

March 31, 2023

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

RE: Kiowa County Pit; File No. M-2023-008; Construction Materials Special 111 Operation Reclamation Permit Application; Adequacy Review No. 1

Ms. Schreiber:

On March 27, 2023, the Division of Reclamation, Mining and Safety (Division) filed for review your Special 111 Construction Materials Reclamation Permit Application submitted for the Kiowa County Pit, File No. M-2023-008. All comment and review periods began on March 27, 2023. The decision date for your application is set for April 11, 2023.

The Division has completed its preliminary adequacy review of your application and identified the following items which must be addressed before the application can be approved:

Exhibit A – Legal Description and Location Map (Rule 6.3.1):

1. The Division has the following comments regarding the Exhibit A/B map provided:
 - a) This map shows the landowner to the north of the proposed affected lands (north of Hwy 96) to be Olis and Susan Lauppe Living Trust. However, according to the parcel map included with the lease agreement, it appears this land may be owned by a different entity. Please ensure the correct landowner information is provided on the map.
 - b) This map identifies multiple permanent, man-made structures located within 200 feet of the proposed affected lands, but does not provide a legend that describes the type of structure depicted by each line type (as was included on other maps). Please add an appropriate legend that describes the structures depicted on the map.
 - c) This map indicates there are structures located to the east and to the south of the proposed affected lands which are over 200 feet from the proposed boundary. However, after plotting the GPS coordinates for the proposed boundary into Google Earth (see enclosed Google Earth map), these structures (a small impoundment to the east, and fences to the south) appear to be located within 200 feet of the proposed affected lands. Please update the map to identify the type of structure and its owner for all permanent, man-made structures located on or within 200 feet of the proposed affected lands.



It should be noted, the Exhibit A/B map is not required to identify all permanent, man-made structures located within 200 feet of the proposed affected lands. However, this information is required to be shown on an Exhibit E map, which was provided with the application as “Existing Conditions Exhibit E”. Therefore, the Applicant may choose to remove this information from the Exhibit A/B map and to address the Division’s item nos. 1(b) and 1(c) on the Existing Conditions Exhibit E map.

Exhibit B – Site Description (Rule 6.3.2)

2. Please revise the Structures section to identify all permanent, man-made structures located within 200 feet of the proposed affected lands, and the owner of each structure. This list should include the two additional structures identified, one to the east (small impoundment) and the other to the south (fencing) of the proposed permit area.

Exhibit C – Mining Plan (Rule 6.3.3)

3. The Applicant proposes a 9.9 acre permit area, which includes an existing access road and a mining area. Please provide an estimated acreage for the mining area (minus the access road and any setbacks).
4. Please specify any setbacks the mining operation will maintain from any existing structures/features such as the existing access road and the creek. Please also specify any setbacks the mining operation will maintain from the permit boundary.
5. Please specify the dimensions of the existing ranch road which will be used to access the mining area.
6. Please revise the portion of the mining plan that discusses the existing access road to reflect the changes that were made in the Applicant’s March 24, 2023 completeness response.
7. A portion of Big Sandy Creek (an ephemeral creek) is included in the eastern portion of the proposed permit area. Please clarify whether the operation will mine into this creek channel.
8. Please describe any sediment-containment or stormwater runoff controls (e.g., BMPs) that will be utilized during the mining operation to minimize disturbance to the hydrologic balance and prevent off-site damage.
9. Please describe the type(s) of material processing that will occur on site.
10. The proposed mining plan and associated Exhibit E map indicate that salvaged overburden and topsoil will be bermed around the perimeter of the pit area during the mining operation. According to the Exhibit E Mining Plan Map, these berms will be placed across and within the creek channel. Please be advised, Rule 6.3.3(b) states that plant growth medium stockpiles must be located out of stream channels or drainage ways. Therefore, please revise the mining plan to clarify that salvaged overburden and topsoil will not be placed in the creek channel.

