIFICATIONS)
- Reasonable time to allow for the return of core sample results and RDQ testing. As you are aware, we are reissuing the 2019 Geotechnical slope stability report. Such report affects the final pit limits and highwall configuration and we do not have these results returned at this time from the earlier Prospecting activity and therefore have been unable to prepare the final draft of report for 2019. We do NOT have a waiver regarding this requirement (In Rel EX D, E and F) et al
- Reasonable time to negotiate with CDOT and other Highway transportation personnel in regards to the traffic flow designs, volumes constraints, proposed mitigation existing culvert issues, accessibility, legal right of entry (ROW access) and other (EX N)
- Reasonable time for return of certifications and acknowledgements from affected parties (EX O et al)
- Reasonable time for discussions and clarification with CDPHE, CDOT, EPA and others in regards to APEN, stormwater discharge and a number of other queries we are waiting for clarification (EX M, N)
- Reasonable time for Water Court and other logistical issues regarding obtaining and assurances in regards to final volumes, aquifers affected etc. for water usage (EX G et al)
- Reasonable time to conclude final draining study update (modification of the 2006/7 West Consultants Report Katherine Kraeger-Rovey author) (EX G partial)
- Reasonable time to conclude Wildlife Studies, concluding that there are no apparent endangered species on the affected lands. (95% complete) (EX H)
- Final wireframe indicating progressive development of the parcel over the lifetime of the project including sections developed from the final overturning analysis, optimized for maximum recovery and optimal reclamation aesthetics and final use; this further dictates final extracted volumes, blending constraints, preliminary and scheduled location of machinery, equipment, block modeling for the purpose of generating QA/QC and iterative procedures to develop planning schedule, drainage locations together with any storage ponds or other, location of





proposed wells or other, haul roads, plant or buildings, shape, security, storage area and optimizing wireless broadcast communication systems, fugitive dust control (vector wind directional modeling, etc.), line of sight visual impact to affected parties, etc., (EX D E F and Rule 6.4, 6.5 and Rule 1.6.2 (1)(b) of the Rules and Regulations)

- MINE PLAN (EX D) contingent upon RQD data, geotechnical , other
- RECLAMATION PLAN (EX E) contingent upon Engineering Gp Consultant, other info (see mine plan)
- Reclamation Plan Map (EX F)
- Proof of mailing to BOCC and Conservation District (NOTICES) (EX Q) (no reply at this time)
- Proof of mailing to County Clerk (EX R)
- Clarification requested (previously and in progress – we still have not received answers to RFI questions submitted earlier) with DRMS staff in regards to
  - a) Earlier inquiries (multiple) (email RFI to staff)
  - b) B) with respect to restrictive language contained within the 112© application that specifically appears to be at odds with the corrective actions required per Board hearing on 6/24/19 – specifically,

***“...as an applicant/operator I do not have any extraction/ exploration operations within the State of Colorado that are currently in violation of any of the provisions of the Mined Land Reclamation Board ... (Section 34-32.5-120 CRS) ...as defined by a Board Hearing”***

As staff are aware, staff pursued a cease and desist recommendation against the Operator/ Applicant at Board Hearing agenda 6/24/19, which Applicant strongly opposes, and where at same hearing applicant was told that in order to terminate the violative conditions, applicant was required to undergo and submit a 112© permit conversion. Applicant/ Operator requested additional time in which to complete the extensive work necessary to compile the submittal and was at that time denied.

There appears to be a conflict between the direction of both Board and Staff at such Hearing, by requiring the applicant to submit a 112©, knowing that the language contained within the 112© would inherently deny the Applicants ability to submit a 112©

This inherently places the Applicant /Operator in an impossible and very circular quandary and clarification requested has not been forthcoming. This contributes to the delay and confusion and significant additional costs and damages to the already badly damaged Applicant.

Completed studies so far include

- Legal Description (final pit limits may modify this ) (EX A) , Premining and Mining Maps, Index Map (EX B) , Maps of affected areas (EX C)
- Attenuation and vibration (together with impact on local structures) , blast design, shot components, planned or anticipated annual usage of explosives, sources, control and reporting system, location of storage facilities, plan to address security and compliance with all local, state and federal regulations (EX M and other)
- Noise mitigation (EX C and other)
- Modified Weed Control Plan and alternatives, methods employed (DRMS/MLRB)



