



STATE OF  
COLORADO

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

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## Guttersen Mining Resource- Application Extension Approval

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**Sydney Connor** <Sydney@lewicki.biz>

Thu, Jul 31, 2025 at 1:06 PM

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

Cc: Kate Graves <kate.graves@fortressds.com>, "artguttersen@icloud.com" <artguttersen@icloud.com>

Good afternoon Chris,

Here is the adequacy response for your review. We will send physical copies out to the Division and County this week, and provide the county clerk receipt once we receive it. Please let me know if you will need an extension for your review.

Sydney Connor

Lewicki & Associates

[sydney@lewicki.biz](mailto:sydney@lewicki.biz)

(719) 323-9867

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

**Sent:** Thursday, July 31, 2025 10:07 AM

**To:** Sydney Connor <Sydney@lewicki.biz>

**Subject:** Re: Guttersen Mining Resource- Application Extension Approval

Good morning Sydney,

I'm just checking in regarding the initial Adequacy Review Response for the Guttersen Mining Resource 112c construction materials application. The decision date is August 13, but we likely will need to extend again.

Sincerely,

Chris Girardi

Environmental Protection Specialist



**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.co.us](mailto:chris.girardi@state.co.us) | <https://drms.colorado.gov/>

On Mon, Jul 14, 2025 at 8:06 AM Girardi - DNR, Chris <[chris.girardi@state.co.us](mailto:chris.girardi@state.co.us)> wrote:

Good morning,

Attached to this email is pdf granting an extension of the current decision date for the Guttersen Mining Resource 112c application, file no. M-2025-002.

A hard copy will not be delivered unless requested. Please feel free to contact me if you have any questions.

Thanks,

Chris Girardi






Environmental Protection Specialist



[Quoted text hidden]

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#### 5 attachments

-  **Guttersen Topsoil Adequacy Response.pdf**  
1186K
-  **Guttersen Topsoil 240903-C-1 Baseline Map.pdf**  
2079K
-  **Guttersen Topsoil 240903-C-2 Mining Map.pdf**  
1921K
-  **Guttersen Topsoil 240903-F-1 Reclamation Map.pdf**  
2105K
-  **Guttersen Topsoil 240903-G-1 Drainage Map.pdf**  
3348K

July 31, 2025  
Chris Girardi  
Colorado Division of Reclamation, Mining, and Safety  
1313 Sherman St, Rm. 215  
Denver, CO 80203

**Delivered Via Email**

**RE: Guttersen Mining Resource, DRMS File M-2025-002**  
112 Construction Materials Permit Application - Adequacy Response

Chris Girardi,

The attached letter addresses each adequacy item in your April 14, 2025 letter regarding the Guttersen Mining Resource 112c Construction Materials Reclamation Permit Application. Feel free to contact me with any questions.

Regards,



Sydney Connor,  
Lewicki & Associates, PLLC  
(719)323-9867  
[sydney@lewicki.biz](mailto:sydney@lewicki.biz)

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

1. *In the Legend at the bottom right corner, please correct the DRMS permit number, County, Nearest Town, Township, and Range for Figures C-1 and C-2.*

Please see the updated Exhibit C maps.

2. *For the Figure C-1, please clarify if the Affected Area Boundary and Mining Disturbance Boundary are intended to be the same. If not, then please revise the map to make the Mining Disturbance Boundary clear, as it is currently unobservable in the figure.*

These two lines are intended to be the same. Please see the updated maps for more clarity in the legend.

3. *Please clarify if the “Light duty road, gravel” roads are considered to be the haul roads. In addition, the haul roads are indistinguishable on the Figures C-1 and C-2. Please revise accordingly.*

The light duty road, gravel indicates the existing roads used to access portions of the site. These roads are currently used for agricultural activities, and will also be used during mining to access these same areas. Please see the updated maps for the location of these roads.

