

March 23, 2023

Jodi Schreiber
A&S Construction Co.
839 Mackenzie Ave.
Canon City, CO 81215

RE: Kiowa County Pit; File No. M-2023-008; Notice of Incomplete Construction Materials Special 111 Operation Reclamation Permit Application

Ms. Schreiber:

On March 16, 2023, the Division of Reclamation, Mining and Safety (Division) received your Construction Materials Special 111 Operation Reclamation Permit Application for the Kiowa County Pit, assigned File No. M-2023-008. A preliminary review of the information received determined the following items must be submitted before the Division can consider the application as being submitted/filed and technical review can begin:

Application Form:

1. The Division requires the Applicant's company name to be registered with the Colorado Secretary of State (CSOS), and to be written exactly as it is registered throughout the application, especially on any signed or notarized pages. The company name provided throughout the application, "A&S Construction Co.", could not be found as a registered business name on the CSOS's website. Please provide evidence that A&S Construction Co. is registered with the CSOS.
2. On Page 1 of the form, under Item 9 – Location Information, the Applicant checked the SE Quarter Section and the NE Quarter/Quarter Section. Based on the site location information provided elsewhere in the application, the Division believes these are reversed. Please ensure the correct Quarter Section and Quarter/Quarter Section are selected.

Exhibit B – Site Description (Rule 6.3.2):

3. Please provide additional information on Big Sandy Creek, including whether it flows at any time of the year, and a description of its channel located within the proposed affected lands.
4. Please identify the small impoundment located within 200 feet of the proposed affected lands (to the east of the proposed permit boundary) and its owner.

Exhibit D – Reclamation Plan (Rule 6.3.4):

5. The Applicant is proposing to utilize the existing two track ranch road off of Highway 96 to access the proposed mining area. This road will be widened to approximately 30 feet and possibly graveled for



final reclamation per the landowner's request. Please provide a signed and dated letter from the landowner acknowledging their desire to leave the access road for reclamation as described in the application. (This information could not be found in the lease agreement provided in Exhibit G.)

Exhibit G – Source of Legal Right to Enter (Rule 6.3.7):

6. The Division is unable to verify that the lease agreement provided in this exhibit, between the Applicant and the landowner, Olis and Susan Lauppe, actually covers the proposed affected lands. The lease agreement refers to "real property situated in Lincoln County, Colorado", while the proposed affected lands are located in Kiowa County. Furthermore, the lease agreement does not include a legal description of the property. Please provide a lease agreement that includes all information necessary to verify the Applicant has the legal right to enter to conduct mining and reclamation on the proposed affected lands. Alternatively, the Applicant may provide a signed and notarized letter by the landowner acknowledging as such.

Exhibit J – Proof of Mailing of Notices to Board of County Commissioners and Conservation District (Rule 6.3.10):

7. The notice provided to the Kiowa County Board of County Commissioners includes the statute citation [C.R.S. 34-32-116(7)(m)] and public comment period (20 days after the date of the applicant's newspaper publication) for a 112 mining operation, and not a 111c mining operation. The notice for a 111c mining operation should include the appropriate statute citation [C.R.S. 34-32.5-116(4)(m)] and comment period (5 working days after the application is filed). Please provide proof that an appropriate notice of the 111c permit application (see enclosed form) was sent to the Kiowa County Board of County Commissioners.
8. The notice provided to the Kiowa County Conservation District includes the statute citation [C.R.S. 34-32-116(7)(m)] and public comment period (20 days after the date of the applicant's newspaper publication) for a 112 mining operation, and not a 111c mining operation. The notice for a 111c mining operation should include the appropriate statute citation [C.R.S. 34-32.5-116(4)(m)] and comment period (5 working days after the application is filed). Please provide proof that an appropriate notice of the 111c permit application (see enclosed form) was sent to the Kiowa County Conservation District.

Exhibit L – Permanent Man-Made Structures (Rule 6.3.12):

9. Please provide a list of all permanent, man-made structures located on or within 200 feet of the proposed affected lands, and the owner of each structure.
10. Please provide proof that structure agreements were sent to the owner of every permanent, man-made structure located on or within 200 feet of the proposed affected lands. This proof must include a copy of the Applicant's executed agreement that was sent to the structure owner and either a certified mail receipt or proof of personal delivery. Please note, for any structures proposed to be modified, moved, or removed by the mining operation, the Applicant must provide a signed and notarized letter by the structure owner acknowledging as such. (The Division accepts the Applicant's signed contract with the Colorado Department of Transportation as an appropriate structure agreement for State Highway 96).

