



**COLORADO**  
**Division of Reclamation,  
Mining and Safety**  
Department of Natural Resources  
1313 Sherman Street, Room 215  
Denver, Colorado 80203

January 10, 2023

David King  
Asphalt Specialties Co., Inc.  
10100 Dallas St  
Henderson CO 80640

**Re: Third Adequacy Review of a 112 Construction Materials Reclamation Permit Application Package,  
Asphalt Specialties – Stiles Mining Resource, File M2021-067**

Mr. King:

The Division of Reclamation, Mining, and Safety has completed its third adequacy review of your 112 construction materials reclamation permit application. The application was called complete for review on December 13, 2021. On December 14, 2022 The MLRB granted a 90 day extension to the statutory 365 day deadline for this application in order for Asphalt Specialties to address remaining adequacy issues.

Because there are public objections to this application, the decision to approve this application cannot be made at the DRMS staff level. The MLRB must determine if the application will be approved over objections, approved with conditions, or denied. **The Division recommendation date for this application is March 13, 2023. Please be advised that if you are unable to satisfactorily address any concerns identified in this review before the decision date, the Division will recommend denial of this application. In order to allow the Division adequate time to review your responses to any adequacy issues, please submit your adequacy responses to the Division no later than two week prior to the decision date (Feb 28, 2023).**

Please note that any changes or additions to the application on file in our office must also be reflected in the public review copy, which has been placed with the Weld County Clerk and Recorder.

The review consisted of comparing the application content with specific requirements of Rule 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. As with most applications, there are items that will require clarification of the existing information. Remaining adequacy issues have been identified below and numbered to facilitate the response process.

- 1) DRMS acknowledges that there are multiple post-mining land uses proposed for this permit area which is fully incorporated into the City of Erie as a “Heavy Industrial District (I-3)”. At this time, “Phase 1” of the proposed permit has been identified as an industrial site for a permanent commercial aggregate operations plant, asphalt plant and recycling plant area.

It is the Division’s understanding that the remaining areas within the proposed permit will be mined and backfilled with inert fill, top-soiled, and stabilized with dryland pasture vegetation until such time as an industrial use is identified. Because the areas to be temporarily stabilized as pastureland comprise the majority of the proposed permit area, a post mining land use of “pastureland” has been identified by Asphalt Specialties on the application form. The applicant has committed to providing a technical



revision to DRMS if a portion of the permit currently identified as stabilized pastureland will be reclaimed as industrial commercial prior to the release of that area from the permit.

- 2) Please select a more visible color for the permit boundary for Figure C1 – the fine dark green line on the figure submitted is not legible in some areas. Please also show/identify locations of GW monitoring wells on this figure.
- 3) In several areas of the provided application exhibits and figures the statement is made that internal mining slopes may vary between 1:1 and 3:1 (H:V). However, the provided geotechnical stability assessment utilizes internal slopes mined at 3:1 to demonstrate that adjacent structures will not be adversely impacted, and the backfill volumes utilized to calculate the required financial warranty (as stated in item 13) are based on an mine cell excavation with 3:1 slopes. Therefore - DRMS will require that all internal slopes be excavated at no steeper than 3H:1V unless a revised geotechnical stability assessment is provided demonstrating that steeper slopes will be protective of structures adjacent to the 50' foot buffer currently proposed for the excavations, and the required financial warranty is revised appropriately.

Please acknowledge that internal slopes will not be mined at steeper than 3H:1V unless/until a revised geotechnical stability assessment and financial warranty are provided and approved by the Division as a subsequent technical revision if the permit is issued, and revise the provided materials accordingly.

- 4) Please supply an affidavit of inert fill stating that imported materials will meet the criteria as defined by DRMS Construction Materials rule for “inert material”
- 5) A statement is made in the Mining Plan that “there are no wetlands found within the mine boundaries”. What is the basis for this statement? Was a wetlands delineation conducted, and/or a jurisdictional determination made by US Army Corps of Engineers?
- 6) A statement is made in the mining plan that no mining/backfilling will take place within 100' of the South Platte River. Please make sure this offset is accurately/clearly shown on the mining plan map.
- 7) Any mining excavations made within 400' of the South Platte River must either comply with the protective measures identified in the Urban Drainage and Flood Control District's January 2013 Technical Review Guidelines for Mining and Water Storage Activities Within or Adjacent to 100 Year Floodplains, or excavated areas within 400' of the river must be backfilled to pre-mining elevations within one year of excavation.

Please acknowledge and specify your preferred course of action for any excavations within 400' of the South Platte River.

- 8) Well ownership for the well identified as W5/103102 on Figure C1 does not correlate with parcel ownership for that location – is this an error, has the location of this well been field verified?
- 9) The location for well ID W5/103102 located near the SW corner of the proposed permit is inconsistent between figures C1 and the location map in Exhibit G. Please verify location of this well and correct all provided maps as needed.
- 10) Please show/identify the screened interval on the provided monitoring well construction diagrams.

- 11) Five wells ranging from 12 feet to 40 feet in total depth have been identified within 600' of the proposed permit. The proposed mining plan intends to dewater and "dry mine" the unlined mine cells to a depth of approximately 35-40 feet - down to the impermeable shale bedrock.

Asphalt Specialties has stated in the application that no adverse impacts to these wells is expected, however, no groundwater modelling of the proposed mining conditions, or any other data, has been provided at this time to substantiate this assertion. To the contrary, DRMS believes that based on the information provided to date, and the proximity to the proposed dewatering/dry mining activity, there is, in fact, a high likelihood of adverse impact to these wells.

