



September 1, 2021

Jodi Schreiber
Fremont Paving and Redi-Mix
839 Mackenzie Ave.
Canon City, CO 81212

**RE: Mattics Pit (Permit No. M-2021-044)
Adequacy Review #1**

Dear Ms. Schreiber:

On June 30, 2021, the Division of Reclamation, Mining and Safety received your 112 Construction Materials Special Operation Reclamation Application package for the Mattics Pit, File No. M-2021-044. The following questions address adequacy issues and missing information that is needed to complete the application. This information needs to be addressed and/or received before the Division can approve the application.

Rule 6.4 - Specific Exhibit Requirements - 112 Reclamation Operation

Rule 6.4.1 EXHIBIT A - Legal Description- Adequate as submitted.

Rule 6.4.2 EXHIBIT B – Index Map - Adequate as submitted.

1. Exhibit A/B shows the land owners of the permit and adjacent areas. The information shown on Exhibit A/B is not consistent with the information shown in Exhibit O. Please clarify the property owners of permitted areas, adjacent areas and verify the source of the information.

Rule 6.4.3 EXHIBIT C – Pre-mining and Mining Plan Map-

2. Map C does not have the scale shown as required by Rule 6.2.1(2)(e). Please submit an updated map with the scale shown.
3. Two water impoundments can be seen on Google Earth within 200 feet of the permit boundary: one by the southwest corner and one by the southeast corner. Please include a description for each structure and verify the owners.

6.4.4 EXHIBIT D – Mining Plan



4. The mining depth is expected to be 20 feet. Will there be a 20 foot highwall or will the mine walls be mined to 3h:1v during mining?
5. No mining set back from the permit boundary was described in the permit. DRMS requires that the mining setback from the permit boundary is at least 3 times the depth of the pit ($3 \times 20 = 60$ feet) and that the pit wall next to the permit boundary is mined no greater than a 3h:1v slope. This ensures a reasonable safety of factor to prevent a highwall failure that could have potential offsite impacts. Please commit to the 60 foot setback and 3h:1v slope in the vicinity of the permit boundary or submit a geotechnical stability analysis if you need to get closer to the permit boundary.
6. Exhibit D and the mining plan discuss 3-350 acre phases and 1-260 acre phase. Exhibit D mining plan proposes to mine 100 acres at a time, with the previous 100 acres undergoing reclamation (for a total of 200 acres disturbed). Exhibit L cost estimate proposes 100 acres of disturbance. Please clarify the total area (active mining and reclamation) that will be disturbed at any one time. If the operator wishes to have a phased mining approach, a map needs to depict the exact phased areas and boundary markers will need to be installed on the ground marking the phased area.
7. Map D does not have the scale shown as required by Rule 6.2.1(2)(e). Please submit an updated map with the scale shown.

6.4.5 EXHIBIT E – Reclamation Plan –

8. A seeding plan was not submitted with the application. Also discuss if fertilizer and mulch will be applied, application rates and methods. Please consult with CPW to address their concerns raised about the seed mix in their 7/26/2021 attached letter.
9. A noxious weed plan was not submitted as part of the application. Please submit a noxious weed control plan for review as required by Rule 3.1.10(6).
10. Several fences will be removed as part of the mining plan. Please clarify if fences will be replaced/constructed.

6.4.6 EXHIBIT F - Reclamation Plan Map –

11. Map E was submitted as the Reclamation map. The map does not show the proposed final topography contour lines as required by Rule 6.4.6(a).
12. Map E does not show the proposed final land use as required by Rule 6.4.6(b).

6.4.7 EXHIBIT G - Water Information- Adequate as submitted.

6.4.8 EXHIBIT H - Wildlife Information-

13. Comments about the application were submitted by CPW. Please respond to the comments raised in the 7/26 attached letter.

6.4.9 EXHIBIT I - Soils Information -

14. A map showing the different soil types and soil distribution was submitted. The soil thickness was not included with the map as required by Rule 6.4.9(1).

6.4.10 EXHIBIT J - Vegetation Information - Adequate as submitted.

6.4.11 EXHIBIT K - Climate - Adequate as submitted.

6.4.12 EXHIBIT L - Reclamation Costs

15. A reclamation cost estimate was submitted with the application as required by Rule 6.4.12. The Division will do a cost estimate to verify Fremont Paving's cost after all adequacy questions have been resolved.

