

# STATE OF COLORADO

## DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

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Mike King  
Executive Director

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Director

May 10, 2012

Matt Dankers  
Blattner Energy, Inc.  
9232 Ballybunion Rd  
Peyton, CO 80831

RE: Higgins Pit II; DRMS File No. M-2012-013; Preliminary Adequacy Review

Dear Mr. Dankers,

The Division of Reclamation, Mining and Safety (Division) has completed its preliminary adequacy review of your Construction Materials Regular 112 Operation Reclamation Permit Application. The application was received on April 6, 2012 and called complete for review on April 11, 2012. The decision date for this application is July 10, 2012. **Please be advised that if you are unable to satisfactorily address any concerns identified in this review before the decision date, it will be your responsibility to request an extension of the review period. If there are outstanding issues that have not been adequately addressed prior to the end of the review period, and no extension has been requested, the Division will deny this application.**

The review consisted of comparing the application content with specific requirements of Rule 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. In general the application was substantially adequate, however, as with most applications there are a few items that will require the submittal of additional information or clarification of the existing information. Inadequacies are identified under the respective exhibit heading along with suggested actions to correct them.

### 6.4.1 Exhibit A – Legal Description

No comment.

### 6.4.2 Exhibit B – Index Map

No comment.

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

No comment.

#### **6.4.4 Exhibit D – Mining Plan**

1. The Operator has stated that rip rap sediment outlets may need to be installed in areas that will receive the majority of the site's potential runoff. If the Operator anticipates the need to install rip rap sediment outlets, then the location and design specifications of the outlets should be provided to the Division during the review of this Application. The riprap sediment outlets, if installed at a later time, will first need to be approved and bonded for under a separate Technical Revision if they are not addressed under this submittal.

#### **6.4.5 Exhibit E – Reclamation Plan**

2. The applicant has stated manure will be imported to supplement the limited amount of topsoil available at the site. The importation of manure will increase the potential for the presence of weeds. Rule 3.1.10(6) requires Operators to implement methods of weed control for all prohibited noxious weed species. The Division recommends that the Operator develop a Weed Control Plan as part of this submittal. The Weed Control Plan should include the following:
  - a) a list of potential noxious weeds which may occur at the site.
  - b) a description of the various control measures which will be employed for the weed species, e.g., mechanical, chemical, or biological control.
  - c) a monitoring plan which specifies how often the Operator will monitor the site for noxious weeds and what actions will be taken if noxious weeds are observed.
  - d) A post-treatment monitoring plan to determine the effectiveness of the weed control efforts.
  - e) A commitment that the Weed Control Plan will be implemented for the life of the permit.
3. The Applicant has stated the area to be mined is used seasonally as pastureland. Please indicate how the reclaimed area will be protected from overgrazing. Will a fence be erected around the reclaimed area? Has the Operator committed to keeping cattle off of the reclaimed area until vegetation has successfully established? The Division recommends keeping cattle off of the reclaimed area for a minimum of two growing seasons.

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

No comment.

#### **6.4.7 Exhibit G – Water Information**

No comment.

#### **6.4.8 Exhibit H – Wildlife Information**

No comment.

#### **6.4.9 Exhibit I – Soils Information**

No comment.

#### **6.4.10 Exhibit J – Vegetation Information**

No comment.

#### **6.4.11 Exhibit K – Climate**

No comment.

#### **6.4.12 Exhibit L – Reclamation Costs**

4. The Division will calculate the financial warranty amount once all of the adequacy issues have been addressed.

#### **6.4.13 Exhibit M – Other Permits and Licenses**

No comment.

#### **6.4.14 Exhibit N – Source of Legal Right to Enter**

5. The current lease agreement between the Operator and the landowner expires on December 31, 2012. It is the Division's experience that Operator's typically have to reseed all or a portion of the reclaimed area prior to final release of the site. In addition to reseeding, ongoing weed control is necessary to successfully establish vegetation, which may take two or more growing seasons to accomplish. Please inform the Division how the Operator will handle any follow up reclamation work which may need to be performed on the site after December 31, 2012.

#### **6.4.15 Exhibit O – Owner(s) of Record of Affected Land (Surface Area) and Owners of Substance to be Mined**

No comment.

#### **6.4.16 Exhibit P – Municipalities Within Two Miles**

No comment.

#### **6.4.17 Exhibit Q – Proof of Mailing of Notices to Board of County Commissioners and Soil Conservation District**

No comment.

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

No comment.

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

No comment.

This concludes the Division's preliminary adequacy review of this application. Please remember that the decision date for this application is July 10, 2012. As previously mentioned, if you are unable to provide satisfactory responses to any inadequacies prior to this date, **it will be your responsibility to request an extension of time to allow for continued review of this application.** If there are still unresolved issues when the decision date arrives and no extension has been requested, the application will be denied.

If you have any questions, please contact me at (303)866-3567 x8116.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Cunningham", with a stylized flourish at the end.

Michael A. Cunningham  
Environmental Protection Specialist