



March 30, 2023

**RE: Recommendation to Approve a 112c Permit Application with Objections;  
Raptor Materials LLC; Two Rivers Sand, Gravel and Reservoir Project;  
File No. M-2022-013**

Dear Party and/or Interested Person:

The Division of Reclamation, Mining and Safety (Division) hereby issues its recommendation for approval of the 112c permit application (Application) for the Two Rivers Sand, Gravel and Reservoir Project, File No. M-2022-013, submitted by Raptor Materials LLC (Applicant).

This recommendation is based on the Division's determination that the Application satisfied the requirements of Section 34-32.5-115(4) of the Colorado Land Reclamation Act for the Extraction of Construction Materials, 34-32.5-101 *et seq.*, C.R.S. (Act). The Applicant addressed all adequacy issues which were identified by the Division during the adequacy review process to the Division's satisfaction. Therefore, on March 30, 2023, the Division determined the Application satisfied the requirements of C.R.S. 34-32.5-115(4) and issued its recommendation to approve the Application over objections.

The Division's rationale for approval (Rationale) identifies the jurisdictional issues raised by objecting parties and commenting agencies, and groups them into the following four categories:

- 1) Notification Process
- 2) Application Review Timeframe
- 3) Impacts on Wildlife
- 4) Impacts to the Prevailing Hydrologic Balance

The Division's Rationale provides a full and thorough analysis of the four broad categorical issues (listed above) which were raised by objecting parties. A copy of the Division's Rationale is enclosed, and is also available for public review on the Division's website at <https://drms.colorado.gov>, by clicking on DRMS Weblink (Laserfiche) then entering the file number "M2022013" into the Permit No field and hitting Enter.

The Division's recommendation to approve the Application is to the Colorado Mined Land Reclamation Board (Board). The Division received timely written objections to the Application. Therefore, pursuant to Rules 1.4.9(2)(a) and 1.7.4(2), the Division has scheduled the Application for consideration by the Board. During the hearing, the Board will consider the Application with objections and may decide to approve, approve with conditions, or deny the Two Rivers Sand, Gravel and Reservoir Project application.

The Pre-Hearing Conference is scheduled to occur on Wednesday, April 5, 2023 starting at 1:00 p.m. and ending no later than 3:00 p.m. The Formal Board Hearing is scheduled to occur during the April 19-20, 2023 Board meeting, beginning at 9:00 a.m., or as soon thereafter as the matter can be considered. Additional details on the Pre-Hearing Conference and Formal Board Hearing have been provided under separate cover.



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If you have any questions, you may contact me by telephone at 720-601-2276 or by email at [rob.zuber@state.co.us](mailto:rob.zuber@state.co.us).

Sincerely,



Rob Zuber, P.E.

Environmental Protection Specialist

Encls: Rationale for Recommendation to Approve a 112c Permit Application with Objections for the Two Rivers Sand, Gravel and Reservoir Project, File No. M-2022-013;  
Guide to Public Participation in the 112 Reclamation Permit Application Process for Construction Materials and Hard Rock/Metal Mining Operations

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March 30, 2023

**RE: Rationale for Recommendation to Approve a 112c Permit Application with Objections,  
Raptor Materials LLC, Two Rivers Sand, Gravel and Reservoir Project, File No. M-2022-013**

**Introduction**

On March 30, 2023, the Division of Reclamation, Mining and Safety (Division or Office) issued its recommendation to approve, over objections, the permit application for the Two Rivers Sand, Gravel and Reservoir Project (“TRP” or “the project”), File No. M-2022-013 (Application). This document seeks to explain the process by which the Division arrived at its recommendation to approve the Application over objections, and respond to the issues raised by the objecting parties and commenting agencies. The Division reserves the right to further supplement, amend, modify, or clarify this document and recommendation with additional details as necessary.

**Summary of the Review Process<sup>1</sup>**

Varra Companies, Inc. filed the Application with the Division on April 18, 2022. Subsequently, the name of the applicant was changed to Raptor Materials LLC (Applicant) via Succession of Operator action SO-01. The Application is for a proposed permit area of 409.2 acres located in Weld County, with approximately 225 acres of primary disturbance (extraction area, processing area, and wash pond). The Application describes a sand and gravel mining operation, which will utilize surface extraction (using excavators, dozers, scrapers, and/or backhoes) to ultimately develop two large excavation areas that will, after reclamation, be clay-lined reservoirs with grass embankments. The material will be transported to a processing area via conveyor that will cross the Big Thompson River and Evans Canal. The operation will include on-site crushing, screening, and washing of aggregate products. Fines generated from the processing operation will be sold, if commercially viable, or will be hauled to the stockpile area and eventually used to backfill the banks of ponds during reclamation. The mining operation will advance through seven mining phases with reclamation of pit walls occurring in subsequent phases as the operation progresses, thereby reducing the extent of unreclaimed disturbance at any time.

Given the nature of the phased mining and reclamation plans, the Division requires a financial warranty in the amount of \$1,220,834 to address the cost of reclamation through the development of the first mining phase (40 acres). The affected lands will be reclaimed to support a post-mining land use of developed water resources.

A technical review team composed of four Division staff members reviewed the Application for adequacy. During the review period, the Application decision date was extended seven times at the Applicant’s request, to allow the Applicant sufficient time to address the adequacy requirements identified by the Division.

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<sup>1</sup> Herein, all references to the Act and Rules refer to the Colorado Land Reclamation Act for the Extraction of Construction Materials, 34-32.5-101 *et seq.*, C.R.S. (Act), and to the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials, 2 C.C.R. 407-4 (Rules or Rule). A link to the Act and Rules can be found at <https://drms.colorado.gov>.

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Varra Companies, Inc. published notice of the Application once a week for four consecutive weeks, in accordance with Rules 1.6.2(1)(d) and 1.6.5(1), in a newspaper of general circulation in the locality of the proposed mining operation, namely the Greeley Tribune. Per Rule 1.7.1(2)(a), the public comment period closed twenty calendar days after the last date for the newspaper publication, on June 2, 2022. During this period, the Division received a total of 11 timely objections on the Application and two timely agency comments from History Colorado and the Division of Water Resources (DWR). One of the objections was withdrawn. Several untimely objections were also received. The Division forwarded copies of all timely objections and comments to the Applicant in accordance with Rule 1.7.1(3). The full list of commenting individuals and agencies is attached as Appendix A.

The Division has scheduled the Application for consideration by the Mined Land Reclamation Board (Board), to occur during the April 19, 2023 Board meeting. The Pre-hearing Conference is scheduled for April 5, 2023. The Division is providing notice of the scheduled Board hearing and Pre-hearing Conference to all parties in accordance with Rule 1.4.9(2)(b).

