

# STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY  
Department of Natural Resources

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April 25, 2012

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John W. Hickenlooper  
Governor

Mike King  
Executive Director

Loretta Piñeda  
Director

***RE: Wand Pit, Permit No. M-2010-007, Receipt of Incomplete Construction Material Regular (112) Operation Reclamation Permit Application Package***

Dear Mr. Baker:

On April 12, 2012, the Division of Reclamation, Mining and Safety (Division) received the Construction Material Regular (112) Operation Reclamation Permit Application package for the Wand Pit, File No. M-2010-007. A preliminary review of the information received determined that the following (**bold and highlighted**) items must be received before the Division can consider the application submitted and technical review can begin:

## Per Rule

### 6.2.1 General Requirements

(1) This Rule provides for the guidelines for, and information requirements of, each Exhibit required to be submitted with the permit application, as specified according to Section 6.1.

(2) Maps and Exhibits

Maps, except the index map, must conform to the following criteria:

- (a) show name of Applicant;
- (b) must be prepared and signed by a registered land surveyor, professional engineer, or other qualified person;
- (c) give date prepared;
- (d) identify and outline the area which corresponds with the application;
- (e) with the exception of the map of the affected lands required in Section 34-32.5-112(2)(d), C.R.S. 1984, as amended, shall be prepared at a

scale that is appropriate to clearly show all elements that are required to be delineated by the Act and these Rules. The acceptable range of map scales shall not be larger than 1 inch = 50 feet nor smaller than 1 inch = 660 feet. Also, that a map scale, appropriate legend, map title, date and a north arrow shall be included.

#### 6.4.1 EXHIBIT A - Legal Description

- (1) The legal description must identify the affected land, specify affected areas and be adequate to field locate the property. Description shall be by (a), township, range, and section, to at least the nearest quarter-quarter section and (b), location of the main entrance to the site reported as latitude and longitude, or the Universal Transverse Mercator (UTM) Grid as determined from a USGS topographic map. A metes and bounds survey description is acceptable in lieu of township, range, and section. Where available, the street address or lot number(s) shall be given. This information may be available from the County Assessor's office or U.S. Geological Survey (USGS) maps.
- (2) The main entrance to the mine site shall be located based on a USGS topographic map showing latitude and longitude or Universal Transverse Mercator (UTM). The operator will need to specify coordinates of latitude and longitude in degrees, minutes and seconds or in decimal degrees to an accuracy of at least five (5) decimal places (e.g., latitude 37.12345 N, longitude 104.45678 W). For UTM, the operator will need to specify North American Datum (NAD) 1927, NAD 1983, or WGS 84, and the applicable zone, measured in meters.

#### 6.4.2 EXHIBIT B - Index Map

An index map showing the regional location of the affected land and all roads and other access to the area. A standard U.S. Geological Survey topographic quadrangle or equivalent is acceptable. Scale criteria need not be followed for this map.

#### 6.4.3 EXHIBIT C - Pre-mining and Mining Plan Map(s) of Affected Lands

One or more maps may be necessary to legibly portray the following information:

- (a) all adjoining surface owners of record;
- (b) the name and location of all creeks, roads, buildings, oil and gas wells and lines, and power and communication lines on the area of affected land and within two hundred (200) feet of all boundaries of such area;  
**Please revise the map to show details extending at least 200 feet outside of the proposed permit area.**
- (c) the existing topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of the affected land;

**Please revise the map to show details extending at least 200 feet outside of the proposed permit area.**

- (d) the total area to be involved in the operation, including the area to be mined and the area of affected lands (see definition of "Affected Land");

- (e) the type of present vegetation covering the affected lands; and

**Please provide this information on the map.**

- (f) in conjunction with Exhibit G - Water Information, Subsection 6.4.7, if required by the Office, further water resources information will be presented on a map in this section.

**Exhibit G, item 2)C) of your application package states that water from dewatering and/or runoff will be pumped through a sediment pond before discharge to the Yampa River. Please show the proposed location for the sediment pond(s).**

- (g) Show the owner's name, type of structures, and location of all significant, valuable, and permanent man-made structures contained on the area of affected land and within two hundred (200) feet of the affected land.

