



## COLORADO

Division of Reclamation,  
Mining and Safety

Department of Natural Resources

December 6, 2023

Mr. Andy Carpenter  
W.W. Clyde & Co.  
10303 E Dry Creek Rd, Ste 300  
Englewood CO 80112

**RE: Derr Pit, DRMS Permit M2008-017, Incomplete Application for Transfer of Permit and Succession of Operators (SO1)**

Mr. Carpenter:

On December 5, 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 Broken Arrow Investments, LLC to W.W. Clyde & Co for Derr Pit, Permit M2008-017. The following four items are missing or 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.
2. Because both parties chose to maintain their right to a 30 day decision, a replacement financial warranty provided by the successor operator, W.W. Clyde and Co., in the amount currently posted for the site (\$1,972,000.00) is required to be submitted with the SO application. Please contact DRMS Financial Assurance Specialist Sara Stevenson-Benn at [sara.stevenson-benn@state.co.us](mailto:sara.stevenson-benn@state.co.us) for any questions regarding available/appropriate bonding mechanisms, required forms, and proper submittal of the required financial warranty.
3. An original Affidavit of Authority signed by Andy Carpenter and properly notarized is required. This form is available on the DRMS website near the bottom of the listing of financial warranty forms.



4. Revised Structure Agreements, as listed in item 6 of Page 3 of the SO application form: Operators must provide the Division copies of agreements to compensate the owners of any significant, valuable, and permanent man-made structures and utilities within 200 feet of the affected land ("Structure Agreements"). See Hard Rock Rules 6.3.12 and 6.4.20; Construction Materials Rules 6.3.12 and 6.4.19. If the Permittee was required to provide Structure Agreements, the Prospective Successor must obtain new Structure Agreements from each owner and provide copies of the same to the Division with the Application. Owners of structures that have been installed within 200' of the permit after the existing permit was issued will also need to be identified and included.

The most efficient way to provide documentation that structure agreements were provided to structure owners is to provide a map identifying all structures within and within 200' of the permit boundary, correlated to a table containing ownership information of the identified structures. This information can then be matched against proof of mailing, such as certified mail "green cards", of structure agreements to the identified structure owners.

Please provide the above required materials within 60 days (no later than February 4, 2024). 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](mailto:eric.scott@state.co.us) , or DRMS Financial Assurance Specialist Sara Stevenson-Benn at [Sara.Stevenson-Benn@state.co.us](mailto:Sara.Stevenson-Benn@state.co.us) , if you have any questions.

Sincerely,



Eric Scott  
Environmental Protection Specialist

Ec: Sara Stevenson-Benn, Financial Assurance Specialist, DRMS  
Michael Cunningham, Senior EPS, DRMS  
Kelly Hodge, Broken Arrow Investments LLC @ [kahodge1@comcast.net](mailto:kahodge1@comcast.net)  
JC York, J&T Consulting @ [jcyork@j-tconsulting.com](mailto:jcyork@j-tconsulting.com)