

January 9, 2024

Andy Azcarraga  
M.A. Concrete Construction, Inc.  
2323 River Road  
Grand Junction, CO 81505

**RE: Rolling Hills Gravel Pit, File No. M-2023-040 , 112c Construction Materials Application, Adequacy Review-1**

Dear Mr. Azcarraga:

The Division of Reclamation, Mining and Safety (Division) is in the process of reviewing the above referenced application in order to ensure that it adequately satisfies the requirements of the Colorado Land Reclamation Act for the Extraction of Construction Materials (Act) and the associated Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (Rules). During review of the material submitted, the Division determined that the following issue(s) of concern shall be adequately addressed before the application can be considered for approval.

**6.2 General Requirements of Exhibits**

1. Please update the Applicant's name on all maps pursuant to Rule 6.2.1(2)(a).
  - Response: All maps have been updated with the correct name for the applicant.
2. Please ensure that all maps are signed as required by Rule 6.2.1(b).
  - Response:
3. Map C-1 does not meet the scale requirement per Rule 6.2.1(2)(e).
  - C-1 Cover Sheet and Mining Notes replaced with C-1 Pre-Mining/Mining Plan Map at a scale that meets the requirements.

**6.4.1 EXHIBIT A - Legal Description**

4. Pursuant to Rule 6.4.1(1)(a), please provide the quarter-quarter section description of the proposed affected lands location.
  - Response: The quarter-quarter section description has been revised in Exhibit A.
5. Within Exhibit A please provide the street address or lot number.
  - Response: Exhibit A updated to include the street address.
6. Please provide a USGS topographic map depicting the mine site including the main entrance to the mine, per Rule 6.4.1(2).
  - Response: USGS map added as Location Map with mine entrance coordinates.

**6.4.3 EXHIBIT C - Pre-mining and Mining Plan Map(s) of Affected Lands**

7. On all mining maps please bold or change the permit boundary color to make it more distinctive and clearly labeled.
  - Response: Maps updated with red permit boundary.
8. The total affected land is not differentiated from the permit boundary on any maps. Please address Rule 6.4.3(d). Note that the 200 ft buffer should be from the affected lands not the permit boundary.
  - Response: Affected area is shown on the Mining Plan Map and legend. Additional labels added for clarity. The 200-foot buffer line was taken off the map.
9. Map C-1 includes a 'Mining Area Acreage Table', none of the features included in this table are described on the map.
  - Response: Mining Area Acreage Table moved to Exhibit C-1 Pre-Mining/Mining Plan Map.
10. Map C-1 has a table "Structures", but no structures are included on the actual map. The referenced structures are identified on Map C-2. Please include the name and location of all features on one map Pursuant to Rules 6.4.3(b) and (g). It is recommended that this map be separate from the topographic map for legibility.
  - Response: Exhibit C-2 renamed "Existing Conditions Structures Locations", and structures table moved to this exhibit. Contours removed from C-2 for legibility.
11. Please provide vegetation information for the affected lands on a map within Exhibit C per Rule 6.4.3(e).
  - Response: New map C-6 added for vegetation information.
12. Maps C-3 and C-4 include a small key map which includes information pertaining to mining phases. This information should be included as its own stand-alone map and include other key details of the Mining Plan such as stockpile locations, scales, roads, etc.
  - Response: New map added to replace key map, named Exhibit C-3 Cross Sections Locations Map.
13. On the Mine Plan Map please depict the fuel storage location(s).
  - Response: The fuel storage is shown on Exhibit C-1.

