



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

December 16, 2021

Brian Wells
Dirt Merchant, Inc.
638 1800 Road
Delta, CO 81416

Re: Wells Pit, File No. M-2006-027, Receipt of Construction Material Limited Impact (110) Reclamation Permit Application Package AM-1

Dear Mr. Wells:

On Monday, October 04, 2021, the Division of Reclamation, Mining and Safety received the Construction Material Limited Impact (110) Reclamation Permit Application package for the Wells Pit, File No. M-2006-027. A preliminary review of the information received determined that the following items (*unchecked*) must be received before the Division can consider the application submitted and technical review can begin:

APPLICATION FORM:

Per Rule

6.2.1 General Requirements

(1) This Rule provides for the guidelines for, and information requirements of, each Exhibit required to be submitted with the permit application, as specified according to Section 6.1.

(2) Maps and Exhibits

Maps, except the index map, must conform to the following criteria:

- ☐ (a) show name of Applicant;
- ☐ (b) must be prepared and signed by a registered land surveyor, professional engineer, or other qualified person;
- ☐ (c) give date prepared;



- ☐ (d) identify and outline the area which corresponds with the application;
- ☐ (e) with the exception of the map of the affected lands required in Section 34-32.5-112(2)(d), C.R.S. 1984, as amended, shall be prepared at a scale that is appropriate to clearly show all elements that are required to be delineated by the Act and these Rules. The acceptable range of map scales shall not be larger than 1 inch = 50 feet nor smaller than 1 inch = 660 feet. Also, that a map scale, appropriate legend, map title, date and a north arrow shall be included.

6.3.1 EXHIBIT A - Legal Description and Location Map

- ☐ (1) The legal description must identify the affected land, specify affected areas and be adequate to field locate the property. Description shall be by (a) township, range, and section, to at least the nearest quarter-quarter section, and (b) location of the main entrance to the mine site reported as latitude and longitude, or the Universal Transverse Mercator (UTM) Grid as determined from a USGS topographic map. A metes and bounds survey description is acceptable in lieu of Township, Range, and Section. Where available, the street address or lot number(s) shall be given. This information may be available from the County Assessor's office or U.S. Geological Survey (USGS) maps.
- ☐ (2) The main entrance to the mine site shall be located based on a USGS Topographic map showing latitude and longitude or Universal Transverse Mercator (UTM). The operator will need to specify coordinates of latitude and longitude in degrees, minutes and seconds or in decimal degrees to an accuracy of at least five (5) decimal places (e.g., latitude 37.12345 N, longitude 104.45678 W). For UTM, the operator will need to specify North American Datum (NAD) 1927, NAD 1983, or WGS 84, and the applicable zone, measured in meters.
- ☐ (3) A map showing information sufficient to determine the location of the affected land on the ground and existing and proposed roads or access routes to be used in connection with the mining operation. Names of all immediately adjacent surface owners of record shall also be shown. The operation location map shall be a standard 1:24,000 scale U.S. Geological Survey map. The location of the proposed operation shall be shown and labeled with the mine site name.

6.3.2 EXHIBIT B - Site Description

- ☐ (a) a description of the vegetation and soil characteristics in the area of the proposed operation. The local office of the Soil Conservation Service (SCS) may provide you with this information as well as recommendations for Exhibit D - Reclamation Plan;
- ☐ (b) identify any permanent man-made structures within two hundred (200) feet of the affected area and the owner of each structure. Each structure should be located on Exhibit E - Map;

- ☐ (c) a description of the water resources in the area of the proposed operation. Identify any streams, springs, lakes, stock water ponds, ditches, reservoirs, and aquifers that would receive drainage directly from the affected area. Provide any information available from publications or monitoring data on flow rates, water table elevations and water quality conditions; and
- ☐ (d) A wildlife statement prepared by the Colorado Division of Wildlife (DOW) is not required for 111 Special Operations, or 110, or 110(6) Limited Impact Operations. The Operator/Applicant may contact the local Colorado Division of Wildlife (DOW) representative to verify that no critical or important wildlife habitats or wildlife species will be impacted by the proposed operation.

