

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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April 5, 2013

Mr. Randy Diluzio
Tezak Heavy Equipment Co. Inc.
205 Tunnel Dr.
Cañon City, CO 81212

Ken Klco
Azurite, Inc.
10001 CR 12
P.O. Box 338
Cotopaxi, CO 81223

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta Piñeda
Director

**Re: T.H.E. Aggregate Source, File No. M-1977-193,
Preliminary Adequacy Review for Amendment 5 (AM-05)**

Dear Mr. Diluzio and Mr. Klco:

The Division of Reclamation, Mining and Safety (Division) has completed its preliminary adequacy review of your 112 construction materials reclamation permit amendment application. The application was received on January 4, 2013 and called complete for review on January 14, 2013. The decision date for this application is April 15, 2013. 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 Rules 3.1, 6.4 and 6.5 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials. Any inadequacies are identified under the respective exhibit heading along with suggested actions to correct them.

APPLICATION

1. Page 1 – The Applicant/operator or company name is inconsistent with that on the original permit. The “Co.” is missing. Please correct the name to be “Tezak Heavy Equipment Co. Inc.” and resubmit page 1 of the application.

2. Page 2, Item 10, Exhibits B and C – There is a discrepancy of several hundred meters in the mine entrance location between Item 10 on the application and the coordinates listed on Exhibits B and C.

Mine Entrance Location Coordinates

Application Part:	<u>Application, p. 2</u>	<u>Exhibits B & C</u>
Latitude:	38° 26' 20.69"	38° 26' 21.37755"
Longitude:	105° 15' 41.86"	105° 15' 28.62431"

Please check the coordinates and provide the Division with the necessary corrections to page 2, Item 10 and/or Exhibits B and C. Please see Comments #4, #5 and #16 below.

3. Page 4, Item 16, and all Exhibit maps showing the revised permit boundary – During the February 7, 2013 inspection, the Division learned that part of the “4 acre adjustment to boundaries in the southern part of T.H.E. property” involves the removal of portions of the permitted area. This cannot be done as part of the amendment process. Pursuant to Rule 4.14.1(2)(a), such a request must be made separate from other correspondence. The Division acknowledges receipt of the Operator’s request to release this area and has determined that the area for which the release was requested is in compliance with the approved reclamation plan for that area. The deadline for objections to the release is April 9, 2013. The Division cannot approve the release request until after the deadline for objections has passed. Once the decision for release is made, there is a 30-day period for an appeal to be filed.

6.4 SPECIFIC EXHIBIT REQUIREMENTS – REGULAR 112 OPERATIONS

The following items must be addressed by the applicant in order to satisfy the requirements of C.R.S. 34-32.5-101 et seq. and the Mineral Rules and Regulations of the Mined Land Reclamation Board:

6.4.1 EXHIBIT A – Legal Description

This exhibit is adequate as submitted.

6.4.2 EXHIBIT B – Index Map

4. Please be sure the mine entrance coordinates listed on Exhibit B are correct as discussed in Comment #2 above.

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

5. Please be sure the mine entrance coordinates listed on Exhibit B are correct as discussed in Comment #2 above.
6. Pursuant to Rule 6.4.3(c), the mine plan map should show the existing topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of the affected land. As a minimum, please include contour lines for areas not yet disturbed as

part of the mining process for comparison with the contours on the Reclamation Plan Map, Exhibit F.

7. There is a “Westplains Easment (sic)” labeled in the northeast corner of the map. This easement appears to be within 50 feet of the permit boundary. Please discuss the purpose of this easement and whether or not it contains any structures, roads or easements. If any of these exist, please provide a structures agreement in Exhibit S.
8. There is a thick black line (similar to the other labeled easements on the map) on the east side of the permit boundary extending roughly north-south from the northwest to southeast Blackhills Power Line through the “A” in the landowner “State of Colorado”. Please identify this line. (please see Comment #23 below.)

