



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources
1313 Sherman Street, Room 215
Denver, Colorado 80203

May 6, 2021

Joshua Oliver
Ready Mixed Concrete Company
2500 E Brannon Way
Denver CO 80530

Re: Preliminary Review of a 112 Construction Materials Reclamation Permit Amendment Application Package AM01, Nix Gravel Mine, Permit M2001-046

Mr. Oliver:

The Division of Reclamation, Mining, and Safety has completed its preliminary adequacy review of your 112 construction materials reclamation permit amendment application. The application was called complete for review on March 19, 2021. All comment and review periods began on March 19, 2021. **The decision date for this application is June 17 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. In order to allow the Division adequate time to review your responses to any adequacy issues, please submit your adequacy responses to the Division no later than one week prior to the decision date (June 10, 2021).**

Please note that any changes or additions to the application on file in our office must also be reflected in the public review copy, which has been placed with the Weld County Clerk and Recorder.

The review consisted of comparing the application content with specific requirements of Rule 6.1, 6.2, 6.4 and 6.5 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials. As with most applications, there are items that will require clarification of the existing information. Any inadequacies are identified under the respective exhibit heading.

APPLICATION FORM:

Page 3: Inspection Contact – Please provide an inspection contact as required or state that the inspection contact information is the same as either the Applicant/Operator or Permitting Contact listed.

EXHIBIT A - Legal Description (Rule 6.4.1): The legal description must identify all affected land and be wholly adequate for field location of the property. It can be in the form of metes and bounds survey or a description by reference to township, range and section to at least the nearest quarter/quarter section. Where applicable, the street address or lot numbers may be used.

Adequate as submitted



EXHIBIT B - Index Map (Rule 6.4.2): An index map showing the regional location of all affected land and all roads and other access to the area. A standard U.S. Geological Survey topographic quadrangle or equivalent is acceptable. Scale criteria need not be followed for this map.

Adequate as submitted

EXHIBIT C - Pre-mining and Mining Plan Map(s) of Affected Lands (Rule 6.4.3): One or more maps may be necessary to legibly portray the following information:

(a) all immediately adjacent surface owners of record;

(b) the name and location of all creeks, roads, buildings, oil and gas wells and lines, and power and communication lines on the area of affected land and within two hundred (200) feet of all boundaries of such area

See comment below for item (g). A separate map may be utilized to show these features more clearly if necessary.

(c) the existing topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of the affected land;

(d) the total area to be involved in the operation, including the area to be mined and the area of affected lands (see definition of "Affected Land");

(e) the type of present vegetation covering the affected lands; and

(f) in conjunction with Exhibit G - Water Information, Subsection 6.4.7, if required by the Office, further water resources information will be presented on a map in this section.

(g) Show the owner's name, type of structures, and location of all permanent or man-made structures contained on the area of affected land and within two hundred (200) feet of the affected land (permit boundary).

A brief review of existing aerial photographs of the area indicates that all permanent manmade features are not identified on this map as required (Missing oil and gas features within 200' of permit, irrigation ditches, above or below ground utilities, and structures located on the opposite side of Hwy 66 and WCR 19....) A separate map may be submitted showing the required information for all permanent structures on and within 200' of the affected land, which in this case is the permit boundary.

(h) In conjunction with Exhibit I - Soils Information, Subsection 6.4.9, soils information may be presented on a map in this section;

(i) Aerial photos, if available, may be included in this section.

The operator will need to acknowledge that if any existing oil and gas features are removed from the permit area, as stated at the start of Exhibit D, the mining and reclamation plan mapping for the site will be appropriately updated through the Technical Revision process.

EXHIBIT D - Mining Plan (Rule 6.4.4): The mining plan shall supply the following information, correlated with the affected lands, map(s) and timetables:

(a) description of the method(s) of mining to be employed in each stage of the operation as related to any surface disturbance on affected lands;

(b) earthmoving;

The location(s) of Topsoil stockpiles have not been identified on the Mining Plan Maps, and only one Overburden stockpile location has been shown. The rule requires segregation of topsoil from overburden materials. What is the thickness/total volume of topsoil that will be salvaged from the permit area? Please update mining plan maps as needed. This information is also critical for determining the push distances and costs for replacing these materials during reclamation.

