



PUBLIC WORKS DEPARTMENT

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December 2, 2022

Division of Reclamation, Mining, and Safety
1313 Sherman Street
Room 215
Denver, CO 80203

**RE: Petition of Declaratory Order to Rule 1.4, Weld County Public Works Department,
Greeley, CO**

To Whom It May Concern,

Weld County is respectfully petitioning the Colorado Mined Land Reclamation Board (Board) for a declaratory order to Rule 1.4 of the Mineral Rules and Regulations for the Extraction of Construction Materials. Weld County Public Works currently has several active 112 permits in place. It has recently been brought to our attention that roadway projects technically require a 111 Special Operations permit if there are any materials being permanently removed from the project area. The project area is defined as the limits of construction within the Weld County Right of Way (ROW). In recent discussions with the Division, they have indicated they would be supportive of a Petition of Declaratory Order to exempt Weld County roadway construction and maintenance projects where not more than 10,000 cubic yards (CY) of unsuitable materials are removed from the project area.

Weld County does approximately 4 to 5 roadway construction projects and 15 to 20 roadway maintenance projects per year. Some of our roadway construction projects remove between 10,000 cubic yards (CY) and 50,000 CY of unsuitable materials from the project area and our maintenance projects remove less than 10,000 CY of unsuitable materials from within the project area. Unsuitable materials are those materials that have no value for construction purposes. The unsuitable materials include muck (high organic content soils found in our barrow ditches and low lying farmed areas), high clay content soils, and high sulfate content soils. The unsuitable materials are not processed into other building materials such as road base, sand, or gravel. Historically, on roadway construction projects, our contractor takes ownership of the unsuitable materials and either uses them to supplement the topsoil, incorporated into non-structural features, or are given to adjacent landowners. On maintenance projects, Weld County crews typically dispose of the unsuitable materials by utilizing them in reclamation of a County owned property, taking it to a permitted landfill, or by giving it to the adjacent landowners.

In the case of our roadway construction and maintenance projects where more than 1 acre of land is disturbed, the DRMS rules and regulations are duplicated by the CDPHE Stormwater Construction Permit. The Stormwater Construction Permit requires the construction activities within the project area be protected from erosion. The Stormwater Construction Permit also requires the exposed ground surfaces to be revegetated to at least 70% of the pre-construction cover. The Stormwater Construction Permit remains in effect until the site meets 70% cover.

Part of the DRMS mission statement is to ensure that mined lands are returned to a beneficial use. Weld County believes the beneficial use for our construction and maintenance projects is to provide the traveling public with roads that are safe to travel. As such, Weld County respectfully requests the Board consider our request for a Declaratory Order exempting Weld County Public Works roadway construction and maintenance projects from Rule 1.4 which requires a 111 Special Operations mining permit. Weld County requests the exemption apply to our roadway construction and maintenance projects where not more than 10,000 CY of unsuitable materials are to be removed and disposed of at an offsite location. Any projects that have more than 10,000 CY of unsuitable materials removed from the project area will be permitted under a 111 Special Operations mining permit.

Weld County is available to answer questions the Board may have regarding our petition.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce T. Barker", with a long horizontal flourish extending to the right.

Bruce T. Barker, Esq.,
Weld County Attorney