4. *Parcel number 070922400014, under the ownership of Deck C Reichert, located to the northeast of the permit area, and parcel number 070934200035 under the ownership of Harper Feedlot LLC, located to the south of the permit area, were omitted from Figure C-1. Please revise accordingly.*

Please see the revised Map C-1 with those parcels identified. Please note, both of these property owners were identified on nearby parcels and have already received notification.

5. *Please revise Figure C-2 to indicate a general direction of mining for the Phases 1 through 4 areas.*

Please see the revised map with the general direction of mining identified with red arrows.

6. *Please revise Figure C-2 to include the locations of the stormwater berms.*

Please see the revised map with stormwater berm locations.

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

7. *Please clarify if there are any mining setbacks relative to Owl Creek and Lone Tree Creek.*

There are no specific setbacks to the creek. Mining will stay within the existing fields which have been historically disturbed in a similar manner for agricultural activities. Exhibit D was not amended to clarify this as it already states that mining will be limited to the irrigated fields.

8. *Please clarify the locations of mined windrows of topsoil and how they will be stabilized from water and wind erosion.*

The windrow locations will vary constantly throughout mining areas. Mining will occur in a manner that pushes or scrapes topsoil into these long, narrow piles in the field areas. These windrows will be temporary, where topsoil from these piles are subsequently loaded into trucks and taken off site. Due to the temporary nature of these windrows, the only erosion protection that will be used for these windrows is water spraying as needed. Exhibit D has been revised to include this information.

9. *Please clarify if the internal haul roads will need to be modified in any way.*

No modifications of the existing roads will occur, Exhibit D has been revised to clarify this.

10. *The Applicant states that all mining will be at final slope, therefore please clarify what the intended final slope is.*

Exhibit E has been revised to clarify what is meant by final slope. As mining only involves stripping 3 feet of topsoil, the final slope will be the same as pre-mining, but at a slightly lower elevation.

11. *Exhibit E references that berms will be flattened. Please clarify the purpose and locations of these berms within the mining plan narrative.*

Language has been added to clarify this sentence. It is in reference to the stormwater berms which are further discussed in Exhibit G.

12. *The Applicant states that some additional overburden material will require additional leveling. Please clarify the thickness of overburden present and how such material will be stored during mining and addressed during reclamation.*

There is no clearly defined overburden thickness. This statement refers to existing ground below the topsoil that will be moved to improve the drainage of the site. This material will not be stored, but will be immediately moved and re-graded in other portions of phase 1 to improve the irrigation in this area. Exhibit D has been updated to clarify.

#### **Rule 6.4.5- Exhibit E- Reclamation Plan**

13. *The Applicant states in the first paragraph of Exhibit E that the total affected will be 203.9 acres. However, Exhibit A, Exhibit C, the application pages, and Table E-1 indicate the total affected area will be 206.2 acres. Please clarify these contrasting statements.*

This typo has been fixed in the updated Exhibit E.

- 14. The Applicant states that the Phase 1 area is the only phase that will develop slopes along the eastern edge, and that these slopes have been modified to improve irrigation in the field. Please clarify these statements. How would the Phase 1 area slope be different relative to Phases 2 through 4?*

Mining across the site will strip a uniform three feet of topsoil across all phases. Phase 1 will include some additional stripping and regrading along the eastern portion of the site below the topsoil. This relates to the overburden addressed in adequacy item 12. The goal of these slopes and overburden re-distribution are to improve irrigation for the reclaimed use for agriculture.

- 15. The Applicant states that revegetation will be completed using the existing alfalfa seeding plan. However, the Applicant later indicates the reclamation seed mix will be Winter Wheat. Please clarify the seeding plan for reclamation.*

This typo has been fixed in the updated Exhibit E.

- 16. The application includes a section designated for weed prevention but the Applicant states that Weld County and the Division will be consulted if a weed infestation occurs. If noxious weeds are identified at the permit area, please commit to submitting a weed control plan as a Technical Revision to the permit.*

This language has been added.

