

STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

1313 Sherman St., Room 215

Denver, Colorado 80203

Phone: (303) 866-3567

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October 11, 2012

Emery Lynn Olin
Bridal Veil Construction
P.O. Box 1821
1796 N. Main Street
Ouray, CO 81427

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Piñeda
Director

RE: Response to Inquiry for Release Request, Bridalveil Pit, Permit No. M-2001-054.

Dear Mr. Olin:

On October 11, 2012, the Division received your correspondence, dated October 9, 2012, requesting information for release of warranties and termination of permit and/or revision of permit status to "...Maintenance permit, as the City of Ouray has."

The permit previously held by the City of Ouray was Skyrocket Creek, Permit No. M-1996-012, which was terminated July 13, 1999. There is no "maintenance" permit issued by the Division to the City of Ouray. The decision to terminate the permit was partly influenced by the intent of the excavation activities conducted by the City of Ouray at Skyrocket Creek. The intent was not to conduct a mining operation, but rather to maintain the floodway with adequate capacity whereby nearby structures and public safety might be safeguarded. The materials excavated from Skyrocket Creek by the municipality were considered incidental to the municipality's obligation to address the issue of public safety and protect existing structures.

If Bridal Veil Construction desires to request release of warranties and termination of permit, please follow the process outlined by Rule 4.17. Copy of Rule 4.17 is enclosed for your review. Additionally, the Act and Rules may be accessed at the Division's web site, www.mining.state.co.us.

Please contact me at the Division's office in Durango at 691 County Road 233, Suite A-2, Durango, CO 81301, phone (970) 247-5469, if you have any questions.

Sincerely,

Wallace H. Erickson

Environmental Protection Specialist

Enclosure

Ec w/enclosure: Connie Wurst, manager of Bridal Veil Construction
Russ Means, DRMS GJFO

- (c) a narrative describing site grading, topsoil replacement, successful revegetation and other stabilization activities, as appropriate;
- (d) suitable photographs of the reclaimed area; and
- (e) a map of sufficient detail to determine the location of the exploration activity.

113(8) (3) The Office shall, within ninety (90) calendar days after receiving said report, or as soon thereafter as weather conditions permit, inspect the lands and reclamation described in the notice to determine if the Operator has complied with all applicable requirements.

113(8) (4) If the Office finds the reclamation to be in compliance with the requirements of the Notice of Intent, Rules and Regulations, and the Act, the Office shall release all applicable performance and financial warranties. The financial warranty shall not be held for more than sixty (60) calendar days after the Office finds that the Notice of Intent Operator has successfully completed reclamation. However, an appeal to the release of the financial warranties shall stay the release on the sixtieth (60) day pending a Formal Board Hearing.

4.17 RELEASE OF PERFORMANCE AND FINANCIAL WARRANTIES FOR MINING OPERATIONS

4.17.1 Operator Requirements

110(3), 111(4), 117(5) (1) The Operator of any mining operation possessing a 110 Limited Impact Permit, or a 111 Special Operations Permit, or a 112 Reclamation Permit may file a written notice of completion of reclamation and request for release of reclamation responsibility with the Office whenever an Operator believes any or all requirements of the Act, the Rules and Regulations, and the approved reclamation plan have been completed with respect to any or all of the Affected Lands.

- (2) The Operator shall include in the notice to the Office the names and addresses and phone numbers of all owners of record to the affected land.
- (3) The written notice requesting release shall be sent by Certified Mail and be separate from other types of communication to the Office.
- (4) Such notice shall contain a signed statement by the Operator or their agent that all applicable portions of the Reclamation Plan requirements have been satisfied in accordance with these Rules and all applicable requirements under the Act.

4.17.2 Division Requirements

- (1) The Office, upon receipt of said notice of completion of reclamation, shall immediately provide notice to all owners of record to the affected land and to the county(s).
- 117(5)(a) (2) The Office shall, within sixty (60) days after receiving said notice, or as soon thereafter as weather conditions permit, inspect the lands and reclamation described in the notice to determine if the Permittee has complied with all applicable requirements.
- 117(5)(d) (3) If the Office fails to conduct an inspection within the time specified in Rule 4.17.2(2), or fails to advise the Permittee of deficiencies within the time specified in Rule 4.17.2(4), then all Financial Warranties applicable to reclamation described in the notice shall be deemed released as a matter of law.
- (4) Where the Office finds that a Permittee has not complied with the applicable requirements of the Act, Rules and Regulations, or the approved reclamation plan, it shall advise the Permittee of such non-compliance not more than sixty (60) calendar days after the date of the inspection.
- (5) Where the Office finds that a Permittee has successfully complied with the requirements of the Act, Rules and Regulations, and the approved reclamation plan, the Office shall release all applicable

performance and financial warranties. Release (pending an appeal) shall be in writing and mailed within thirty (30) calendar days to the Permittee after the date of such findings. However, an appeal to the release of the financial and performance warranties shall stay the release on the thirtieth (30) day pending a Formal Board Hearing.

4.18 PUBLIC NOTICE AND FILING OF WRITTEN OBJECTIONS REGARDING A REQUEST FOR RELEASE OF FINANCIAL WARRANTY

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- (1) Any person directly and adversely affected or aggrieved may submit written objections on the request for reclamation responsibility release so long as such comments are received by the Office within fifteen (15) days of notice by the Office to the county(s) and all owners of record to the affected land.
- (2) Notice of the Office's decision to release the Permittee from further reclamation responsibility shall be published in the next monthly agenda of the Board.

4.19 GENERAL PROVISIONS - APPEALS TO DECISION - RELEASE OF FINANCIAL WARRANTY

- (1) Any person directly and adversely affected or aggrieved by an Office decision to approve or deny the request for reclamation responsibility release and whose interest is entitled to protection under the Act may appeal the decision to the Board by submitting a request for Administrative Appeal to the Office according to the provisions of Section 1.4.11. The request for Administrative Appeal must specify the basis for being directly and adversely affected or aggrieved, a statement of why the person's interest is protected by the Act, the permit number assigned by the Office and include a statement of the factual and legal issues presented by the appeal.
- (2) If the Office decision to release a Permittee from reclamation liability is reversed by the Board on appeal, all outstanding obligations under the permit, the financial warranty, and the performance warranty shall remain in effect.

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4.20 FORFEITURE OF FINANCIAL WARRANTY