#### 6.4.4 EXHIBIT D - Mining Plan

14. Exhibit D-1 is the Mine Plan Map and should be included under Exhibit C, the map section.
  - Response: Exhibit D-1 is changed to Exhibit C-1, renamed Pre-Mining and Mining Plan Map.
15. Please clarify that the total affected land is 83.4 ac while the maximum disturbance at any given time (max reclamation liability) is 19 acres.
  - Response: Clarification added to the Mining Plan.
16. Pursuant to Rule 6.4.4(c) please describe all water diversion and impoundment within Exhibit C or affirm if not applicable.
  - Response: Stormwater runoff will be contained by berms and will infiltrate. There will not be any formalized impoundments on the property. There will not be any water diversion on the property. This

information has been added to the Mining Plan.

17. Most mining phase are broken up into sub-phase, please provide the acres associated with each sub-phases mining area, Rule 6.4.4(e)(ii) and clarify the sequence of each sub-phase within the greater mining phase, Rule 6.4.4(e)(iii).
  - Response: Acres associated with each sub-phase are added to table D-1 in the Mining Plan. The order of mining will be sequential according to the alphabet. Details have been added to Mining Plan.
18. Per 6.4.4(f)(ii) be more descriptive than “bedrock” when describing the nature of the stratum immediately beneath the material to be mined.
  - Response: The stratum immediately beneath the material to be mined is grey Mancos shale. The narrative in the Mining Plan has been updated.
19. Please identify the primary and secondary commodities to be mined per Rule 6.4.4(g). Overburden should be listed as a secondary commodity to be sold (Page 2 Mine Plan).
  - Response: Gravel and sand are the primary commodity to be mined. Overburden is a secondary commodity. Mining Plan revised accordingly.
20. As required by Rule 6.4.4(i) clarify if explosives will be used in conjunction with this mining operation.
  - Response: Explosives will not be used. Mining Plan updated with this information.
21. The mine plan only discusses stockpiling topsoil and overburden from the four mining phases however an additional 11.7 acres will be affected by mining through the creation of roads, stockpile storage and the hot plant area. Will topsoil and overburden from these areas be salvaged? If not provide a justification.
  - Response: Topsoil and overburden from these areas will be salvaged and stockpiled for use in reclamation of stockpile storage and hot plant area. The roads will remain and will not be reclaimed. Mining Plan updated accordingly.
22. In order to import inert material for use as structural backfill please submit an inert fill affidavit per Rule 3.1.5(9). Ensure that all concrete is hardened for at least 60 days and free from any protruding rebar and buried a min of 3 ft from surface.
  - Response: There is sufficient overburden on site for all reclamation slope construction. If structural backfill is required to be imported, the operator will submit an inert fill affidavit to the DRMS.
23. Please designate where imported materials to be reprocessed and sold will be stored.
  - Response: The stockpile area shown on the Pre-Mining/Mining Plan Map is where the imported materials will be stored.
24. Please state the average depth for which topsoil will be salvaged. Section 4 - Topsoil and Overburden Handling indicates that topsoil is 0-3” deep due to the rocky nature of the site. Please commit to segregating and salvaging all available topsoil encountered while mining. The specified depth should correlate to the minimum depth to be replaced stated in the Reclamation Plan.
  - Response: All available topsoil encountered while mining will be segregated and salvaged. The Reclamation Plan has been updated to be consistent.
25. Table D-3 does not clearly demonstrate that sufficient volumes of material will be available for reclamation purposes. Please include other key information like

acreage per phase, stripped volume, replacement depth, required volume for reclamation and any excess volume not required for reclamation (amount eligible to be sold).

- Response: Table D-3 updated has been updated to show the totals of materials movement for the overall project. The approximate import volumes required to achieve reclamation are described in the narrative below the table.

26. Section 5 states that production will occur year-round. Within Exhibit H, both H-1 and H-2 state that activity within 0.25 miles of the Active Bald Eagle site, located within the southwest quadrant, should be limited/avoided from January 1<sup>st</sup> to July 31<sup>st</sup>. Please describe how mining impacts will be mitigated given this guidance, Rule 3.1.8(1).