**Please label the owner of the gas pipeline and the farm house shown on map.**

- (h) In conjunction with Exhibit I - Soils Information, Subsection 6.4.9, soils information may be presented on a map in this section;

- (i) Aerial photos, if available, may be included in this section.

#### 6.4.4 EXHIBIT D - Mining Plan

The mining plan shall supply the following information, correlated with the affected lands, map(s) and timetables:

- (a) description of the method(s) of mining to be employed in each stage of the operation as related to any surface disturbance on affected lands;
- (b) earthmoving;
- (c) all water diversions and impoundments; and

**Exhibit G, item 2)C) of your application package states that water from dewatering and/or runoff will be pumped through a sediment pond before discharge to the Yampa River. Please provide information regarding the construction of the proposed sediment pond(s), including the location and approximate dimensions.**

- (d) the size of area(s) to be worked at any one time.
- (e) An approximate timetable to describe the mining operation. The timetable is for the purpose of establishing the relationship between mining and reclamation during the different phases of a mining operation. An Operator/Applicant shall not be required to meet specific dates for initiation, or completion of mining in a phase as may be identified in the timetable. This does not exempt an Operator/Applicant from complying with the performance standards of Section 3.1. If the operation is intended to be an intermittent operation as defined in Section 34-32.5-103(11)(b), C.R.S., the Applicant should include in this exhibit a statement that conforms to the provisions of Section 34-32.5-103(11)(b), C.R.S. Such timetable should include:
  - (i) an estimate of the periods of time which will be required for the various stages or phases of the operation;
  - (ii) a description of the size and location of each area to be worked during each phase; and
  - (iii) outlining the sequence in which each stage or phase of the operation will be carried out.

(Timetables need not be separate and distinct from the mining plan, but may be incorporated therein.)

- (f) A map (in Exhibit C - Pre-Mining and Mining Plan Maps(s) of Affected Lands, Subsection 6.4.3) may be used along with a narrative to present the following information:
  - (i) nature, depth and thickness of the deposit to be mined and the thickness and type of overburden to be removed (may be marked "CONFIDENTIAL," pursuant to Paragraph 1.3(3)); and
  - (ii) nature of the stratum immediately beneath the material to be mined in sedimentary deposits.
- (g) Identify the primary and secondary commodities to be mined/extracted and describe the intended use; and
- (h) name and describe the intended use of all expected incidental products to be mined/extracted by the proposed operation.
- (i) Specify if explosives will be used in conjunction with the mining (or reclamation). In consultation with the Office, the Applicant must demonstrate pursuant to Subsection 6.5(4), Geotechnical Stability Exhibit, that offsite areas will not be adversely affected by blasting.

6.4.5 EXHIBIT E - Reclamation Plan

- (1) In preparing the Reclamation Plan, the Operator/Applicant should be specific in terms of addressing such items as final grading (including drainage), seeding, fertilizing, revegetation (trees, shrubs, etc.), and topsoiling. Operators/Applicants are encouraged to allow flexibility in their plans by committing themselves to ranges of numbers (e.g., 6"-12" of topsoil) rather than specific figures.
- (2) The Reclamation Plan shall include provisions for, or satisfactory explanation of, all general requirements for the type of reclamation proposed to be implemented by the Operator/Applicant. Reclamation shall be required on all the affected land. The Reclamation Plans shall include:
  - (a) A description of the type(s) of reclamation the Operator/Applicant proposes to achieve in the reclamation of the affected land, why each was chosen, the amount of acreage accorded to each, and a general discussion of methods of reclamation as related to the mechanics of earthmoving;
  - (b) A comparison of the proposed post-mining land use to other land uses in the vicinity and to adopted state and local land use plans and programs. In those instances where the post-mining land use is for industrial, residential, or commercial purposes and such use is not reasonably assured, a plan for revegetation shall be submitted. Appropriate evidence supporting such reasonable assurance shall be submitted;
  - (c) **A description of how the Reclamation Plan will be implemented to meet each applicable requirement of Section 3.1;**