During the review period, the Division considered all timely comments received from the public and agencies, as listed above. The Division generated a total of five adequacy review letters enumerating all adequacy issues for the Application. The Applicant addressed all adequacy items to the Division's satisfaction. Therefore, on March 30, 2023, the Division determined the Application satisfied the requirements of C.R.S. 34-32.5-115(4) and issued its recommendation for approval of the 112c permit application for the Two Rivers Sand, Gravel and Reservoir Project, File M-2022-013. On that same date, the Division forwarded a copy of its recommendation and rationale for approval to all parties in accordance with Rule 1.4.9(2)(c), and also made this document available to the public through the Division's website.

### **Jurisdictional Issues**

The jurisdictional issues raised by objecting parties and commenting agencies have been grouped into four broad categories, including: Notification Process, Application Review Timeframe, Impacts on Wildlife, and Impacts to the Prevailing Hydrologic Balance. The categories are listed below in bold font. Under each category, specific concerns are summarized in underlined text (the number at the end represents the number of parties that raised that concern). Further description of each concern is provided in italic font. The Division's response follows the issues in standard font.

#### **1. Notification Process**

##### **A. Concerns that the onsite signs were not adequate (4):**

- *The signs were too small to read from the road and some were folded by the wind.*
- *Many of the signs were placed on a road (CR396) that does not get a lot of traffic by the neighbors who would be impacted by the project.*
- *Only one sign was on 54th Street Road, the road most used by impacted neighbors, and it was in an area that would not be noticed because of the traffic hazards (curves, hills, and dangerous drivers). Also, this sign was in an area that would likely have a "No Dumping" sign.*
- *One objector claimed that no signs were posted along 54th Street Road.*
- *The signs at the site gave no deadline for comment.*

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In accordance with Rule 1.6.2(1)(b), the Applicant shall comply with the following notice requirements:

- The signs must be posted prior to submittal of an application for a new permit.
- There must be a “sufficient number” of signs to clearly identify the site as the location of a proposed mining operation.
- The sign(s) must be 11” x 17” with adequate font size.
- The application must include a signed affidavit that they were posted.
- There is no requirement that the signs be maintained after initial posting.

The Application indicates that approximately a dozen signs were posted at locations around the proposed site, and photographs of the notices were provided to the Division. These are included in Appendix B.

The report from the Division’s pre-operations inspection on June 14, 2022 noted that several signs were seen at several location around the site, including one that could be seen from 54<sup>th</sup> Street Road. A Division photograph of a sign was taken near the southwest corner of the site and is included in Appendix B.

The Division has determined that the signs were in compliance with Rule 1.6.2(1)(b). Per a signed affidavit in the Application, they were posted on or prior to March 31, 2022, which was prior to submittal of the Application, as required by the rule. Also, the signs were large enough and in sufficient number to be in compliance.

B. Concerns about access to the Application at the County Clerk’s office (1):

- *The County referred people to the City of Evans to access the proposal, but the City did not have a copy of it.*

The applicant provided proof that the Application was available at the County Clerk’s office as of April 1, 2022.

June 2022 emails from Chloe White, Deputy Clerk in the Weld County Clerk to the Board’s Office, stated: “The Weld County Clerk to the Board’s Office received the case file on April 1, 2022, forwarded it to various department staff members and the Board of County Commissioners, and made it available for public inspection.”

In an additional email that day, she also stated: “The information was listed in the Board of County Commissioners’ public Agendas on April 11, 2022, June 13, 2022, and June 20, 2022, as well as input to their electronic records management system, which is accessible to the public, prior to each of the above listed Board meetings.”

The Division has determined that copy of the Application was placed with the County Clerk and Recorder for public view in accordance with Rule 1.6.2(1)(c).

C. Concerns that information in notices was not complete and accurate (4):

- *The Greeley Tribune notice did not indicate the time frame for public comment.*
- *The Greeley Tribune notice gave a legal description of the project location but did not indicate the location in common language (i.e., along 54<sup>th</sup> Street Road across from the Dos Rios subdivision.*
- *The signs at the site gave no deadline for comment.*
- *The notification process did not provide full information regarding the impacts of the mine on nearby residents.*

In accordance with Rule 1.6.2(1)(d), the public notice in the newspaper must contain:

- Name and address of applicant
- Location by section, township and range and address (if applicable)
- Proposed dates of commencement and completion of mining and reclamation at the site
- Proposed future use of affected land
- Location where additional information on the operation may be obtained
- Location and final date for submitting statements of support or objections with the Division.

The Applicant's Greeley Tribune public notice did indicate the end of the public comment period: June 2, 2022. The onsite signs are not required to contain this information, per Rule 1.6.2(1)(b).

The way that the notice indicated the location (section, township and range) is in compliance with Rule 1.6.2(1)(d).

The signs and newspaper notice are not required to provide information regarding impacts on neighbors. The application itself, which was available to the public, addresses impacts on surrounding lands including water resources and wildlife. Discussion of many possible impacts (e.g., traffic, real estate values, noise) are not required by the Division rules.

The Division found that the newspaper notices and signs complied with the requirements of Rule 1.6.2. An affidavit regarding the publication is included as Appendix C.

D. Concerns that nearby land owners were not given direct notice (4):

- *The Application should be denied because it failed to notify owners of record of land within 200 feet of affected lands.*
- *The property closest to the project on the north side, a resident of the Dos Rios neighborhood, is only 30 feet away from the project.*

Rule 1.6.2(1)(e) states that the applicant must serve a notice to "the Owners of Record of all land surface within 200 feet of the boundary of the affected lands." All landowners within 200 feet received these notices, including:

- Aggregator LLC
- Joyce Allely
- City of Aurora
- Tammy Sue Camenisch
- Dixie Water LLC
- JBS Five Rivers Cattle Feeding LLC
- JDLB Farm LLC
- Robert I. Lemon
- Shable Homestead LLC
- SW Spruce Mountain LLC.

The residential properties north of 54th Street Road (the Dos Rios neighborhood) are all more than 200 feet from the proposed permit boundary.

The Division determined that all Owners of Record of all land surface within 200 feet of the boundary of the proposed affected lands received a copy of the public notice as required by Rule 1.6.2(1)(e).

## **2. Application Review Timeframe**

### **A. Concerns that the timeframe for public comment was not sufficient (1):**

- *The timeframe for public comments was not sufficient.*

The public comment period for a 112c reclamation permit application is defined by Rule 1.7.1(2)(a), which states that all written comments, protests, and petitions for a hearing must be received by the Division not more than twenty (20) calendar days after the last date for the newspaper publication of notice of the application provided for in Rules 1.6.2(1)(d) and 1.6.5(1). In this case, the Applicant published notice of the application once a week for four consecutive weeks as required by Rule 1.6.2(1)(d) in a newspaper of general circulation in the locality of the proposed mining operation, the Greeley Tribune. The publication dates were April 22, April 29, May 6, and May 13, 2022. Per Rule 1.7.1(2)(a), the public comment period closed on June 2, 2022. Comments on an application may be submitted as early as the application filing date, which in this case was April 18, 2022. Therefore, the public comment period lasted for a total of 46 days, and the Applicant was in compliance with the Rules.

