



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

May 26, 2023

Mr. Chris Oestreich
BURNCO Colorado, LLC
10100 Dallas St
Henderson CO 80640

RE: The Shores, DRMS Permit M1998-013, Incomplete Application for Transfer of Permit and Succession of Operators (SO3)

Mr. Oestreich:

On May 23, 2023, the Division of Reclamation, Mining and Safety received the Application Form and \$144 fee for Transfer of Mineral Permit and Succession of Operators from Bestway Concrete Company to BURNCO Colorado, LLC for The Shores, Permit M1998-013. The following items are incomplete for the application to be processed:

1. As noted on Page 3 of the application form, The Division requires a valid Demonstration of Legal Right to Enter: All Permittees must provide a description of the basis for legal right of entry to the site and to conduct mining and reclamation. See Hard Rock and Construction Materials Rules 6.3.7 and 6.4.14. To comply with this requirement, the Prospective Successor must demonstrate that he/ she/ it has obtained a legal right of entry from any and all surface and mineral rights owners in the affected lands, independent of the current Permittee. See Hard Rock and Construction Materials Rules 6.3.7, 6.4.14, and 1.6.2(1)(e)(i). This may be a copy of an access lease, deed, abstract of title, current tax receipt, or a signed and notarized statement by the property owners stating that the Prospective Successor has a legal right to enter. See Hard Rock and Construction Materials Rule 6. 3. 7.

For example - BURNCO recently provided documentation with the SO application for the Bernhardt Resource site (DRMS permit M2002-120), which demonstrated that BURNCO was the sole surviving entity of a merger with Bestway Concrete. This demonstrated that the provided Bestway lease agreements for the Bernhardt permit area constituted a valid legal right of entry, and the existing structure agreements executed with Bestway would still be valid.

During a preliminary review of the SO3 Application DRMS also identified the following adequacy issues that you may also wish to address at this time to streamline the application approval process:

- 1) DRMS notes that a legal description of a portion of the permit was provided with the SO3 application. This is not required, however, if you wish to provide a legal description of the



permit area, please include a description of the entire permit area as currently permitted.

- 2) The Operation Name listed on the first page of the application form was listed incorrectly as "The Shores – Burch Property". The Operation name should be listed as "The Shores". (The Burch property is only a portion of The Shores permitted area and should not be listed separately in this field). Please correct and resubmit this page.
- 3) There is an error with the notary sections of the provided Performance Warranty as well as the two notarized pages of the application form. The forms were signed by "Chris Oestreich" however the notary lists the signatory name name as "Christopher Oestreich" which invalidates the forms.
Please re-execute and re-submit original copies of these forms with consistent naming.

Please provide the above required materials within 60 days (no later than July 25, 2023). All completed permit documents are required to be submitted for consideration of your Request for Transfer of Mineral Permit and Succession of Operators Application. If after 60 days, outstanding items remain, your application will be denied and the file terminated. The Division reserves the right to further supplement this document with additional items and details as necessary.

Please contact Eric Scott (303) 229-9414 or by email at eric.scott@state.co.us if you have any questions.

Sincerely,



Eric Scott
Environmental Protection Specialist

cc: Sara Stevenson-Benn, Financial Assurance Specialist, DRMS
Michael Cunningham, Senior EPS, DRMS
Ec: Chris Oestreich chris.oestreich@burnco.com