*3.1.5 Reclamation Measures - Materials Handling*

*(1) Grading shall be carried on so as to create a final topography appropriate to the final land use selected in the Reclamation Plan.*

*(2) When backfilling is a part of the plan, the Operator shall replace overburden and waste materials in the mined area and shall ensure adequate compaction for stability and to prevent leaching of toxic or acid-forming materials.*

*(3) All grading shall be done in a manner to control erosion and siltation of the affected lands, to protect areas outside the affected land from slides and other damage. If not eliminated, all highwalls shall be stabilized.*

*(7) Maximum slopes and slope combinations shall be compatible with the configuration of surrounding conditions and selected land use. In all cases where a lake or pond is produced as a portion of the*

*Reclamation Plan, all slopes, unless otherwise approved by the Board or Office, shall be no steeper than a ratio of 2:1 (horizontal to vertical ratio), except from 5 feet above to 10 feet below the expected water line where slopes shall be not steeper than 3:1. If a swimming area is proposed as a portion of the Reclamation Plan, the slope, unless otherwise approved by the Board or Office, shall be no steeper than 5:1 throughout the area proposed for swimming, and a slope no steeper than 2:1 elsewhere in the pond.*

*(10) All mined material to be disposed of within the affected area must be handled in such a manner so as to prevent any unauthorized release of pollutants to the surface drainage system.*

*(11) No unauthorized release of pollutants to groundwater shall occur from any materials mined, handled or disposed of within the permit area.*

#### *3.1.6 Water - General Requirements*

*(1) Hydrology and Water Quality: Disturbances to the prevailing hydrologic balance of the affected land and of the surrounding area and to the quantity or quality of water in surface and groundwater systems both during and after the mining operation and during reclamation shall be minimized by measures, including, but not limited to:*

*(a) compliance with applicable Colorado water laws and regulations governing injury to existing water rights;*

*(b) compliance with applicable federal and Colorado water quality laws and regulations, including statewide water quality standards and site-specific classifications and standards adopted by the Water Quality Control Commission;*

#### *3.1.8 Wildlife*

*(1) All aspects of the mining and reclamation plan shall take into account the safety and protection of wildlife on the mine site, at processing sites, and along all access roads to the mine site with special attention given to critical periods in the life cycle of those species which require special consideration (e.g., elk calving, migration routes, peregrine falcon nesting, grouse strutting grounds).*

#### *3.1.9 Topsoiling*

*(1) Where it is necessary to remove overburden in order to mine the construction material, topsoil shall be removed and segregated from other spoil. If such topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be employed so that the topsoil is protected from erosion, remains free of any contamination by toxic or acid-forming material, and is in a usable condition for reclamation.*

*(2) Where practicable, woody vegetation present at the site shall be*

*removed from or appropriately incorporated into the existing topsoil prior to excavation within the affected areas.*

*(3) Topsoil stockpiles shall be stored in places and configurations to minimize erosion and located in areas where disturbance by ongoing mining operations will be minimized. Such stockpile areas must be included in the affected areas and subject to all reclamation requirements. The Board may require immediate planting of an annual and/or perennial on topsoil stockpiles for the purpose of stabilization.*

*(4) Once stockpiled, the topsoil shall be rehandled as little as possible until replacement on the regraded, disturbed area. Relocations of topsoil stockpiles on the affected land require Board or Office approval. Approval in most cases would be granted by way of technical revision.*

*(5) The Operator shall take measures necessary to assure the stability of replaced topsoil on graded slopes such as roughing in final grading to eliminate slippage zones that may develop between the deposited topsoil and heavy textured spoil surfaces.*

*(7) When growing media is replaced, it shall be done in as even a manner as possible. Fertilizer or other soil amendments shall be added, if required in the Reclamation Plan or as the soil tests indicate.*

*(8) Vegetative piles shall be removed from the area or utilized in accordance with the Reclamation Plan.*

#### *3.1.10 Revegetation*

*(1) In those areas where revegetation is part of the Reclamation Plan, land shall be revegetated in such a way as to establish a diverse, effective, and long-lasting vegetative cover that is capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizer, and is at least equal in extent of cover to the natural vegetation of the surrounding area.*

