



Scott A. Clark
sclark@bfwlaw.com

October 6, 2021October 7, 2021

***Via US Mail and
Email at dustin.czapla@state.co.us***

Mr. Dustin Czapla
Division of Reclamation, Mining and Safety
1313 Sherman Street, Suite 215
Denver, CO 80203

Re: Objection and Protest - Reply
Leadville Mill Permit Application
CJK Milling Company, LLC
M1990-057

Dear Mr. Czapla:

On behalf of this firm's clients Diane and Brad Smith, Ruth Goltzer, Jim Kohlmoos, Christina and Derrick Wood, Betty and George Benson, Anne and Justin Fowler, Patricia and Brian Nagel, Doug Yeakel, Laurie Strasburger, and Steven McCauley, who are collectively referred to herein as Concerned Citizens of Lake County or Concerned Citizens, we provide this following reply to CJK Milling Company's responses to our Objection and Protest.

The Applicant's effort on this cyanide milling project has been riddled with oversights, errors, inadequacies, and ambiguities. An applicant that cannot produce a complete and coherent application should not be trusted to operate a cyanide milling and disposal operation. The dangers of locating such an operations immediately upgradient of drinking water wells cannot be overstated.

Consistent with its modus operandi, the Applicant's responses to the Concerned Citizens' Objection and Protest are ambiguous statements that essentially request that the Concerned Citizens and DRMS trust the Applicant to properly manage the cyanide and other process chemicals. Those responses, particularly in light of the Applicant's historical efforts, provide no comfort. Moreover, without specific descriptions, testing, and stamped engineered drawings and specifications, there are no criteria against which to evaluate Applicant's compliance. Without those details, the application is inadequate and should be denied.

Every response provided by the Applicant was inadequate, unresponsive, and/or ambiguous. Examples of the Applicant's woefully inadequate responses include the following:

- The Applicant claims that it will detoxify cyanide before disposal of waste material in the on-site pit. Resp. to Obj. 1. However, it still has not provided a description of that process or engineered drawings and specifications showing how this will be managed in the facility. The Applicant also has not explained how the facility will prevent cyanide and other chemicals from entering the disposal pit after spills and leaks. The Applicant admits that cyanide will be placed into the disposal pit at about 1 part per million. The groundwater standard for cyanide is 0.2 parts per million, (Table 1, Regulation 41, 5 CCR 1002-41), and the protection of groundwater screening level is 0.015 parts per million. (EPA Regional Screening Level.) Detoxification that leaves residual cyanide at two orders of magnitude above the groundwater protection standard is not protective of downgradient drinking water wells.
- The Applicant asserts that its proposed project is an “EPA-accepted remediation activity.” (Resp. to Obj. 1.) However, the Applicant has not produced any written EPA approval of this project. We have no doubt that EPA generally would support removal of tailings from OU-3, but we seriously doubt that EPA has reviewed, much less “accepted,” the cyanide milling plan proposed by Applicant. And we seriously doubt that EPA would support such an operation immediately upgradient of drinking water wells. If the Applicant is going to claim EPA support for its proposal, it should produce EPA’s written “acceptance.”
- The Applicant has described its process only by a line diagram. (Resp. to Obj. 2.) It should provide engineered drawings and specifications for its proposed facility, not just lines connecting boxes. The Applicant asserts it will produce as-built drawings when the facility is finished. But that will not address the concern – which is clear documentation of the proposed facility that can be evaluated as part of the permit decision-making process. Applicant should be required to clearly define, by engineer-stamped plans and specifications, how its facility will be completed and operated so that the sufficiency of the facility can be determined before a permit is granted, not after.
- Many of the Applicant’s responses are that it will include the requested information or changes in future documents or in final designs. Those documents and designs should be provided and reviewed by DRMS before any determination is made on the permit application.
- The Applicant’s responses to several comments are that it will provide information upon request. The Concerned Citizens comments were requests that the Applicant provide those items, and the items should be provided before any determination is made on the permit application.
- The Applicant responded to comments about the adequacy of the disposal pit liner by asserting that the design had already been approved and that the pit is under construction. (Resp. p. 5.) The disposal pit has not been permitted to receive cyanide leach waste. That is why the current application was filed.

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- The Applicant asserts that it will augment captured stormwater with water purchased from the Parkville Water District. (Resp. p. 8.) However, an augmentation plan must be approved in a decree from the Water Court or in a temporary Substitute Supply Plan approved by the State Engineer. Applicant should be required to produce a decreed augmentation plan or an approved Substitute Supply Plan to demonstrate an adequate augmentation plan.

All of the issues raised by the Concerned Citizens are important matters and the Applicant should be required to provide full and clear answers, including engineer-stamped drawings and specifications before proceeding with consideration of its application. However, even if Applicant provide this additional information, there can be no justification for cyanide leach operations immediately upgradient of drinking water wells.

We thank the Board for consideration of the comments provided by this letter. Please feel free to contact me with any questions about these comments.

Sincerely,

BURNS, FIGA & WILL, P.C.



Scott A. Clark

SAC/mjf

cc. Nick Michael, Union Milling Contractors, LLC