

# STATE OF COLORADO

## DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

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January 30, 2013

Mr. John P. Ary  
Fremont Paving & Redi-Mix Inc  
839 Mackenzie Ave  
Canon City, CO 81212

Ms. Angela M. Bellantoni  
Environmental Alternatives, Inc.  
1107 Main St.  
Canon City, CO 81212

John W. Hickenlooper  
Governor

Mike King  
Executive Director

Loretta Piñeda  
Director

**Re: Evans #2 Pit; DRMS File No. M-2000-041;  
Technical Revision (TR-03) Second Adequacy Review**

Dear Mr. Ary and Ms. Bellantoni:

On January 28, 2013 the Division of Reclamation, Mining and Safety (Division) received a response to the Division's Preliminary Adequacy Review (PAR) for Technical Revision (TR-03), dated January 3, 2013.

The Division's review of the aforementioned response requires some additional clarification, discussed below. The deadline for TR-03 is **January 31, 2013** per the Mined Land Reclamation Board Order (MV-2012-033) mailed December 24, 2012. **Please be aware that if the Technical Revision is approved by the Division on or before January 31, 2013, the entire amount of the civil penalty is waived**, as is also noted in the aforementioned Board Order.

The Division requires the following clarification based on information presented in your response to the Division's PAR:

- A. Mine Plan – The mine plan discussion references sequential phases 1, 2 and 3. The Division could not locate phase 3 on either of the two maps submitted with the response. Please describe the location of phase 3 (i.e., east of phases 1 and 2 and west of Nyberg Road, within the permit boundary).
- B. Map, Sheet 1 of 2 – There is a label in the middle of the green shaded area indicating the "Total Existing Disturbed Area in Green Hatch = 158± Acres". The original TR request was for an increase to 154 acres. Please confirm you wish to increase the disturbed area to 158 acres.
- C. Pursuant to Rule 6.2.1(1) all must be prepared and signed by a registered land surveyor, professional engineer, or other qualified person. The new drawings were not signed. Please resubmit the two new maps signed by the appropriate person.
- D. Financial Warranty – Based on information provided in your response to the PAR, and telephone conversations with Angela Bellantoni (EAI) the Division has used the financial warranty cost estimate from the 2007 inspection (based on 80 acres of disturbance), but with 2012 unit costs to estimate the new required financial warranty. To account for the proposed 158 acres of disturbance, the Division used the reclamation cost per acre for the 80-acre disturbance to estimate the financial warranty liability for the 158-acre disturbance. This information is similar to that provided in the January 3, 2013 PAR, except that the cost has been ratioed to the 158-acre disturbance instead of the 154-acre disturbance originally requested in the December 10, 2012

letter. As such, the new required financial warranty liability is estimated to be \$568,483 (based on the increased disturbed area)

Additional Concerns

- E. Reclamation Plan – The current approved reclamation plan is for a 300-acre lake. The Evans #2 Reclamation Plan map provided with the PAR response indicated 45 acres of the 158-acres disturbed would be reclaimed as wetlands. An additional 29 acres in Parcel 5 (future disturbed area) is also planned to be reclaimed as wetlands. This is a significant change to the approved reclamation plan; requiring revised revegetation seed mixes and/or planting, and changes to the grading plan. As such these changes will need to be addressed in an amendment application.
- F. The Division cannot approve TR-03 as it is presented in the response to the PAR because the presented reclamation plan will need to be addressed in an amendment application. The Division is, however, prepared to issue an approval of TR-03 that is limited to the following three items:
  - i. Increase the affected area from 80 acres to 158 acres.
  - ii. The mine plan is to be modified as stated under the Mine Plan discussion provided in the PAR response, but limited to the 158 acres disturbed as proposed in Phase I.
  - iii. Reclamation for the 158-acre Phase I disturbed area will be performed in accordance with the currently approved reclamation plan. (*Note: this would exclude the Evans #2 Pit Reclamation Plan, sheet 2 of 2, submitted as part of the PAR response.*)

Such a limited approval will require written consent from the Applicant (*see* Rule 1.4.1(12) which says “A condition or limitation to approval of the application, unless consented by the Applicant, shall be treated as a denial.”). In order to meet the Board’s stipulated submittal deadline of January 31, 2013 (thus resulting in waiver of the entire civil penalty levied by the Board), **the written consent must be received by the Division with sufficient time allowed for the limited approval to be issued on this date.**

Recommendations:

As discussed above, significant changes to the reclamation plan will need to be addressed in an amendment application. The Division recommends the Operator submit an amendment application as soon as possible to avoid potential problems in the future.

If you have any questions, please contact me.

Sincerely,



Timothy A. Cazier, P.E.  
Environmental Protection Specialist

ec: Tom Kaldenbach, DRMS  
DRMS file