

STATE OF  
COLORADO

Gagnon - DNR, Nikie &lt;nikie.gagnon@state.co.us&gt;

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## Fort Lupton AM3 Preliminary Adequacy Letter

1 message

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

Wed, Feb 5, 2025 at 1:56 PM

To: Lynn Mayer Shults &lt;lmshults@lgeverist.com&gt;, "Environment, Inc." &lt;environment-inc@startmail.com&gt;

Hello.

Please see the attached adequacy letter for the Fort Lupton Sand and Gravel Mine Amendment 3.

Let me know if you have any questions.

Kind regards,

**Nikie Gagnon**  
Environmental Protection Specialist**COLORADO**  
Division of Reclamation,  
Mining and Safety  
Department of Natural Resources

Cell: 720.527.1640

Physical: 1313 Sherman Street, Room 215, Denver, CO 80203

**Address for FedEx, UPS, or hand delivery:**

DRMS Room 215, 1001 E 62nd Ave, Denver, CO 80216

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### 5 attachments

**M1999120\_AM3\_Adequacy Letter 1.pdf**  
271K**Bachofer Comments on Permit No. M-1999-120.pdf**  
108K**PVIC Comments on Permit No. M-1999-120.pdf**  
207K**M-19999-120 Ft. Lupton Sand and Gravel Mine AM3 - DWR Comments.pdf**  
124K**DRMS\_Floodplain-Protection-Standards\_FINAL\_15February2024 (4).pdf**  
555K



February 5, 2025

Lynn Shults  
L.G. Everist, Inc  
7321 E. 88<sup>th</sup> Ave. Suite 200  
Henderson, CO 80640

Re: Fort Lupton Sand and Gravel Mine, Permit No. M-1999-120; L.G. Everist, Incorporated;  
Amendment 03 Preliminary Adequacy Review

Dear Ms. Shults:

On November 22, 2024, the Division of Reclamation, Mining and Safety (Division/DRMS) received an Amendment application (AM-3) for the above referenced permit. The application was deemed complete on December 11, 2024. A pre-operation inspection of the proposed mine site was conducted on January 28, 2025. The Division completed its preliminary adequacy review of the amendment application and determined the following items must be addressed and or received before the Division can consider approval of the amendment.

The review consisted of comparing the application content with specific requirements of Rules 1.6.2, 1.6.5, 1.10, 3.1, 6.1, 6.2, 6.4 and 6.5 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials. Any inadequacies are identified under the respective exhibit heading along with the suggested corrective actions.

### **Application**

#### **Item 13 – Primary present land use**

1. The Applicant selected Developed Water Resources as the present land use. This is not correct. According to Exhibit J, the current land use of the northern and southern areas is pastureland. Please correct Page 4 of the application and resubmit the page.

### **Notice Requirements**

2. 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.
3. 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.



### **Public Comments (Rule 1.7.1)**

4. The public comment period for this application closed on January 29, 2025, 20 days after the last date for the newspaper publication. The Division received timely comment letters from the Division of Water Resources, one adjacent landowner, and the Platte Valley Irrigation Company. The comment letters are attached for your review. Please acknowledge and address the comments noted in the letters and make changes to the application/exhibits as necessary.

### **6.4 Specific Exhibit Requirements - Regular 112 Operations**

The following items must be addressed by the Applicant to satisfy the requirements of C.R.S. 34-32.5-101 et seq. and the Mineral Rules and Regulations of the Mined Land Reclamation Board:

#### **6.4.3 Exhibit C – Pre-Mining and Mining Plan Map(s) of Affected Lands**

5. The adjacent NCCI Mine (M2001-107), operated by Northern Colorado Constructors, recently installed a French drain east of the Northwest amendment area. Please show this feature on the C-2 Structures Map.

#### **6.4.4 Exhibit D - Mining Plan**

6. Existing Conditions. In the first paragraph, the Applicant states that the future intent is to eventually remove the southern area from this permit into a new application that is being prepared. Per Rule 6.4.4 please discuss the timeline for submitting the new application and mining the south end of the current permit area.
7. River Setback and Bank Armoring. The Applicant states the South Platte River is within 400 feet of the mining area along the east sides of the Northeast Phases 1 and 3 in the amendment area and the slurry wall will be installed at least 200 feet from the edge of the river. The proposed mining setback is 275 feet from the riverbank. Based on Table 1 in the Division's 2024 Floodplain Protection Standards for Sand and Gravel Pits (attached), the standard setback is 400 feet where no pitside bank or riverbank protection is required, and 300 feet is the minimum setback for pit side armoring only. The Applicant proposes to armor approximately 2000 feet of the pit side bank in the two areas, however, the Division recommends moving the mining setback to 300 feet along the eastern perimeter, if no armoring of the riverbank is allowed/proposed.
8. Northwest Phase. The Mining Plan states that the Northwest Phase is broken into 3 use areas, farm yard with a house, wetland/creek area and agricultural production. Mining will take place in the yard and agricultural area. During the pre-operation inspection, the Division observed a large wetland in the proposed amendment area associated with Little Dry Creek. Please describe how the mining operation will be conducted in this phase and discuss how the operation will avoid impacts to the wetland and associated Little Dry Creek.