11. The structure agreement provided for the power line/poles owned by Southeast Colorado Power Association requires the following revisions:

- a) Under the Certification section, the Applicant is listed as "Fremont Paving and Redi-Mix, Inc." rather than "A&S Construction Co.". Please correct the Applicant name.
- b) Under the Notary for Permit Applicant section, the Applicant field includes a signature. Please write the Applicant's company name "A&S Construction Co." in this field.

The application will not be considered submitted/filed until all completeness items listed above have been received and found sufficient to begin our review. A decision date will be established 15 days from the date of receipt of all required completeness items.

You have sixty (60) days from the date of this letter, by **May 22, 2023**, to submit all necessary information for the application to be considered filed. If, at the end of the sixty day period, the application has not been determined to be filed with our Office, the application will be denied and the file terminated.

This letter shall not be construed to mean there are no other technical deficiencies in the application. The Division will perform an adequacy review of the application to determine whether it meets the requirements of the Act and Rules after all completeness items have been received.

If you have any questions, you may contact me by telephone at 303-866-3567, ext. 8129, or by email at amy.eschberger@state.co.us.

Sincerely,



Amy Eschberger
Environmental Protection Specialist

Encls: Notice form for 111c operations - Board of County Commissioners
Notice form for 111c operations – Board of Supervisors of the Local Conservation District

Cc: John Paul Ary, A&S Construction Co.
Joel Renfro, DRMS

NOTICE OF FILING APPLICATION
FOR COLORADO MINED LAND RECLAMATION PERMIT
FOR **SPECIAL 111 OPERATION**

NOTICE TO THE BOARD OF COUNTY COMMISSIONERS
_____ COUNTY

_____ (the “Applicant/Operator”) has applied for a Special 111 reclamation permit from the Colorado Mined Land Reclamation Board (the “Board”) to conduct the extraction of construction materials in _____ County. The attached information is being provided to notify you of the location and nature of the proposed operation. The entire application is on file with the Division of Reclamation, Mining, and Safety (the “Division”) and the local county clerk or recorder.

The Applicant/Operator proposes to reclaim the affected land to _____ use. Pursuant to Section 34-32.5-116(4)(m), C.R.S., the Board may confer with the local Board of County Commissioners before approving of the post-mining land use. Accordingly, the Board would appreciate your comments on the proposed operation. Please note that, in order to preserve your right to a hearing before the Board on this application, you must submit written comments on the application within five (5) working days after the application was filed with the Division.

If you would like to discuss the proposed post-mining land use, or any other issue regarding this application, please contact the Division of Reclamation, Mining, and Safety, 1313 Sherman St., Room 215, Denver, Colorado 80203, (303) 866-3567.

NOTE TO APPLICANT/OPERATOR: You **must** attach a copy of the application form to this notice. If this is a notice of a change to a previously filed application you must either attach a copy of the changes, or attach a complete and accurate description of the changes.

NOTICE OF FILING APPLICATION
FOR COLORADO MINED LAND RECLAMATION PERMIT
FOR **SPECIAL 111 OPERATION**

NOTICE TO THE BOARD OF SUPERVISORS
OF THE LOCAL CONSERVATION DISTRICT
_____ DISTRICT

_____ (the “Applicant/Operator”) has applied for a Special 111 reclamation permit from the Colorado Mined Land Reclamation Board (the “Board”) to conduct the extraction of construction materials in _____ County. The attached information is being provided to notify you of the location and nature of the proposed operation. The entire application is on file with the Division of Reclamation, Mining, and Safety (the “Division”) and the local county clerk or recorder.

The Applicant/Operator proposes to reclaim the affected land to _____ use. Pursuant to Section 34-32.5-116(4)(m), C.R.S., the Board may confer with the local Conservation Districts before approving of the post-mining land use. Accordingly, the Board would appreciate your comments on the proposed operation. Please note that, in order to preserve your right to a hearing before the Board on this application, you must submit written comments on the application within five (5) working days after the application was filed with the Division.

If you would like to discuss the proposed post-mining land use, or any other issue regarding this application, please contact the Division of Reclamation, Mining, and Safety, 1313 Sherman St., Room 215, Denver, Colorado 80203, (303) 866-3567.

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