



March 20, 2022

Stevan O'Brian  
Environment, Inc.  
7985 Vance Drive, Ste. 205A  
Arvada, CO 80003

**RE: Riverside Pit, M-1976-056**  
**Amendment 3 Application (AM3)**  
**Adequacy Questions 1**

Dear Mr. O'Brian:

On February 7, 2022, the Division of Reclamation, Mining and Safety deemed your Amendment Application (AM3) package complete for the Riverside Pit. The following questions will address adequacy issues and any missing information that is needed to complete the amendment application. This information needs to be addressed and/or received before the Division can approve the application:

Rule 1.6.2(1)(g) – General Application Procedures - Adequate as submitted.

Rule 1.6.5(2) – Submission of Proof of Publication

1. Please submit the proof of publication as required by Rule 1.6.5.
2. The DRMS received 3 comments from: ACOE, CPW and History Colorado. These comments are attached at the end of this review. Please address any concerns raised in the comments.

Rule 6.4 - Specific Exhibit Requirements - 112 Reclamation Operation

6.4.1 EXHIBIT A - Legal Description - Adequate as submitted.

6.4.2 EXHIBIT B - Index Map – Adequate as submitted.

6.4.3 EXHIBIT C - Pre-mining & Mining Plan Map(s) of Affected Lands – Adequate as submitted.

6.4.4 EXHIBIT D - Mining Plan

3. Page 6, it states that the new area (AM3) will become part of the Plant Site and material stockpile area in the near future. It was not clear in the application when the new area will be mined. In Exhibit G, it states that minor revisions may be necessary to the LWUA permit to account for the increased water exposure. When will the LWUA permit be updated?

6.4.5 EXHIBIT E - Reclamation Plan – Adequate as submitted.

6.4.6 EXHIBIT F - Reclamation Plan Map - – Adequate as submitted.



6.4.7 EXHIBIT G - Water Information

4. The last SWSP plan DRMS has on file is from 2007. Is there a more current SWSP? Please submit a copy of the most recent SWSP
5. Is the current SWSP adequate enough to cover the proposed exposed water in AM3 until the LWUA permit can be revised?

6.4.8 EXHIBIT H - Wildlife Information - Adequate as submitted.

6.4.9 EXHIBIT I - Soils Information - Adequate as submitted.

6.4.10 EXHIBIT J - Vegetation Information - Adequate as submitted.

6.4.11 EXHIBIT K - Climate - Adequate as submitted.

6.4.12 EXHIBIT L - Reclamation Costs

6. A cost estimate was not completed at this time because a significant amount of information needed to complete an estimate was requested in this adequacy review. A cost estimate will be completed when the information is received and McAtee Construction will have an opportunity to review/comment on it.

6.4.13 EXHIBIT M - Other Permits and Licenses (Statement Req'd) - Adequate as submitted.

6.4.14 EXHIBIT N - Source of Legal Right to Enter - Adequate as submitted.

6.4.15 EXHIBIT O - Owner(s) of Record of Affected Land and Substance to be Mined - Adequate as submitted.

6.4.16 EXHIBIT P - Municipalities Within Two Miles - Adequate as submitted.

6.4.17 EXHIBIT Q - Proof of Mailing of Notices to Board of County - Adequate as submitted.

6.4.18 EXHIBIT R - Proof of Filing with County Clerk and Recorder – Adequate as submitted.

6.4.19 EXHIBIT S - Permanent Man-made Structures

7. Currently, about 850 feet of the Lowline Ditch will border the East Lake within 100 feet. In this amendment, an additional 925 feet of Lowline Ditch will border Lake Marjorie. On page 9 it states that the armoring on the east shore of the East Lake will not be extended into Lake Marjorie to protect the ditch. The reason given was that extensive work has been already done to protect the Lowline Ditch from the effects of river flooding by the ditch company. It is not clear from the AM3 application if the work completed is also adequate to protect the ditch from the effects of mining.

Since the ditch exposure to mining will more than double (by linear footage) and less protection is proposed by the operator as compared to the previous design, an updated structure agreement from the Lowline Ditch Company verifying that they are in agreement with no additional armor in the lakes is needed.

Please note that the decision date for this application is May 9, 2022. 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.

All corrected pages must also be provided to Logan County Clerk & Recorder.

If you have any questions, please contact me at (720) 774-0040 or [brock.bowles@state.co.us](mailto:brock.bowles@state.co.us).

Sincerely,



Brock Bowles  
Environmental Protection Specialist



Brock F. Bowles  
Division of Reclamation, Mining and Safety  
1313 Sherman Street, Room 215  
Denver, Colorado 80203

Re: Riverside Pit – File No. M-1976-056, McAtee Construction Company Amendment Application (AM-3)  
(HC#34225)

Dear Mr. Bowles:

We received your letter dated February 7, 2022 initiating consultation with our office on the subject action pursuant to the Colorado State Register Act – Colorado Revised Statute (CRS) 24-80.1 et. seq.

A search of our database indicates one historic transmission line, the Beaver Creek to Sterling Transmission Line (5LO.442), is located within or adjacent to the permit area. This property was determined *officially eligible* for listing on the National Register of Historic Places. As there are no properties of historical significance included or nominated for inclusion in the state register within the proposed permit area, a finding of no adverse effect is appropriate.

As most of Colorado has not been inventoried for cultural resources, our files contain incomplete information. Consequently there is the possibility that as yet unidentified cultural resources exist within the proposed permit area. The requirements under CRS 24-80 part 13 apply and must be followed if human remains are discovered during ground disturbing activities.

