

Braun

Braun Environmental, Inc.

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March 25, 2024

SENT VIA EMAIL

Elliott Russell
Colorado Division of Reclamation, Mining and Safety (DRMS)
1313 Sherman, Room 215
Denver Colorado 80203

RE: Response to March 8, 2024 Adequacy Review, Wild Cat Claim - Permit M-2023-031

Dear Mr. Russell;

Attached are responses to your comments in your March 8, 2024 letter. Let me know if you have any more questions or need anything else.

Sincerely,
BRAUN ENVIRONMENTAL, INC.

A handwritten signature in black ink, appearing to read 'C. A. Braun', with a stylized flourish at the end.

C. A. Braun, P.E., CPG, REC
enc.
CAB/rl

**Responses to
Division of Mining Reclamation and Safety (DRMS) Adequacy Review Letter**

Dated March 8, 2024

**By C. A. Braun
March 21, 2024**

General Application Procedures

Comment 1 As required by Rule 1.6.2(1)(g), please submit proof of publication of a public notice in a newspaper of general circulation in the locality of the proposed mining operation. *Proof of publication was provided on February 24, 2024. No further response needed.*

No Response

Comment 2 As required by Rule 1.6.2(1)(g), please submit proof that the public notice was provided to all owners of record of surface and mineral rights of the affected land and to the owners of record of all land surface within 200 feet of the boundary of the affected land. Proof of notice may be return receipts of a certified mailing or by proof of personal service. *Proof of noticing was provided on February 24, 2024. No further response needed.*

No Response

Comment 3 The Division received three comment letters from the US Army Corps of Engineers, Colorado Parks & Wildlife, and the Division of Water Resources. The letters are attached for your review. Please acknowledge and address any comments noted in the letters and make changes to the application as necessary.

Response: The Army Corp of Engineers responded with their standard form response letter citing Section 404 of the Clean Water Act. The permit area contains no rivers, lakes or wetlands and there will be no anticipated discharge of dredged or fill material into waters of the United States.

Colorado Parks and Wildlife responded by letter stating that they are familiar with the site and believe that the proposed action will have negligible effect on wildlife.

The Colorado Division of Water Resources responded by letter and has checked boxes that the operation does not expect to expose groundwater, that if storm retention will keep water on the site no permits are necessary, and the operator is to use only legal sources of water. There were no other comments.

Comment 4 The Division received two objections to the permit application. One by Lynn Engle and the other by Gary Archuleta, both on March 3, 2024. The objections are attached for your review. Please inform the Division how the Applicant intends to address the jurisdictional issues raised by the Objectors.

Lynn Engle Wrote: I am concerned as this project is close to my retirement house construction site, just over 200' from the permit area. It would greatly affect my view, which is very important to me. It also involves ingress/egress via easement through my land. The permit does not have any timelines for reclamation, other than "completion of the project". If reclamation is not soon enough it could look bad, have erosion and dust. There was significant dust during the hauling activity. I have allergies including dust and could have health issues if this continues.

Response: Mr. Brown owns a piece of property similar to Mr. Engle's and simply wishes to level a portion of his property and to build a shop. He contacted Teller County and was told that he had the same rights as any landowner in the county to use his land, and could do his project. Because he is environmentally conscious, he hired a consultant at that time to develop an environmental management plan (EMP) for the site to make sure he was doing his best to protect the environment. As part of his construction plan, it was necessary to remove some excess material from the site so he could lower the elevation of the location where he would set his building. Mr. Brown had no intention of "mining", but only to develop his property. However, because his plan included removal of some material from the property, the Colorado Division of Mining and Public Safety (DRMS) became involved and decided that he must have a mining permit. To be a good citizen, he complied with the DRMS demand. To his knowledge, there has been no significant dust generated beyond that which any other normal vehicle might generate while traveling the road. Just as his neighbors would be considerate of him, Mr. Brown will be considerate of his neighbors and work to limit any dust generation.

Gary Archuleta wrote: I don't believe Mike Brown should be getting a permit from mining commission, he's been removing materials for the last couple of months, disrupting the neighbors with the dust and the trucks coming in and out also, looks terrible. he's (sic) been doing all this without a permit.

Response: See above response. Mr. Brown is in the process of obtaining a permit and prior to finding out he needed one, was following his original EMP. The permit that he is in the process of obtaining, incorporates his EMP into the permit reclamation plan, which describes in detail how he will shape and contour the slopes and plant grasses on the portions that are not to be part of his final level area. When finished, he expects his property to be as beautiful and useful as his neighbor's properties.