- Hours of Operations (shifts proposed) (PUD County)
- Historical record of the existing operations, its annual volumes, management, history of violations, safety record, community impacts, economic impacts etc.
- Anticipated market volumes, principal sales and types of aggregate produced etc.
- Relative RQD values in conjunction with the Jefferson County Geological Plan (which we believe has some significant errors) (PUD Special Use, County, Regional USGS, Federal)
- The critical market and industry importance of aggregates and strategic significance of the resources available at this location together with their impact to the Front Range, its consumptions rate, anticipated froth market projections, forecasts etc.
- Schedule to show key events, milestones, together with community outreach efforts , PR , media and associated outreach
- Community support
- Qualification of team, key personnel, experience, resumes, etc.
- Wildlife and Raptor specific studies together with migratory patterns, and impacts to local Elk herds (EX H)
- Open Space Impact Study
- Recreational Uses Impact study
- Wildland Fires Impact Study
- Endorsement from Trout Unlimited
- Local Endorsements
- Preliminary traffic analysis
- Preliminary Utilities relocation proposal
- Anticipated power requirements, power uses, existing power sources, electrical (transformer other) , generators together with proposal to provide future power needs and ensure that the project is partially LEEDS compliant making it an industry leader as the first renewable power plant of its type anywhere (proprietary)
- Automated dry batching system (proprietary)
- Well Permits (EX N)
- CDOT ROW approvals (EX N)
- CDPHE APENs status on existing (all) and forbearance (EX N)
- CDPHE Stormwater compliance and regulatory approvals etc. (EX N )
- Financial or fiscal (proprietary) related
- Cost of RECLAMATION (EX L)
- Small Business certified Woman Owned / minority owned Contractor – the importance to the industry across the United States and the legacy to upcoming female entrepreneurs and others in the mining industry and related, of a woman pioneering this type of activity – how this speaks to the ethos and future generations in establishing equity within a highly inequitable industry
- Quiet title or other
- Liens, legal and encumbrances
- Tax schedule, special use tax district (WWTP District ) legal structure, governance, operations, management, forbearance, revenue projections to district, duration, sunset period, architecture and structure, representatives, Board structure, key personnel (pending) (proprietary)





- Fencing, security, light (glare) pollution proposal, operating hours, proposed initial PUD/ post mining usage, proposed conservation easement, wetlands riparian habitat review and study together with plan to protect, post mining use diversified species proposal in conjunction with CU Forest Ag Program (Federal State regulated) (EX I) and Jefferson Soils Conservation District (EX K)
- CLIMATE INFO ( EX K)
- Historical Area Impact Study
- Conifer Community 285 Plan Compliance and Use
- Proposed Special Use Tax District (65% complete – will require additional ongoing compliance schedule)
- Annexation Agreement
- Potential Post mining Uses (some assistance required from staff in that post mining uses may involve a cross generational application to include a variety of types)
- Emergency Services compliance
- Evaluation and registration of any and all containers, storage tanks, historically stored materials, HazComm, maintenance, planned removals (if necessary)
- Dust Control Mitigation Plan
- Evaluation/study of project impact to adjacent wells, groundwater, water sources
- Proposal for Fuel farm, safety, containment, contamination, shut-offs, record keeping, inspection, compliance with state requirement, etc.
- Proposal for Fire Mitigation and Controls together with Inspection
- Compliance with 30CFR Part 46/47 and 56 together with reporting requirements, inspection history, incident history, awards, etc. (Federal Mine Safety – MSHA) Act)
- Radiation Study (PUD County )
- Permanent Man Made Structures (EX S)
- Modified ALTA Survey
- Proposal for post mining activates/ uses
- Signage application
- Proposal to allow some limited public access within conservation easement during mining activities and discussion in progress with staff and MSHA in regards to this
- Minerals Rights Notifications (to all affected parties) – some returns still pending (EX O)
- Transparency and Reporting policy/schedule
- Amendments Schedule
- Code of Ethics

#### FUTURE

- Phase III Drainage Report (County Special Use PUD)
- RULE 6.5, 6.4 at al GEOTECHNICAL SLOPE STABILITY REPORT
- Rule 1.6.2 (1) (b) Addendum I – NOTICE REQUIRMENTS (Pending the receipts of other notices already submitted and in progress)
- Final Construction Critical Path Schedule
- Grading Plan (Jefferson County ) (County Special Use PUD)



- Returns of service (legal, mailings to all parties, Districts, commissions, HOAs, neighbors, affected parties, other)
- Review Hearings other
- Consent approval (various)
- Other Proposals including Bond Proposal
- Resolutions to and/or any other legal issues
- Proposed ABS-D Part 67 FAA Raspberry Pi directional flight path way point/marker (pending considerations)

Thank you for your consideration. As you are aware I have personally invested a significant amount of time and financial resources in order to assure that the State of Colorado is provided with an exemplary proposal that meets not on the requirements of the 112© medication itself but assures the future of the people of the State of Colorado and the Front Range. I take this responsibility very seriously and just want to make sure this is done right.

Thank you for your consideration

Juliet

Please find enclosed

- Payment for annual report
- Payment (penalty) for late filing
- Annual Mine Report (2019)
- Attachments

PENDING

- 2019 Annual Slope Stability Report (revised pending geotechnical)

We reserve the right to modify or change certain proposals, reports, and or other where these do not form part of the legal encumbrance or are related to any other action pursuant to MLRB enforcement action 2019-6-24 nor should this be construed as an agreement between parties.

Elk Creek further reserves the right to subrogate, withdraw, reassign or otherwise adjust treatment of certain assignments