

BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

JOINT STIPULATION

IN THE MATTER OF CONTINENTAL MATERIALS, PIKEVIEW QUARRY, File
No. M-1977-211

The Division of Reclamation, Mining and Safety ("Division") and Continental Materials, Castle Aggregates ("Operator") through their undersigned counsel, submit this joint stipulation for consideration and adoption by the Mined Land Reclamation Board ("Board"). The Division and Operator are referred to collectively herein as the "Parties." In support of this joint stipulation, the Parties state the following:

RECITALS AND FACTS

1. The Pikeview Quarry is a Section 112(c) operation that mines limestone. The site is located in Section 9, Township 13 South, Range 67 West, 6th Principal Meridian, in El Paso County, Colorado. The permit area is 246.46 acres. The site is located at the northwest limits of Colorado Springs, west of the intersection of Interstate 25 and Woodmen Road.

2. Subsequent to a slope failure and slide at the site in December 2008, Operator submitted an amendment application, AM-03, which contained a plan for a phased reclamation of the site and that was intended to address stability issues.

3. On January 8, 2019, the Division performed a monitoring inspection of the site. The inspection report discussed the Division's review of the current \$4,226,000.00 bond amount and stated that one of the inspection's primary purposes was to observe completed reclamation for consideration in the bond review.

4. On March 14, 2019, the Division sent Operator a notice of financial warranty increase ("SI-02") with a detailed cost estimate. The notice set the new bond amount at \$21,924,090.00, an increase of \$17,698,090.00.

5. The Division received a request for an appeal of SI-02 from Operator on April 30, 2019. In that letter, Operator expressed its view that the new bond amount was excessive and that an alternative reclamation plan could protect the state for a much lower bond amount than under the current mine plan.

6. The matter was set for consideration at the Board's June 26, 2019 meeting.

7. At the June 26, 2019 Board meeting, the Division presented testimony regarding the bond increase reflected in SI-02. In explaining the increase, the Division stated that the current bond was set when AM-03 was approved and was posted to cover phases one and two of AM-03's reclamation plan, which dealt with approximately twenty-one acres on the site. The true liability of the entire site, however, had to be based on the full amount of reclamation to be done, which the Division testified was approximately 127 acres rather than the 21 acres under the current bond.

8. At the hearing, Operator proposed that the bond amount issue be remanded to the Division to allow Operator to submit a new reclamation plan. Operator testified that the current reclamation plan was based on over-engineering to address stability issues that resulted in the 2008 slide. Since AM-03's approval, Operator has worked to address stability issues and, based on those experiences, has developed a less invasive reclamation plan that disturbs less land but still ensures safety. Operator expressed its view that the alternative reclamation plan would also be completed more quickly than AM-03's plan.

9. At the hearing, the Division and Operator agreed to continue consideration of the SI-02 appeal to allow time for the Operator to submit an amendment application modifying the reclamation plan. Additionally, the Parties agreed the Operator would post a \$15,000,000.00 bond. This is an increase of \$10,774,000.00, but still \$6,924,090.00 less than the Division's bond calculation.

10. As agreed to by the Parties, and Ordered by the Board, the Operator posted a \$15,000,000.00 bond on July 12, 2019 and submitted an amendment application ("AM-04") to the Division on August 26, 2019.

11. The Division and Operator held a meeting on August 7, 2019 to further discuss this matter, the nature of the modifications to the reclamation plan, and to address the Division's concern that, in the event AM-04 is not approved, the bond held by the Division would be deficient.

AGREEMENT

Now, therefore, the Division and Operator stipulate, and ask the Board to adopt by Order, the following:

A. If AM-04 is not approved by the Division, or if there are public comments or objections, is not approved by the Board after hearing, or if AM-04 is withdrawn, the Operator agrees to submit to the Division additional financial warranty in the amount of \$6,924,090.00. This amount shall be submitted to the


Division within 60 days of the effective date of the denial or withdrawal. The \$6,924,090.00 represents the difference between the Division's calculated bond amount as provided to the Operator on March 14, 2019 and the current bond amount of \$15,000,000.00 held by the Division.

B. If AM-04 is denied or withdrawn and the Operator seeks to dispute the Division's calculated bond amount, the Operator shall serve written notice of dispute on the Division and Board within 15 days of the denial or withdrawal date. If proper notice of dispute is filed and served the matter shall be set for hearing at the Board's next regularly scheduled meeting.

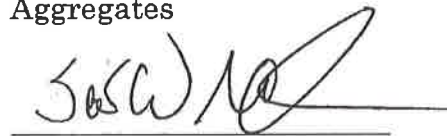
C. If AM-04 is approved by the Division or Board, after hearing, the Division agrees to conduct a re-calculation of the bond amount based on current liability at the site and the approved reclamation plan set forth in AM-04.

Respectfully submitted this 25th day of September, 2019.

For the Division of Reclamation Mining
and Safety


JEFF M. FUGATE
First Assistant Attorney General

For Continental Materials, Castle
Aggregates



Scot Anderson
Hogan Lovells LLP