(c) all water diversions and impoundments; and

(d) the size of area(s) to be worked at any one time.

(e) An approximate timetable to describe the mining operation. The timetable is for the purpose of establishing the relationship between mining and reclamation during the different phases of a mining operation. You will not be required to meet specific dates for initiation, or completion of mining in a phase as may be identified in the timetable. This does not exempt you from complying with the performance standards of Section 3.1. Such timetable should include:

(i) an estimate of the periods of time which will be required for the various stages or phases of the operation;

(ii) a description of the size and location of each area to be worked during each phase; and

(iii) outlining the sequence in which each stage or phase of the operation will be carried out.

The Phase and Cell references in the Processing portion of the Mining Plan text do not seem to correlate with the Cell designations shown on the provided figures – please revise as needed. Stage2/Cell3 mining is said to begin in southwest corner of the cell near the Nix house, but the house appears to be located near the southeast corner of the cell – please correct as needed.

(Timetables need not be separate and distinct from the mining plan, but may be incorporated therein.)

(f) A map (in Exhibit C - Pre-Mining and Mining Plan Maps(s) of Affected Lands, Subsection 6.4.3) may be used along with a narrative to present the following information:

(i) nature, depth and thickness of the ore body or deposit to be mined and the thickness and type of overburden to be removed (may be marked "CONFIDENTIAL," as per Paragraph 1.3(3)); and

(ii) nature of the stratum immediately beneath the material to be mined in sedimentary deposits.

(g) Identify the primary and secondary commodities to be mined/extracted and describe the intended use; and

(h) name and describe the intended use of all expected incidental products to be mined/extracted by the proposed operation.

EXHIBIT E - Reclamation Plan (Rule 6.4.5):

(1) In preparing the Reclamation Plan, you should be specific in terms of addressing such items as final grading (including drainage), seeding, fertilizing, revegetation (trees, shrubs, etc.), and topsoiling. You are encouraged to allow flexibility in your plans by committing to ranges of numbers (e.g., 6"-12" of topsoil) rather than specific figures.

(2) The Reclamation Plan shall include provisions for, or satisfactory explanation of, all general requirements for the type of reclamation proposed to be implemented by you. Reclamation shall be required on all the affected land. The Reclamation Plans shall include:

(a) **A description of the type(s) of reclamation you propose to achieve in the reclamation of the affected land, why each was chosen, the amount of acreage accorded to each, and a general discussion of methods of reclamation as related to the mechanics of earthmoving;**

The applicant will need to commit at this time to reclaiming the unlined areas in the southwest corner of the permit as backfilled and revegetated or lined as water storage. It seems the rest of the application at this time considers them to be backfilled and revegetated. Whatever option is chosen will need to be appropriately bonded for. If the operator wishes to revise the choice at a later time, they may do so through the Technical Revision process.

(b) A comparison of the proposed post-mining land use to other land uses in the vicinity and to adopted state and local land use plans and programs. In those instances where the post-mining land use is for industrial, residential, or commercial purposes and such use is not reasonably assured, a plan for revegetation shall be submitted. Appropriate evidence supporting such reasonable assurance shall be submitted;

(c) A description of how the Reclamation Plan will be implemented to meet each applicable requirement of Section 3.1;

(d) Where applicable, plans for topsoil segregation, preservation, and replacement; for stabilization, compaction, and grading of spoil; and for revegetation. The revegetation plan shall contain a list of the preferred species of grass, legumes, forbs, shrubs or trees to be planted, the method and rates of seeding and planting, the estimated availability of viable seeds in sufficient quantities of the species proposed to be used, and the proposed time of seeding and planting;

(e) A plan or schedule indicating how and when reclamation will be implemented. Such plan or schedule shall not be tied to any specific date but shall be tied to implementation or completion of different stages of the mining operation as described in Subparagraph 6.4.4(1)(e). The plan or schedule shall include:

(i) An estimate of the periods of time which will be required for the various stages or phases of reclamation;

(ii) A description of the size and location of each area to be reclaimed during each phase; and

(iii) An outline of the sequence in which each stage or phase of reclamation will be carried out. (The schedule need not be separate and distinct from the Reclamation Plan, but may be incorporated therein.)

