



March 27, 2020

Tony Roberts
Scott Contracting, Inc.
9200 E Mineral Ave
Suite 400
Centennial, CO 80112

RE: Rifle Pit #1, File No. M-2020-008 , Construction Materials Regular 112 Application Adequacy Review

Dear Mr. Roberts:

The Division of Reclamation, Mining and Safety (Division) is in the process of reviewing the above referenced application in order to ensure that it adequately satisfies the requirements of the Colorado Land Reclamation Act for the Extraction of Construction Materials (Act) and the associated Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (Rules). During review of the material submitted, the Division determined that the following issue(s) of concern shall be adequately addressed before a decision can be rendered.

1. General Requirements

- a. As noted in the Completeness notice dated February 5, 2020 the applicant is required to publish notice in a newspaper of general circulation, and send a copy of the notice to all owners of record of surface and mineral rights, holders of any recorded easements, and all owners of record of lands that are within 200 feet of the boundary of the affected lands Pursuant to Construction Materials Rule 1.6.2(1)(e)(ii). The proof of mailing that was filed with the Division on February 18, 2020 by the applicant was conducted in error. The applicant mailed notice to only the adjoining property owners and not all owners of record within 200 feet of the affected lands. Records held by the Garfield county Accessor indicate this includes but is not limited to the Island Park property to the west and the Colorado Department of Transportation Right of Way for Interstate 70 as well as the Garfield County Right of way for County Road 340. Due to this oversight, notices must be sent to all owners of record within 200 feet of the affected lands, including Rights of Ways and a new comment period must be performed. Please send a list of all owners of record to include rights of ways within 200 feet of the affected lands, a copy of notice, and proof of mailings for each notice. Once the notices are sent, a new comment period, equivalent of the original comment period of four weeks plus twenty days will begin anew pursuant to Construction Materials Rule 1.6.6. The new notice requirement will require an extension to the Decision Date. Please also provide a request for a Decision Date Extension Request



separate from any other correspondence for a period long enough to address the concerns in this Adequacy Review as well as allow for the new public comment period to run.

2. Exhibit D- Mining Plan; Rule 6.4.4

- a. The relocation of the irrigation tail water ditch to the eastern and northern property boundaries to convey tail water around the project site is discussed in Section 5.2.1.1 of the application. Please provide details of the ditch such as its location in relation to the perimeter berm, a cross section of the size of the ditch, estimated flow rates of the ditch, a hydrologic demonstration that the size of the ditch will be adequate to handle the expected volume of water it will convey Pursuant to Rule 6.4.4(c). Based on the location of the ditch and permeability of the soils surrounding the ditch, a concern of oversaturation of the soils which could impact the mining face during operations and lead to a possible failure exists. Please address this concern by appropriate engineering evaluation, geotechnical stability exhibit, or other method of the Applicants choosing that adequately demonstrates the stability of the mining face in the event of saturation.
- b. Figure 9 also depicts the existing ditch terminating within the permitted area. Please show a revised version of Figure 9 where the relocated outfall of the ditch will be located. Please also refer to Item 4, a of this review regarding concerns raised in relation to the dewatering plan of the application.
- c. The mine plan discusses that the site has approximately 3 million tons of mineable material that will be extracted in 4 phases over 5 to seven years. Exhibit G- Water information estimates an annual production rate of 200,000 tons per year. At that estimated rate the life of active mining operations should be approximately 15 years. Please clarify the estimated total amount of material to be mined and the estimated annual production rate as well as update the estimated life of active mining operations proposed. Please note that the Division understands these numbers are estimates and are market dependent.
- d. The mine plan discusses a phased mining operation. Please identify the size of each phase and also include information as to how the material will be mined, for example will there be a highwall present or will the material be mined at a 3H:1V slope. If a highwall will be present at any point of the mining operations, please commit to a maximum height and maximum length of the highwall at any given time.
- e. The mining plan, including section 5.2.2 briefly mention processing equipment being used on site. Please include details as to what sort of processing equipment will be used, including but not limited to crushers, screens and wash plants. Where a wash plant will be used please discuss the water demands and water configuration of the wash plant. Please also update Exhibit G- Water Information as necessary. Please also indicate if the processing facilities will be constructed permanent facilities that will require reclamation or if they will be mobile facilities. This should also be reflected in Exhibit L- Reclamation Costs as necessary.