- Response: Exhibit H-3 has been added to the submittal, showing the 0.25 and 0.5 mile radii from the Active Bald Eagle Nest. No mining areas or affected areas are located with the 0.25 mile radius recommended by the CPW for limited land disturbance. This indicates no mitigation is required. Exhibit H is updated with this information.

27. Will the stormwater berms be removed between mining sub-phases or are they to remain until the completion of the entire mining phase and reclamation commences?

- Response: The stormwater berms will remain in place until reclamation is complete, which will be completed one sub-phase at a time.

28. The mine plan indicates that a hot plant may be used on site. Please provide the details for this activity.

- The description of the hot plant is now added to the mining plan.

29. Confirm that no washing of material will take place on site.

- Response: Yes, confirmation, no washing of material will take place.

30. What is the maximum highwall configuration to be present while mining? Height, length, at 1H:1V slope?

- Response: There is no highwall within the mining or reclamation plan.

#### 6.4.5 EXHIBIT E - Reclamation Plan

31. Topsoil application range cannot be 0 inches. Please state a minimum depth of topsoil to be applied.

- Response: The minimum depth of topsoil application range will be 1". The Reclamation Plan is revised to state the range will be 1-3" applied minimum. The amount of topsoil applied will match the amount salvaged from the site. If the amount salvaged is 0", then at least 1" will be purchased and imported.
- Page 1 of the reclamation plan states "Topsoil material will be spread to provide a minimum depth of four inches." Explain how 4" of topsoil can be applied if 0-3" is salvage? Will you be purchasing and importing soil?
- Response: Revised to state a minimum of 1", and it will be purchased and imported if any areas have a 0" salvage depth.
- Topsoil ranges salvaged and re-applied for reclamation are inconsistent throughout the application. Please ensure consistency, Rule 6.4.5(1) and

(2)(f)(v)

- Response: Revised for consistency.
32. State the minimum depth of overburden to be replaced.
- Response: The minimum depth of overburden to be replaced will be 18". The Reclamation Plan has been revised accordingly.
33. Reclamation Plan states topsoil will be distributed over all affected lands however the Mine Plan does not indicate if topsoil will be stripped from all affected lands prior to disturbances, please ensure consistency between exhibits.
- Response: Topsoil will be stripped from all affected lands prior to disturbance. Reclamation Plan revised accordingly.
34. What is the maximum highwall configuration of 1H: 1V slope in phase 3 that will be reclaimed to a 3H: 1V? Highwall max height, and length? This information will be used in Exhibit L for bonding.
- Response: As the slopes will not be mined steeper than 1H:1V, there will be no highwall during mining or reclamation activities.
35. The reclamation Plan states that Phase 3 reclaimed slopes will be a 3H: 1V. What will the other mining phase slopes be reclaimed to? What is the maximum slope gradient per Rule 6.4.5(2)(f)(i).
- Response: The other mining phases do not include any 3H:1V reclamation slopes. Those areas will have temporary 1H:1V mining slopes in between sub-phases. They will be reclaimed to 2% slopes. This information has been added to the Reclamation Plan.
36. Will the stockpile, scale or hot plant areas require any reclamation or grading?
- Response: No grading, seeding only.
37. The Reclamation Plan states that "all internal site gravel haul road...will be removed" however the Reclamation Plan Map F-1 depicts haul roads remaining and page 3 states they will remain. Please make sure these coincide with each other.
- Response: Reclamation Plan has been revised for clarity. Haul roads will remain.
38. Given that some roads are to remain, please state the total affected land acreage that will require revegetation pursuant to Rule 6.4.5(2)(a).
- Response: The total affected land acreage that will require revegetation is 78.3 acres.
39. The reclamation plan describes applying topsoil, then applying mulch, crimping into place before seeding. This is impractical. Will the mulch be mixed into the soil to provide organic matter rather than to provide erosion control? Clarify the purpose of the mulch being utilized on site.
- Rule 6.4.5(2)(e)(iii) the sequence of reclamation phase described doesn't make sense. Should be grading, overburden replacement, decompaction, topsoil replacement, fertilizer, light disk, seed, then apply mulch.
  - Response: The mulch will be straw mulch, not wood chips. Crimping of straw mulch causes a portion of it to stand up and prevents the straw and seed from blowing away. The sequencing is correct as submitted. Reclamation Plan updated to specify straw mulch.
40. The use of fertilizers is proposed. Has the soil been tested and shown a deficiency? The Division would advise against applications of fertilizers unless soil testing indicates it being necessary.