#### **Rule 6.4.6- Exhibit F – Reclamation Plan Map**

- 17. In the Legend at the bottom-right corner, please correct the DRMS permit number, County, Nearest Town, Township, and Range for Figure F-1.*

Please see the revised maps for these changes.

- 18. Figure F-1 indicates that post-mine contours will closely align with the pre-existing topography. However, the post-mine contour elevations are identical to the pre-existing. The application indicates that approximately one (1) feet of topsoil is to be mined at the permit. Therefore, wouldn't the post-mine contour elevations be at lower elevations relative to the pre-existing elevations? Please clarify and revise Figure F-1 accordingly.*

Figure F-1 does in fact show slightly lowered elevations by 1-3 feet. However, these changes are subtle as the grading of the site remains the same. Some locations of contours that show this change are on the southeastern edge of Phase 1 indicating 4820' on C-1 and 4818' on C-2 and F-1, as well as in the northern area of Phase 4 near the well indicating 4818' on C-1 and 4816' on F-1.

**Rule 6.4.7- Exhibit G - Water Information**

19. *Please note the Division may provide comments regarding Exhibit G, which will be provided in the future.*

Noted.

**Rule 6.4.8- Exhibit H – Wildlife Information**

20. *Please see the enclosed comment letter from Colorado Parks and Wildlife (CPW). Please incorporate the wildlife protective measures outlined in the CPW letter into the operations plan for the site and explain how they will be implemented in a revised Exhibit H.*

These comments are addressed at the end of this letter.

**Rule 6.4.12- Exhibit L – Reclamation Costs**

21. *Enclosed is the Division's reclamation cost estimate for the proposed operation. Please review the estimate and provide any feedback.*

The applicant concurs with the reclamation cost estimate.

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

22. *In accordance with Rule 1.6.2(1)(c), any changes to the application must be reflected in the public review copy which was placed with the Weld County Clerk and Recorder. In accordance with Rule 6.4.18, please provide our office with an affidavit or receipt indicating the date the revised application pages were placed with the Weld County Clerk and Recorder.*

Proof will be provided shortly after submittal of this response to the DRMS.

**Rule 6.4.19- Exhibit S – Permanent Man-Made Structures**

23. *Please revise Table S-1 to include Weld County Road 78, Weld County Road 43, and Overhead Powerlines as noted in Figure C-1.*

These structures should have been included in Table S-1 and are included in Figure C-1. Based on the Lewicki version of the submitted files, these structures were included in Exhibit S. However, we are unable to confirm if that is the case for what the DRMS received as there is no record of the Exhibit S cover page on the laserfiche records for this permit.

24. *The Division notes that Weld County Road 76 is located within 200 feet of the permit boundary to the south but was not listed as a structure. Please provide the following:*

- a. A notarized agreement between the applicant and the person(s) having an interest in the structure, that the applicant is to provide compensation for any damage to the structure;*
- or*

- b. *Where such an agreement cannot be reached, the applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or*
- c. *Where such structure is a utility, the applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that mining and reclamation activities, as proposed, will have “no negative effect” on their utility.*

Item 23 and 24 were separately addressed and resolved with the Division. No changes to the permit materials were made.

#### **Publication and Notice**

- 25. *The public comment period for the application closed on April 11, 2025. No comments were received. In accordance with Rule 1.6.2(1)(d), please provide proof of publication. 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 newspaper.*

Proof of publication was sent to Chris Girardi at the DRMS on April 16, 2025. It is re-attached with this letter.

#### **Colorado Parks and Wildlife (CPW) Comments**

- 26. *The Importance of High Priority Habitats (HPH):*

Fortress Development Solutions acknowledges the importance of these habitats and used the HPH mapping service in development of the wildlife exhibit of the permit. The only HPH identified at the site is aquatic native species conservation waters which is addressed below.

