



March 2, 2023

Jodi Schreiber
PFM Consulting LLC
1774 N. Cougar Drive
Pueblo West, CO 81073

Re: Colorado Gravel LLC Pit, File No. M-2022-053; Preliminary Adequacy Review for 112 Construction Materials Reclamation Permit Application

Dear Ms. Schreiber,

The Division of Reclamation, Mining and Safety (Division) has completed its preliminary adequacy review of the 112 Construction Materials Reclamation Permit Application for the Colorado Gravel LLC Pit, Permit No. M-2022-053. The review consisted of comparing the application content with specific requirements of Rules 3.1, 6.3 and 6.5 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 along with suggested actions to correct them.

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:

Comments

1. The Division received state agency comments from History Colorado and the Division of Water Resources. Copies of the letters were forwarded to PFM Consulting. 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.
3. Please submit page 9 of the application, a signed certification indicating a notice sign was posted at the site.
4. Pursuant to Rule 1.6.2(e), provide proof the current surface owner of the proposed affected area, KICT LLC, received the required notice.
5. On February 10, 2023, the Division received copies of the certified mailing cards for the affected landowners and owners within 200 feet of the permit boundary. Please submit the signed certified mailing receipts showing proof of delivery to all easement holders located on the affected land and within 200 feet of the boundary of the affected land.



6.4.4 Exhibit D – Mining Plan

6. According to the map in Exhibit D, the operator will utilize an existing dirt access road for hauling material from the active mining area. Pursuant to Rule 6.4.4(j), the mining plan should specify the dimensions of the access road, specify any improvements to the road, and describe the drainage control structures (e.g. ditches, culverts). Include sufficient information to evaluate structure sizing.
7. Exhibit D displays a house and barn within the permit area. Is the house occupied? Please show the residential driveway on the map and describe the current use of the house and barn in the Mine Plan. Will the home/barn area be mined? Will there be a setback between the residential area and the processing area? Please add acres for the residential area to the map in Exhibit D and notate if the residential area will be disturbed or undisturbed.
8. Pursuant to Rule 6.4.4(d), please specify the area(s) to be worked at any time. The maximum amount of land to be disturbed at any time should include mined areas, stockpiling/storage areas, roads, and the settling pond. This disturbance should correlate with the phase during which disturbance will be at its maximum (prior to final reclamation).
9. Please show the maximum acres of disturbance for the mining and processing areas on the Exhibit D map.
10. The Reclamation Plan states "slopes will be maintained at a 3H:1V minimum, except for the active mine face." What is the maximum length of the highwall that will be greater than 3:1?
11. What is the setback between the activating mining area and the structures (power poles and county road) on the west side of the permit area? Indicate the distance on the maps and describe this in the Mine Plan.
12. The mining plan states "Water will be pumped from the facility with surface water onsite not exceeding 10 acres. Pursuant to Rule 6.4.4(c), describe the pond, all water diversion structures and the timeline for construction of these. Will there be any bank protection structures on the north side of the pond?
13. The permit area is within the floodplain of the Arkansas River. Please update the maps in Exhibit D and E to show the 100-year floodplain and any flood protection/bank stabilization structures. Additionally, describe any flood protection measures in the Mine Plan.
14. What is the anticipated setback from the northern permit boundary to the pond? Please label the setback and the distance to the pond on the map in Exhibit D.
15. It is difficult to determine if the southern permit boundary is on the north or south side of the North Granada Ditch. What is the anticipated setback from the ditch along the southern permit boundary to avoid causing offsite damage to the ditch? Please indicate the setback distance on the maps.



16. The mine plan describes potential washing of material. Please describe this process more and indicate where the water will come from for this process.
17. The mine plan discusses a portable asphalt or concrete plant on site. Where will the imported material come from for the plant and where will it be stored? Will any of this material be used for backfill?

6.4.5 & 6.4.6 Exhibit E Reclamation Plan and Exhibit F Reclamation Plan Map

18. The Reclamation Plan includes a seed mixture for rangeland. The current and proposed post-mining land use is cropland. Please provide an appropriate cropland seed mix to be used for final reclamation.
19. The reclamation plan states "four inches of topsoil will be replaced on affected surfaces." Cropland requires a minimum of 6 inches of topsoil and soil amendments. Please edit the Reclamation Plan to describe appropriate measures for reclamation to cropland.
20. Pursuant to Rule 6.4.5(f), please describe the final grading and maximum anticipated slopes around the 10-acre pond. Please update Exhibit F to show the final slopes for the pond. Will any material be brought into the site to complete the pond? Will any stormwater protection measures or bank stabilization remain after reclamation? Please show these on the map.
21. The Reclamation Plan states, "The home and outbuildings onsite may be removed upon the owners request as the site develops". The reclamation plan map displays the home and outbuildings remaining after final reclamation. If the owners make a request for the buildings to be removed, please acknowledge that a technical revision will need to be submitted to the Division to change the approved reclamation plan. At that time, the financial warranty will be recalculated to reflect the removal of these structures.
22. In the Reclamation Plan, please describe how the processing area will be reclaimed.
23. Pursuant to Rule 3.1.10(6) please commit to providing a weed management plan upon approval of a reclamation permit.

