



April 20, 2021

Thomas O'Rourke  
O'Rourke Excavating, Inc.  
140 Daniel Lane  
South Fork, CO 81154

**RE: Schoen Farm, File No. M-2020-062 , Construction Materials Limited Impact (110) Reclamation Permit Application Adequacy Review**

Dear Mr. O'Rourke:

The Division of Reclamation, Mining and Safety (Division) is in the process of reviewing the above referenced application in order to ensure that it adequately satisfies the requirements of the Colorado Land Reclamation Act for the Extraction of Construction Materials (Act) and the associated Choose an item. (Rules). During review of the material submitted, the Division determined that the following issue(s) of concern shall be adequately addressed before the application can be considered for approval.

**1. Rule 6.3.2 Exhibit B Site Description:**

- a. Please provide an estimated depth to groundwater and any available information to support that estimate. The estimate should also include an approximate flow rate and direction of the groundwater.
- b. While a wildlife statement prepared by Colorado Parks and Wildlife (CPW) is not required for 110 operations, the Applicant may contact the local CPW Representative to verify that no critical or important wildlife habitats or wildlife species will be impacted by the proposed operation. Please clarify if the Applicant intends to contact CPW. If the applicant does not wish to contact CPW please provide a brief narrative of the wildlife species and habitat on site pursuant to Rule 6.3.2 (d)
- c. Please provide the Division with the GPS coordinates of the corner points of the Permit Boundaries. A digital KMZ file, transmitted via email, for use in Google Earth would also be acceptable

**2. Rule 6.3.3 Exhibit C Mining Plan:**

- a. Item 3, c, ii indicates that temporary processing plants may be intermittently on site. Please commit to ensuring that any processing plant operating on site will possess proper secondary containment structures for any applicable hazardous materials of that equipment to prevent impacts to prevailing hydrologic balance pursuant to Rule 6.3.3(l)
- b. Item 5, a, indicates that 400 CY of soil will be salvaged for reclamation. Please specify if that is total soil salvaged for the entire site, or soil salvaged for each phase of disturbed area. If that applies to the soil salvaged for each phase of disturbed area please further clarify the dimensions and or acreages of area to be worked at any one time, resulting in a maximum



allowed disturbance. If this volume is for the total disturbed area to be reclaimed please demonstrate that 400 CY is sufficient to achieve a topsoil depth of 4 inches during reclamation. If additional topsoil is required please specify the deficit.

- c. Please specify the thickness of the deposit to be mined in accordance with Rule 6.3.3(d) and clarify the maximum depth of the mined areas.
- d. Item 7 proposes that 3 strand barbed wire fencing and livestock gate may be installed as required by the landowner. Please clarify and commit if the fencing and gate will or will not be installed, if it will be installed please provide the linear footage of fencing required pursuant to rule 6.3.3 (e). Please note if the rest of the property is used for livestock the fencing and gate may be useful as exclusion fencing during the reclamation process.
- e. Item 7 also mentions that a scale will be located on site however the scale is not included in the narrative nor depicted on the Mining Plan Map in Exhibit E. Please clarify if a scale will be located on site, clarify if the scale will be above or below grade, if below grade specify the dimensions of the excavation required and update the Mining Plan Map in Exhibit E to reflect the scales' location.
- f. Item 11 indicates that water required for the mining operations will be obtained from irrigation water rights owned by the landowner, through a Temporary Substitute Water Supply Plan. Please provide documentation of the Temporary Substitute Water Supply Plan clearly adjudicating the surface irrigation water for industrial use. If the SWSP that re-adjudicates the use of the water cannot be obtained, an alternative source of water may be required. Also, item 11 references an irrigation ditch located on the east edge of the permit area, however no ditch is indicated anywhere else in the application. Please clarify the location of the referenced ditch and if necessary, update the Maps in Exhibit E to depict it's location.
- g. Item 11 also indicates that a retention basin will be located in the southwest corner of the permit area, however no narrative or depiction of the basin is included in Exhibit C or E. Please Clarify the details of the mentioned retention basin and update the maps in Exhibit E to depict its location
- h. In addition to item 1, a of this review please provide the estimated depth to groundwater, including estimates of flow rate and direction pursuant to Rule 6.3.3(i).
- i. Item 12 of this review discusses a storm water system that includes various temporary detention basins. Please provide details on the number of basins to be constructed, their location, size and capacity. Please also commit to ensure discharge, evaporation or infiltration of any retained storm water within 72 hours in compliance with Colorado Water Law. The Mining Plan in Exhibit E should also be updated to depict the location of all necessary storm water control features on site.
- j. Please provide a weed management plan to be followed during mining and reclamation.