6.3.3 EXHIBIT C - Mining Plan

- ☐ (a) specify the estimated dates that mining will commence and end. If the operation is intended to be an intermittent operation as defined in C.R.S 34-32.5-103(11)(b), the Applicant should include in this exhibit a statement that conforms to the provisions of Section 34- 32.5-103(11)(b), C.R.S.;
- ☐ (b) the estimated depth to which soil, suitable as a plant growth medium, will be salvaged for use in the reclamation process. This description must be consistent with information provided in Exhibit B. Sufficient soil must be salvaged to meet the vegetation establishment criteria of Rule 3.1.10. If plant growth medium is not reapplied on a graded area immediately after salvage, then the Operator/Applicant must specify how the topsoil will be stockpiled and stabilized with a vegetative cover or other means until used in reclamation. Plant growth medium stockpiles must be located separate from other stockpiles, out of the way of mine traffic and out of stream channels or drainage ways. The location of plant growth medium stockpiles must be shown on Exhibit E - Map;
- ☐ (c) specify the thickness of overburden or quantity of waste rock, if any, to be removed to reach the deposit. The location of any overburden stockpiles or waste rock fills must be shown on Exhibit E - Map;
- ☐ (d) specify the thickness of the deposit to be mined;
- ☐ (e) describe the major components of the mining operation such as: roads and access routes, pit, office, shop/maintenance buildings, plant, processing facilities, and any underground openings such as adits or ventilation facilities. These components must be located on Exhibit E - Map;
- ☐ (f) specify the dimensions of any significant disturbances to the land surface such as pit excavations, mine benches, impoundments, stockpiles, waste rock disposal areas, etc;
- ☐ (g) specify the dimensions of any existing or proposed roads that will be used for the mining operation. Describe any improvements necessary on existing roads and the specifications to be used in the construction of new roads. New or improved roads must be included as part of the permitted acreage.

Describe any associated drainage and runoff conveyance structures to include sufficient information to evaluate structure sizing;

- ☐ (h) specify how much water will be used in conjunction with the operation, and the source of this water;
- ☐ (i) if groundwater will be encountered and/or surface water intercepted or disturbed, describe how mining will affect the quantity and quality of the surface or groundwater and the methods to be used to minimize disturbance to the surface and groundwater systems including proposed dewatering, sediment-containment or chemical treatment systems, storm water run-off controls, and groundwater points of compliance;
- ☐ (j) specify how you will comply with applicable Colorado water laws and regulations governing injury to existing water rights;
- ☐ (k) if refuse and acid or toxic producing materials are exposed during mining, describe how they shall be handled and disposed of in a manner that will control unsightliness and protect the drainage system from pollution;
- ☐ (l) describe what measures will be taken to minimize disturbance to the hydrologic balance, prevent off-site damage, and provide for a stable configuration of the reclaimed area consistent with the proposed future land use;
- ☐ (m) specify whether the deposit will be processed on-site. If the deposit will be processed, then describe the nature of the process, facilities and chemicals utilized. The process area and any structures must be described on Exhibit E - Map;
- ☐ (n) identify the primary and secondary commodities to be mined/extracted and describe the intended use; and
- ☐ (o) name and describe the intended use of all expected incidental products to be mined/extracted by the proposed operation.
- ☐ (p) Specify if explosives will be used in conjunction with the mining or reclamation. In consultation with the Office, the Applicant must demonstrate, pursuant to Subsection 6.5(4), Geotechnical Stability Exhibit, that off site areas will not be adversely affected by blasting during mining or reclamation operations.

6.3.4 EXHIBIT D - Reclamation Plan

- ☐ (1) (a) specify at what point in the mining plan and to what depth(s) overburden will be replaced in relation to ongoing extraction.
- ☐ (b) specify the maximum gradient of reclaimed slopes (horizontal:vertical). If the Application proposes slopes steeper than 3:1, the Operator/Applicant must include a justification that supports steeper slopes for the proposed post-mining land use, and demonstrates compliance with the applicable performance standards of Section 3.1.

- ☐ (c) specify the measures that will be taken to revegetate the site, if applicable, including:
 - ☐ (i) state the thickness of plant growth medium to be replaced. Sample and analyze available soils sufficiently to establish quantity and quality;
 - ☐ (ii) state at what point in the mining plan the site will be seeded. Explain how the seedbed will be prepared to eliminate compacted conditions (e.g., plowed, chiseled, disced). State the type, application rate, and soil incorporation methods of fertilizer application, if any. NOTE: Soil amendments shall only be applied where soil tests indicate nutrient deficiencies for the plant species to be established;
 - ☐ (iii) state the grass, forb, shrub and tree species to be planted and the applicable quantities. Specify the quantity of each grass and forb species as pounds of pure live seed per acre;
 - ☐ (iv) specify the application method for grass and forb seeding. If the seed is to be broadcast, the application rate shall be twice the rate required for seed drilling. If the seedbed has not been adequately roughened prior to seeding, the seed shall be raked or harrowed after broadcast application;
 - ☐ (v) if a mulch is needed, specify the kind to be used, the crimping method, and rate of application; and
 - ☐ (vi) explain the establishment methods for each species of shrub and/or tree, and state the number of each to be established per acre.
- ☐ (d) Specify which ponds, streams, roads and buildings, if any, will remain after reclamation. These features must be shown on the Exhibit E - Map. If ponds are part of the Reclamation Plan, slopes from 5 vertical feet above to 10 vertical feet below the expected average water level cannot be steeper than 3H:1V; remaining slope lengths may not be steeper than 2H:1V. Where wildlife habitat is the proposed future land use, shorelines should be irregularly shaped to promote a diverse wildlife habitat. The Colorado Division of Wildlife (DOW) must be consulted where wildlife use is the proposed future land use.
- ☐ (e) Specify the reclamation treatment of any waste rock dumps, underground mine openings, ditches, sediment control facilities, buildings and other features specified in your mine plan but not previously addressed in the Reclamation Plan narrative. These features must be shown on Exhibit E - Map. This should describe the measures taken to minimize disturbance to the hydrologic balance, prevent off-site damage, and provide for a stable configuration consistent with the proposed future land use.
- ☐ (2) All 110 Limited Impact applications must provide an estimate of the actual costs to reclaim the site based on what it would cost the State of Colorado using an independent contractor to complete reclamation. (Such estimates are not required for activities contemplated by the operator and approved by the Office to be outside the scope of the proposed reclamation plan.) The unit

