



**COLORADO**  
**Division of Reclamation,  
Mining and Safety**  
Department of Natural Resources  
1313 Sherman Street, Room 215  
Denver, Colorado 80203

May 4, 2023

Kurt Arnusch  
Lost Creek Cattle Company LLC  
PO Box 551  
Keenesburg CO 80643

**Re: Preliminary Review of a 112 Construction Materials Reclamation Permit Conversion  
Application Package CN1, Arnusch Gravel Pit #3, Permit M1981-287**

Mr. Arnusch:

The Division of Reclamation, Mining, and Safety has completed its preliminary adequacy review of your 112c construction materials reclamation permit conversion application. The application was called complete for review on March 15, 2023. All comment and review periods began on March 15, 2023. **The decision date for this application is June 13, 2023. Please be advised that if you are unable to satisfactorily address any concerns identified in this review before the decision date, it will be your responsibility to request an extension of the review period. If there are outstanding issues that have not been adequately addressed prior to the end of the review period, and no extension has been requested, the Division will deny this application. In order to allow the Division adequate time to review your responses to any adequacy issues, please submit your adequacy responses to the Division no later than two weeks prior to the decision date (June 1, 2023).**

Please note that any changes or additions to the application on file in our office must also be reflected in the public review copy, which has been placed with the Weld County Clerk and Recorder.

The review consisted of comparing the application content with the specific requirements of Rule 6.1, 6.2, 6.4 and 6.5 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials. As with most applications, there are items that will require clarification of the existing information. Any inadequacies are identified under the respective exhibit heading, and have been numbered to facilitate response.

**APPLICATION FORM:**

- *Adequate as submitted*



## **6.2 GENERAL REQUIREMENTS OF EXHIBITS**

### **6.2.1 General Requirements**

(1) This Rule provides for the guidelines for, and information requirements of, each Exhibit required to be submitted with the permit application, as specified according to Section 6.1.

(2) **Maps and Exhibits Maps, except the index map, must conform to the following criteria:**

- (a) show name of Applicant;
- (b) must be prepared and signed by a registered land surveyor, professional engineer, or other qualified person;
- (c) give date prepared;
- (d) identify and outline the area which corresponds with the application;
- (e) with the exception of the map of the affected lands required in Section 34-32.5-112(2)(d), C.R.S. 1984, as amended, shall be prepared at a scale that is appropriate to clearly show all elements that are required to be delineated by the Act and these Rules. The acceptable range of map scales shall not be larger than 1 inch = 50 feet nor smaller than 1 inch = 660 feet. Also, that a map scale, appropriate legend, map title, date and a north arrow shall be included.

***1) None of the provided Maps and/or Exhibit Maps comply with the full requirements of Rule 6.2.1(2) as listed above, and all will need to be revised as required and re-submitted.***

***As a general note, while it may contain useful information, much of the material from other sources that has been reproduced and included with this application is illegible as submitted (blurry, too small to read, etc.). These items should be resubmitted in accordance with the above criteria, and/or in a legible size, if they are to be included and considered as part of this application.***

**EXHIBIT A - Legal Description (Rule 6.4.1):** The legal description must identify all affected land and be wholly adequate for field location of the property. It can be in the form of metes and bounds survey or a description by reference to township, range and section to at least the nearest quarter/quarter section. Where applicable, the street address or lot numbers may be used.

***Adequate as submitted***

**EXHIBIT B - Index Map (Rule 6.4.2):** An index map showing the regional location of all affected land and all roads and other access to the area. A standard U.S. Geological Survey topographic quadrangle or equivalent is acceptable. Scale criteria need not be followed for this map.

