



July 29, 2024

Mr. Lucas West
Environmental Protection Specialist
Mineral Program
Colorado Division of Reclamation and Mine Safety
lucas.west@state.co.us

Re: Permit No. M-1977-170 Amendment Application (AM-2) Butala Gravel Pit Adequacy Review Response No. 2

Dear Mr. West:

This is Butala Construction Company's (Butala's) response to your Adequacy Review No. 2 letter of July 17, 2024.

Review Item:

1. The revised map C-2 shows the potential mining acreage as 84 acres and the Affected Area/ Permit Boundary as 115 Acres. Our records, derived from approved maps and exhibits included in Amendment 1, indicate that 84 acres is the Permit Boundary, however the maps of Amendment 1 are consistent with the maps for this Amendment. It appears to be a clerical error of Division Records. Please clarify the total Acreage of the Affected Area as well as the DRMS Permit Boundary.

Answer: The potential mining area is 84 acres. The Affected Area is 115 acres and extends beyond the mining area to include stockpiles, processing areas, haul routes, and drainage courses.

Review Item:

2. Depth of mining is increased, please note that if the mining operations expose groundwater without a DWR permit, you must backfill to two feet above the static water level and notify the Division. If mining operations are to proceed below the groundwater level and pumping operations are contemplated the proper DWR permits will be required in addition a Revision to the DRMS Permit.

Answer: As mining increases the depth of the permitted mining area, Butala will comply with Colorado law and obtain all necessary DWR permits required for exposing

groundwater. Butala will also submit any necessary revisions to its DRMS permit to reflect its operations.

Review Item:

3. Copies of the Structure Agreements for Permanent Man-made Structures were provided for structures owned by Charles and Christine Murphy as well as Shandarin and Stephen Mitchell, however those structure agreements were not signed and notarized by the structure owners. Please provide the structure agreements that have been executed by the structure owners. Where such an agreement cannot be reached, the applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation, pursuant to rule 6.4.19(b).

Answer: There are two structures within 200 feet of the Affected Area: a modular office building shown in Chaffee County records as owned by Charles and Christine Murphy ("Murphy Structure"); and a commercial storage building shown in Chaffee County records as owned by Shandarin and Stephen Mitchell ("Mitchell Structure"). Per Rule 6.4.19 (a), a notarized structure agreement for the Murphy Structure is attached.

Butala provided a notarized structure agreement via certified mail to Shandarin and Stephen Mitchell on May 31, 2024 and July 18, 2024. Butala provided the notarized structure agreements to both the physical location of the structure and the owners' address shown in Chaffee County Assessor's records (as shown by the attached certified mail receipts). Butala received no response from the Mitchells for either mailing. The Mitchell Structure appears to be an uninhabited storage structure, and there does not appear to be a dwelling unit on the Mitchell property. As of July 29, 2024, U.S. Postal Service tracking shows the certified mailing number as "undeliverable" to the physical location of the Mitchell Structure.

As Butala has repeatedly attempted to provide the owners of the Mitchell Structure with a notarized structure agreement without response, it appears that Butala is unable to reach an agreement with the owners of the Mitchell Structure. Therefore, pursuant to Rule 6.4.19 (b), Butala submits the attached engineering report demonstrating that the Mitchell Structure shall not be damaged by the activities occurring at the Butala Gravel Pit.

Thank you for your continued assistance with our application process.



Charles L. Kellerman, P.E.
Vice. Pres.
Butala Construction Co.

cc via email: Peter Jaacks, Esq.
Tom Eve

An example Structure Agreement which meets the requirements of the Statutes is shown below.

Structure Agreement

This letter has been provided to you as the owner of a structure on or within two hundred (200) feet of a proposed mine site. The State of Colorado, Division of Reclamation, Mining and Safety ("Division") requires that where a mining operation will adversely affect the stability of any significant, valuable and permanent man-made structure located within two hundred (200) feet of the affected land, the Applicant shall either:

- a) Provide a notarized agreement between the Applicant and the Person(s) having an interest in the structure, that the Applicant is to provide compensation for any damage to the structure; or
- b) Where such an agreement cannot be reached, the Applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or
- c) Where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have "no negative effect" on their utility. (*Construction Materials Rule 6.3.12 and Rule 6.4.19 & Hard Rock/Metal Mining Rule 6.3.12 and Rule 6.4.20*)

The Colorado Mined Land Reclamation Board ("Board") has determined that this form, if properly executed, represents an agreement that complies with Construction Materials Rule 6.3.12(a), Rule 6.4.19(a), and C.R.S. § 34-32.5-115(4)(e) and with Hard Rock/Metal Mining Rule 6.3.12(a), Rule 6.4.20(a), and C.R.S. § 34-32-115(4)(d). This form is for the sole purpose of ensuring compliance with the Rules and Regulations and shall not make the Board or Division a necessary party to any private civil lawsuit to enforce the terms of the agreement or create any enforcement obligations in the Board or the Division.

