



June 30, 2022

Re: Rationale for Recommendation to Approve a 110c to 112c Permit Conversion Application over Objections, CN1 Application Golden Mine, M1976-007UG

Introduction

On June 30, 2022, the Division of Reclamation, Mining and Safety (Division or Office) issued its recommendation to approve, over objections, the 110c to 112c permit conversion application for the Golden Mine, Permit M1976-007UG (Application). This document is intended to explain the process by which the Division arrived at its recommendation to approve the Application over objections, and respond to the issues raised by the objecting parties. The Division reserves the right to further supplement, amend, modify, or clarify this document and recommendation with additional details as necessary.

Summary of the Review Process¹

Denver Brick (or Applicant) submitted the 110c to 112c conversion application to the Division on August 2, 2021, and the application was called complete for review by the Division on September 8, 2021. The Applicant proposes to expand the existing permitted area by 61.15 acres for a total permitted area of 70.15 acres. The primary commodity to be mined is clay. The mine will continue to operate largely as it has in the past, with limited “campaign mining” intervals lasting 3-5 weeks, taking place every 3-5 years, then shipping from product stockpiles created during the mining events as needed. No groundwater will be exposed and no dewatering will take place at the site. Very limited material processing, consisting of screening for size, is proposed for the Golden Mine site. All product excavated from the site will be stockpiled for transfer off-site by truck for processing and final use or sale. The Golden Mine site is proposed to be reclaimed as rangeland, similar to the adjacent reclaimed mine sites and property.

The proposed permit expansion area is a State Land Board owned historic mining area with clay mining activity and impacts dating back to the late 1800’s and early 1900’s. A reclamation permit was issued for the Golden Mine in 1976, shortly after the Colorado Land Reclamation Act for the Extraction of Construction Materials went into effect, and has been active and in place since that time.

The proposed permit expansion area includes 70.15 acres (including the existing 9 acre permit area), with a total of approximately 47 acres to be affected when mining/reclamation is completed. The

¹ Herein, all references to the Act and Rules refer to the Colorado Land Reclamation Act for the Extraction of Construction Materials, 34-32.5-101 et seq., C.R.S. (Act), and to the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials, 2 C.C.R. 407-4 (the Rules or Rule). Copy of the Act and Rules are available through the Division’s web site at <https://www.colorado.gov/drms>.

remaining approximately 23 acres of permitted area will serve as a “buffer” between the proposed mining/stockpile/road areas, and the surrounding properties. The Division has determined a financial warranty in the amount of \$298,000.00 is required to complete the proposed reclamation of the 47 acres at the end of mining, when the most reclamation work would be required.

Pursuant to Rule 1.4.1(9), the applicant requested three extensions of the decision date to resolve issues with initial publication of public notice, and to address all adequacy issues. These extended the decision date by 236 days from the initial date of December 7, 2021 to July 31, 2022.

Notice of the filing occurred in accordance with the requirements of the Act and Rules. The Applicant published the initial required notice in the Golden Transcript on September 16, 2021. The public comment period closed on October 27, 2020. During this comment period, the Division received written objections from 27 parties. However, it later was noted during adequacy review, that notice publication only occurred once, rather than the four consecutive weeks required by rule. To address this error, the Division required re-publication for a full consecutive four weeks. The second public notice period commenced on December 9, 2021 and the public comment period closed on January 19, 2022 (20 days after the date of the fourth publication). During the second comment period, the Division received written objections from 158 parties.

In addition, as is typical for this type of application, the Division received timely comments from the Colorado Division of Water Resources, and History Colorado, as well as the Town of Golden, and a letter of support from the State Land Board. The Division also received untimely comments from Colorado Parks and Wildlife (CPW) on June 3, 2022. CPW’s comments were forwarded to the applicant who provided responses through the adequacy process.

The Division forwarded copies of all comments to the Applicant in accordance with Rule 1.7.1(3). A detailed list of all timely objections, timely and untimely agency comments, and untimely/incomplete objections is provided in Appendix A.

The Division scheduled the application for a hearing before the Colorado Mined Land Reclamation Board (Board), to occur during the July 20-21, 2022 Board meeting, and for a Pre-hearing Conference on Thursday July 7, 2022. The Division provided notice on June 16, 2022 of the scheduled Board hearing and Pre-hearing Conference to all parties, using the email address they provided to the Division. As a result of timely objections, the Division does not make a decision on the Application on the decision date, but rather a recommendation to the Board.

On February 25, 2022, the Division hosted a virtual informal public meeting, during which the Division explained the application review process, issues under the Board’s jurisdiction, party status, and the processes of the Pre-hearing conference and formal Board hearing. Parties and interested persons were informed of the public meeting using the email address they provided to the Division with their timely comments/objections. Approximately 43 people attended the informal remote meeting.

During the review period the Division generated three adequacy review letters. The Applicant addressed all adequacy issues to the Division's satisfaction. The Division's three adequacy letters and the Applicant's responses were publicly available on the Division's website. Therefore, on June 30, 2022, the Division determined the Application satisfied the requirements of the Act and Rules and issued its recommendation for approval of the 110c to 112c permit conversion application for Golden Mine, permit M1976-007UG.