## **3. Impacts on Wildlife**

### **A. Concerns regarding impacts to wildlife, wildlife habitat, and/or wildlife migration corridors (3):**

- *The quarry will disturb flora and wildlife. This could include Bald Eagles, White Pelicans, and other protected species.*
- *The project will damage a wildlife corridor.*
- *The concerns of Colorado Parks and Wildlife (CPW) listed in an email (June 13, 2022) included High Priority Habitats for mule deer and native aquatic species. CPW recommends that development be designed to avoid, minimize, and mitigate impacts on these areas. In particular:*



- *The winter range for mule deer should be avoided from December 1 to April 30, especially during the initial construction of the project.*
- *Fencing should be limited or wildlife-friendly fencing used.*
- *For mule deer migration, corridors should be protected and the vegetation in these areas managed, including weed control.*
- *To protect aquatic species, construction should remain 500 feet from the river's high water mark and stormwater BMPs should be employed to limit sediment loads into receiving waters.*
- *Revegetation of disturbed lands is very important, and native plant communities should be restored during the lifespan of the project and weeds controlled.*

Disturbance to wildlife is likely with any significant mining activity, and the TRP is no exception. Impacts on wildlife use from the proposed operation could include temporary elimination of potential habitat within the affected lands, and temporary localized displacement associated with additional noise and lighting from the proposed operation. The Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials were written to minimize these impacts.

Pursuant to Rule 3.1.8(1), all aspects of the mining and reclamation plan shall take into account the safety and protection of wildlife on the mine site, at processing sites, and along all access roads to the mine site with special attention given to critical periods in the life cycle of those species which require special consideration (e.g., migration routes and areas for birthing, nesting, and mating). Pursuant to Rule 3.1.8(2), habitat management and creation, if part of the reclamation plan, shall be directed toward encouraging the diversity of both game and non-game species, and shall provide protection, rehabilitation or improvement of wildlife habitat. Operators are encouraged to contact CPW and/or federal agencies with wildlife responsibilities to see if any unique opportunities are available to enhance habitat and/or benefit wildlife which could be accomplished within the framework of the reclamation plan and costs.

The Division determined that the Application is in compliance with Rule 3.1.8(1). In particular, the long-term reclamation plan will enhance wildlife habitat with the construction of reservoirs.

Pursuant to Rule 6.4.8, the Application shall include a description of the game and non-game resources on and in the vicinity of the Application area, including:

- A description of the significant wildlife resources on the affected land;
- Seasonal use of the area;
- The presence and estimated population of threatened or endangered species from either federal or state lists;
- A description of the general effect during and after the proposed operation on the existing wildlife of the area, including but not limited to temporary and permanent loss of food and habitat, interference with migratory routes, and the general effect on the wildlife from increased human activity, including noise.

The Application included a site-specific Wildlife Information exhibit (Exhibit H) and reports prepared by ERO Resource Corporation (ERO) on threatened and endangered species.

Additional details are presented below to illustrate how the Applicant will comply with Rules 3.1.8(1) and 6.4.8. The Applicant will implement the following measures to avoid, minimize, and mitigate potential adverse impacts of the proposed operation:

- Mining in pre-disturbed areas – Mining will predominantly occur in areas previously disturbed by human activities, namely agriculture and roads.
- Phased mining approach – Mining will occur in seven phases. This approach minimizes year-round impacts on wildlife habitat and will protect the riparian corridor for mule deer and other species, allowing migration, foraging, and breeding in these areas. The maximum area of active mining at one time has been set at 64 acres.
- Reclamation to enhance habitat – As mentioned, the final reclamation of much of the site will be reservoirs. The design of these reservoirs includes variable slopes and irregular shorelines to further enhance habitat. Disturbed areas that will not become reservoirs will be reclaimed with native grasses and pollen-producing species.
- Riparian setbacks – The project will avoid fragmenting riparian corridors, and cottonwoods and other species along the terraces by the rivers will be preserved. In addition, the Applicant has agreed to a setback of 400 feet from the river banks, further protecting riparian corridors. Setbacks are also discussed in more detail below under Impacts on Rivers and Ditches.
- Stormwater management – The Applicant will implement Best Management Practices (BMPs), as necessary, to protect the rivers and other surrounding lands from erosion and sediment loading from the site. To a large degree, BMPs will not be needed, as the site will be designed to collect and treat runoff in a sediment pond, prior to discharge off site.
- No impact on wetlands – It is not anticipated that the project will impact wetlands, especially since riparian corridors will largely be avoided. A determination has been made by the U.S. Army Corps of Engineers (USACE) that a Nationwide Permit is not required for this project.
- Noise impacts – The Applicant discusses how the plant and mining areas will be distanced from the prime wildlife areas, and the noise levels will be comparable to the traffic on the roads.
- Dust impacts – These impacts will be regulated by the Colorado Department of Public Health and Environment (CDPHE).
- Fencing – The Applicant will actively remove unnecessary fencing in the riparian corridors. If fencing is added, wildlife friendly fencing will be used.
- Wildlife egress – All pits shall have slopes that allow wildlife to “escape.”
- Weed control – All disturbed and non-disturbed lands will be routinely maintained to prevent the establishment and spread of noxious weeds.

ERO Resources Corporation analyzed the TRP site for the presence of suitable habitat for federally listed threatened and endangered species. In the resulting report (“Threatened and Endangered Species Habitat Assessment, Two Rivers Parcels,” ERO, 2022), ERO indicates that there is no suitable habitat at the TRP site for any threatened and endangered species known to live in Weld County, with one exception: the Preble’s meadow jumping mouse. However, this species was not detected in the project area during a 2017 live-trapping survey by ERO. Furthermore, ERO concludes that there is better habitat upstream from the TRP site, and the project would not result in a “take” of listed species. Finally, the Applicant commits to avoiding the riparian areas within the permit boundary. Therefore, federal and/or state threatened and endangered species will not likely be impacted as a result of the operation.

The Division determined that the proposed mining operation will minimize impacts to wildlife as required by Rules 3.1.8 and 6.4.8.

