



March 21, 2023

Jodi Schreiber
Fremont Paving and Redi-Mix
839 Mackenzie Ave.
Canon City, CO 81212

**RE: Mooney 5804 Altura Pit (Permit No. M-2010-012)
Adequacy Review #1**

Dear Ms. Schreiber:

On February 14, 2023, the Division of Reclamation, Mining and Safety received your 112 Construction Materials Special Operation Reclamation Application package for the Mooney Pit, File No. M-2010-012. The following questions address adequacy issues and missing information that is needed to complete the application. This information needs to be addressed and/or received before the Division can approve the application.

Rule 6.4 - Specific Exhibit Requirements - 112 Reclamation Operation

Rule 6.4.1 EXHIBIT A - Legal Description- Adequate as submitted.

Rule 6.4.2 EXHIBIT B – Index Map - Adequate as submitted.

Rule 6.4.3 EXHIBIT C – Pre-mining and Mining Plan Map-

1. The name of the pit on the application is Mooney 5804 Altura. The Exhibit C title has Mooney Pit and a label in the upper left corner calls it Mooney Hills (which is a separate permit, M-2007-007). Please make all the labels consistent.

6.4.4 EXHIBIT D – Mining Plan

2. The name of the pit on the application is Mooney 5804 Altura. The Exhibit D.1 title has Mooney Pit and a label in the upper left corner calls it Mooney Hills (which is a separate permit, M-2007-007). Please make all the labels consistent.
3. Exhibit D-1-Mining Map shows the current mining processing area but little additional detail of the proposed mining areas. The text in Exhibit L (cost estimate) states all 420 acres will be mined but the Exhibit E-Reclamation Map shows only the hill tops being reclaimed. Please clarify if all 420 acres are planned to be mined or only the hilltops. If



only the hill tops are being mined, please provide the proposed affected acres.

4. What is the anticipated setback from the permit boundary if the plan is to mine all 420 acres? DRMS requires that the mining setback from the permit boundary be at least 3 times the depth of the pit ($3 \times 20 = 60$ feet) and that the pit wall along the permit boundaries not be mined greater than a 3h:1v slope. This ensures a reasonable factor of safety to prevent a highwall failure that could have potential offsite impacts. Please commit to a 60 foot setback and 3h:1v slope in the vicinity of the permit boundary or submit a geotechnical stability analysis if you need to get closer to the permit boundary.

6.4.5 EXHIBIT E – Reclamation Plan –

5. On Exhibits D-1 and E, a Typical Section is shown as having a berm on one side and the pit floor being graded to drain. What is the approximate height of the berm? Will the berm be installed in certain locations or around the entire pit? Please commit to not installing the berm in configurations that will impound water.
6. The reclamation plan states that straw mulch will be crimped in but no further information is given. What kind of mulch will be applied and at what rate?

6.4.6 EXHIBIT F - Reclamation Plan Map –

7. The name of the pit on the application is Mooney 5804 Altura. The Exhibit E title has Mooney Pit and a label in the upper left corner calls it Mooney Hills (which is a separate permit, M-2007-007). Please make all the labels consistent.

6.4.7 EXHIBIT G - Water Information- Adequate as submitted.

6.4.8 EXHIBIT H - Wildlife Information- Adequate as submitted.

6.4.9 EXHIBIT I - Soils Information - Adequate as submitted.

6.4.10 EXHIBIT J - Vegetation Information - Adequate as submitted.

6.4.11 EXHIBIT K - Climate - Adequate as submitted.

6.4.12 EXHIBIT L - Reclamation Costs

8. A reclamation cost estimate was submitted with the application as required by Rule 6.4.12. The Division will do a cost estimate to verify Fremont Paving's cost after all adequacy questions have been resolved.

6.4.13 EXHIBIT M - List of Other Permits and Licenses Required -

9. The first bullet states that All Rite Paving and Ready Mix has a Bent County special use permit. The permit being considered is in Las Animas County. Does All Rite Paving and Ready Mix have a Las Animas County special use permit?

6.4.14 EXHIBIT N - Source of Legal Right-to-Enter - Adequate as submitted.

6.4.15 EXHIBIT O Owner(s) of Record of Affected Land and Substance to be Mined – Adequate as submitted.

6.4.16 EXHIBIT P - Municipalities Within a Two-Mile Radius: Adequate as submitted.

6.4.17 EXHIBIT Q - Proof of Mailing of Notices to Board of County Commissioners and Conservation District- Adequate as submitted.