- f. Section 5.2.1.2 of the application titled “water handling” discusses that the water pumped from the dewatering well will be conveyed to the Colorado River. In compliance with Rule 6.4.4(c) please identify the discharge point, and flow path for that water. Please also include a demonstration that the Applicant has the legal right to use the ditch across neighboring properties to convey the water and to increase the flow of the ditch. This may require a use agreement with the owner/ operator of the ditch. In addition include a hydrologic demonstration that the existing ditch has sufficient capacity to include the increased flow from dewatering operations.
- g. Similarly Section 5.2.3.2 of the application discusses the use of perforated pipes or “French drains” buried 3 feet below the mine floor to convey ground water to the dewatering will. Please include the location of the pipes in a revised figure 9 and an accompanied narrative discussing the pipes will be moved with each phase of mining or if they will be stationary. Also commit that the pipes will be removed upon completion of all mining activities.
- h. Please clarify if any fuel, lubricants or other hazardous substances will be stored on site. If such items, including above ground storage tanks, are to be used, please provide a list of all materials, their estimated quantities, storage location and appropriate secondary containment structures for each storage area. Secondary containment structures must be large enough to contain all items stored within the structure plus 10%. Please include a demonstration that each required secondary containment structure is of 110% capacity of all materials stored within the structure.
- i. Please provide a narrative as to what facilities will be included on the operations pad depicted in Figure 9.
- j. While the estimated thickness of the overburden to be removed and material to be mined is included in Table 1 please include a narrative detailing the nature of the stratum immediately beneath the strata to be mined Pursuant to Rule 6.4.4(f)(i and ii).

3. Exhibit E- Reclamation Plan; Rule 6.4.5

- a. Section 6.0 of the application discusses that all slopes will be mined and graded at a 3H:1V slope however figures 9 and 10 both depict a mining and reclamation grade of 2H:1V. In the revised figures as well as the revised reclamation plan, please clarify that the reclaimed slopes will be no steeper than a 3H:1V slope in compliance with Rule 3.1.5(7). Rule 3.1.5(7) states that “In all cases where a lake or pond is proposed as a portion of the Reclamation Plan, all slopes, unless otherwise approved by the Board or Office, shall be no steeper than a ratio of 2H:1V (horizontal to vertical ratio), except from 5 feet above the water surface to 10 feet below the expected water line where slopes shall not be steeper than 3H:1V.”
- b. Section 6.3.2 of the application discusses the need to import fill dirt for a source of a disposal area for clean fill dirt and to fill part of the pit. Please commit that all imported fill will be inspected and verified to be clean, inert and free from any contaminated materials, this may include the need for chemical testing based on the origin of the material. Please also commit to an additional annual reporting requirement, detailing the amount of

material that was imported, a map showing it's placement as well as any and all testing results required to certify that the material loads were clean and inert. Please note that all imported material should be placed and compacted to prevent any possible future stability issues.

- c. The reclamation plan, specifically Section 6.3.3.2, discusses a mix of drill and broadcast seeding methods. Please specify the total number of acres to be drill seeded and the total number of acres to be broadcast seeded during reclamation.
- d. Table 2 lists the proposed seed mix recommended by the NRCS. Please provide documentation that the proposed seed mix was recommended by NRCS. Also, given that the reclamation plan depicts a developed water resource as the desired Post Mining Land Use, the Division strongly recommends a wetland seed mix be applied within 10 to 15 feet of the proposed water's edge. Please propose a "wetland seed mix" including the total number of acres, seed bed preparation method, seed mix and rate of seeding in P.L.S./acre, seeding method as well as amount and type of mulching to be used.
- e. For the secondary "upland seed mix" please clarify the seed bed preparation method, total number of acres to be seeded, seeding method and rate of seeding in P.L.S./Acre as well as amount and type of mulch to be used pursuant to Rule 6.4.5(2)(f).
- f. In comments received by Colorado Parks and Wildlife, it is recommended to include native brush species and cottonwood replacement as part of the revegetation efforts. Please include native brush species in the "upland seed mix" as well as identify the number of cottonwood saplings to be planted and their location

