



STATE OF
COLORADO

Girardi - DNR, Chris <chris.girardi@state.co.us>

Farmers Sand 112c Permit Application- Division's Rationale Document

1 message

Girardi - DNR, Chris <chris.girardi@state.co.us>

Fri, Jun 13, 2025 at 3:01 PM

To: scott <scott@farmersres.com>

Cc: Jared Ebert - DNR <jared.ebert@state.co.us>, Russ Means - DNR <russ.means@state.co.us>, "Scott Schultz (He/Him)" <scott.schultz@coag.gov>, Jeff Fugate <jeff.fugate@coag.gov>, Charles Kooyman <charles.kooyman@coag.gov>

Good afternoon,

Please see the attached Division's Rationale for Recommendation for Approval for the Farmers Sand permit application, file number M-2024-057. A Notice for the Pre-hearing Conference and Formal Board Hearing has already been sent. Please feel free to contact me if you have any questions.

Sincerely,

Chris Girardi

Environmental Protection Specialist Intern



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

P: (720) 793-3041

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

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

chris.girardi@state.us.co | <https://drms.colorado.gov/>



FarmersSandMiltonRes_DivisionsRationaleDocument.pdf
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June 13, 2025

Scott Edgar
The Farmers Reservoir and Irrigation Company
80 South 27th Avenue
Brighton, CO 80601

**Re: Division's Rationale for Recommendation for Approval of a Construction Materials 112c Application with Objections,
The Farmers Reservoir and Irrigation Company, LLC, Farmers Sand Project, File No. M-2024-057**

Introduction

On June 13, 2025, the Division of Reclamation, Mining, and Safety ("Division" or "DRMS") issued a recommendation to approve the Applicant's 112c Construction Materials Permit Application for the Farmers Sand, File No. M-2024-057, over public objections. The Division's rationale document is intended to explain the process by which the Division arrived at its recommendation for approval and respond to the issues raised by the objecting parties. The Division reserves the right to further supplement, amend, or modify, or clarify this document and recommendation with additional details as necessary.¹

Summary of the Review Process for the Operator's Permit Application

The Farmers Reservoir and Irrigation Company, LLC ("FRICO") submitted a 112c construction materials application to the Division on November 12, 2024. The permit application was deemed complete by the Division for the purposed of filing and review on December 16, 2024.

FRICO's permit application is for a construction materials mining operation using a dredge to mine sediments located at the bottom of the Milton Reservoir. The site is proposed to have a permit acreage of 2497 acres, and an affected acreage of 1080 acres with approximately 399 acres of surface disturbance and 681 acres of exposed surface water. The anticipated timeline to complete mining and reclamation is approximately twenty (20) years. The Applicant

¹ Herein, all references to the Act and Rules refer to the Colorado Land Reclamation Act for the Extraction of Construction Materials, 34-32.5-101 *et seq.*, C.R.S. (the Act), and to the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (the Rules or Rule). Copy of the Act and Rules are available through the Division's web site at <https://drms.colorado.gov/rules-and-regulations>.



proposes to use a series of Settling Ponds and a Cyclone to dewater and filter out undesirable product grain sizes before stockpiling the desired sand into several stockpiles, which will then be sold and hauled offsite.

Pursuant to C.R.S Section 34-32.5-112(9)(b) and Rule 1.6.5, the Applicant published the required public notice for the permit application once a week for four consecutive weeks beginning on January 25, 2025, with the last date of publication on February 15, 2025. The public comment period closed on March 7, 2025. The public notices were published in the Greeley Tribune, a publication in general circulation in the vicinity of the proposed permit area. During the public comment period, thirty-three (33) timely objections were received, the majority of which by landowners in the adjacent subdivision collectively known as Beebe Draw Farms. Agency Comments were received by the Division from Colorado Parks and Wildlife ("CPW") and the Division of Water Resources ("DWR").

