



October 25, 2024

Greg Geras  
Asphalt Specialties Co., Inc.  
345 W. 62<sup>nd</sup> Ave.  
Denver, CO 80216

**Re: Marcovich Mining Resource, File No. M-2024-034, Adequacy Review #2**

Dear Mr. Hunt:

The Division of Reclamation, Mining and Safety (Division/DRMS) is reviewing the 112 Construction Materials Reclamation Permit Application package for the Marcovich Mining Resource. The Division sent a preliminary adequacy letter to the applicant on September 9, 2024. After a review of the adequacy responses submitted by Lewicki and Associates on October 8, 2024, the Division and has the following additional questions.

1. Adequacy Response Letter Page 2: The last sentence of the response to the Colorado Parks and Wildlife comments states "Colorado DNR Parks & Wildlife – Mule Deer HPHs. Did you intend to respond to this comment? If so, please submit the complete response to the Division.
2. Adequacy Response Letter Page 5 states, "The operator intends to import backfill material under the same process as the Chavers Resource utilizing the import documents and processes as already approved.

The Marcovich permit area is not an extension of the Chavers Resource mine permit. These are two separate permit areas. Per Rule 3.1.5(9), an operator may backfill structural fill material generated within the MLRB permitted area into an excavated pit within the permit area as provided for in the MLRB Permit. However, if an operator intends to backfill inert structural fill generated outside of the approved permit area, it the Operator's responsibility to provide the Office notice of any proposed backfill activity not identified in the approved reclamation plan. If the operator intends to use backfill material generated outside the permit area, an inert fill application will be required which includes the following information:

- A narrative that describes the approximate location of the proposed activity;
- the approximate volume of inert material to be backfilled;
- a signed affidavit certifying that the material is clean and inert, as defined in Rule 1.1(22); the approximate dates the proposed activity will commence and end, however, such dates shall not be an enforceable condition; an explanation of how the backfilled site will result in a post-mining configuration that is compatible with the approved post-mining land use; and
- a general engineering plan stating how the material will be placed and stabilized in a manner to avoid unacceptable settling and voids.

Please acknowledge the requirement to submit an inert fill application to the Division for the Marcovich permit area prior to importing fill.



**6.4.4 Exhibit D – Mining Plan:**

3. The applicant submitted a revised Map C-3 which shows the topsoil stockpiles along the east side of the permit area. Please revise the text in Exhibit D Section 4 Topsoil and Overburden Handling to reflect this change and submit the revised Exhibit to the Division.
4. Exhibit D Section 5 Site Access states, “the Marcovich Mining Resource will be accessed via two easements to cross agricultural land to the active Chavers Mining Resource.” This is incorrect. Please update the text to state there are three easements to be consistent with Exhibit A and the Map C-1 – Access Map. Please also label the three easements on Map C-1 as described in Exhibit A and resubmit the C-1 map and the revised Exhibit D to the Division.

**6.4.5 Exhibit E – Reclamation Plan:**

5. The Division accepts the insertion of an Alternative Reclamation Plan in Exhibit E Section 2, along with the Alternative Reclamation Plan Map in Exhibit F-3. Please commit to submitting a Technical Revision to change the final size/configuration of the Developed Water Resource and adjacent rangeland areas, if the plan deviates from Exhibit E Table E-1 and Map F-1. Additionally, if the operator chooses to completely backfill the pit, an amendment application will be required to change the primary post mining land use and the reclamation plan.

As noted in #2 above please acknowledge that Per Rule 3.1.5(9), it is the Operator’s responsibility to provide the Office notice of any proposed backfill activity not identified in the approved reclamation plan. If the operator intends to use backfill material generated outside the permit area, an inert fill application will be required for the Marcovich site.

**Exhibit G – Water Information (Rule 6.4.7):**

6. Exhibit G Section 1. General: The applicant states that Billy Mihelich, PE, the district engineer authorized the ditch to be removed by the mining. Please submit evidence of this authorization to the Division.
7. Exhibit G, Section 18. Wetlands. The applicant states the wetlands are limited to a concrete lined ditch and a settling pond at the end of the ditch. Additionally, Map C-1-Access Map does not depict any NWI wetlands. The Division reviewed the NWI online wetland mapper which shows a portion of the proposed access road within a NWI mapped wetland. Per Rule 3.1.6(1)(c) please indicate how the operation will comply with applicable federal and Colorado dredge and fill requirements.
8. Appendix G-2 Groundwater Monitoring Plan (GWMP): In Exhibit G Section 1.2 Monitoring Well Network, the applicant states that 4 monitoring wells (MW-1 through MW-4) have been installed to characterize baseline groundwater conditions at the site. Baseline data for two monitoring wells, MW1 and MW2 were submitted with the GWMP. The Division’s Groundwater Sampling and Analysis Plan Guidance document states that a minimum of three groundwater data points are required to establish groundwater flow direction across the site. The Division acknowledges ASCI’s statement in the GWMP, “additional baseline characterization data will be collected to supplement the current information, the final data set used to characterize baseline groundwater conditions will be finalized prior to commencement of mining related activities that will impact the site.” Please commit to submitting a Baseline Data Summary report as a Technical Revision to the Division, prior to commencement of mining. The Data Summary Report should include all water

quality and water level data collected to date (minimum 5 quarters) for the four monitoring wells, identify any exceedances in Table Value Standards, and provide a rationale for observed exceedances, if possible.

9. Appendix G-3 Dewatering Evaluation Report. The report states, "The model predicts mine dewatering will result in a drawdown of much less than one foot in all directions from the mine faces. The placement of the slurry wall substantially mitigates the effects of dewatering and will substantially reduce the pumping rate required for dry mining. If required, groundwater mounding resulting from the placement of the slurry wall can be mitigated by installing a single drain and associated infiltration gallery." Additionally, the Groundwater Monitoring Plan sets a trigger limit of two (2) feet above the baseline high or two feet below baseline low measurement. Please acknowledge that the Division will require the operator to evaluate the groundwater impacts if the groundwater levels are nearing the trigger points listed in Table 4.1.2 and may require the operator to install a drain and associated infiltration gallery to mitigate the hydrologic impacts. Note, the requirements of the groundwater monitoring plan will continue to apply until final bond release and termination of jurisdiction. Changes to the groundwater monitoring plan will require a Technical Revision to the permit.
10. The Division reviewed the applicant's Reclamation Cost Estimate in Exhibit L and concurs with the \$1,418,253.00 estimate.

This concludes the Division's 2<sup>nd</sup> adequacy review of this application. The Division is required to make an approval or denial decision no later than October 31, 2024; therefore, a response to the following adequacy review concerns should be submitted to the Division as soon as possible. If you are unable to provide satisfactory responses to any inadequacies prior to this date, it will be your responsibility to request an extension of time to allow for continued review of this application.

Please contact me if you have any questions, by telephone at 720-527-1640 or by email at [nikie.gagnon@state.co.us](mailto:nikie.gagnon@state.co.us).

Sincerely,



Nikie Gagnon  
Environmental Protection Specialist

Cc: Ben Miller, Lewicki & Associates  
Jared Ebert, DRMS