***2) Will need to be resubmitted to comply with all 6.2.1(2) requirements other than scale***

**EXHIBIT C - Pre-mining and Mining Plan Map(s) of Affected Lands (Rule 6.4.3):** One or more maps may be necessary to legibly portray the following information:

- (a) all immediately adjacent surface owners of record;
- (b) the name and location of all creeks, roads, buildings, oil and gas wells and lines, and power and communication lines on the area of affected land and within two hundred (200) feet of all boundaries of such area
- (c) the existing topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of the affected land;
- (d) the total area to be involved in the operation, including the area to be mined and the area of affected lands (see definition of "Affected Land");
- (e) the type of present vegetation covering the affected lands; and
- (f) in conjunction with Exhibit G - Water Information, Subsection 6.4.7, if required by the Office, further water resources information will be presented on a map in this section.
- (g) Show the owner's name, type of structures, and location of all permanent or man-made structures contained on the area of affected land and within two hundred (200) feet of the affected land.
- (h) In conjunction with Exhibit I - Soils Information, Subsection 6.4.9, soils information may be presented on a map in this section;
- (i) Aerial photos, if available, may be included in this section.

***3) A collection of figures has been provided to address the requirements of Exhibit C, items (a) through (i). None of the figures provided meet the full requirements of 6.2.1(2). Many of the required items listed in Rule 6.2.1(2) are missing, or the information provided is not at a legible scale (information provided for item (b) for example) – please revise Exhibit C figures as necessary to comply with Rule 6.2.1(2) requirements and resubmit.***

***4) Property owner to NE of permit (Rupple) is not shown for item (a)***

***5) Information provided for (b) is too small to read, does not meet requirements of 6.2.1(2), and does not specify what structures are intended to be addressed by this material.***

***6) The maps provided for (c) and (d) do not meet the requirements of 6.2.1(2), and the permit boundary survey map provided with (d) is illegible.***

***7) Vegetation description provided for (e) is adequate***

***8) Information provided for item (f) is adequate – you may also reference Exhibit G for this information.***

***9) Information provided for item (g) “owner's name, type of structures, and location of all permanent or man-made structures contained on the area of affected land and within two hundred***

(200) feet of the affected land” *These items need to be shown on a map, and as previously noted, the information provided for item (b) as referred to is insufficient/inadequate.*

*10) Material submitted for item (h), soils information, would likely be adequate if requirements of 6.2.1(2) were met, alternatively you may reference the material submitted in Exhibit I for this information.*

*11) No map identified as a Mining Plan Map has been provided, although the first, photo-based, figure provided in item (d) contains some of the required information. If you wish to use this figure as the Mining Plan Map please identify it as such, and make sure it complies with the requirements of Rule 6.2.1(2). Please also identify the location and volumes of the anticipated topsoil and overburden stockpiles. This information will be needed to accurately calculate the reclamation bond.*

**EXHIBIT D - Mining Plan (Rule 6.4.4):** The mining plan shall supply the following information, correlated with the affected lands, map(s) and timetables:

(a) description of the method(s) of mining to be employed in each stage of the operation as related to any surface disturbance on affected lands;

(b) earthmoving;

(c) all water diversions and impoundments; and

(d) the size of area(s) to be worked at any one time.

(e) An approximate timetable to describe the mining operation. The timetable is for the purpose of establishing the relationship between mining and reclamation during the different phases of a mining operation. You will not be required to meet specific dates for initiation, or completion of mining in a phase as may be identified in the timetable. This does not exempt you from complying with the performance standards of Section 3.1. Such timetable should include:

(i) an estimate of the periods of time which will be required for the various stages or phases of the operation;

(ii) a description of the size and location of each area to be worked during each phase; and

(iii) outlining the sequence in which each stage or phase of the operation will be carried out.

(Timetables need not be separate and distinct from the mining plan, but may be incorporated therein.)

(f) A map (in Exhibit C - Pre-Mining and Mining Plan Maps(s) of Affected Lands, Subsection 6.4.3) may be used along with a narrative to present the following information:

(i) nature, depth and thickness of the ore body or deposit to be mined and the thickness and type of overburden to be removed (may be marked "CONFIDENTIAL," as per Paragraph 1.3(3)); and

(ii) nature of the stratum immediately beneath the material to be mined in sedimentary deposits.