EXHIBIT B - Mining Plan (Rule 6.3.3)

Comment 5 Rule 6.3.2(a) requires Applicants to provide a description of the vegetation and soil characteristics in the area of the proposed operation. Within Exhibit B, you have

provided specific details on the soil characteristics in the area, however no information was provided on the vegetation. Please provide a description of exiting vegetation in the area of the proposed operation.

Response: The vegetation species located at and near the permit area that will exit when surface disturbance occurs within the permit area includes: oatgrass, various wheatgrasses, smooth brome, fescue, downy brome, grass, muhly, dry sedges, poa and squirreltail and buffalograss. Forbes and shrubs include: fringed sage, winterfat, vetch, harebell, scenecio, hairy goldenaster, gilia, waveleafthistle, mullein, yarrow, beardstongue penstemon, vetch, butter-and-eggs, woods rose, fremont geranium, sand wort, various annual forbes, currant, gooseberry. There are no trees located within the permit area. Since soils are to be stockpiled and will remain within the permit area, the vegetation is not anticipated to exit the property, but only the disturbed areas.

Comment 6 As required by Rule 6.3.2(c), please provide a description of the water resources in the area of the proposed operation. This description is not limited to within the permit boundary. Please discuss the small drainage and pond on the south side of the permit area and West Beaver Creek to the east of the permit area.

Response: It appears that the reviewer has looked at recent Google Earth photo dated October 9, 2023, which covers the western portion of the permit area. Sometimes when we use Google Earth to try to visualize a property, we can zoom in too closely and the magnitudes of features we are looking at can be deceiving. The “small drainage” described in the comment is actually a very very small drainage having a total area of about a tenth of a square mile. The photo shows a gravel hillside on the north that contains a low density of vegetation. In contrast, finer grained materials have accumulated in the bottom of the little flat drainage which has only a 1% grade to the east, and it supports a higher density of grasses than the adjacent hillsides. Inspection of the north-facing hillside to the south can be seen to contain more vegetation than the south facing slopes, but not as much as in the drainage bottom. The “pond” referred to in the comment is not much of a pond and appears to have been inadvertently created when someone pushed a road across the little drainage. That low spot has a maximum depth below the road of less than 2 feet, and in the photo, there appears to be a small amount of water in it. Its area is less than 900 square feet, which is about the size of the average garage floor. A review of weather reports prior to the date the image was taken found that the Cripple Creek area had recently received some precipitation and the little hole had not yet dried out. If the photo had been taken a day or two later, the little depression would have been dry. West Beaver Creek, is located nearly 600 feet to the east of the currently disturbed area, and appeared to be dry when the October 6, 2019 image was produced. This segment of that stream runs only intermittently.

EXHIBIT C – List of Other Permits and Licenses Required (Rule 6.3.6)

Comment 7 Within Exhibit C, you have stated that storm water will be retained onsite in a retention pond that is designed to contain the 10-year 24-hour storm event. To ensure

protection of onsite and off-site lands, please discuss design details (size, material, location on the Exhibit E-1 Map, etc.) of the retention pond's overflow/emergency spillway in event that the pond's capacity is exceeded.

Response: The containment area is designed to contain the flow volumes anticipated as part of the storm water runoff requirements. As can be seen, the material that has been moved to date is part of the first to be leveled to Mr. Brown's design. The storm water retention area was anticipated to be completed early in his construction, along with the finish grading and revegetation of the graded sloped surface to the east. Since the area where the containment is located is level and the slope on the revegetated area immediately to the east is very low, in the very small chance that the capacity of the containment area might be exceeded, the design is such that any excess water would move to spread out as laminar flow over that grass-covered surface. The low water velocities produced by this dispersed flow is not anticipated to cause any cutting or erosion to a properly prepared surface. Any sediment that might move across the level portion of the area would be deposited into the retention pond, thus the overflow water is anticipated to have an effective specific gravity very near one.

Comment 8 Please describe the measures (BMPs, berms, etc.) that will be taken to ensure storm water is retained on-site and off-site sedimentation is prevented.

Response: As can be seen in Figure E-1, the finished surface is nearly level and the arrows indicate the direction of surface water flow into the 2 feet-deep storm water retention area. The design requires no berms, and any sediment that might be produced within the disturbed area is routed across the level area surface and directed into the retention pond. As was discussed in the USDA soil report, the material is gravel, and contains very little fines. As answered in the response to Comment 7, the containment area is sized to meet the standards called for in the storm water runoff regulations. In the event that that a higher intensity storm might occur, the design is such, that any excess water generated will exit the permit area as laminar sheet flow, that will simply flow over the already established grasses minimal undercutting or erosion.