Timely Letters of Objection to the Permit Application:

Person or Entity	Date Objection Received
Crystal Clark	1/26/2025
Kim Coleman	1/28/2025
Tony Courson	1/31/2025
MaryJo Farrell	2/9/2025
Kim Coleman	2/27/2025
Ryan Lovato	2/27/2025
Brittany Lovato	2/27/2025
Gail Lynn	2/27/2025
Callie Megel	2/28/2025
Kelley Trujillo	2/28/2025
Jonie Nordhausen	3/2/2025
Brett Trujillo	3/4/2025
Brenda Lewis	3/4/2025
Teresa Hagan	3/4/2025
Lavada Sarchet	3/4/2025
Bill Caldwell	3/4/2025
Judy Tunis	3/5/2025
Colleen and Brian Reichert	3/5/2025
Linda Black	3/5/2025

Tami Arnold	3/5/2025
Bill Caldwell	3/5/2025
Diane Norgren	3/5/2025
Patrick Powers	3/5/2025
Lauren Chumley	3/5/2025
Beverly Van Vactor	3/5/2025
Brian Reichert	3/6/2025
Jason Arkulari	3/6/2025
James Denham	3/6/2025
Michael Gutierrez	3/7/2025
Heather Gutierrez	3/7/2025
Christina Adeboye Sullivan	3/7/2025
Olusegun Adeboye	3/7/2025
Kim Coleman	3/7/2025

Timely Commenting Agencies:

Agency	Date Comment Received
Division of Water Resources	January 9, 2025, and January 23, 2025
Colorado Parks and Wildlife	January 4, 2025, and May 6, 2025

The Division forwarded copies of the objections to the Applicant and scheduled the permit application for a Pre-hearing Conference and a hearing before the Colorado Mined Land Reclamation Board ("Board"). The Division provided notice of the scheduled Pre-hearing Conference and Board to all parties and interested persons. As a result of the timely objections received, the Division cannot procedurally render any final decision regarding the application but rather makes a "recommendation" to the Board.

During the application review period, the Division generated three adequacy letters. The Applicant addressed all adequacy issues to the Division's satisfaction, pertaining primarily to the characterization of the dredged sediments, wildlife concerns, legal right of entry, stockpile stabilization, salvaging of topsoil, water diversion structures, and maps. Therefore, on June 13, 2025, the Division determined that the permit application satisfied the requirements of C.R.S. 34-32.5-115(2) and issued its recommendation to the Board to approve the permit application over objections.

Issues Raised by the Objecting Parties:

Jurisdictional Items Raised by the Objecting Parties:

a. Concerns regarding wildlife impacts, including the proposed installation of a sand processing plant in the future (9)

The Division provided CPW the opportunity to provide feedback and any concerns regarding the application. The Applicant proposed to install a sand processing plant to be located to the southwest of Milton Reservoir. During the Division's Preliminary Adequacy Review Letter (dated February 4, 2025), the Division requested that the Applicant commit to submitting and obtaining approval of a Technical Revision to the permit in the future and prior to the installation of a sand processing plant, as the Applicant indicated that the final design of the plant has not been finalized. CPW's initial comment letter regarding the application (dated January 4, 2025), raised concerns about a future sand plant due to its close proximity and potential disruption to current and historic bald eagle nests, waterbird nesting areas, and the American white pelican nesting colony site along the northwest and western shorelines of Milton Reservoir.

In response to CPW's concerns, the Applicant provided a Technical Memorandum to address these concerns. The Applicant used Species Activity Mapping ("SAM") to identify buffer zones for wildlife species. Based on the Applicant's SAM, some of the affected land areas intersect with these buffer zones. The Applicant has committed to conducting nest surveys prior to vegetation removal. The Applicant has also committed to avoiding disturbance to active nests and not conducting new surface disturbance beyond existing operations during the active nesting season. In addition, CPW's buffer protocols allow for operations that have historically occurred to continue, which includes the In-Reservoir Settling Ponds, South Settling Ponds, Stockpile 1, and West Stockpile. The Applicant's proposed future sand processing plant is located outside of the buffer zones. The Applicant has stated that observations from 2021 to the present have shown that the great blue heron and white pelican nesting areas have remained during dredging operations. The Applicant has been approved for a United States Fish and Wildlife Service incidental take permit for Bald Eagles. After CPW's review of the Applicant's Technical Memorandum, CPW stated their concerns were addressed and had no further questions or comments.

The Applicant provided the information required by Rule 6.4.8, including a description of wildlife resources within the affected land, seasonal use of the area, threatened and endangered species within the affected area, and an evaluation of the impact on wildlife both during and after the proposed operation. The Division and CPW reviewed the

Applicant's analysis of the wildlife impact and mitigation measures and finds the operation complies with Rule 3.1.8.

b. Concerns regarding water quality and pollution from the dredged sediment (9)

In the Preliminary Adequacy Review Letter, the Division requested characterization of the material dredged from Milton Reservoir. In response to the Division's request to characterize the nature of the dredged material, the Applicant collected sediment samples from existing stockpiles, Lake Christina (located northeast of the affected area), and the North Settling Basin in February and March of 2025.

