



April 27, 2021

Sean Austin  
The Denver Brick Company  
3024 Acme Brick Plaza  
Fort Worth, TX 76109

Harold Stickler  
General Shale Brick, Inc.  
1845 W. Dartmouth Ave.  
Denver, CO 80110

**RE: Dawson Mine, Permit No. M-1977-392, Incomplete Application for Transfer of Permit and Succession of Operators (Revision No. SO-01)**

Dear Mr. Austin and Mr. Stickler:

On April 20, 2021, the Division of Reclamation, Mining and Safety (Division) received your Application Form for Transfer of Mineral Permit and Succession of Operators from The Denver Brick Company to General Shale Brick, Inc. for the Dawson Mine, Permit No. M-1977-392. The following items are incomplete for the application to be processed:

- 1) On Page 1 of the application form, under Permittee Information, the Company Name is listed as “Denver Brick Company”. However, the Permittee name is “The Denver Brick Company”. Please correct this item accordingly.
- 2) On Page 6 of the application form, under Designation of Review Timeline, the Permittee and Prospective Successor have chosen to waive the right to a decision on the application within 30 days. This means the Division will calculate the required Financial Warranty for the operation prior to issuing its decision on the application. However, the person that signed for the Permittee, Ed Watson, is not the current Permittee contact on file with our office, which is Richard Murphy. Additionally, this entity is not listed as the registered agent for the company on the Colorado Secretary of State’s (CSOS) website. Therefore, please either have the current Permittee contact, Mr. Murphy, provide any required signatures or initials throughout this application, or provide an Affidavit of Authority (see enclosed from) confirming the signing entity is authorized to sign documents on behalf of the company.
- 3) On Page 8 of the application form, under Applicant’s Agreement to Request Transfer of Mineral Permit and Succession of Operators, the Permittee name is listed as “Denver Brick Company, as assignee of Denver Brick & Pipe Company”. However, the Permittee name is “The Denver Brick Company”. Please correct this item accordingly.



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- 4) On Page 9 of the application form, under the Permittee section, the Name of Permittee is listed as "Denver Brick Company, as assignee of Denver Brick & Pipe Company". However, the Permittee name is "The Denver Brick Company". Please correct this item accordingly. Additionally, the Signature of Officer line is signed by Ed Watson. As mentioned above, the entity signing on behalf of the Permittee throughout the application must either be the current Permittee contact, Richard Murphy, or the registered agent for the company on the CSOS website. For any other entities, an Affidavit of Authority must be provided confirming the signing entity is authorized to sign documents on behalf of the company.
- 5) On Page 9 of the application form, under the Prospective Successor section, the Signature of Officer line is signed by Kevin Ham. However, the Permittee contact on file with our office for General Shale Brick, Inc. is Harold Stickler. Additionally, this entity is not listed as the registered agent for the company on the CSOS website. Therefore, please either have the current Permittee contact, Mr. Stickler, provide any required signatures or initials in this application, or provide an Affidavit of Authority confirming the signing entity is authorized to sign documents on behalf of the company.
- 6) On Page 9 of the application, under the Notary for Permittee section, the Permittee name is written as "Denver Brick Company". However, the Permittee name is "The Denver Brick Company". The Permittee name must be written exactly the same way throughout the application. Please correct this item accordingly.
- 7) On page 13 of the application, on the Performance Warranty form, under the Notarization of Operator's Acknowledgement section, the company name is listed as "General Shale". Please be advised, the company name must be written exactly the same way throughout the application and as it is registered with the CSOS. Therefore, please revise the company name to "General Shale Brick, Inc.".
- 8) The Prospective Successor must demonstrate (in this application) they have obtained a legal right of entry from any and all surface and minerals rights owners of the affected lands, independent of the current Permittee. This may be a copy of an access lease, deed, abstract of title, current tax receipt, or a signed and notarized statement by the property owner(s) stating the Prospective Successor has a legal right to enter the affected lands to conduct mining and reclamation. Two documents were provided in the application: a Lease Assignment – Solid Minerals document assigning the Permittee's minerals lease with the Colorado State Land Board to the Prospective Successor, and an Access Agreement between the Permittee and Florence Pritchard for use of the road through Pritchard's property to access the mine site. The Division has the following comments:
  - a. Please provide a list of all surface and mineral owners of record to the affected lands. The Prospective Successor must provide demonstration of its legal right to enter for all owners of record to the affected lands, including the surface owner(s), and regardless of whether the Prospective Successor owns the affected lands.