- (g) Identify the primary and secondary commodities to be mined/extracted and describe the intended use; and
- (h) name and describe the intended use of all expected incidental products to be mined/extracted by the proposed operation.
- (i) Specify if explosives will be used in conjunction with the mining (or reclamation).
- (j) Specify the dimensions of any existing or proposed roads that will be used for the mining operation. Describe any improvements necessary on existing roads and the specifications to be used in the construction of new roads.

New or improved roads must be included as part of the affected lands and permitted acreage. Affected land shall not include off-site roads which existed prior to the date on which notice was given or permit application was made to the office and which were constructed for purposes unrelated to the proposed mining operation and which will not be substantially upgraded to support the mining operation. Describe any associated drainage and runoff conveyance structures to include sufficient information to evaluate structure sizing.

***12) The map provided as part of Exhibit D section (f) as described above should be combined with the information provided previously in Exhibit C section (d) and identified as the Mining Plan Map. This map would then identify the proposed mine phasing and phase acreages, as well as the proposed mining depths for each phase.***

***13) The map provided in Exhibit D section (f) shows a maximum average depth for all phases not to exceed 12 feet below existing grade, however, the text provided for Exhibit D section (f), states "It is not anticipated that any mining will be done below grade in excess of 30 feet". The Reclamation Plan provided also states that "As mining reaches a depth of 30 feet below grade, reclamation of the previous area will commence".***

***The provided map will need to be revised to show where mining will take place at depths greater than 12 feet, up to 30 feet in depth, or the text should be revised to state that all mining will be to an average depth of no greater than 12 feet.***

***Please note that special consideration should be given to the in-channel sloping at the north end of the permit so that head-cutting does not occur outside of the permit boundary during storm events. Excessive upstream head-cutting outside of the permit boundary may be considered "out of bounds impact" by the Division, and may be subject to enforcement action.***

***Also, total excavation depth may need to be limited in the narrower central portion of the proposed permit to avoid resulting in excessively steep stream banks in this area.***

***14) The mining plan as provided seems to indicate a phased mining and reclamation plan will be implemented. If you would like to propose a phased mining and bonding/reclamation approach, please identify in the mine plan how mining and reclamation phasing will be***

*implemented so that the required reclamation bond may be accurately calculated as mining progresses.*

*It will be incumbent on the permittee to notify the Division when mining is proceeding to the next phase, and when a phase has been reclaimed.*

*Please keep in mind that Rule 3.1.3 states that all reclamation shall be carried to completion by the Operator with all reasonable diligence, and each phase of reclamation shall be completed within five years from the date the Operator informs the Division that such phase has commenced. The five year period may be applied separately to each phase as it is commenced throughout the life of the mine.*

- 15) The mining plan will also need to state how the outer slopes of the mined area(s) will be mined/maintained as this has a significant impact on final reclamation costs. For example, if outer bank slopes will be mined to no steeper than 3H:1V (horizontal to vertical) then final regrading/re-sloping to 3:1 or flatter will not be required for reclamation. If the outer bank slopes will be mined to steeper than 3H:1V, then re-sloping to 3H:1V or flatter will be required for final reclamation, which will increase the earthmoving costs for the reclamation bond.*

*Please identify the maximum slope of the outer permit bank area(s). If slopes steeper than 3H:1V, are proposed, please identify what the maximum total length of slope requiring reclamation re-sloping will be present on-site during mining. For example, All outer mine bank slopes will be mined to no steeper than 3H:1V as mining progresses; OR Not more than XXXX linear feet of 1:1 outer mine bank slopes will be present during mining operations which will require re-sloping to 3:1 or flatter for final reclamation.*

- 16) Please provide a weed control plan to be implemented during mining and reclamation of the site. The plan should include at a minimum what species are expected and how they will be controlled/eradicated.*

#### **EXHIBIT E - Reclamation Plan (Rule 6.4.5):**

(1) In preparing the Reclamation Plan, you should be specific in terms of addressing such items as final grading (including drainage), seeding, fertilizing, revegetation (trees, shrubs, etc.), and topsoiling. You are encouraged to allow flexibility in your plans by committing to ranges of numbers (e.g., 6"-12" of topsoil) rather than specific figures.