6.4.18 EXHIBIT R - Proof of Filing with County Clerk and Recorder - Adequate as submitted

6.4.19 EXHIBIT S - Permanent Man-made Structures

The Division received additional comments from the Division of Water Resources, History Colorado and the Army Corp of Engineers (attached). Please address any additional comments raised by these three agencies.

In an effort to organize this permit file, all the documents associated with this amendment will be compiled and uploaded as a single document to Laserfiche when the permit is issued. The documents will be organized by exhibit for ease of being able to research the permit. Please respond to the above comments in the format you sent the application in. The preferred method is to incorporate your response into the text of the appropriate exhibit. The updated permit pages can then be returned to DRMS for review.

The decision date for this application is May 15, 2023. If you are unable to provide satisfactory responses to any inadequacies prior to this date, it will be your responsibility to request an extension of time to allow for continued review of this application. Also, the comment period for this application is still open and any comments or objections received may initiate new adequacy questions. Please submit the proof of newspaper publication that is required by Rule 1.6.5(2).

All corrected pages must be provided to the Las Animas County Clerk & Recorder.

If you have any questions, please contact me at (720) 774-0040 or brock.bowles@state.co.us.

Sincerely,



Brock Bowles

Environmental Protection Specialist

Enclosures: USACOE comments, 2/17/2023
DWR comments, 3/14/2023
History Colorado comments, 2/27/2023



Brock F. Bowles
Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

Re: Mooney 5804 Altura Pit – File No . M-2010-012, All-Rive Paving & Redi-Mix, Inc. Amendment Application (AM-1) Permit Boundary Expansion (HC#57082)

Dear Mr. Bowles:

We received your letter dated February 14, 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 site 5LA.9132, State Highway 26 ~ State Highway 1 ~ Us Highway 85, 87, and 160 ~ County Road 71.1 ~ Linden Avenue, is located within or adjacent to the permit area. The site has not been assessed to determine National Register of Historic Places eligibility. 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.

Please note that if the fill or disposal site location is associated with a Federal undertaking, it is the responsibility of the federal agency to meet the requirements of Section 106 as set forth in 36 CFR Part 800 titled “Protection of Historic Properties”. This includes not only reasonable and good faith identification efforts of any historic properties located within the area of potential effects, but determining whether the undertaking will have an effect upon such properties. The State Historic Preservation Office, Native American tribes, representatives of local governments, and applicants for federal permits are entitled to consultative roles in this process.

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



STATE OF
COLORADO

DRMSMinAdmin - DNR, DNR_ <dnr_drmsminadmin@state.co.us>

Mooney 5804 Altura Pit M-2010-012

1 message

Fuller - DNR, Kathleen <kathleen.fuller@state.co.us>

Tue, Mar 14, 2023 at 9:10 AM

To: DNR_ DRMSMinAdmin - DNR <dnr_drmsminadmin@state.co.us>

Cc: Jeff Montoya - DNR <jeff.montoya@state.co.us>

Please find attached comments from the Division of Water Resources regarding the Construction Materials Reclamation Permit Application Amendment for Mooney 5804 Altura Pit, File No. M-2010-012-AM-1.

If you have questions, please feel free to contact me directly.

Thank you,
Kate

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Kate Fuller
Water Resource Engineer



COLORADO
Division of Water Resources
Department of Natural Resources

P 303.866.3581 x 8245

1313 Sherman St., Suite 821, Denver, CO 80203

Kathleen.Fuller@state.co.us | dwr.colorado.gov



Mooney Altura Pit_M2010012.pdf

273K



Response to Reclamation Permit Application Consideration

DATE: March 8, 2023

TO: Brock F Bowles, Environmental Protection Specialist

CC: Division 2 Office; District 19 Water Commissioner

FROM: Kate Fuller, P.E.

RE: Mooney 5804 Altura Pit File No. M-2010-012
Operator: All Rite Paving & Redi-Mix
Contact: Jodi Schreiber, (719) 529-0916
Secs. 24 and 25, Twp. 32S, Rng. 62W, Sixth P.M.,
Secs. 19 and 30, Twp. 32S, Rng. 61W, Sixth P.M., Las Animas 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 application materials indicate that a pond may exist on the property. The applicant should review DWR's *Beginner's Guide to Ponds*, attached, to ensure that the pond meets statutory and administrative requirements.
- ☒ Other: All water used on-site shall be a legal supply of water provided by an appropriate supplier. The applicant shall confirm the legality of any proposed source of water supply with the Division of Water Resources prior to use in the operation.