The following structures are located on or within 200 feet of the proposed affected area:

1. Modular Office Building _____
2. _____
3. _____
4. _____
5. _____

(Please list additional structures on a separate page)

CERTIFICATION

The Applicant, Butala Sand & Gravel Co. (print applicant/company name),
by Charles Kellerman (print representative's name), as Vice Pres. (print
representative's title), does hereby certify that Charles & Christine Murphy (structure owner) shall
be compensated for any damage from the proposed mining operation to the above listed structure(s)
located on or within 200 feet of the proposed affected area described within Exhibit A, of the Reclamation
Permit Application for Butala Sand & Gravel Smeltertown Pit (operation name),
File Number M-1977-170.

*This form has been approved by the Colorado Mined Land Reclamation Board pursuant to its
authority under the Colorado Land Reclamation Act for the Extraction of Construction Materials and
the Colorado Mined Land Reclamation Act for Hard Rock, Metal, and Designated Mining Operations.
Any alteration or modification to this form shall result in voiding this form.*

NOTARY FOR PERMIT APPLICANT

ACKNOWLEDGED BY:

Applicant Charles Kellerman Representative Name CHARLES KELLERMAN
Date 5/30/2024 Title VICE PRES

STATE OF Colorado)
) ss.
COUNTY OF Chaffee)

The foregoing was acknowledged before me this 30 day of May, 2024, by
Charles Kellerman as Vice Pres of Butala Construction

Alisa Burns
Notary Public

My Commission Expires: June 4, 2025

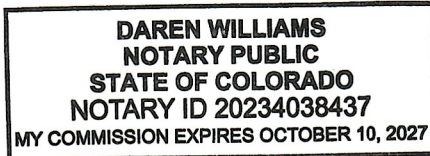
ALISA BURNS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20214021660
MY COMMISSION EXPIRES JUNE 4, 2025

NOTARY FOR STRUCTURE OWNER

ACKNOWLEDGED BY:

Structure Owner Christine J. Murphy Name Christine J. Murphy
Date 6/6/24 Title President, PMS Inc.

STATE OF Colorado)
) ss.
COUNTY OF Chaffee)



The foregoing was acknowledged before me this 6th day of June, 2024, by
Christine J. Murphy as President of Pavement Maintenance Services.

A handwritten signature in blue ink, appearing to read "Daren Williams".

Notary Public

My Commission Expires: October 10, 2027

CERTIFIED MAIL®



9589 0710 5270 1466 7501 54

\$9.92 US POSTAGE
3 OZ FIRST-CLASS MAIL FLATS RATE
ZONE 2
RETAIL

062S0014950406
10675765
FROM 80111



stamps
endicia
05/31/2024

USPS FIRST CLASS MAIL®

BURNS
FIGA & WILL P.C.
6400 S FDL GN CIR
STE 1000
GREENWOOD VILLAGE CO 80111

SHIP TO: SHANDARIN AND STEPHEN MITCHELL
830 W 1ST ST
SALIDA CO 81201-1612

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9414 7112 0620 4790 7298 30

U.S. Postal Service[™]
CERTIFIED MAIL[®] RECEIPT
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For delivery information, visit our website at www.usps.com.

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Certified Mail Fee

\$
Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage

\$
Total Post

\$
Sent To

830 W 1st Street

Street and

Salida, CO 81201

City, State

City, State

City, State

City, State

City, State

City, State

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

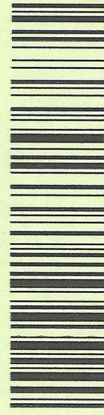
Postmark
Here

Shandarin and Stephen Mitchell

830 W 1st Street

Salida, CO 81201

USPS TRACKING#



9590 9402 3365 7227 9870 70

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4[®] in this box.

