



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

February 11, 2021

Jodi Schreiber  
Fremont Paving and Redi Mix, Inc.  
PO Box 841  
839 Mackenzie Ave  
Canon City, CO 81215

**RE: Preliminary Adequacy Review; 112c Construction Materials Amendment Application (AM-02),  
Boone-Fillmore Pit, Permit No. M-1990-144**

Dear Ms. Schreiber:

On January 6, 2021, the Division of Reclamation, Mining and Safety (Division) deemed the above referenced application complete for the purposes of filing. Pursuant to Rule 1.4 the 90-day decision date for the application was set for April 6, 2021. The following items will need to be addressed to the Division's satisfaction prior to the decision date. If you are unable to satisfactorily address any concerns identified in this review before the decision date, it will be your responsibility to request an extension of the review period. If there are outstanding issues that have not been adequately addressed prior to the end of the review period, and no extension has been requested, the Division may deny this application. In order to allow the Division sufficient time to review your responses to the adequacy issues, please submit your adequacy responses to the Division no later than two weeks prior to the decision date. Subsequent to receipt and review of the Applicant/Operator's response to these items the Division may identify additional adequacy items. Please respond to this Preliminary Adequacy Review with the requested additional/updated information on permit replacement pages and summarize each response in a cover letter titled "Preliminary Adequacy Response; M-1990-144".

**APPLICATION:**

1. The current name of associated with M1990-144 is Boone-Fillmore Pit. Please confirm the name change to Fillmore Pit as indicated on question #2 of the application page.

**EXHIBIT A – Legal Description:**

2. The coordinates of the mine entrance given do not match the mine entrance coordinates give with the updated application page 2. Please update with correct coordinates.



**EXHIBIT C – Pre-mining and Mining Plan Map(s) of Affected Lands (Rule 6.4.3)**

3. Please update the Existing Conditions map to show the currently approved permit boundary. Please be aware that the Division cannot release previously disturbed areas from the permit boundary during the amendment process. Area releases are completed through an area reduction request pursuant to Rule 4.17.
4. Please clearly depict on the Mining Plan Map the area where topsoil and or overburden stockpiles will be located during the mining.

**EXHIBIT D – Mining Plan (Rule 6.4.4):**

5. Will the access road be upgraded or modified as part of the proposed mining activities?
6. Pursuant to Rule 3.1.9, where it is necessary to remove overburden in order to mine the construction material, topsoil shall be removed and segregated from other spoil. Please commit to segregating topsoil and overburden stockpiles.
7. Please clarify what the maximum disturbed acreage will be at any one time.
8. Please clarify what is the proposed affected acreage area?
9. The Operator indicates that a mine highwall will be developed during extraction. Please give the average height of the highwall, the Division will use the dimensions in its bond calculation.
10. The Applicant indicates portable asphalt batch plant with associated tanks will be located within the permit boundary. Please provide the Division with proof of the appropriate Pueblo County zoning or special use permit allowing the asphalt plant, the required Air Pollutant Emission Notice (APEN) permit from the Colorado Department of Public Health and Environment and all other applicable permits to operate the asphalt plant at the site or commit to submitting a technical revision to the permit pursuant to Rule 1.9 prior to operating the asphalt plant.
11. During the most recent inspection of the permit area it was noted that there are several scattered stockpiles of material generated by previous operations at the site please comment on how this material will be affected during mining.
12. Please clarify who is the owner and operator of the Colorado Ditch. If the owner is not Mr. Fillmore the owner should be shown on the Existing Conditions Map where the other owners of record are shown.
13. How close does the Operator intend to get to the Colorado Ditch at any one time?

**EXHIBIT E – Reclamation Plan (Rule 6.4.5):**

14. There is a discrepancy between the depths of overburden to be used as backfill quoted in the text, 3 feet, versus the cross-section on the Reclamation Plan Map which shows 6-inches. Please update to make the two exhibits consistent with one another. If the Operator is uncertain of the depth a range can be used.
15. Please provide a description of how the haul roads, and processing and stockpile areas will be reclaimed.
16. Previous mining operations at the site left behind numerous stockpiles of both overburden, reject and product material. Please commit to not leaving any stockpiles behind at the end of reclamation. Please note a Technical Revision will have to be submitted if stockpiles are going to remain at the end of reclamation.
17. Please clarify that the large stockpile of material located in the southeastern portion of the site will remain for the land owner to sell or will it be consumed during the proposed mining plan. Also, what is the reclamation plan for this pile?
18. The fence along the northern boundary appears to get consumed by mining. Does the Operator plan on replacing the fence? If so, the new fence alignment should be depicted or if the fence will be removed at the land owners request it should be noted here and reflected on the Reclamation Plan Map.

**EXHIBIT F – Reclamation Plan Map (Rule 6.4.6):**

19. Please identify the processing and stockpile areas including their approximate areas.
20. Please identify the large stockpile in the southeastern corner of the site and indicate relevant information from #14 above.
21. Please verify that the fence lines shown in the southern portion of the permit area will remain there or will they change.

**EXHIBIT G – Water Information (Rule 6.4.7):**

22. A review of the DWR website indicates that Mr. Fillmore owns well permit number 6890-F. Please show this well and well 6888-F on the both the Existing Conditions, Mining Plan and Reclamation Plan maps. Please note structure agreements may be required for these structures if they are located within 200 feet of the affected land boundary.
23. Which well does the Operator plan on getting water for the operation from?
24. Please provide a copy of the agreement with Arkansas Groundwater Users Association to use well water for indicated purposes.