Comment 9 Based on details within the Mining and Reclamation Plans and depicted on the Exhibit E-1 Map, the Applicant intends to leave a large flat surface which appears to slope to the east. Please provide the approximate slope of this area to ensure positive drainage.

Response: The intention of the permittee was not to mine, but simply to level an area to construct his building and park his vehicles. As a result, his design calls for the area to be nearly level. As shown in Exhibit E-1, the average grade is 0.3 to 0.4 percent to the east with the slope of the of the surface designed to drain and direct water toward the containment area as is shown by the arrows.

Comment 10 Within Exhibit C, you have stated that if any crushing or screening is found to be necessary or useful, it will be done on an as-needed basis with portable equipment. Additionally, although explosives are not anticipated to be used or considered necessary for

this operation, you have stated that in the unlikely event they are needed, it will be done by a properly licensed contractor. In the event these additional measures are needed, please commit to contacting the Division prior to incorporating them into the mining operation to determine if additional permitting is required.

Response: The permittee will contact DRMS prior to any blasting or operating any crushing processing plants to determine if any additional DRMS permitting is required.

EXHIBIT D – Reclamation Plan (Rule 6.3.4)

Comment 11 Based on the Exhibit E Maps, it appears the access road will be slightly relocated upon completion of the mining and reclamation plans. Please discuss the reclamation details of the original alignment of the access road and provide the approximate acreage of the reclaimed road.

Response: The existing road has been the historical access to the eastern portion of Mr. Brown's property, and he wants to keep it as it is for access to the upper level of his property and to his picnic area. As can be seen in the figures, the lower eastern portion will be removed as grading of the new sloping surface proceeds. Thus, the owner does not intend to reclaim his access road.

EXHIBIT E – Map (Rule 6.3.5)

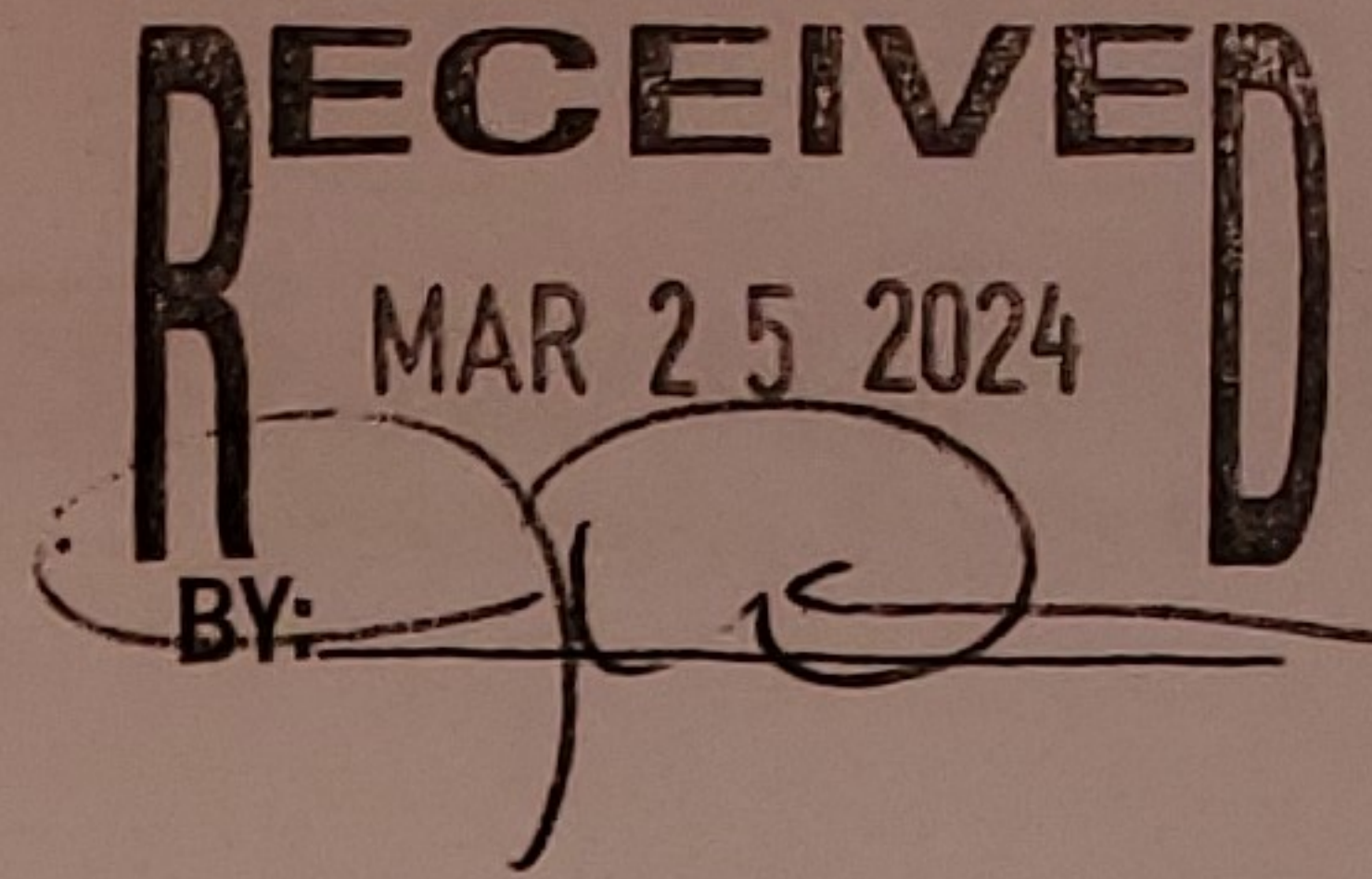
Comment 12 In accordance with Rule 6.3.5(2)(c), please update the Exhibit E Map to include the pit boundary, topsoil stockpiles, product stockpiles, and storm water control features. Additionally, as required by Rule 6.3.5(2)(d), please update the map to also show the direction that construction material extraction will proceed.