6.4.13 EXHIBIT M - List of Other Permits and Licenses Required - Adequate as submitted.

6.4.14 EXHIBIT N - Source of Legal Right-to-Enter - Adequate as submitted.

6.4.15 EXHIBIT O Owner(s) of Record of Affected Land and Substance to be Mined –

16. The Map in Exhibit O shows that the land in section 30 is owned by Blythe Lane and Marion A. McKeever. This is inconsistent with Exhibit A/B. Please clarify the landowners.

6.4.16 EXHIBIT P - Municipalities Within a Two-Mile Radius: Adequate as submitted.

6.4.17 EXHIBIT Q - Proof of Mailing of Notices to Board of County - Adequate as submitted.

6.4.18 EXHIBIT R - Proof of Filing with County Clerk and Recorder -

17. Proof that the application was filed with the County Clerk and Recorder was not included with the application.

6.4.19 EXHIBIT S - Permanent Man-made Structures

The Division received additional comments from the Division of Water Resources and History Colorado (attached). Please address any additional comments raised by these two agencies.

The decision date for this application is October 12, 2021. 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. Also, the comment period for this application is still open and any comments or objections received may initiate new adequacy questions.

All corrected pages must also be provided to Cheyenne County Clerk & Recorder.

If you have any questions, please contact me at (720) 774-0040 or brock.bowles@state.co.us.

Sincerely,



Brock Bowles
Environmental Protection Specialist

Enclosures: CPW comments, 7/26/2021
DWR comments, 7/23/2021
History Colorado comments, 8/4/2021

CC: Michael Cunningham, DRMS
Tim Cazier, DRMS



COLORADO

Parks and Wildlife

Department of Natural Resources

Lamar Service Center
2500 South Main Street
Lamar, CO 81052
P 719.336.6600 | F 719.336.6623

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07/26/2021

**DIVISION OF RECLAMATION
MINING & SAFETY**

Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, CO 80203

RE: Mattics Pit, File No. M-2021-044

Thank you for the opportunity to provide comment on the Construction Material Regular (112) Operation Reclamation Permit for the Mattics Pit located in Cheyenne County, Colorado. The applicant of the permit is Fremont Paving & Redi Mix. The mission of Colorado Parks and Wildlife (CPW) is to perpetuate the wildlife resources of the state, to provide a quality state parks system, and to provide enjoyable and sustainable outdoor recreation opportunities that educate and inspire current and future generations to serve as active stewards of Colorado's natural resources.

The proposed Mattics Pit is planned for the following legal descriptions in the 6th Principle Meridian of Cheyenne County, Colorado:

- All of Section 29, Township 12 South, Range 47 West.
- Northwest Quarter of the Southwest Quarter Section, South Half of the South Half Section, Northeast Quarter of the Southeast Quarter Section of Section 30, Township 12 South, Range 47 West.
- North Half of the South Half Section, Southwest Quarter of the Southwest Quarter Section, All of the North Half Section of Section 31, Township 12 South, Range 47 West.
- Northwest Quarter Section of Section 32, Township 12 South, Range 47 West.

The Mattics Family Discretionary Trust owns the property. The proposed Mattics Pit is a 1,313-acre surface mining gravel pit that would be operated by Fremont Paving & Redi Mix. Fremont Paving & Redi Mix can be contacted at (719) 529-0916 or (719) 275-3264. The proposed Mattics Pit requires a Construction Material Regular (112) Operation Reclamation Permit. CPW was provided with the complete 112c permit application of the proposed project. The proposed project has an estimated timeline of 20 to 25-years, with mining being broken into three 350-acre phases and one 260-acre phase. Each phase will be mine at 100-acres increments. Reclamation is planned to following the completion of each 100-acre disturbance. CPW has reviewed the provided permit application and completed a site visit of the proposed project.



The current land use of the property for the proposed Mattics Pit is majority rangeland with a small percentage of dryland farm ground. The rangeland vegetation is dominated by native shortgrass prairie species with a small shrub component comprised mostly of sand sage (*Artemisia filifolia* Torr.). The dry North Fork of the Smoky Hill River runs from the north and along the east boundary of the proposed property. Eureka Creek is located on the west boundary of the proposed property. Rangeland or Conservation Reserve Program (CRP) surrounds the remainder of the proposed property. Dryland farm ground is also found nearby.

