



June 9, 2020

Eli Doose
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1911 Highway 550
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Re: Von Doose Mine, File No. M-2019-031, Rationale to Approve 110(1) Hard Rock and Metals Mining and Reclamation Permit Application over Public Objections

Introduction

Herein, all references to the Act and Rules refer to the Colorado Mined Land Reclamation Act, 34-32-101 et. Seq., C.R.S. (The Act), and the Hard Rock and Metals Mining Rules and Regulations (The Rules or Rule). Copies of the Act and Rules are available through the Division's website at Colorado.gov/drms.

On June 9, 2020, The Division of Reclamation, Mining and Safety (the Division or Office) issued its decision to approve the Hard Rock and Metals Mining and Reclamation Permit Application for the Von Doose Mine, File No. M-2019-031, over public objections. This document is intended to explain the process by which the Division arrived at its decision to approve, over public objections, and respond to the issues raised in writing by timely objecting parties. The Division reserves the right to further supplement, amend, modify or clarify this document and recommendations with additional details as necessary.

Summary of Review Process

Atlas Mining & Reclamation, LLC (the Applicant) filed the New Permit Application with the Division on May 29, 2019. The application was deemed incomplete and a notice of Filing Deficiencies was sent to the Applicant on June 6, 2019. The required information was submitted and the Application was considered complete for filing on June 18, 2020. The application is for a Limited Impact 110(1) Reclamation Permit consisting of 3 acres in support of the extraction of Silver. The disturbed areas will be reclaimed to support a mixed post mining land use of Forestry and Recreation. All comment and review periods began on June 18, 2019. Pursuant to C.R.S. 34-32-115(2) and Rule 1.4.1(7) the application was deemed complex and the review period was extended by sixty (60) days. The original application decision date was set to August 16, 2019. Through the technical adequacy review period the decision date was extended several times to Friday June 12, 2020.

All required notices were mailed within 10 days of the date the application was considered complete and filed pursuant to Rule 1.6.2(1) (e). On July 20, 2019 the Applicant published a notice in the Ouray County Plaindealer. As noted in that newspaper notice, the public comment period for the application closed on July 1, 2019 in accordance with Rule 1.7.2(2)(b). During the public comment period the Division received written comments from the following individuals and agencies:

Timely letters of Objection

1. Dhana Broser/ Keith Morris, received June 28, 2019
2. Robert Risch, Received June 30, 2019



3. Ben Tisdell, Received July 1, 2019
4. Danika Gilbert, Received July 1, 2019
5. Jennifer Thurston, INFORM and Robyn Cascade GOBW, received July 1, 2019
6. Patrick Willits, Received July 1, 2019

Timely Letters of Comment

1. Dana Gardunio, U.S. Forest Service, Received June 28, 2019
2. Devon Horntvedt, Newmont Gold Corp, Received July 1, 2019

The Division also received 35 letters in support of the project that were considered timely. The Division forwarded copies of all comments to the Applicant, and notice of receipts to the objecting parties on July 16, 2019. All jurisdictional items under the purview of the Act and Rules were incorporated into the Division's Adequacy Review dated July 16, 2019.

After the approved requests for a decision date extension the Applicant provided a response to the Adequacy Review on March 23, 2020. Subsequently a Second Adequacy Review dated April 16, 2020 was sent to the Applicant and a response was received on April 24, 2020. The Applicant addressed all technical adequacy issues and concerns raised by the interested parties to the Division's satisfaction. Therefore, on June 9, 2020, the Division determined the Application to have satisfied the requirements of Section 34-32-110 C.R.S. as well as the requirements of Rules 6.2 and 6.3 and issued its decision to approve the Application over public objections Pursuant to C.R.S. 34-32-115(4) and Rule 1.4.6(2).

Concerns Raised by Objecting and Commenting Parties

To properly address the concerns raised by the objecting and commenting parties, each letter of objection will be addressed individually and chronologically. A summary of the jurisdictional concerns are represented by bold italic font, followed by name of the party. The Division's response follows in standard font.

