



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

March 3, 2021

Trent Irick
Ames Construction, Inc.
18450 E 28th Ave
Aurora, CO 80011

**Re: Hofacker Property Borrow, Permit M-2021-013;
Preliminary Adequacy Review**

Dear Mr. Irick,

The Division of Reclamation, Mining and Safety (DRMS) has completed its preliminary adequacy review of your Special 111 Construction Materials Reclamation Permit Application package for the Hofacker Property Borrow, File No. M-2021-013. The application was received on February 19, 2021 and called complete for review on February 23, 2021. The decision date for this application is March 10, 2021. **Please be advised that 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 will deny this application.**

The review consisted of comparing the application content with specific requirements of Rules 3, 6.1, 6.2, 6.3 and 6.5 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (Rule). Any inadequacies are identified under the respective exhibit heading along with suggested actions to correct them.

APPLICATION

1. P. iii, Performance and Financial Warranties. The second sentence at the top of p. iii of the 111 application states: "The application MUST also include a fully executed financial warranty in the amount of \$2,500 per acre of affected land (a fraction of an acre is counted as one acre for calculation)." The DRMS requires original signatures for both the financial warranty and performance warranty. Only copies were provided with the application. The DRMS also requires an "Affidavit of Authority to Execute Financial Warranty Documents" be provided with financial warranties. This was omitted from the application package. Please provide the following:
 - a) The Financial Warranty with original signatures,



- b) The Performance Warranty with original signatures,
 - c) A signed Affidavit of Authority to Execute Financial Warranty Documents with original signatures.
2. P. 1, Item 9 Location Information. Based on the mapping provided in the application submittal, it appears the site is in the southwest quarter of Section 10, rather than the northeast quarter as indicated on the application form; and that it is in the northeast quarter of the southwest quarter of Section 10, rather than the southwest quarter/quarter, also as indicated. Please resubmit page 1 of the application form with the corrected location information.
3. P. 6, Corporate Secretary Signature. The signature for the corporate secretary is blank. This signature is required for corporations. Please provide a corrected page 6 of the application form with the corporate secretary's signature and corporate seal. If there is no corporate seal, please indicate as much.

6.3.1 EXHIBIT A – Legal Description and Location Map

4. Entrance Location. Pursuant to Rule 6.3.1(1), the location of the main entrance to the mine site is to be included in Exhibit A and reported as latitude and longitude, or the Universal Transverse Mercator (UTM) Grid as determined from a USGS topographic map. Please resubmit either or both of the Exhibit A maps with an entrance location consistent with that stated in Item 10 on p. 2 of the Application Form.
5. Adjacent Property Owners. Pursuant to Rule 6.3.1(3), the names of all immediately adjacent surface owners of record shall also be shown in Exhibit A. Only the land owned by Eugene Hofacker is identified. Please provide Exhibit A maps identifying all immediately adjacent surface owners of record.

6.3.2 EXHIBIT B – Site Description

6. Permanent man-made structures. Rule 6.3.2(b) requires any permanent man-made structures within two hundred (200) feet of the affected area and the owner of each structure be identified. Each structure should be located on Exhibit E – Map. The DRMS considers fences, canals, improved roads and utilities to be permanent man-made structures. Please also include the ROW (and other) fences, irrigation canal/ditch on the south side, overhead utility line poles within 200 feet, other permanent outbuildings (seven are indicated on the existing conditions map) owned by Mr. Hofacker, and both Larimer County Road 5J and I-25 in the list on Exhibit B. Please be aware all of these structures must be identified on the Exhibit E map and an attempt to obtain structure damage compensation agreements must be demonstrated.

6.3.3 EXHIBIT C – Mining Plan

7. Dimensions of land disturbance. It's not clear if the entrance and exit roads (totaling ~0.2 acres) shown on both the mine and reclamation plan maps in Exhibit E are included in the affected area. As these are considered new roads for the mine site, the DRMS considers these to be affected area required to be included in the permitted area. Please clarify whether these roads were included in the 8.7 acres listed on p. 1 of the Application Form and in paragraph (f). If not Please resubmit a corrected page 1 of the Application and Exhibit C.
8. Haul road dimensions. Paragraph (g) states a small haul road will be built. Please clarify if this statement refers to the aforementioned entrance and exit roads. If not, please resubmit the mine and reclamation plan maps in Exhibit E showing the location of the small haul road.

9. Surface water disturbance. Paragraph (i) states groundwater will not be encountered, but does not discuss surface water. Based on the reclamation plan map in Exhibit E, the grade of the pit floor is towards the south at a 1% grade, towards the irrigation ditch/canal. Please describe how the ditch/canal will be protected from eroded sediment during operations and post closure, prior to the re-establishment of vegetation.