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- b. The Lease Assignment document does not appear to be fully executed as it has not been signed by the Colorado State Land Board. Per the document itself, "the State Land Board must approve this Assignment by execution below before this Assignment becomes effective". Therefore, the Division cannot accept this document as evidence of the Prospective Successor's legal right of entry to the affected lands. Please provide a fully executed copy of this document.
  - c. The Access Agreement is between the current Permittee and Florence Pritchard. Please provide an updated Access Agreement for the Prospective Successor. Additionally, the document must be notarized in order for the Division to accept it as demonstration of legal right of entry. (It should be noted, the Division's right of entry requirements only apply to the affected lands; therefore, if the portion of the road located on the affected lands is not owned by Mr. Pritchard, then the Division does not require a copy of the Access Agreement.)
- 9) The Prospective Successor must provide structure agreements (see enclosed form) for any structures located on or within 200 feet of the affected lands (e.g., fences, roads, bridges, culverts, wells, above ground or below ground utilities). However, no structure agreements were included with the application. While existing structures will be assessed during the site inspection (to be scheduled once the application is called complete), the Division is currently aware of Co Rd 73 which runs through the property. Therefore, at a minimum, the Prospective Successor will need to provide a structure agreement for this road.

Your application will not be considered complete until all deficiencies identified above have been addressed. You have 30 days from the date of this letter, by **May 27, 2021**, to submit all required completeness items. If, by that date, the Division has not received all necessary items to call the application complete, the application may be denied.

If you have any questions, you may contact me by telephone at (303) 866-3567, ext. 8129, or by email at [amy.eschberger@state.co.us](mailto:amy.eschberger@state.co.us).

Sincerely,



Amy Eschberger

Environmental Protection Specialist

Encls: Affidavit of Authority to Execute Financial Warranty Documents form  
Structure Agreement form

Cc: Richard Murphy, The Denver Brick Company  
Sara Stevenson-Benn, DRMS  
Michael Cunningham, DRMS



# COLORADO

## Division of Reclamation, Mining and Safety

Department of Natural Resources

### **Documentation of Legal Authority to Execute Financial Warranty Documents**

*The Colorado Mined Land Reclamation Board (“Board”) has adopted the attached Affidavit of Authority to Execute Financial Warranty Documents pursuant to the Mined Land Reclamation Act (C.R.S. § 34-32-101 et. seq.) and the Land Reclamation Act for the Extraction of Construction Materials (C.R.S. § 34-32.5-101 et. seq.). The Board and the Division of Reclamation Mining and Safety (“Division”) have determined that, in order to carry out the financial warranty requirements set forth in C.R.S. §§ 34-32-117 and 34-32.5-117 with reasonable diligence, it is prudent to verify the legal authority of the individual signing all necessary documents.*

*Accordingly, you must provide confirmation of the legal authority of the individual signing all Financial Warranty Documents to the Division. You may do so either by submitting a resolution of the decision-making body of your company that authorizes an individual to sign the Financial Warranty Documents on the company’s behalf, or by completing and notarizing the attached affidavit. The Division reserves the right to require the attached affidavit in all circumstances. Please note that if you are a sole proprietor who is executing documents on your own behalf, documentation of legal authority is unnecessary.*



### Affidavit of Authority to Execute Financial Warranty Documents

Before me this day, the undersigned \_\_\_\_\_ [name of authorized person], in his/her capacity as \_\_\_\_\_ [title of authorized person] ("Affiant"), personally appeared and, being first duly sworn upon oath said:

