



January 18, 2023

J.C. York
J&T Consulting, Inc.
305 Denver Avenue, Suite D
Fort Lupton, CO 80621

**Re: J-2 Consulting Company, Hunt Irrigation Pond, File No. M-2022-050,
Special Operation 111(1)(b) Reclamation Permit Application Adequacy Review**

Mr. York,

The Division of Reclamation, Mining, and Safety (Division) reviewed the content of the 111(1)(b) Reclamation Permit Application for the Hunt Irrigation Pond, File No. M-2022-050, and submits the following comments. **The Division is required to make an approval or denial decision no later than January 24, 2023; therefore, a response to the following adequacy review concerns should be submitted to the Division as soon as possible.** In order to allow the Division adequate time to review your responses to the following items, please submit the adequacy responses to the Division no later than three days prior to the decision date.

Please respond to this Adequacy Review with the requested information as revised pages and summarize each response to the numbered items below, in a cover letter titled "Adequacy Review Responses; M-2022-050".

The review consisted of comparing the application content with specific requirements of Rules 1, 3, 6.1, 6.2, and 6.3 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials. Any inadequacies are identified under the respective exhibit heading.

EXHIBIT B – Site Description (Rule 6.3.2)

1. During a pre-operations inspection, the Division observed blue-capped monuments near the Cureton Gilcrest, LLC gas line. This item was discussed in the pre-operational inspection report from November 28, 2022. No additional response is required by the applicant.
2. In Exhibit C, the applicant states that mining will not affect groundwater. For Exhibit B, Rule 6.3.2(c) requires a statement regarding water table elevations when available. In Exhibit C, the applicant states that the depth to groundwater is estimated from reaching groundwater during excavation of exploratory tests pits at the site. Please include a



statement in Exhibit B about the known water table elevations from available data.

EXHIBIT C – Site Description (Rule 6.3.3)

3. In Exhibit C, the applicant states that stockpiled topsoil will be stabilized through roughening to prevent erosion. Rule 6.3.3(b) requires topsoil that will be stockpiled to be stabilized with a vegetative cover or other means until used in reclamation. Please commit to seeding the topsoil pile if it is stockpiled longer than 180 days without being used for reclamation.
4. In Exhibit C, the applicant provides dimensions of Weld County Road 40 and the access road to the site as 24ft wide. Please include the equipment that will be used during mining and reclamation in the mining plan narrative. Please also state whether the roads will require significant improvements beyond routine maintenance.

EXHIBIT D – Site Description (Rule 6.3.4)

5. In Exhibit D, item #11 asks the applicant to “state the type, application rate, and crimping method of mulch if any:”. The applicant left this blank, implying that no mulch will be used. In the cost estimate provided by the applicant, “seed and mulch” is listed under the ‘activity’ column. Please clarify if mulch will be required during revegetation, if so, fill out item #11 in its entirety.

EXHIBIT L - Permanent Man-Made Structures (Rule 6.3.12)

6. The Applicant provided unexecuted structure agreements with all structure owners within 200 feet of the affected boundary with the permit application. Please provide the Division with copies of any/all structure agreements signed by the structure owners.

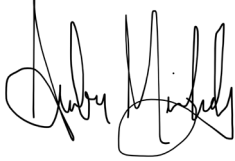
Other:

7. The Division received state agency comments from the Division of Water Resources and the Army Corps. of Engineers. The letters are attached for review. Please revise the permit exhibits accordingly in response to the letters.
8. Pursuant to Rule 1.6.2(2), please demonstrate that the Applicant’s response to these adequacy issues have been placed with the application materials previously placed with the County Clerk or Records Office, and made available for public review

The decision deadline on this application is January 24, 2023. If additional time is required to respond to these adequacy issues please submit a written request for extension of the review period. The Division reserves the right to further supplement this document with additional adequacy issues and details as necessary.

If you need additional information or have any questions, please contact me at Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at 303-866-3567 x8137, or by email at amber.michels@state.co.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amber Michels', with a stylized, cursive script.