The parcel of the proposed project provides habitat for multiple wildlife species throughout the year. The proposed project falls within the overall range and concentration area for mule deer, overall range and concentration area for whitetail deer, overall range and concentration area pronghorn, overall range for swift fox, the current range for greater prairie-chicken, and the estimated occupied range and CHAT 2 (Connectivity Zone) for lesser prairie-chicken. In addition, the proposed project falls within habitat of other species of wildlife including burrowing owls, other raptors, coyotes, songbirds, bats, and other small mammals.

The State of Colorado lists the lesser prairie-chicken as a State Threatened Species under state law. Colorado is a partner in the Western Association of Fish and Wildlife Agencies (WAFWA) Lesser Prairie-Chicken Range-wide Conservation Plan and follows the recommendations in that plan when commenting on development in lesser prairie-chicken habitat. At the core of these recommendations are conservation efforts that emphasize habitat quality, avoid development in focal areas, and avoid impacts to leks. Recently, the U.S. Fish and Wildlife Service recommended the lesser prairie-chicken be listed as a federal threatened species for protection under the ESA. With the proposed listing, consultation with the U.S. Fish and Wildlife Service may be required.

The parcel for the proposed project falls within the CHAT 2 or Connectivity Zone for lesser prairie-chicken. Habitat designated as CHAT 2 priority area (Connectivity Zone) means the parcel is important for the movement of lesser prairie-chickens between CHAT 1 priority areas (Focal Areas). Lek surveys in the area have not shown any active leks on the proposed property for the Mattics Pit; however, the proposed property for the Mattics Pit falls between two important focal areas for lesser prairie-chickens. The first focal area is located approximately 3-miles to the east and the second is located approximately 10.5-miles to the northwest of the proposed project. The large size (1,313-acres) of the proposed Mattics Pit has the potential to disrupt movements of less prairie-chickens between focal areas. With the proposed project falling within the connectivity zone of lesser prairie-chickens, CPW recommends the following:

1. Conduct lesser prairie-chicken lek surveys prior to new disturbances or at a minimum every five years.
2. Limit disturbance area size and reclaim disturbance areas prior to continuing to next disturbance area to minimize potential impacts.
3. Installation of raptor perch deterrents on tall structures (if applicable).
4. Disturbed ground should be reclaimed and restored with lesser prairie-chicken habitat considerations, including but not limited to, native seed mixes developed through consultation with CPW and NRCS.

Burrowing owls are listed as State Threatened and nest in active or inactive prairie dog (black-tailed or white-tailed) burrows. The proposed project boundary does contain prairie dog burrows near the southwest corner of the cropland field. Prairie dog burrows on the property suggest burrowing owls may be present. If development will occur in area containing the prairie dog colony, CPW recommends the adherence to CPW's Burrowing Owl survey protocol if development occurs during the spring or summer months (February 1 to August 31). If nesting burrowing owls are present, no human encroachment or surface disturbance should occur within a 200-meter buffer of nesting burrows from March 15 to August 31. If burrowing owls occupy the site, CPW recommends that earthmoving and other disturbance activities be delayed until late fall after they have migrated.

The swift fox is listed as a species of State Special Concern. The proposed project property has the potential to contain swift fox denning habitat. To minimize the impact on occupied, high quality swift fox habitat, CPW recommends the Operator coordinate pre-construction survey locations for active den sites with CPW. CPW also recommends no human encroachment, surface disturbance, or construction activity within 0.25-mile of an active maternal den site from March 15 through June 15.

Impacts to other wildlife, especially mule deer, whitetail deer and pronghorn, will be disturbance and displacement from habitat loss, increased human activity, and activity produced by heavy machinery. Wildlife seek alternative suitable habitat. CPW recommends minimizing impacts whenever possible, including but not limited to, utilizing existing roads and overlapping development of new roads or infrastructure to minimize impact. In addition, CPW recommends that surface disturbance occurs outside the nesting season to minimize impacts to ground nesting birds.

If the proposed project will be fenced to keep domestic livestock out, please consider a fence that would allow for easy passage by wildlife. CPW recommends the following four-wire fence: 1. Smooth top wire no higher than 42-inches to allow deer to easily jump, 2. Second

wire (can be barbed) at 30-inches to prevent entanglement of wildlife, 3. Third wire (can be barbed) at 23-inches, and 4. Smooth bottom wire at least 16-inches high to allow pronghorn to cross below.

Noxious weeds pose a threat to native wildlife habitat anytime the soil is disturbed. Please consider monitoring and controlling any noxious weeds that may become present on the proposed site to avoid further damage and the spreading of such noxious weeds.