1. ***Concerns regarding no Environmental Protection Plan to address potentially contaminated runoff to adjacent properties; Wildlife impact not addressed; No Blasting Plan or Geotechnical Stability Exhibit to address potential adverse effects from blasting; Historic Mine Opening on adjacent property not addressed as a permanent manmade structure. (Keith Morris / Dhana Broser)***

Pursuant to C.R.S. 34-32-110(1)(III) and Rule 6.3 a Limited Impact Operation (110(1)) Reclamation Permit does not require an Environmental Protection Plan as defined by C.R.S. 34-32-103(4.9) and Rule 1.1 (22). Furthermore, the Applicant has demonstrated to the Division's satisfaction through the submitted application and its supplemented information, specifically Exhibit B and Attachment B-1 that the material encountered possess a low possibility to create contaminated runoff in the form of Acid Rock Drainage (ARD) or Acid Mine Drainage (AMD). This is also demonstrated in the Applicant's commitment to conduct Acid Base Accounting (ABA) and Synthetic Precipitate Leachate Procedure (SPLP) testing for every 300 feet of underground advancement. In addition the Applicant has committed that should any material that is determined to potentially leach metals and or produce acid, operations will immediately cease and the material will be isolated and handled appropriately. Similarly, the application depicts a series of Storm Water Control Features and Best Management Practices (BMP) that all runoff from affected areas will be captured

and handled in accordance with their approved Storm Water Management Plan (SWMP) from the Colorado Department of Public Health and Environment (CDPHE) to prevent adverse impacts to offsite areas. It is the Division's determination that, based on the application materials, testing results submitted and commitments by the Applicant no Environmental Protection Plan is required for the site.

According to Rule 6.3.2 (d) a wildlife statement prepared by Colorado Parks and Wildlife (CPW) is not required for 110 Limited Impact Operations. This information was requested in item 1 (d) of the Division's Adequacy Review dated July 16, 2019. A comprehensive and detailed section regarding wildlife information was submitted in the revised application materials. The section discusses a description of the significant wildlife resources on the affected lands and seasonal uses of the area. The Applicant also contacted and submitted a wildlife statement from CPW which indicates the proposed operation will have little or no adverse effect to the wildlife in the area. In addition the Applicant has committed to following the recommendations prescribed by CPW. The wildlife statement from CPW can be found in Attachment B-2 of the revised application materials received on March 23, 2020.

The revised Exhibit C includes a detailed blasting plan that is also supplemented by the revised Geotechnical Stability Exhibit prepared by Matheson Mining Consultants, Inc. The blasting plan details the type of explosives used, average amount of explosive per hole, and maximum charge weight to be used during blasting operations at the site. It also commits that the blasting will be conducted by a licensed contractor until such time as the Applicant can receive an in house blasting license. The Geotechnical Stability Exhibit, Blasting and Vibration analysis details the required calculations necessary to demonstrate that given the maximum charge weight to be used at the site, along with the proposed delay system blasting operations at the site will be in compliance with all applicable regulations, and safe for any nearby structures including the unnamed historic mine adit located on the adjacent property.

The revised scope of the project resulted in a reduction of the permitted and disturbed area. As demonstrated through the revised Exhibit L, no permanent man-made structures exist within 200 feet of the affected lands, therefore a Damage Compensation Agreement / Structure Agreement is not required for the unnamed historic mine adit located on the adjacent property pursuant to Rule 6.3.12. The historic mine adit was not required to be outlined in the permit application as it is greater than 200 feet from the permit boundary and therefore not required to be identified as outlined in Rule 6.3.5(2)(f).

2. Concerns regarding potential impacts to the hydrologic balance and the potential for Acid Mine Drainage. (Robert Risch)

Pursuant to Rule 6.3.3(1) (i) the Applicant must address hydrological impacts if groundwater will be encountered and/or surface water intercepted or disturbed, describe how mining will affect the quantity and quality of the surface or groundwater and the methods to be used to minimize disturbance to the surface and groundwater systems. Also, as required by Rule 6.3.3(1)(I) the Applicant must describe what measures will be taken to minimize disturbance to the hydrologic balance. The Applicant has demonstrated to the Division's satisfaction through the submitted application and its supplemented information, specifically Exhibit B and Attachment B-1 that the material encountered possess a low probability to create contaminated runoff in the form of Acid Rock Drainage (ARD) or Acid Mine Drainage (AMD). This is also demonstrated in the Applicant's commitment to conduct Acid Base Accounting (ABA) and Synthetic Precipitate Leachate Procedure (SPLP) testing for every 300 feet of underground advancement. Based on the survey of surface

and groundwater resources in the area, the evidence suggests it is unlikely that a groundwater source will be encountered during the mining operations. However, the Applicant has made commitments in Exhibit C to prevent water from discharging from the underground workings. It is the determination of the Division that through the application process, including the materials submitted in the Applicant's Adequacy Review Response that adequate measures have been proposed to prevent or minimize disturbance to the hydrologic balance, prevent off-site damage and provide for a stable configuration of the reclaimed area consistent with the proposed future land use pursuant to C.R.S. 34-32-116 (7)(g) and Rule 6.3.3 (1)(l).

