



April 24, 2024

Blake Tope
Hill Top Gravel LLC
21225 Scott Rd
Calhan, CO 80808

RE: Simla Highway Pit, File No. M-1995-095, Application for 110 Conversion to a 112c Operation (CN-1), Adequacy Review #2

Dear Blake Tope:

On April 22, 2024, the Division of Reclamation, Mining and Safety (Division) received your adequacy response letter for CN-1 at the Simla Highway Pit, M-1995-095. The Division has reviewed the above referenced adequacy review response letter and material submitted. The following is a list of the adequacy review items from the Division's March 28, 2024, first adequacy review letter followed by the response provided by Hill Top Gravel LLC. If additional information or revision is required, it will be noted. If an item is resolved, that will be indicated.

1. The Division found the application for CN-1 complete on March 11, 2024. Pursuant to Rule 1.6.2(1)(d), upon completeness Hill Top Gravel LLC is required to publish a Public Notice for four consecutive weeks which will initiate a 20-day comment period from the date of the last publication. As of the date of this letter, the Division has yet to receive a proof of publication of the public notice for CN-1. Please provide the Division with a copy of the public notice to ensure that the Public Notice was published as required.
Response: *Proof of publication was provided by Publisher's Affidavit on April 4, 2024, via email. A copy of the Publisher's Affidavit is provided as Attachment 1. Resolved.*
2. Pursuant to Rule 3.1.12(2), boundaries of the affected area will be marked by monuments or other markers that are clearly visible and adequate to delineate such boundaries. Please provide the Division with GPS locations for each of these boundary markers and a .kmz or shape file which outlines the exact permit boundary. **Response:** *The location of the boundary markers are as follows (latitude/longitude):*
NE: 39° 6'13.31"N 104° 5'19.66"W
SE: 39° 5'59.78"N 104° 5'19.93"W
NW: 39° 6'12.68"N 104° 5'36.31"W
SW: 39° 5'59.55"N 104° 5'35.72"W
Please see the attached .kmz file showing the permit boundary markers as Attachment 2. Resolved.

EXHIBIT A – Legal Description



3. Legal Description Maps (A 1-3) only show the currently affected acreage boundary. These maps should be updated to show the entire proposed permit area boundary of 40 acres. **Response:** *Please see the following attached revised maps:*

Attachment 3.1 - Exhibit A(1) - Entrance Map (USGS via Google Earth)

Attachment 3.2 - Exhibit A(2) - Entrance (USGS Quad Map)

Attachment 3.3 - Exhibit A(3) - Entrance Map (Aerial via Google Earth)

Resolved.

EXHIBIT B – Index Map

4. Similar to the above Item No. 4, the submitted Index Maps will need to be updated to show the entirety of the proposed 40 acre permit boundary. **Response:** *Please see the attached revised Index Map as Attachment 4 - Exhibit B(1) - Index Map (USGS Quad Map).* **Resolved.**

EXHIBIT C – Pre-mining and Mining Plan Maps

5. Map C(a), showing all adjoining surface owners of record, is missing from the Application Package. Please provide this map, as referenced in the Exhibit C narrative, to the Division. **Response:** *Please see Attachment 5 - Exhibit C(a) - Adjacent Landowners Map.* **Resolved.**

EXHIBIT D –Mining Plan

6. For the purpose of bonding, the Division requests clarification of the Mining Plan. The Mining Plan repeatedly states that a maximum of 10 acres will be disturbed at any one time throughout the life of mine. It also states that contemporaneous reclamation will occur. Exhibit L states that the submitted bond estimate accounts for a maximum of 15 acres of unreclaimed disturbance at one time. Pursuant to the Division's definitions under Rule 1.1, any acreage which has been affected by the mining operation and/or reclaimed but has not yet been formally released is still considered disturbed acreage and must be appropriately bonded for.
 - a) Considering this definition, how does this change the Operator's commitment to having a maximum of 10 acres of disturbance occurring at one time? **Response:** *Based on the provided definition, Operator understands the disturbed acreage includes not only active mining areas but also areas that have been affected by mining operations and reclaimed, perhaps better termed as affected land, but have not yet been formally released. In essence, while the commitment to limit active disturbance to 10 acres remains, the understanding of what constitutes disturbed (or affected) acreage expands to include areas fully reclaimed but*

where vegetative cover has not yet been fully established. Therefore, the Operator's planning and bonding requirements consider both fully disturbed areas (approximately 10 acres) and areas reclaimed and awaiting vegetative establishment (approximately 5 acres) for a total of 15 acres.

