

March 24, 2023

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

**RE: Kiowa County Pit; File No. M-2023-008; 2<sup>nd</sup> 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. This application was called incomplete on March 23, 2023. The Applicant submitted a completeness response on March 24, 2023. A preliminary review of the information received determined the following items must be received before the Division can consider the application as being submitted/filed and technical review can begin:

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

1. In its March 23, 2023 incompleteness notice, the Division informed the Applicant that it is unable to verify the lease agreement provided in this exhibit, between the Applicant and the landowner, Olis and Susan Lauppe, actually covers the proposed affected lands, because the lease agreement refers to “real property situated in Lincoln County, Colorado” (which should be Kiowa County), and a legal description was not provided with the lease agreement to confirm the property for which the lease was signed. In its March 24, 2023 completeness response, the Applicant provided only a revised page 1 of the lease agreement with “Lincoln County” changed to “Kiowa County”, which does not include the date on which the lease agreement was revised or an updated signature and notary page. In fact, the date provided on page 1 of the lease agreement is the same as it was on the document provided with the initial application submittal, which is February 7, 2023. It is the Division’s understanding that if a notarized document requires corrections and/or has missing information, the notary can mark a line through the incorrect information, initial it, and write in the correct information only at the time of the notarization, when the principal signers are present. Therefore, please provide either a fully executed lease agreement with the landowner which includes the correct county and legal description for the proposed affected lands, or a notarized letter from the landowner acknowledging the Applicant has the legal right to enter the proposed affected lands to conduct mining and reclamation.

**Additional Item(s):**

2. In its March 24, 2023 completeness response, the Applicant stated the permit boundary has been adjusted and the impoundment (located east of the proposed permit boundary) is no longer within 200 feet of the proposed permit boundary. However, no maps were provided showing the modified permit



boundary. The Division will allow for the revised maps to be submitted through the adequacy review process for the application, but only if the proposed permit acreage is the same. Please confirm the proposed permit acreage will remain at 9.9 acres. If this acreage has changed with the boundary adjustment, the application form and maps will need to be revised accordingly.

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 the first incompleteness notice, 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](mailto:amy.eschberger@state.co.us).

Sincerely,



Amy Eschberger  
Environmental Protection Specialist

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