- Response: Reclamation Plan has been revised to eliminate the reference to use of fertilizers.
- 41. Expand table E-1 to include the mining sub-phases.
  - Response: Table E-1 has been updated to include the mining sub-phases and total timeframes adjusted accordingly.
- 42. Include a description of how the Reclamation Plan will be implemented to meet each applicable requirement of Rule 3.1 per Rule 6.4.5(c).
  - Response: Description added to the Reclamation Plan.

#### 6.4.6 EXHIBIT F - Reclamation Plan Map

- 43. On the reclamation plan map please depict the outline of the affected lands to be reclaimed.
  - Response: Affected area added to Reclamation Plan Map.
- 44. Remove the current topography lines and only depict the proposed land topography where grading will occur. This is to more clearly address Rule 6.4.6(a).
  - Response: Reclamation Plan Map updated accordingly.
- 45. Pursuant to Rule 6.4.6(b), portray the proposed final land use for each portion of the affected lands (Depict the areas where revegetation will occur).
  - Response: Reclamation Plan Map updated accordingly.

#### 6.4.7 EXHIBIT G - Water Information

- 46. Section 2. 3) states that “oats will be immediately watered to provide quick vegetative cover.” Under the reclamation plan it states that no irrigation will occur. Please make these statements coincide.
  - Response: Water will be provided for the cover crop.
  - If the cover crop is to be irrigated what is the estimated volume and source of water to be used? Rule 6.4.7(3) and (4).
  - Response: Basis of assumptions and calculations provided.
- 47. Please identify the source of water to supply the project water needs per Rule 6.4.7(4).
  - Response: The source of water is Whitewater’s pit. And/or Clifton Water.
- 48. Please commit to not spraying topsoil and overburden stockpiles with magnesium chloride as a means of dust suppression. The magnesium chloride could inhibit reclamation success and should be avoided.
  - Response: Magnesium chloride will not be used for dust suppression. Exhibit G has been updated accordingly.

#### 6.4.8 EXHIBIT H - Wildlife Information

- 49. In the letter from CPW (Exhibit H-1) they identify the southwest quadrant of the project area to be within 0.25 miles of an Active Bald Eagle site. Please identify on a map all phases and sub-phases that are within 0.25 miles of the Active Bald Eagle site. Figure 3 of Exhibit H-2 is of insufficient detail to determine the overlap.  
  
Note that Section 3.3 of Exhibit H-2 states that 0.5-mile nest avoidance buffer should be utilized.

- Response: Exhibit H-3 has been added as a map showing the Active Bald Eagle radii and mining phases. As CPW policy of a 0.25 mile radius for limiting surface disturbance is included in their letter, both radii are included on the map.

50. CPW recommends that any surface disturbance should be avoided within 0.25 miles of the Active Bald Eagle site December 1<sup>st</sup> to July 31<sup>st</sup>. The Mine plan indicates that activities will occur year-round, and no mitigations have been made. Section 4.3 of Exhibit H-2 also echoes this avoidance time as a mitigation measure. It continues to expand that vegetation clearing should be limited May 1<sup>st</sup> to July 31<sup>st</sup> for nesting migratory birds. Please commit to avoiding those areas as recommended by CPW.

- Response: All affected areas are outside of the 0.25 mile radius recommended by the CPW. No mitigation measures are needed for the affected areas.

