



January 31, 2022

Bruce Newell
P.O. Box 37
Divide, CO 80814

**RE: Notice of Filing Deficiencies, 110c Construction Materials Application
Wellington Cattle Borrow Pit, File No. M-2021-025**

Dear Mr. Newell,

On January 14, 2022, the Division of Reclamation, Mining and Safety (Division) received your 110c Construction Materials Limited Impact Operation Reclamation Permit Application for the Wellington Cattle Borrow Pit, File No. M-2021-025. Pursuant to Rule 1.4.1(8), the Division has determined the application contains deficiencies which prevent the application from being considered filed. The following filing deficiencies must be addressed before the Division can consider the application as being filed and the technical adequacy review can begin. Please respond to this Notice of Deficiencies with the requested information and summarize each response to the numbered items below, in a cover letter titled "Response to Deficiencies, M-2021-025".

GENERAL

1. A copy of the on-site notice as required by Rule 1.6.2(1)(b) was not provided in the application. Please submit a signed affidavit demonstrating the on-site notice has been posted at the location of the access to the proposed site.

APPLICATION FORM

2. Application Question #1 (Page 1 of the application form) and Question #11 (Page 2 of the application form) lists "Wellington Cattle Company" as the Applicant/Operator while the Application Certification (Page 7 of the application form) lists "Bruce Newell" as the Applicant/Operator. After discussions with the Applicant, it appears the Applicant/Operator should be "Bruce Newell" as an individual rather than his company. Please revise Application Question #1 and #11 to accurately reflect the Applicant/Operator of the operation and submit replacement Pages 1 and 2 of the application form.
3. Application Question #3 (Page 1 of the application form) lists the permit acreage is ">10". It appears the Applicant intended to state "<10", however please revise the permitted acreage to a number which is less than 10 acres (e.g. 9.9 acres). Additionally, please remove "8 Acres" from Application Question #3.2 as Questions #3.1 and #3.2 involve amendments to existing applications and should be left blank for new permit applications.
4. Application Questions #7 and #8 (Page 3 of the application form) lists "Bruce Newell" as the name of the owner of the surface and subsurface rights of the affected lands. After discussions with the



Applicant, it appears the property owner may currently be listed as Betty Newell and the Applicant is the executor of her estate. Although Bruce Newell is the executor of Betty Newell's estate, Questions #7 and #8 should accurately identify the owner of the surface and subsurface rights of the affected lands. Please revise Application Questions #7 and #8 by identifying the owner(s) of the surface and subsurface rights of the affected lands and submit a replacement page three of the application form.

5. Application Question #10 (Page 3 of the application form) identifies the location of the center of the mine site, however the check boxes for the quarter section and quarter-quarter section appear to be switched. Please revise the location information and submit a replacement page three of the application form.
6. Responsibility #10 (Page 5 of the application form) has been initialed, however the Applicant appears to not be a joint venture/partnership business. Please submit a new Page 5 without responsibility #10 initialed.

EXHIBIT A - Legal Description and Location Map (Rule 6.3.1):

7. As referenced in the Applicant's cover letter, an Exhibit A Location Map was not included with the application materials as the permit maps were still being prepared at the time of submittal. In accordance with Rule 6.3.1(3), please submit an Exhibit A Location Map.

EXHIBIT E - Map (Rule 6.3.5):

8. As referenced in the Applicant's cover letter, an Exhibit E was not included with the application materials as the permit maps were still being prepared at the time of submittal. In accordance with Rule 6.3.5, please submit an Exhibit E.

EXHIBIT G – Source of Legal Right-to-Enter (Rule 6.3.7):

9. Within Exhibit G, the Applicant states the property to be mined is owned by the Applicant, however it appears the property may currently be owned by Betty Newell with Bruce Newell as the executor of her estate. In accordance with Rule 6.3.7, the Applicant will need to provide a copy of the deed, abstract of title, or a current tax receipt to demonstrate who owns the affected lands. If the owner of the surface/subsurface is different than Bruce Newell, the Applicant will need to submit a copy of a lease or a signed statement by the landowner(s) and acknowledged by a notary public stating Bruce Newell has the legal right to enter to conduct mining and reclamation. Please also submit documentation demonstrating Bruce Newell is the executor of the estate.

EXHIBIT I – Proof of Filing with County Clerk (Rule 6.3.9):

10. As referenced in the Applicant's cover letter, an Exhibit I was not included with the application materials as the permit maps were still being prepared at the time of submittal and the public review copy would be incomplete without the maps. In accordance with Rule 6.3.9, please submit an Exhibit I. Additionally, please submit proof that the public review copy has been updated with a copy of this letter and associated response.

EXHIBIT J – Proof of Mailing Notices to Board of County Commissioners and Conservation District (Rule 6.3.10):

11. The application included proof of notice of the local Soil Conservation District by including a date-stamped copy of the notice, however proof of filing with the local Board of County Commissioners was not date-stamped. In accordance with Rule 1.6.2 (1)(a)(ii), please submit Proof of Notice in the form of a certified mail return receipt (the green signature card) or a date-stamped copy of the notice acknowledging receipt by the Board of County Commissioners. If the Applicant elects to mail a notice to the Board of County Commissioners, please provide a copy of the notice in addition to the certified mail return receipt.

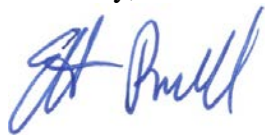
The Wellington Cattle Borrow Pit 110c Construction Materials Limited Impact Operation Reclamation Permit Application will not be considered filed until the information listed above is received and found sufficient to begin our review. A decision date will be established 30 days from the date of receipt and acceptance of all of the requested information. Please note, if you have already published notice you will need to republish notice, but only after the Division considers the application filed; the Division will notify you when you should initiate publication of your notice. This notice must be published once within 10 days of the date your application is considered filed. The final date for receiving comments is the 10th day after the publication or the next regular business day.

Pursuant to Rule 1.4.1(8), you have 60 days from the date of this letter to submit all necessary documents that the Division 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 Division, the Division may deny the application and terminate the application file. **The response to this Notice of Filing Deficiencies is due on or before April 1, 2022.**

This letter shall not be interpreted to mean that there are no other deficiency or adequacy requirements in your application. The Division will review your application to determine whether it is adequate to meet the requirements of the Act and Rules after submittal of all required items.

If you need additional information or have any questions, please contact me at Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at **303-866-3567 x8132**, or by email at elliott.russell@state.co.us.

Sincerely,



Elliott R. Russell
Environmental Protection Specialist

Cc: Nikie Gagnon, Division of Reclamation, Mining & Safety
Jason Musick, Division of Reclamation, Mining & Safety