



January 13, 2022

Robert Solberg  
Solberg Gravel LLC  
13745 Garrett Rd  
Peyton, CO 80831-7620

**Re: Solberg Pit, Permit No. M-1981-044; Preliminary Adequacy Review for 112 Construction Materials Reclamation Permit Amendment Application (AM-3)**

Dear Mr. Solberg:

The Division of Reclamation, Mining and Safety (DRMS) has completed its preliminary adequacy review of your 112 Construction Materials Reclamation Permit Amendment Application (AM-3) for the Solberg Pit, Permit No. M-1981-044. The application was received on November 17, 2021 and called complete for review on November 30, 2021. **The decision date for this application is February 28, 2022.** Please be advised that if you are unable to satisfactorily address any concerns identified in this review before the decision date, **it will be your responsibility to request an extension of the review period.** If there are outstanding issues that have not been adequately addressed prior to the end of the review period, and no extension has been requested, the DRMS may deny this application.

The review consisted of comparing the application content with specific requirements of Rules 3.1, 6.4 and 6.5 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials. Any inadequacies are identified under the respective exhibit heading along with suggested actions to correct them.

The following items must be addressed by the applicant in order to satisfy the requirements of C.R.S. 34-32.5-101 et seq. and the Mineral Rules and Regulations of the Mined Land Reclamation Board:

**GENERAL COMMENTS**

1. **Proof of Required Notices:** Newspaper publication of a notice (published once a week for four consecutive weeks) regarding the filing of your application and transmittal of a copy of the notice to all owners of record of surface and mineral rights, holders of any recorded easements, and all owners of record of lands that are within 200 feet of the boundary of the affected land (this includes the additional proposed affected area, as well as the existing affected area) is



required within 10 days of submittal. You must submit proof of the notice and mailings, such as Certified Mail Return Receipt Requested, to the Division prior to the decision date. Please provide this documentation.

### **APPLICATION**

2. **Location Information:** Item 9 of the Application requests the number of miles and the direction from the nearest town to the site. Peyton is listed, but without a distance or direction. The DRMS notes that Falcon appears to be closer to the site than Peyton. Please provide a corrected page 2 of the Application with this information.
3. **Inspection Contact:** Item 11 requests phone number for the inspection contact. This was left blank. Please provide a phone number for Jason Ulmer.
4. **Post-mining land use:** Item 12 has a checkmark next to Pastureland. Exhibit E and amendment 2 state the post-mine land use is to be rangeland. The Application must provide consistent information. Please clarify which is to be the post-mine land use and resubmit corrected pages.
5. **On Site Processing:** Item 15 requests an explanation of the mining method and to list designated chemicals. As the new well and clarifier indicate, washing the material is a significant component of the on-site processing. In addition, Exhibit G states a cationic polymer, flocculent and water treatment chemicals (MSDS information referenced, but not included) are used in the operation. Please update Item 15 to include the wash plant/clarifier and list the water treatment chemicals.

## **6.4 SPECIFIC EXHIBIT REQUIREMENTS – REGULAR 112 OPERATIONS**

### **6.4.1 EXHIBIT A - Legal Description**

6. **Exhibit A:** The legal description must be for the entire site, not just the proposed expansion area. Please submit a revised Exhibit A to include a legal description of the entire site. Also, there is a minor difference in the entrance location coordinates when compared to Item 10 of the Application (Latitude: 38.9090~~57~~<sup>37</sup>° vs. 38.9090~~37~~<sup>57</sup>°; and Longitude: -104.553~~437~~<sup>373</sup>° vs. -104.553~~373~~<sup>437</sup>°). The difference is only about 50 feet, but they should be consistent. Please submit a revised Exhibit A.

### **6.4.2 EXHIBIT B - Index Map**

7. **Exhibit B:** This map is intended to show the regional location of the affected land and all roads and other access to the area. This is the third expansion of the affected land since the original Exhibit B was submitted in 1990 without an update. Please provide an updated Exhibit B showing the proposed affected are boundary.