3. *Concerns regarding the validity of the Legal Right to Enter as it relates to the mineral rights of the American Eagle, Mountain Dale and Victorious mining claims and the subsurface location of the underground workings. (Ben Tisdell)*

Rule 6.3.7 requires the Applicant to provide documentation of the legal right to enter to conduct mining and reclamation for owners of record described in Rule 1.6.2(1)(e)(i) which includes all owners of record of the surface and mineral rights of the affected lands. The application and its supplemented information has demonstrated that all surface activities are limited to the Oceola and Veto claims and the subsurface mining activities are limited to the Oceola, Veto, Senator Beck, India and DVD claims. No surface or subsurface disturbance is proposed on or below the American Eagle, Mountain Dale or Victorious mining claims. Also, Exhibit C details that the surface and subsurface mining and reclamation activities will be conducted within surface to 1,000 foot below surface zone which is conveyed through the appropriate and applicable documentation for the Oceola, Veto, Senator Beck, India and DVD Mining Claims. Therefore it is the Division's determination that the Applicant has demonstrated the Legal Right to Enter pursuant to Rule 6.3.7.

4. *Concerns regarding inaccuracies in the site description pertaining to existing vegetation and watershed size; concerns regarding an inadequate revegetation plan to ensure erosion control and vegetation reestablishment; concerns regarding potential impacts to the hydrologic balance. (Danika Gilbert)*

According to Rule 6.3.2(a) the Applicant must include a description of the vegetation and soil characteristics in the area of the proposed operation. The information in the original application was unclear, and the Division requested additional information to address Item 1, a, of the Division's Adequacy Review dated July 16, 2019. The Adequacy Response that was received on March 23, 2020 and updated Exhibit B- Site Description was included. The supplemental information included a more detailed description of the existing vegetation on site. The updated vegetation information is consistent with the conditions of the site as they were observed during the Pre-Operational Inspection conducted by the Division on August 1, 2019. Concerns were also raised at the accuracy of the size of the watershed size. The supplemented information submitted by the Applicant including the revised Attachment A1- Von Doose Location Map confirm by way of a detailed topographic map, the size of the local watershed to be approximately 940 acres.

Pursuant to Rule 6.3.4 (1) (c) the Applicant must specify the measures that will be taken to revegetate the site. The application and its supplemented information has provided a detailed revegetation plan including a robust seed mix designed for high elevation reclamation, the use of on-site debris such as downed timbers and boulders and the use of pelletized fertilizer to foster revegetation efforts. The best management practices and methods described in the application materials has been used at other, nearby permitted mine sites with a high deal of success. Therefore, it is the determination of the Division that the revegetation plan specified in

the revised Exhibit D- Reclamation Plan meet or exceed the requirements of C.R.S. 34-32-116 (7) (e) and Rule 6.3.4 (1)(c) (i – vi).

As is the case with many of the timely objections and comments received during the public comment period, concerns were raised regarding potential impacts to the prevailing hydrologic balance. Pursuant to Rule 6.3.1 (i) the Applicant must address hydrological impacts if groundwater will be encountered and/or surface water intercepted or disturbed, describe how mining will affect the quantity and quality of the surface or groundwater and the methods to be used to minimize disturbance to the surface and groundwater systems. Also, as required by Rule 6.3.3(1)(l) the Applicant must describe what measures will be taken to minimize disturbance to the hydrologic balance. The Applicant has demonstrated to the Division's satisfaction through the submitted application and its supplemented information, specifically Exhibit B and Attachment B-1 that the material encountered possess a low possibility to create contaminated runoff in the form of Acid Rock Drainage (ARD) or Acid Mine Drainage (AMD). This is also demonstrated in the Applicant's commitment to conduct Acid Base Accounting (ABA) and Synthetic Precipitate Leachate Procedure (SPLP) testing for every 300 feet of underground advancement. Based on the survey of surface and groundwater resources in the area, the evidence suggests it is unlikely that a groundwater source will be encountered during the mining operations. However, the Applicant has made commitments in Exhibit C to prevent water from discharging from the underground workings. It is the determination of the Division that through the application process, including the materials submitted in the Applicant's Adequacy Review Response that adequate measures have been proposed to prevent or minimize disturbance to the hydrologic balance, prevent off-site damage and provide for a stable configuration of the reclaimed area consistent with the proposed future land use pursuant to C.R.S. 34-32-116 (7)(g) and Rule 6.3.3 (1)(l).