costs should include estimates for the following activities as appropriate to the operation: backfilling, grading, topsoil application, seeding, mulching, fertilization, and labor to complete reclamation. Determine and specify the point during the operation when the site has reached a point of maximum disturbance. The cost to reclaim the site to the specifications of the Reclamation Plan at this point must be estimated. Unit costs (cost per cubic yard), volumes, haul or push distances, and grades must be included when backfilling and grading are part of the Reclamation Plan. Volume and unit costs for finish grading, subsoil and topsoil application must be provided in terms of cost per cubic yard. The estimated cost for fertilizer, seed and mulch acquisition and application must be provided as cost per acre.

- (a) Equipment costs must include such factors as equipment operator wages and benefits, fuel and lubricant consumption and depreciation. The cost to mobilize and demobilize the equipment from the nearest population center known to have the required equipment availability should be estimated.
- (b) All items referenced in the Reclamation Plan must be included in the cost calculation. These items in addition to earthwork, such as building demolition, fencing, monitoring well sealing or stream channel reconstruction must also be included in the reclamation cost estimate.
- (c) After the direct costs noted above have been estimated, the Office may add up to an additional maximum eighteen and one-half (18.5%) percent of that total, which includes private contract, typical overhead costs. This additional cost is required to cover indirect costs that an independent contractor would incur when performing reclamation of the site. Five (5%) percent additional cost shall be added to cover Office administration cost in the event of bond forfeiture and permit revocation.

6.3.5 EXHIBIT E – Map

- (1) In addition to the requirements of 6.2.1(2), the Operator/Applicant must provide a map that clearly describes the features associated with the mining plan and the components of the Reclamation Plan. Include one map for the mine plan and one map for the Reclamation Plan. The map(s) must be drawn to a scale no smaller than appropriate to clearly show all elements that are required to be delineated by the Act and these Rules; show a north arrow, note any section corners adjacent to the proposed operation, and indicate the date illustrated. At a minimum, maps must include the following information:
- (2) Mining Plan Map
 - ☐ (a) outline and label the permit boundaries, described in Exhibit A - Legal Description; for all 110 Limited Impact and 111 Special Operations, the Office considers the area bounded by the permit boundary to be analogous to the affected area;
 - ☐ (b) label the names of owner(s) of record of the surface of the affected area and of the land within two hundred (200) feet of the affected area, identify the owner of the substance to be mined, and the type of structure and owners of

record of any permanent or man-made structures within 200 feet of the affected area;

- ☐ (c) outline and label all major surface features to be used in connection with the proposed operation such as: existing and proposed roads, pit boundary, topsoil stockpiles, overburden stockpiles, product stockpiles, waste rock fills, stream channels, buildings, processing plant, underground openings such as adits or ventilation facilities, ponds, impoundments, dewatering pumps, diversions or waste disposal areas;
- ☐ (d) indicate the direction that construction material extraction will proceed;
- ☐ (e) note the location of any significant, valuable, and permanent man-made structures within two hundred (200) feet of the affected area. A narrative description must be provided in Exhibit B - Site Description; and
- ☐ (f) outline and label existing disturbance within and/or adjacent to the permit boundary (e.g., previously mined areas, roads or excavations resulting from utility construction). Re-disturbance of previously disturbed areas, by the proposed mining operation, must be included in the permit area and addressed in Exhibit D - Reclamation Plan.
- ☐ (3) Reclamation Plan Map
 - ☐ (a) show the gradient of all reclaimed slopes (horizontal:vertical) sufficient to describe the post mine topography;
 - ☐ (b) indicate where vegetation will not be established and the general area(s) for shrub or tree planting;
 - ☐ (c) if ponds are a part of the Reclamation Plan, outline the final shore configuration of the ponds and shallow areas if the future land use is for wildlife;
 - ☐ (d) state the average thickness of replaced overburden by reclamation area or phase; and
 - ☐ (e) state the average thickness of replaced topsoil by reclamation area or phase.