3. **6.3.4 Exhibit D Reclamation Plan:**

- a. Item 2 of Exhibit D indicates that reclamation will be done in accordance with "Exhibit D (Landfill Backfill Sand and Gravel Plant) of the lease between Landowner and O'Rourke." Please clarify what this statement is in reference to, and it's applicability to the Reclamation Plan.
- b. Item 3, c of Exhibit D specifies the use of clean fill including earth and other materials from off-site as backfill. Use of offsite fill material is allowed under Construction Materials Rule 3.1.5(9), however all terms of Rule 3.1.5(9) must be satisfied prior to importation. Please provide a commitment to provide notice to the Division addressing items a – f of Rule 3.1.5(9) prior to importation of material from each different source.
- c. Please specify if the final reclamation grade of 5H: 1V will be achieved by backfilling or slot dozing and slope reduction.
- d. The entire narrative of Exhibit D is in support of a post mining land use of cropland, however some materials mention the installation of a center pivot irrigation system. Please clarify if any infrastructure for cropland, be it center pivot system or irrigation furrows, will be installed as a component of reclamation.
- e. Please specify the type and amount per acre of fertilizer to be applied as mentioned in item 4,c,ii,5.
- f. Item 4, c, ii, 6 implies that the landowner will perform his own planting of crops, meaning there is no revegetative component of the reclamation plan, and assume the responsibility of weed control. Please provide a signed agreement with the landowner agreeing to these conditions.
- g. Item 5 indicates that most storm water controls will be removed during reclamation. If any storm water control devices are to remain post reclamation, please specify them and reflect their location on an updated Reclamation Plan Map in Exhibit E.

4. **6.3.5 Exhibit E Map:** Based on the items of this review, please updated the Mining and Reclamation Plan Maps. Please note that they should also include all required elements of Rule 6.2.1 and 6.3.5. The maps may be too cluttered to be depicted on one 8.5"x11" sheet, in which case various maps or maps of a smaller scale or maps formatted to an 11x17" sheet may be appropriate.

5. **6.3.9 Exhibit I Proof of Filing with County Clerk:** While an image of the notice to the County Clerk of filing was included in Exhibit I, it was not signed or certified that it was received. Please provided proof of filing the application with the County Clerk in the form of a signed affidavit or receipt pursuant to Rule 6.3.9.

6. **6.3.10 Exhibit J Proof of Mailing of Notices to Board of County Commissioners and Soil Conservation District:** While proof of mailing and of the notice sent was included in the application, please provide the delivery confirmation for notices sent to the Rio Grande County Board of County Commissioners and the Soil Conservation District.

7. **6.3.12 Exhibit L Permanent Man-made Structures:**

- a. Images of the notarized letter from the San Luis Valley Rural Electric Cooperative were included with the application however are difficult to read. Please provide full size color copies of the agreement for the file.
- b. Please note that the engineering evaluation provided in item 3 of Exhibit L will suffice for a structure agreement for County Road 15.

Please submit your responses to the above listed issues by Tuesday, April 27, 2021 in order to allow the Division sufficient time for review. If more time is needed to prepare responses to these items, please submit a Decision Date Extension Request, in writing, to the Division on or before Friday May 1, 2021. The Division will continue to review your application and will contact you if additional information is needed.

If you require additional information, or have questions or concerns, please contact me at the Division's Grand Junction Field Office, by phone at 303-866-3567 Ext. 8187 or by email at [lucas.west@state.co.us](mailto:lucas.west@state.co.us).

Sincerely,



**Lucas West**

Environmental Protection Specialist  
Division of Reclamation, Mining and Safety

Cc: Travis Marshall, Senior Environmental Protection Specialist

Ec: Nathan Barton, Wasteline Inc.