

STATE OF
COLORADO

Zuber - DNR, Rob <rob.zuber@state.co.us>

DRMS adequacy review for Bernhardt

1 message

Zuber - DNR, Rob <rob.zuber@state.co.us>

Thu, Jun 6, 2024 at 10:49 AM

To: Andy Carpenter <acarpenter@wwclyde.net>, JC York <jcyork@j-tconsulting.com>

Good morning, Andy and J.C.

Please see attached. There is one last adequacy item to address - clarification on the Exhibit F maps. Hopefully it will be easy to fix.

Any word from the objectors lately?

Thanks,
Rob

Rob Zuber, P.E.
Environmental Protection Specialist
Active Mines Regulatory Program

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

I am working remotely and can be reached by cell at 720.601.2276.

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M2023025_DRMS Third Adequacy Review.pdf
324K



June 6, 2024

Andy Carpenter
WW Clyde & Company
10303 East Dry Creek Road, #300
Englewood, CO 80112

**Re: Bernhardt Sand and Gravel Pit, File No. M-2023-025,
112c Permit Application, Third Adequacy Review**

Mr. Carpenter:

The Division of Reclamation, Mining and Safety (Division/DRMS) reviewed the contents of the 112c permit application for the Bernhardt Sand and Gravel Pit, File No. M-2023-025, and your responses (letters dated April 8 and May 21, 2024) to our adequacy reviews.

One adequacy item remains to be addressed (**see bold font, Item #17**).

The Division's decision date for this application is set for June 30, 2024. We are working on the reclamation cost estimate and will be in communication regarding that.

Comments

- 1) The Division received comments from three State agencies. The letters from these agencies are included as enclosures with this adequacy review letter. Please review the letters and provide responses accordingly.
 - a. History Colorado
 - b. The Division of Water Resources
 - c. Colorado Parks and Wildlife.

No additional response is required related to History Colorado.



1.6 Public Notice

- 2) Pursuant to Rule 1.6.2(e), please submit proof of the notice to all owners of record of surface and mineral rights of the affected land and the owners of record of all land surface within 200 feet of the boundary of the affected land including all easement holders located on the affected land and 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.

No additional response required.

6.4 Specific Exhibit Requirements - Regular 112 Operations

The following adequacy items must be addressed by the Applicant to satisfy the “Mineral Rules and Regulations of the Mined Land Reclamation Board for the Extraction of Construction Materials.” For items without specific rule citations, the requirement is based on the general intent of the rules, especially Rule 3.1 (Reclamation Performance Standards) and Rule 6.4.

6.4.3 Exhibit C - Pre-Mining and Mining Plan Maps of Affected Land

- 3) The South Platte River must be shown and labeled on maps C-1 and C-2, per Rule 6.4.3(b).

No additional response required.

6.4.4 Exhibit D - Mining Plan

- 4) Please discuss if processing will entail washing of the product and if a pond or ponds will be included in the process area. If so, add a discussion to the text of Exhibit D and to Map C-2.

No additional response required.

- 5) The Mining Plan should state that topsoil should be stripped and salvaged from areas where overburden material will be stockpiled (Rule 3.1.9(1)).

No additional response required.

- 6) Exhibit D needs to include a discussion of stabilization of topsoil stockpiles (Rule 3.1.9(3)).

No additional response required.

- 7) Exhibit D should include a discussion of the structures that will be constructed for the mining operation, including buildings and roads. The discussion must include dimensions and general construction methods. (For example, will foundations include rebar reinforcement?)

No additional response required.

- 8) This exhibit needs to include an appendix that includes a detailed slurry wall design report.

No additional response required.

6.4.5 Exhibit E - Reclamation Plan

- 9) The text states that reclamation will be concurrent with mining. Exhibit E should provide a commitment to a maximum un-reclaimed disturbance area and length of un-reclaimed highwall.

No additional response required.

- 10) The text states that auger holes will not be left on the property. Please clarify if there are/were auger holes and add a discussion on how these holes will be filled or were filled in the past (Rule 3.1.5(6)).

No additional response required.

- 11) The text should state that no structural fill shall be imported from outside the permit area, or the Reclamation Plan must include all of the requirements of Rule 3.1.5(9).

No additional response required.

- 12) The text should state that topsoil will be re-handled as little as possible and that a Technical Revision will be submitted before topsoil stockpiles are relocated (per Rule 3.1.9(4)).

No additional response required.

- 13) The text should state that topsoil will be placed in a way to prevent erosion of this resource (per Rule 3.1.9(5)) and a discussion added regarding the practices to stabilize slopes. One option is to roughen slopes prior to placement of topsoil.
- a. The text for revegetation needs to include details for seed bed preparation and the time of seeding (Rule 6.4.5(2)(f)).

No additional response required.

- 14) The weed control paragraph should reference a more detailed plan in Exhibit J.

No additional response required.

