



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

August 7, 2020

Mr. Kent Ricken
Colorado Water Protective & Development Assoc.
205 South Main St
Fowler, CO 81039

Mr. Paul Ainsworth/Mr. Jerald Schnabel
Continental Materials Corporation
549 East Cucharas Street
Colorado Springs, CO 80903

**RE: Pueblo West Pit, Permit No. M-1977-573, Incomplete Application for
Transfer of Permit and Succession of Operators—SO-03**

Dear Messrs. Ricken, Ainsworth and Schnabel:

On August 4, 2020, the Division of Reclamation, Mining and Safety received the Application Form for Transfer of Mineral Permit and Succession of Operators from Continental Materials Corporation to Colorado Water Protective & Development Assoc. (CWPDA) for the Pueblo West Pit, Permit M-1977-573. The following items are incomplete for the application to be processed:

1. The Division received the Succession of Operators packet on August 4, 2020 but contained within the packet were only the completed forms pertaining to Pueblo East Pit (M1986-015). It is clear that the intent is to transfer both Pueblo East and Pueblo West Pits. Please submit the completed forms for the transfer of Pueblo West Pit (M1977-573).
2. The incorrect fee amount was submitted with the Succession of Operators Application. The amount submitted was \$249.00 and the correct amount is \$144.00. Please submit a check for the correct amount.
3. A review of the Colorado Secretary of State website shows that Paul Ainsworth is the person of record for Continental Material Corporation not Jerald Schnabel. The Division requires the operator to provide documentation giving the signer, Jerald Schnabel, the authority to sign on behalf of Continental Material Corporation. The authorization document may be in the form of by-laws, resolution, affidavit signed by corporate secretary, certified secretary statement of a notarized statement on company letterhead.



4. A review of the print out from the Colorado Secretary of State website shows that Matthew Proctor is the registered agent for CWPDA not Kent Ricken. The Division requires the prospective successor operator to provide documentation giving the signer, Kent Ricken, the authority to sign on behalf of CWPDA. The authorization document may be in the form of by-laws, resolution, affidavit signed by corporate secretary, certified secretary statement of a notarized statement on company letterhead.
5. Demonstration of the Legal Right to Enter was not provided. Please provide documentation of the legal right to enter from the land and mineral owners of record. This may include a copy of a lease, deed, abstract of title, a current tax receipt, or a signed statement by the landowner(s) and acknowledged by a Notary Public stating that the operator/applicant has legal right to enter to conduct mining and reclamation.
6. No new structure agreements were provided, please provide a list of structures and the associated structure agreements. Where the affected lands are within two hundred (200) feet of any significant, valuable and permanent man-made structure, the applicant shall:
 - (a) provide a notarized agreement between the Applicant and the Person(s) having an interest in the structure, that the Applicant is to provide compensation for any damage to the structure; or
 - (b) where such an agreement cannot be reached, the Applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or
 - (c) where such structure is a utility, the applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have "no negative effect" on their utility.
7. The Division will not provide conditional approval pending a successful closing of a real estate transaction between Continental Materials and CWPDA. The Division recommends submitting a Succession of Operators Application after closing of the transaction.
8. The proposed Financial Warranty to be supplied is a combination of water rights and real estate property in accordance with C.R.S. 34-32-117(3)(b), the statute quoted in the application cover letter provided to DRMS is related to Hard Rock mines but is the same for Construction Materials operations (C.R.S. 34-32.5-117(3)(b)). The Division will not accept this type of warranty because such warranty cannot reasonably be converted to cash within 180 days of forfeiture in accordance with C.R.S. 34-32.5-117(3)(c)(II). Please be

aware that DRMS will require the successor operator to provide an alternative form of financial warranty for the Pueblo West Pit M1977-573.

Please provide the above documents by October 6, 2020. All completed permit documents are required to be submitted for consideration of your Request for Transfer of Mineral Permit and Succession of Operators Application. If additional time is needed to respond, an extension request must be received by our Office by the decision date. If on the decision date, outstanding items remain, and no extension request has been received, your application will be denied and the file terminated. The Division reserves the right to further supplement this document with additional adequacy issues and details as necessary.

Please contact Patrick Lennberg (303) 866-3567 ext 8114 or by email at patrick.lennberg@state.co.us if you have any questions.

Sincerely,



Patrick Lennberg
Environmental Protection Specialist

cc: Jeff Thompson, Financial Assurance Specialist - DRMS
Jared Ebert, DRMS