(2) The Reclamation Plan shall include provisions for, or satisfactory explanation of, all general requirements for the type of reclamation proposed to be implemented by you. Reclamation shall be required on all the affected land. The Reclamation Plans shall include:

- (a) A description of the type(s) of reclamation you propose to achieve in the reclamation of the affected land, why each was chosen, the amount of acreage accorded to each, and a general discussion of methods of reclamation as related to the mechanics of earthmoving;

- (b) A comparison of the proposed post-mining land use to other land uses in the vicinity and to adopted state and local land use plans and programs. In those instances where the post-mining land use is for industrial, residential, or commercial purposes and such use is not reasonably assured, a plan for revegetation shall be submitted. Appropriate evidence supporting such reasonable assurance shall be submitted;
- (c) A description of how the Reclamation Plan will be implemented to meet each applicable requirement of Section 3.1;
- (d) Where applicable, plans for topsoil segregation, preservation, and replacement; for stabilization, compaction, and grading of spoil; and for revegetation. The revegetation plan shall contain a list of the preferred species of grass, legumes, forbs, shrubs or trees to be planted, the method and rates of seeding and planting, the estimated availability of viable seeds in sufficient quantities of the species proposed to be used, and the proposed time of seeding and planting;
- (e) A plan or schedule indicating how and when reclamation will be implemented. Such plan or schedule shall not be tied to any specific date but shall be tied to implementation or completion of different stages of the mining operation as described in Subparagraph 6.4.4(1)(e). The plan or schedule shall include:
  - (i) An estimate of the periods of time which will be required for the various stages or phases of reclamation;
  - (ii) A description of the size and location of each area to be reclaimed during each phase; and
  - (iii) An outline of the sequence in which each stage or phase of reclamation will be carried out. (The schedule need not be separate and distinct from the Reclamation Plan, but may be incorporated therein.)
- (f) A description of each of the following:
  - (i) Final grading - specify maximum anticipated slope gradient or expected ranges thereof;
  - (ii) Seeding - specify types, mixtures, quantities, and expected time(s) of seeding and planting;
  - (iii) Fertilization - if applicable, specify types, mixtures, quantities and time of application;
  - (iv) Revegetation - specify types of trees, shrubs, etc., quantities, size and location; and
  - (v) Topsoiling - specify anticipated minimum depth or range of depths for those areas where topsoil will be replaced.

***DRMS Notes that, as previously approved, 3" of topsoil will be replaced over affected areas outside of the stream bottom, and the seed mix and fertilizer recommendations previously approved will be utilized for reclamation.***

**EXHIBIT F - Reclamation Plan Map (Rule 6.4.6):** The map(s) of the proposed affected land, by all phases of the total scope of the mining operation, shall indicate the following:

- (a) The expected physical appearance of the area of the affected land, correlated to the proposed mining and reclamation timetables. The map must show proposed topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of all reclaimed lands; and
- (b) Portrayal of the proposed final land use for each portion of the affected lands.

*17) Please revise the Reclamation Plan Map to comply with all the requirements of Rule 6.2.1(2).*

*18) Please revise the Reclamation Plan map to identify the contour interval currently shown and final depth(s), or show slope grades (such as 3H:1V) and provide arrows showing slope direction. Also, as previously mentioned, special consideration should be given to the final sloping at the north end of the permit so that head-cutting does not occur outside of the permit boundary during storm events.*

*19) Please clearly identify what areas/acreages will have topsoil replaced and be reseeded on the reclamation plan map.*