#### **4. Impacts to the Prevailing Hydrologic Balance**

##### **A. Concerns regarding impacts on the two rivers on either side of the site (2):**

- *If completed, the project will impact flows in the two rivers.*
- *If completed, the project will impact the conservation easement at the confluence of the rivers.*
- *It is unclear if other agencies were consulted (namely the DWR, CDPHE, and the USACE for their assessment of the project.*
- *Prior to use or exposure of groundwater, the Applicant must obtain a well permit and a substitute water supply plan or decreed plan for augmentation. The site must continue to operate under the plan until the liners are approved by DWR, or the pits must be backfilled and lagged depletions must be replaced (letter from DWR dated April 27, 2022).*
- *Detained stormwater must infiltrate or be discharged to the river within 72 hours, or the Applicant must make replacements for evaporation (letter from DWR dated April 27, 2022).*

The Division finds that the Application complies with the following rules. Rule 3.1.6(1) states that: “Disturbances to the prevailing hydrologic balance of the affected land and of the surrounding area and to the quantity or quality of water in surface and groundwater systems both during and after the mining operation and during reclamation shall be minimized ...” Rule 3.1.6(3) states that: “All surface areas of the affected land, including spoil piles, shall be stabilized and protected so as to effectively control erosion.”

The Application included an exhibit (Exhibit G and addenda) related to protecting the hydrologic balance. Protection of the hydrologic balance is also considered in other exhibits, including the Soils and Vegetation exhibits (Exhibit I/J). The following measures are discussed in the exhibits:

- Eventually, the pits will be lined to minimize impacts on the hydrologic system, including the alluvial aquifers along the rivers.
- The operation was designed to avoid riparian corridors, and a 400-foot setback has been designated on the Mining Plan map. This will protect the river banks, limiting the risk of “capture” of the river by the active mining pits. The distance of 400 feet has been adopted by the Division from a guidance document created by the Urban Drainage and Flood Control District (now named the Mile High Flood District) entitled *Technical Review Guidelines for Gravel Mining & Water Storage Activities, Within or Adjacent to 100-Year Floodplains* (Wright Water Engineers, 2013). For setbacks less than 400 feet, this document explains, riverbank protection is strongly encouraged.
- Also related to the floodplain, the entire site is within the 100-year floodplain. The Division understands that the project will be evaluated by Weld County for floodplain impacts.
- The operation was designed to prevent runoff from rainfall and snowmelt events from causing erosion or loading sediment into the rivers. In the pit areas, runoff will remain in the pits until pumped to a sediment pond, designed to allow sediment to settle prior to discharge of the water to the South Platte River.

- At the processing area, stormwater will be managed with grass swales, berms, and other Best Management Practices, as necessary. This shall be detailed in a stormwater management plan to be developed for the permit with the Water Quality Control Division (WQCD) of CDPHE.
- Soil stockpiles will be stabilized with temporary seeding and other practices to prevent erosion and sediment loading to adjacent lands.
- Prior to long-term vegetation establishment, reclaimed areas will be stabilized with initial cover crops (hybrid grasses), swales, roughening, organic additives, and other practices.

In addition, the Application includes the discharge permit from the WQCD. This permit entails extensive requirements for the Applicant to minimize pollutant loading into the two rivers adjacent to the proposed project.

Impacts on the “conservation easement,” the Westervelt wetland bank east of the proposed operation, were considered by the Division. This valuable environmental resource is downstream of and adjacent to the TRP, but it is not likely that the TRP could impact it via surface water runoff because many measures will be employed to control runoff (as described above). In addition, the Application included an extensive assessment of impacts on groundwater in the area around the TRP site, and the conclusions in the resulting report indicate that the proposed project, including dewatering of the pits, will not adversely affect the regional groundwater hydrology. Finally, the Division is requiring extensive monitoring of groundwater to ensure that TRP does not impact local groundwater resources, including the water that flows into the nearby wetland bank.

The Division would also like to point out that Westervelt Ecological Services was noticed regarding this Application, and that organization did not object to the proposed TRP.

The three agencies listed by the objector were contacted for comments during the review process.

- A letter was sent by the Division to DWR on April 18, 2022. This letter requested comments on the Application. A response letter was received from DWR on April 27, 2022.
- Per Rule 6.4.7(5), the Applicant has applied for a discharge permit with the WQCD, and a permit was issued September 27, 2022. Also, the Division sent notice of the Application to WQCD on April 18, 2022. The WQCD did not submit any comments or recommendations on the Application.
- The USACE was contacted by the Applicant regarding the proposed project and asking for a determination regarding the need for a Section 404 Permit. The USACE provided a report (dated July 6, 2021) stating that their determination was “No Permit Required.”

Regarding exposed groundwater and water rights, the Applicant has committed to obtaining a well permit and a substitute water supply plan before excavation reaches the groundwater table. Also, the Division will ensure that the Applicant complies with Colorado water laws, as required by Rule 3.1.6(1).

The Applicant has performed the following for the protection of groundwater resources.

Assessment of dewatering impacts - The proposed method of mining at the TRP will be dry mine gravel extraction from pits, and pumps will be utilized to dewater the mining area and deliver the water to a sediment pond. After allowing for settling in the pond, the water will be discharged to the South Platte River. The Applicant hired a consultant, AWES, LLC, to analyze the impacts of dewatering on local

groundwater levels. A three-dimensional groundwater flow model (Visual ModFlow Pro, an industry standard groundwater flow model) was used, and the Division found the modeling sufficient. AWES produced an associated report, which included background information, assumptions, model parameters, results, and conclusions. The results of the analysis suggest that dewatering operations will not significantly impact regional groundwater hydrology.

Developed mitigation plan for impacts on wells – The Applicant has committed to respond to complaints from nearby well owners with the following steps:

1. Notify the Division within seven days of the complaint.
2. Review the data and available information and submit a report to the Division within 30 days. The report will document discussions with the complainant, include available data/information, and provide an evaluation of causes of well impacts.
3. As necessary, implement a mitigation plan to the satisfaction of the Division. This plan will include one or more of the following: the use of a recharge pond (or ponds), improvements to the wells, and the supply of alternative sources of water.

Developed groundwater monitoring plan – The Applicant has committed to an extensive groundwater monitoring effort for both water quantity (water elevations) and quality (chemical analysis). This will entail baseline monitoring for five quarters prior to initiation of the project. Twelve wells will be monitored for the ongoing monitoring plan; most wells will be around the edges of the site (including upgradient and downgradient wells) with one well in the center of the site. The suite of parameters to be analyzed is based on a USGS study of the South Platte River basin, and was found to be sufficient by the Division. The Applicant's monitoring plan entails a quality control plan for both field and laboratory activities. The resulting data will be submitted annually to the Division in a report that includes analysis of said data.

Commitment to a point of compliance – The Applicant has committed to establishing a downgradient point of compliance in groundwater, for comparison to CDPHE Regulation 41.

B. Concerns regarding the impacts on the onsite irrigation ditch (1):

- *It is unclear if agricultural or other users of the ditches were consulted.*

The City of Evans, the operator of the Evans Ditch, was notified on April 25, 2022, and proof of this notification was submitted to the Division (per Rule 6.4.19).

The Applicant has designed the project to avoid direct impacts on the Evans Ditch, and a setback from the ditch is shown on the Extraction Map in Exhibit C. The Division has determined that no other water supply ditches are in the immediate vicinity of the planned operation, other than those owned by the Applicant.

