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January 11, 2022

VIA EMAIL (charles.kooyman@coag.gov; scott.schultz@coag.gov)

Charles Kooyman
Mined Land Reclamation Board
Scott Schultz
Division of Mining and Reclamation
Senior Assistant Attorneys General
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 8th floor
Denver, Colorado 80203

CONFIDENTIAL SETTLEMENT STATEMENT PURSUANT TO CRE 408

Re: Fontanari: M-1996-076
Request for Partial Modification of Section 7 of Stipulated Settlement Dated
October 14, 2022

Dear Chuck and Scott:

Mr. Fontanari will be submitting the remediation report to DRMS this week. I'm writing to update you on Mr. Fontanari's progress under our Stipulated Settlement and to request a partial modification and extension of Section 7 therein.

The backfill of the basalt pit has essentially been completed and is awaiting inspection by DRMS. Mr. Fontanari stopped work there on December 14, 2021 and moved to removing the irrigation pipe. Seeding and mulching is not useful in January, and a delay in this aspect was, we believe, anticipated in Section 7(c). The work on the basalt pit backfill consumed 42 man/equipment days using three pieces of equipment—two Cat 980's, and a Cat 330 Excavator.

Mr. Fontanari's estimate based on the work done and to be done is that the backfill and elimination of the highwalls would require (or has consumed) approximately 75% of the man/equipment hours, and that the irrigation remediation would require about 25% of the man/equipment hours. As noted below, approximately 30% of the pipeline/furrow work was completed prior to arrival of winter weather. This means Mr. Fontanari is at roughly 82.5% of total completion, not counting seeding and mulching (for which we seek a seasonal delay).

After the backfill, Mr. Fontanari moved the equipment and work to the irrigation pipe remediation within the permit area. Both Mr. Fontanari and his son each worked 5 days on this

project before several precipitation events and hard freezes stopped work at approximately the 30% mark. The timetable for these winter weather events closely mirrored those here on the Front Range. Improving conditions this week may allow work to resume as soon as today on the pipe removal and ditch/furrow remediation work (backfilling and grading with frozen soil clumps is not useful and might require a re-do of the work). Milder weather is forecast for this week, which is the remainder of the stated compliance period. Seeding and mulching on the ditch/furrow site is not suggested until spring, also anticipated by Section 7(c).

In light of Mr. Fontanari's good-faith efforts towards compliance, and the weather and seasonal issues at play, we are seeking your consent and input on a compliance date extension to accomplish the remainder of the work. We are also confirming your understanding that the seeding and mulching obligations under Section 7(c) need not be completed until the spring.

To the extent that you would prefer that we file the extension/modification request as a formal motion to the Board, we are certainly willing to do so. Since both agencies are parties to the Stipulated Settlement, we are approaching both of you first prior to the January deadline.

We look forward to your response and thoughts.

Kindest Regards,

A handwritten signature in cursive script, appearing to read "Kendra Beckwith".

Kendra N. Beckwith

CC: John R. Henderson