**EXHIBIT G - Water Information (Rule 6.4.7):**

- (1) If the operation is not expected to directly affect surface or groundwater systems, a statement of that expectation shall be submitted.
- (2) If the operation is expected to directly affect surface or groundwater systems, you shall:
  - (a) Locate on the map (in Exhibit C) tributary water courses, wells, springs, stock water ponds, reservoirs, and ditches on the affected land and on adjacent lands where such structures may be affected by the proposed mining operations;
  - (b) Identify all known aquifers; and
  - (c) Submit a brief statement or plan showing how water from dewatering operations or from runoff from disturbed areas, piled material and operating surfaces will be managed to protect against pollution of either surface or groundwater (and, where applicable, control pollution in a manner that is consistent with water quality discharge permits), both during and after the operation.
- (3) You must provide an estimate of the project water requirements including flow rates and annual volumes for the development, mining and reclamation phases of the project.
- (4) You must indicate the projected amount from each of the sources of water to supply the project water requirements for the mining operation and reclamation.



(5) You must affirmatively state that the Operator/Applicant has acquired (or has applied for) a National Pollutant Discharge Elimination System (NPDES) permit from the Water Quality Control Division at the Colorado Department of Health, if necessary.

*Adequate as submitted - no exposure of groundwater will be permitted.*

**EXHIBIT H - Wildlife Information (Rule 6.4.8):**

(1) In developing the wildlife information, you may wish to contact the local wildlife conservation officer. You must include in this Exhibit, a description of the game and non-game resources on and in the vicinity of the application area, including:

- (a) a description of the significant wildlife resources on the affected land;
- (b) seasonal use of the area;
- (c) the presence and estimated population of threatened or endangered species from either federal or state lists; and
- (d) 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.

*Adequate as submitted.*

**EXHIBIT I - Soils Information (Rule 6.4.9):** In consultation with the Soil Conservation Service or other qualified person, you must indicate on a map (in Exhibit C) or by a statement, the general type, thickness and distribution of soil over the affected land. Such description will address suitability of topsoil (or other material) for establishment and maintenance of plant growth. The above information shall satisfy "completeness" requirements for purposes of determination of date of filing.

*Adequate as submitted*

**EXHIBIT J - Vegetation Information (Rule 6.4.10):**

(1) You must include in this Exhibit a narrative of the following items:

- (a) descriptions of present vegetation types, which include quantitative estimates of cover and height for the principal species in each life-form represented (i.e., trees, tall shrubs, low shrubs, grasses, forbs);
- (b) the relationship of present vegetation types to soil types, or alternatively, the information may be presented on a map; and

(c) estimates of average annual production for hay meadows and croplands, and carrying capacity for range lands on or in the vicinity of the affected land, if the choice of reclamation is for range or agriculture.

(2) You must show the relation of the types of vegetation to existing topography on a map in Exhibit C. In providing such information, you may want to contact the local Soil Conservation District.

*Adequate as submitted.*

**EXHIBIT K - Climate (Rule 6.4.11):** Provide a description of the significant climatological factors for the locality.

*Adequate as submitted*

**EXHIBIT L - Reclamation Costs (Rule 6.4.12):** All information necessary to calculate the costs of reclamation must be submitted and broken down into the various major phases of reclamation. You must provide sufficient information to calculate the cost of reclamation that would be incurred by the state.

*DRMS will evaluate the reclamation bond calculation when the other adequacy issues have been fully resolved.*

**EXHIBIT M - Other Permits and Licenses (Rule 6.4.13):** A statement identifying which of the following permits, licenses and approvals the Operator/Applicant holds or will be seeking in order to conduct the proposed mining and reclamation operations: effluent discharge permits, air quality emissions permits, radioactive source material licenses, the State Historic Preservation Office clearance, disposal of dredge and fill material (404) permits, permit to construct a dam, well permits, highway access permits, U.S. Forest Service permits, Bureau of Land Management permits, county zoning and land use permits, and city zoning and land use permits.