Burns, Figa & Will, P.C.
6400 S Fiddlers Green Cir
Suite 1000
Greenwood Village, CO 80111

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9447.0000

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Shandarin and Stephen Mitchell
830 W 1st Street
Salida, CO 81201



9590 9402 3365 7227 9870 70

2. Article Number (Transfer from service label)

9589 0710 5270 1466 7501 54

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Registered Mail Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☒ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery



Shandarin and Stephen Mitchell
830 W 1st St
Salida, Co 81201

May 31, 2024

Dear Shandarin and Stephen Mitchell:

Butala Construction Company (Butala) has submitted a permit amendment for its gravel pit operation near Salida Colorado (Permit No. M-1977-170) to the Colorado Division of Reclamation, Mining and Safety (DRMS). You are receiving this letter because according to Chaffee County real estate records, you own property with a man-made structure within 200 feet of the affected area under Butala's permit amendment.

Under DRMS Rule 6.4.19, Butala is required to provide you with a notarized agreement stating you will be compensated for any damages to your structure from Butala's mining activities. The notarized agreement enclosed with this letter has been approved by the Colorado Mined Land Reclamation Board for this use.

Please contact Butala with any questions.

Charles L. Kellerman

Charles Kellerman
Vice President
Butala Construction Company

An example Structure Agreement which meets the requirements of the Statutes is shown below.

Structure Agreement

This letter has been provided to you as the owner of a structure on or within two hundred (200) feet of a proposed mine site. The State of Colorado, Division of Reclamation, Mining and Safety (“Division”) requires that where a mining operation will adversely affect the stability of any significant, valuable and permanent man-made structure located within two hundred (200) feet of the affected land, the Applicant shall either:

- a) Provide a notarized agreement between the Applicant and the Person(s) having an interest in the structure, that the Applicant is to provide compensation for any damage to the structure; or
- b) Where such an agreement cannot be reached, the Applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or
- c) Where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have “no negative effect” on their utility. (*Construction Materials Rule 6.3.12 and Rule 6.4.19 & Hard Rock/Metal Mining Rule 6.3.12 and Rule 6.4.20*)

The Colorado Mined Land Reclamation Board (“Board”) has determined that this form, if properly executed, represents an agreement that complies with Construction Materials Rule 6.3.12(a), Rule 6.4.19(a), and C.R.S. § 34-32.5-115(4)(e) and with Hard Rock/Metal Mining Rule 6.3.12(a), Rule 6.4.20(a), and C.R.S. § 34-32-115(4)(d). This form is for the sole purpose of ensuring compliance with the Rules and Regulations and shall not make the Board or Division a necessary party to any private civil lawsuit to enforce the terms of the agreement or create any enforcement obligations in the Board or the Division.

The following structures are located on or within 200 feet of the proposed affected area:

1. Commercial Storage Building _____
2. _____
3. _____
4. _____
5. _____

(Please list additional structures on a separate page)

CERTIFICATION

The Applicant, Butala Sand & Gravel Co. (print applicant/company name),
by Charles Kellerman (print representative's name), as Vice Pres. (print
representative's title), does hereby certify that Stephen & Shandarin Mitchell (structure owner) shall
be compensated for any damage from the proposed mining operation to the above listed structure(s)
located on or within 200 feet of the proposed affected area described within Exhibit A, of the Reclamation
Permit Application for Butala Sand & Gravel Smeltertown Pit (operation name),
File Number M-1977-170.

*This form has been approved by the Colorado Mined Land Reclamation Board pursuant to its
authority under the Colorado Land Reclamation Act for the Extraction of Construction Materials and
the Colorado Mined Land Reclamation Act for Hard Rock, Metal, and Designated Mining Operations.
Any alteration or modification to this form shall result in voiding this form.*

NOTARY FOR PERMIT APPLICANT

ACKNOWLEDGED BY:

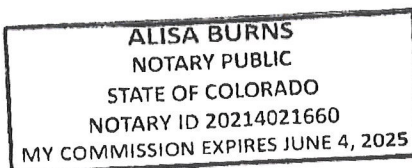
Applicant Charles Kellerman Representative Name CHARLES KELLERMAN
Date 5/30/2024 Title VICE PRES

STATE OF Colorado)
COUNTY OF Chaffee) ss.