On June 30, 2022, the Division forwarded a copy of its recommendation to all parties and interested persons in accordance with Rule 1.4.9(2)(c), and made the rational document available to the public through the Division's website.

Jurisdictional Issues Raised by Objecting Parties and Commenting Agencies

Issues raised by the objecting parties and commenting agencies and within the jurisdiction of the DRMS review process have been grouped into eight categories: Zoning/Land Use, Hydrologic Balance issues, Wildlife/Sensitive Environment/Floodplain issues, Off-Site damage/blasting, Mining Plan adequacy, Reclamation Plan adequacy, Completeness/Accuracy of the provided materials by the applicant, and Reclamation Bond Adequacy. The categories are listed below in bold font. Under each category, the Objector's concerns are summarized in italic font, with specific issues related to that subcategory listed afterward. The Division's response follows the issue(s) in standard font. A brief summary and discussion of non-jurisdictional topics has also been provided.

1. Potential Conflict with Existing Approved Land Use/County Zoning

Objections received stated in some form that the operation conflicts with existing Jefferson County Land Use and Zoning requirements (site is currently zoned as agricultural) and therefore the permit expansion should be denied.

Jefferson County was notified of the complete proposed conversion application on September 8, 2021, as required by Rule. No response to the DRMS notice has been received to date from Jefferson County. As part of the technical review process DRMS met with Jefferson County representatives on-site during the pre-operation inspection to discuss the application and coordinate, to the extent necessary, the review process between the required state and local permits. The DRMS permitting review process is independent from a county local use permitting process, nevertheless, coordination with relevant local governments is an important component of the Division's review process.

DRMS was informed by the County during the pre-operation inspection that the Denver Brick site will need to go through the Location and Extents permit process and obtain approval prior to any expansion of operations. There is no requirement that the county process related to the Golden Mine needs to be completed *prior* to DRMS approval of the conversion application. Importantly, the Applicant has acknowledged that county approval will be required for the Golden Mine operation in order for it to expand, and the Applicant has committed to obtaining the necessary approvals from Jefferson County. Approval of the DRMS permit is not dependent on approval by Jefferson County, however, no permit expansion can occur under the DRMS permit until the Applicant also gains approval by Jefferson County.

As is the case with most mining applications in Colorado, this application requires several Federal, State, and local permits and approvals prior to commencing mining operations. The DRMS 112c permit is only one of many required permits and the Applicant has identified all necessary permits in Exhibit M – Other Permits and Licenses of the application. Beginning with the DRMS permit process is common industry practice because the DRMS statutory timeline often requires a quicker review process than other permitting agencies. At this time, the Jefferson County Location and Extents Permit process is ongoing.

2. Hydrologic Balance issues

Pursuant to C.R.S. 34-32.5-116(4)(h) and Rule 3.1.6 disturbances to the prevailing hydrologic balance of the affected land and of the surrounding area and to the quality and quantity of water in surface and groundwater systems, both during and after the mining operation and during reclamation, shall be minimized.

Groundwater Quantity and Quality Concerns

Objections received by DRMS cited concerns about potential adverse impacts to the quantity and quality of surrounding groundwater and/or drinking water wells due to the proposed operation.

As previously stated, the proposed expansion area is a historic mining area with clay mining activity and impacts dating back to the late 1800's and early 1900's. A reclamation permit was issued for the site in 1976, shortly after the Colorado Land Reclamation Act for the Extraction of Construction Materials went into effect, and has been in place since that time. No adverse impacts to groundwater water quality have been identified as a result of this mining activity, either historically, or since the current permit was issued in 1976. Objections were received alleging that the application was incomplete because it did not provide a detailed geochemical analysis of the bedrock and mined material, or a fate and transport model for groundwater or surface water constituents, however these kinds of analyses are not required by rule, and are well outside the scope of a normal application of this type – especially when the proposed activity will not expose groundwater or directly encounter a perennial surface water body.

DRMS has noted the presence of a draining collapsed adit feature located on Jefferson County property immediately east of the permit area. This feature is not within the existing or proposed permit area, and is associated with historic underground mining activity, not the existing permitted surface mining operation. The groundwater discharge was not created under the Golden Mine Reclamation Permit and the Operator is not legally responsible for the discharge.

In the 1990's the DRMS Inactive Mine Program (IMP) installed a lined collection pool at the outlet of this adit to better manage the historic discharge. At the same time, an outlet channel and culvert were installed to direct any overflow from the collection pool to another lined area with a reinforced outlet. This secondary collection area was installed north of the existing site access road on property also currently owned and managed by Jefferson County.

Based on the elevation of the mine floor shown in the mine plan (6050' asl), the mine floor should remain above historic underground workings and remain at a higher elevation than the adjacent property at the downgradient (east) boundary of the proposed permit. According to DWR records, an unused well located on the Jefferson County property immediately east of the permit has a surface elevation of 5975' and a static water elevation of 80' bgs (5895' asl). These factors indicate that the proposed operation will not expose groundwater. Therefore, the proposed activity should have minimal if any adverse impacts on the quantity or quality of groundwater in the area.