11. The proposed mining plan states that topsoil stockpiles will be seeded if reclamation has not begun within 180 days of the mine start up. Please specify the seed mixture that will be used to stabilize topsoil stockpiles.
12. The engineering evaluation provided in Exhibit L is based on a proposed 50 foot mining limit from the high-voltage power lines which cross the northern portion of the permit area, and maintaining a minimum of 2H:1V excavation slopes at the northern mining limit. Therefore, please commit to maintaining a 50 foot mining buffer from the high-voltage power lines and to maintaining 2H:1V or flatter slopes at the northern mining limit at all times.

Exhibit D – Reclamation Plan (Rule 6.3.4)

13. The proposed reclamation plan states the entire 9.9 acre permit area will need to be reclaimed. Please provide approximate acreages for the mining area and the access road.
14. The Applicant is proposing to replace 0-3 inches of topsoil on disturbed lands for reclamation. Please explain how replacing only 0-3 inches of topsoil will be sufficient to meet the vegetation establishment criteria of Rule 3.1.10. Based on the Division's experience, a topsoil replacement depth of less than 6 inches is typically not sufficient to achieve successful revegetation. If sufficient topsoil is not available at the site, please specify the approximate volume of topsoil that will need to be imported to the site for reclamation.
15. Please state whether any fertilizer will be applied for revegetation, and if so, state the type, application rate, and soil incorporation methods of fertilizer application.
16. Please state whether any mulch will be applied for revegetation, and if so, specify the kind to be used, the crimping method, and the rate of application.
17. The proposed reclamation plan states that final reclamation surfaces will be graded such that onsite drainage waters flow in a similar path to the original pre-mining path. If the operation intends to mine into the creek channel, please describe how the channel will be reconstructed to its original configuration after mining is completed. Will the channel be excluded from retopsoiling and revegetation?
18. The Division has the following comments regarding the Applicant's reclamation cost estimate:
 - a) Please include approximate volumes, haul or push distances, and grades for each earthmoving task (e.g., grading, ripping, retopsoiling).
 - b) Please provide the unit cost per cubic yard for all earthmoving tasks.
 - c) Please provide separate tasks for reclaiming the different features within the affected lands (e.g., mining area, access road, creek channel), as applicable.
 - d) If the creek channel will be mined, please include costs for restoring the creek channel to its original configuration.

- e) If topsoil will need to be imported to the site for reclamation, please include costs for this task.
- f) If fertilizer and/or mulch will be applied for revegetation, please include a line item for each of these tasks, including the type, application rate, and cost per acre.

Exhibit E – Map (Rule 6.3.5)

19. The Division has the following comments regarding the Exhibit E Mining Plan Map:

- a) The Division was unable to find the proposed permit boundary outlined and labeled on this map as required. However, the Division believes the blue line delineating “Pit Boundaries” is meant to represent the permit boundary. Please revise the legend accordingly.
- b) Please ensure all names of owners of record shown on the map are accurate, particularly for the landowner to the north of the proposed permit area (as mentioned above).
- c) Please ensure all permanent, man-made structures located on and within 200 feet of the proposed permit area and the owner of each structure is identified on the map. This should include the small impoundment located to the east and the fencing located to the south.
- d) Please outline and label the existing access road that will be utilized by the operation and the mining area.
- e) Please add the proposed 50 foot mining setback from the high voltage power lines that cross the northern portion of the permit area (per the engineering evaluation provided in Exhibit L), and any other proposed mining setbacks.
- f) This map indicates that salvaged topsoil and overburden will be bermed around the perimeter of the site, with this material being placed across and within the creek channel along the eastern edge of the permit area. As mentioned above, growth medium stockpiles must be located out of stream channels or drainage ways. Therefore, please revise this map to show that salvaged overburden and topsoil will not be placed in the creek channel.
- g) Please ensure the revised map meets all general requirements of Rule 6.2.1(2), including the date the map was revised.

20. The Division has the following comments regarding the Exhibit E Reclamation Plan Map:

- a) Please revise the legend to indicate the blue line represents the Permit Boundary and not the “Pit Boundaries”.
- b) Please show the gradient of all reclaimed slopes (horizontal:vertical) sufficient to describe the post mine topography.
- c) Please indicated any areas that will not be revegetated (e.g., access road, creek channel).