The foregoing was acknowledged before me this 30 day of May, 2024, by
Charles Kellerman as Vice Pres. of Butala Construction.

Alisa Burns
Notary Public

My Commission Expires: June 4, 2025



NOTARY FOR STRUCTURE OWNER

ACKNOWLEDGED BY:

Structure Owner _____ Name _____

Date _____ Title _____

STATE OF _____)
) ss.

COUNTY OF _____)

The foregoing was acknowledged before me this ____ day of _____, 20____, by
_____ as _____ of _____.

Notary Public My Commission Expires: _____

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10675765
FROM 80111



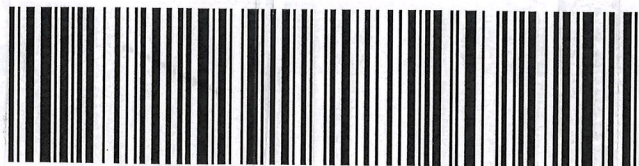
stamps
endicia
07/18/2024

USPS FIRST CLASS MAIL®

BURNS
FIGA & WILL P.C.
6400 S FDL GN CIR
STE 1000
GREENWOOD VILLAGE CO 80111

SHIP TO: SHANDARIN AND STEPHEN MITCHELL
7981 COUNTY ROAD 152
SALIDA CO 81201

USPS CERTIFIED MAIL™

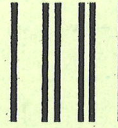


9414 7112 0620 4280 6742 13

USPS TRACKING #



9590 9402 8437 3156 5859 82



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

Burns Figa & Will, PC
6400 S Fiddlers Green Cir
Suite 1000
Greenwood Village, CO 80111

9447.0000

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☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Post

\$

Sent To

Street and

City, State

Shandarin and Stephen Mitchell
7981 County Road 152
Salida, CO 81201

Postmark
Here

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

9589 0710 5270 1466 7502 08



July 29, 2024

Mr. Lucas West
Environmental Protection Specialist
Mineral Program
Colorado Division of Reclamation and Mine Safety
lucas.west@state.co.us

Re: Permit No. M-1977-170 Amendment Application (AM-2) Butala Gravel Pit
Engineering Evaluation: Mitchell Structure - Structural Damage Potential

Dear Mr. West:

This evaluation is provided to supplement the application by Butala Sand and Gravel Co. for amendment to Butala Smeltertown Pit permit, in accordance with Rule 6.4.19(b). This evaluation examines the potential for damage from proposed mining activity to the permanent structure at 7981 CR 152, Salida, CO 81201, owned by Shandarin & Stephen Mitchell.

Refer to Attachment #1 for a plan view of the Mitchell building with relation to Butala's application boundaries. The following elements were considered as possibly effecting the Mitchell's structure:

- Butala mining activity (stockpiles & processing) within 700' proximity of the Mitchell structure has been active and unchanged over the past twenty years without any known influence on the structure. These same activities are proposed for this proximity.
- Mining Excavation – The nearest proposed excavation will be 780' from the structure, well outside the normal application's 200' for considering proximity to man-made structures.
- Heavy Equipment Operations – No heavy equipment is anticipated in the narrow area of Butala property within 200' of the Mitchell property.
- Processing Plant Operations – A non-portable sand washing plant has operated for 20 years at 500' from the Mitchell structure. No changes to this plant are proposed. No other plant operations are proposed any closer to the structure.
- Traffic – Current truck and vehicle mine traffic is minimal near this property. No change to County Road 152 nor onsite traffic will result from future mining activity.
- Drainage - No stormwater nor groundwater from the affected area currently drains near the Mitchell property. Future surface drainage from the South Pit is proposed to pass within 150' of the Mitchell structure. Flows will remain within the affected area and will

be contained within a ditch designed for forecast groundwater and 100-year storm event levels. Additionally, County Road 152 shoulder ditches exist between Butala property and Mitchell property.

None of the above presents an obvious threat for damage to the Mitchell structure and no other mining activity is dynamic enough to be considered for potential damage to the structure. Therefore, this engineering analysis foresees no possible damage to the Mitchell structure resulting from Butala Smelertown Pit activity as proposed in the current permit amendment.



Charles L. Kellerman, P.E.
Vice. Pres.
Butala Construction Co.



cc via email: Peter Jaacks, Esq.
Tom Eve

Attachment #1: Mitchell Property