*(4) The revegetation plan shall provide for the greatest probability of success in plant establishment and vegetation development by considering environmental factors such as seasonal patterns of precipitation, temperature and wind; soil texture and fertility; slope stability; and direction of slope faces. Similar attention shall be given to biological factors such as proper inoculation of legume seed, appropriate seeding and transplanting practices, care of forest planting stock, and restriction of grazing during initial establishment. The Board or Office, in consultation with the Landowner and the local Soil Conservation District, if any, shall determine when grazing may start.*

*(5) To insure the establishment of a diverse and long-lasting vegetative cover, the Operator shall employ appropriate techniques of site preparation and protection such as mechanical soil conditioning by discing and ripping; mulching; soil amendments and fertilizers; and*



*irrigation.*

*(6) Methods of weed control shall be employed for all prohibited noxious weed species, and whenever invasion of a reclaimed area by other weed species seriously threatens the continued development of the desired vegetation. Weed control methods shall also be used whenever the inhabitation of the reclaimed area by weeds threaten further spread of serious weed pests to nearby areas.*

**Please provide a description of how the Reclamation Plan will be implemented to meet each of the above applicable requirements of this Section.**

- (d) Where applicable, plans for topsoil segregation, preservation, and replacement; for stabilization, compaction, and grading of spoil; and for revegetation. The revegetation plan shall contain a list of the preferred species of grass, legumes, forbs, shrubs or trees to be planted, the method and rates of seeding and planting, the estimated availability of viable seeds in sufficient quantities of the species proposed to be used, and the proposed time of seeding and planting;

**Please provide plans for topsoil segregation, preservation, and replacement.**

- (e) A plan or schedule indicating how and when reclamation will be implemented. Such plan or schedule shall not be tied to any specific date but shall be tied to implementation or completion of different stages of the mining operation as described in Subparagraph 6.4.4(1)(e). The plan or schedule shall include:
  - (i) An estimate of the periods of time which will be required for the various stages or phases of reclamation;
  - (ii) A description of the size and location of each area to be reclaimed during each phase; and
  - (iii) An outline of the sequence in which each stage or phase of reclamation will be carried out.

(The schedule need not be separate and distinct from the Reclamation Plan, but may be incorporated therein.)

- (f) A description of each of the following:
  - (i) Final grading - specify maximum anticipated slope gradient or expected ranges thereof;
  - (ii) Seeding - specify types, mixtures, quantities, and expected time(s) of seeding and planting;



(iii) Fertilization - if applicable, specify types, mixtures, quantities and time of application;

(iv) Revegetation - specify types of trees, shrubs, etc., quantities, size and location; and

**Please provide the quantities and sizes of the cottonwood and willow trees proposed to be planted along the edges of the reclaimed ponds.**

(v) Topsoiling - specify anticipated minimum depth or range of depths for those areas where topsoil will be replaced.

#### 6.4.6 EXHIBIT F - Reclamation Plan Map

The map(s) of the proposed affected land, by all phases of the total scope of the mining operation, shall indicate the following:

- (a) The expected physical appearance of the area of the affected land, correlated to the proposed mining and reclamation timetables. The map must show proposed topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of all reclaimed lands; and
- (b) Portrayal of the proposed final land use for each portion of the affected lands.

#### 6.4.7 EXHIBIT G - Water Information

- (1) If the operation is not expected to directly affect surface or groundwater systems, a statement of that expectation shall be submitted.

**The operation is expected to encounter groundwater, and will therefore directly affect the groundwater system. Please correct the statement "Operation is not expected to affect surface or groundwater systems" from Exhibit G of your application package.**

- (2) If the operation is expected to directly affect surface or groundwater systems, the Operator/Applicant shall:
  - (a) Locate on the map (in Exhibit C) tributary water courses, wells, springs, stock water ponds, reservoirs, and ditches on the affected land and on adjacent lands where such structures may be affected by the proposed mining operations;
  - (b) Identify all known aquifers; and
  - (c) Submit a brief statement or plan showing how water from de-watering

operations or from runoff from disturbed areas, piled material and operating surfaces will be managed to protect against pollution of either surface or groundwater (and, where applicable, control pollution in a manner that is consistent with water quality discharge permits), both during and after the operation.

