



**COLORADO**  
Division of Reclamation,  
Mining and Safety  
Department of Natural Resources

September 8, 2021

Cory Kaufman  
Zak Dirt, Inc.  
14290 Hilltop Rd  
Longmont, CO 80504

**RE: Adequacy Review #2, Special 111 Construction Materials Application  
Borrow Pit, File No. M-2021-048**

Dear Mr. Kaufman,

The Division has reviewed the content of the Applicant's August 26, 2021 Adequacy Review Responses for the Borrow Pit, File No. M-2021-048, and submits the following additional comments. **The Division is required to make an approval or denial decision no later than September 15, 2021; therefore, a response to the following adequacy review concerns should be submitted to the Division as soon as possible.** Please respond to this Adequacy Review with the requested information and summarize each response to the numbered items below, in a cover letter titled "Adequacy Review Response #2, M-2021-048". In order for easier tracking, the Division has included the original adequacy item and numbering, the Applicant's response is in italics, and the additional adequacy item in bold.

**EXHIBIT B - Site Description (Rule 6.3.2)**

3. The Applicant states there are no permanent man-made structures within 200 feet of the proposed permit boundary, however, after review of the submitted maps, a fence line is located along the northern permit boundary and an underground utility line is located south of the southern permit boundary. As required by Rule 6.3.2(b), please revise Exhibit B to identify all permanent man-made structures within 200 feet of the permit boundary.

*ZAK Dirt, Inc. Response: There are two man-made structures within 200 feet of the proposed borrow pit location. The first structure is a fence that runs East to West. A structure agreement between the property owners and Zak Dirt Inc. has been completed and submitted to the Colorado Department of Reclamation. The other structure is an underground telecommunications line owned by Century Link. These are the only two man-made structures that are within 200 feet of the proposed borrow pit operation's.*

**The Division was not aware of the Century Link utility line that is shown on the Exhibit E Map. The utility line originally discussed in Adequacy Item #3 was what appears to be an overhead powerline which crosses the river southwest of the permit boundary and then transfers to an underground line from a power pole at 39° 4'15.38"N 105°58'22.26"W to the house. This underground powerline appears to come within 135' of the southern permit boundary and therefore needs to be address in Exhibit B per Rule 6.3.2(b).**

**EXHIBIT D - Reclamation Plan (Rule 6.3.4)**

10. The Applicant will need to further clarify what measures will be taken to revegetate the site in accordance with Rule 6.3.4(1)(c). Please address the following:
  - a. State the thickness of plant growth medium to be replaced.



*ZAK Dirt, Inc. Response: All seeding will be conducted in accordance with the CDOT Standard Specifications for Road and Bridge Construction section 212.06 “Native Seeding”.*

**Please state the thickness of plant growth medium (“topsoil”) to be replaced. Within the Exhibit C Mine Plan the Applicant states 6” of topsoil will be salvaged from the excavated area. As required by Rule 6.3.4(1)(c)(i), please confirm 6” will be replaced.**

- b. Provide what time(s) of year can seeding occur.

*ZAK Dirt, Inc. Response: According to CDOT standard specification section 212.03 “Seeding Seasons” seeding can occur “spring thaw to consistent ground freeze”. That is taken from the CDOT specifications above 8000’ in areas “other than the Western Slope”*

**Although the CDOT specification allows for seeding to occur at above 8,000’ from spring thaw to consistent ground freeze, seeding in middle to late summer or early fall could allow planted seed to germinate before consistent ground freeze but not allow enough time for the seed to establish root reserves nor viable seed. Please commit to narrowing the allowable seeding windows to early spring or late fall (typically for the area of the operation this is roughly May 15<sup>th</sup> - June 15<sup>th</sup> or September 15<sup>th</sup> - October 15<sup>th</sup>) instead of anytime in the entire growing season as per the specification. The Applicant may also want to contact the local Soil Conservation District for specific seeding time recommendations.**

- c. Explain how the seedbed will be prepared to eliminate compacted conditions (e.g., plowed, chiseled, disced).

*ZAK Dirt, Inc. Response: Seedbed will be prepared in accordance with the CDOT Standard Specifications for Road and Bridge Construction sections 212.06 “Native Seeding”.*

**Please provide CDOT Standard Specifications for Road and Bridge Construction sections 212.06.**

- d. State the type, application rate, and soil incorporation methods of fertilizer application, if any.

