



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

March 13, 2023

Nathan Barton
WASTELINE, Inc.
P.O. Box 3471
Rapid City, SD 57709-3471

Re: Kelly's Pond, M-2023-006, Comments Forwarded to Applicant

On March 3, 2023 the Public Comment Period for the above listed application in accordance with Construction Materials Rule 1.7.1 (2)(c) was posted. During the Public Comment Period the Division has received two timely Agency Comments (all copies enclosed). The submitting parties with timely comments are;

Timely Comments Received

1. United States Army Corps of Engineers, Received March 3, 2023
2. History of Colorado, received March 8, 2023

Please review and respond to all jurisdictional issues and recommendations by Friday March 17, 2023. If you should require additional time to address the issues please submit a Decision Date Extension Request in writing to the Division's Denver Office no later than Friday March 17, 2023. If you have any questions, comments or concerns, please feel free to contact me at the Division's Grand Junction Field Office, by phone at 303-866-3567 Extension 8185 or by email at clayton.wein@state.co.us.

Sincerely,

Clayton Wein
Environmental Protection Specialist

Encl: Comment – USACE
Comment – History of Colorado

Cc: Travis Marshall, Senior Environmental Protection Specialist

Ec: Nathan Barton, WASTELINE Inc.





Notice of Application Consideration for Permit: M2023006

DRMS_PermitAdmin - DNR, DNR - <dnr_dms_permitadmin@state.co.us>
To: Clayton Wein - DNR <clayton.wein@state.co.us>
Cc: Travis Marshall - DNR <travis.marshall@state.co.us>

Mon, Mar 6, 2023 at 8:41 AM

Susan L. Burgmaler
Business Process Technical Specialist



P 303.866.3567 x 8111 | F 303.832.8106
Physical: 1313 Sherman Street, Room 215, Denver, CO 80203
Mailing: DRMS Room 215, 1001 E 62nd Ave, Denver, CO 80216
dnr_dms_permitadmin@state.co.us | <https://dms.colorado.gov>
[ePermitting Login](#)

----- Forwarded message -----
From: SPA-RD-CO <SPA-RD-CO@usace.army.mil>
Date: Fri, Mar 3, 2023 at 2:31 PM
Subject: Re: [Non-DoD Source] Notice of Application Consideration for Permit: M2023006
To: Division of Reclamation, Mining and Safety <dnr_dms_permitadmin@state.co.us>

Thank you for requesting comments from our office regarding the proposed subject project(s) or activity (ies) that may have the potential to impact aquatic resources. We appreciate that you are considering our potential regulatory role in the project, but we do not currently have the ability to provide project specific comments. If the activity should have the potential to result in the discharge of dredged or fill material into waters of the United States, then the project proponent should work directly with our office to acquire necessary Corps permits, if applicable, as described in following general comment.

Section 404 of the Clean Water Act requires a permit from us for the discharge of dredged or fill material into waters of the United States. Waters of the United States may include, but are not limited to, rivers, streams, lakes, ponds, wetlands, wet meadows, and seeps. To ascertain the extent of waters on the project site, the applicant should prepare a delineation of aquatic resources, in accordance with the applicable standards, including the 1987 Wetland Delineation Manual and the South Pacific Division Minimum Standards for Acceptance of Preliminary Wetlands Delineations. These standards can be found on our website at: <https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Jurisdiction/>.

An aquatic resource delineation should be evaluated prior to developing a be part of a range of alternatives that meet the project purpose. The range of alternatives considered for this project should include alternatives that avoid and minimize impacts to wetlands, streams, or other waters of the United States. Every effort should be made to avoid project features which require the discharge of dredged or fill material into waters of the United States. In the event it can be clearly demonstrated there are no practicable alternatives to discharging dredged or fill material into waters of the United States, compensatory mitigation may be required.

For more information about our program or to locate a list of consultants that prepare aquatic resource delineations and permit application documents, please visit our website at <https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits>.

Respectfully
Lexi Hamous
Regulatory Specialist
Southern Colorado Branch

From: Division of Reclamation, Mining and Safety <dnr_dms_permitadmin@state.co.us>
Sent: Friday, March 3, 2023 2:17 PM
To: SPA-RD-CO <SPA-RD-CO@usace.army.mil>
Cc: clayton.wein@state.co.us <clayton.wein@state.co.us>
Subject: [Non-DoD Source] Notice of Application Consideration for Permit: M2023006

[Quoted text hidden]



History Colorado

Clayton C. Wein
Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

Re: Kelly's Pond, File No. M-2023-006 (HC#82650)

Dear Mr. Wein:

We received your letter dated March 03, 2023 initiating consultation with our office on the subject action pursuant to the Colorado State Register Act – Colorado Revised Statute (CRS) 24-80.1 et. seq.

A search of our database indicates that no properties of historical significance included or nominated for inclusion in the state register have been recorded within the proposed permit area. Please note, as most of Colorado has not been inventoried for cultural resources, our files contain incomplete information. Consequently, there is the possibility that as yet unidentified cultural resources exist within the proposed permit area. The requirements under CRS 24-80 part 13 apply and must be followed if human remains are discovered during ground disturbing activities.

As a reminder, the State Register Act give the SHPO 30 calendar days to provide a response to the state agency. If the response is to ask for additional information to be able to render a comprehensive and accurate response, the 30-day 'clock' will pause and restart at zero when the SHPO receives the information it requested.

We thank you for the opportunity to comment. If we may be of further assistance, please contact Holly McKee-Huth, Cultural Resource Information/Section 106 Compliance at (303) 866-4670 or holly.mckee@state.co.us.

Sincerely,

Dawn DiPrince
State Historic Preservation Officer