- (3) The Operator/Applicant shall provide an estimate of the project water requirements including flow rates and annual volumes for the development, mining and reclamation phases of the project.

**Please provide this information.**

- (4) The Operator/Applicant shall indicate the projected amount from each of the sources of water to supply the project water requirements for the mining operation and reclamation.

**Please provide this information.**

- (5) The Operator/Applicant shall affirmatively state that the Operator/Applicant has acquired (or has applied for) a National Pollutant Discharge Elimination System (NPDES) permit from the Water Quality Control Division at the Colorado Department of Health, if necessary.

#### 6.4.8 EXHIBIT H - Wildlife Information

- (1) In developing the wildlife information, the Operator/Applicant may wish to contact the local wildlife conservation officer. The Operator/Applicant shall include in this Exhibit, a description of the game and non-game resources on and in the vicinity of the application area, including:
- (a) a description of the significant wildlife resources on the affected land;
  - (b) seasonal use of the area;
  - (c) the presence and estimated population of threatened or endangered species from either federal or state lists; and
  - (d) a description of the general effect during and after the proposed operation on the existing wildlife of the area, including but not limited to temporary and permanent loss of food and habitat, interference with migratory routes, and the general effect on the wildlife from increased human activity, including noise.
- (2) The application may be reviewed and commented upon by the State of Colorado Division of Wildlife (DOW). If the DOW has comments, they must be provided prior to the end of the public comment period specified in Subsection 1.7.1(2)(a) to be considered by the Board

and Office.

6.4.9 EXHIBIT I - Soils Information

- (1) In consultation with the Soil Conservation Service or other qualified person, the Operator/Applicant shall indicate on a map (in Exhibit C) or by a statement, the general type, thickness and distribution of soil over the affected land. Such description will address suitability of topsoil (or other material) for establishment and maintenance of plant growth. The above information shall satisfy "completeness" requirements for purposes of determination of date of filing.
- (2) If necessary, at its discretion, the Board may require additional information on soils or other growth media to be stockpiled and used in revegetation to be submitted subsequent to the filing and notification of "completeness" of the application.

6.4.10 EXHIBIT J - Vegetation Information

- (1) The Operator/Applicant shall include in this Exhibit a narrative of the following items:
  - (a) descriptions of present vegetation types, which include quantitative estimates of cover and height for the principal species in each life-form represented (i.e., trees, tall shrubs, low shrubs, grasses, forbs);
  - (b) the relationship of present vegetation types to soil types, or alternatively, the information may be presented on a map; and
  - (c) estimates of average annual production for hay meadows and croplands, and carrying capacity for range lands on or in the vicinity of the affected land, if the choice of reclamation is for range or agriculture.
- (2) The Operator/Applicant shall show the relation of the types of vegetation to existing topography on a map in Exhibit C. In providing such information, the Operator/Applicant may want to contact the local Soil Conservation District.

6.4.11 EXHIBIT K – Climate

Provide a description of the significant climatological factors for the locality.

6.4.12 EXHIBIT L - Reclamation Costs

- (1) All information necessary to calculate the costs of reclamation must be submitted and broken down into the various major phases of reclamation. The information provided by the Operator/Applicant must be sufficient to calculate the cost of reclamation that would be incurred

by the state.

- (2) The Office may request the Operator/Applicant to provide additional, reasonable data to substantiate said Operator/Applicant's estimate of the cost of reclamation for all Affected Lands.

6.4.13 EXHIBIT M - Other Permits and Licenses

A statement identifying which of the following permits, licenses and approvals the Operator/Applicant holds or will be seeking in order to conduct the proposed mining and reclamation operations: effluent discharge permits, air quality emissions permits, radioactive source material licenses, the State Historic Preservation Office clearance, disposal of dredge and fill material (404) permits, permit to construct a dam, well permits, explosives permits, highway access permits, U.S. Forest Service permits, Bureau of Land Management permits, county zoning and land use permits, and city zoning and land use permits.