Asphalt Specialties has provided a plan to monitor water levels in the vicinity of the permit, and included some "standard" corrective actions to be implemented if nearby wells are impacted - such as lowering pumps, re-drilling wells to increased depth/storage, or providing a well user a connection to a municipal water supply to mitigate any impacted wells. Any/all well mitigation would be completed at the applicant's cost. The currently proposed trigger level for water well mitigation activity is the loss of half of the pre-mining water column in on or more of the site monitoring wells, or a complaint received from well owners.

DRMS cannot recommend approval of a proposed permit and mining plan when there is a high likelihood to impact the prevailing hydrologic balance to the extent that nearby wells will be adversely impacted. It is the applicant's burden to demonstrate that nearby registered wells will not be impacted through appropriate groundwater modelling or other measures. Asphalt Specialties must demonstrate that these wells will not be adversely impacted by its proposed dewatering.

- 12) The provided Groundwater Monitoring Plan states that DRMS will be notified within 5 days of any analytical exceedances in P.O.C. wells, however, no notification time to DRMS for groundwater level triggers was provided. The plan only states that monthly groundwater level monitoring data will be compared to baseline within two weeks of data collection.

Due to the proximity of the previously noted shallow residential wells to the proposed dewatering activity, DRMS will require the permittee to commit to reporting exceedances of water level trigger levels in on-site monitoring wells, or complaints by well owners, to DRMS within 48 hours or less. DRMS will also require the permittee to commit to implementing the data evaluation/mitigation measures outlined in sections 4.4.1 and 4.4.2 of the provided plan within that 48 hour timeframe. The permittee will be required to submit the results all groundwater impact investigation/mitigation to DRMS for evaluation within 30 days.

In the event that a well owner reports that their well has become unusable, the permittee will be required to implement data evaluation/mitigation measures, provide a suitable alternate water source, and notify DRMS immediately (as soon as practically possible). The permittee will concurrently commence an investigation into the status of the complaint. The results of this investigation as well as any proposed remediation or rationale for discontinuing mitigation will be submitted to DRMS for approval within 30 days.

- 13) Based on the information provided to date, DRMS has calculated a required reclamation bond of \$20,674,000 for the first two phases of mining. Barring any further changes to the mining and reclamation plan, this is the amount the bond will be set at for the first two mining phases if the MLRB approves this application. The CIRCES summary sheet for this estimate is included with this review.

This concludes the Division's preliminary adequacy review of this application. This letter shall not be construed to mean that there are no other technical deficiencies in your application. Other issues may arise as additional information is supplied. Please remember that the recommendation date for this amendment application is March 13, 2023. As previously mentioned, if there are still unresolved adequacy issues when the recommendation date arrives, DRMS will recommend denial of the application. If you have any questions, please contact me at (303) 229-9414.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Scott". The signature is fluid and cursive, with the first name "Eric" and last name "Scott" clearly distinguishable.

Eric Scott – Environmental Protection Specialist

## COST SUMMARY WORK

Task description: Final Reclamation – Phases 1 and 2, 25 ac max mining area disturbance

Site: Stiles Mining Resource

Permit Action: Initial Permit

Permit/Job#: M2021067

### PROJECT IDENTIFICATION

Task #: 001

State: Colorado

Abbreviation: None

Date: 1/9/2023

County: Weld

Filename: M067-001

User: ECS

Agency or organization name: DRMS

### TASK LIST (DIRECT COSTS)

Task	Description	Form Used	Fleet Size	Task Hours	Cost
002	Replace Topsoil Phase 1 - avg depth 9"	SCRAPER1	1	50.86	\$48,141
003	Revegetate Phase 1 -23.9ac	REVEGE	1	16.00	\$52,767
004	Revegetate Phases 2 through 5 (per phase, max 25 acre ea.)	REVEGE	1	16.00	\$55,196
005	Replace Mine Cell topsoil - avg depth 9"	SCRAPER1	1	52.57	\$49,761
006	Replace Mine Cell 2 overburden	SCRAPER1	1	272.86	\$189,954
007	Place Imported Fill in Mine Cell 2	TRUCK1	1	1,933.46	\$972,726
008	Import 1,038,893 cy fill for Mine Cells (op est @ \$14cy)	NA	1	200.00	\$14,544,502
009	Import 30,547 cy fill for Sed. Ponds (op est @ \$14 cy)	NA	1	100.00	\$427,658
010	Place Imported Fill in Sed. Ponds	TRUCK1	1	56.85	\$28,601
011	Replace Sed. Pond overburden	SCRAPER1	1	24.52	\$17,067
012	Replace Sed. Pond topsoil - avg depth 9"	SCRAPER1	1	7.89	\$7,467
014	Mob/Demob	MOBILIZE	1	2.72	\$7,002
<b><u>SUBTOTALS:</u></b>				<b>2733.73</b>	<b>\$16,400,842</b>

### INDIRECT COSTS

#### OVERHEAD AND PROFIT:

Liability insurance: 2.02

Total = \$331,297

Performance bond: 1.05

Total = \$172,209

Job superintendent: 1,270.87

Total = \$95,480

Profit: 10.00

Total = \$1,640,084

TOTAL O & P = \$2,239,071

CONTRACT AMOUNT (direct + O & P) = \$18,639,913

#### LEGAL - ENGINEERING - PROJECT MANAGEMENT:

Financial warranty processing (legal/related costs): \$500

Total = \$500

Engineering work and/or contract/bid preparation: 3.27

Total = \$609,525

Reclamation management and/or administration: 5.00

\$931,996

CONTINGENCY: 3.00

Total = \$492,025

TOTAL INDIRECT COST = \$4,273,117

**TOTAL BOND AMOUNT (direct + indirect) = \$20,673,959**