### **6.4.3 EXHIBIT C - Pre-mining and Mining Plan Map(s) of Affected Lands**

8. **Adjoining surface owners:** Rule 6.4.3(a) requires all adjoining surface owners of record be portrayed on Exhibit C. Only the adjacent owners to the proposed expansion are shown. Please resubmit Exhibit C with all adjacent land owners identified. (*Note: all these landowners need to be noticed – see Comment 1 above*).

9. Reduction of existing affected area: When comparing the AM-3 affected area boundary to that approved for AM-2 on the south side and the southern end of the east side, it appears the affected area in these areas is intended to be reduced (see **Figure 1**). The reduction of affected area must be pursued under a separate acreage reduction request, and not part of the amendment process. Furthermore, it appears from the review of Google Earth imagery, that a significant portion of this area has already been disturbed, and can therefore not be released until reclamation is completed. Please revisit the east and south affected area boundaries and make the necessary changes to be consistent with that approved in AM-2. If these areas are still desired to be released, please submit appropriate acreage release requests. The DRMS cannot approve the proposed reduction in affected area and AM-3 without approving an acreage reduction request for these areas.
10. Unidentified structures: All structures within 200 feet of the affected area boundary (not the mining limits) need to be identified. Structures on the maps that are not identified and are within 200 feet of the affected area include the access road to the buildings on both the Solberg and Mobley properties (ownership of this road also need to be established), both Garrett and Curtis Roads and the new clarifier (*the DRMS notes numerous utility poles and fences are identified as such by symbols included in the legend, which is acceptable*). Please resubmit Exhibit C with the clarifier, access, Garrett and Curtis roads identified.
11. Topsoil Stockpiles: In order to estimate haul distances for reclamation, please indicate on Exhibit C map (or another map) where topsoil is to be stockpiled.

#### **6.4.4 EXHIBIT D – Mining Plan**

12. Affected Area: The first paragraph of Exhibit D states there will be 276 acres of affected area. The proposed additional affected area on Exhibit C is about 58 acres. AM-2, Exhibit C shows 227.66 acres, resulting in a total of 285.66± acres. Furthermore, Exhibit L only provides for revegetation and topsoiling of 237 acres (tasks #010 & #006), but finish grading of 275 acres (task #005). Please provide clarification for the different proposed affected areas and corrected exhibits as necessary.
13. Perimeter slopes: The third paragraph states the perimeter slopes will be 3H:1V. The fifth paragraph states the perimeter slopes will be 2.5H:1V. The Exhibit F map shows 3H:1V final perimeter slopes. Please clarify the intent. If the perimeter slopes are to be mined at 2.5H:1V and flattened to 3H:1V, then that will need to be reflected in the reclamation plan and costs included in Exhibit L.
14. Bonding: The fifth paragraph states “The proposed amendment area will be bonded as mining progresses”. Please clarify the intent of this statement. Is it the intent to pursue a phased bonding approach? If so, maximum areas of disturbance need to be specified as part of the permit and expressed in Exhibit L as well.

#### **6.4.5 EXHIBIT E – Reclamation Plan**

15. Post-mine land use: As stated in Comment 4, there is a discrepancy the stated post-mine land use between Exhibit E and Item 12 of the Application. Please provide the appropriate corrections.