6.4.14 EXHIBIT N - Source of Legal Right to Enter

The source of the Operator's/Applicant's legal right to enter and initiate a mining operation on the affected land. (Same requirements as Rule 6.3.7).

6.4.15 EXHIBIT O - Owner(s) of Record of Affected Land (Surface Area) and Owners of Substance to be Mined

The complete list of all owners can be submitted as a list or on a map in Exhibit C.

Item 6 of the application form refers to Exhibit O. Exhibit O was not submitted with the application package. Please submit Exhibit O.

6.4.16 EXHIBIT P - Municipalities Within Two Miles

A list of any municipality(s) within two miles of the proposed mining operation and address of the general office of each municipality.

6.4.17 EXHIBIT Q - Proof of Mailing of Notices to Board of County Commissioners and Soil Conservation District

Proof that notice, of the permit application was sent to the Board of County Commissioners and, if the mining operation is within the boundaries of a Soil Conservation District, to the Board of Supervisors of the local Soil Conservation District, pursuant to Subparagraph 1.6.2(1)(a)(ii).

**Please submit the required proof that notice was sent to the Moffat County Board of County Commissioners and the Colorado First Soil Conservation District.**

6.4.18 EXHIBIT R - Proof of Filing with County Clerk and Recorder

An affidavit or receipt indicating the date on which the application was placed with the local County Clerk and Recorder for public review, pursuant to Subparagraph

1.6.2(1)(c).

**Please submit proof that the application was placed on file with the Moffat County Clerk and Recorder.**

6.4.19 EXHIBIT S - Permanent Man-made Structures

Where the mining operation will adversely affect the stability of any significant, valuable and permanent man-made structure located within two hundred (200) feet of the affected land, the applicant may either:

- (a) provide 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 the mining and reclamation activities, as proposed, will have "no negative effect" on their utility.

**The proposed operation will occur within 200 feet of the railroad on the north side of the site. Also, there is a farm house located within the proposed affected area. The Division believes that there is potential to adversely affect these structures. Please provide documentation to satisfy the requirements of this Rule for each of the above stated structures.**

1.6.2 ADDENDUM 1 - Notice Requirements - Affidavit of Posting Notice

- (1) (b) Prior to filing the application, post notices (signs) at the location of the proposed mine site, as required by the Office, of sufficient size and number to clearly identify the site as the location of a proposed mining operation giving name, address, and phone number of the Applicant, and stating that (name of Applicant) has applied for a mining permit with the Colorado Mined Land Reclamation Board. Anyone wishing to comment on the application may view the application at the County Clerk's or Recorder's office and should send comments prior to the end of the public comment period to the Colorado Mined Land Reclamation Office, at the address given on the cover of these Rules and Regulations. Any class of Limited Impact 110 or Special 111 operation need only post notice (sign) at the location of the proposed access to the site. After having posted such notice (sign), failure by an Applicant to maintain such notice shall not constitute just cause to deny approval of the application. At the time the application is filed with the Office, the

Applicant shall provide a signed affidavit that such notice (sign) was posted according to the provisions of this Rule.

**Please submit the required affidavit of posting notice.**

Your application will not be considered submitted until the information listed above is received and found sufficient to begin our review. A decision date will be established 90 days from the date of receipt of all of the requested information. Additionally, if you have already published notice you will need to republish notice, after the Division considers the application submitted. This notice must be published once a week for four (4) consecutive weeks, starting within ten (10) days of the date your application is considered submitted. We will notify you when you should initiate republication of your notice. The final date for receiving comments is the 20th day after the fourth publication or the next regular business day.

You have sixty (60) days from the above date to submit all necessary documents that the Office needs for an application to be considered filed. If, at the end of the sixty day period, the application has not been determined to be filed with the Office, the Office shall deny the application and terminate the application file.

This letter shall not be construed to mean that there are no other technical deficiencies in your application. The Division will review your application to determine whether it is adequate to meet the requirements of the Act after submittal of all required items.

If you require additional information, have questions or concerns, please contact me at the DRMS Grand Junction Field Office.

Sincerely,



**Dustin Czapla**

Environmental Protection Specialist  
Department of Natural Resources  
Division of Reclamation, Mining and Safety  
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Cc: