



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

June 30, 2023

Rod Havens  
McAtee Construction Company  
6215 Clear Creek Parkway  
Cheyenne, WY 82007

**RE: Incompleteness Notice No. 2, Succession of Operators–SO-1,  
Timnath Pit, Permit No. M-1989-056**

Dear Mr. Havens:

On June 29, 2023, the Division of Reclamation, Mining and Safety (DRMS/Division) received your responses to the Division's Incompleteness Notice dated February 1, 2023 for Transfer of Mineral Permit and Succession of Operators from Don Kehn Construction Inc. to McAtee Construction Company for the Timnath Pit, Permit M-1989-056. Review of the submitted responses determined the following items must be received before the Division can consider the application as being submitted/file.

1. The submitted engineering evaluation is not sufficient. At a minimum the prospective Operator needs to propose offsets, in feet, from the edge of the right-of-way (ROW) or any structure to the top of the mined and reclaimed 3:1 slope, i.e. the Operator needs a buffer from any ROW or structure not owned by them to the beginning of the mined slope.

Please prepare a slope stability analysis, including 2-D models, indicating the cross-sections from each structure without an agreement including a calculated factor of safety for each scenario. Table 1 below lists the Mined Land Reclamation Board (MLRB) factors of safety for slope stability/geotechnical analyses it has adopted for permits.



**Table 1. MLRB Minimum Factors of Safety for Slope Stability Analyses for Operations and Reclamation**

Type of Structure/Consequence of Failure	Generalized, Assumed, or Single Test Strength Measurements	Strength Measurements Resulting from Multiple Tests <sup>(1)</sup>
<u>Non-Critical Structures</u> (e.g., fences) No imminent danger to human life, minor repair costs, and minor environmental impact if slope fails	1.3 (1.15) <sup>(2)</sup>	1.25 (1.1) <sup>(2)</sup>
<u>Critical Structures</u> (e.g., residences, utilities, dams, pipelines, irrigation canals, public roads, etc.) Potential human safety risk, major environmental impact, and major repair costs if slope fails (includes Environmental Protection Facilities/EPFs, such as tailings facilities, heap leach pads, process effluent ponds, milling facilities, overburden/waste rock storage facilities, and hazardous/toxic material storage facilities, etc.)	1.5 (1.3) <sup>(2)</sup>	1.3 (1.15) <sup>(2)</sup>
<p>1) The number of tests required to provide a high degree of confidence in the strength parameters used depends on the variability of the material being tested and the extent of disturbance.</p> <p>2) Numbers without parentheses apply for analyses using static conditions. Those within parentheses apply to analyses using seismic parameters. Based on site specific conditions, seismic analyses may be required and parameters selected shall be consistent with the risk and duration of the condition being considered.</p>		

**Please respond to the items above by the decision date July 1, 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 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 items remain, and no extension request has been received, 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 Patrick Lennberg (303) 866-3567 ext. 8114 or by email at [patrick.lennberg@state.co.us](mailto:patrick.lennberg@state.co.us) if you have any questions.

Sincerely,



Patrick Lennberg  
Environmental Protection Specialist

cc: Jared Ebert, DRMS

ec: Ron Havens, McAtee Construction Company, [rhavens@simonteam.com](mailto:rhavens@simonteam.com)  
Josh Kruchten, McAtee Construction Company, [jkruchten@simonteam.com](mailto:jkruchten@simonteam.com)  
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