Several objectors stated their belief that the use of local water resources for this operation is not appropriate, and may have adverse impacts on potential development and future water users. Rule 3.1.6(1)(a) requires compliance with applicable Colorado water laws and regulations governing injury to existing water rights. DRMS has determined that the proposed operation complies with this requirement. Decisions regarding water usage and water rights are made by the State Engineer's Office and are outside the scope of the DRMS Rule and review process. The applicant has entered into agreements with existing water providers to supply the necessary water for site operations.

The applicant has provided a blasting plan acknowledging the presence of groundwater wells in the vicinity. This plan provides limits for ground vibration and air overpressure levels well within acceptable levels to protect all nearby structures, including groundwater wells. The Division concludes that by not exposing groundwater during operations, not storing hazardous materials on-site, and by following the approved blasting plan, the application sufficiently demonstrates impacts to the water resources of the affected land and surrounding areas during active mining or post-mining periods will be minimized (or eliminated).

For production of any wells in the surrounding area to be adversely impacted, groundwater would need to be removed from the local system, which typically occurs through pumping/dewatering of an open pit, or mine workings to a level below the pre-existing static water level. However, for this operation, these conditions do not and will not exist. Groundwater will not be pumped or exposed. Because no groundwater will be removed from the site, groundwater levels in the area will remain at the current levels and equilibrium. No measurable impacts to the groundwater levels in the surrounding area or wells are anticipated from the proposed mining activities. No complaints of groundwater impacts, either to quality or quantity, have ever been received by DRMS resulting from this operation.

The site surface will be graded to drain internally, and no designated chemicals will be used or stored on-site, so no release of pollutants to surface water or groundwater is expected.

Surface Water Quantity Concerns

Objections received by DRMS cited concerns about potential adverse impacts to the quality of nearby surface water, or non-specific "water quality" or watershed concerns due to the proposed operation.

No adverse impacts to surface water quality have been identified as a result of this mining activity either historically, or since the current permit was issued in 1976. In addition, during the review process DRMS did not identify, and no information was provided by objectors to identify any perennial streams located within ½ mile of the site. The presence of intermittent surface runoff

pathways adjacent to the site have been noted, and the proposed mining activity will not interfere with those existing drainage pathways.

Also as previously stated, no designated chemicals will be used or stored on site, and the site surface will be graded to drain any runoff internally, so no release of pollutants to surface water or groundwater is expected. These factors will minimize the chance of any site related impacts to surface water quality. In addition, the Applicant has affirmatively stated in Exhibit M of the application that a CDPHE Storm water Discharge Permit and Plan as well as a Fugitive Dust Permit and Plan for the site have been obtained.

The Division has determined the application adequately demonstrated that disturbances to the prevailing hydrologic balance of the affected land and of the surrounding area and to the quality and quantity of water in surface and groundwater systems both during and after the mining operation and during reclamation will be minimized, as required under C.R.S. 34-32.5-116(4)(h) and Rule 3.1.6. Additionally, the application addressed all requirements of Rule 6.4.7, regarding the identification and protection of hydrologic resources, and the reclamation performance standards of Rule 3.1.

3. Wildlife/Sensitive Environment/Floodplain issues

Objections received by DRMS cited general or unspecified concerns about potential adverse impacts to wildlife, wildlife habitat/sensitive environments/wetlands, and potential floodplain issues areas as a cause for objecting to the proposed operation.

DRMS provided notice of this application to Colorado Parks and Wildlife (CPW) on September 8, 2021. It should also be noted that the applicant reached out to CPW as recommended by Rule 6.4.8 Exhibit H – Wildlife Information, on several occasions, starting in early 2021, to provide comment or to meet on-site to discuss proposed activity. Although CPW did not attend any on-site meetings, DRMS did receive untimely comments from CPW on June 3, 2022. CPW comments identified concerns with potential impacts to mule deer winter range, made revegetation and weed control recommendations, and noted the possible presence of a sensitive bat species (Townsend's Big-eared Bat) which may be present in historic mine openings located within the proposed amendment area. CPW provided guidance for measures that the applicant may take to minimize potential impacts to bats species (if present) on site. These comments were forwarded to the applicant by DRMS for consideration through the adequacy process.

Impacts to Wildlife/Wildlife Habitat/and Unspecified "Environmental" Impacts

Objections received by DRMS cited non-specific concerns about potential adverse impacts to area wildlife, or the environment, as well as other similar concerns due to increased noise, potential reduction of habitat, and impeding wildlife movement across the site.

Exhibit H provided by the applicant during the application and adequacy process addressed all required items in Rule 6.4.8 including; a description of the significant wildlife resources on the affected land, seasonal use of the area, the presence and estimated population of threatened or endangered species from either federal or state lists; and a description of the general effect during and after the proposed

operation on the existing wildlife of the area, including but not limited to temporary and permanent loss of food and habitat, interference with migratory routes, and the general effect on the wildlife from increased human activity, including noise.

Pursuant to Rule 3.1.8(1), all aspects of the mining and reclamation plan shall take into account the safety and protection of wildlife on the mine site, at processing sites, and along all access roads to the mine site with special attention given to critical periods in the life cycle of those species which require special consideration (e.g., elk calving, migration routes, peregrine falcon nesting, grouse strutting grounds).

With respect to CPW's comment that site activity may impact Mule Deer severe winter range, the concurrent reclamation proposed by the applicant will minimize the area impacted at any one time, while the proposed final reclamation plan will return the post-mining permit area to rangeland suitable for mule deer grazing. DRMS would further note that this winter range also includes significant adjacent areas, including nearby reclaimed sites.