Samples were analyzed for RCRA 8 Metals, Semi-volatile Organic Compounds ("SVOCs"), and Volatile Organic Compounds ("VOCs") and compared to CDPHE Regulation 41 standards, basic standard for groundwater. Six samples were collected from existing stockpiles, four samples were collected from Lake Christina, and one sample was collected from the North Settling Basin. Several metals, including Barium, Mercury, Arsenic, Selenium, Lead, Chromium, Silver, and Cadmium were detected but below regulatory standards. Two VOCs, Dimethyl phthalate ("DMP") and Vinyl acetate were detected, however there is not a regulatory standard for these constituents. DMP and Vinyl acetate are not used in the dredging operation. One VOC, Methylene chloride was detected above the regulatory groundwater standard from sediment samples collected from Lake Christina and the North Settling Basin. Methylene chloride is a chemical typically found in paint strippers, adhesives, aerosols, pesticides, and cleaning products, of which none are used by the Applicant in the dredging operation. The likely source of Methylene chloride is from the oil and gas operations located throughout the property. According to FRICO, none of the refined or stored products used or kept on-site contain Methylene chloride, Vinyl acetate, or DMP.

The Applicant only uses fuels and oils to run the dredge and earthmoving equipment. No chemicals are added to the sand during the dredging, dewatering, or stockpiling processes. Concentrations from the cyclone outflow sample locations N1-1 and N1-2, located to the west of Lake Christina and the North Settling Basin, did not exceed regulatory standards. The Division has concluded that the elevated concentrations of Methylene Chloride in sediment samples collected from Lake Christina are not attributable to the dredging operations. Samples of the material dredged from Milton Reservoir including after processing from the cyclone meet compliance with CDPHE Regulation 41 standards and do not pose a threat to the environment.

On February 25, 2025, one surface water sample was collected from Milton Reservoir and two surface water samples were collected from Lake Christina and analyzed for metals, VOCs, and SVOCs. Metals were detected but below Regulation 41 standards.

No VOCs or SVOCs were detected in water samples from Milton Reservoir and Lake Christina.

In summary, the sediment analysis indicates that the samples collected from within the proposed permit area in February and March of 2025 meet the standards set forth in Colorado Regulation 41, Table A and Tables 1-3.

The applicant will continue to monitor the physical and chemical properties of the dredged material during the proposed operation and submit the results to the Division. The Applicant has revised their proposed mining plan to include collecting direct bulk samples during the operation from the discharge point of the cyclone separator for analysis by EPA Method 6020-SPLP for Total and Dissolved Metals, EPA Method 8260-SPLP for VOCs and EPA Method 160.1 for Total Dissolved Solids ("TDS"). The Applicant's sampling plan will be conducted on a monthly frequency. In addition, the sampling plan will include sampling via EPA Method 8270-SPLP for SVOCs on a quarterly frequency. The sampling results will be submitted to the Division on a quarterly basis. If any concentrations exceed CDPHE Regulation 41 standards, the Applicant will immediately notify the Division.

The proposed mining plan includes earthen drainage swales to divert stormwater runoff around the stockpiles and settling ponds and instead towards a sediment trap, where the water will then direct water back to Milton Reservoir. As discussed below, FRICO has committed to obtaining the appropriate surface water discharge permit from CDPHE prior to conduction any mining operations.

The applicant had provided to the Division the information required for Rule 6.4.4 regarding the mining plan, 6.4.5 reclamation plan, and Rule 6.4.7 water information. The Applicant's proposed plans comply with the applicable performance standards of Rule 3 regarding mining and reclamation, material handling, and for the minimization of impacts to the hydrologic balance.

c. Concerns regarding the discharge of sediment into Lake Christina (9)

Objections have been raised regarding the discharge of material and sediment into Lake Christina, located adjacent to the northeast of the proposed permit area. For one of the material stockpiles located on the northern side of the proposed permit area (N1 Stockpile) the initial plan was to dewater this stockpile through historic catchment basins that were converted into small settling ponds that then decanted into the Evans #2 Ditch. The Evans #2 Ditch then discharges into Lake Christina. For a period of time, solids from the cyclone and stockpiling process were discharged into the Evans #2 Ditch and subsequently Lake Christina. However, the Applicant has now revised the

proposed mining plan to solely discharge excess sediment back into Milton Reservoir and will not discharge into Lake Christina.

