



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

November 24, 2020

Miranda Kawcak
Hayden Gulch Terminal, LLC
29515 Routt County Road #27
Oak Creek, CO 80467

**RE: Hayden Gulch Loadout (Permit No. C-1992-081)
Permit Revision No. 2 (PR-2)
Change of Approved Post-Mining Land Use**

Dear Ms. Kawcak:

The Division of Reclamation, Mining and Safety (Division) received Hayden Gulch Terminal, LLC (HGL) application for PR-2 for the Hayden Gulch Loadout on September 22nd, 2020. PR-2 was deemed complete on October 2, 2020. The Division reviewed PR-2 and has the following comments.

1. Please address items of adequacy listed in the Divisions Mid-Term Review No. 6 dated 11/20/2020. Including addressing active Stipulation No. 9.
2. Please update the PR-2 application form with the correct permit number.
3. Please further specify how HGL intends to release and reclaim the acres within the permit boundary. The Permit includes 391.20 acres, 202.1 of which are reported as disturbed. PR-2 proposes to change the post mining land use of 225 acres. SL-2, currently under review, proposes to release 170.3 acres. It is not clear to the Division the intent of HGL for all the acres within the permit.
 - 3.1 Please specify exactly which acres the post-mining land use is being proposed for, the number of those acres that are disturbed, and which of those acres are within the proposed SL-2 bond release area.
 - 3.2 Please update Exhibit 20-1, the Post Mining Land Use Map to clearly show these acres, including labeling the number of acres in each category, including the permit boundary, and including all corner latitude and longitudes so that the Division can verify acres.
 - 3.3 Please update the map key on Exhibit 20-1 to include all colors shown on the map.



3.4 Please identify the ponds proposed to be left in place and the monitoring well on the post mining land use map Exhibit 20-1, if these are intended to become permanent features.

4. Please provide the Division with a letter or other documentation that the proposed change in land use is acceptable to current county/local government zoning designations as required by Rule 4.16.3(1).
5. Per Rule 2.03.6, update the permit text to reflect whether HGL will continue to have some type of right of entry onto the disturbances that the Town of Hayden will take over until such time as DRMS grants a Final Decision on a future Phase I/II/III bond release application for those disturbances.
6. Please include a discussion why the rail ballast areas and any ponds currently approved to be reclaimed that will now be left in place will not be returned to approximate original contour(AOC) as required by Rule 4.14.1(2). This should also include a discussion per Rule 2.05.4(2)(d) as to whether any topsoil is presently stockpiled for eventual re-distribution under the currently-approved reclamation plan, and if so, what the plans will be for that stockpiled topsoil should the Division approve the change in the company's current reclamation plans so that that topsoil is no longer required to be re-distributed.
7. For the two ponds that are currently approved to be reclaimed that will now be left in place, if any runoff from loadout-related disturbances report to those ponds, the company will need to maintain right of entry to those ponds for maintenance until such time as the NPDES outfalls associated with those ponds are terminated or until the requirements of Rule 4.05.2(2) that allow for pond maintenance to be ceased have been met.
8. For the two ponds that are currently approved to be reclaimed that will now be left as permanent structures, the permit should be revised to comply with the requirements of Rules 3.03.1(3)(c), 4.05.9(13) and 4.05.17. If any of the ponds that will be left in place currently expose groundwater, typically a company would need a well permit or an augmentation plan to address any evaporative losses from the surfaces of those ponds; therefore, there should also be a discussion of whether HGL plans to transfer any water rights from the company to the Town so that the Town, once they take over those ponds, will be in compliance with State laws and rules pertaining to augmenting evaporative losses from the ponds' surfaces.
9. Please specific how the monitoring well(s) will be addressed with the proposed change in post mining land use and subsequent proposed bond release. This well will need to be reclaimed or appropriately permitted or transferred.

10. Per Rule 2.05.6(3)(b)(iv), update the text to revise the company's surface water monitoring program if the sediment ponds being purchased by the Town of Hayden are (1) currently included in the company's water monitoring program and (2) will no longer be part of the DRMS water monitoring program.
11. Please include discussion as to why the disturbed areas that HGL wants to convert to recreational use should be exempted from the 10-year reclamation liability period described at 3.02.3(2)(b). The Rules specifically allow for exemptions from the 10-year liability period for "Residential" and for "Industrial or Commercial" post-mining land uses, as well as for reclaimed ponds and ditches (Rule 3.03.1(5)), but not for "Recreation" post-mining land uses. To support a company position as to why the disturbances that will be purchased by the Town of Hayden should be exempt from the 10-year liability period, the company may want to propose that the Recreation post-mining land use will be deemed achieved when (as described in 3.02.3(2)(c)) the land use has "substantially commenced and is likely to be achieved", as is applied under Rule 3.02.3(2)(c) to "Residential" and "Industrial or Commercial" post-mining land uses.
12. Per Rule 3.02.2, update the permit to reflect the amount of reclamation liability reduction that the company believes will occur as a result of the Division's approval of the Permit Revision application.
13. Please provide the Division with a proof of publication.
14. Please update any ownership and controls information that may occur during the review process of this permit revision.

If you have any questions, please contact me.

Sincerely,



Tabetha Lynch
Environmental Protection Specialist