(f) A description of each of the following:

- (i) **Final grading** - specify maximum anticipated slope gradient or expected ranges thereof;

The reclamation plan text states that reservoir slopes will be no steeper than 3:1, and the provided reclamation plan maps show interior slopes of 4:1 for all lined excavations. The Division has no objection to 4:1 interior slopes for the lined reservoirs, but would like clarification as to how the operator intends to determine if 3:1 slopes or 4:1 slopes are appropriate for the site. This interior sloping will also have a large impact on the amount of material that will need to be replaced for the reclamation bonding, and the resulting costs. DRMS will require calculations based on material required for 4:1 interior slopes, if that is what will be utilized.

- (ii) **Seeding** - specify types, mixtures, quantities, and expected time(s) of seeding and planting;

The application refers to Exhibit F in several locations for this information, however it is not present on either of the maps provided. Please provide the reclamation seed mix and rates as required.

- (iii) **Fertilization** - if applicable, specify types, mixtures, quantities and time of application;

- (iv) **Revegetation** - specify types of trees, shrubs, etc., quantities, size and location; and

- (v) **Topsoiling** - specify anticipated minimum depth or range of depths for those areas where topsoil will be replaced.

EXHIBIT F - Reclamation Plan Map (Rule 6.4.6): The map(s) of the proposed affected land, by all phases of the total scope of the mining operation, shall indicate the following:

- (a) The expected physical appearance of the area of the affected land, correlated to the proposed mining and reclamation timetables. The map must show proposed topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of all reclaimed lands; and

- (b) Portrayal of the proposed final land use for each portion of the affected lands.

Please revise maps (if needed) to correspond with responses to comments on the Reclamation Plan above.

EXHIBIT G - Water Information (Rule 6.4.7):

- (1) If the operation is not expected to directly affect surface or groundwater systems, a statement of that expectation shall be submitted.

- (2) If the operation is expected to directly affect surface or groundwater systems, you shall:

- (a) Locate on the map (in Exhibit C) tributary water courses, wells, springs, stock water ponds, reservoirs, and ditches on the affected land and on adjacent lands where such structures may be affected by the proposed mining operations;

There are pond features located south of the mine, and perhaps an irrigation ditch located immediately west of the mine, that are visible in aerial photos but not shown on the provided maps – please correct as needed.

(b) Identify all known aquifers; and

(c) Submit a brief statement or plan showing how water from dewatering operations or from runoff from disturbed areas, piled material and operating surfaces will be managed to protect against pollution of either surface or groundwater (and, where applicable, control pollution in a manner that is consistent with water quality discharge permits), both during and after the operation.

(3) You must provide an estimate of the project water requirements including flow rates and annual volumes for the development, mining and reclamation phases of the project.

This section specifically mentions evaporative loss from dewatering trenches, but does not clearly mention anywhere evaporative losses from the unlined sediment and fresh water ponds located in Phase 1. Surface areas of these ponds has also not been stated in the application or provided maps. Please correct as needed.

(4) You must indicate the projected amount from each of the sources of water to supply the project water requirements for the mining operation and reclamation.

(5) You must affirmatively state that the Operator/Applicant has acquired (or has applied for) a National Pollutant Discharge Elimination System (NPDES) permit from the Water Quality Control Division at the Colorado Department of Health, if necessary.

Please show the location of the CDPHE permitted discharge point discussed on the mining plan map.