25. Depending on which well the Operator plans on collecting the water from will any new roads be constructed to access the well head?
26. Please incorporate comments made the Division of Water Resources, see Attachments, regarding the exposure of groundwater, storm water detention structures and source of water used for dust control into this section.

**EXHIBIT N – Source of Legal Right to Enter (Rule 6.4.14):**

27. 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). This may include a copy of a lease, deed, abstract of title, a current tax receipt, or a signed statement by the Landowner and acknowledged by a Notary Public stating that the Operator/Applicant has legal right to enter to conduct mining and reclamation.

**Other:**

28. Please provide proof of the local newspaper publication required by Rule 1.6.5. Proof of publication may consist of either a copy of the last newspaper publication that includes the date published, or a notarized statement from the newspaper.
29. Please provide proof that the Owners of Record of all land surface within 200 feet of the boundary of the affected lands received a copy of the notice in Rule 1.6.2(1)(d) immediately after the first publication.
30. Pursuant to Rule 1.6.2(2), please demonstrate that the Applicant's response to these adequacy issues have been placed with the application materials previously placed with the County Clerk or Records Office, and made available for public review

Please respond to these adequacy issues no later than two weeks before the decision deadline, to ensure ample time for the Division to complete its review prior to its decision deadline. The decision deadline on this application is April 6, 2021. If additional time is required to respond to these adequacy issues please submit a written request for extension of the review period. The Division reserves the right to further supplement this document with additional adequacy issues and details as necessary.

If you need additional information or have any questions, please contact me at Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at **303-866-3567 x8114**, or by email at [patrick.lennberg@state.co.us](mailto:patrick.lennberg@state.co.us).

Sincerely,



Patrick Lennberg

Boone-Fillmore Pit  
AM-02  
February 11, 2021  
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Environmental Protection Specialist

Attachments: DWR Response to Reclamation Permit Amendment Application Consideration  
SHPO Response to Reclamation Permit Amendment Application Consideration

cc: Jared Ebert; Division of Reclamation, Mining & Safety

ec: Ron Fillmore, [ronfill@hotmail.com](mailto:ronfill@hotmail.com)  
Jodi Schreiber, Fremont Paving and Redi Mix, Inc., [jodi@arycorp.com](mailto:jodi@arycorp.com)

## **Attachments**



## Response to Reclamation Permit Application Amendment

DATE: February 8, 2021

TO: Patrick Lennberg, Environmental Protection Specialist

CC: Division 2 Office; District 14 Water Commissioner

FROM: Ivan Franco, PE

RE: Fillmore Pit, File No. M-1990-144  
Operator: R. Lewis Fillmore  
Contact: Jodi Schreiber, (719) 529-0916  
Sec. 24, Twp. 21S, Rng. 61W, 6<sup>th</sup> P.M., Pueblo County

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### CONDITIONS FOR APPROVAL

- ☒ The proposed operation does not anticipate exposing groundwater. Therefore, exposure of ground water must not occur during or after mining operations.
- ☒ If storm water is contained on-site, the applicant should be aware that, unless the storm water detention structures can meet the requirements of a "storm water detention and infiltration facility" as defined in section 37-92-602(8), Colorado Revised Statutes, the structure may be subject to administration by this office. The applicant should review DWR's *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado* (available at: <http://water.state.co.us/DWRIPub/Documents/DWR%20Storm%20Water%20Statement.pdf>) to ensure that the notification, construction and operation of the proposed structure meets statutory and administrative requirements. The applicant is encouraged to use *Colorado Stormwater Detention and Infiltration Facility Notification Portal*, located online at: <https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>, to meet the notification requirements.
- ☒ Other: All water used on-site shall be a legal supply of water provided by an appropriate supplier. The applicant shall confirm the legality of any proposed source of water supply with the Division of Water Resources prior to use in the operation.

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**COMMENTS:** The local Water Commissioner, Steve Stratman, may be contacted at (719) 250-1657 or [Steve.Stratman@state.co.us](mailto:Steve.Stratman@state.co.us) regarding legal water supplies in the area.





Patrick Lennberg  
Division of Reclamation, Mining and Safety  
1313 Sherman Street, Room 215  
Denver, Colorado 80203

Re: Boone-Fillmore Pit – File No. M-1990-144, R. Lewis Fillmore Amendment Application (AM-2) (HC# 79112)

Dear Mr. Lennberg:

We received your correspondence on January 06, 2021 initiating consultation with our office in accordance with the Colorado State Register Act (Colorado Revised Statute (CRS) 24-80.1).

A search of the Colorado Cultural Resource Inventory database indicates that three cultural resource inventories have been conducted in or near the proposed permit area. In addition, the following two sites have been recorded there in:

Site Number	National/State Register Eligibility	Recording/Assessment Date
5PE.1665.1	106-Officially Eligible	6/29/1994
5PE.1667	106-Officially Eligible	4/10/2014
5PE.2036	106-Officially Eligible	7/2/1998

As none of the above properties have been nominated for inclusion in or accepted by the state register, additional protection is not required by this act. Nevertheless, we recommend avoidance of all officially eligible, field eligible, and officially needs data sites, if possible. Please keep in mind that our files contain incomplete information for this area, as most of Colorado has not yet been inventoried for cultural resources. As a result, there is the possibility that as yet unidentified cultural resources exist within the proposed permit area. Should human remains be discovered during mining activities, the requirements under State law CRS 24-80 part 13 apply and must be followed.

Thank you for the opportunity to comment. If we may be of further assistance, please contact Holly McKee-Huth, Cultural Resource Information/106 Compliance at (303) 866-4670/ [holly.mckee@state.co.us](mailto:holly.mckee@state.co.us).

Sincerely,

Steve Turner, AIA  
State Historic Preservation Officer