Response: The pit boundary and soil stockpile areas have been added to the Exhibit E map. Since the site is not really a construction material extraction site, but instead a development site, the arrows show the direction that leveling will occur from the starter area (not direction of extraction). Remember that much more of the leveling process for this project consists of borrow and fill, and not that much removal. Since there is no product to be stockpiled, no stockpiles are depicted on the map. Per US SCS, the material is described as Rofork very gravelly sandy loam and thus is very porous. The current work area is approximately one half acre. Calculating for infiltration of the 10-year 24-hour storm of 2.47 inches of precipitation, using an SCS Runoff Curve Value (CN) of 0.52, the owner should maintain a containment area having a depth of 1.5 feet and an aerial extent of 50 feet by 60 feet for each acre currently being disturbed. The calculated low area for the current disturbance should have horizontal dimensions of 30 by 50. Since waddles have a very short life in this area due to being consumed by wildlife, they are not recommended unless absolutely necessary, and since silt fences present a hazard to elk and deer, it is not recommended that they be used either unless

necessary for specific protection of property lines and sensitive areas. The operator is committed to using the tools necessary to protect the environment.

Comment 13 Any changes or additions to the application on file with the Division, must also be reflected in the public review copy. Please submit proof that the public review copy has been updated with a copy of the response to this adequacy letter.

Response: The receipt received from the County Clerk is attached.



Memorandum

To: Teller County Clerk and Records Office
101 W. Bennett Avenue
Cripple Creek, Colorado 80813

From: Michael Brown
Wild Cat Claim
289 Highpoint
Divide, Colorado, 80814

Date: _____, 2024

RE: Colorado Division of Reclamation, Mining and Safety (DORMS) - Limited Impact
Operation (110(2)) Application for Public Review

Michael Brown has filed an amended mining and reclamation permit application with the Colorado Division of Reclamation, Mining and Safety (DORMS). Pursuant to the requirements of the Colorado Mined Land Reclamation Act, please place the attached copy of the application somewhere in your office and available for public review if so requested. The document is **NOT TO BE FILED** or recorded and may be disposed of after April 30, 2024. Please call me at (719) 648-5643 if you have any questions regarding this matter.

Sincerely,

Mike Brown



Wild Cat Claim application items M2023031

Art Braun <braunenv@msn.com>

Mon, Mar 25, 2024 at 3:01 PM

To: "Elliott Russell (DNR-DRMS)" <elliott.russell@state.co.us>

Cc: gizzmike@yahoo.com

Elliott,

I believe that we have addressed all of your comments. Attached is a cover letter, a document containing our responses, a revised Exhibit E map, and a receipt from the County Clerk and Recorder's office to prove that the changes have been received at the courthouse.

It strikes me as funny from my vantage point, that the Mr. Brown's neighbors seemed to have had no issue with him building his shop, but as soon as DRMS turned his property into a mine, their opinions changed. It is amazing how the use of a few different words describing exactly the same thing can have such an effect.

Let me know if you need anything else,

Art

3 attachments



240325 Clerk Receipt.pdf

1715K



240325 Response to Elliott Comments.pdf

26K



240325 Responses to DRMS Comments.pdf

65K