



December 4, 2022

Julie Mikulas  
Martin Marietta Materials, Inc.  
1800 N. Taft Hill Road  
Fort Collins, CO 80521

**Re: Martin Marietta Materials, Inc., Windsor East Mine, File No. M-2022-042,  
112c Permit Application Adequacy Review**

Ms. Mikulas,

The Division of Reclamation, Mining and Safety (Division/DRMS/Office) reviewed the content of the Martin Marietta Materials, Inc. 112c permit application for the Windsor East Mine, File No. M-2022-042 and submits the following comments. The Division is required to issue an approval or denial decision no later than January 6, 2023, therefore a response to the following adequacy review concerns should be submitted to the Division as soon as possible.

The review consisted of comparing the application content with the specific requirements of Rules 1, 3, 6.1, 6.2, 6.4 and 6.5 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials effective date July 15, 2019. Any inadequacies are identified under the respective exhibit heading along with suggested actions to correct them.

### Comments

1. The Division received state agency comments from History Colorado, Colorado Parks and Wildlife, Army Corps. of Engineers and Division of Water Resources (2). Copies of the letters are attached. Please address the comments and revise the application accordingly.

### 1.6 Public Notice

2. Pursuant to Rules 1.6.2(1)(d) and 1.6.5(1), please submit proof of publication in a newspaper of general circulation in the locality of the proposed mining operation.

*The Applicant submitted proof of publication via email to the Division on November 11, 2022. No additional response is required by the Applicant.*

3. Pursuant to Rule 1.6.2(e), please submit proof of the notice to all owners of record of surface and mineral rights of the affected land and the owners of record of all land surface within 200 feet of the boundary of the affected land including all easement holders located



on the affected land and within 200 feet of the boundary of the affected land. Proof of notice may be return receipts of a Certified Mailing or by proof of personal service.

*The Applicant submitted proof of notice to the owners of record of all land surface within 200 feet via email to the Division on November 11, 2022. On November 29, 2022, the Applicant provided Division with the return receipts of the certified mailings or other documentation for all owners of record including easement owners. No additional response is required by the Applicant.*

#### **6.4 Specific Exhibit Requirements - Regular 112 Operations**

The following items must be addressed by the Applicant in order to satisfy the requirements of C.R.S. 34-32.5-101 et seq. and the Mineral Rules and Regulations of the Mined Land Reclamation Board:

##### **6.4.5 Exhibit E - Reclamation Plan**

4. The Applicant states the site will be mined and reclaimed to create two water storage ponds and all mine walls will be re-graded with overburden material to create a compacted liner. Please submit the design specifications for the proposed clay liners in accordance with the August 1999 State Engineer Guidelines for Lining Criteria for Division review.

During the pre-operational inspection, the Applicant stated the design of the clay liner for the reservoirs would be designed prior to the construction of the liner. Please commit to providing a copy of the clay liner design as a technical revision for Division review and approval prior to the construction of the liner.

##### **6.4.7 Exhibit G - Water Information**

5. A copy of the review memo for the content of Exhibit G - Water Information from Eric Scott dated October 14, 2022 was sent to the Applicant on October 31, 2022. Please provide a response to the memo questions.
6. In Section 2.1 Mining Plan, the Applicant states to allow sufficient time for groundwater characterization to occur, mining is only planned to occur in the unsaturated zone until one year's worth of monitoring and groundwater sample collection has been conducted. During the pre-operational inspection, the Applicant stated the mining operations would be conducted in the saturated zone sooner than originally planned by the Applicant. Please update Exhibits D and G to describe when the mining operations will occur below the groundwater elevation.
7. In Section 2.2.2, the Applicant states the results of water quality sample analyses will be provided to DRMS following the baseline water quality evaluation. Please commit to providing the results of the water quality sample analysis as a technical revision for Division review and approval when available.

#### **6.4.8 Exhibit H - Wildlife Information**

8. Please commit to following the Pinyon Environmental, Inc. recommendations related to state-listed and special concern species in Attachment H-1 and update Exhibits C and D accordingly.

#### **6.4.12 Exhibit L - Reclamation Costs**

9. The Applicant included the cost to fertilize the reclaimed land in the reclamation cost estimate. The proposed Reclamation Plan states the Applicant will follow the recommendations, if any, of the SCS. Please provide a description of the fertilization, specify types, mixtures, quantities and time of application pursuant to Rule 6.4.5(2)(f)(iii).
10. The proposed Reclamation Plan states all upland areas will be mulched with 1 ton of certified weed free straw per acre. Please include the mulching costs in the reclamation cost estimate. The Division recommends using 2 tons per acre of mulch. Please contact the SCS for a mulching rate recommendation and update Exhibits E and L accordingly.
11. Please provide all information necessary to calculate the costs of reclamation, including the typical equipment utilized for each reclamation task, to allow the Division to calculate the cost of reclamation that would be incurred by the state.

#### **6.4.13 Exhibit M - Other Permit and Licenses**

12. Please commit to providing copies of all required and approved permits and licenses to the Division when available.

#### **6.4.18 Exhibit R - Proof of Filing with County Clerk and Recorder**

13. Please provide an affidavit or receipt indicating the date on which the revised application information required to address this adequacy letter was placed with the Weld County Clerk and Recorder for public review, pursuant to Subparagraph 1.6.2(1)(c).

#### **6.4.19 Exhibit S - Permanent Man-made Structures**

Where the affected lands are within two hundred (200) feet of any significant, valuable and permanent man-made structures, the Applicant may either:

- a. provide a notarized agreement between the Applicant and the person(s) having an interest in the structure, that the Applicant is to provide compensation for any damage to the structure; or
- b. where such an agreement cannot be reached, the Applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or

- c. where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have "no negative effect" on their utility.

The Division will require the Applicant to demonstrate they attempted to obtain notarized structure agreements with all owners of the structures within 200 feet of the affected area of the proposed mine site, pursuant to Rule 6.4.19, prior to the Division's consideration of a stability analysis.

14. Please provide the Division with copies of all signed structure agreements with the owners of permanent man-made structures within 200 feet the proposed affected area boundary.
15. The Applicant lists Martin Marietta Materials, Inc. as a structure owner on Exhibit C-2. Please update Exhibit S to include Martin Marietta Materials, Inc. as an owner of man-made structures within 200 feet of the affected area.

#### **6.5 Geotechnical Stability Exhibit**

16. The Division reviewed and will accept the stability analysis demonstrating the require offsets from the structures within 200 feet of the affected area of the proposed mine site if the Applicant is unable to obtain notarized structure agreements with all owners.

Please be advised the Windsor East Mine application may be deemed inadequate, and the application may be denied on January 6, 2023, unless the above mentioned adequacy review items are addressed to the satisfaction of the Division. If more time is needed to complete the reply, the Division can grant an extension to the decision date. This will be done upon receipt of a written waiver of the Applicant's right to a decision by January 6, 2023 and request for additional time. This must be received no later than the decision date.

If you have any questions, please contact me at [peter.hays@state.co.us](mailto:peter.hays@state.co.us) or (303) 866-3567 Ext. 8124.

Sincerely,



Peter S. Hays  
Environmental Protection Specialist

Enclosures - History Colorado, Colorado Parks and Wildlife, Army Corps. of Engineers and Division of Water Resources (2) comment letters

Ec: Jared Ebert, Division of Reclamation, Mining & Safety