Please note that if the fill or disposal site location is associated with a Federal undertaking, it is the responsibility of the federal agency to meet the requirements of Section 106 as set forth in 36 CFR Part 800 titled “Protection of Historic Properties”. This includes not only reasonable and good faith identification efforts of any historic properties located within the area of potential effects, but determining whether the undertaking will have an effect upon such properties. The State Historic Preservation Office, Native American tribes, representatives of local governments, and applicants for federal permits are entitled to consultative roles in this process.

We thank you for the opportunity to comment. If we may be of further assistance, please contact Holly McKee-Huth, Cultural Resource Information/Section 106 Compliance at (303) 866-4670/[holly.mckee@state.co.us](mailto:holly.mckee@state.co.us).

Sincerely,

Dawn DiPrince  
State Historic Preservation Officer



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## Review for Amendment Application for Permit: M1976056 Revision: AM3

1 message

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**Allen - DNR, Mason** <mason.allen@state.co.us>

Thu, Feb 17, 2022 at 7:43 PM

To: brock.bowles@state.co.us

Cc: Brandon Marette - DNR <brandon.marette@state.co.us>

Hi Brock,

Thanks for giving us an opportunity to review the proposed amendment details regarding McAtee Construction Company and thier associated application. The pertinent staff here in Area 3 have collectively reviewed the information, which includes myself, the terrestrial, aquatics, and threatened and endangered species biologists. After reviewing the information we do not have any biological concerns with the proposed activity.

Thanks again for the opportunity to take a look at it!

Mason

Mason Allen

District Wildlife Manager, Sterling North



P 970-466-2818

28167 County Rd. T, Brush, CO 80723

mason.allen@state.co.us | cpw.state.co.us



**DEPARTMENT OF THE ARMY**  
CORPS OF ENGINEERS, OMAHA DISTRICT  
DENVER REGULATORY OFFICE, 9307 SOUTH WADSWORTH BOULEVARD  
LITTLETON, COLORADO 80128-6901

**SUBJECT: Section 404 of the Clean Water Act Initial Comments**

To whom it concerns:

In accordance with Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers reviews and authorizes any work associated with the discharge of dredged or fill material, and any excavation associated with a dredge or fill project, either temporary or permanent, in waters of the United States. Waters of the United States may include ephemeral, intermittent and perennial streams, wetlands, lakes, ponds, drainage ditches and irrigation ditches. Please note that the discharge of dredged or fill material into upland areas or aquatic resources which are not waters of the United States does not require authorization from this office.

Jurisdictional Determinations identify the locations and amounts of aquatic resources within a specified area to determine if they are or are not waters of the United States. Prior to submitting a request for a Jurisdictional Determination, we recommend a wetland delineation be conducted in the field by a qualified environmental consultant. A wetland delineation identifies the boundaries of aquatic resources located within your project area and must be conducted using the methods outlined in the Corps of Engineers Wetlands Delineation Manual and applicable regional supplements.

Nationwide Permits authorize common types of dredge and fill activities in waters of the United States that will result in a minimal adverse effect to the environment. Some fill activities require a pre-construction notification (PCN) to the Corps prior to any work and possibly coordination with other local or state agencies. Descriptions of the current nationwide permits and their general conditions can be found at:

<https://www.nwo.usace.army.mil/Missions/Regulatory-Program/Colorado/>

Regional General Permits authorize specific types of dredge and fill activities in waters of the United States that will result in a minimal adverse effect to the environment. These fill activities require a pre-construction notification to the Corps prior to starting work, and possibly coordination with other local or state agencies. Please note several of the RGP's are applicant and location specific. Descriptions of the current regional general permit activities and their general conditions can be found at:

<https://www.nwo.usace.army.mil/Missions/Regulatory-Program/Colorado/Regional-General-Permits/>

Standard Individual Permits authorize dredge and fill activities that do not qualify for Nationwide or Regional General Permits. We recommend contacting the Denver Regulatory Office to arrange for a pre-application consultation prior to applying for a

Standard Individual Permit. Standard Individual Permits include public interest review procedures, including public notice, notification of adjacent property owners and review of public and agency comments. Standard Individual Permits require an evaluation of effects for a range of alternatives. The Corps will evaluate practicable (cost, logistics, and technology) alternatives that meet the overall project purpose for environmental effects. Alternatives can include off-site alternatives and alternative designs. When evaluating Standard Individual Permit applications, the Corps can only issue a permit for the least environmentally damaging practicable alternative (LEDPA). In some cases, the LEDPA may not be the applicant's preferred alternative. The Standard Individual Permit application form and instructions can be found at:

<https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>

A federal action occurs when a discharge of dredged or fill material into waters of the United States requires a Clean Water Act Section 404 permit. For the Corps to make a permit decision, the applicant must provide enough information to demonstrate compliance with Section 106 of the National Historic Preservation Act (NHPA) and Section 7 of the Endangered Species Act (ESA).

Dredge and fill activities in waters of the United States must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to the maximum extent practicable at the project site. Mitigation, including avoiding, minimizing, rectifying, reducing, or compensating for resource losses, will be required to the extent necessary to ensure that the adverse effects to the aquatic site are minimal. Any loss of function at an aquatic site may require mitigation. Mitigation requirements will be determined during the Clean Water Act Section 404 review process.

If the activity you described would impact waters of the United States, the Denver Regulatory Office should be notified. Please include a map identifying dimensions of work in each aquatic site, the county, Township, Range and Section and the latitude and longitude of the activity in decimal degrees, along with a description of your request, to the Denver Regulatory Office mailbox located at [DenverRegulatoryMailbox@usace.army.mil](mailto:DenverRegulatoryMailbox@usace.army.mil) or contact the Denver Regulatory Office at 303-979-4120.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Downing', with a stylized flourish at the end.

Kiel Downing  
Chief, Denver Regulatory Office