4. Exhibit G- Water Information; Rule 6.4.7

- a. A timely comment was received that raised concerns regarding the legal use of the Island Park Ditch to convey water from dewatering operations to the Colorado River. It is shown that the Island Park Ditch lateral that is used by the Last Chance Ditch Company is the receiving ditch that the proposed dewatering operations will be used to convey water to the Colorado River and that the applicant lacks any easement or right to use the ditch to convey the water. In conjunction with items 2, b; 3, f; 5, b and 9, b of this review, please provide information regarding the receiving ditch of the proposed dewatering operations as well as a demonstration that the applicant has the proper easement and legal right to discharge effluent into the return ditch.
- b. Section 8.2 of the application discusses the need for a Substitute Water Supply Plan (SWSP) and states that "Augmentation – via a decreed augmentation plan will be in place with SEO prior to beginning subsurface mining activities to prevent potential injuries to downstream water rights." The Division understands that the Division of Water Resources (DWR) permits required for operations will be a Gravel Well Permit and a Construction Dewatering permit in addition to an Augmentation plan and SWSP. Also, the Division understands that a survey of the permit area, and all wells within 600 feet is required by DWR, and that a waiver of objection from all well owners within 600 feet must be obtained, or the applicant may

- request a hearing before the State Engineer. Please commit to providing proof of all required DWR permits prior to conducting mining operations. Alternatively if a dewatering permit is obtained and the gravel well pond permit is delayed, a commitment can be made to retain enough material on site to backfill and all areas with exposed groundwater to two feet above the static Ground Water level.
- c. In addition, a timely comment was received regarding the potential harm to wetlands located on neighboring properties as a result of the proposed dewatering operations. Please provide a hydrologic study showing the size and depth of the hydrologic cone of the depression that will be created by dewatering operations, and demonstrate that no wetlands on neighboring properties will be injured as a result of the dewatering operations.
 - d. In the surface water section of the application the presence of wetlands within the project location is discussed. Records indicate that the wetlands within the property pre-date the man made irrigation return ditch and may be federally protected wetlands. Please contact the US Army Corps of Engineers (USACOE) and verify if the wetlands on site are considered delineated protected wetlands. Verification from the USACOE in regards to the potential removal of the wetlands located within the project area will be required.
 - e. Section 8.4 of the application discusses the need for a Construction Stormwater Permit from the Colorado Department of Public Health and Environment's Water Quality Control Division (CDPHE-WQCD). Please provide a copy of the storm water management plan as well as information on any and all storm water control structures to be installed on site, their construction details and include their location on the revised Figure 9. If no specific structures will be constructed please provide a narrative demonstrating that any and all impounded storm water will be released within 72 hours in compliance with DWR regulations.
 - f. Pursuant to Rule 6.4.7(3) please provide an estimated quantity of water that will be used annually for domestic purposes, as well as provide documentation of the source of potable water and that the source is approved for commercial use.

5. Exhibit H- Wildlife Information; Rule 6.4.8

- a. Section 9.2.6 of the application discusses the potential for previously un-recorded populations of the Ute ladies'-tresses. In conjunction with comments received by CPW the Division recommends that the applicant consult with the US Fish and Wildlife Service to determine if any further surveys or action within the project area is required in relation to the presence of threatened and endangered plant and animal species located on affected lands.
- b. Timely comments received from CPW as well as another objecting parties raise concerns regarding the increased sediment load from dewatering operations and its adverse effect on the critical river habitat for Native Threatened and Endangered fish species downstream from the proposed operation as well as adverse effects on the waterfowl habitat. Please commit to following the CPW recommendation that vegetation on the newly constructed

berms and ditches be allowed to establish to prevent excessive sedimentation. Please also propose other measures to be taken to reduce the sediment load to the receiving water ways in an effort to minimize effects to fish and wildlife species.

- c. Section 9.4 of the application, as well as other places throughout the application state that "After reclamation, the property will be converted back to irrigated pastureland." However the reclamation plan calls for the creation of an approximate 53 acre pond. Please clarify in this exhibit as well as any other exhibits that the reclamation will result in a developed water resource with small areas of pastureland.