#### 6.4.9 EXHIBIT I - Soils Information

51. The NRCS Wed Soil Survey indicates that though the site is rocky, topsoil may be located up to 5" deep. Please commit to salvaging all topsoil encountered, pursuant to Rule 6.4.9(1).

- Response: The applicant agrees that all topsoil encountered will be salvaged.

#### 6.4.10 EXHIBIT J - Vegetation Information

52. The information provided under Exhibit J-1 is not representative of site conditions. The report appears to be an overly generic ecotype, vegetation composition and soil types identified in the report are not representative of the proposed mine site. Within the report provided by WestWater Engineering (Exhibit H-2) the site is classified as a desert grassland and shrubland made up of primarily Cheatgrass, Annual Wheatgrass, Shadscale Saltbush and Greasewood. This information though generic is representative of the site. Please address all requirements of Rule 6.4.10(1).

- Include quantitate estimates of cover and height for the principal species.
- Describe the relationship between vegetation types and soil.
- Response: Exhibit J has been revised.

53. As required by Rule 6.4.10(2) show the relation of the types of vegetation to existing topography on a map in Exhibit C.

- Response: Exhibit C-6 added to the submittal to illustrate vegetation and existing topography.

#### 6.4.11 EXHIBIT K – Climate

Adequate

#### 6.4.12 EXHIBIT L - Reclamation Costs

54. What equipment is covered under the \$10,000 lump sum for equipment removal. Typically, the Division does not bond for mobile (roadable) equipment. Only demolition of permanent features is bonded for.

- Response: Line item for equipment removal has been removed.

55. The Mining and Reclamation Plans state that 18-24" of overburden will be replaced

while Exhibit L only accounts for 12". Please bond for replacing a minimum of 18" of overburden on all stripped/affected lands.

- Response: Costs have been revised for placing 18" of overburden. , and only 18" of overburden will be placed. Topsoil added as well as final import for both

56. If 19 ac is the maximum disturbance and only 5 acres will be under reclamation the Reclamation Cost Estimate needs to account for reclaiming (including topsoil and overburden replacement) the remaining 14 acres. And secondary seeding for the failure of the 5 ac previously reclaimed.

- Response: Costs are revised accordingly.

57. Phase 3 will have a 3H: 1V highwall remain post reclamation, additionally the active mining highwall will be a1H: 1V. Please include a task for highwall reduction(s) if mining were to cease mid-production. State the maximum highwall configuration(s) that would need to be graded? Provide the maximum grade, height and length for any point during mining.

- Response: as stated in previous responses, a highwall is not part of the mining or reclamation plan. Max mining slope is 1V:1H.

58. Include a reclamation task for decompaction of soils (ripping).

- Response: Task added in the reclamation costs for decompaction.

59. What is the average centroid to centroid haul and/or push distance from the stockpile to placement for overburden and topsoil?

- Response: 2,000 feet

60. The reclamation cost estimate Exhibit L states that 3 inches of topsoil will be replaced. Please use whatever depth is committed to being salvaged (Mine Plan) and reapplied (Rec Plan).

- Response: We have adjusted cost to account for imported topsoil.

#### 6.4.13 EXHIBIT M - Other Permits and Licenses

Adequate

#### 6.4.14 EXHIBIT N - Source of Legal Right to Enter

61. The Sheriff Sale Confirmation Deed states that M & D Enterprises LLC is the owner of the property. No information was provided stating that they are doing business as M. A. Concrete Construction, Inc. Provide documentation of the dba. OR provide Legal Right to Enter per Rule 6.4.14.

- Response: A copy of the Land Lease Agreement between M&D Enterprises and M. A. Concrete Construction, Inc. is included as Exhibit N-2.

#### 6.4.15 EXHIBIT O - Owner(s) of Record of Affected Land (Surface Area) and Owners of Substance to be Mined.

62. According to the Mesa County Assessors website the property is owned by M & D Enterprises, LLC, but not dba M. A. Concrete Construction, Inc. Please provide documentation showing M & D Enterprises LLC's relationship to M. A. Concrete Construction, Inc.

