



STATE OF
COLORADO

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

Comment Letter for Ft. Lupton Amendment M-1999-120

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

Wed, Jan 29, 2025 at 3:54 PM

To: Lynn Mayer Shults <lmshults@lgeverist.com>, "Environment, Inc." <environment-inc@startmail.com>

Hi Lynn.

Please see the attached comment letter submitted to the Division on the Ft Lupton Sand and Gravel Amendment (AM3).

The comment period closes at the end of the day. I will include this comment in the adequacy letter for you to address.

Kind regards,

Nikie Gagnon
Environmental Protection Specialist



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

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20250129 Comments on DRMS Notice Permit No. M-1999-120.pdf

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January 29, 2025

Division of Reclamation, Mining, and Safety
1313 Sherman Street, Room 215
Denver, CO 80203

EMAIL: nikie.gagnon@state.co.us

Re: Response to Notice of Application Amendment Filing for a Regular (112) Construction Materials Reclamation Permit – Fort Lupton Sand and Gravel, DRMS # M-1999-120

This firm represents the Platte Valley Irrigation Company (“PVIC”). PVIC acknowledges receipt of notice dated December 19, 2024, from L.G. Everist, Inc. (“LGE”), regarding the above referenced matter. PVIC appreciates the opportunity to provide the following information in response to LGE’s notice and to provide the Division of Reclamation, Mining, and Safety (“DRMS”) context and clarification on PVIC’s interest in this matter.

PVIC is a Colorado mutual ditch company which was formed in 1883. PVIC’s primary purpose is to deliver to its shareholders water rights decreed to the Platte Valley Canal and the Evans No. 2 Ditch, as well as contract water rights from the Northern Colorado Water Conservancy District (“Northern”) pursuant to PVIC’s allotment contract with Northern for acre-feet from the Colorado – Big Thompson project (“CBT Project”).

While the diversion point and conveyance infrastructure for PVIC’s decreed water rights are located outside both the existing permit boundaries under DRMS # M-1999-120 and the boundaries proposed in LGE’s notice, PVIC’s CBT Project contract water rights are conveyed through Northern’s South Platte Supply Canal, which diverts such contract water rights from Boulder Creek through the Lower Boulder Ditch headgate, and then conveys them through the Lower Boulder Ditch and the Coal Ridge Ditch to Sand Hill Lake (located on Exhibit B to LGE’s notice, just to the west of the North Area, and the proposed Northeast and Northwest Areas, along where WCR 18 would bisect the Lake if extended from east to west).

Pursuant to that certain 1954 Agreement between Northern and PVIC, PVIC constructed the expanded Sand Hill Lake and its outlet works, through which CBT Project contract water rights are delivered into an outlet ditch that carries such water to the South Platte River along WCR 18 on its northern side through the proposed Northwest Area and the North Area (“Outlet Ditch”). Northern and PVIC each have separate and independent property interests in and to the Outlet Ditch and its appurtenant easement through the proposed Northwest Area and the North Area, and PVIC, by and through the 1954 Agreement, has a contractual obligation to operate, maintain, repair, and replace the Outlet Ditch (among its other O&M obligations for the associated water storage and delivery infrastructure as defined therein).

While PVIC does not oppose LGE’s proposed amendment to its current permit sought herein, PVIC requests that DRMS condition any such permit amendment approval on terms and conditions to be negotiated by and between LGE and PVIC that would fully protect PVIC’s real

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property interests prior to commencement of the permitted mining operations in the Northwest Area adjacent to the Outlet Ditch.

Additionally, PVIC is aware that post-mining, LGE intends to develop lined water storage reservoirs on one or more of the subject parcels. Again, PVIC does not oppose such post-mining land use but requests that DRMS condition any such permit amendment approval on terms and conditions to be negotiated by and between LGE and PVIC that would fully protect PVIC's real property interests from any approved post-mining operations in the Northwest Area adjacent to the Outlet Ditch.

PVIC does not submit any additional response at this time, but reserves its right to supplement its response as this application progresses through the DRMS permitting process

PVIC has consulted with Northern related to the above referenced matter but is not authorized to state anything on Northern's behalf at this time.

Please let us know if further documentation or a meeting would be beneficial to address this in greater detail.

For any additional information or clarification, please contact me a 303-588-2012 or sholwick@lyonsgaddis.com.

Sincerely,

Scott E. Holwick

SEH

cc: Kevin Schmidt, President, Platte Valley Irrigation Company, via email
Tami Sullivan, Secretary, Platte Valley Irrigation Company, via email
Jim Struble, Real Estate/Security & Emergency Department Manager, Northern
Colorado Water Conservancy District, via email