



December 4, 2022

Craig Rasmuson
Korwell Land Holdings, LLC
P.O. Box 337282
Greeley, CO 80633

**Re: Korwell Land Holdings, LLC, Korwell Dirt, File No. M-2022-034,
112c Permit Application Adequacy Review**

Mr. Rasmuson,

The Division of Reclamation, Mining and Safety (Division/DRMS/Office) reviewed the content of the Korwell Land Holdings, LLC 112c permit application for the Korwell Dirt site, File No. M-2022-034 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 and Army Corps. of Engineers. 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 in the Greeley Tribune on November 29th to the Division. 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.

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:

6.4.3 Exhibit C - Pre-Mining and Mining Plan Maps of Affected Land

4. The Exhibit C map provided by the Applicant is difficult to read. Please submit a large format (24" x 36") copy of the map.
5. Rule 6.2.1(2)(b) requires maps to be prepared and signed by a registered land surveyor, professional engineer, or other qualified person. Please submit a signed copy of the Exhibit C map.
6. Please update the Exhibit C map to indicate the name and location of all creeks, roads, buildings, oil and gas wells and lines, and power and communication lines on the area of affected land and within two hundred (200) feet of all boundaries of such area pursuant to Rule 6.4.3(2).
7. Please update the Exhibit C map to indicate the type of present vegetation covering the affected lands pursuant to Rule 6.4.3(e).
8. Please update the Exhibit C map to Show the owner's name, type of structures, and location of all significant, valuable, and permanent man-made structures contained on the area of affected land and within two hundred (200) feet of the affected land pursuant to Rule 6.4.3(g).

6.4.4 Exhibit D - Mining Plan

9. The Applicant states the one (1) single well in the center of the northeast quarter along with a production facility in the NE/4 dry corner is scheduled to be plugged, abandoned and reclaimed by Chevron in the winter of 2022-23. Please commit to providing a copy of the abandonment report from COGCC for the well prior to commencing mining activities in the quarter section, when available.
10. In the Mining Limits section, the Applicant proposes a permit boundary that encompasses the entirety of the 162-acre property. On Page 1, Item# 3 of the application form, the Applicant indicated the permitted acreage as 132 acres. Please revise the application form to indicate the proposed 162 acre permit boundary as stated in the Mining Plan.

11. Please update the Mining Plan to provide the size of area(s) to be worked at any one time pursuant to Rule 6.4.4(d).
12. The Applicant states the topsoil on-site was measured between 14-18 inches in depth. Please provide a copy of the soils report or other documentation verifying the topsoil depth on-site.

6.4.5 Exhibit E - Reclamation Plan

13. The Applicant states a staging area has been designated in the northwest quadrant of the site. Please update the Exhibit C map(s) to indicate the location of the proposed 20 acre staging area.
14. On Page 5 of the Reclamation Plan, the Applicant references Rule 5.8. The Rule citation is for Notice of Intent applications, not the construction materials permit application submitted by the Applicant. Please revise the Reclamation Plan to reference Rule 1.15.
15. On Page 5 of the Reclamation Plan, the Applicant references Rule 34-32.5-125(b)(iv). The Rule citation is for Notice of Intent applications, not the construction materials permit application submitted by the Applicant. Please revise the Reclamation Plan to reference Rule 34-32.5-125(b)(ii).
16. On Page 6 of the Reclamation Plan, the Applicant references Rule 5.3.4. The Rule citation is for Notice of Intent applications, not the construction materials permit application submitted by the Applicant. Please revise the Reclamation Plan to remove the reference to the rule.
17. On Page 6 of the Reclamation Plan, the Applicant references Rules 5.3.4 and 4.16.1(2). The Rule citations are for Notice of Intent applications, not the construction materials permit application submitted by the Applicant. Please revise the Reclamation Plan to reference Rule 4.17.1 and update the text accordingly.