6.4.7 Exhibit G Water Information

24. Pursuant to Rule 6.4.7(b), identify all known aquifers the operation will directly affect.
25. State law requires that any person exposing ground water must obtain a well permit from the SEI pursuant to 37-90-137(11). The Division notes the lease provided in Exhibit N states "The Lessor shall furnish all water and water rights necessary". However, please acknowledge that the Applicant/Operator will need obtain a Well Permit and a Substitute Water Supply Plan from the Division of Water Resources in the Applicant/Operator name from the Division of Water Resources. Please commit to not exposing any groundwater at this site until all permits are in place with DWR prior to exposing any groundwater at the site.



26. The mining plan states "Groundwater is expected to be encountered during excavation and mining." Exposed groundwater results in out-of-priority water depletions. Operations which expose ground water must also eventually obtain a water-court approved augmentation plan. Until an augmentation plan is approved for this site, the Division has identified four approaches for operators to gain compliance for groundwater exposure on site:
- a. File a financial warranty to ensure backfilling of the pit to cover exposed groundwater to a depth of two feet above static water level, or
 - b. Obtain a water court approved augmentation plan prior to exposing groundwater, or
 - c. File a financial warranty to cover the costs of installing a clay liner or slurry wall that meets DWR requirements for preventing groundwater exposure, or
 - d. Obtain approval from DWR that acknowledges compliance with the SEO's requirements pursuant to C.R.S.37-90-137(11). Please commit to not exposing any groundwater at this site until all permits are in place with DWR prior to exposing any groundwater at the site.

The application indicates a water court approved augmentation plan is not currently in place for groundwater exposed on site. Therefore, prior to the application decision date, the applicant must either submit a revised Exhibit L to include costs for backfilling the pits to a depth of two feet above static water level, or provide documentation from the SEO confirming the operator has committed the appropriate amount of water shares toward an augmentation plan for the site.

27. Pursuant to Rule 6.4.7(3), please provide an estimate of the project water requirements including flow rates and annual volumes for the development, mining and reclamation phases of the project.
28. Pursuant to Rule 6.4.7(4) provide an estimate of the project water requirements for each water source including annual volumes for the development, mining and reclamation operations. If another water source, other than water permitted under the lease agreement is used, please identify what that source of water will be.
29. Pursuant to Rule 6.4.7(5), please affirmatively state that you have acquired or applied for a National Pollutant Discharge Elimination System (NPDES) permit from the CDPHE Water Quality Control Division.

6.410 Exhibit J Vegetation Information

30. The applicant states the post-mining land use will be cropland. Pursuant to Rule 6.4.10(c), provide an estimate of average annual production for hay meadows and croplands in the vicinity of the affected land.

6.4.12 Exhibit L - Reclamation Costs

31. Revise Exhibit L to include the total acres to be disturbed at any one time.



32. Revise Exhibit L to include the acres for the stockpile/processing area for grading and ripping compacted areas.

6.4.13 Exhibit M – Other Permit and Licenses

33. Please add the Division of Water Resources Well Permit and Substitute Water Supply Plan to the list of other permits.
34. List all permits required to operate in a floodplain.
35. Please commit to providing copies of all required and approved permits and licenses to the Division when available.

6.4.14 Exhibit N – Source of Legal Right to Enter

36. The Division acknowledges a copy of a lease is provided in Exhibit N of the application. However, the signatures are not acknowledged by a notary. Please resubmit a notarized copy of the lease.
37. Page 2 of the application lists Carolyn Day and Gene Cruickshank as partial owners of subsurface rights within the proposed affected area. Please specify the location of the subsurface rights owned by these two parties and KICT, and submit documentation of a legal right of entry from Carolyn Day and Gene Cruickshank.

Exhibit O – Owner(s) of Record.

38. Pursuant to Rule 6.4.15, add Carolyn Day and Gene Cruickshank to the list of owners of record of the substance to be mined.

Exhibit R – Proof of Filing with the County Clerk and Recorder

39. Pursuant to Rule 1.6.2(2), please demonstrate that the Applicant's response to these adequacy issues have been filed with the application materials previously placed with the County Clerk and Records Office, and made available for public review. Note, the letter sent to the Prowers County Clerk and Recorder incorrectly states "the application should be retained for 60 days and then can be destroyed." Please edit this statement in any follow-up letters to be consistent with Rule 1.6.2(2). The application must be retained until final agency action on the application has occurred.

Exhibit S – Permanent Man Made Structures

40. Please be sure all structures and structure owners identified in this exhibit are clearly labeled on the Exhibit C map.
41. The structure agreement from GP Irrigated is missing the certification notary/signature page for the permit applicant. Please submit this page.
42. The structure agreement for the telephone and fiber line lists Centurylink on the certification page and Lumen on the notary page. Please correct and replace this agreement.



43. Exhibit C shows a house and barn within the permit area. Please obtain and submit structure agreements from the owners of these two structures. Are there any underground utilities within the affected area associated with the house?
44. Provide proof the applicant attempted to obtain a structure agreement from the owner of the power poles along the western edge of the permit area.
45. Provide proof of a structure agreement for Highway 385 and County Roads HH and HH310.

Pursuant to Rule 1.4 the 90-day decision date for this application is **April 19, 2023**. Please be advised that if you are unable to satisfactorily address any concerns identified in this review before the decision date, it will be your responsibility to request an extension of the review period. If there are outstanding issues that have not been adequately addressed prior to the end of the review period, and no extension has been requested, the Division may deny this application.

Sincerely,

Nikie Gagnon
Environmental Protection Specialist

cc: Amy Eschberger, Senior EPS, DRMS

