

STATE OF
COLORADO

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Nissen Farm Resource AM1 Adequacy Review 1 M2003001

1 message

Gagnon - DNR, Nikie <nikie.gagnon@state.co.us>

Fri, Dec 6, 2024 at 3:44 PM

To: Joel Bolduc <joel.bolduc@burnco.com>, chris.oestreich@burnco.com

Hello.

Please see the attached adequacy review letter for the Nissen Farm Resource amendment application (AM1). Note, the deadlines for issuing a recommendation to the Board are tight on this one. I recommend requesting a 60-day extension to allow time for us to review your responses and meet all the statutory deadlines for the pre-hearing conference and issuing our recommendation to the Board.

Please reach out to me if you have any questions on the adequacy issues.

Kind regards,

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Nikie Gagnon
Environmental Protection Specialist



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

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December 6, 2024

Joel Bolduc
BURNCO Colorado LLC
10100 Dallas St.
Henderson, CO 80640

RE: Nissen Farm Resource, Permit No. M-2003-001, Amendment 1 (AM1), Preliminary Adequacy Review

Dear Mr. Bolduc:

The Colorado Division of Reclamation, Mining and Safety (Division) received the above referenced amendment application (AM1) on October 3, 2024 from Burnco Colorado, LLC. The application was deemed complete and filed for review on October 21, 2024. Pursuant to Rule 1.4 the 90-day decision date for the amendment application is set for January 19, 2025.

The public comment period for this application closed on December 3, 2024. The Division received a timely objection to this application and in accordance with Rule 1.4.9(2)(a) will schedule the consideration of the permit application for a hearing before the Colorado Mined Land Reclamation Board (Board). At this time, the hearing is scheduled to occur during the January 15, 2025 meeting of the Board. Instead of a decision, the Office will issue a recommendation to the Board by December 31, 2025. In accordance with Rule 2.7, the Division will also hold a Pre-hearing Conference. The pre-hearing conference would be scheduled for January 3, 2025. The Division will send a separate notice of the Pre-hearing Conference to the parties.

The Division conducted an inspection of the proposed amendment area on November 20, 2024 and reviewed the information submitted in the application. The Division determined that the following issues of concern shall be adequately addressed prior to issuing a recommendation of approval of the application. The Division requests that BURNCO provide responses to these items as soon as possible to allow the Division adequate time to review the responses before the issuing a recommendation to the Board on December 31, 2024. **Please note, the applicant may request an extension of the decision date to allow additional time to respond to the following adequacy issues. An extension of the decision date would also change the hearing date, the date the Office recommendation will be submitted to the Board, and the date of the pre-hearing conference.**

1. As required by Rule 1.6.2(d) and 1.6.5(2), please submit proof of publication in a newspaper of general circulation in the locality of the proposed mining operation. Proof of publication may consist of either a copy of the last newspaper publication, to include the date published, or a notarized statement from the paper.
2. As required by Rule 1.6.2 (e), please submit Proof of Notice to all Owners of Record of the surface and mineral rights of the affected land and the Owners of Record of all land surface within 200 feet of the boundary of affected land. Proof of Notice may be by submitting return receipts of a Certified mailing or by proof of personal service.



3. The Division received a timely objection letter from Donn and Mary Lee Foster, et.al. Additionally, the Division received an untimely email from Mr. Ben Lobban. The comment letters were sent to BURNCO on December 5, 2024 for your review. Please acknowledge and address the comments noted in the letters and make changes to the application/exhibits as necessary.

Rule 3.1.6 Water – General Requirements

4. Per Rule 3.1.6(3) all surface areas of the affected land, including spoil piles, shall be stabilized and protected so as to effectively control erosion. Please describe the practices that will be employed to minimize wind and water erosion on the stockpiles and berms in the proposed processing area and throughout the mine site.

Rule 6.4.4 Exhibit D – Mining Plan

5. Access to the mine site is currently from the Weld County Parkway on the western side of the permit area. The Mining Plan Map depicts a new entrance from County Road 58 in the southwest corner of the amendment area. Per Rule 6.4.4(i) please update Exhibit D and describe any existing or proposed roads that will be used for the mining operation and describe any improvements necessary on existing roads and the specifications to be used in the construction of new roads.
6. The Mining Plan states material mined will be transported by conveyor or haul truck to the processing area in the amendment area. This will require crossing an irrigation ditch owned by the Plumb Irrigation Company. Please update the mine plan to describe any necessary improvements to the existing gravel road along the west side of the amendment area and the bridge crossing the ditch.
7. Based on observations during the inspection, wash water for the processing area is currently recycled through ponds adjacent to the processing area. The application states “the amendment area will become the location of the gravel processing area”. Per Rule 6.4.4(c), please describe and depict on the Mine Plan Map all water diversions and/or impoundments that will be constructed to process material in the amendment area.

Rule 6.4.7 Exhibit G – Water Information

8. The Plumb Ditch flows through the north end of the amendment area. Per Rule 6.4.7(c), please describe how water from the processing operation, or runoff from disturbed areas, piled material and operating surfaces will be managed to protect against pollution of the ditch.

Rule 6.4.14 Exhibit N – Source of Legal Right to Enter

9. The applicant provided evidence of a legal right to enter the Tricycle Lane property, however, according to the Weld County assessor data, the road along the west side of the amendment area is located on the adjacent parcel owned by Richard Borys. Per Rule 6.4.14, please submit evidence of right to enter from the adjacent landowner for the road on the west side of the permit area. This may include a copy of a lease, deed, abstract of title, a current tax receipt, or a signed statement by the Landowner and acknowledged by a Notary Public stating that the Operator/Applicant has legal right to enter to conduct mining and reclamation.

Rule 6.4.19 Exhibit S – Permanent Man-Made Structures

Where the affected lands are within two hundred (200) feet of any significant, valuable, and permanent man-made structure, the applicant shall provide a notarized agreement between the applicant and the person(s) having an interest in the structure. Please submit structure agreements for the following structures observed during the inspection:

- a. Weld County Road 58;
 - b. fence along the eastern side of the permit area;
 - c. natural gas line on the south side of the permit area;
 - d. utility lines along CR 58;
 - e. concrete irrigation channel along the south side of the permit area;
 - f. Plumb Ditch on the north side of the property.
10. During the inspection, the Division observed a dirt access road running east/west across the Tricycle Property to an adjacent property east of the proposed amendment area. Additionally, Mr. and Mrs. Foster, the adjacent landowners, submitted a comment regarding this road. Is there an easement or access agreement for this road? Please update the mining and reclamation plan and maps to show the road if it will be preserved and maintained, or if any alignment changes are proposed. If the road is a permanent structure, required to be maintained, please submit a structure agreement.
11. Based on recent Google imagery (September 2024), several residences on the south side of CR 58 appear to be within 200 feet of the southern permit boundary. Please submit structure agreements for any residential structures that are within 200 feet of the proposed permit boundary.

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 at nikie.gagnon@state.co.us or by phone at 720-527-1640.

Sincerely,



Nikie Gagnon
Environmental Protection Specialist

Cc: Jared Ebert, Senior EPS, DRMS
Chris Oestreich, BURNCO Colorado