Also, as noted above, the Applicant has committed to comply with water rights laws, thus avoiding injury to users of the Evans Ditch or other irrigation ditches in the area.

The Division has determined that the Application adequately demonstrated that disturbances to the prevailing hydrologic balance of the affected land and of the surrounding area and to the quality and quantity of water in surface and groundwater systems both during and after the mining operation and

during reclamation will be minimized, as required under C.R.S. 34-32.5-116(4)(h) and Rule 3.1.6. Additionally, the Application addressed all requirements of Rule 6.4.7, regarding the identification and protection of hydrologic resources, and the reclamation performance standards of Rule 3.1.

### **Non-Jurisdictional Issues**

#### **A. Concerns regarding the location of the proposed operation (3):**

- *The proposed activity is not compatible with existing uses on adjacent properties.*
- *The area where the TRP is proposed is very serene, and there is abundant wildlife. A gravel pit is not the best use of the site.*
- *The area that will be affected is immediately adjacent to 54th Street Road.*
- *At other gravel pits near Greeley, the operations are not as close to residential roads or living humans.*
- *The project should be re-designed to avoid or limit negative impacts on his neighborhood.*
- *There are already several gravel/sand quarries in the area, so another is not needed.*

The Act and Rules do not specifically address whether a location is appropriate for a mine. It is anticipated that mining operations will locate wherever mineable resources exist. The Act and Rules provide reclamation requirements to ensure affected lands are reclaimed to a beneficial use, and performance standards and environmental protection requirements which apply throughout the life of mine. Pursuant to Rule 1.4.1(10), each application is reviewed, and ultimately approved or denied, based on the applicant's ability to demonstrate the application meets the minimum requirements of the Act and Rules.

The Division determined the Application satisfied the requirements of the Act and Rules for a 112c reclamation permit application, and thus issued its recommendation for approval in accordance with Rule 1.4.9(2)(c).

Concerns related to land use and zoning, such as the appropriateness of a location for a mine, should be directed to City of Evans authorities. Pursuant to Rule 6.4.13, the Application affirmatively stated (in Exhibit M) that the Applicant will obtain the required local government permits prior to conducting the proposed mining operation.

#### **B. Concerns regarding impacts to quality of life, the quiet rural character of the area near the Dos Rios neighborhood, and property values (3):**

- *The Dos Rios residents moved to this rural area for peace and quiet.*
- *The area where the TRP is proposed is currently very serene.*
- *The proposed project will have negative impacts on the home values for nearby residents.*

The Division recognizes the importance of other issues that may impact nearby residents. However, in these proceedings, the Division's jurisdiction is limited to the specific requirements of the Act and Rules, which do not address impacts of a proposed mining operation on quality of life, the character of the adjacent

residential neighborhoods, or property values. Such concerns relate to land use and zoning and should be directed to local authorities.

Pursuant to Rule 6.4.13, the Application affirmatively stated (in Exhibit M) that the Applicant will obtain the required local government permits prior to conducting the proposed mining operation.

C. Concerns regarding increased truck traffic in the area and, in particular, traffic safety on 54<sup>th</sup> Street Road (6):

- *The proposed activity will create problems with traffic, including more dangerous roadways, and these problems will last decades.*
- *After the County road was paved, it became “a raceway.” This project will make that situation worse.*
- *Traffic will have negative impacts on wildlife and residents.*
- *Some objectors suggested that trucks use 396, not 54<sup>th</sup> Street Road.*

Pursuant to C.R.S. 34-32.5-103(1), “affected land” does not include off-site roads that were constructed for purposes unrelated to the proposed operation, were in existence before a permit application was filed with the office, and will not be substantially upgraded to support the operation or off-site groundwater monitoring wells. Therefore, the transportation of material off site would not be considered affected land covered under the mine permit.

The Act and Rules do not specifically address traffic or traffic safety on roads located off-site from a mining operation. Such issues are under the jurisdiction of Weld County, the City of Evans, and the Colorado Department of Transportation (CDOT), and should be addressed through their permitting processes.

Pursuant to Rule 6.4.13, the Application stated (in Exhibit M) that the Applicant will obtain the required local government land use and zoning approvals.

D. Concern regarding impacts to air quality (1):

- *The proposed activity will create problems with dust that will last decades.*

The Division’s jurisdictional authority is limited to the specific requirements of the Act and Rules. The Act and Rules do not provide jurisdiction over air quality issues. Such issues are under the jurisdiction of the Air Pollution Control Division (APCD) of the CDPHE, the City of Evans, and Weld County, and should be addressed through their permitting processes.

Pursuant to Rule 6.4.13, the Application affirmatively stated (in Exhibit M) that the Applicant will obtain the required local government permits and the appropriate air quality permits from APCD prior to conducting the proposed mining operation.

The Division sent notice of the Application to APCD, the City of Evans, and Weld County on April 25, 2022. These agencies did not submit any comments or recommendations on the Application.

The protection and preservation of stockpiled topsoil against erosion (wind) is addressed under the reclamation performance standards of Rule 3.1.9. Pursuant to Rule 3.1.9(1), if salvaged topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be employed so that the topsoil is protected from erosion, remains free of any contamination by toxic or acid-forming material, and is in a usable condition for reclamation. The Applicant committed to seeding stockpiled soil with a grass seed mixture if it is not used for reclamation within a time short enough to avoid deterioration. The Division determined the Application met the requirements of Rule 3.1.9(1).

Additional measures the operator will take to control dust on site include using water trucks (a standard practice for construction and mine sites), and limiting the amount of unreclaimed disturbance at any time.

E. Concerns regarding noise pollution (2):

- *The proposed activity will create problems with noise that will last decades.*
- *Noise from the operation will have negative impacts on wildlife and residents.*

The Division's jurisdictional authority is limited to the specific requirements of the Act and Rules. The Act and Rules do not provide jurisdiction over noise pollution. Such matters are typically regulated on the county level, and should be addressed through their permitting processes.

Pursuant to Rule 6.4.13, the Application affirmatively stated (in Exhibit M) that the Applicant will obtain the required local government permits prior to conducting the proposed mining operation.

The Division sent notice of the Application to Weld County on April 25, 2022. The County did not send comments or recommendations on the Application.

The Applicant has committed to avoiding the areas that contain wildlife habitat, namely the river corridors. Thus the impact of noise on wildlife will be limited. This is discussed under jurisdictional issues, above.

F. Concern that the process did not allow residents of neighboring communities to meet with the Applicant prior to submittal of the Application (1):

- *The application process should be delayed to allow for a meeting between the Dos Rios residents and the Applicant.*
- *This meeting should have occurred prior to submittal of the application.*

Within the Act or Rules, there is no requirement of applicants to meet with the owners of adjacent properties or other nearby residents. As discussed in the Jurisdictional Issues section (above), the Applicant has satisfied all of the notification requirements in the Rules.