Reclamation of the parcel following the completion of the gravel extraction would help return the parcel to useable wildlife habitat. Successful reclamation of large areas are often very difficult in the area of the proposed project due to drought, the potential for large blowing events caused by wind, and other conditions. CWP recommends mining disturbances be reduced from the planned 100-acres to smaller tracts, unless there are other underlying reasons for the planned 100-acre disturbances. Smaller disturbances would help with successful reclamation. CPW did not find a proposed seed mix in the permit application. CPW would appreciate the opportunity to review the planned seed mix prior to implementation. If a seed mix has not been completed, CPW recommends a high diversity seed mix developed through consultation with CPW and NRCS.

CPW appreciates the opportunity to provide comment on the proposed project of the Mattics Pit and the interest in Colorado's wildlife. Please feel free to the local District Wildlife Manager Jared Lamb (719-340-0279) or the Lamar Service Center (719-336-6600) with any questions or would like clarification on any comment or recommendation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Todd Marriott', with a long horizontal flourish extending to the right.

Todd Marriott
Area Wildlife Manager
(719-688-9241)

cc: Jared Lamb, District Wildlife Manager
Karen Voltura, SE Energy Liaison and Land Use Specialist
File



COLORADO

Parks and Wildlife

Department of Natural Resources

Lamar Service Center
2500 South Main Street
Lamar, CO 81052

DENVER CO 802

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Division of Reclamation, Mining and Safety
1313 Sherman St, Room 215
Denver, CO 80203

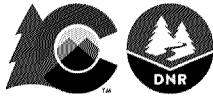
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DIVISION OF RECLAMATION
MINING & SAFETY

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Response to Reclamation Permit Application Consideration

DATE: July 23, 2021

TO: Brock F Bowles, Environmental Protection Specialist

CC: Division 2 Office; District 67 Water Commissioner

FROM: Kate Fuller, P.E.

RE: Mattics Pit, File No. M-2021-044
Operator: Fremont Paving & Redi-mix
Contact: Jodi Schreiber, (719) 529-0916
Sec. 29, Twp. 12S, Rng. 47W, 6th P.M., Cheyenne County

CONDITIONS FOR APPROVAL

- ☒ The proposed operation does not anticipate exposing groundwater. Therefore, exposure of ground water must not occur during or after mining operations.
- ☒ If storm water is contained on-site, the applicant should be aware that, unless the storm water detention structures can meet the requirements of a "storm water detention and infiltration facility" as defined in section 37-92-602(8), Colorado Revised Statutes, the structure may be subject to administration by this office. The applicant should review DWR's *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado* (available at: <https://dnrweblink.state.co.us/dwr/ElectronicFile.aspx?docid=3576581&dbid=0>) to ensure that the notification, construction and operation of the proposed structure meets statutory and administrative requirements. The applicant is encouraged to use *Colorado Stormwater Detention and Infiltration Facility Notification Portal*, located online at: <https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>, to meet the notification requirements.
- ☒ Other: All water used on-site shall be a legal supply of water provided by an appropriate supplier. The applicant shall confirm the legality of any proposed source of water supply with the Division of Water Resources prior to use in the operation.

COMMENTS: The local Water Commissioner, Brandy Cole, may be contacted at (719) 688-6711 or Brandy.Cole@state.co.us regarding legal water supplies in the area.





Brock F. Bowles
Division of Reclamation, Mining and Safety
1313 Sherman St., Room 215
Denver, Colorado 80203

Re: Mattics Pit, File No. M-2021-044 (HC# 80174)

Dear Mr. Bowles:

We received your letter dated July 14, 2021 initiating consultation with our office on the subject action pursuant to the Colorado State Register Act – Colorado Revised Statute (CRS) 24-80-1 et. seq.

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.

Please note that if the fill or disposal site location is associated with a Federal undertaking, it is the responsibility of the federal agency to meet the requirements of Section 106 as set forth in 36 CFR Part 800 titled “Protection of Historic Properties”. This includes not only reasonable and good faith identification efforts of any historic properties located within the area of potential effects, but determining whether the undertaking will have an effect upon such properties. The State Historic Preservation Office, Native American tribes, representatives of local governments, and applicants for federal permits are entitled to consultative roles in this process.

We thank you for the opportunity to comment. If we may be of further assistance, please contact Holly McKee-Huth, Cultural Resource Information/Section 106 Compliance at (303) 866-4670/holly.mckee@state.co.us.

Sincerely,

Steve Turner, AIA
State Historic Preservation Officer