

July 31, 2020

Jim Harrington  
Colorado Legacy Land, LLC  
4601 DTC Blvd. - Suite 130  
Denver, CO 80237

**RE: Schwartzwalder Mine, Permit No. M-1977-300, Notice of Incomplete Amendment Application (AM-5)**

Mr. Harrington:

On July 24, 2020, the Division of Reclamation, Mining and Safety (Division) received your 112d-2 Hard Rock Reclamation Permit Amendment Application (AM-5) for the Schwartzwalder Mine, which proposes the following revision(s) to the permit:

*Increase permit area by 3.98 acres to accommodate anticipated reclamation activities in former Black Forest Mine (0.38 acres) and North Waste Rock Pile - upland area (3.60 acres), for a total permit area of 76.22 acres. Revise reclamation plan to include disposal of radionuclide-impacted alluvial valley soils into the Black Forest Mine.*

A preliminary review of the information received has identified the following filing deficiencies which must be addressed before the application can be considered complete for filing purposes:

- 1) Your submittal did not include an Application Form, which is required by Rule 1.4.5(2)(b)(i). Please submit the applicable Application Form for a 112d-2 operation (see enclosed application package). Please be advised, the pages of the form which require initialing or signature by the Applicant/Operator/Permittee (for ex: pages 7 and 8) must be initialed or signed by Jim Harrington. For any other entities signing and/or submitting permitting documents on behalf of the Permittee, the Division must receive a notarized letter of authorization from the Permittee authorizing such entity to sign and/or submit permitting documents on behalf of Colorado Legacy Land, LLC.
- 2) Your submittal includes an affidavit that notice signs were posted on site pursuant to Rule 1.6.2(1)(b), which is required by Rule 1.4.5(2)(b)(iii). However, this affidavit does not include all required elements from the sample affidavit provided in the application form (see enclosed application package), particularly the signature and date lines from the bottom of the page. Please submit a revised affidavit that includes all required elements.
- 3) Your submittal includes proof of mailing notices to the local Board of County Commissioners and the Conservation District pursuant to Rule 1.6.2(1)(a), which is required by Rules



1.4.5(2)(b)(vi) and 6.4.17. However, the notice provided to these entities includes the following incorrect information:

- a. The 1<sup>st</sup> sentence of the 2<sup>nd</sup> paragraph states “The applicant/operator proposes to reclaim the affected land to General Agriculture use”. However, the currently approved post-mining land use for the site is Wildlife Habitat, and the intent of AM-5 does not appear to include a proposed change in post-mining land use. Therefore, if no change in post-mining land use is proposed, please correct this sentence to reflect the approved Wildlife Habitat use.
- b. The last sentence of the 2<sup>nd</sup> paragraph states “Please note that, in order to preserve your right to a hearing before the Board on this application, you must submit written comments on the application within ten (10) days after the date of the applicant’s newspaper publication”. However, per Rule 1.7.1(2)(a), all written comments (on a 112-d application) must be submitted not more than twenty (20) calendar days after the date of last publication of notice. Therefore, please correct this sentence accordingly. (The Division apologizes for the error that was present on the sample notices provided in the 112-d application form. This error will be corrected.)

Please resend the required notices to the Board of County Commissioners and Conservation District with the corrections described above, and provide proof that this was done. Proof of notice shall be in the form of a return receipt of a Certified mailing or a date-stamped copy of the notice acknowledging receipt by the appropriate local Board.

- 4) Your submittal included proof of filing a copy of the application with the County Clerk and Recorder pursuant to Rule 1.6.2(1)(c), which is required by Rule 6.4.18. However, the affidavit submitted is not signed by the office of the County Clerk and Recorder. Please provide an affidavit or receipt, signed by the office of the County Clerk and Recorder, indicating the date on which the application was placed with their office for public review.
- 5) Pursuant to Rule 1.4.5(2), an application must include all information, attachments, maps, and exhibits, as listed and described in Rules 1.4.1 and 6.4, in order to be considered filed. Exhibits A-S and U are required by Rule 6.4. Your submittal included Exhibits A-T and no Exhibit U. While Exhibit T is not an exhibit required by Rule 6.4, it is clear by the exhibit heading you intended for it to represent Exhibit U. Please include an Exhibit U – Designated Mining Operation Environmental Protection Plan in the application.
- 6) Pursuant to Rule 1.10(1), an applicant will not be required to submit any information (in an Amendment application) which duplicates applicable previous submittals. However, the applicant shall clearly describe where in the original application and supporting documents the information not included in the amendment application, but necessary to render the Amendment technical adequate, may be found. The majority of exhibits included with your submittal state “This exhibit has not changed from the 2012 Mine Plan Amendment”. Please be advised, this statement does not provide enough information for the appropriate materials to be located, as there were three separate Amendment applications submitted and/or approved in 2012 (AM-2,

AM-3, and AM-4). For each exhibit, please specify where in the original permit or subsequent revision the relevant information can be found, and not where another referral exists.

Additional Item (not required for completeness/filing purposes):

- 7) Considering the changes proposed in AM-5, including an increase in permit area in two portions of the site, one of which is adjacent to an existing Environmental Protection Facility (NWRP), and the addition of the Black Forest Mine as a disposal site for radionuclide-impacted alluvial valley soils, some of the exhibits will require updated information to address these proposed changes. The Division believes that Exhibits A, C, E, F, G, L, and U will require updated information to some extent. For example, Exhibit A must include an updated legal description that meets the requirements of Rule 6.4.1. The Mining Plan Map required in Exhibit C and the Reclamation Plan Map required in Exhibit E must, at the very least, be updated to reflect the proposed permit boundary and to show how the proposed new permit areas will be reclaimed. Because mining has ceased, the Mining Plan Map should meet all applicable requirements of Rule 6.4.3 and include locations of existing mine features (e.g., waste rock piles, mine openings), any stockpiling areas, excavation areas, facilities, structures, and roads. Additionally, Exhibit E must, at a minimum, include an updated reclamation plan that describes how the proposed additions to the permit area will be reclaimed. Exhibits E, G, and U must, at a minimum, include updated information that demonstrates activities to occur in the proposed new permit areas will not directly affect surface or groundwater systems, including how any toxic or acid-forming materials will be stored, handled, or disposed of to prevent any unauthorized release of pollutants to the environment.

Your application will not be considered complete for filing purposes until the information listed above (in Items 1-6) is received and found sufficient to begin our technical review. A decision date will be established ninety (90) days from the date of filing.

Per Rule 1.4.1(8), you have 60 days from the date of this correspondence to submit all necessary documents the Division needs for the application to be considered filed, due by **September 29, 2020**. If, by this date, the application has not been determined to be filed, the Division may deny the application.

This letter shall not be construed to mean there are no other technical deficiencies in your application. The Division will review your application for technical adequacy after the filing deficiencies are satisfied.

If you have any questions, you may contact me by telephone at 303-866-3567, ext. 8129, or by email at [amy.eschberger@state.co.us](mailto:amy.eschberger@state.co.us).

Sincerely,



Amy Eschberger  
Environmental Protection Specialist

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Jim Harrington  
Colorado Legacy Land, LLC  
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Encl: 112d Reclamation Permit Application Package

Cc: Elizabeth Busby, Ensero Solutions US, Inc.  
Bill Ray, Ensero Solutions US, Inc.  
Paul Newman, Colorado Legacy Land, LLC  
Eric Williams, Colorado Legacy Land, LLC  
Michael Cunningham, DRMS