G. Concern about the reliability of the local newspaper (1):

- *Delivery of the Greeley Tribune is notoriously not reliable.*



March 30, 2023

Rationale for Recommendation to Approve a 112c Permit Application with Objections

Two Rivers Sand, Gravel and Reservoir Project, File No. M-2022-013

Page 14

The reliability of delivery of the Greeley Tribune is not within the Division's purview. As discussed in the Jurisdictional Issues section (above), the Applicant has satisfied all of the notification requirements in the Rules.

H. Concern that Dos Rios residents were not included in the County review process

- *The Weld County Board of County Commissioners failed to include residents in the vicinity of the TRP project in their review process.*

The Division review process is independent of the County review process. Also, the Division understands that the primary municipal review process for this project (including zoning issues) will be done by the City of Evans, and this process has not yet been completed.

After conducting a comprehensive adequacy review of the Application, the Division determined the Application satisfied the requirements of the Act and Rules, and thus issued its recommendation for approval in accordance with Rule 1.4.9(2)(c).

## **Appendix A**

### **Objections and Comments Received**

The following tables list the commenting agencies and all objectors (after the one withdrawal there are 10 timely objectors).

**List of Agency Commenters, Timely and Untimely**

<b>Name</b>	<b>Status</b>	<b>Date of Filing</b>
History Colorado	Timely/Party	April 26, 2022
Division of Water Resources	Timely/Party	April 27, 2022
Colorado Parks and Wildlife	Untimely	June 13, 2022

**List of Objectors, Timely and Untimely**

<b>Name</b>	<b>Status</b>	<b>Date of Filing</b>
Kathryn Conner	Timely/Party	May 31, 2022
Brad Ellins	Timely/Party	June 2, 2022
Debra Holman	Timely/Party	June 2, 2022
William Humphries	Timely/Party	June 2, 2022
Karen Johnson	Timely/Party	May 2, 2022
Stephen Mackessy	Timely/Party	June 2, 2022
Catherine Olmstead	Timely/Party	June 2, 2022
Charles Olmstead	Timely/Party	June 2, 2022
Bridgit Seader	Timely/Party	June 1, 2022
Paul Speck	Timely/Party	June 2, 2022
Jessica Alison	Untimely	June 14, 2022
Jeff Cook	Untimely	June 14, 2022
Dominique Daniell	Untimely	June 8, 2022
Melissa DeBusk	Untimely	June 23, 2022
Amy Driscoll	Untimely	June 15, 2022
Judith Forsyth	Untimely	June 12, 2022
Brian Froid	Untimely	June 20, 2022
Richard Grassl	Untimely	June 22, 2022
Cindy Hardenburger	Untimely	June 8, 2022
Martha Hendrickson	Untimely	March 16, 2023
Mark Hendrickson	Untimely	March 16, 2023
Evzena Jameson	Untimely	June 13, 2022
William Jameson	Untimely	June 23, 2022
Lisa Knapp	Untimely	June 6, 2022
Laurie Lareau	Untimely	June 20, 2022
Marlene Monson	Untimely	June 12, 2022
Sheryl Nelson	Untimely	June 8, 2022
Martha Jeanne Nishida	Untimely	July 2, 2022
Robert and Tamara Pacht	Untimely	June 27, 2022
John D. Putnam	Untimely	June 13, 2022

Suzelle Sharp	Untimely	June 13, 2022
Stacey and Andrew Skelton	Untimely	June 11, 2022
Michael Slaten	Untimely	June 17, 2022
Mary Lynn Thompson	Untimely	June 8, 2022
Mark and Shellie Troutini	Untimely	June 11, 2022
Leslie Vail	Untimely	June 12, 2022
Steve Vail	Untimely	June 13, 2022
Ben Yohe	Untimely	June 21, 2022
Jessica Zumbrun	Untimely	June 8, 2022

## **Appendix B**

### **Photographs of Posted Signs**

The following photograph was taken by the Division during the inspection on 14 June 2022.





The following photographs were submitted to the Division by Raptor Materials LLC on 13 June 2022.

















## **Appendix C**

### **Affidavit of Publication**



PUBLIC NOTICE

Varra Companies, Inc.; 8120 Gage Street; Frederick, Colorado 80516; (303) 666-6657, has filed (File #: M-2022-013) an application for a Regular Impact (112) Construction Materials Operation Reclamation Permit with the Colorado Mined Land Reclamation Board under provisions of the Colorado Land Reclamation Act for the Extraction of Construction Materials. The proposed mine is known as the **Two Rivers Sand, Gravel and Reservoir Project**; and is located at or near **Section Thirty-three and Thirty-four in Township Five North; and Section Three and Four in Township Four North; all in Range Sixty-six West; Sixth Principal Meridian; City of Evans; Weld County, Colorado.**

The proposed date of commencement is **1 August 2022**, and the proposed date of completion is **1 August 2057**. The proposed future use of the land is **Developed Water Resources and other mixed uses**. Additional information and tentative decision date may be obtained from the Colorado Division of Reclamation, Mining, and Safety; 1313 Sherman Street, Room 215; Denver, Colorado 80203; (303) 866-3567, or at the Weld County Clerk to the Board; 1150 O Street; Greeley, Colorado 80632; (970) 400-4225; or the above-named applicant.

Comments must be in writing and must be received by the Division of Reclamation, Mining, and Safety by 4:00 P.M., **Thursday 2 June 2022**.

Please note that under the provisions of C.R.S. 34-32.5-101 et seq. Comments related to noise, truck traffic, hours of operation, visual impacts, effects on property values and other social or economic concerns are issues not subject to this Office's jurisdiction. These subjects, and similar ones, are typically addressed by your local governments, rather than the Division of Reclamation, Mining, and Safety or the Mined Land Reclamation Board.

Published: Greeley Tribune April 22, 29, May 6, 13, 2022-1884680

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

County of Weld

State of Colorado

The undersigned, Agent, being first duly sworn under oath, states and affirms as follows:

1. He/she is the legal Advertising Reviewer of Prairie Mountain Media LLC, publisher of the *Greeley Tribune*.
2. The *Greeley Tribune* is a newspaper of general circulation that has been published continuously and without interruption for at least fifty-two weeks in Weld County and meets the legal requisites for a legal newspaper under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy, published in the *Greeley Tribune* in Weld County on the following date(s):

Apr 22, 29 and May 6, 13, 2022

Melissa Najera  
Signature

Subscribed and sworn to me before me this

13<sup>th</sup> day of May, 2022

Shayla Najera  
Notary Public

(SEAL)

SHAYLA NAJERA  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20174031965  
MY COMMISSION EXPIRES July 31, 2025

Account: 1052283  
Ad Number: 1884680  
Fee: \$251.60



## MEMORANDUM

To: Whom it May Concern

From: Division of Reclamation, Mining and Safety, Minerals Program

Date: October 2, 2001; Revised on October 19, 2001, August 2, 2004, January 12, 2006, and October 7, 2021

Re: **Guide to Public Participation in the 112 Reclamation Permit Application Process for Construction Materials and Hard Rock/Metal Mining Operations**

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Thank you for taking the time to be involved in the State of Colorado's process of reviewing applications for new mining operations or amendments to existing permits. The purpose of this memorandum is to explain the 112 reclamation permit application process for construction materials and hard rock/metal mining operations, your rights as either a party or a non-party, and the jurisdiction of the Mined Land Reclamation Board (MLRB or the Board).