6.4.4 EXHIBIT D – Mining Plan

9. The first paragraph states mining the new BLM area will commence in 2012. Please confirm this area has not yet been mined.
10. Technical Revision No. 3 approved a blasting and monitoring plan which required quarterly monitoring reports. As part of Amendment 5, the Division proposes the Operator commit to providing quarterly blasting reports with the following numeric protection limits based on previous data provided to the Division:
 - Peak Particle Velocity: ≤ 0.5 inches/second
 - Air Blast: ≤ 115 dB

These data should be collected near the residences on Tunnel Drive and the Cañon City Water Treatment Plant. Please commit to continuing the blast monitoring and quarterly reporting.

6.4.5 EXHIBIT E – Reclamation Plan

11. The paragraph under “FINAL HIGHWALL DESIGN” on page 1 discusses a revised approach to highwall bench reclamation. The final highwall benches are expected to be on the BLM portion of the permit area. The Applicant proposes changing the previously approved reclamation plan for these benches from revegetation with trees, shrubs and grasses to increasing the bench width by 10 feet to 30 feet and foregoing topsoiling and revegetation efforts. Please provide documentation demonstrating the BLM has agreed to this approach.
12. The third paragraph on page 3 indicates “65 acres of highwall bench area will be reclaimed via revegetation at the end of mining”. This statement contradicts the proposed approach discussed above in Comment #11 above. Please provide some clarification as to which approach is intended for highwall bench reclamation.
13. The reclamation plan indicates that stormwater retention ponds will remain after mine reclamation is complete. The plan also states the area is zoned industrial/mining with a post-mining use of “open rangeland/wildlife habitat”. The Division strongly encourages breaching the retention pond embankments upon closure unless the landowner has a use for these ponds (e.g., stock pond) and intends to maintain it. As the Aggsources, LLC is

the landowner, please provide some discussion as to how the retention ponds will be maintained in order to prevent a potentially catastrophic release of sediment in the future after the ponds fill with sediment and breach during a storm, or overtop and breach during a storm greater than the design storm.

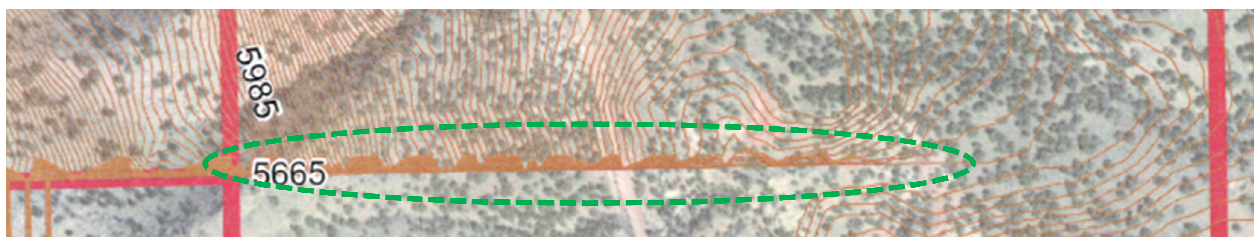
14. The drainage study in Exhibit G indicates the sediment retention ponds capture about 15 acre-feet of runoff during the 10-year design storm event. The Division has been consulting with the Colorado Division of Water Resources (DWR) District water commissioners regarding the status of various river appropriations. DWR's requirement to release retained stormwater within 72 hours is seasonal and is subject to change. The Division suggests the Operator consider a low level outlet be designed into the ponds in case a call is put on the Arkansas River, the Operator can comply with the DWR requirements.
15. Please address the reclamation expectations from the city of Cañon City with respect to the road easement discussed at the end of the Rule 6.5 - Geotechnical Stability Exhibit and discussed in Comment # 26 below.

6.4.6 EXHIBIT F – Reclamation Plan Map

16. The mine location point is several hundred feet to the west of what is shown on the Exhibit C Pre-Mining & Mining Plan Map, but is labeled with the same coordinates. Please be sure the mine entrance coordinates listed on Exhibit B are correct as discussed in Comment #2 above.
17. Near the center of the south area of the permit area appears to be a stockpile with slopes much steeper than 3H:1V as shown below. Please revise the contours in this area to show slopes no steeper than 3H:1V.



