



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources

April 10, 2023

Mr. Blake Foerster
IHC Scott, Inc.
10303 E. Dry Creek, STE 300
Englewood, CO 80112

**Re: Incompleteness Notice, New 111 Construction Materials Permit Application, W. Max (Bill Nelson)
Borrow Pit, Permit No. M-2023-010**

Mr. Foerster:

On April 5, 2023, the Division of Reclamation, Mining and Safety (Division/DRMS) received the New Permit Application for the W. Max (Bill Nelson) Borrow Pit, File No. M-2023-010. Preliminary review of this application determined the following items must be received before the Division can consider the application as being submitted/filed and the technical review can begin. Please respond to this Incompleteness Notice with the requested additional/updated information on permit application replacement pages and summarize each response in a cover letter titled "Incompleteness Response; M-2023-010".

APPLICATION FORM:

1. Applicant/operator or company name (name to be used on the permit). On page one, item 1, the name of the company needs to be consistent with name used to register the company with the Colorado Secretary of State, IHC Scott, Inc. Please update with the complete legal name of the company.
2. Correspondence Information. On page three, the company name needs to be updated with complete company name. Please update page three of the application form.
3. Certification. On page six, the name of the company needs to match the Applicant/Operator or Company Name exactly, IHC Scott compared to IHC Scott, Inc.
4. Certification. On page six, please provide the corporate seal on the certification page, if the corporation does not have a seal please indicate "No Seal".



EXHIBIT D – Reclamation Plan (Rule 6.3.4):

5. Please provide the missing reclamation cost estimate. Pursuant to Rule 6.3.4(2) the applicant is to provide an estimate of the actual costs to reclaim the site based on what it would cost the State of Colorado using an independent contractor to complete reclamation. (Such estimates are not required for activities contemplated by the operator and approved by the Office to be outside the scope of the proposed reclamation plan.) The unit costs should include estimates for the following activities as appropriate to the operation: backfilling, grading, topsoil application, seeding, mulching, fertilization, and labor to complete reclamation. Determine and specify the point during the operation when the site has reached a point of maximum disturbance. The cost to reclaim the site to the specifications of the Reclamation Plan at this point must be estimated. Unit costs (cost per cubic yard), volumes, haul or push distances, and grades must be included when backfilling and grading are part of the Reclamation Plan. Volume and unit costs for finish grading, subsoil and topsoil application must be provided in terms of cost per cubic yard. The estimated cost for fertilizer, seed and mulch acquisition and application must be provided as cost per acre.

EXHIBIT E – Map (Rule 6.3.5):

6. The Division could not locate the maps as required by Rule 6.3.5. Please provide the missing maps. Rule 6.3.5 states:
- 1) In addition to the requirements of Rule 6.2.1(2), the Operator/Applicant must provide a map that clearly describes the features associated with the mining plan and the components of the Reclamation Plan. Include one (1) map for the mine plan and one (1) map for the Reclamation Plan. The map(s) must be drawn to a scale no smaller than appropriate to clearly show all elements that are required to be delineated by the Act and these Rules; show a north arrow, note any section corners adjacent to the proposed operation, and indicate the date illustrated. At a minimum, maps must include the following information:
 - 2) Mining Plan Map
 - a) outline and label the permit boundaries, described in Exhibit A - Legal Description; for all 110 Limited Impact and 111 Special Operations, the Office considers the area bounded by the permit boundary to be analogous to the affected area;
 - b) label the names of owner(s) of record of the surface of the affected area and of the land within two hundred (200) feet of the affected area, identify the owner of the substance to be mined, and the type of structure and owners of record of any permanent or man-made structures within two hundred (200) feet of the affected area;
 - c) outline and label all major surface features to be used in connection with the proposed operation such as: existing and proposed roads, pit boundary, topsoil stockpiles, overburden stockpiles, product stockpiles, waste rock fills, stream channels, buildings, processing plant,

underground openings such as adits or ventilation facilities, ponds, impoundments, dewatering pumps, diversions or waste disposal areas;

- d) indicate the direction that construction material extraction will proceed;
- e) note the location of any significant, valuable, and permanent man-made structures within two hundred (200) feet of the affected area. A narrative description must be provided in Exhibit B - Site Description; and
- f) outline and label existing disturbance within and/or adjacent to the permit boundary (e.g., previously mined areas, roads or excavations resulting from utility construction). Re-disturbance of previously disturbed areas, by the proposed mining operation, must be included in the permit area and addressed in Exhibit D

(3) Reclamation Plan Map

- (a) show the gradient of all reclaimed slopes (horizontal:vertical) sufficient to describe the post mine topography;
- (b) indicate where vegetation will not be established and the general area(s) for shrub or tree planting;
- (c) if ponds are a part of the Reclamation Plan, outline the final shore configuration of the ponds and shallow areas if the future land use is for wildlife;
- (d) state the average thickness of replaced overburden by reclamation area or phase; and
- (e) state the average thickness of replaced topsoil by reclamation area or phase.

NOTICE SIGN

- 7. In accordance with Rule 1.6.2(1)(b), prior to submitting an application post notice signs at the mine site. The applicant must submit a signed affidavit indicating that notice signs were posted at the mine site of sufficient size and number clearly identifying the site as the location of a proposed mining operation. Please provide a photograph or a detailed description of the posted notice signs along with the signed affidavit.

EXHIBIT R – Proof of Filing with County Clerk and Recorder (Rule 6.3.9):

- 8. Pursuant to Rule 1.6.2(1)(c), please demonstrate that the Applicant has placed a copy of the application materials with the County Clerks or Recorders Offices. Also, please demonstrate that the

Applicant's response to these incompleteness issues have been placed with the application materials previously placed with the County Clerks or Records Offices, and made available for public review.

Financial and Performance Warranties and Affidavit of Authority:

9. Financial Warranty: IHC Scott, Inc.'s signature and notary (pages 5 and 6) must be resubmitted. The notary filled in her own name rather than IHC Scott, Inc.'s signatory party. This invalidates the signature and the notary. The Federal Insurance Company's signatures don't need to be redone.
10. An original Affidavit of Authority signed by the same IHC Scott, Inc. signatory party as the Financial Warranty.
11. An original Performance Warranty signed by the same IHC Scott, Inc. signatory party as the Financial Warranty.

Your New 111 Construction Materials Permit Application will not be considered filed until the information listed above is received and found sufficient to begin our review. A decision date will be established 15 days from the date of receipt and acceptance of all of the requested information.

Pursuant to Rule 1.4.1(8), you have sixty (60) days from the date of this letter to submit all necessary documents that the Division needs for an application to be considered filed. If, at the end of the sixty day period, the application has not been determined to be filed with the Division, the Division may deny the application and terminate the application file. Should additional time be required to submit all the necessary documents an extension request can be submitted in writing for the Division's consideration.

The response to this Incompleteness Notice is due on or before June 9, 2023.

This letter shall not be interpreted to mean that there are no other completeness issues or technical deficiencies in your application. The Division will review your application to determine whether it is adequate to meet the requirements of the Act after submittal of all required items.

If you need additional information or have any questions, please contact me by telephone at **303-866-3567 x8114**, or by email at patrick.lennberg@state.co.us.

Sincerely,



Patrick Lennberg
Environmental Protection Specialist

cc: Jared Ebert, DRMS

ec: Blake Foerster, IHC Scott, Inc., bfoerster@ihcscott.com