5. Concerns regarding the proposed buildings remaining as post-reclamation structures; concerns raised regarding inadequate characterization of potential waste rock material; concerns raised regarding the lack of a hydrologic assessment of the site. (Patrick Willits)

Pursuant to Rule 3.1.11, "If the affected land is owned by a legal entity other than any local, state, or federal entity, any buildings or structures including those constructed or placed on the affected lands in conjunction with the mining operations or which are historic structures as determined the State Historic Preservation Office may, at the option of the Operator and Landowner and with the approval of the Board, remain on the affected land after reclamation if such buildings or structures will not conflict with the post-mining land use and the structures conform to local building and zoning codes." In this case, however, the revised application materials received on March 23, 2020 have drastically reduced the size and scope of the project including a reduction of the permitted area and the removal of all proposed permanent structures from the plan. The structures that were removed from the plan include the headframe/ shaft house structure, Mine shop building and boarding house structure.

To address the proper characterization of the waste rock material anticipated the Applicant has submitted the results of an Acid Base Accounting (ABA) test as well as the results of the Synthetic Precipitate Leachate Procedure test of a representative waste rock sample. The Applicant has demonstrated to the Division's satisfaction through the submitted application and its supplemented information, specifically Exhibit B and Attachment B-1 that the material encountered possess a low possibility to create contaminated runoff in the form of Acid Rock Drainage (ARD) or Acid Mine Drainage (AMD). This is also demonstrated in the Applicant's commitment to conduct Acid Base Accounting (ABA) and Synthetic Precipitate Leachate

Procedure (SPLP) testing for every 300 feet of underground advancement. In addition the Applicant has committed that should any material that is determined to potentially leach metals and or produce acid, operations will immediately cease and the material will be isolated and handled appropriately with consultation from the Division. Therefore, it is the determination of the Division that the waste rock has been appropriately characterized and will be periodically assessed and verified during the mining operations.

Pursuant to Rule 6.3.2 (c) the Applicant is required to submit a description of the water resources in the area to assess the hydrologic characterization of the site. The original application materials included a detailed section regarding the Surface and Groundwater resources in the area. Furthermore, the supplemental information included in the Applicant's Adequacy Review Response included more detailed information about the estimated groundwater levels and nearby wells. All of the information provided supports the conclusion that no surface water resources are present in the immediately surrounding area, within 200 feet of the affected lands, and the groundwater elevation exists at and below the elevation of Corkscrew Gulch which is 200 feet below the project location in elevation. It is the determination of the Division that the submitted information meets the requirements of Rule 6.3.2 (c) as the hydrologic assessment of the site.

- 6. Concerns regarding the exclusion of the access road between the upper affected area and the lower affected area from the Permit Boundaries; Concerns regarding the proposed buildings remaining as post reclamation structures; Concerns regarding how wastewater from site activities will be handled; Concerns regarding secondary uses of the site for recreation; Concerns regarding avalanche danger at the site; Concerns regarding the final topography of the reclaimed area; Concerns Regarding development and waste rock handling to control unsightliness and protect the drainage system from pollution; Concerns regarding potential impacts to the prevailing hydrologic balance regarding the conceptual bulkhead; Concerns regarding the need for a more detailed study of the existing hydrological conditions at the site and need for Environmental Protection Facilities including baseline ground water characterization and monitoring; Concerns regarding how ore materials will be handled; Concerns regarding potential wildlife impacts. (Jennifer Thurston (INFORM) and Robyn Cascade (Great Old Broads for Wilderness)***