In Exhibit E, section 3.1.7 Groundwater, the applicant has committed to complying with the applicable standards for classified and unclassified groundwater. However, only one of these conditions will apply to the site, and no information has been provided as to how this will occur. Is the permit within a classified groundwater area or will the WQCC Rule 41 Tables 1-4 Interim Narrative Standards (INS) for Groundwater apply to this site? If INS applies (which is likely the case) no data showing ambient pre-mining groundwater conditions (levels or quality) has been provided, and no monitoring plan has been provided to detail how water levels and water quality will be observed and maintained through the life of the mine.

The only depiction of monitoring wells provided at this time appears to be on the Reclamation Maps, however there appear to be some large gaps between some of the locations shown. Is there any water level or chemistry data available for these wells? DRMS normally requires at least 5 quarters of water level monitoring prior to installation of slurry walls or dewatering activity to determine ambient conditions.

Please submit a monitoring plan to detail where and how water levels and chemistry will be monitored to document that impacts to the prevailing hydrologic balance will be minimized and mitigated if necessary. These impacts may include off site impacts to existing water levels and water wells (mounding or shadowing due to slurry wall installation or unlined fresh water ponds) and potential corrective measures. The plan should also document how applicable standards for groundwater quality will be documented and maintained.

EXHIBIT H - Wildlife Information (Rule 6.4.8):

(1) In developing the wildlife information, you may wish to contact the local wildlife conservation officer. You must include in this Exhibit, a description of the game and non-game resources on and in the vicinity of the application area, including:

- (a) a description of the significant wildlife resources on the affected land;
- (b) seasonal use of the area;
- (c) the presence and estimated population of threatened or endangered species from either federal or state lists; and
- (d) a description of the general effect during and after the proposed operation on the existing wildlife of the area, including but not limited to temporary and permanent loss of food and habitat, interference with migratory routes, and the general effect on the wildlife from increased human activity, including noise.

Adequate as submitted

EXHIBIT I - Soils Information (Rule 6.4.9): In consultation with the Soil Conservation Service or other qualified person, you must indicate on a map (in Exhibit C) or by a statement, the general type, thickness and distribution of soil over the affected land. Such description will address suitability of topsoil (or other material) for establishment and maintenance of plant growth. The above information shall satisfy "completeness" requirements for purposes of determination of date of filing.

Adequate as submitted

EXHIBIT J - Vegetation Information (Rule 6.4.10):

- (1) You must include in this Exhibit a narrative of the following items:
 - (a) descriptions of present vegetation types, which include quantitative estimates of cover and height for the principal species in each life-form represented (i.e., trees, tall shrubs, low shrubs, grasses, forbs);
 - (b) the relationship of present vegetation types to soil types, or alternatively, the information may be presented on a map; and
 - (c) estimates of average annual production for hay meadows and croplands, and carrying capacity for range lands on or in the vicinity of the affected land, if the choice of reclamation is for range or agriculture.
- (2) You must show the relation of the types of vegetation to existing topography on a map in Exhibit C. In providing such information, you may want to contact the local Soil Conservation District.

Adequate as submitted

EXHIBIT K - Climate (Rule 6.4.11): Provide a description of the significant climatological factors for the locality.

Adequate as submitted

EXHIBIT L - Reclamation Costs (Rule 6.4.12): All information necessary to calculate the costs of reclamation must be submitted and broken down into the various major phases of reclamation. You must provide sufficient information to calculate the cost of reclamation that would be incurred by the state.

The reclamation estimate provided is missing several significant items:

Seed mix and seeding rate.

Acres requiring 12" topsoil and seeding surrounding the lined reservoirs for each reclamation option.

Demonstration that enough material will be available on-site to backfill the fresh water and sediment ponds at the end of mining, and where it will be staged. (at a minimum, material volume and push distances are required for DRMS bond calcs for all earthmoving)

Demonstration that enough material will be available on-site to reconstruct interior slopes in lined reservoir areas for each reclamation option and where it will be staged.

Cost to reconstruct interior slopes (4:1?) for lined reservoirs for each reclamation option.

Basis for slurry wall unit costs utilized in the provided estimate – if RMCC already has awarded contracts for this work that might be sufficient, otherwise additional information will be needed.

