



August 9, 2022

Anna Ristuccia
Lithos Engineering
2750 S. Wadsworth Blvd, Suite D-200
Denver, CO 80227

**RE: Sand Creek Exploration, Reference No. M-2022-036, Division Response to “Is It Mining?”
Questionnaire, No Permit Required**

Dear Ms. Ristuccia,

On August 1, 2022, the Division of Reclamation, Mining and Safety (Division) received information for an “Is It Mining” questionnaire regarding a proposed project to excavate approximately 25 gallons of glacially deposited sand and gravel. The excavation will occur on U.S. Forest Service property and the material will be transported to an offsite location to test the suitability of the material for use on gravel roads. Excess material will be backfilled into the area of excavation. No compensation will be received for the excavated material. Please use the reference number M-2022-036 regarding any correspondence or submittals for this site in the future.

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**. Please be advised this determination is being made based on the information provided by Lithos Engineering. Any significant deviation from the described activity could result in review and possible reversal of this determination.

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 in writing 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 September 21, 2022. All hearings are held at 1313 Sherman St., Room 318, in Denver, Colorado 80203.

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

Sincerely,

Michael A. Cunningham
Senior Environmental Protection Specialist

CC: Russ Means, DRMS
Brock Bowles, 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