The original permit application detailed the plan for two separate permitted areas referred to as the Upper Affected Area and the Lower Affected area with the access road between the two areas being excluded. The Lower Affected Area was proposed to consist of 3.4 Acres including the portal structure and Mine Shop Building. The Upper Affected Area was proposed to consist of 1.26 areas and included the Headframe/ Shaft House Structure and Boarding House Structure. The Mine Shop Building, portal structure, Headframe/Shaft House Structure and Boarding House were proposed to remain as permanent structures post reclamation. The revised application materials received on March 23, 2020 have drastically reduced the size and scope of the project including a reduction of the permitted area and removal of the Mine Shop Building, Headframe/Shaft House Structure and Boarding house from the plan. The Permit Area is now proposed at 3.00 Acres surrounding the portal, waste rock dump and lay down area. The Upper Affected Area and the access road to that area are no longer proposed to be affected by the mining operations. Similarly, the buildings are no longer proposed as part of the mining operations.

Rule 6.3.3 (1) (e) requires the applicant to describe the major components of the mining operations such as roads and access routes, pit, office, shop/maintenance buildings as well as others. This is inferred to include domestic facilities such as septic systems or other forms of domestic wastewater handling. Clarification of

the domestic wastewater handling procedures of the operation was requested in Item 2, d, of the Division's Adequacy Review dated July 16, 2019. The revised application materials detail that domestic human waste will be handled by way of a portable composting toilet and that all previously proposed permanent structures are removed from the application including the use of on-site septic systems or water cisterns. It is the determination of the Division that the Applicant has addressed the wastewater handling concerns in compliance with Rule 6.3.3 (1) (e).

In addition to the reduced size and scope of the proposed project, the Applicant has detailed the seasonal nature of the mining operations. This also includes the removal of the structures and any potential secondary, off seasonal uses of the permitted area for recreational activities during the winter months. No secondary recreational use of the area is proposed.

While it is not explicitly required by Rules, concerns regarding avalanche danger at the site were raised. This issue was requested to be addressed in Item 1, e, of the Division's Adequacy Review. In the Applicant's Adequacy Review Response, specifically the revised Exhibit B- Site Description, attachments B5 and B6 it is demonstrated that the permit area is not located within a delineated avalanche runout path. Furthermore, with the reduced scope of the project including seasonal operations, it is the determination of the Division that the hazard of avalanches does not need to be mitigated within the Permit Boundary nor to the road up Corkscrew Gulch as mining operations will not affect the avalanche hazards.

Rule 3.1.5 (1) requires that the Applicant set forth the measures that will be taken to meet the requirement that grading shall be carried on so as to create a final topography appropriate with the final land use selected in the Reclamation Plan. The post mining land use was clarified in the revised application materials received on March 23, 2020 as Recreation and Forestry. Achieving approximate original contour is not required by the Act or the Rules and Regulations. Pursuant to Rule 6.3.4(1) the Applicant must "specify the maximum gradient of reclaimed slopes (horizontal: vertical). If the Application proposes slopes steeper than 3: 1, the Applicant must include justification that supports steeper slopes for the proposed post mining land use, and demonstrates compliance with the applicable performance standards of Rule 3.1" The justification for the proposed steeper slopes was requested in Item 3, b, of the Division's Adequacy Review. The applicant has demonstrated to the Division's satisfaction that the reclaimed slopes of 2: 1 within the permit boundary are consistent with the selected post mining land use pursuant to 3.1.5 (1) and Rule 6.3.4(1). Specifically, the Applicant has submitted a revised Geotechnical Stability Exhibit demonstrating that the appropriate Factors of Safety will be achieved for all working slopes during mining operations as well as the reclaimed slopes. In accordance with the Division's Slope Stability / Geotechnical Analysis Policy the required Factor of Safety for the proposed slopes is 1.3. The calculated Factors of safety are 1.3 for the working slope of the waste rock dump and 1.55 for the reclaimed slope. The geotechnical stability analysis was performed by Trautner Geotech LLC, and included recommendations for the construction of a Toe Key Drain and Bench concept to ensure long term stability of the working slope as well as the reclaimed slope. In the revised Geotechnical Stability Exhibit submitted by the Applicant, the commitment is made to adhere to those recommendations to achieve long term stability of the slopes. Therefore, it is the determination of the Division that the Applicant has sufficiently demonstrated compliance with C.R.S. 34-32-116 (7) (a) as well as Rule 6.3.4 (1) and Rule 3.1.5 (1).