With respect to CPW's comment expressing concerns about potential impacts to bats possibly nesting in three historic grated mine openings located within the proposed mining area, the applicant has located and documented these features, and has committed to reaching out to CPW prior to mining or blasting in these areas. DRMS notes several other grated historic openings exist adjacent to the site but outside the proposed permit area that will not be impacted by mining activity.

It should be noted that the proposed expansion area is a historic mining area with mining activity and impacts dating back to the late 1800's and early 1900's. A reclamation permit was issued for the site in 1976, shortly after the Colorado Mined Land Reclamation Act went into effect. Any wildlife in the area have long since adapted to the presence of this activity. The disturbance due to the proposed campaign mining represents, at most, a de-minimus, and temporary habitat reduction. When reclamation is completed, the site will provide a habitat for local wildlife at least equal to that the current property provides.

Sensitive Environments/Wetlands/Floodplain

Pursuant to Rule 6.4.10, Exhibit J of the application included descriptions of present vegetation types, relationships of present vegetation types to soil types, and showed the relation of the types of vegetation to existing topography on a map. No wetlands were identified within the proposed permit expansion area either in the submitted materials, or during the on-site inspection.

The US Army Corps of Engineers (COE) is the regulatory entity with primacy and authority to delineate jurisdictional wetland areas and aquatic resources, as well as to require permitting and mitigation for any proposed disturbances to jurisdictional areas. Therefore, the final determination for the amount of wetlands present within the permit, as well as any required mitigation, would be made by COE, not by DRMS or the applicant. The COE was appropriately noticed of the application as required, on September 8, 2021, and has not provided any comment or concerns to the applicant or DRMS.

During the technical review process and pre-operation inspection of the site DRMS did not identify, and no information was provided by objectors to substantiate the presence of: perennial streams located within ½ mile of the site, wetlands within or adjacent to the permit that may meet Army Corps of Engineer's criteria for a protected wetland, or evidence that the operation is located within any floodplain.

The Division determined the permit Application satisfied the requirements of Rules 6.4.8, 6.4.10 and 3.1.8, regarding wildlife, wildlife habitat, and sensitive environments.

4. Off-Site Damage/Blasting Concerns

Objections raised concerns related to blasting or potential damage to off-site structures as a result of proposed blasting activity at the site.

Exhibit S of the conversion application requires the applicant to identify and provide damage waiver agreements to all owners of permanent man-made structures within 200' of the permit area. If these agreements are not fully executed and returned by the structure owners, the applicant is then required to provide a demonstration of how/why these structures will not be damaged by the proposed mining activity. It should be noted that the only structures located within 200' of the permit boundary are utilities located within 200' of the proposed site access route(s).

The applicant has complied with these requirements by providing all structure owners within 200' of the permit a damage waiver agreement (none were returned), and providing the Division a registered engineer stamped letter stating that the structures located within 200' of the permit will not be damaged by the proposed mining activity (truck traffic on access roads).

Rule 6.5 – Geotechnical Stability also requires that “At sites where blasting is part of the proposed mining or reclamation plan, the Applicant shall demonstrate through appropriate blasting, vibration, geotechnical, and structural engineering analyses, that off-site areas will not be adversely affected by blasting.” The applicant has provided a blasting study and plan prepared by a Colorado licensed third-party blasting expert with the application. This plan provides limits for ground vibration and air overpressure levels well within acceptable levels to protect all nearby structures, and a monitoring plan to demonstrate that any blasting that takes place on the site falls within these limits. As stated in the blasting plan, blasting will be conducted when necessary to reduce an interbedded sandstone layer to a movable size. The blasting plan also states that records of all blast events will be maintained by the operator for review at the Division's request.

The Division determined the information presented in the blasting plan and the Geotechnical Stability Exhibit sufficiently demonstrates that off-site areas will not be adversely affected by blasting, as required by Rules 6.4.4(1) and 6.5(4).

5. Mining Plan adequacy

Objections received by DRMS cited general or unspecified concerns about inadequacy of the mining plan provided with the application.

DRMS has thoroughly reviewed the mining plan and has determined that the plan provided, with the addition of supporting information submitted through the adequacy process, meets the requirements of Rule 6.4.4. The only on-site processing of material proposed for this site is the screening of oversize material using a “grizzly”. The formations to be mined do not include significant amounts of acid forming or toxic materials. This has been demonstrated repeatedly over the years by many historic hogback mining operations and more current development of the area. DRMS has no reason or authority to require additional materials, such as detailed geochemical analysis, or groundwater fate and transport modelling, which would be well outside the scope of what is required by rule for a proposed operation of this type.

Presence of geologic faults on site:

A significant number of mapped, but geologically inactive, faults are present throughout the Colorado Front Range. The Front Range area has been mined and otherwise extensively developed since the mid 1800’s. This activity includes many clay mines on the hogback, both surface and underground, all along the Front Range area. Despite this historic and ongoing activity, no increase in geologic activity, including seismic, has been noted as a result.

6. Reclamation Plan adequacy

Objections received by DRMS cited general or unspecified concerns that the reclamation plan provided with the application was inappropriate or inadequate.