6. Exhibit J- Vegetation information; Rule 6.4.10

- a. In conjunction with Item 5, c of this review, section 11.2 of the application states that "After reclamation, land use would revert the non-pond areas to irrigated pastureland." However all other exhibits including Figure 10- Reclamation Plan Map indicated a developed water resource with minimal areas of pastureland as the Post Mining Land Use. In addition to updating the other items in this review with regards to the Post Mining Land Use, please clarify what areas will be pastureland and if they will be irrigated.
- b. Comments from CPW as well as other objecting parties indicate concerns regarding the large presence of noxious weeds located on the property and their possible spread to neighboring properties as well as other areas. Please coordinate with the applicable County Noxious weed management division and conduct a comprehensive noxious weed survey of the property as well as submit a noxious weed management plan sufficient to manage the State and County listed noxious weeds and prevent their spread to offsite areas.

7. Exhibit L- Reclamation Costs; Rule 6.4.12

- a. In addition to Item 2, c of this review please indicate the maximum height and length in feet of highwall to be exposed at any given time. This will be used to calculate an accurate quantity of material to be backfilled to achieve the pond slopes.
- b. Please also provide detailed information on the dewatering operations including the pump size, discharge point, flow of effluent in Gallons Per Minute (GPM) and estimated Ground Water Recharge Rate. This will be used to factor in dewatering operations to the reclamation cost estimate.
- c. In conjunction with Items 3 c, d and e please include the number of acres to be seeded with each seed mix as well as the seed bed preparation methods, seeding methods and rates as well as any erosion control measures to be used such as straw mulch, blankets or straw wattles. Please note that the changes included in other exhibits need to be reflected in this exhibit to ensure an accurate reclamation cost estimate.

8. Exhibit Q- Proof of Mailing Notices to Board of County Commissioners and Conservation District; Rule 6.4.17

- a. Item 1, b of the preliminary adequacy review dated March 2, 2020 outlines the need for new notices be sent to the Garfield County Board of County Commissioners as well as the

local Soil Conservation District that depicts the accurate post mining land use. The proof of mailing must be received by the Division before a decision can be rendered. Please also note that all new and existing notices contained in this and all other adequacy reviews must be confirmed by receipt before a decision on this application can be rendered pursuant to Rule 1.6.2(1)(g).

9. Exhibit S- Permanent Man-made Structures; Rule 6.4.19

- a. Section 20 of the application identifies that there are no permanent man-made structures located within 200 feet of the affected lands. Permanent man-made structures include but are not limited to fences both private and with shared ownership; roads and irrigation ditches. Please update this exhibit with any and all permanent man-made structures located within 200 feet of the affected lands, as well as obtain structure agreements for each structure. A copy of the structure agreement is included in the application packet. Our records indicate that the structures must include but are not limited to all property fences, Garfield County Road 346, Interstate 70 and the irrigation return ditch that runs through the property.
- b. In addition to the items required regarding the relocation of the irrigation return ditch and the structure agreement for said ditch, please identify the owner or managing entity of the ditch. If the ditch is privately owned and or managed please also submit a relocation agreement that confirms the applicant has the legal authority necessary to relocate the ditch to the perimeter of the property as well as any modifications proposed to the ditch. This should also include an access agreement for the managing entity to perform any required maintenance of the ditch.

10. Addendum 1- Notice Requirements; Rule 1.6.2(1)(b)

- a. Please provide photographic evidence that the proper notice has been posted on site and that the notice sign meets the size requirements provided in Rule 1.6.2(1)(b).
- b.

Please submit your response(s) to the above listed issue(s) by Tuesday, April 28, 2020 in order to allow the Division sufficient time for review. The Division will continue to review your application and will contact you if additional information is needed. As noted in Item 1, a of this review, should you require more time to allow for the amended public comment period run, and/ or to respond to this review please submit a Decision Date Extension Request letter to the Division as soon as you are able.

If you require additional information, or have questions or concerns, please contact me at the Division's Grand Junction Field Office, by phone at 303-866-3567 Ext. 8187 or by email at lucas.west@state.co.us.

Sincerely,



Lucas West

Environmental Protection Specialist
Division of Reclamation, Mining and Safety

Cc: Travis Marshall, Senior Environmental Protection Specialist

Ec: Tony Roberts, Scott Contracting, Inc.
Doug Grant, Grant Bros. Construction, LLC
Michael Sawyer, Karp, Neu, Hanlon, PC