In accordance with Rule 3.1.5 (5) the Applicant must demonstrate that all refuse and acid forming or toxic producing materials that have been mined shall be handled and disposed of in a manner that will control

unsightliness and protect the drainage system from pollution. The application and its revised submitted materials details plans for a waste rock dump to be used, and reclaimed in accordance with the Reclamation Performance Standards set forth in Rule 3. Acid forming or toxic producing materials is not anticipated to be encountered during the mining process. the Applicant has demonstrated to the Division's satisfaction through the submitted application and its supplemented information, specifically Exhibit B and Attachment B-1 that the material encountered possess a low possibility to create contaminated runoff in the form of Acid Rock Drainage (ARD) or Acid Mine Drainage (AMD). This is also demonstrated in the Applicant's commitment to conduct Acid Base Accounting (ABA) and Synthetic Precipitate Leachate Procedure (SPLP) testing for every 300 feet of underground advancement. In addition the Applicant has committed that should any material that is determined to potentially leach metals and or produce acid, operations will immediately cease and the material will be isolated and handled appropriately. Similarly, the application depicts a series of Storm Water Control Features and Best Management Practices (BMP) that all runoff from affected areas will be captured and handled in accordance with their approved Storm Water Management Plan (SWMP) from the Colorado Department of Public Health and Environment (CDPHE) to prevent adverse impacts to offsite areas. It is the Division's determination that, based on the application materials, testing results submitted and commitments by the Applicant has sufficiently demonstrated compliance with Rule 3.1.5 (5) as well as Rule 6.3.3 (1) (k).

As is the case with many of the timely objections and comments received during the public comment period, concerns were raised regarding potential impacts to the prevailing hydrologic balance. Pursuant to Rule 6.3.1 (i) the Applicant must address the hydrological impacts if groundwater will be encountered and/or surface water intercepted or disturbed, describe how mining will affect the quantity and quality of the surface or groundwater and the methods to be used to minimize disturbance to the surface and groundwater systems. Also, as required by Rule 6.3.3(1)(l) the Applicant must describe what measures will be taken to minimize disturbance to the hydrologic balance. The Applicant has demonstrated to the Division's satisfaction through the submitted application and its supplemented information, specifically Exhibit B and Attachment B-1 that the material encountered possess a low possibility to create contaminated runoff in the form of Acid Rock Drainage (ARD) or Acid Mine Drainage (AMD). This is also demonstrated in the Applicant's commitment to conduct Acid Base Accounting (ABA) and Synthetic Precipitate Leachate Procedure (SPLP) testing for every 300 feet of underground advancement. Based on the survey of surface and groundwater resources in the area, the evidence suggests it is unlikely that a groundwater source will be encountered during the mining operations. However, the Applicant has made commitments in Exhibit C to prevent water from discharging from the underground workings by way of a submitted conceptual bulkhead design. It is the determination of the Division that through the application process, including the materials submitted in the Applicant's Adequacy Review Response that adequate measures have been proposed to prevent or minimize disturbance to the hydrologic balance, prevent off-site damage and provide for a stable configuration of the reclaimed area consistent with the proposed future land use pursuant to C.R.S. 34-32-116 (7) (g) and Rule 6.3.3 (1)(l).

Pursuant to Rule 6.3.2 (c) the Applicant is required to submit a description of the water resources in the area to assess the hydrologic characterization of the site. The original application materials included a detailed section regarding the Surface and Groundwater resources in the area. Furthermore, the supplemental information included in the Applicant's Adequacy Review Response included more detailed information about the estimated groundwater levels and nearby wells. All of the information provided supports the conclusion that no surface water resources are present in the immediately surrounding area, within 200 feet of the affected lands, and the groundwater elevation exists at and below the elevation of Corkscrew Gulch which

is 200 feet below the project location in elevation. It is the determination of the Division that the submitted information meets the requirements of Rule 6.3.2 (c) as the hydrologic assessment of the site. Based on the information provided in the Application and its revised materials submitted, groundwater is not anticipated to be encountered nor impacted. Therefore, no groundwater monitoring requirements are applicable pursuant to Rule 6.3.3 (1) (i) at this time.