6.3.6 EXHIBIT F - List of Other Permits and Licenses Required

- ☐ Provide a statement identifying which of the following permits, licenses and approvals which are held or will be sought in order to conduct the proposed mining and reclamation operations: effluent discharge permits, air quality emissions permits, radioactive source materials licenses, disposal of dredge and fill material (404) permits, permit to construct a dam, well permits, explosives permits, State Historic Preservation Office clearance, 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.

6.3.7 EXHIBIT G - Source of Legal Right-to-Enter

- ☐ Provide a description of the basis for legal right of entry to the site and to conduct mining and reclamation, for Owners of Record described in Rule 1.6.2(1)(e)(i). This may be a copy of access lease, deed, abstract of title, or a current tax receipt. A signed statement by the Landowner and acknowledged by a Notary Public stating that the Operator/Applicant has legal right to enter and mine is also acceptable.

6.3.8 EXHIBIT H - Municipalities Within a Two-mile Radius

- ☐ List the mailing address and telephone number of the governing body for all municipalities within a 2-mile radius of the proposed mining operation.

6.3.9 EXHIBIT I - Proof of Filing with County Clerk

- ☐ An affidavit or receipt indicating the date on which the application was placed with the local County Clerk and Recorder for public review, pursuant to Subparagraph 1.6.2(1)(c).

6.3.10 EXHIBIT J - Proof of Mailing of Notices to Board of County Commissioners and Soil Conservation District

- ☐ Proof that notice of the permit application was sent to the 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 local Soil Conservation District, pursuant to Subparagraph 1.6.2(1)(a)(ii).

6.3.12 EXHIBIT L - Permanent Man-Made Structures

Where the 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.

1.6.2 ADDENDUM 1 - Notice Requirements - Affidavit of Posting Notice

- ☐ (1) (b) Prior to filing the application, post notices (signs) at the location of the proposed mine site, as required by the Office, of sufficient size and number to clearly identify the site as the location of a proposed mining operation giving name, address, and phone number of the Applicant, and stating that (name of Applicant) has applied for a mining permit with the Colorado Mined Land Reclamation Board. Anyone wishing to comment on the application may view

the application at the County Clerk's or Recorder's office and should send comments prior to the end of the public comment period to the Colorado Mined Land Reclamation Office, at the address given on the cover of these Rules and Regulations. Any class of Limited Impact 110 or Special 111 operation need only post notice (sign) at the location of the proposed access to the site. After having posted such notice (sign), failure by an Applicant to maintain such notice shall not constitute just cause to deny approval of the application. At the time the application is filed with the Office, the Applicant shall provide a signed affidavit that such notice (sign) was posted according to the provisions of this Rule.

Your application will not be considered filed until the information listed above is received and found sufficient to begin our review. A decision date will be established 30 days from the date of receipt of all of the requested information. Additionally, if you have already published notice you will need to republish notice, after the Division considers the application submitted. Republication must occur once within ten (10) days of the submittal date. We will notify you when you should initiate republication of your notice. The final date for receiving comments is ten (10) days after the date of publication or the next regular business day.

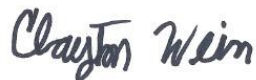
You have sixty (60) days from the above date to submit all necessary documents that the Office needs for an application to be considered filed. If, at the end of the sixty day period, the application has not been determined to be filed with the Office, the Office shall deny the application and terminate the application file.

This letter shall not be construed to mean that there are no other technical deficiencies in your application. The Division will review your application to determine whether it is adequate to meet the requirements of the Act after submittal of all required items.

If you require additional information or have questions or concerns, please don't hesitate to contact me at the DRMS Grand Junction Field Office.

If you require additional information, or have questions or concerns, please feel free to contact me. Amy Yeldell at the Division of Reclamation, Mining and Safety, 1313 Sherman St., Room 215, Denver, CO 80203. Direct contact can be made by phone at 970-254-8511 or via email at amy.yeldell@state.co.us

Sincerely,

A handwritten signature in dark ink that reads "Clayton Wein". The signature is written in a cursive, flowing style.

Clayton Wein
Environmental Protection Specialist
Department of Natural Resources

Division of Reclamation, Mining and Safety
Phone: (303)-866-3567 x8185
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Cc:
Travis Marshall, Senior EPS, Grand Junction DRMS