6.4.5 Exhibit F - Reclamation Plan Map

18. The Exhibit F map provided by the Applicant is difficult to read. Please submit a large format (24" x 36") copy of the map.
19. Rule 6.2.1(2)(b) requires maps to be signed by a registered land surveyor, professional engineer, or other qualified person. Please submit a signed copy of the Exhibit F map.
20. The Applicant informed the Division the oil and gas well located in the northeast corner of Cell 6 was abandoned and the well peninsula will be included in the Mining Plan. Please provide a revised copy of Exhibit F-1 indicating the revised reclamation plan for the cell.

6.4.10 Exhibit J - Vegetation Information

21. The Applicant submitted the Phase 1 Environmental Site Assessment conducted by WSP as Exhibit J. The assessment does not satisfy the requirements of Exhibit J. Please provide a narrative with the following items:

- a. descriptions of present vegetation types, which include quantitative estimates of cover and height for the principal species in each life-form represented (i.e., trees, tall shrubs, low shrubs, grasses, forbs).
- b. the relationship of present vegetation types to soil types, or alternatively, the information may be presented on a map.
- c. estimates of average annual production for hay meadows and croplands, and carrying capacity for range lands on or in the vicinity of the affected land, if the choice of reclamation is for range or agriculture.

6.4.12 Exhibit L - Reclamation Costs

22. The Division reviewed and will accept the Applicant's reclamation cost estimate in the amount of \$241,604.00.

6.4.13 Exhibit M - Other Permit and Licenses

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

6.4.16 Exhibit P - Municipalities Within Two Miles

24. The Applicant listed the Town of Gilcrest as the only municipality located within two miles of the proposed mine site. Please review and verify no additional municipalities are located within two miles of the proposed mine site.

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

25. 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.

- 26. 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.
- 27. Please provide a copy of the generic structure agreement sent by the Applicant to the structure owners within 200 feet of the proposed affected area boundary for Division review.

Please be advised the Korwell Dirt 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 or (303) 866-3567 Ext. 8124.

Sincerely,



Peter S. Hays
Environmental Protection Specialist

Enclosures - History Colorado, Colorado Parks and Wildlife and Army Corps. of Engineers comment letters

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



History Colorado

Peter S. Hays
Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

Re: Korwell Dirt, File No. M-2022-034 (HC#8209)

Dear Mr. Hays:

We received your letter dated October 07, 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 that no properties of historical significance included or nominated for inclusion in the state register have been recorded within the proposed permit area. Please note, 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 or holly.mckee@state.co.us.

Sincerely,

Dawn DiPrince
State Historic Preservation Officer



STATE OF
COLORADO

Hays - DNR, Peter <peter.hays@state.co.us>

Notice of Application Consideration for Permit: M2022034

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

Mon, Oct 10, 2022 at 3:03 PM

To: Peter Hays - DNR <peter.hays@state.co.us>

Cc: Michael Grooms - DNR <michael.grooms@state.co.us>

Good afternoon Peter,

Per this DRMS request, CPW appreciates that it was sited outside of High Priority Habitats (https://cpw.state.co.us/Documents/Conservation-Resources/Energy-Mining/CPW_HPH-Map-Layers.pdf).

However, should the initial groundwork occur between April 1 to August 31, please have the applicant survey for any nesting raptors or songbirds in the trees or ground, since there is a grove of trees and an artificial water feature in the SE corner of WCR 40 and WCR 37.

Regards,

Brandon B. Marette, CWB®
Northeast Region Energy Liaison and Land Use Coordinator



LIVE LIFE
OUTSIDE

Direct (303) 291-7327

6060 Broadway, Denver, CO 80216

brandon.marette@state.co.us

[CPW's Energy Webpage](#)

[CPW's Wildlife Movements Webpage](#)



THINK SAFETY FIRST!



(*Upcoming day off: Veterans' Day 11/11)

[Quoted text hidden]



9da5a8ac-81cb-4dda-9299-b9776665c490.pdf

232K



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 or contact the Denver Regulatory Office at 303-979-4120.

Sincerely,



Kiel Downing
Chief, Denver Regulatory Office