6.4.7 Exhibit G - Water Information

- 15) The text must include a discussion regarding the use of water for processing gravel. If no products will be washed onsite, this should be stated in Exhibit G.

No additional response required.

- 16) The McGrane report and associated conclusions will be reviewed by a groundwater hydrologist with the Division, and an additional adequacy letter will be sent in October or November 2023.

No additional response required.

- 17) To ensure that the Bernhardt Pit does not impact the hydrologic balance of the river, the application needs to include a water quality monitoring plan, specifically for the alluvium. The groundwater monitoring plan should be developed in accordance with Rule 3.1.7(7)(b) and should include a Quality Assurance Project Plan (QAPP) for the collection of groundwater samples. The plan should provide mitigation steps if there is an exceedance at a groundwater or surface water monitoring location. Potential impacts to quality and/or quantity of nearby domestic wells should also be addressed. A copy of the Division's "Groundwater Monitoring and Protection Technical Bulletin" has been included as an enclosure to this letter for your reference.

Maps showing the groundwater drain (including but not limited to Exhibit F) need to clearly show that they will be constructed. The words "if required" must be removed from the maps.

18) For protection of the riverbank, perform one of the following:

1. Revise the extraction and reclamation plans to include a 400-foot setback from the top of the riverbanks to the top of the pit side slope of the planned pit. This size of setback is based on guidance from the Mile High Flood District (MHFD). The document, "Technical Review Guidelines for Gravel Mining and Water Storage Activities Within or Adjacent to 100-year Floodplains," is available upon request. A smaller setback will be considered by the Division if rationale from this guideline (or similar reference) is given.
2. Design inlet and outlet structures (aka, side-channel spillways) that will allow floodwaters to pass through the site with considerably less risk of destroying the banks (aka, riverside berms). The design should include any necessary analysis to illustrate that the structures will prevent the loss of riverside berms during a 100-year flood.
3. Perform an analysis to illustrate that riverside berm failure is unlikely during a 100-year flood event. This analysis should be done using standard methodology, such as a two-dimensional HEC-RAS model.

(If option 2 or 3 is used, be certain to address the comments below regarding setbacks for wildlife protection in your Exhibit H responses.)

One possible option for this application: The 400-foot buffer could be adopted at this time, and a hydrologic analysis or structure design could be performed later, as part of a Technical Revision, to possibly relax this requirement.

No additional response required.

6.4.8 Exhibit H Wildlife Information

19) The applicant must address the comments of the Colorado Parks and Wildlife Division (CPW), which are enclosed with this review letter. Each of the comments must be directly addressed in your response letter, and, as applicable, comments must also be addressed by revising Exhibit H. Where necessary, add commitments for future studies or other actions. Note that CPW recommends a setback from the river of 500 feet. While this would be preferable in the context of wildlife protection, the Division believes that the 400-foot setback described in Exhibit G, above, is sufficient. Please consider the 400-foot option to protect wildlife as well as protect the riverbanks from erosion.

No additional response required.

20) In the body of Exhibit H, the applicant should discuss the presence of (or lack of) critical habitat for such things as elk calving or other activities that require special consideration (per Rule 3.1.8(1)).

No additional response required.

21) In the body of Exhibit H, the applicant should discuss seasonal use of the permit area. For example, is the permit area used for winter habitat by deer or other species? Also, will noise from the operation impact any wildlife? These items are required per Rule 6.4.8(1).

No additional response required.

6.4.10 Exhibit J Vegetation information

22) Per Rule 3.1.10(6), a Weed Management Plan should be included in this exhibit, and it should discuss the list of State of Colorado noxious weeds and should state that List A species will be eradicated, and List B Species will be controlled. The plan should also describe the efforts that will be made to control List C species, including field bindweed, a focus in Weld County.

No additional response required.

6.4.19 Exhibit S - Permanent Man-made Structures

23) The Division requires the Applicant to demonstrate that they attempted to obtain notarized structure agreements with all owners of the structures within 200 feet of the affected area of the proposed mine site, pursuant to Rule 6.4.19. This attempt must be made prior to the Division's consideration of a stability analysis. Please provide this demonstration; this can be in the form of certified mailing receipts or similar documentation.

No additional response required.

6.5 Geotechnical Stability Exhibit

DRMS is reviewing the geotechnical analysis and our comments will be sent in October or November 2023.

No additional response required.

Please be advised that this application for the Bernhardt Sand and Gravel Pit may be deemed inadequate, and the application may be denied unless the above-mentioned adequacy review items are addressed to the satisfaction of the Division. If more time is needed to complete the reply, the Division can grant an extension to the decision date. Also, please allow the Division time to perform another review of your additional responses. This request for an extension must be received no later than the decision date of June 30, 2024.

If you have any questions, please contact me at rob.zuber@state.co.us or (720) 601-2276.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert D. Zuber".

Robert D. Zuber, P.E.

Environmental Protection Specialist

Copied via e-mail: Amy Eschberger, DRMS
J.C. York, P.E., J&T Consulting, Inc.