



February 11, 2021

J. C. York
J&T Consulting, Inc.
305 Denver Ave, Suite D
Fort Lupton, CO 80621

**RE: West Farm Pit (Permit No. M-2008-078)
Amendment No. 2 (AM-02)
City of Lamar Comment Letter**

Dear Mr. York:

On February 10, 2021, The Division of Reclamation, Mining and Safety (Division) received a comment letter from attorney Lance P. Clark, who is representing the City of Lamar, CO. The comment was received within the public comment period which began on December 31, 2020 and closed on February 10, 2021. A copy of the comment letter is enclosed for your records.

The Division requests that you reach out to Mr. Clark to address the concerns outlined in his letter. Please inform the Division of how the operator intends to address the issues raised by the City of Lamar.

If you have any questions, please contact me at (720) 774-0040 or brock.bowles@state.co.us.

Sincerely,

Brock Bowles
Environmental Protection Specialist

Enclosure: comment letter: Steerman Law Offices, Feb 9, 2021

CC: Michael Cunningham, DRMS
Amy Eschberger, DRMS



STEERMAN LAW OFFICES
ATTORNEYS AND COUNSELORS AT LAW

DONALD L. STEERMAN – Managing Attorney
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LANCE CLARK – Associate Attorney
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REG NO 44587

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Brock F. Bowles
Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, CO 80203

February 9, 2021

RE: Concerns for Mining Activities within 200 feet of City Property (Permit No. M-2008-078)

To Mr. Bowles:

I am the attorney for the City of Lamar (“City”), a Home Rule Municipal Charter. I am writing on behalf of the City Council to express the City’s comments and concerns about Prowers Aggregate Operators’ mining operation near the City’s Sewer Lagoons.

Prowers Aggregate Operators, LLC (“PAO”) has applied for an amendment to their current State of Colorado Division of Reclamation, Mining, and Safety (“DRMS”) Reclamation Permit M2008-078. The Permit allows sand and gravel mining on property within 200 feet of City owned structures and property. Specifically, the City’s Sewer Lagoons are located north of the proposed amended phase area. The Colorado Mined Land Reclamation Act provides protection of City property, and specific protection for City structures located within 200 feet of the mining activities.

The City has concerns about the impact the mining operation will have on monitoring the levels in, on and around the Sewer Lagoons. Additionally, City is concerned about being able to expand the already outdated Sewer Lagoons. With new residents and businesses coming into the City, an expansion and improvements to the City sewer system is necessary.

The City continues to have ongoing conversations with PAO regarding a potential settlement on the issue. The City remains hopeful that an agreement can be reached regarding the City’s concerns. If an agreement can be reached where both parties are satisfied, our concern will be

withdrawn. The City, however, would like to preserve its opportunity to be heard on this matter if an agreement cannot be reached.

Sincerely,

A handwritten signature in black ink, appearing to read "Lance P. Clark". The signature is fluid and cursive, with a large initial "L" and a stylized "P" and "C".

Lance P. Clark

CC:
City Council
City Administrator

AGREEMENT

WHEREAS: The City of Lamar, Colorado (City) owns and operates a sewage treatment facility consisting of three inter-connected sewer lagoons on land described as:

The North 1650 feet of the E $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 28 and the North 1650 Feet of the SW $\frac{1}{4}$ of Section 27, all in Twp. 22 S, Rng. 46 W. of 6th P. M.; Prowers County, Colorado.

WHEREAS: Prowers Aggregate Operators, LLC (PAO) owns land bordering the south property line of the above described premises for which land PAO has State Permit No. M2008-078 which allows PAO to carry on a mining operation on its land within 200 feet of any structures existing on the City's land; and

WHEREAS: The operation and maintenance of the Lamar City Sewer Lagoons are monitored by the Colorado Department of Health and Environment according to the United States Environmental Protection Agency rules and regulations and statutes:

IT IS HEREBY AGREED AS FOLLOWS:

1. PAO will conduct aggregate mining operations on its real property which borders the City sewer lagoon property described above on the south property line of the said property.
2. Pursuant to Colorado laws and regulations, PAO agrees not to conduct mining activities any closer than within two hundred feet of the structures existing on the City's land, specifically the monitoring well located near the south boundary line of the said City property, and the fence on the south boundary of the said City property, according to Exhibit A, the map attached hereto. PAO will not block or impair in any way the City's access road to the City sewer lagoons from County Road HH.5 as the access road is shown by Exhibit B.
3. PAO agrees to indemnify and hold the City harmless from any and all damages, claims, law suits, expenses, fines or assessments, attorney fees, court costs, administrative agency costs and fees, and/or repairs, provided, the proximate cause of the damages, etc., are PAO's mining operations conducted adjacent to or near the said City sewer lagoons.
4. The City agrees to indemnify and hold PAO harmless from any and all damages, claims, law suits, expenses, fines or assessments, attorney fees, court costs, administrative agency costs and fees, and/or repairs, provided, the proximate cause of the damages, etc., are the City's operations conducted adjacent to or near PAO's mining activities.
5. This Agreement shall be binding on the assigns and successors of the parties hereto and shall run with the title to the lands owned, leased, or operated by the City and PAO in the said Sections 27 and 28.
6. The signors here below state they have lawful authority to enter into this Agreement and to bind the respective parties to this Agreement.

Sincerely,


Karl Nyquist, Manager
Prowers Aggregate Operators, LLC

1/5/21
Date


State of Colorado
County of Jefferson

The foregoing instrument was acknowledged before me this 5th day of January, 2021 (date)
by Karl Nyquist (name of person acknowledging).


(Notary's official signature)



5/15/2024
(Commission expiration)

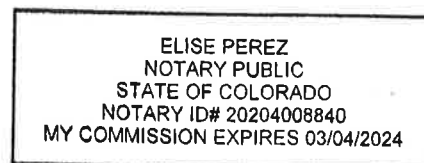

City of Lamar

2/10/2021
Date

State of Colorado
County of Prowers

The foregoing instrument was acknowledged before me this February 10th 2021 (date)
by Kirk Crespín (name of person acknowledging).


(Notary's official signature)



03-04-24
(Commission expiration)