*The Weld County Special Use Permit referred to in the provided material is over 40 years old at this time – you may wish to contact Weld County to determine if the proposed expanded activity will require a new or modified permit.*

**EXHIBIT N - Source of Legal Right to Enter (Rule 6.4.14):** Provide documentation of the legal right to enter to conduct mining and reclamation, for Owners of Record described in Rule 1.6.2(1)(e)(i). This may include a copy of a lease, deed, abstract of title, a current tax receipt, or a signed statement by the Landowner and acknowledged by a Notary Public stating that the Operator/Applicant has legal right to enter to conduct mining and reclamation.

*20) You will need to provide documentation of Legal Right to Enter as defined by the above rule.*

**EXHIBIT O - Owner(s) of Record of Affected Land (Surface Area) and Owners of Substance to be Mined (Rule 6.4.15):** Please submit a complete list of all owners or show the owners on your map in Exhibit C.

*Adequate as submitted*

**EXHIBIT P - Municipalities Within Two Miles (Rule 6.4.16):** Please list any municipality(s) within two miles of the proposed mining operation and address of the general office of each municipality.

*Adequate as submitted*

**EXHIBIT Q - Proof of Mailing of Notices to County Commissioners and Soil Conservation District (Rule 6.4.17):** Please submit proof of actual delivery or proof of mailing by Certified Mail, return receipt requested, of Notice of the Application to the local Board of County Commissioners and, if the mining operation is within the boundaries of a Soil Conservation District, to the Board of Supervisors of the Soil Conservation District.

*Adequate as submitted*

**EXHIBIT R - Proof of Filing with County Clerk and Recorder (Rule 6.4.18):** You must submit an affidavit or receipt indicating the date on which the application was placed with the local County Clerk and Recorder.

*Adequate as submitted*

**EXHIBIT S - Permanent Man-Made Structures (Rule 6.4.19):** Please note that roadways and above-ground or underground utilities (if present) within 200 feet of the proposed affected area are considered permanent man-made structures. In accordance with Rule 6.4.19, when mining operations will adversely affect the stability of any significant, valuable and permanent man-made structure located within 200 feet of the affected area, the applicant may either:

(a) Provide a notarized agreement between the applicant and the person(s) having an interest in the structure, that the applicant is to provide compensation for any damage to the structure;

or

(b) Where such an agreement cannot be reached, the applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation.

***21) As stated above, roadways, above-ground and underground utilities are considered permanent man-made structures. Because the area within the proposed permit boundary is potentially affected area, please identify all below ground utilities within 200' of the permit boundary, or state that there are none. DRMS notes that an executed agreement has been provided for the above-ground power lines on the east side of the proposed permit.***

***Please provide evidence (certified letter to structure owners) that a notarized agreement between all structure owners and the applicant was pursued – including Weld County Road and Bridge (both Weld County Roads 71 and 6 are within 200' of the proposed permit boundary).***

***If an agreement is unable to be reached a geotechnical assessment may be provided to demonstrate that the structures shall not be damaged. You must provide information sufficient to demonstrate that the stability of any structures located within two hundred (200) feet of the operation or affected land will not be adversely affected.***

## **6.5 GEOTECHNICAL STABILITY EXHIBIT**

**(1)** On a site-specific basis, an Applicant shall be required to provide a geotechnical evaluation of all geologic hazards that have the potential to affect any proposed impoundment, slope, embankment, high-wall, or waste pile within the affected area. A geologic hazard is one of several types of adverse geologic conditions capable of causing damage or loss of property and life. The Applicant may also be required to provide a geotechnical evaluation of all geologic hazards, within or in the vicinity of the affected lands, which may be de-stabilized or exacerbated by mining or reclamation activities.

**(2)** On a site-specific basis, an Applicant shall be required to provide engineering stability analyses for proposed final reclaimed slopes, high-walls, waste piles and embankments. An Applicant may also be required to provide engineering stability analyses for certain slopes configuration as they will occur during operations, including, but not limited to embankments. Information for slope stability analyses may include, but would not be limited to, slope angles and configurations, compaction and density, physical characteristics of earthen materials, pore pressure information, slope height, post-placement use of site, and information on structures or facilities that could be adversely affected by slope failure.