The reclamation plan proposes concurrent reclamation were possible, to keep disturbed area to a minimum, and is intended to blend seamlessly with what is currently present on the former Flintlock Clay Pit site. The Flintlock site, immediately north of the proposed permit area, was successfully reclaimed by General Shale. Denver Brick has successfully reclaimed and achieved release for six other previously permitted sites. The post-mining land use identified for this site is rangeland and reclamation is expected to be completed within 2 years from the time mining ends at the site. Any open or partly collapsed mining features that are currently present or encountered during the mining process will be appropriately backfilled to prevent access and any subsequent hazard. The State Land Board, the owner of the proposed permit area and much of the adjoining property, supports the expansion of the permit area because the post-mining reclaimed areas will be safer and better suited for public access in the future than they are currently. Untimely comments provided by CPW expressed a desire for a reclamation seed mix emphasizing native species and development of a weed control plan.

The steep hogback ridge will be not be mined through, but will be preserved to maintain the viewshed. Reclamation of the affected areas will be achieved by tapering the hogback ridge into rangeland at the base with 3H:1V slopes - similar to what exists on the previous Flintlock site reclamation to the north. Four to six inches of topsoil will be replaced, and the site will be revegetated with grass species including: Western Wheatgrass, Big and Little Bluestem, Blue Gramma, Sideoats Gramma, and

Yellow Indiangrass. 120 5-gallon Mountain Mahogany shrubs will also be planted in clumps of 10 shrubs each in the reclaimed slope and stockpile areas. This seed mix was stated by the applicant to have been developed with the Jefferson County Soil Conservation Service to provide a suitable mix for the climate and wildlife of the area. DRMS notes that Jefferson County Open Space owns the land adjacent to the permit to the east, as well as the open space park located on the east side of Hwy 93. The existing access road will be ripped, top-soiled, and revegetated. A detailed 42 page weed management plan was also provided with the application. Weed management and erosion control will be maintained until the vegetation is established and the site can be released. A cross-section showing the proposed reclamation site configuration was provided with the conversion application.

Rule 1.1(45) defines reclamation as “the employment during and after the mining operation of procedures reasonably designed to minimize as much a practicable the disruption from the mining operation and to provide the establishment of plant cover, stabilization of soil, the protection of water resources, or other measures appropriate to the subsequent beneficial use of the land”. There is no requirement in the Act or Rule to restore the land to its pre-mining condition or better.

According to C.R.S. 34-32.5-116(4), reclamation plans and their implementation are required on all affected lands. Proposed reclamation plans must comply with C.R.S. 34-32.5-116, Rules 6.4.5 and 6.4.6, and with the reclamation performance standards of Rule 3.1. The Division has thoroughly reviewed the reclamation plan and determined the proposed reclamation plan for this Application meets these requirements and will ensure the affected lands are returned to a beneficial post-mining land use of rangeland.

7. Completeness and Accuracy of Provided Application Materials

Objection received by DRMS cited general or unspecified concerns that the application materials provided were incomplete and/or inaccurate.

The Division initially called the Golden Mine conversion application incomplete on August 12, 2021 due to inconsistent permittee identification on the application form, and failure to submit the required application fee. The applicant resolved these issues, and DRMS called the conversion application complete for review on September 8, 2021. The Division ensured the application materials were accurate, and all adequacy issues identified by the Division during the technical review process have been resolved by the applicant to the Division’s satisfaction, as staff to the Board, prior to recommending that the Board approve the application over objections.

8. Reclamation Bond adequacy

Objections received by DRMS cited that the reclamation bond amount specified in the estimate provided in the application of \$288,540.00 was inadequate.

C.R.S. 34-32.5-117(4)(b) and Rule 4.2.1(1) require the financial warranty to be set and maintained at a level which reflects the actual current cost of fulfilling the requirements of the approved reclamation plan. This amount must reflect what it would cost the Division to complete reclamation of the site in

accordance with the approved reclamation plan in the event the permit is revoked and the financial warranty is forfeited. Permitted operations are inspected routinely by the Division to ensure the operation is following the approved mining and reclamation plans and the financial warranty amount posted is sufficient for completing reclamation of the affected lands.

Pursuant to Rule 6.4.12(1) – All information necessary to calculate the costs of reclamation must be submitted and broken down into the various major phases of reclamation. The information provided by the Operator/Applicant must be sufficient to calculate the cost of reclamation that would be incurred by the state.

The information provided in the application and adequacy responses related to Exhibits C, D, E, F and L have been sufficient to allow the Division to generate a reclamation cost estimate. DRMS has recalculated the required reclamation bond to be \$298,000.00 utilizing the CIRCES software, based on the maximum allowable disturbance at the site, and the updated information provided during the adequacy process. The CIRCES software used by the Division to estimate reclamation costs utilizes industry standard cost sources (such as the CAT Handbook and RS Means), and this data is updated on an annual basis. The permittee is required to post the reclamation bond prior to DRMS permit issuance for this site, and the operator has acknowledged and accepted the DRMS calculated bond amount.