16. Vegetated depression: The first paragraph references a vegetated depression as part of the reclamation plan. No depression is shown on the Exhibit F map, indicating the final pit floor elevation is 6641±. Possibly related is about 17.5 acres excavated below elevation 6640 in the southeast corner of the site on Exhibit C. A majority of this area is excavated to near elevation 6610, requiring 31 feet of backfill to achieve the pit floor elevation in Exhibit F. If the depression is to be part of the reclamation plan, it must be shown on Exhibit F, and narrative as to how once vegetated it will continue to be effective at infiltrating all captured stormwater within 72 hours will need to be provided. If the depression is not part of the reclamation plan, then an additional task in Exhibit L must be included to address this backfill and where the material for backfill will be sourced. Please provide the necessary clarifications and corrections.
17. Side slopes: Exhibit E states in both the first and second paragraphs the side slopes will be 2.5H:1V. The approved AM-2 reclamation plan and Exhibit F are for 3H:1V side slopes. If the final slopes are to be steeper than that approved for AM-2, please provide a rationale for the reduction. Otherwise, please submit a corrected Exhibit E.
18. Recycle water pond: The second paragraph indicates “If” the pond is not needed post reclamation, it will be backfilled. Please indicate why the recycle water pond might be needed post reclamation.
19. Topsoil replacement: The third paragraph states topsoil will be replaced at a depth from four to six inches. The current approved reclamation plan (AM-2) is for a minimum of six inches of topsoil replacement. Please explain the reduction.
20. Seeding method: The fourth paragraph states a hydroseeder will be used. Exhibit L, task #010 includes a drill seeding rate (as approved in AM-2) and task #012 proposes mobilizing a drill seeder (but no hydroseeder) to the site for reclamation. The DRMS considers hydroseeding a broadcast seeding method and therefore doubles the drill seed rate for hydroseeding. Please clarify if hydro- or drill seeding is intended and submit the necessary corrections.
21. Access road: There is a statement in AM-2 indicating the landowner uses the current access road to access grazing areas, presumably on the west side. However, there is no mention as to whether any of the access road is to remain for future access in AM-2 or this application. Please clarify whether any of the current access is to remain post reclamation for future access. If it is to remain, it needs to be shown on Exhibit F.

#### **6.4.6 EXHIBIT F – Reclamation Plan Map**

22. Drainage: The Exhibit F map shows a “flat” pit floor. Given that it is over 250 acres, some indication of grading to drain towards the existing drainages on the south and/or east side should be included. Please revise Exhibit F accordingly.
23. Affected Area Boundary: As discussed in Comment 9, there are potential adjustments needed to the affected area boundary. Please revise Exhibit F to be consistent with the response to Comment 9.

#### **6.4.6 EXHIBIT G – Water Information**

24. Treatment chemicals: The fourth paragraph references provided MSDS information for chemicals used and stored on site. No MSDS information could be found in the submittal. Please provide the MSDS for these chemicals and describe secondary containment measures for where these chemicals are stored in the Conex shipping container of other metal building. The storage location(s) needs to be shown on the Exhibit C map as well.

#### **6.4.9 EXHIBIT I – Soils Information**

Exhibit I is adequate as submitted.

#### **6.4.12 EXHIBIT L – Reclamation Costs**

25. Task 001C: This task provides for only 3 acres of perimeter slope final shaping. This appears very small with respect to the overall perimeter. Please provide justification for the three acres.
26. Task 005: Based on the discussion in Comment 12, please revise the 275 acres in this task to be consistent with the response to Comment 12.
27. Tasks 006 and 010: Based on the discussion in Comment 12, please revise the 237 acres in this task to be consistent with the response to Comment 12. Also consider your response to Comment 20 regarding seeding methods when revising task 010.
28. Task 011: This task is for demo and removal of the scales and scale house. Please clarify whether or not the scales are portable. If they are considered portable equipment, the DRMS does not require costs for demo and removal. This is also a likely task to include the demo and removal of the new clarifier. Assuming the clarifier is not portable equipment, please include costs to demo and remove the clarifier.
29. Task 012: Missing from the list of equipment identified in other Exhibit L reclamation tasks are the C730 haul truck and the hydroseeder (see Comment 20). Also, Phoenix is listed as the city from which to mobilize equipment, only 20 miles away. Please revise task #012 to include the missing equipment and update the city of origin.