**(3)** Where there is the potential for off-site impacts due to failure of any geologic structure or constructed earthen facility, which may be caused by mining or reclamation activities, the Applicant shall demonstrate through appropriate geotechnical and stability analyses that off-site areas will be protected with appropriate factors of safety incorporated into the analysis. The minimum acceptable safety factors will be subject to approval by the Office, on a case-by-case basis, depending upon the degree of certainty of soil or rock strength determinations utilized in the stability analysis, depending upon the consequences associated with a potential failure, and depending upon the potential for seismic activity at each site.

(4) At sites where blasting is part of the proposed mining or reclamation plan, the Applicant shall demonstrate through appropriate blasting, vibration, geotechnical, and structural engineering analyses, that off-site areas will not be adversely affected by blasting.

*A Geotechnical Stability Exhibit will not be required for this site*

**Additional Information:** DRMS notes that proof of notice publication as well as proof of notice to surrounding property owners within 200' of the permit has been provided. Any letters from other commenting agencies/entities received by the Division to-date have been included with this correspondence for you to review.

This concludes the Division's preliminary adequacy review of this application. This letter shall not be construed to mean that there are no other technical deficiencies in your application. Other issues may arise as additional information is supplied. Please remember that the decision date for this conversion application is June 13, 2023. As previously mentioned, if you are unable to provide satisfactory responses to any inadequacies prior to this date, it will be your responsibility to request an extension of time to allow for continued review of this application. If there are still unresolved issues when the decision date arrives and no extension has been requested, the application will be denied. If you have any questions, please contact me at (303) 229-9414.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Scott", with a stylized flourish at the end.

Eric Scott – Environmental Protection Specialist

CC:

Enclosures: History Colorado Comment Letter



# History Colorado

Eric C. Scott  
Division of Reclamation, Mining and Safety  
1313 Sherman Street, Room 215  
Denver, Colorado 80203

Re: Arnusch Gravel Pit 3 – File No. M-1981-287, Nikolaus Arnusch Permit Conversion Application (CN-1) 110C to 112 C Permit Conversion (HC#82690)

Dear Mr. Scott:

We received your revised letter dated March 15, 2023 on March 16, 2023 initiating consultation with our office on the subject action pursuant to the Colorado State Register Act – Colorado Revised Statute (CRS) 24-80.1 et. seq.

A search of our database indicates that site 5WL.103 is located within or adjacent to the permit area. The site has not been assessed to determine State or National Register of Historic Places eligibility. Please note, as most of Colorado has not been inventoried for cultural resources, our files contain incomplete information. Consequently, there is the possibility that as yet unidentified cultural resources exist within the proposed permit area. The requirements under CRS 24-80 part 13 apply and must be followed if human remains are discovered during ground disturbing activities.

Please note that if the fill or disposal site location is associated with a Federal undertaking, it is the responsibility of the federal agency to meet the requirements of Section 106 as set forth in 36 CFR Part 800 titled “Protection of Historic Properties”. This includes not only reasonable and good faith identification efforts of any historic properties located within the area of potential effects, but determining whether the undertaking will have an effect upon such properties. The State Historic Preservation Office, Native American tribes, representatives of local governments, and applicants for federal permits are entitled to consultative roles in this process.

As a reminder, the State Register Act give the SHPO 30 calendar days to provide a response to the state agency. If the response is to ask for additional information to be able to render a comprehensive and accurate response, the 30-day ‘clock’ will pause and restart at zero when the SHPO receives the information it requested.

We thank you for the opportunity to comment. If we may be of further assistance, please contact Holly McKee-Huth, Cultural Resource Information/Section 106 Compliance at (303) 866-4670 or [holly.mckee@state.co.us](mailto:holly.mckee@state.co.us).

Sincerely,

Dawn DiPrince  
State Historic Preservation Officer