Non-Jurisdictional Issues

Over 140 of the 184 objections submitted contained issues that are non-jurisdictional to the DRMS review process. While DRMS recognizes the potential impacts to communities due to these issues, by law, the Mined Land Reclamation Board cannot consider them as part of this application process. Non-Jurisdictional issues may be addressed through other appropriate jurisdictions, where they cannot be addressed here. Non-jurisdictional topics and issues included, but were not limited, to:

- Potential adverse issues resulting from increased truck traffic on Hwy 93
- Potential adverse impacts to traffic safety
- Potential noise pollution
- Potential dust and air quality issues
- View-shed impacts
- Potential adverse impact on property values
- Potential adverse impacts to local recreational activity and businesses
- Fossil Preservation
- Mine safety/Public Health
- Life-of-Mine too long
- Violations/issues cited at other sites in other states

Concerns regarding traffic and traffic safety on Hwy 93

Pursuant to C.R.S. 34-32.5-103(1), affected land does not include off-site roads that were constructed for purposes unrelated to the proposed operation, were in existence before a permit application was filed with the Office, and will not be substantially upgraded to support the operation or off-site groundwater monitoring wells. Therefore, the transportation of material off site (on Hwy 93), would not be considered affected land. The Act and Rules do not specifically address traffic on roads located off-site from a mining operation. Such issues are under the jurisdiction of Jefferson County and the Colorado Department of Transportation (CDOT). The applicant has obtained an updated access permit for the site from CDOT.

Concerns regarding: noise and light pollution, hours of operation, aesthetic impact, quality of life, devaluation of nearby property, impacts to local businesses, and conflicts with local land use policy

The Act and Rules do not specifically address the issues listed above, therefore, these concerns are not within the purview of the Division's jurisdiction and are not a basis to deny the permit. Such issues are typically addressed at the local government level and not at the State government level. These issues should be addressed through the Jefferson County permitting process. Pursuant to Rule 6.4.13, the Applicant must obtain the required permitting from Jefferson County to allow expansion of the permit.

Concerns regarding dust and air pollution

The Act and Rules do not specifically address air quality issues. Such issues are under the jurisdiction of the Air Pollution Control Division (APCD) of the Colorado Department of Public Health and Environment (CDPHE). The Applicant has affirmatively stated in Exhibit M of the application that a Fugitive Dust Permit and Plan has been obtained for the site.

Although the Act and Rules do not authorize the Division to regulate dust or air pollution issues, the protection and preservation of stockpiled topsoil and product is addressed under the performance standards of Rule 3.1.9. Pursuant to Rule 3.1.9(1), where it is necessary to remove overburden in order to expose the mineable materials, topsoil shall be removed and segregated from other spoil. If such topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be employed so that the topsoil is protected from erosion, remains free of any contamination by toxic or acid-forming material, and is in a usable condition for reclamation. The Division determined that information submitted in the Application met the requirements of Rule 3.1.9(1). Additional measures the operation may take to control dust on site during mining activity include the use of water trucks, or dust suppressants which are standard practice for construction and mine sites.

Concerns regarding the demand for clay, or business alternatives that should be pursued by the Applicant

The Act and Rules anticipate mining operations will locate wherever mineable resources exist, therefore, concerns related to land use and zoning should be directed to the Jefferson County

permitting process. The Act and Rules also do not address an Applicant's internal business decisions or market conditions.

In these proceedings, the Division's jurisdiction is limited to enforcement of the specific requirements of the Act and Rules. The Division considers all timely submitted comments in its review, but can address only the issues that directly relate to the specific requirements of an application, as stated in the Act and Rules. The Act and Rules do not specifically address issues such as those listed above.

Such concerns primarily relate to local land use and zoning and should be directed to the Jefferson County permitting process. As previously discussed, Pursuant to Rule 6.4.13, the Applicant must obtain the required Jefferson County Location and Extent Permit/Approval from Jefferson County prior to expanding their permitted operation.

Preservation of Fossils

The identification and preservation of possible fossils located within a mining permit is outside the scope of the Act and Rules, and therefore not considered by DRMS when reviewing a proposed permit action. However, in this instance, the applicant, History Colorado, and the State Land Board (property owner) are all aware of the possible presence of fossils at the site. The applicant has agreed to implement recommendations made by History Colorado during the adequacy review process, and to work with the SLB to appropriately preserve any fossils encountered that are deemed significant by the SLB or a party designated by SLB for the purposes of fossil identification and evaluation.

Mine Safety/Issues or Violations at Other Sites/Life of Mine

Mine safety regulations are enforced by MSHA not DRMS, and the Rule does not allow for contemplation of an operator's past issues or violations at other sites, particularly in other states, when determining if a permit action meets the requirements of the rule. DRMS must assume that every operator will work diligently and quickly to resolve any issues to maintain site compliance with all applicable regulating entities. Of the nine DRMS permits issued to Denver Brick (3 active, 6 reclaimed and released) only one violation has ever been issued. That violation was for late submittal of the required annual fee, report, and map which was quickly resolved by the operator. Section 34-32.5-120 of the Act states that "the board shall not grant a permit for new mining operations to an operator who is found to be in violation of this article at the time of application". The applicant is not currently in default of the Act, and has no current or unresolved violations

DRMS cannot define the length of time a permitted operation may remain active. By statute, all reclamation permits issued by DRMS are issued for "Life of Mine". Life of Mine is defined in Rule 1.1(25) as follows: "Life of the Mine" means and includes, but is not limited to, those periods of time from when a permit is initially issued, that an Operator engages in or plans to continue extraction of construction materials, complies with the Act and these Rules, and as long as construction material reserves remain in the mining operation. It can include limited periods of non-production or Temporary Cessation. "Life of the mine" also includes that period of time after cessation of production necessary to complete reclamation of disturbed lands as required by the Board and this article, until the

Board releases, in writing, the Operator from further reclamation obligations regarding the affected land, declares the operation terminated, and releases all applicable Performance and Financial Warranties.