During the Division's pre-operational inspection of the site, the Division observed Lake Christina from the south end, as well as the discharged sediment being transported from the Lake into a location within the proposed permit area. The Division observed the sediment to be a mostly brown and grey clayey sand, with no discernable odor or any staining. According to the Applicant, Lake Christina has been receiving inflows from the Evans #2 Ditch for many years, which is substantiated by a notable sediment fan through Google Earth aerial photos from 1999 through 2024. According to the Applicant, they have come to an agreement with Beebe Draw Farms Authority, who own the parcel that contains Lake Christina, to excavate the material that was discharged from the Evans #2 Ditch from the dredging operation. This material is proposed to be placed within the proposed affected land adjacent to the Platte Valley Canal and will be graded to blend in with the surrounding topography and will be revegetated in accordance with the Applicant's reclamation plan.

The Division has notified CDPHE regarding the discharge of material into Lake Christina. In a Compliance Advisory letter dated May 15, 2025, CDPHE notified the Applicant that their three certifications under CDPS general Permit COR400000 for Stormwater Discharges associated with Construction Activity do not allow discharge associated with sand and gravel mining or industrial stormwater. CDPHE requested that the Applicant apply for a COG500000 permit within 30 days of the letter. In response, the Applicant submitted a revised Exhibit M, Other Permits and Licenses, to the Division and committed to obtaining this permit, which fulfills the requirements of Rule 6.4.13.

d. Concerns regarding the Applicant mining without a permit (4)

On July 31, 2024, The Division received an inquiry from Weld County alleging that FRICO was selling sand dredged from Milton Reservoir without the required MLRB reclamation permit. The Division conducted an inspection of the area on August 8, 2024, and issued the corresponding inspection report on August 19, 2024. The Division's report cited a possible violation against FRICO for engaging in a mining operation without obtaining a permit as required by C.R.S. 34-32.5-(109)(1). The Division required FRICO to immediately cease selling dredged material offsite and to submit a 112c permit application by November 22, 2024. FRICO subsequently submitted a 112c permit application to the Division on November 12, 2024.

e. Concerns regarding ecological impact (4)

Objectors raised concerns about the size of the sand stockpiles and their negative effect on the area, including excess dust and blocking the view of Milton Reservoir. The impetus of the dredging operation was to remove excess sediment that has accumulated on the reservoir floor since its construction in the early 1900s and increase the storage capacity of the reservoir. FRICO determined the sediment has characteristics to be a saleable commodity. If a mining permit is granted to the Applicant, the material in the stockpiles can be sold reducing the size of the stockpiles or removing them altogether. If the Applicant is unable to sell the material in the stockpiles, the stockpile slopes will be graded to a horizontal to vertical ratio of 3:1 to establish uniform contours and the piles will be revegetated. The affected areas that include the settling basins, dredging operations staging area, and potential sand plant will have all equipment removed, be graded to blend with the surrounding area, and revegetated.

f. Concerns regarding proper notification of permit application and listing of Beebe Draw Farms Authority within Exhibit P per Rule 6.4.16 (1)

Beebe Draw Farms Metropolitan District #2 is a quasi-municipal corporation and a political subdivision of the State of Colorado. Beebe Draw Farms Metropolitan District #2 is not technically a municipality therefore it does not need to be listed in Exhibit P in accordance with Rule 6.4.16. Pursuant to Rules 1.6.2(1)(e)(ii), the Applicant mailed notice of the application to all Owners of Record of the land surface within two hundred (200) feet of the boundary of the affected lands and provided certified mail receipts of the notices to the Division. As previously stated, the Applicant published a public notice for the application once a week for four consecutive weeks beginning on January 25, 2025, with the last date of publication on February 15, 2025. The Applicant provided proof of publication and notice in accordance with Rule 1.6.2(1)(g).

Non-Jurisdictional Items Raised by the Objecting Parties:

It is the Division's position that some of the objections raised are outside of the jurisdiction of the Division and Board and therefore should not be categorized as jurisdictional items for consideration by the board. The non-jurisdictional issues, as explained below, are more appropriately addressed by Weld County, Colorado Department of Transportation (CDOT), and CDPHE's Air Pollution Control Division. In proceedings before the Board, jurisdiction is limited to requirements of the Act and Rules. The Division recognizes the importance of all timely submitted objections and comments in its review of the application but can only address the issues that directly relate to specific requirements of an application as stated in the Act and Rules.

g. Concerns regarding aesthetic impact, quality of life, and property value.

