



COLORADO
**Division of Reclamation,
Mining and Safety**
Department of Natural Resources

January 31, 2023

Michael LeMonds
Holcim-WCR, Inc.
8700 Bryn Mawr Avenue, Suite 300
Chicago, IL 60631

RE: Phillips Ranch Property Gravel Pit #2, Permit No. M-2000-046, Incomplete Application for Transfer of Permit and Succession of Operators (SO-1) - REVISED

Dear Mr. LeMonds:

On January 24, 2023, the Division of Reclamation, Mining and Safety (DRMS/Division) received the Application Form for Transfer of Mineral Permit and Succession of Operators from Pioneer Sand Company Inc. to Holcim-WCR, Inc. for the Phillips Ranch Property Gravel Pit #2, Permit M-2000-046. The following items are incomplete for the application to be processed (*Note: Item no. 7 below was left out of yesterday's letter, but also requires a correction*):

1. The individual representing the current Permittee (Pioneer Sand Company, Inc.) under the "Administrative Information" on the cover page of the application, must be an authorized person to sign on behalf of Pioneer Sand and be the same individual that signs for the transfer on both the "Designation of Review Timeline" (second page of the application) and as the "Permittee" on the fifth page of the application. Mike Ausburn is listed on page 1 and has not been involved with Pioneer for several years and the DRMS has no record of him having authorization to sign on behalf of Pioneer Sand. David Sawyers signed the second and fifth pages of the application for the Permittee. The DRMS has no record of him having authorization to sign on behalf of Pioneer Sand. Please resubmit the application with signatures from authorized Pioneer Sand Company representatives.
2. A review of the Colorado Secretary of State document provided shows that Jay Moreau is the registered agent for Holcim-WCR, Inc. not Michael LeMonds. The Division requires the prospective Successor Operator to provide documentation giving the signer, Michael LeMonds, the authority to sign on behalf of Holcim-WCR, Inc. The authorization document may be in the form of by-laws, resolution, affidavit signed by corporate secretary, certified secretary statement, or a notarized statement on company letterhead.
3. The paragraph under the "Designation of Review Timeline" (second page of the application) states "The Prospective Successor must provide an adequate Financial Warranty"; and in the second to last paragraph on the fourth page of the application (Applicants' Agreement to Request Transfer of Mineral Permit and Succession of Operators), it is stated "Prospective Successor agrees to submit to the Division of Reclamation, Mining and Safety ("Division"), Performance and Financial Warranties". No



performance or financial warranties were provided with this application.

- a. Please provide the Division with a completed original Financial Warranty Form for the current bond amount for the site. Because the applicants chose to maintain their right to a 30-day decision the Division will recalculate the required Financial Warranty after issuing its decision on the Application. If the Application is approved, the Division will conduct an inspection within 60 days to assess the amount of the reclamation liability. If the inspection reveals that the reclamation liability exceeds the amount of the conditional replacement Financial Warranty, the Successor must submit the difference within 60 days. Failure to meet this deadline may result in an enforcement action. If the inspection reveals that the reclamation liability is less than the conditional replacement Financial Warranty, the Successor may request a Financial Warranty reduction for release of the difference.
 - b. Please provide the Division with completed Affidavit(s) of Authority for those individuals signing the Performance and Financial Warranties
 4. The second page of the application references an "attached table" that lists Other Reclamation Permits held by the Prospective Successor. No table was attached. Please provide the missing table. The table should not include duplicate permit numbers and must be only for permits for which Holcim-WCR, Inc. is currently the Permittee.
 5. No new structure agreements were provided. A review of the file for this permit indicates there are utility poles (likely owned by San Isabel Electric Association) on the south edge of the permit boundary, and running through the middle of the site from north to south; and fences owned by Phillips Ranch. Structure agreements are required for these structures and where the affected lands are within two hundred (200) feet of any other significant, valuable and permanent man-made structure. The applicant shall:
 - (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.
- A Structure Agreement template has been provided for your convenience in Attachment 1.
6. The Application did not contain a demonstration of the legal right to enter to perform mining and reclamation activities at the site. All Permittees must provide a description of the basis for legal right of entry to the site and to conduct mining and reclamation pursuant to Rule 6.4.14. To comply with this requirement, the Prospective Successor must demonstrate that he/she/it has obtained a legal right of entry from any and all surface and mineral rights owners in the affected lands, independent of the current Permittee. Demonstration may be a copy of an access lease, deed, abstract of title, current tax

receipt, or a signed and notarized statement by the property owners stating that the Prospective Successor has a legal right to enter. Please note the northern portion of this permit site is managed by the Colorado State Land Board (SLB). The legal right of entry documentation must be provided for both the private and SLB managed areas in the Permit.

7. The fourth page of the Application (Applicants' Agreement to Request Transfer of Mineral Permit and Succession of Operators) has two errors in the first paragraph: 1) the Date the permit was granted to Pioneer Sand Company Inc. was not March 19, 2015, but June 16, 2000; 2) the site is not in El Paso County, but in Fremont County. Please resubmit this fourth page of the Application (*labeled with p. 8*) with the correct date and county.

Please respond to the items above within 60 days, or by March 31, 2023. All completed permit documents are required to be submitted for consideration of your Request for Transfer of Mineral Permit and Succession of Operators Application to be considered complete for the purpose of filing. If additional time is needed to respond, an extension request must be received by our Office prior to that date. If on the decision date, outstanding items remain, and no extension request has been received, your application will be denied and the file terminated. The Division reserves the right to further supplement this document with additional items and details as necessary.

Please contact Tim Cazier (303) 328-5229 or by email at tim.cazier@state.co.us if you have any questions.

Sincerely,



Timothy A. Cazier, P.E.
Environmental Protection Specialist

Attachments: 1 – Structure Agreement Form

ec: Sara Stevenson-Benn, DRMS
Michael Cunningham, DRMS
DRMS file