On April 16, 2020 a second Adequacy Review was sent to the Applicant requesting clarification on how potentially sulfide bearing ore or bulk sample material will be handled or otherwise contained to prevent the possible creation of Acid Rock Drainage. The applicant has detailed a plan to store all drill core samples within the onsite shipping containers, and sacks of ore material be stored underground, covered and contained to prevent the possible creation of Acid Rock Drainage. The plan also depicts that no sample will be stored on site for longer than 90 days, and as part of the winter closure activities any remaining ore or sample materials will be removed from the site. It is the determination of the Division that the Applicant has adequately demonstrated through the supplemented materials submitted that all ore or sample materials will be handled appropriately pursuant to Rule 6.3.3 (1)(k).

According to Rule 6.3.2 (d) a wildlife statement prepared by Colorado Parks and Wildlife (CPW) is not required for 110 Limited Impact Operations. This information was requested in item 1 (d) of the Division's Adequacy Review dated July 16, 2019. A comprehensive and detailed section regarding wildlife information was submitted in the revised application materials. The section discusses a description of the significant wildlife resources on the affected lands and seasonal uses of the area. The Applicant also contacted and submitted a wildlife statement from CPW which indicates the proposed operation will have little or no adverse effect to the wildlife in the area. In addition the Applicant has committed to following the recommendations prescribed by CPW. The wildlife statement from CPW can be found in Attachment B-2 of the revised application materials received on March 23, 2020.

7. Concerns regarding Legal Right to Enter as it pertains to the seniority of claims between the Oceola and Veto (patented claims) and the Something Ethel (unpatented claim); Concerns regarding the storage and secure containment of waste rock so as to not overtop and block the drainage or the Corkscrew Gulch Road; Concerns Regarding potential impacts to the hydrologic balance as it relates a downstream compliance point for the CDPHE Consent Decree. (Dana Gardunio, US Forest Service)

Clarification as to the existence and location of the "Something Ethel" unpatented claim in relation to the Legal Right to Enter was requested in Item 6, a, of the Division's Adequacy Review dated July 16, 2019. The Applicant, through the revised application materials has demonstrated that the "Something Ethel" claim existed prior to the location of the Oceola and Veto patented claims, however was dropped, and relocated as the "Maud Ethel". The "Maud Ethel" claim was never patented and became open to location when it too was dropped. In 2018 consultants for the Applicant located the claim, through the proper procedures, known as the DVD claim in the exact location as the historic "Maud Ethel". The Applicant has provided the proper documentation demonstrating the existence of the DVD unpatented claim, over the historic "Maud Ethel" and "Something Ethel" unpatented claims. It is the determination of the Division that through this documentation

and the revised application materials adequately demonstrated the Source of Legal Right to Enter pursuant to Rule 6.3.7.

The designs of the waste rock pile as it relates to the secure containment of material so as to not overtop and possibly block the drainage or the Corkscrew Gulch road itself were clarified as requested in Item 2, h, of the Division's Adequacy Review. The Applicant has designed the waste rock dump to meet the factor of safety requirements and submitted a revised Geotechnical Stability Exhibit demonstrating that the appropriate Factors of Safety will be achieved for all working slopes during mining operations as well as the reclaimed slopes. In accordance with the Division's Slope Stability / Geotechnical Analysis Policy the required Factor of Safety for the proposed slopes is 1.3. The calculated Factors of safety are 1.3 for the working slope of the waste rock dump and 1.55 for the reclaimed slope. The geotechnical stability analysis was performed by Trautner Geotech LLC, and included recommendations for the construction of a Toe Key Drain and Bench concept to ensure long term stability of the working slope as well as the reclaimed slope. In the revised Geotechnical Stability Exhibit submitted by the Applicant, the commitment is made to adhere to those recommendations to achieve long term stability of the slopes. Also included in the design was the incorporation of storm water control structures such as an upland diversion ditch to direct sheet flows coming from up gradient areas away from the waste rock dump as well as a catchment berm at the base of the dump complete with a sediment trap to prevent any material from migrating off the waste rock dump. This information is specifically addressed in Exhibit C- Mining plan and the included copy of the Storm Water Management Plan filed with the Colorado Department of Public Health and Environment. Through the designs included in the revised application materials as well as its various attachments the Division has determined the Applicant has adequately addressed the concern regarding the secure storage and containment of waste rock material, and the mitigation of storm water flows of the waste rock dump.