6.3.4 EXHIBIT D – Reclamation Plan

10. Site revegetation. Paragraph (c) on p. 3 of the Reclamation Plan references the “reclamation plans to be utilized on the Lemay Realignment” and was not included in the submittal, which may or may not address the missing information required by Rule 6.3.4(1)(c). Please specify the following information:
- a) State the thickness of plant growth medium to be replaced.
 - b) Explain how the seedbed will be prepared to eliminate compacted conditions (e.g., plowed, chiseled, disced).
 - c) State the grass, forb, shrub and tree species to be planted and the applicable quantities. Specify the quantity of each grass and forb species as pounds of pure live seed per acre.
 - d) Specify the application method for grass and forb seeding. (*Note: if the seed is to be broadcast, the application rate shall be twice the rate required for seed drilling*).
 - e) If mulch is needed, specify the kind to be used, the crimping method, and rate of application.
11. Cost Estimate. Rule 6.3.4(2) requires applications provide an estimate of the actual costs to reclaim the site based on what it would cost the State of Colorado using an independent contractor to complete reclamation. The exhibit indicates the use of a Cat 623 scraper and a D6 dozer, as well as suggesting seedbed preparation, application of soil amendments, seed and mulch; yet only proposes mobilizing two pieces of equipment. This rule also specifies including indirect costs. Please provide information on the type of equipment planned for seedbed preparation, and the application of seed, mulch and soil amendments. (*Note: the reclamation cost estimated by the DRMS will include indirect costs.*)
12. CDI quote. Section 2 on p. 3 of Exhibit D indicates the CDI reclamation is for 8.0 acres. The application form states the permit area is 8.7 acres and based on your response to Comments 7 and 8 above, may be much closer to 9 acres. Please explain why only 8 acres are costed for re-seeding in Section 2.
13. Dryland Pasture Mix. The “Buffalo Brand Seed” mix provided is vague in that it does not specify pounds of pure live seed or indicate a specific seed rate or application method as discussed in Comment 10c and d above.

6.3.5 EXHIBIT E – Map

14. Map requirements. Rule 6.2.1(2) requires maps must be prepared and signed by a registered land surveyor, professional engineer, or other qualified person; and give the date prepared. The two maps submitted in Exhibit E are not signed and the date is too small to read. The resubmitted maps must be signed by the engineer, surveyor or other qualified person that prepared them and the date must be legible.
15. Map information. Exhibit E maps must include the following:

- a) A labeled permit boundary which must incorporate all the affected area (*Note: the affected area includes all the area to be mined as well as haul and access roads that are newly created or improved for the mine operation*);
- b) Label the names of owner(s) of record of the surface of the affected area and of the land within two hundred (200) feet of the affected area, identify the owner of the substance to be mined, and the type of structure and owners of record of any permanent or man-made structures within two hundred (200) feet of the affected area (including the box culvert which is off the map and other structures listed in Comment 6 above);
- c) Outline and label all major surface features to be used in connection with the proposed operation such as: existing and proposed roads, pit boundary, topsoil stockpiles, overburden stockpiles, product stockpiles, waste rock fills, stream channels, buildings, processing plant, underground openings such as adits or ventilation facilities, ponds, impoundments, dewatering pumps, diversions or waste disposal areas;
- d) Indicate the direction that construction material extraction will proceed;
- e) The permit boundary must also be shown on the reclamation plan map.

Please provide maps that include all items a through e above.

6.3.6 EXHIBIT F – Other Permits and Licenses

16. Larimer County Permit. Does Larimer County require a permit?

6.3.11 EXHIBIT K – Terms of Governmental Contract

17. Government Contract. The executed government contract with the City of Fort Collins was provided via email on February 26, 2021. No response is required.

6.3.11 EXHIBIT L – Permanent Man-made Structures

18. Permanent Man-Made Structures. For any significant, valuable and permanent man-made structure within 200 feet of the affected area, Rule 6.3.12 requires the applicant to:

- 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 (*documentation demonstrating the attempt to obtain the agreement is required*), 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.

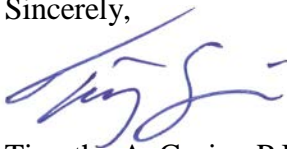
The three structures listed on the provided agreement with Eugene Hofacker must be identified on the Exhibit E maps. Please provide the notarized agreements for the other structures discussed in Comment 6 above; or if agreements cannot be obtained, demonstrate an attempt was made (certified mail receipts are acceptable) and provide an appropriate engineering analysis demonstrating these structures will not be damaged by the proposed operation. This may be similar to the letter provided Horrocks Engineers for the "North Poudre Irrigation Company Box Culvert". However, in order to accept this type of letter analysis, it must be demonstrated that there was an attempt to obtain the damage compensation agreement. Please

also provide documentation demonstrating an attempt to obtain the damage compensation agreement for the box culvert.

Please be advised the Hofacker Property Borrow 111 Application may be deemed inadequate and the application may be denied on **March 10, 2021** unless the abovementioned adequacy review items are addressed to the satisfaction of the DRMS. If you feel more time is needed to complete your reply, the DRMS can grant an extension to the decision date. This will be done upon receipt of a written waiver of your right to a decision by March 10, 2021 and request for additional time. This must be received no later than the deadline date.

If you have any questions, please contact me at (303) 328-5229 [cell].

Sincerely,

A handwritten signature in blue ink, appearing to read 'Timothy A. Cazier', with a stylized flourish at the end.

Timothy A. Cazier, P.E.
Environmental Protection Specialist

ec: Sara Stevenson-Benn, DRMS
DRMS file
Kirk Bergstrom, Ames Construction