COMMENTS: The local Water Commissioner, Jeff Montoya, may be contacted at (719) 680-1052 or Jeff.Montoya@state.co.us regarding legal water supplies in the area.





COLORADO

Division of Water Resources

Department of Natural Resources

Beginners Guide to Ponds

February 2022

In areas where there is not enough water for all uses, man-made ponds, even those that have existed for decades, must have a legal means of storing or exposing water to evaporation. Man-made ponds consume water that senior water rights are entitled to.

Exposing Ground Water

When excavating on a property, there is the possibility of exposing ground water. If an excavation begins to fill with any amount of water from underground, a well has been constructed. A non-exempt (or large capacity) well permit from the State Engineer is required, and all of the laws associated with well construction and ground water use apply. In most parts of Colorado, a non-exempt well permit cannot be issued unless the pond is operated pursuant to a court-approved plan for augmentation, which is a method to offset water lost from evaporation and other uses from the pond. Developing plans for augmentation can be difficult and costly, and will normally require the services of a water resource consulting engineer and water attorney.

Lined Ponds

A pond may be lined with a barrier that is impermeable to water so that ground water is not exposed to the atmosphere. However, liners must be tested to achieve the State Engineers guidelines for liners.

Storage Rights

In most of Colorado there are more decreed water right claims on the system than can be satisfied by the physical amount of water available. Therefore, under the priority system (“first in time, first in right”), the most junior rights have to stop diverting until the senior rights are satisfied. In most areas, a court-approved plan for augmentation is required in order to reliably divert surface water into a pond.

Non-Jurisdictional Water Impoundments, Livestock Water Tanks, and Erosion Control Dams

At least 45-days prior to constructing a dam to store water, a property owner must submit to their local Division Engineer’s Office a Notice of Intent to Construct a Non-Jurisdictional Impoundment Structure or application to construct a [livestock water tank or erosion control dam](#). Both livestock water tanks and erosion control dams may only be constructed on normally dry streams in accordance with the specific requirements of the authorizing statutes for these structures. These structures should not be constructed until the property owner receives approval from the Division Engineer for the construction of such a dam.

Temporary Detention

Direct flow surface water rights may be temporarily detained for up to 72 hours in order to allow more efficient or effective beneficial use of the water. Examples of such detention would be ponds used to receive delivery of a direct flow irrigation water right that is then applied by a sprinkler or temporarily detained and slugged out through a ditch (operational, head stabilization, equalization or flow regulating ponds).

Storm water detention and infiltration facilities and post-wildland fire facilities may [temporarily detain storm water](#) if they meet specific criteria.

Additional Resources for Ponds:

- [Beginners Guide to Erosion Control Dams](#)
- [Beginners Guide to Livestock Water Tanks](#)
- [Beginners Guide to Well Permits](#)
- [General Administration Guidelines for Reservoirs](#)
- [Colorado Dam Safety Program](#)

Have additional questions? Send an AskDWR request or call DWR's Ground Water Information Desk between 9am and 4pm Monday through Friday at (303) 866-3587.



STATE OF
COLORADO

Bowles - DNR, Brock
<brock.bowles@state.co.us>

Re: [Non-DoD Source] Notice of Complete Application for Permit: M2010012 Revision: AM1

1 message

SPA-RD-CO <SPA-RD-CO@usace.army.mil> Fri, Feb 17, 2023 at 3:33 PM
To: "Division of Reclamation, Mining and Safety"
<dnr_drms_permitadmin@state.co.us>
Cc: "brock.bowles@state.co.us" <brock.bowles@state.co.us>

Thank you for requesting comments from our office regarding the proposed subject activity 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>. Please refer to identification number #FOLDER_DA_NUMBER# in any correspondence concerning this project. If you have any questions, please contact me by email at #PM_EMAIL#, or telephone at #PM_PHONE#.

Respectfully,

USACE SPA
Southern
Colorado
Branch

From: Division of Reclamation, Mining and Safety
<dnr_drms_permitadmin@state.co.us>
Sent: Tuesday, February 14, 2023 10:09 PM
To: SPA-RD-CO <SPA-RD-CO@usace.army.mil>
Cc: brock.bowles@state.co.us <brock.bowles@state.co.us>
Subject: [Non-DoD Source] Notice of Complete Application for Permit:
M2010012 Revision: AM1

Please see attached correspondence from the Division of Reclamation,
Mining and Safety.

DO NOT REPLY to this email message. This mailbox is not monitored for
incoming messages. Please refer to the attached document to locate the
email address of the sender.