As is the case with many of the timely objections and comments received during the public comment period, concerns were raised regarding potential impacts to the prevailing hydrologic balance especially in this case where a compliance point associated with the CDPHE Consent Decree exists downstream of the proposed site. Pursuant to Rule 6.3.1 (i) the Applicant must address hydrological impacts if groundwater will be encountered and/or surface water intercepted or disturbed, describe how mining will affect the quantity and quality of the surface or groundwater and the methods to be used to minimize disturbance to the surface and groundwater systems. Also, as required by Rule 6.3.3(1)(I) the Applicant must describe what measures will be taken to minimize disturbance to the hydrologic balance. The Applicant has demonstrated to the Division's satisfaction through the submitted application and its supplemented information, specifically Exhibit B and Attachment B-1 that the material encountered possess a low possibility to create contaminated runoff in the form of Acid Rock Drainage (ARD) or Acid Mine Drainage (AMD). This is also demonstrated in the Applicant's commitment to conduct Acid Base Accounting (ABA) and Synthetic Precipitate Leachate Procedure (SPLP) testing for every 300 feet of underground advancement. Based on the survey of surface and groundwater resources in the area, the evidence suggests it is unlikely that a groundwater source will be encountered during the mining operations. However, the Applicant has made commitments in Exhibit C to prevent water from discharging from the underground workings. It is the determination of the Division that through the application process, including the materials submitted in the Applicant's Adequacy Review Response that adequate measures have been proposed to prevent or minimize disturbance to the hydrologic balance, including the demonstration to have no anticipated effect on the CDPHE Consent Decree Compliance Point, pursuant to C.R.S. 34-32-116 (7) (g) and Rule 6.3.3 (1)(I).

8. *Concerns raised regarding the CDPHE Consent Decree Compliance point for the Idarado Mine located downstream of the proposed site. (Devon Horntvedt, Newmont Goldcorp)*

Rule 6.3.3 (1) (i) the Applicant must address hydrological impacts if groundwater will be encountered and/or surface water intercepted or disturbed, how mining will affect the quantity and quality of the surface or groundwater and the methods to be used to minimize disturbance to the surface and groundwater systems including proposed dewatering, sediment-containment or chemical treatment systems, storm water runoff controls and groundwater points of compliance. Also, Rule 6.3.3 (1) (l) requires the Applicant to describe what measures will be taken to minimize disturbance to the hydrologic balance, prevent off-site damage. This includes potential adverse effects to the compliance point associated with the CDPHE Consent Decree for the Idarado Mine which is located downstream. The Applicant has demonstrated to the Division's satisfaction through the submitted application and its supplemented information, specifically Exhibit B and Attachment B-1 that the material encountered possess a low possibility to create contaminated runoff in the form of Acid Rock Drainage (ARD) or Acid Mine Drainage (AMD). This is also demonstrated in the Applicant's commitment to conduct Acid Base Accounting (ABA) and Synthetic Precipitate Leachate Procedure (SPLP) testing for every 300 feet of underground advancement. Based on the survey of surface and groundwater resources in the area, the evidence suggests it is unlikely that a groundwater source will be encountered during the mining operations. However, the Applicant has made commitments in Exhibit C to prevent water from discharging from the underground workings. It is the determination of the Division that through the application process, including the materials submitted in the Applicant's Adequacy Review Response that adequate measures have been proposed to prevent or minimize disturbance to the hydrologic balance, including the demonstration to have no anticipated effect on the CDPHE Consent Decree Compliance Point, pursuant to C.R.S. 34-32-116 (7) (g) and Rule 6.3.3 (1)(l). In addition the Applicant has submitted its detailed Storm Water Management Plan in Exhibit C- Mining plan, which has been filed with CDPHE that will be implemented to prevent adverse impacts from storm water runoff which adequately addresses the requirements of Rule 6.3.3 (1) (i).

Conclusion

After completion of the review process as defined by the C.R.S. 34-32 the Colorado Mined Land Reclamation Act (Act), the Hard Rock and Metals Mining Rules (Rules) and the consideration of all timely received comments and objections, Division staff has determined the Von Doose Mine Limited Impact Operation (110(1)) Reclamation Permit Application, File Number M-2019-031 has satisfied the requirements of the Act and the Rules. Therefore, on June 9, 2020 the Division has issued its decision to approve the Application for the Von Doose Mine, over public objections.