The Act and Rules do not address impacts to visually appealing landscapes, aesthetics, hours and/days of operation, quality of life, and property value. The Division and Board do not have jurisdiction over these issues, which are typically addressed at the local government level. These issues should instead be addressed with Weld County. The Applicant has affirmatively stated in Exhibit M of the permit application that a Use by Special Review Permit application has been submitted to Weld County.

h. Concerns regarding dust and air pollution (19)

The Act and Rules do not specifically address air quality issues. Such issues are under the jurisdiction of Weld County and the Air Pollution Control Division ("APCD") of the CDPHE. The Applicant has affirmatively stated in Exhibit M that an air permit application has been submitted to the CDPHE. The Act and Rules do not authorize DRMS to directly regulate dust or air pollution issues. Pursuant to Rule 3.1.5(3), DRMS regulates the stability of stockpiles from erosion, siltation, and protection from areas outside the affected lands from slides and other damages. The Applicant has a plan to control dust by applying water to stockpiles and roads and establishing vegetation on piles and berms where appropriate. These practices should stabilize these areas from erosion. The Division would conduct routine inspections of the site and evaluate these concerns pursuant to Rules 3.1.6(3), 6.4.4, and C.R.S 34-32.5-116(4). The Applicant also stated in Exhibit M that they are in the processing of obtaining an Air Pollution Emission Notice permit with APCD to address dust emissions.

i. Concerns regarding light pollution (14)

The Act and Rules do not specifically address light pollution concerns. The Applicant has committed to abiding by CPW's nighttime artificial lighting recommendations. All outdoor lighting will be downcast and shielded, directed away from sensitive habitats, and in compliance with U.S Forest Service/America Bird Conservancy recommendations. The Applicant has committed to only using lighting with warm-spectrum LED bulbs (2200k-2700k) and lower correlated color temperatures to minimize wildlife disturbance and impacts on human health.

j. Concerns regarding property transfer (5)

Objectors have raised concerns regarding the transfer of several parcels from Beebe Draw Farms Authority to REI, LLC. The Act and Rules only require that the Applicant provides documentation of legal right to enter the proposed permit area. In Exhibit N-Source of Legal Right to Enter, the Applicant has provided appropriate Legal Right of Entry documents to enter and conduct mining and reclamation for the parcels owned by

REI, LLC in accordance with Rule 6.4.14. The Division does not have the jurisdiction to resolve property transfer disputes.

k. Concerns regarding truck traffic (15)

The Act and Rules which provide the jurisdiction to the Division and Board do not address public road access, use, or design issues. Such issues are under the jurisdiction of Colorado Department of Transportation ("CDOT") and Weld County. The Applicant stated in Exhibit M of the permit application that a Weld County Use by Special Review Permit has been submitted to Weld County. The proposed mining plan states that all traffic related to the mining operations will enter and leave the site from the designated mine entrance where Weld County Road 30 connects with Weld County Road 43, also known as Cavanaugh Road.

l. Concerns regarding noise (16)

This concern is under the jurisdiction of Weld County. The Applicant has commissioned a Noise Study to assess noise levels at the affected land boundaries and nearest residences. After completion of the study, the Applicant will implement the requirements of the study to ensure compliance with Weld County Code.

m. Concerns regarding conflict of interest between Scott Edgar' role as General Manager for Applicant and role on Beebe Draw Farms Authority Board (2)

The Act and Rules do not address any perceived conflicts of interests. The Division has no role in that matter.

Conclusion:

After conducting a thorough technical review of the application, as outlined in the discussion above, on June 13, 2025, the Division has determined that FRICO's 112c permit application satisfied the requirements of the Act and Rules, (specifically C.R.S 34-32.5-115(4)), and issues its Recommendation to the Board to approve the Construction Materials 112 application for the Farmers Sand Project, File No. M-2024-057, over objections.

If you have any questions, you may contact me by telephone at 720-793-3041 or by email at chris.girardi@state.co.us.

Sincerely,



Chris Girardi
Environmental Protection Specialist Intern

CC: Jared Ebert, DRMS
Russ Means, DRMS
Scott Schultz, AGO
Jeff Fugate, AGO
Charles Kooyman