Listing of equipment to be utilized to complete needed tasks (scraper, dozer, grader, water truck, etc).

DRMS will verify the required bond when the information requested is provided and all remaining adequacy issues have been resolved.

EXHIBIT M - Other Permits and Licenses (Rule 6.4.13): A statement identifying which of the following permits, licenses and approvals the Operator/Applicant holds or will be seeking in order to conduct the proposed mining and reclamation operations: effluent discharge permits, air quality emissions permits, radioactive source material licenses, the State Historic Preservation Office clearance, disposal of dredge and fill material (404) permits, permit to construct a dam, well permits, highway access permits, U.S. Forest Service permits, Bureau of Land Management permits, county zoning and land use permits, and city zoning and land use permits.

Adequate as submitted

EXHIBIT N - Source of Legal Right to Enter (Rule 6.4.14): You must provide the source of your legal right to enter and initiate a mining operation on the affected land.

Adequate as submitted

EXHIBIT O - Owner(s) of Record of Affected Land (Surface Area) and Owners of Substance to be Mined (Rule 6.4.15): Please submit a complete list of all owners or show the owners on your map in Exhibit C.

Adequate as submitted

EXHIBIT P - Municipalities Within Two Miles (Rule 6.4.16): Please list any municipality(s) within two miles of the proposed mining operation and address of the general office of each municipality.

Adequate as submitted

EXHIBIT Q - Proof of Mailing of Notices to County Commissioners and Soil Conservation District (Rule 6.4.17): Please submit proof of actual delivery or proof of mailing by Certified Mail, return receipt requested, of Notice of the Application to the local Board of County Commissioners and, if the mining operation is within the boundaries of a Soil Conservation District, to the Board of Supervisors of the Soil Conservation District.

Adequate as submitted

EXHIBIT R - Proof of Filing with County Clerk and Recorder (Rule 6.4.18): You must submit an affidavit or receipt indicating the date on which the application was placed with the local County Clerk and Recorder.

Adequate as submitted

EXHIBIT S - Permanent Man-Made Structures (Rule 6.4.19): Please note that roadways and above-ground or underground utilities (if present) within 200 feet of the proposed affected area are considered permanent man-made structures. In accordance with Rule 6.4.19, when mining operations will adversely affect the stability of any significant, valuable and permanent man-made structure located within 200 feet of the affected area, the applicant may 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.

Please provide evidence (certified letter to structure owners) that a notarized agreement between the structure owners and the applicant was pursued.

If an agreement is unable to be reached a geotechnical assessment may be provided to demonstrate that the structures shall not be damaged.

You must provide information sufficient to demonstrate that the stability of any structures located within two hundred (200) feet of the operation or affected land will not be adversely affected.

The information provided to-date detailing all structures/utilities/easements and owners inside or within 200' of the permit boundary is incomplete/inadequate/inconsistent. Please provide a separate map and table clearly depicting this information. Additional clarification regarding property owners within 200' of the permit would also be very helpful.

DRMS notes that an email was recently received by the Division (April 30, 2021) containing a number of certified mail receipts, however, there was no way to verify if these mailings were notice to surrounding property owners within 200' of the permit (if so - it seems that several were missing based on the Existing Conditions Map such as Dixie Water, 4 Leaf Clover, Ralph Nix Produce, Weld County Road and Bridge, etc), or if they were notarized structure agreements for structure owners as required by Exhibit S. The structures/owners listed in Exhibit S do not seem to coordinate fully with the information on the Existing Conditions Map or the Certified Mail receipts provided (Collins Construction, Occidental Petroleum, DCP, United Power, etc.?)

Notices to surrounding property owners within 200' of the permit, and providing all structure owners on and within 200' of the permit with notarized damage waiver agreements are critical components of the permit notice process. DRMS cannot guess or assume based on the limited and inconsistent information provided to date if this has been properly completed. The applicant will need to provide clear maps/tables for each type of notice, and a clear demonstration that the appropriate notices were sent and delivered as required.