Amber Michels
Environmental Protection Specialist

Enclosures: Division of Water Resources and Army Corps. of Engineers comment letters

cc: Jared Ebert, DRMS
Peter Hays, DRMS

ec: Chris Leone, J-2 Contracting Company, chrisleone@j2contracting.com



Response to Reclamation Permit Application Consideration

DATE: January 11, 2023

TO: Peter S. Hays, Division of Reclamation, Mining & Safety (DRMS), Peter.Hays@state.co.us

CC: Division 1 Office, District 2 Water Commissioner

FROM: Wenli Dickinson, E.I.T., State Engineer's Office (SEO), wenli.dickinson@state.co.us

RE: Hunt Irrigation Farm, File No. M-2022-050

Operator: J-2 Contracting Company

Contact: Chris Leone, 105 Coronado Ct, Unit A-101, Fort Collins, CO 80525

chrisleone@j2contracting.com and (970) 219-3916

J. C. York, 305 Denver Ave, Suite D, Fort Lupton, CO 80621

jcyork@j-tconsulting.com and (970) 222-9530

Part of Section 29, Twp. 4 North, Rng. 66 West, 6th P.M., Weld County

CONDITIONS FOR APPROVAL

- ☒ The proposed operation does not anticipate exposing groundwater. Therefore, exposure of ground water must not occur during or after mining operations.
 - ☒ The applicant has indicated plans to use water for mining purposes at the permit site. The source of water for this use will be provided by the existing groundwater commercial and industrial wells in accordance with the augmentation plan approved by the Water Court in Case No. 2020CW3132. The total use of water at the site will be 5.66 acre-feet. If wells included in the Well Augmentation Subdistrict of Colorado Water Conservancy District (WAS) plan for augmentation decreed in Division 1 Water Court case no. 20CW3123 will be used for this mining operation, the operation of such wells must be in accordance with the decree.
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COMMENTS: The subject application is for a surface mining operation on an existing irrigation pond located on approximately 27-acres described as part of Section 29, Twp. 4 North, Rng. 66 West, 6th P.M., Weld County. The area to be mined is currently used for storage of irrigation water. Such irrigation water cannot be stored at this site during the mining operation.

The specific materials to be mined at the site were not specified. No material processing will occur during mining operations. The site is at an elevation of 4,773 feet. The plan proposes to mine the topsoil and remain at least 2 feet above the groundwater table which is at an elevation of 4,750



feet by constructing a clay berm 3 feet above the ground surface around the perimeter of the pond. The site will be reclaimed as a lined irrigation pond.

Given the fact that the site is located in close proximity of the Town of Gilcrest, where shallow groundwater is known to be present, we expect that groundwater may be exposed at the site, therefore in the event that groundwater is exposed at the site the Applicant must obtain a well permit and a substitute water supply plan or decreed plan for augmentation prior to exposing any groundwater.

Additionally in certain areas of the South Platte River Basin, SEO staff have observed groundwater problems that appear to be related to the lining of gravel pits located near streams, and in particular, these problems occur when multiple liners are located adjacent to each other. This office requests that DMRS consider the siting and design of lined gravel pits to ensure that they will not individually, or cumulatively, result in impacts to the timing and quantity of groundwater flow from upgradient locations back to the stream system. In addition to impacts to property, such as flooding upgradient and reduced water levels downgradient of the liner, there are decrees of the court that specify the timing, quantity, and amount of water depleted from the streams by wells and accreted to the stream through recharge operations. The installation of a gravel pit liner should not result in changes to the timing, location, and amount of such groundwater flow.

Lastly, any stormwater runoff intercepted by this operation that is not diverted or captured in-priority must infiltrate into the ground or be released to the stream system within 72 hours. Otherwise, the operator will be required to make replacements for evaporation.

The applicant may contact the SEO at (303) 866-3581 with any questions.



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 State 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,

A handwritten signature in black ink, appearing to read 'K. Downing', with a stylized flourish at the end.

Kiel Downing
Chief, Denver Regulatory Office