*ZAK Dirt, Inc. Response: Methods of fertilizer application will be in accordance with CDOT standard specification 212.06 (b) “Native Seeding: Fertilizing and Conditioning”.*

**Please provide CDOT Standard Specifications for Road and Bridge Construction sections 212.06(b).**

### **EXHIBIT E - Map (Rule 6.3.5)**

11. On July 23, 2021, the Applicant provided a revised Mine Plan Map. The map needs to be further revised to address the following:

- a. As required by Rule 6.3.5(2)(b) and (e), identify the location, type of structure, and the owner of structure for the fence line and underground utility as discussed in Item #3.

*The Applicant provided a revised Exhibit E Mine Plan Map which identified the location of the fence lines along the western and southern property lines owned by Lisa Cravener and the location of the Century Link underground utility line.*

**Please revise this map to also show the location of the fence line along the northern property line (also the northern permit boundary line). Additionally, please identify the location, type of structure, and the owner of structure for the overhead/underground powerline located south of the southern permit boundary.**

- c. Either provide a table or label the proposed permit boundary corners with the latitude and longitude coordinates. The Division will use these coordinates to verify the proposed 2.0 acre permit boundary. These coordinates, provided within the record, could also be utilized in the event a permit boundary marker/monument (Rule 3.1.12) is missing in the future and needs to be reestablished.

*The Applicant provided a revised Exhibit E Mine Plan Map which included 3 permit boundary coordinates (NW, NE, and SE).*

**Please revise this map to provide the other 4 permit boundary corners (SW and SE of the access road and the two SW corners of the excavation area).**

#### **EXHIBIT L - Permanent Man-Made Structures (Rule 6.3.12)**

15. A fence line and an underground utility line is within 200 feet of the proposed permit boundary. On August 5, 2021, the Applicant provided a structure agreement in accordance with 6.3.12(a) for the fence line. The Applicant is required to comply with Rule 6.3.12 for the underground utility line.

*ZAK Dirt, Inc. Response: Zak Dirt has been unsuccessful in obtaining a structural agreement from Century Link in regards to this utility line. We have opted to evaluate and explain how the line will be protected per the allowed rule for the structural agreement. This line is not in conflict with our actual borrow location. The line crosses where we will be building our access/haul road. We have potholed the utility in question and it is 2 feet below the grade in which the road will be cut. Due to the fact that this line is outside the actual excavation we are confident it will not be in conflict. Should the line be damaged in any way, Zak Dirt will contact the appropriate people and be responsible for the repairs. Zak Dirt is a registered 811 affiliate and will coordinate locates throughout the process of production.*

**Please provide a demonstration that 2 feet of cover over the underground utility line will be sufficient to protect the line from the anticipated largest piece of equipment traveling on the access. Please note, the Applicant has committed to salvaging the 6” of topsoil, so the 2 feet below grade measurement will likely be 1.5 feet. The Applicant may also propose to temporarily place additional fill material to achieve a desired depth of cover above the utility line or place sufficient planking or other means to ensure the utility line is protected from mining activities.**

**Additionally, please comply with Rule 6.3.12 for the powerline discussed in the Follow-up Adequacy Item #3.**

#### **EXHIBIT I - Proof of Filing with County Clerk (Rule 6.3.9)**

16. Any changes or additions to the application on file with the Division, must also be reflected in the public review copy. Please submit proof that the public review copy has been updated or a copy of the response to this adequacy letter has been added to it.

This concludes the Division’s second adequacy review of this application. This letter shall not be interpreted to mean that there are no other technical deficiencies in your application; other issues may arise as additional information is supplied. Please be advised the permit application may be deemed inadequate, and the application

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may be denied on September 15, 2021, unless the above mentioned adequacy review items are addressed to the satisfaction of the Division. **If more time is needed to complete the responses, the Division can grant an extension to the decision date. This will be done upon receipt of a written waiver of the Applicant's right to a decision by September 15, 2021, and the request for additional time. This must be received no later than the deadline date.**

If you have any questions, please contact me by telephone at 303-866-3567 x8132, or by email at [elliott.russell@state.co.us](mailto:elliott.russell@state.co.us).

Sincerely,



Elliott R. Russell  
Environmental Protection Specialist

Cc: Zach Trujillo, Division of Reclamation, Mining & Safety  
Jason Musick, Division of Reclamation, Mining & Safety