Division's Recommendation

The Act and Rules do not specifically address whether a location is appropriate for a mine or expansion of an existing mining operation. As previously stated, the Act and Rules anticipate mining operations will locate wherever mineable resources exist. The Act and Rules provide reclamation requirements to ensure affected lands are reclaimed to a beneficial use and provide performance standards and environmental protection requirements, which apply throughout the life of mine. Pursuant to Rule 1.4.1(10), each application is reviewed, and ultimately approved or denied, based on the Applicant's ability to demonstrate the application meets the requirements of the Act and Rules.

The Division received timely comments on the application from: History Colorado, Colorado Division of Water Resources, the Town of Golden and the State Land Board, as well as untimely comments from Colorado Parks and Wildlife. The agencies notified have not indicated any conflict of the proposed operation with laws or regulations of this state or the United States. The Town of Golden and Jefferson County have not indicated any conflict with local zoning, or local regulations, for the proposed permit expansion and the State Land Board supports the proposed expansion.

After conducting a comprehensive adequacy review of the application and all adequacy responses provided throughout the review process, the Division determined the Applicant sufficiently demonstrated the application meets the requirements of the Act and Rules. Therefore, pursuant to C.R.S. 34-32.5-115(4), the Board or Office shall not deny the permit.

On June 30, 2022, the Division determined the 110c to 112c permit conversion application for the Golden Mine, permit M1976-007UG, satisfied the requirements of C.R.S. § 34-32.5-115(4), and issued its recommendation to approve the application over objections.

Appendix A

Objections and Comments Received

Timely Commenting Agencies/Entities:

Agency	Date Received
Colorado Division of Water Resources – conditions for approval	September 20, 2021
History Colorado – finding of no adverse effect	September 27, 2021
Town of Golden – comments on proposed activity	October 27, 2021
State Land Board – Letter of Support for CN1	January 19, 2022

Timely Objections in accordance with Rule 1.7.1(2)(a) – both public comment periods:

Date Received	First Name	Last Name
10/22/21	William and Judy	O'Brien
10/25/21	Ben	Maxwell
10/26/21	Brandon	Carrino
10/26/21	Ray and Suzanne	Rivera
10/26/21	Andy/Wendy	Simpson/Eder
10/27/21	Renee	Maxwell
10/27/21	Rachel	Broyles
10/27/21	Marc/Erin	Schuricht/Howe
10/27/21	Barbara	Pijanowski
10/27/21	Fran	Evers
10/27/21	Trinette	de Freitas
10/27/21	Victoria	Ponce
10/27/21	Kristi	River
10/27/21	Colleen	Miller
10/27/21	James	Silvestro
10/27/21	Erin and Nathaniel	Snodgrass
10/27/21	Marjie	Harbrecht
10/27/21	Peter	Whedbee
10/27/21	Nadine	Yoritomo
10/27/21	Simon	Maybury
10/27/21	Shirley	Fox
10/27/21	Mike	Rawluk
10/27/21	Julie	Mitchell
10/27/21	Heather and Neal	Manuel
10/27/21	Sarah	Pye
10/27/21	Lorraine	Wheeler
10/27/21	Cynthia	Jaye
01/07/22	Robert	Franzblau
01/07/22	Gregory	Vartanyan
01/07/22	Kathi	Eggers
01/07/22	MIKE	Schneider
01/07/22	Pamela	Mitchell

01/07/22	Ed	Wolph
01/07/22	COREEN	MAAS
01/07/22	William	Maas
01/07/22	Peter	Reeburgh
01/07/22	Kelsey	Johnson
01/07/22	Denice	Kepler
01/07/22	Lara	Blackwell
01/07/22	Jeanellil	Taylor
01/08/22	Barbara	Pijanowski
01/08/22	Alexandra	Felski
01/09/22	Getsld	Wayman
01/09/22	Chris & Kim	Wheeler
01/09/22	Jonathan	Matthews
01/09/22	Susan	Sauve
01/09/22	Julie	Lindenschmidt
01/10/22	Kim	Kirkpatrick
01/10/22	Sarah	Gabel
01/11/22	Francesca	Owens
01/11/22	Jan	McKinnis
01/11/22	Alysa	M Ochoa Black
01/11/22	Kevin	Moore
01/11/22	Max	Sobell
01/11/22	Jay	Feaster
01/11/22	Robert	Braun
01/11/22	Simon	Maybury
01/11/22	NANCY	TORPEY
01/12/22	Jamie	Brodnax
01/12/22	Daniel	Brodnax
01/12/22	Katerina	Chamot
01/12/22	Libby	Huskey
01/12/22	Tom	Rice
01/13/22	David	Camille
01/13/22	Stephanie	Holste
01/13/22	Sean	Allen
01/13/22	Diane	Witters
01/13/22	Anthony	Cappa
01/13/22	Kristiina	Iisa
01/14/22	Gerald	Wayman
01/14/22	Zach	Nicol
01/14/22	Margaret	Frueh
01/14/22	Cheri	Wissel
01/15/22	Beth	Schlichter
01/15/22	Eric	Dille
01/15/22	Linda	Grey
01/16/22	Cynthia	Jaye