- 27. *Aquatic Native Species Conservation Waters:*

This habitat corresponds with the Owl Creek which runs adjacent to the east, then through the south of the site. The area for proposed topsoil stripping and mining has been historically disturbed by agricultural activities which use similar methods to those used by the mining operation. Additionally, a majority of the site naturally drains away from the Owl Creek. Stormwater BMP's, such as rock check dams and site grading, will be used during mining to prevent sediment pollution into the creek. The 500-foot buffer from the high water mark is not feasible, as this area has already been occupied and disturbed by agricultural activities. Mining will stay within these previously disturbed areas and outside of the Owl Creek.

- 28. *Fencing*

No new fencing is proposed with this operation. Any new fencing will be constructed in accordance with CPW recommendations for wildlife.

- 29. *Noxious Weeds and Native Re-seeding:*



The weed prevention plan and revegetation of the site are addressed in the permit.

*30. Lighting:*

Lighting related to the mining operation will be downcast and limited in use.

## Attachments

- *Newspaper Proof of Publication*
- *County Clerk Certification (will be provided after submittal to Division)*
- *Revised Permit Items:*
  - *Maps C-1, C-2, F-1, G-1*
  - *Exhibits D, E*

**PUBLIC NOTICE**

Fortress Development Solutions, LLC; 4407 W 29th St, Greeley, CO, (970) 378-8888, has filed an application for a Regular (112) Construction Materials Operation Reclamation Permit with the Colorado Mined Land Reclamation Board under provisions of the Colorado Land Reclamation Act for the Extraction of Construction Materials. The proposed mine is known as the Gutteresen Mining Resource, and is located at or near Section 27, Township 7N, Range 65W, 6th Prime Meridian.

The proposed date of commencement is February 2025, and the proposed date of completion is February 2050. The proposed future use of the land is agriculture. Additional information and tentative decision date may be obtained from the Division of Reclamation, Mining and Safety, 1313 Sherman St, Room 215, Denver, Colorado 80203, (303) 866-3567, or at the Weld County Clerk and Recorder's Office, 1250 H Street, Greeley, Colorado 80631, or the above-named applicant.

Comments must be in writing and must be received by the Division of Reclamation, Mining, and Safety by 4:00p.m. 20 days after the final publication of this notice.

Please note that under the provisions of C.R.S. 34-32.5-101 et seq. Comments related to noise, truck traffic, hours of operation, visual impacts, effects on property values and other social or economic concerns are issues not subject to this Office's jurisdiction. These subjects, and similar ones, are typically addressed by your local governments, rather than the Division of Reclamation, Mining, and Safety or the Mined Land Reclamation Board.

Published: Greeley Tribune March 1, 8, 15, 22, 2025-2101682

**Prairie Mountain Media, LLC**

**PUBLISHER'S AFFIDAVIT**

**County of Weld  
State of Colorado**

The undersigned, Agent, being first duly sworn under oath, states and affirms as follows:

1. He/she is the legal Advertising Reviewer of Prairie Mountain Media LLC, publisher of the Greeley Tribune.
2. The Greeley Tribune is a newspaper of general circulation that has been published continuously and without interruption for at least fifty-two weeks in Weld County and meets the legal requisites for a legal newspaper under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy, published in the Greeley Tribune in Weld County on the following date(s):

Mar 1, 8, 15, 22, 2025

Melissa Najera  
Signature

Subscribed and sworn to me before me this

24<sup>th</sup> day of March, 2025.

Shayla Najera  
Notary Public

(SEAL)

SHAYLA NAJERA  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20174031965  
MY COMMISSION EXPIRES July 31, 2025

Account: 1064948  
Ad Number: 2101682  
Fee: \$197.20

# EXHIBIT D

# MINING PLAN

## 1. General Mining Plan

The Guttersen Mining Resource is limited to leveling the irrigated fields by mining a portion of the topsoil and some additional overburden material in areas that require additional leveling. Approximately 1 foot of topsoil will be stripped from the site. Overall topsoil thickness exceeds 3 feet. Topsoil will either be scraped or pushed up into windrows, long narrow piles, by a dozer. The location of these windrows will vary throughout mining and correspond to the area most recently stripped. Those piles will then be loaded by a front end loader into highway trucks to be delivered to the end user. These piles are temporary in nature, not meant for long term stockpiling. Therefore, the only erosion control method that will be utilized is water spraying before the materials are sold and trucked off site.