1. This affidavit is being executed and submitted on behalf of \_\_\_\_\_ [name of business organization], a(n) \_\_\_\_\_ [legal form of business organization, *e.g.*, corporation, partnership, limited liability company, etc.], in good standing in the State of Colorado (the "Company").
2. It is in the interest of the Company to execute certain financial warranty documents associated with file number \_\_\_\_\_ (DRMS file number), which are required by the Colorado Mined Land Reclamation Board and Division of Reclamation Mining and Safety pursuant to Colorado law ("Financial Warranty Documents").
3. Affiant is duly authorized to sign such Financial Warranty Documents on behalf of the Company and to bind the Company to the same.
4. Affiant is not prohibited or limited by the Company's governing documents or by any applicable law from executing the Financial Warranty Documents.
5. Affiant will inform the Division of Reclamation Mining and Safety within thirty (30) days in the event that his/her authorization to execute Financial Warranty Documents on the Company's behalf is terminated.

Further, Affiant sayeth not.

\_\_\_\_\_  
Affiant's Name

\_\_\_\_\_  
Signature

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_) ss.:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

Notary Public \_\_\_\_\_

My Commission Expires \_\_\_\_\_

An example Structure Agreement which meets the requirements of the Statutes is shown below.

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## **Structure Agreement**

This letter has been provided to you as the owner of a structure on or within two hundred (200) feet of a proposed mine site. The State of Colorado, Division of Reclamation, Mining and Safety (“Division”) requires that where a mining operation will adversely affect the stability of any significant, valuable and permanent man-made structure located within two hundred (200) feet of the affected land, the Applicant shall either:

- 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, 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. ( *Construction Materials Rule 6.3.12 and Rule 6.4.19 & Hard Rock/Metal Mining Rule 6.3.12 and Rule 6.4.20*)

*The Colorado Mined Land Reclamation Board (“Board”) has determined that this form, if properly executed, represents an agreement that complies with Construction Materials Rule 6.3.12(a), Rule 6.4.19(a), and C.R.S. § 34-32.5-115(4)(e) and with Hard Rock/Metal Mining Rule 6.3.12(a), Rule 6.4.20(a), and C.R.S. § 34-32-115(4)(d). This form is for the sole purpose of ensuring compliance with the Rules and Regulations and shall not make the Board or Division a necessary party to any private civil lawsuit to enforce the terms of the agreement or create any enforcement obligations in the Board or the Division.*

**The following structures are located on or within 200 feet of the proposed affected area:**

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_

*(Please list additional structures on a separate page)*

## **CERTIFICATION**

The Applicant, \_\_\_\_\_ (print applicant/company name),  
by \_\_\_\_\_ (print representative's name), as \_\_\_\_\_ (print  
representative's title), does hereby certify that \_\_\_\_\_ (structure owner) shall  
be compensated for any damage from the proposed mining operation to the above listed structure(s)  
located on or within 200 feet of the proposed affected area described within Exhibit A, of the Reclamation  
Permit Application for \_\_\_\_\_ (operation name),  
File Number M-\_\_\_\_-\_\_\_\_\_.

***This form has been approved by the Colorado Mined Land Reclamation Board pursuant to its  
authority under the Colorado Land Reclamation Act for the Extraction of Construction Materials and  
the Colorado Mined Land Reclamation Act for Hard Rock, Metal, and Designated Mining Operations.  
Any alteration or modification to this form shall result in voiding this form.***

## **NOTARY FOR PERMIT APPLICANT**

ACKNOWLEDGED BY:

Applicant \_\_\_\_\_ Representative Name \_\_\_\_\_

Date \_\_\_\_\_ Title \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public My Commission Expires: \_\_\_\_\_

**NOTARY FOR STRUCTURE OWNER**

ACKNOWLEDGED BY:

Structure Owner \_\_\_\_\_ Name \_\_\_\_\_

Date \_\_\_\_\_ Title \_\_\_\_\_

STATE OF \_\_\_\_\_)  
 ) ss.

COUNTY OF \_\_\_\_\_ )

The foregoing was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_

Notary Public