#### **6.4.13 EXHIBIT M – Other Permits and Licenses**

30. Update required: Exhibit M has not been updated since AM-2 where the well permit was not listed and the Stormwater Management Plan (SWMP) application was in process. Please submit an updated Exhibit M with these two permits and clarify whether the site is required to have a permit from El Paso County.

#### **6.4.14 EXHIBIT N – Source of Legal Right to Enter**

Exhibit N is required to demonstrate the Permittee has legal right to enter, not the Operator. However, this documentation is provided in Exhibit O. No response is necessary.

**6.4.15 EXHIBIT O – Owners of Record of Affected Land (Surface Area) and Owners of Substance to be Mined**

Exhibit O is adequate as submitted.

**6.4.16 EXHIBIT P – Municipalities Within a Two-mile Radius**

Exhibit P submitted with revision CN-1 is still valid.

**6.4.17 EXHIBIT Q – Proof of Mailing of Notices to Board of County Commissioners and Soil Conservation District**

Exhibit Q is adequate as submitted.

**6.4.18 EXHIBIT R – Proof of Filing with County Clerk and Recorder**

Exhibit R is adequate as submitted.

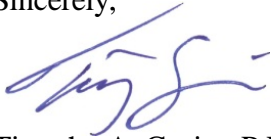
**6.4.19 EXHIBIT S – Permanent Man-Made Structures**

31. Eligible Structures: As the affected area boundary expands to the west, there appears to be only two potential structures within 200 feet of the affected area that have not been addressed. These are the fence that runs from just south of the building on the Solberg property, south to just north of the building on the Mobley property; and the access road that runs along the newly proposed western permit boundary from Garrett Road to the southwest corner of the new permit boundary. Please identify the owners of these two structures and if not wholly owned by Solberg Gravel LLC, Rule 6.4.19 applies and damage compensation agreements must be sought with the structure's owners. (*Note: the DRMS has an engineering evaluation dated February 26, 2007 to address: Garrett and Curtis Roads; and power poles and underground telephone lines on the opposite side of those roads*).
32. Utility lines/poles not addressed: There are two such utility lines inadequately addressed in Exhibit S: the utility poles on the west side of the permit boundary (now within 200 feet of the proposed affected area); and the new transmission line along the southern boundary (which appears to be the subject of the August 14, 2014 Power Transmission Line Easement letter in Exhibit S). As there does not appear to be any documentation addressing the west side utility line, the inadequate status is straight forward. The power transmission line easement letter only potentially addresses the southern transmission line if Solberg Gravel, LLC is the owner of the poles. This seems unlikely as transmission lines are typically owned by the utility company. Please provide documentation demonstrating compliance with Rule 6.4.19 for both these utility lines. If Solberg Gravel owns the transmission line, please provide documentation demonstrating as much, and explain how the easement agreement with Pioneer Sand addresses the structures (poles) rather than the easement.

**Please remember that the decision date for this application is February 28, 2022.** As previously mentioned 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. If there are still unresolved issues when the decision date arrives and no extension has

been requested, the application may be denied. If you have any questions, please contact me at (303) 328-5229.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tim Cazier', with a stylized flourish at the end.

Timothy A. Cazier, P.E.  
Environmental Protection Specialist

Enclosure: Figure 1

ec: Michael Cunningham, DRMS  
DRMS file  
Angela Bellantoni, PhD, Pioneer Landscaping Materials



# Figure 1. M-1981-044 AM-2 vs AM-3 Affected Area Discrepancies

Satellite imagery from 10/6/2019

## Legend

- M-81-44 2021 Affected Area Boundary Fence
- M-81-44 AM-2 Aff. Area Boundary
- M-81-44 AM-3 Aff. Area Boundary
- M-81-44 AM-3 Permit Boundary
- M-81-44 Dist. Area

Expansion of  
Affected Area - OK

Reduction of  
Affected Area -  
requires separate  
acreage release  
process.

Disturbed area -  
cannot be released  
until reclamation  
is completed.

Solberg Pit

Pioneer Sand