The Guttersen site has very thick topsoil and accumulates topsoil through regular application of manure and agricultural activities. The site is accessed from Weld County Road 43. Stripping of topsoil will occur cyclically as topsoil is built up from agricultural activities.

Overburden mining will include redistributing a portion of some material underlying the topsoil. The overburden has an undefined thickness, but will be no greater than 5 feet, and is limited to Phase 1. This material will not be stockpiled, but will be regraded throughout the site to slightly alter the slopes in Phase 1 to improve irrigation.

No blasting will occur at the Guttersen Mining Resource. If refuse, acid, or toxic materials are unexpectedly encountered, these materials will be removed from the site and disposed of appropriately.

## 2. Mining Timetable

Mining operations at the Guttersen Mining Resource are expected to take approximately 2.7 years to complete, each time they occur, based on an annual average production of 60,000 cubic yards. Actual production rates will fluctuate based on market conditions. An approximate mining timetable based on this production and the phased mining plan is shown in Table D-1.

**Table D-1 Mining Timetable (Cyclical)**

Description	Time Required
Mining of Phase 1	9 months
Mining of Phase 2	9 months
Mining of Phase 3	6 months
Mining of Phase 4	9 months
Total	2.7 years

### 3. Mine Facilities and Operation

The site will contain the following facilities and equipment:

**Facilities:**

- Portable toilet
- Portable fuel storage

**Equipment:**

- Front-end loaders
- Bulldozers
- Scrapers
- Water trucks
- Graders
- Excavators

The operator will provide portable toilets and bottled water to employees on site during operations. Any fuel stored on site will have full secondary containment that can carry 110% of the fuel tank volume. All facilities will be removed during reclamation.

### 4. Water Information, Rights, and Augmentation

All water right issues such as availability of water for this operation, consumption rates, dust control, etc. are presented in Exhibit G – Water Information.

# EXHIBIT E

# RECLAMATION PLAN

## 1. General Reclamation Plan

The total affected area to be reclaimed under this permit is 206.2 acres. Reclamation of the Guttersen Mining Resource will maintain its existing agricultural use. Partial topsoil stripping of the site will promptly be reseeded, fertilized and put back into irrigation. The pre-mine land use is irrigated field. Surrounding land uses include agriculture, feed lots, and residences. Pursuant to Rule 6.4.5.2(b), the applicant evaluated the post-mine land use regarding adopted state and local land use plans for this area and adjacent land uses. The continued irrigated field is compatible with the general agricultural character of the area. Table E-1 below summarizes the anticipated final land uses within the affected area upon completion of reclamation.

**Table E-1 Reclamation Areas**

Description	Area (Acres)
Irrigated Field	206.2
Undisturbed Area	53.1
<b>Total Affected Area</b>	<b>259.3</b>

Reclamation will occur concurrently as mining progresses. No more than one phase will be disturbed at a time. The largest phase is 85.2 acres. Phase 1 is the only phase that will develop slopes along the eastern edge. These slopes have been modified to improve irrigation in the field. All mining will be at the final slope – mostly flat with a slight grade consistent with pre-mining slopes. All portable facilities and equipment will be removed from the area. All stormwater berms will be flattened. Revegetation will be completed using the existing winter wheat seeding plan. No additional topsoil will be added to the reclamation. Therefore, reclamation volumes equal zero.

## 2. Haul Roads and Access

All internal haul roads will remain following reclamation to support the existing land use. The existing roads used for agricultural activities will be used for mining access. No improvements of these roads are necessary.

## 3. Reclamation Timetable and Sequence

The sequence and timing of reclamation can be seen in Table E-4 below. The reclamation schedule is dependent on the rate of mining and fluctuating market demands. The operator will reclaim the site concurrently with the progression of mining to limit the total disturbance.