### Background

Colorado's general assembly codified Colorado's Mined Land Reclamation Act (§ 34-32-101, C.R.S., *et seq.*) and the Land Reclamation Act for the Extraction of Construction Materials (§ 34-32.5-101, C.R.S., *et seq.*; together "Acts") to regulate mining operations in the state. The corresponding Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations ("Hard Rock/Metal Mining") and Extraction of Construction Materials ("Construction Materials") were subsequently promulgated by the Mined Land Reclamation Board (2 C.C.R. 407-1 and 2 C.C.R. 407-4; together "Rules"). The Acts and Rules are available at: <https://drms.colorado.gov/rules-and-regulations>.

The Minerals Program of the Division of Reclamation, Mining and Safety (Division or DRMS) issues various types of mining permits, including for: 110 Limited Impact Operations, 110 Limited Impact Designated Mining Operations, 111 Special Operations, 112 Regular Operations, and 112 Regular Designated Mining Operations. All permit applications are available at: <https://drms.colorado.gov/forms/minerals-program-forms>. This document is focused solely on the application review process for 112 reclamation permit applications.

## **The Role of the Mined Land Reclamation Board**

Pursuant to the Acts, the Board has exclusive jurisdiction over the reclamation of a mining operation's affected lands. A reclamation permit establishes a post-mining land use for the affected lands. The post-mining land use may be for forest, rangeland, cropland, general agriculture, residential, recreational, industrial/commercial, developed water resources, or other "uses". Although the Board does not have jurisdiction over local land use decisions (e.g., visual impacts, economic impacts, noise, traffic), a permit Applicant must obtain all required permits, licenses, and approvals prior to conducting any mining operations. Local governmental entities have jurisdiction over their land use, zoning, and permitting processes. A reclamation permit Applicant may not be required to have all necessary approvals or permits from other agencies in place, including city and county zoning and land use permits, before a reclamation permit is issued.

The Board is a multi-interest citizen board which establishes the regulations, standards, and policies that guide the Division. Colorado's governor appoints five Board members from nominations submitted by each of the various constituencies represented, resulting in two members with substantial experience in the mining industry, two with substantial experience in conservation and environmental resources, and one with substantial experience in agriculture. A sixth Board member is the Executive Director of the Department of Natural Resources, or his/her appointee, and the seventh is a member of the State Soil Conservation Board. (§ 34-32-105, C.R.S.). The Board typically meets for one to two days every month. Some of the Board's responsibilities include: promulgating Rules that implement the Acts; issuing violations, civil penalties, and cease and desist orders; determining corrective actions for operators found in violation of the Acts and Rules; and conducting hearings regarding reclamation permit applications.

## **The Role of the Division**

Division staff specialize in numerous areas including geology, biology, wildlife management, range and soil science, engineering, hydrology, and chemistry. During the reclamation permit application process, the Division is responsible for ensuring that the contents of the application adequately address the requirements of the Acts and Rules. To monitor compliance with permit requirements, the Division conducts periodic inspections of all permitted mining, exploration, and prospecting operations in Colorado. If an operator fails to timely correct any compliance issues identified during an inspection, the Division may present the possible violations to the Board. The Division calculates the reclamation bond required for a proposed mining operation based on the operator's proposed reclamation plan. The bond is reassessed periodically throughout the life of mine to ensure it is sufficient for reclaiming the site in accordance with the approved plan. Where there is a written objection to a permit application or a request for reconsideration of a Board decision, the Division serves as staff to the Board. For 112 applications that receive no timely objections, or for which, all objecting parties withdraw prior to the scheduled Board Hearing, the Division is authorized to approve or deny the application without a hearing before the Board.



## **The Role of the Applicant**

During the reclamation permit application process, the Applicant has the burden of proving the application submitted to the Division meets all requirements of the Acts and Rules, including providing sufficient evidence that all required notices have been posted or delivered within the required timeframes.

Applicants for 112 Reclamation Permits or Amendments must place a copy of the application at the County Clerk or Recorder's office in the county containing the land to be affected by mining. The Applicant must notify the local Board of County Commissioners, the Board of Supervisors of the local Soil Conservation District, all surface and mineral rights owners of the affected lands, and all surface owners within 200 feet of the affected lands. The Applicant must also post signs at the proposed mine site and publish a public notice in a local newspaper of general circulation once a week for four consecutive weeks.

## **The Role of the Public Participant**

A person may participate in the Board Hearing process regarding a contested reclamation permit application as a party or a non-party. Pursuant to the Acts and Rules, a person may participate as a "party" if they:

- (1) Submit a written comment or objection to the Division not more than 20 calendar days after the last date for the newspaper publication of notice of the application. The comment or objection letter must include the person's: name, mailing address, telephone number, and an explanation of how they are directly and adversely affected or aggrieved by the proposed mining operation [see "party" definition in Construction Materials Rule 1.1(38) and Hard Rock/Metal Mining Rule 1.1(50)]. To ensure timely receipt, any comments or objections on an application should be submitted via our website at: [https://dnrlaserfiche.state.co.us/Forms/DRMS\\_Comment](https://dnrlaserfiche.state.co.us/Forms/DRMS_Comment); and
- (2) Attend the Pre-hearing Conference *or* provide a proxy authorization form (see attached Authorization to Appear on Behalf of a Party) to the Board's Pre-hearing Conference Officer on or before the date of the Pre-hearing Conference and the Party's authorized representative is present at the conference [pursuant to Rule 2.7.3(4)]. Any party may be represented by an attorney; and
- (3) Attend the Board Hearing.

A party may present evidence, call witnesses, and cross-examine witnesses during the Board Hearing on the application. A party also has the right to sue or be sued in district court on matters regarding the Board's decision on the application. For additional information regarding a party's rights and responsibilities, please refer to Rules 1.7, 2.6, 2.7, 2.8, and 2.9.

Per Rule 2.7.3(3), any person who is a party to a matter before the Board, and who wishes to withdraw as a party, must do so in writing prior to the commencement of, or on the record during, the Formal Board Hearing on the matter (see attached Party Status Withdrawal Form).

