

May 26, 2023

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

**RE: Adequacy Review No. 2; New 111 Construction Materials Permit Application,
W. Max (Bill Nelson) Borrow Pit, Permit No. M-2023-010**

Mr. Foerster,

On May 23, 2023, the Division of Reclamation, Mining and Safety (Division/DRMS) received your responses to the Division's preliminary adequacy review dated May 17, 2023. After review of your responses the Division has identified the additional items that need to be addressed.

1. The Division reviewed the updated maps and there are three permanent man-made structures, which the Operator needs to obtain structure agreements for, within 200 feet of the affected land boundary. Those structures are County Road CR4/CRJ, the fence between the Nelson/Schueller properties and the Mountain View Electric Association powerline and poles. Pursuant to Rule 6.3.12, where the mining operation will adversely affect the stability of any significant, valuable and permanent man-made structures, located within 200 feet of the affected land, 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 engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or
 - c. Where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have "no negative effect" on their utility.

* Structure agreements shall be sent by a trackable method, i.e. certified mail. In addition, the individual structure agreements shall be labeled with the certified mail number or other tracking number. A sample agreement form has been provided as an Attachment.



2. Pursuant to Rule 1.6.2(2), please demonstrate that the Applicant's response to these adequacy issues have been placed with the application materials previously placed with the County Clerk or Records Office, and made available for public review.

Please respond to these adequacy issues before the decision due date. The decision due date for this application is **May 31, 2023**. If additional time is required to respond to these adequacy issues please submit a written request for extension of the review period. The Division reserves the right to further supplement this document with additional adequacy issues and details as necessary.

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

Attachment: Sample Structure Agreement Form

cc: Jared Ebert, DRMS

ec: Blake Foerster, IHC Scott, Inc., bfoerster@ihcscott.com
JC York, J&T Consulting, Inc., jcyork@j-tconsulting.com

Attachments

An example Structure Agreement which meets the requirements of the Statutes is shown below.

Structure Agreement

This letter has been provided to you as the owner of a structure on or within two hundred (200) feet of a proposed mine site. The State of Colorado, Division of Reclamation, Mining and Safety (“Division”) requires that where a mining operation will adversely affect the stability of any significant, valuable and permanent man-made structure located within two hundred (200) feet of the affected land, the Applicant shall 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; or
- c) Where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have “no negative effect” on their utility. (*Construction Materials Rule 6.3.12 and Rule 6.4.19 & Hard Rock/Metal Mining Rule 6.3.12 and Rule 6.4.20*)

The Colorado Mined Land Reclamation Board (“Board”) has determined that this form, if properly executed, represents an agreement that complies with Construction Materials Rule 6.3.12(a), Rule 6.4.19(a), and C.R.S. § 34-32.5-115(4)(e) and with Hard Rock/Metal Mining Rule 6.3.12(a), Rule 6.4.20(a), and C.R.S. § 34-32-115(4)(d). This form is for the sole purpose of ensuring compliance with the Rules and Regulations and shall not make the Board or Division a necessary party to any private civil lawsuit to enforce the terms of the agreement or create any enforcement obligations in the Board or the Division.

The following structures are located on or within 200 feet of the proposed affected area:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

(Please list additional structures on a separate page)

CERTIFICATION

The Applicant, _____ (print applicant/company name),
by _____ (print representative's name), as _____ (print
representative's title), does hereby certify that _____ (structure owner) shall
be compensated for any damage from the proposed mining operation to the above listed structure(s)
located on or within 200 feet of the proposed affected area described within Exhibit A, of the Reclamation
Permit Application for _____ (operation name),
File Number M-____-_____.

***This form has been approved by the Colorado Mined Land Reclamation Board pursuant to its
authority under the Colorado Land Reclamation Act for the Extraction of Construction Materials and
the Colorado Mined Land Reclamation Act for Hard Rock, Metal, and Designated Mining Operations.
Any alteration or modification to this form shall result in voiding this form.***

NOTARY FOR PERMIT APPLICANT

ACKNOWLEDGED BY:

Applicant _____ Representative Name _____

Date _____ Title _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing was acknowledged before me this ____ day of _____, 20____, by
_____ as _____ of _____.

Notary Public My Commission Expires: _____

NOTARY FOR STRUCTURE OWNER

ACKNOWLEDGED BY:

Structure Owner _____ Name _____

Date _____ Title _____

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing was acknowledged before me this ____ day of _____, 20____, by
_____ as _____ of _____.

_____ My Commission Expires: _____

Notary Public