- d) Please revise the Typical Section provided on the right side of the map to show that a minimum depth of 6 inches of topsoil will be replaced.
- e) Please identify any features (e.g., roads) that will remain after reclamation.
- f) Please ensure the revised map meets all general requirements of Rule 6.2.1(2), including the date the map was revised.

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

- 21. Please revise the structure list to include the two additional structures found to be located within 200 feet of the proposed permit area (small impoundment to the east and fencing to the south).
- 22. Please provide proof that structure agreements were sent to the owner of the two additional structures described above. 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.
- 23. This exhibit included two CDOT sheets for Project No./Code STR 096A-050, one titled Typical Section – sheet number 3, and the other titled Tabulation of Guardrail – sheet number 10. These sheets were included after the engineering evaluation; however, they are not referenced in the evaluation. Please clarify the purpose of including these sheets in this exhibit. Were they meant to be included with the government contract provided in Exhibit K?
- 24. The Division has the following comments regarding the engineering evaluation provided:
 - a) An engineering evaluation is provided for "Property Fences", "Century Link Cable", and "Luman Fiber Optic Cable". All three of these evaluations appear to be exactly the same, except for the last sentence which is modified to address the particular structure from the subject line, stating "Since the (structure) is (X feet) from the northern mining limit, it will not be affected by mining". It appears that only one analysis was prepared for the structure located the closest to the proposed mining area, the high-voltage power lines (owned by Southeast Colorado Power Association) which cross the northern portion of the proposed permit area. Based on a proposed 50 foot mining buffer from this structure, a maximum mining depth of 20 feet below grade, and an excavation slope of no steeper than 2H:1V maintained at the northern mining limit, the evaluation indicates the power lines will not be damaged by the operation. Accordingly, it is assumed that since the other structures (property fences, CenturyLink cable, Lumen fiber line) are located farther away from the proposed mining area than the power lines that were evaluated, they will not be damaged by the mining operation. Please revise the evaluation to clearly state that one stability analysis was performed for the structure located the closest to the proposed mining area (the worst-case scenario), and based on the results of that analysis, it is assumed that structures located farther way will not be impacted. This information should not have to be inferred from the evaluation. It should be clearly stated.
 - b) Please revise the evaluation to include a reference to the software and methodology used to perform the analysis.

- c) Please revise the evaluation to include a reference for the published values used for the strength parameters, and also a material characterization for the “overburden”, “sand”, and “bedrock”.
- d) The evaluation mentions that “depths of the deposit are from recent test pits and the depth from an upstream water well in the creek bed”. It would be good practice to include a site map showing the locations of the test pits and water well, for reference.
- e) Please revise the evaluation to include a reference to the attached diagram at the appropriate location within the text. Currently, the diagram is merely attached to the evaluation with no reference to it within the text.
- f) Please ensure the engineering evaluation provided addresses all structures for which an agreement with the structure owner could not be reached.

Additional Items:

25. Please remember that any changes or additions to the application on file in our office must also be reflected in the public review copy which was placed with the County Clerk and Recorder. Pursuant to Rule 6.3.9, you must provide our office with an affidavit or receipt indicating the date this was done. This “proof” should be submitted with your adequacy response.

This concludes the Division’s preliminary adequacy review of your application. The Division reserves the right to further supplement this document with additional adequacy items and/or details as necessary.

The decision date for your application is set for April 11, 2023. However, please allow the Division sufficient time to complete its review and calculate the required financial warranty by submitting your response no later than three (3) working days prior to the decision date, by **April 6, 2023**. If additional time is needed to respond, an extension request must be received by our Office by the decision date. If on the decision date, outstanding adequacy items remain, and no extension request has been received, your application may be denied and the file terminated.

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

Encl: Google Earth map of site

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

M-2023-008 / Kiowa County Pit / A&S Construction Co. / (111c)

Red outline = 9.9 acres = Proposed permit area (location based on revised maps received on 3/27/23)

Yellow lines = Indicating structures located within 200 feet of proposed permit area (not accounted for in application)

(Image data from 2/2020)