*The operator commits to a maximum of 15 acres of disturbed and/or affected acres at any one time and will ensure that the financial warranty will be adequate to cover this disturbance. Once the operation reaches this size, the financial warranty associated with this acreage will "Float" over this maximum bonded area throughout the life of the mining operation. Lagging acreage that has reached reclamation maturity will be accounted for in the Annual Report and Annual Report Maps. However, at this time, the operator does not plan to request final reclamation liability release for these acres until the entire site has been mined and reclaimed. **Resolved.***

- b) Does the Operator intend to apply for release of fully reclaimed acreage as mining progresses through additional phases? If not, the Division will require the bond amount to include reclamation work (maintenance and revegetation tasks) for all acreage undergoing contemporaneous reclamation until such area has been formally released by the Division. **Response:** *No, however, the Operator will request surety reductions of successfully reclaimed acres as mining progresses throughout additional phases. As these are granted, it will be tracked in the Annual Report and associated maps. **Resolved.***
- c) If the Operator intends to commit to a phased operation and only wishes to be bonded for a portion of those phases at one time, the Division will require a commitment from the Operator to alert the Division when such new phase has been entered by the Operator. Thus, prompting a revaluation of the bond.

Response: *Operator commits to providing proper notice to the Division before moving to any additional phase of mining. **Resolved.***

7. Please give an estimate for the size (in acres) of temporary stormwater impoundment to be constructed at the site. **Response:** *The approximate size of temporary stormwater impoundment to be constructed at the site is a quarter (1/4) of an acre, approximately 100 x 100 feet. **Resolved.***

EXHIBIT E - Reclamation Plan

8. Please provide a signed statement from the landowner(s) which gives approval /

permission for the access road to remain post reclamation. **Response:** *Applicant is also the Landowner and hereby gives permission for the access road to remain post reclamation.* **Resolved.**

EXHIBIT G - Water Information

9. Please provide the Division with a copy of the CDPHE Stormwater Permit referenced in Section 6.4.7(2)(c). **Response:** *The applicant has an active stormwater permit from CDPHE (Permit No. COG 500000) and understand from Division staff that providing the number is sufficient.* **Resolved.**

EXHIBIT N – Source of Legal Right to Enter

10. The El Paso County Assessor (screenshot below) shows that the southeastern corner of the permit boundary is owned by a Morris D. Ververs. Please submit proof that Legal Right of Entry has been obtained from this entity. **Response:** *County GIS maps specify that the data is not guaranteed to be reliable nor is it to be relied upon for legal purposes. Here, the highway follows the section lines and mining will occur only within the Applicant's legal boundaries.* **Resolved.**

EXHIBIT O – Owners of Record of Affected Land (surface Area) and Owners of Substance to be Mined

11. The El Paso County Assessor (screenshot below) shows that the southeastern corner of the permit boundary is owned by a Morris D. Ververs. This entity has already been notified pursuant to Rule 1.6.2(1)(g). However, as an owner of record of affected land, they must also be listed under Exhibit O. Please revise and resubmit Exhibit O with this updated information. **Response:** *County GIS maps specify that the data is not guaranteed to be reliable nor is it to be relied upon for legal purposes. Here, the highway follows the section lines and mining will occur only within the Applicant's legal boundaries.* **Resolved.**

EXHIBIT S - Permanent Man-made Structures

12. The Division was able to locate a previously signed structures agreement for Simla Hwy aka CR 125 but could not locate a structures agreement for the two fence lines south and east of the affected area, owned by West Wood LLC. Although West Wood LLC has given legal right of entry to Hill Top Gravel LLC to conduct mining operations, an agreement still needs to be in place to insure the fence structures owned by West Wood LLC. Please submit a signed structures agreement for the two fence lines with the

submission of your adequacy response. **Response:** *Applicant is also the Landowner and Manager of West Wood, LLC. Resolved.*

EXHIBIT L - Reclamation Costs

13. The Division is currently calculating a reclamation cost estimate for the Simla Highway Pit. This estimate will be provided to Hill Top Gravel LLC upon completion and may be revised based on adequacy responses provided through this review process.

Response: *Applicant has placed a copy of this adequacy review response, with Attachments 1 through 5 identified herein (together, "Amendment"), on file with the El Paso County Clerk and Recorder. Attachment 6 consists of the cover letter to the Clerk and Recorder, together with proof of the Clerk and Recorder's receipt of the Amendment.*

The Division has calculated a reclamation cost estimate for CN-1 based on the above adequacy review responses. A copy of the estimate has been provided with this letter. The Division requests that Hill Top Gravel LLC review this calculation and submit any questions before the application decision date.

This letter shall not be construed to mean that there are no other technical deficiencies in your application. The Division will review your application to determine whether it is adequate to meet the requirements of the Act after submittal of all required items. The Division's proposed decision date for this revision is currently set for June 10, 2024.

If you have any questions, please contact me by email at hunter.ridley@state.co.us or by phone at (720)868-7757.

Sincerely,
Hunter C. Ridley



Environmental Protection Specialist

CC: Zach Trujillo, DRMS