#### 6.4.5 Exhibit E - Reclamation Plan

9. Inert Fill. On Page 11 of the Reclamation Plan, the Operator states that some inert fill may be imported for recycling and resale or in rare cases for reclamation purposes, specifically bank sloping and buried in bank areas around the lakes. Per Rule 3.1.5(9), if an operator intends to backfill inert structural fill generated outside the approved permit area, the Operator shall submit a Notice to the Office which includes the approximate volume of inert material to be backfilled, a general engineering plan stating how the material will be placed and stabilized, and the approximate dates of activity. The Inert Fill Notice included as an appendix to the application generally answers these questions, however, please commit to submitting a Notice to the Office that meets Rule 3.1.5(9), and provide more specifics, if the reclamation plan is altered to include backfilling large areas within any mining pits.

#### 6.4.7 Exhibit G - Water Information

10. Potential Water Resource Impacts. The Mining Plan states that nineteen of the twenty mined areas in the permit area will be sealed with either a slurry wall or clay liner and developed into a series of water storage reservoirs ranging from 10 to 70 acres. Currently, slurry walls have been installed around 5 mined areas and six areas that were previously released from the permit. Once this site is fully developed, approximately two miles of slurry walls will be installed adjacent to the South Platte River under this permit alone.

In Exhibit G, the Applicant refers to a 2004 groundwater study that was conducted for Amendment 1 for the existing permit area. However, a significant amount of mining has occurred in this region over the past twenty years. The adjacent NCCI Pit #1 (M2001-107), operated by Northern Colorado Constructors, recently installed a slurry wall between the northwest and northeast Ft. Lupton proposed amendment areas, and the operator has informed the Division they will be submitting an amendment to add another lined storage facility to the north. It is important to note that there are three residences between the NCCI Pit and the proposed northeast amendment area. Additionally, Burnco operates the Inouye Gravel Mine, south of the Ft. Lupton permit area, which is approved for three lined reservoirs.

Per Rule 3.1.6, please submit a new groundwater study and model that demonstrates disturbances to the prevailing hydrologic balance of the affected land and of the surrounding area will be minimized both during and after mining operations and during reclamation activities. The study needs to include the proposed developed water resources and those developed water resource structures, approved and proposed, located immediately adjacent to the proposed amendment area. Included in the submittal shall be a demonstration of the effectiveness of any proposed mitigation measures.

Please note in certain areas of the South Platte River Basin, staff of the Division of Water Resources has observed groundwater problems that appear to be related to the lining of gravel pits located near streams, and in particular, these problems occur when multiple liners are located adjacent to each other. The Division of Water Resources requests operators consider

the siting and design of lined gravel pits to ensure that they will not individually, or cumulatively, result in impacts to the timing and quantity of groundwater flow from upgradient locations back to the stream system. In addition to impacts to property, such as flooding upgradient and reduced water levels downgradient of the liner, there are decrees of the court that specify the timing, quantity and amount of water depleted from the streams by wells and accreted to the stream through recharge operations. The installation of a gravel pit liner should not result in changes to the timing, location, and amount of such groundwater flow.

11. Ground Water Wells. The text states that 4 additional groundwater monitoring/water quality monitoring wells around the Northeast and the Northwest Phases were installed and data collection began in the first quarter of 2024. Please submit 5 quarters of baseline data for wells MW-02n, MW-01n, MW-03n, and MW-04n to the Division for review. If five quarters of data is not available prior to the decision on this application, please commit to submitting the baseline data in a Technical Revision prior to any mining disturbance in the amendment areas.

#### **6.4.13 Exhibit M - Other Permit and Licenses**

12. Please commit to providing copies of all required and approved permits and licenses to the Division when available.

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

13. Please provide an affidavit or receipt indicating the date on which the revised application information required to address this adequacy letter was placed with the Weld County Clerk and Recorder for public review, pursuant to Subparagraph 1.6.2(1)(c).

#### **6.4.19 Exhibit S - Permanent Man-made Structures**

The Division will require the Applicant to demonstrate they attempted to obtain notarized structure agreements with all owners of the structures within 200 feet of the affected area of the proposed mine site, pursuant to Rule 6.4.19, prior to the Division's consideration of a stability analysis.

14. Please provide the Division with copies of all signed structure agreements with the owners of permanent man-made structures within 200 feet the proposed affected area boundary.
15. Please obtain and submit a structure agreement for the Outlet Ditch in the Northwest Amendment Area, referenced in the comment letter sent to the Division from Lyon Gaddis, representing the Platte Valley Irrigation Company.
16. The adjacent NCCI Mine (M2001-107), operated by Northern Colorado Constructors, recently installed a French drain east of the Northwest amendment area. If the drain is within 200 feet of the permit area, please submit a structure agreement for this feature.

17. If the Applicant is unable to obtain notarized structure agreements with all owners, per Rule 6.4.19(b), please submit an engineering evaluation that demonstrates that the structures within 200 feet shall not be damaged by the activities occurring at the mining operation.

This concludes the Division's preliminary adequacy review of this application. The Division continues to review the application and may send additional adequacy review letters. Please note that the decision date for this application is **March 11, 2025**. Please allow the Division sufficient time to perform another review of your responses prior to this date. If you are unable to provide satisfactory responses to any inadequacies, it will be your responsibility to request an extension of time to allow for continued review of this application.

If you have any questions, please contact me 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

*Enclosures:* DWR Comment Letter  
Michael Bachofer Comment Letter  
Lyons Gaddis for PVIC Comment Letter  
DRMS Floodplain Protection Standards for Sand and Gravel Pits

Ec: Stevan O'Brian, Environment Inc  
Jared Ebert, DRMS