March 23, 2022

Britt Haley
Parks Design and Development Manager / TOPS Program Manager
City of Colorado Springs Parks, Recreation and Cultural Services
1401 Recreation Way
Colorado Springs, CO 80905

RE: **Pike View North Borrow, Reference No. M-2022-011, Division Response to "Is It Mining?" Questionnaire, No Permit Required**

Dear Ms. Haley,

On March 21, 2022, the Division of Reclamation, Mining and Safety (Division) received information for an "Is It Mining" questionnaire regarding a proposed project to excavate 2,200,000 cubic yards of fill material from property owned by the City of Colorado Springs. The area of excavation will cover approximately 9.315 acres, which will be graded and utilized as open space for public recreation and wildlife habitat. The excavated material will be transported approximately 1,000 ft. to the Pikeview Quarry, File No. M-1977-211, where it will be used as fill dirt to complete reclamation. The excavated material will not be processed and transportation of material will not require the use of public roads. A Grading and Erosion Control Permit has been issued by the City of Colorado Springs, which provides local regulatory oversight of the reclamation for the excavation site. The landowner will not receive compensation for the excavated material.

The Mined Land Reclamation Board has requested the Division make determinations as to the need for a Mined Land Reclamation Permit. Based on the information provided in the questionnaire, the Division has determined **a permit is not required for the proposed activity**.

If you disagree with this decision, you may petition to appear before the Board during a formal public hearing for a Declaratory Order concerning this matter. Pursuant to Rule 2.5.2(1), the request must be submitted to the Board <u>in writing</u> and be received no later than 10 days prior to the hearing. The written request must contain the information required pursuant to Rule 2.5.2(2) (copy enclosed). The next available Board hearing will be held on April 20, 2022.

If you have questions please contact me at (303) 866-3567 extension 8116.

Sincerely,

Michael A. Cunningham
Senior Environmental Protection Specialist

CC: Russ Means, DRMS
        Tim Cazier, DRMS

2.5.2 Petition Submission

(1)   The petition must be submitted, at a minimum, ten (10) days prior to the Board meeting at which it is to be considered.

    (a)   At the regularly scheduled Board meeting, the Board will determine in its discretion and without notice to Petitioner, whether to rule upon any such petition.

    (b)   If the Board determines that it will not rule upon such a petition, the Board shall promptly notify the Petitioner of its action and state the reasons for such action.

(2)   Any petition filed pursuant to this rule shall set forth the following:

    (a)   the name and address of the Petitioner and whether the Petitioner is a Permittee pursuant to the Colorado Mined Land Reclamation Act;

    (b)   the statute, rule or order to which the petition relates;

    (c)   a concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the Petitioner.

2.5.3 Consideration of Petition

In determining whether to rule upon a petition filed pursuant to this Rule, the Board will consider the following matters, among others:

(a)   whether a ruling on the petition will terminate a controversy or remove uncertainties as to the applicability to Petitioner of any statutory provision or rule or order of the Board.

(b)   whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Board or a court involving one or more of the Petitioners.

(c)   whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Board or a court, but not involving any Petitioner.

(d)   whether the petition seeks a ruling on a moot or hypothetical question or