



August 20, 2021

Kaitlyn Gallardo
RMS Utilities, Inc.
6349 County Road 106.65 South
Alamosa, CO 81101

RE: Kester Pit, File No. M-2021-037, Construction Materials Limited Impact (110) Application Adequacy Review

Dear Mrs. Gallardo:

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 Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (Rules). During review of the material submitted, the Division determined that the following issue(s) of concern shall be adequately addressed before a decision can be rendered.

1. Exhibit B Site Description- Rule 6.3.2

- a. Please provide the contact information including names, address and telephone number for the Owner of Record of the permit area.
- b. In reviewing the various exhibits of the application it is apparent that there are permanent man-made structures within 200 feet of the affected lands. The structures include but are not limited to the existing irrigation lateral located on site, County Road GG, and any fences of sole or joint ownership. Please provide a list of these and any more man-made structures that are within 200 feet of the affected lands. Please also update the Mine Plan Map in Exhibit E to reflect these changes, also update Exhibit L with the applicable structure agreements. A blank copy of a structure agreement has been enclosed with this review.
- c. Pursuant to Rule 6.3.2(d) please provide a brief statement of the wildlife uses, if any, of the Permit Area.

2. Exhibit C- Mining Plan – Rule 6.3.3

- a. In accordance with Rule 6.3.3 (b) please estimate the volume of Topsoil and Overburden to be salvaged, and the volume of the corresponding stockpiles depicted in the Mining Plan Map.
- b. The Mining Plan details what equipment will be used during the development and extraction processes, however does not provide details of support equipment to be used. Please identify if an onsite scale and or scale house, office structure, portable restrooms will be present on site. If a scale is to be used please identify if it will be above or below grade, if below please provide the dimensions of the excavation needed to place the scale. Please also state whether fuel or other hazardous materials such as



lubricants, greases and or hydraulic fluids will be stored on site, the estimate quantities of each and describe the appropriate secondary containment measures used for the storage of said materials.

- c. The Mining Plan also details that there will be a vertical or near vertical face developed during the mining process. Please identify the maximum height and length of the highwall that may be exposed at any given time.

3. Exhibit E Map – Rule 6.3.5

- a. In conjunction with Item 1, b of this review, please update the Mining Plan Map to include all permanent man-made structures. For the irrigation lateral, an offset is depicted in the Mine Plan, please also show the offset on the Mine Plan Map. Also, if any support facilities mentioned in item 2, b of this review are to be present on site, please depict them on the Mining Plan Map as well.
- b. The Reclamation plan suggests that the entire permit area will be revegetated however the Reclamation Plan Map shows the pit floor to be revegetated. Please clarify on the Reclamation Plan Map which areas will be revegetated.

4. Exhibit L Permanent Man-Made Structures

- a. As mentioned previously in this review, there are permanent man-made structures present within 200 feet of the affected lands. For all structures please provide a signed structure agreement (enclosed) for each.

Please submit your response(s) to the above listed issue(s) by Wednesday, September 01, 2021 in order to allow the Division sufficient time for review. The Division will continue to review your application and will contact you if additional information is needed. If additional time is required to gather the information requested please submit a Decision Date Extension Request, in writing to the Division no later than Wednesday September 1, 2021. The Decision Date for your application is Tuesday September 7, 2021. If a response to the above listed questions, or an extension request is not received by Tuesday September 7, 2021 your application may be denied.

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.

Sincerely,



Lucas West
Environmental Protection Specialist
Division of Reclamation, Mining and Safety

Cc: Travis Marshall, Senior Environmental Protection Specialist

Ec: Kaitlyn Gallardo, RMS Utilities Inc.

Enclosure: Structure Agreement (Blank)

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

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