01/16/22	Robin	Shinn
01/16/22	Beth	Dwyer
01/16/22	Tracy	Drake
01/16/22	Dian	Frank
01/16/22	Justin	Gregg
01/16/22	John	Hicks
01/17/22	Sophia	Murphy
01/17/22	Maggie	Phillips
01/17/22	Mark	Trivisonno
01/17/22	Jessica	Yerdon
01/17/22	Meredith	Westerdale
01/18/22	Erin	DeCesaris
01/18/22	Boris	Simmonds
01/18/22	Joyce	Sprengelmeyer
01/18/22	Susan	Roberts
01/18/22	Thomas	Roberts
01/18/22	MICHAEL	NEDVED
01/18/22	Dennis	Kreller
01/18/22	Joanne	Scarbrough
01/18/22	Chris	Offensend
01/18/22	Jim	Greiner
01/18/22	Rachel	Gottfried
01/18/22	Bryann	Lynch
01/18/22	william	Knepp
01/18/22	Virginia	Ferguson
01/18/22	Mark	Yerdon
01/18/22	Meghan	Foster
01/18/22	karin	Gallup
01/18/22	Joe	Foster
01/18/22	Elizabeth	Bravman
01/18/22	Janna	Wertz
01/19/22	Denise	Morris
01/19/22	Kristi	River
01/19/22	Rick	River
01/19/22	YuChing	Wong
01/19/22	Andrew	Abdelnour
01/19/22	Kevin	Weller
01/19/22	Jamison	Hull
01/19/22	Anastasia	Horwith
01/19/22	Melinda	Unger
01/19/22	Sara	Schaeffner
01/19/22	Richard	Getz
01/19/22	Linda	Hofreiter
01/19/22	Jessica	Manko
01/19/22	Al	Bartron

01/19/22	Gabriel	Sabadell
01/19/22	Virginia	Anzelone
01/19/22	Henry	Ellwood
01/19/22	Keely	Miller
01/19/22	Renee	Grimmett
01/19/22	Nancy	Felix
01/19/22	Esther	Lidstrom
01/19/22	Alexander	St. Angelo
01/19/22	William	Given
01/19/22	Chris	Corbo
01/19/22	Peter	Herrold
01/19/22	Margaret	Hulme
01/19/22	Julie	Noone
01/19/22	Teresa	Van
01/19/22	Lara	Opheim
01/19/22	Katya	Kovalenko
01/19/22	Guillermo	Larkin
01/19/22	Brandon	Carrino
01/19/22	Laura	Nataluk
01/19/22	Mark	Noone
01/19/22	Deborah	Curlee
01/19/22	David	Kranzler
01/19/22	Peter	Gabel
01/19/22	Richard	BEARDSLEE
01/19/22	Lael	Hester
01/19/22	Bruce	Bernstein
01/19/22	SHIRLEY	Morgan
01/19/22	Donna	Clifford
01/19/22	Garrett	Whipp
01/19/22	Margaret	McCarthy
01/19/22	Michel	Godbout
01/19/22	Benjamin	Lowry
01/19/22	Jeff	Flax
01/19/22	Nancy	Wagner
01/19/22	Carolyn	Hubbard
01/19/22	Marilyn	Scherer
01/19/22	Gregory	Van
01/19/22	Arthur	Cordova
01/19/22	Michael	Horwith
01/19/22	ROBERT	KING
01/19/22	Aaron	Ingram
01/19/22	Tim	Rand
01/19/22	Mary	Maisner
01/19/22	NICHOLAS	IODICE
01/19/22	Jodi	Thomson

01/19/22	Claude	Frank
01/19/22	Sara	Leiter
01/19/22	Marjie	Harbrecht
01/19/22	Marty	Quinn
01/19/22	Maria	Deszcz-Pan
01/19/22	Alice	Madison
01/19/22	Peter	Krzywicki
01/19/22	Ian	Wilson
01/19/22	Stephanie	Bentley
01/19/22	Kimberly	DeFeo
01/19/22	Valerie	Neff
01/19/22	Lynne	Goerold
01/19/22	THOMAS	SABEL
01/19/22	Randell	Davenport
01/19/22	Chip	Davenport

Objections not in Compliance with Rule 1.7.2 (missing required information)

First Name	Last Name	Date Received	Missing
Trude	Halvorsen	1/10/2022	Mailing address
Michelle	Comstock	1/19/2022	Phone number
Carol	Carroll	1/19/2022	Phone number

Late Comments/Objections (received by DRMS after the close of the public comment period):

First Name	Last Name	Date Received
Kathleen	White	1/20/2022
Catherine	Haskins	1/20/2022
Stephanie	Petersen	1/20/2022
Brett	Sisco	1/21/2022
Austin	Jones	1/28/2022
Colorado Parks and Wildlife		6/03/2022