18. Please confirm the northern limit of mining in the existing permitted area is coincident with the north boundary of the permit expansion into the BLM land near contour label 5665, as indicated by the reclamation contours on the Exhibit F map:



19. The narrative on page 1, Exhibit F Reclamation Plan Map indicates storm detention structures will be placed in the pit floor area.

- a. Please show approximate locations on the reclamation plan map and,
- b. Provide some discussion on the number of structures, design criteria, maintenance, and outlet erosion protection for these structures.

6.4.7 EXHIBIT G – Water Information

This exhibit is adequate as submitted.

6.4.8 EXHIBIT H – Wildlife Information

This exhibit is adequate as submitted.

6.4.9 EXHIBIT I – Soils Information

This exhibit is adequate as submitted.

6.4.10 EXHIBIT J – Vegetation Information

This exhibit is adequate as submitted.

6.4.11 EXHIBIT K – Climate

This exhibit is adequate as submitted.

6.4.12 EXHIBIT L – Reclamation Costs

20. The current bond held by the Division for this site is \$540,215.00. The Division will recalculate the bond based on responses to this adequacy review letter, but it is unlikely the bond will be reduced to the \$477,974 proposed in Exhibit L.
21. Sitewide, removal of “scrap”: Please describe the nature of the scrap (metal, construction/demolition debris, etc.) and whether or not it is to be disposed/buried on site or hauled to a landfill.
22. Please clarify whether or not the Road easement listed on the sixth line is the same road discussed at the end of the Rule 6.5 - Geotechnical Stability Exhibit and addressed in Comment # 26.

6.4.13 EXHIBIT M – Other Permits and Licenses

This exhibit is adequate as submitted.

6.4.14 EXHIBIT N – Source of Legal Right to Enter

This exhibit is adequate as submitted.

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

This exhibit is adequate as submitted.

6.4.16 EXHIBIT P – Municipalities Within Two Miles

This exhibit is adequate as submitted.

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

This exhibit is adequate as submitted.

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

This exhibit is adequate as submitted.

6.4.19 EXHIBIT S – Permanent Man-Made Structures

23. Based on the response to Comment # 8 above, an additional structures agreement may be required.

6.5 Geotechnical Stability Exhibit (submitted following Exhibit D – Mine Plan)

24. The rationale for complying with Rule 6.5(1) relies on specific rock type characteristics determined from core samples and stability analyses completed for Amendment 3 in 1997 when the mine area was smaller. Please address how the Operator will ensure potential variations in rock characteristics (e.g., foliation, compressive and tensile strengths, etc.), and increased highwall height won't have a significant impact on the previous estimated Factors of Safety as mining progresses west and north of the area that was approved under Amendment 3.
25. The discussion related to Rule 6.5(2) focuses on sediment ponds, water containment structure, berms, ditches, inlets, and spillways. This rule also applies to highwalls. Please describe how the requirement for providing engineering stability analyses for the final configuration highwall is to be addressed.
26. The last paragraph on the second page of the end of the Geotechnical Stability Exhibit discusses a pending arrangement with the city of Cañon City regarding a private access road.
- a. Please discuss whether this road is to be within the existing or proposed permit boundary and,
 - b. What the proposed post-mine use for the road? Will the city require it to be reclaimed? If so, it will need to be added to the permit area, if not already included.

Messrs. DiLuzio and Klco

Page 7

April 5, 2013

Other Concerns

The Division is not aware of other concerns at this time.

Please remember that the decision date for this application is April 15, 2013. 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, ext. 8169.

Sincerely,

A handwritten signature in blue ink, reading "Timothy A. Cazier". The signature is fluid and cursive, with the first name "Timothy" being the most prominent part.

Tim Cazier, P.E.
Environmental Protection Specialist

cc: Tom Kaldenbach, DRMS
DRMS file
Stephanie Carter, BLM