- Response: MA Concrete is a separate entity from M&D Enterprises and was incorrectly listed as "doing business as." This has been revised.



63. Please identify all owners of record within 200 feet of the affected lands. This list should match those who are noticed under Rule 1.6.2(1)(e).

- Response: owners of record within 200 feet are BLM, Mesa County, Whitewater Building Materials, and Mean Kitty Investments. These owners have been added to Exhibit O.

#### 6.4.16 EXHIBIT P - Municipalities Within Two Miles

64. Exhibit A states that in addition to Whitewater, the City of Grand Junction is located within 2 miles. Please update the exhibit.

- Response: Exhibit P has been updated to include City of Grand Junction.

#### 6.4.17 EXHIBIT Q - Proof of Mailing of Notices to Board of County Commissioners and Soil Conservation District

Adequate

#### 6.4.18 EXHIBIT R - Proof of Filing with County Clerk and Recorder

Adequate

#### 6.4.19 EXHIBIT S - Permanent Man-made Structures

65. Structure agreements completed are incorrect. The applicant's name should be listed as M. A. Concrete Construction, Inc. for all applicable sections and the representatives title should be consistent throughout the agreements. Please resubmit the structure agreements.

- Response: Structure agreements are resubmitted.

66. No completed structure agreement was submitted for Black Hills Energy – Gas line. Address the requirements of Rule 6.4.19(a), (b) or (c).

- Response: revised fully executed structure agreements are included in the resubmittal (Exhibit S-2).

67. No completed structure agreement was submitted for Mesa County – Coffman Road. Address the requirements of Rule 6.4.19(a) or (b).

- Response: revised fully executed structure agreement is included in the resubmittal (Exhibit S-4).

#### Public Notice

A copy of the news Paper Publication has been received. Rule 1.6.2(1)(d).

68. The applicant's name listed on the notice sign is incorrect please provide an updated Affidavit of Posting Notice per Rule 1.6.2(1)(b).

- Response: A new sign has been posted with the Applicant's name revised. An updated Affidavit is included.

69. Pursuant to Rule 1.6.2(1)(e) the applicant shall mail or personally serve a copy of the notice in Rule 1.6.2(1)(d) immediately after the first publication to the Owners of Record of surface and mineral rights and to all land surface within 200 feet of the boundary of affected lands.

- Based on your maps it looks like potentially; M and D Enterprises, LLC, BLM, Mesa County, Whitewater Building Materials, and Mean Kitty Investments, LLC should have been noticed.
- Provide the Division with proof that all notices were sent per Rule

January 9, 2024

- 1.6.2(1)(g).
- Given that the normal comment period closes on February 18, 2024, the Division will open a special comment period for those who were not originally notified. The special comment period window will close 20 days after the date of receipt to be consistent with Rule 1.7.1(2)(a).
  - Response: notifications have been mailed to the owners of record. Copies of the signed receipts are included in the response submittal (Addendum 1-Notice Requirements).

Please submit your response(s) to the above listed issue(s) by Friday, February 02, 2024 in order to allow the Division sufficient time for review. Please place a copy of your adequacy response at the County Clerk or Recorder per Rule 1.6.2(2). The decision date for your application is scheduled for February 29, 2024. If any deficiencies remain by the decision due date the Division will deny the application. If additional time is needed to address adequacy issues please request an extension prior to the decision due date.

The Division will continue to review your application and will contact you if additional information is needed. If you require additional information, or have questions or concerns, please feel free to contact me.

Sincerely,

Amy Yeldell  
Environmental Protection Specialist

Ec:  
Travis Marshall, Senior EPS, DRMS  
Ivan Geer, River City Consultants  
Megan Orloff, River City Consultants