Additional Information: You will also need to provide the Division with proof of notice publication as well as proof of notice to surrounding property owners within 200' of the permit. Any letters from other commenting agencies/entities received by the Division to date have been included with this correspondence for you to review.

DRMS notes that proof of notice publication has been provided in the previously mentioned April 30, 2021 email submittal.

This concludes the Division's preliminary adequacy review of this application. This letter shall not be construed to mean that there are no other technical deficiencies in your application. Other issues may arise as additional information is supplied. Please remember that the decision date for this amendment application is June 17, 2021. As previously mentioned, if you are unable to provide satisfactory responses to any inadequacies prior to this date, it will be your responsibility to request an extension of time to allow for continued review of this application. If there are still unresolved issues when the decision date arrives and no extension has been requested, the application will be denied. If you have any questions, please contact me at (303) 866-3567 x8140.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Scott", with a stylized flourish at the end.

Eric Scott – Environmental Protection Specialist

CC:

Enclosures: SEO Comment Letter
 History Colorado Comment Letter



Response to Reclamation Permit Application Amendment Consideration

DATE: April 7, 2021
TO: Eric C. Scott, Environmental Protection Specialist
CC: Division 1 Office, District 5 Water Commissioner
FROM: Ioana Comaniciu, P.E.
RE: Nix Sand and Gravel Mine, File No. M-2001-046, AM-1
Operator: Ready Mixed Concrete Company, (303) 853-5159
Contact: Joe Lamanna, Ready Mixed Concrete
company (720) 282-2344
Sec. 28, Twp. 3 North, Rng. 67 West, 6th P.M., Weld County

COMMENTS: The applicant has requested to increase the mining and reclamation plan by approximately 149.7 acres (known as Cell 3) already included within the 307.2 permitted acres for Nix Sand and Gravel Mine, DRMS Permit No. M-2001-046. This amendment increases the reserves of gravel in the mine. The proposed operation will consume ground water through evaporation, dust control, reclamation, water removed with the mined product, processing, dewatering and slurry wall construction. Prior to the initiation of these uses of ground water, the applicant will need to obtain either a gravel pit or other type of well permit, as applicable. However, prior to obtaining a permit, an approved water supply plan or decreed plan for augmentation is required.

Prior to approving a well permit, the applicant must conduct a field inspection of the site and document the locations of all wells within 600 feet of the permit area. The applicant must then obtain a waiver of objection from all well owners with wells within 600 feet of the permit area or request a hearing before the State Engineer.

So long as the Nix Gravel Mine is operated in accordance with an approved SWSP or approved plan for augmentation, this office has no objection to the request.

Any storm water runoff intercepted by this operation that is not diverted or captured in priority must infiltrate into the ground or be released to the stream system within 72 hours. Otherwise, the operator will be required to make replacements for evaporation.

The applicant may contact the State Engineer's Office with any questions.





Eric Scott
Division of Reclamation, Mining and Safety
Department of Natural Resources
1313 Sherman St, Room 215
Denver, CO 80203

Re: Nix Sand & Gravel Mine – File No. M-2001-046, Ready Mixed Concrete Company, LLC
Amendment Application (AM-1) (HC #36324)

Dear Mr. Scott:

We received your correspondence dated March 19, 2021 on March 25, 2021 requesting comment under the State Register of Historic Places Act (CRS 24-80-1 et seq.) for the proposed action.

A search of our database indicates that no properties of historical significance included or nominated for inclusion in the state register have been recorded within the proposed permit area. Please note, as most of Colorado has not been inventoried for cultural resources, our files contain incomplete information. Consequently there is the possibility that as yet unidentified cultural resources exist within the proposed permit area. The requirements under CRS 24-80 part 13 apply and must be followed if human remains are discovered during ground disturbing activities.

We thank you for the opportunity to comment. If we may be of further assistance, please contact Mark Tobias, Intergovernmental Services Manager, at (303) 866-4674 or mark.tobias@state.co.us.

Sincerely,

Steve Turner, AIA
State Historic Preservation Officer
ST/mt