**Table E-4 Reclamation Timetable**

Description	Time Required
Mining and Reclamation of Phase 1	9 months
Mining and Reclamation of Phase 2	9 months
Mining and Reclamation of Phase 3	6 months
Mining of Phase 4	9 months
Reclamation of Phase 4	1 month
Monitoring Reclamation Success	2 years
<b>Total</b>	<b>3.8 years</b>

## 4. Revegetation Plans

Seed will be drilled in all areas to be vegetated following tillage and manure application of all disturbances. All disturbances will be seeded with agricultural crop seed.

### 4.1. Seed Mix

<u>Species</u>	<u>Pounds of pure live seed per acre (drilled)</u>
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Winter Wheat	50
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Manure will be placed at roughly 15 tons per acre.

## 5. Post Reclamation Site Drainage

Once reclamation has been successful, stormwater berms will be regraded and drainage will be returned to the pre-mine condition.

## 6. Revegetation Success Criteria

Revegetation will be deemed adequate when erosion is controlled, the vegetation cover matches neighboring areas, and when it is considered satisfactory according to Division standards. This will be monitored for a minimum of two years following the completion of reclamation.

## 7. Monitoring Reclamation Success

Measures will be employed for the control of any noxious weed species. The objective of this weed management plan is to control undesirable plants on the Guttersen property. Plants identified through the Colorado Noxious Weed Act (C.R.S 35-5.5) and the Weld County Noxious Weed List as undesirable and designated for management within the county will be removed. Any weeds identified as List A species will be eradicated. Other lower listed plants identified as

noxious weeds will be managed by control measures. A Weed Control Plan will be utilized as follows:

- 1) Each April, a weed survey will be taken of the permit area.
- 2) If any patches or plants have been identified, they will be sprayed by backpack sprayer or 4-wheeler using chemicals approved for use by the weed control staff of Weld County.
- 3) After reclamation, weed surveys and spraying will continue until the perennial cover and production of the site have met DRMS requirements and bond release has been obtained.

The Division and Weld County staff will be consulted regarding any weed infestation areas and any control measures prior to their initiation. The plan does not contemplate total weed removal on the property. Rather, the goal is to prevent the spread of weeds into uninfected areas as is the primary goal of the Weld County Weed Management Plan.

Each year during the mining operation, the permit area will be monitored closely, through which the operator may determine if any additional weeds have grown. If any new species of weeds are found, Weld County and the Division will be consulted in order to formulate the best plan for the new infestation. In addition, a revised weed control plan will be submitted to the Division through a technical revision.

### **7.1. Weed List**

Weeds listed in Table E-1 will be eradicated or suppressed according to Weld County requirements.

**Table E-1. Weld County Weed List**

<b>Eradication</b>	<b>Suppression</b>
<b>List A (in Weld County)</b>	
Cypress Spurge	Myrtle Spurge
Haire Willow-Herb	Purple Loosestrife
Japanese	Yellow Flag Iris
<b>List B (in Weld County)</b>	
Absinth Wormwood	Eurasian Watermilfoil
Black Henbane	Jointed Goatgrass
Bull Thistle	Musk Thistle
Chamomile species	Russian knapweed
Chinese Clematis	Scotch Thistle
Houndstongue	Yellow Nutsedge
Moth Mullein	Bouncingbet
Oxeye Daisy	Common Tansy
Plumeless thistle	Dalmation Toadflax
Spotted knapweed	Dames Rocket
Sulfur Cinquefoil	Diffuse Knapweed
Tamarisk	Hoary Cress
Wild Caraway	Leafy Spurge
Yellow Toadflax	Perrenial Pepperweed



<b>Eradication</b>	<b>Suppression</b>
Canada Thistle	Russian Olive
Common & Cutleaf Thistle	
<b>List C (in Weld County)</b>	
Common Mullein	Field Bindweed
Cheatgrass/Downy Brome	Puncturevine/Goatheads