If you choose not to be a party, or to withdraw your party status, as a non-party, you may still address the Board on matters of concern during the public comment portion of the Board meeting. However, in this case, you will not preserve or be entitled to the rights of a party. In the event that all objecting parties withdraw prior to the Board Hearing, the Division is authorized to approve or deny the application without consideration by the Board. Thus, in this instance, there would be no opportunity for a non-party to provide public comment at a Board Hearing.

### **The Role of Other Governmental Agencies**

Once a reclamation permit application is received by the Division and considered “filed” (or “complete”), the Division sends a notice of the application to various local, state, and federal agencies. These governmental agencies may include: county commissioners, county planning and zoning departments, Colorado Parks and Wildlife, Colorado Department of Public Health and Environment, Colorado Division of Water Resources/Office of the State Engineer, local Conservation District(s), Colorado State Land Board, State Historic Preservation Office, U.S. Army Corps of Engineers, Colorado Oil and Gas Conservation Commission (for sites that overlap oil and gas facilities or are surrounded by oil and gas activity), Urban Drainage (for sites located within the 100 year floodplain in Adams, Arapahoe, Boulder, Denver, Douglas, or Jefferson County), U.S. Bureau of Land Management and/or U.S. Forest Service (for sites located on federal lands), and any municipalities located within 2 miles of the proposed affected lands. The Division’s review of the application may be coordinated with these and/or other governmental agencies as appropriate.

### **The 112 Reclamation Permit Application Process**

Completeness Review: Upon receipt of an application, the Division first determines whether it contains sufficient information for it to be considered “filed” (or “complete”), as defined by Construction Materials Rule 1.1(23) and Hard Rock/Metal Mining Rule 1.1(27).

Adequacy Review: Once a 112 reclamation permit application is considered filed, the Division has 90 days to complete its adequacy review of the application and to make its decision to approve, approve with conditions, or deny the application. During the adequacy review process, the Division evaluates each exhibit in the application to verify that it meets all applicable requirements of the Acts and Rules (exhibit requirements are outlined in Rule 6). If the Division determines an exhibit is inadequate, it will send an adequacy review letter to the Applicant identifying the deficiencies. The Applicant must address all deficiencies in the application to the satisfaction of the Division in order for the application to be approved. The 90-day application review period may be extended at the request of the Applicant, not to exceed 365 days from the date the application was filed, in order to provide the necessary information to meet the adequacy requirements. The 90-day application review period may also be extended by the Division in accordance with Rule 1.4.1(7) in the case of “complex” applications, serious unforeseen circumstances, or significant snow cover on the affected land that

prevents a necessary on-site inspection, or Rule 1.4.1(13) where the Applicant failed to publish the public notice pursuant to Rule 1.6.2(1)(d). If the Division's review period is extended, the decision date on the application is reset.

If no timely objections are received on a 112 reclamation permit application, the Division will make the decision to approve, approve with conditions, or deny an application on or before the decision date.

If timely objections are received on a 112 reclamation permit application, the Division will schedule the matter for a formal Board Hearing, during which, the Board will make the final decision on the application. In this case, on or before the application decision date, the Division will make a recommendation to the Board on whether to approve or deny the application. Such recommendation shall identify the issues raised by the Division or by timely objectors. The Division's recommendation and rationale for approval or denial shall be sent to all parties at least 3 working days prior to the Pre-hearing Conference.

While a reclamation permit application may be *approved* by the Division or the Board, the permit is not issued until the required performance and financial warranties are received.

Pre-hearing Conference: A Pre-hearing Conference is held after the Division has issued its recommendation and rationale on the application, and at least 10 calendar days prior to the Board Hearing. Persons seeking to participate in the hearing process are encouraged to review Rules 2.6, 2.7, and 2.8 prior to the Pre-hearing Conference. The purpose of the Pre-hearing Conference, which is held by a Pre-hearing Conference Officer ("PHCO") delegated by the Board, is to explain the Division's application review and Board Hearing processes, identify issues raised that are within and outside of the Board's jurisdiction, and recognize the parties. Following the Pre-hearing Conference, the PHCO drafts a proposed Pre-hearing Order for the Board to consider at the hearing. The PHCO's proposed Order recommends a list of parties, identifies issues within the Board's jurisdiction to be considered at the Board Hearing, and proposes a hearing schedule with time allotments (the Board may adopt this Order as drafted or amend it). *Please note that parties are required to present their list of all potential witnesses and exhibits at the Pre-hearing Conference in accordance with Rule 2.6(2).*

Board Hearing: The Division shall provide all parties to an application at least 30 days written notice of the Board Hearing date. During the hearing, the Board will consider all of the evidence presented, deliberate on the issues, and vote on whether to approve the reclamation permit application. Subsequently, the Board's written decision, in the form of a Board Order, will be sent to all parties that participated in the hearing. Any decision by the Board is considered final agency action for purposes of appeal.

**Helpful Weblinks:**

Colorado Division of Reclamation, Mining and Safety homepage: <https://drms.colorado.gov>

The Acts and Rules for Construction Materials and Hard Rock/Metal Mining operations are available at: <https://drms.colorado.gov/rules-and-regulations>.

A list of permitting actions currently under review is available at:  
<https://drms.colorado.gov/information/permitting-actions-currently-under-review>.

Comments or objections on an application under review can be submitted at:  
[https://dnrlaserfiche.state.co.us/Forms/DRMS\\_Comment](https://dnrlaserfiche.state.co.us/Forms/DRMS_Comment).

All (non-confidential) permit files are available for public review through our online imaged document system (called Laserfiche) at: <https://dnrweblink.state.co.us/drms/search.aspx>. A Laserfiche User Guide is available at: [https://drive.google.com/file/d/1l8OUdf\\_Mpjo3kxIHkP5hMH-w7MeBtxX7/view](https://drive.google.com/file/d/1l8OUdf_Mpjo3kxIHkP5hMH-w7MeBtxX7/view).

This guidance document as well as the attached Proxy Authorization and Party Status Withdrawal forms are available on our website (under the section labeled “Information”) at:  
<https://drms.colorado.gov/forms/minerals-program-forms>.

# AUTHORIZATION TO APPEAR ON BEHALF OF A PARTY

(Please Type or Print the Requested Information)

SIGNATURES MUST BE IN BLUE INK

I \_\_\_\_\_,  
(person's name) (title, if applicable)

of \_\_\_\_\_ (name of company, association, organization,  
etc., if applicable)

hereby delegate to \_\_\_\_\_,  
(person or entity's name)

the right to appear on behalf of \_\_\_\_\_  
(person, company, association, organization, etc.)  
at the Pre-hearing Conference.

SIGNED AND DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_ If corporate attest (seal)  
Authorized Signature (**must be signed in blue ink**)

Title: \_\_\_\_\_

State of \_\_\_\_\_ )  
 )  
County of \_\_\_\_\_ )

The forgoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_ by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

SIGNATURES MUST BE IN BLUE INK

# PARTY STATUS WITHDRAWAL FORM

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Signature \_\_\_\_\_