



September 21, 2020

Gary L. Steen  
Fountain Mutual Irrigation Company  
P.O. Box 75292  
Colorado Springs, CO 80970

**RE: Big Johnson Reservoir, File No. M-2020-028, Receipt of Incomplete 111(1)(b) Construction Materials Reclamation Permit Application**

Mr. Steen:

On September 15, 2020, the Division of Reclamation, Mining and Safety (Division) received your 111(1)(b) Construction Materials Reclamation Permit Application for the Big Johnson Reservoir, located in El Paso County. Preliminary review of the information received determined the following items must be submitted before the Division can consider your application as being complete for filing purposes:

- 1) On page 1 of the application form, under item no. 8 – Location Information, please check the most appropriate box for Quarter/Quarter Section (of center of area where the majority of mining will occur).
- 2) On page 5 of the application form, under Certification, the Applicant/Operator name must be spelled out exactly the same way as it is registered with the Colorado Secretary of State (Fountain Mutual Irrigation Company). This correction must be made in two places on page 5.
- 3) In Exhibit A – Legal Description and Location Map:
  - a) Under section 1(g), please check the most appropriate box for Quarter/Quarter Section (of center of area where the majority of mining will occur).
  - b) Under section 1(i), please provide the nearest town/city and the approximate direction and miles to this town/city from the proposed operation.
- 4) The application must include a fully executed Performance Warranty for the proposed operation. Please submit a fully executed Performance Warranty (see enclosed form).
- 5) The application must include a fully executed Financial Warranty for no less than \$2,500 per acre of affected land (a fraction of an acre is counted as one acre). For the proposed affected area of 30 acres, this means a Financial Warranty in the amount of \$75,000.00 (\$2,500 x 30 acres) must be submitted with the application. Please submit a fully executed Financial Warranty and applicable form for the proposed operation. You can download the appropriate Financial Warranty form from our website at <https://www.colorado.gov/pacific/drms/minerals-program-forms>. Please be advised,



the Division will assess the required Financial Warranty amount for the proposed operation during its adequacy review of the application, and will inform you if this amount exceeds the amount submitted.

Your application will not be considered complete for filing purposes until the information listed above is received and found sufficient to begin our technical review. A decision date will be established fifteen (15) calendar days from the date of filing.

Pursuant to Rule 1.4.1(8), you have sixty (60) days from the date of this correspondence to address any filing deficiencies identified by the Division, due by **November 20, 2020**. If, at the end of the 60-day period the application has not been considered filed by the Division, the application will be denied.

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,

A handwritten signature in blue ink that reads "Amy Eschberger".

Amy Eschberger  
Environmental Protection Specialist

Encl: Performance Warranty form

Cc: Tim Cazier, DRMS  
Michael Cunningham, DRMS



## COLORADO

Division of Reclamation,  
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215  
Denver, CO 80203

### PERFORMANCE WARRANTY

Permittee/Operator: \_\_\_\_\_

Operation known as: \_\_\_\_\_

Permit Number: \_\_\_\_\_

***This form is approved by the Colorado Mined Land Reclamation Board (“Board”) pursuant to C.R.S. 34-32-117 of the Colorado Mined Land Reclamation Act and C.R.S. 34-32.5-117 of the Colorado Land Reclamation Act for the Extraction of Construction Materials.***

All parties are on Notice from this Document that:

The above listed Operator provides this warranty to the Board in conjunction with a reclamation Permit to conduct the above described mining operation on certain lands in Colorado. The “Affected Lands” are described in the above listed reclamation Permit, and include any Permit Amendment(s) approved by the Division of Reclamation Mining and Safety (“Division”).

The Colorado Mined Land Reclamation Act, C.R.S. 34-32-101 *et seq.* (“Hard Rock Act”), and the Colorado Land Reclamation Act for the Extraction of Construction Materials, C.R.S. 34-32.5-101 *et seq.* (“Construction Materials Act”), both require a permit issued by the Board to include a written promise by the Operator to comply with all requirements of the Hard Rock and Construction Materials Acts (referred to herein together as “Acts”).

Through the terms and conditions of this performance warranty and Permit, the Operator agrees to be bound by all requirements of the Acts and all Mineral Rules and Regulations of the Board for Hard Rock, Metal, and Designated Mining Operations (2 C.C.R. 407-1) and all Mineral Rules and Regulations of the Board for the Extraction of Construction Materials (2 C.C.R. 407-4) (referred to herein together as “Rules”).

The Operator hereby provides the Board warranties of performance pursuant to C.R.S. 34-32-117(2), (3), and (4)/C.R.S. 34-32.5-117(2), (3), and (4), and promises the Board it will comply with all applicable requirements of the Acts and Rules.

The Operator hereby promises the Board it will comply with all of the terms of the reclamation Permit, including any Permit Amendment(s) approved by the Division. This performance warranty obligation of the Operator shall continue until the Operator’s liability is released by the Board.

The Operator promises to be responsible for reclamation costs up to the amount established by the Board and incorporates its financial warranty to this performance warranty. The Operator agrees to maintain a financial warranty (or warranties) in good standing for the reclamation costs for the entire life of the



Permit. The amount of the financial warranty shall be sufficient to assure the completion of reclamation of affected lands if the Division has to complete such reclamation due to forfeiture. If the Board determines the Operator is in default under this performance warranty and the Operator fails to cure such default, the Operator's financial warranty shall be subject to forfeiture pursuant to C.R.S. 34-32-118/34-32.5-118.

This performance warranty by the Operator is perpetual and shall remain in full force and effect until all obligations have been met and all associated financial warranty is released by the Board. Any release of liability in a succession of Operators shall comply with C.R.S. 34-32-119/34-32.5-119.

The provisions hereof shall bind and inure to the benefit of the parties hereto and their successors and assigns.

SIGNED, SEALED AND DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Operator: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

#### NOTARIZATION OF OPERATOR'S ACKNOWLEDGEMENT

STATE OF \_\_\_\_\_ )  
 ) ss.

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
(Day) (Month) (Year)

by \_\_\_\_\_ as \_\_\_\_\_  
(Name) (Title)

of \_\_\_\_\_.  
(Operator)

\_\_\_\_\_  
NOTARY PUBLIC

My Commission expires: \_\_\_\_\_

APPROVED:  
State of Colorado  
Mined Land Reclamation Board  
Division of Reclamation, Mining and Safety

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Division Director