

# STATE OF COLORADO

## DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

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July 16, 2013

Zane Luttrell  
Rocky Mountain Aggregate and Construction  
23625 Uncompahgre Road  
Montrose, CO 81401

Greg Lewicki  
Greg Lewicki and Associates  
11541 Warrington Court  
Parker, CO 80138

John W. Hickenlooper  
Governor

Mike King  
Executive Director

Loretta E. Pineda  
Director

**RE: Outstanding Adequacy Issues for an Amended 112c Application,  
Uncompahgre Pit, File No. M-2013-007**

Dear Mr. Luttrell and Mr. Lewicki:

On July 9, 2013, the Division received response from the Applicant to the Division's adequacy issues. The Division has reviewed the Applicant's response and has determined the following adequacy issues remain outstanding. Please be advised on July 19, 2013, the Division may determine the application not adequate for approval and may issue a recommendation to deny unless the following adequacy items are addressed to the Division's satisfaction. Subsequent to receipt and review of the Applicant's response to these items the Division may identify additional items.

### Outstanding Adequacy Issues for the Amended Application

1. Pursuant to Rules 1.4.5(3), 1.6.2(1)(g) and 1.6.5(2), please submit proof of publication for the newspaper notice required under Rules 1.6.2(1)(d) and 1.6.5(1), for the amended application. The proof of publication received by the Division on July 9, 2013, was for the original application and not the amended application.
2. On July 9, 2013, the Division received proof of service for the public notice required under Rule 1.6.2(1)(e)(ii), for all Owners of Record with the exception of Roger and Gail Noble. Please provide proof of service for the notice sent to Mr. and Mrs. Noble.
3. The application proposes a new access road with a new bridge for the crossing of the Montrose West Canal. The application indicates the bridge would be designed by an

experienced professional engineer and the designs would be reviewed and approved by Montrose County Engineering.

In the previous adequacy letter, dated June 14, 2013, the Division requested the engineering designs for the new bridge. The Division requested copy of the approval document from Montrose County for the plans for the new bridge. On July 9, 2013, the Division received a brief description of three bridge options under consideration.

Please provide engineering designs, certified by an experienced and Colorado licensed professional engineer, for the specific bridge design proposed by the Applicant. If the designs have been reviewed and approved by Montrose County, please include copy of the approval document as well.

4. Pursuant to Section 34-32.5-115(4)(e) C.R.S. and Rule 6.4.19(a), the Division requested a damage compensation agreement for each of the owners of man-made structures located within 200 feet of the affected land boundary. The application identifies 13 structure owners and provides proof of service of a damage compensation agreement for 10 of the structure owners. None of the agreements provided by the Applicant have been executed or accepted by the structure owners.

Please provide proof of service of the proposed damage compensation agreements for the following three structure owners:

- Montrose County, for County Road T
- Tri-County Water, for buried water lines
- Century Link, for buried phone services

5. None of the damage compensation agreements provided by the Applicant have been executed or accepted by the structure owners. Pursuant to Section 34-32.5-115(4)(e) C.R.S. and Rule 6.4.19(b), the application includes an engineering evaluation which attempts to demonstrate all structures located within the permit area and/or within 200 feet of the affected land boundary shall not be damaged by the mining operation.
  - a. Please revise the engineering evaluation to include a description of the earthen berm to be located between the new access road and County Road T. The proposed earthen berm will be six feet high and 2,240 feet in length, and appears to provide a substantial protective barrier for the structures located to the north of the new access road. If the protective earthen barrier satisfies MSHA safety berm requirements please state such.
  - b. Given the absence of an executed damage compensation agreement for the owners of the Ouray Ditch and the Montrose West Canal, please revise the engineering evaluation to address these structures, pursuant to Section 34-32.5-115(4)(e) and Rule 6.4.19(b).

6. On June 19, 2013, the Division estimated the cost of reclamation totaling \$99,409.04. Copy of the Division's reclamation cost estimation was provided with the inspection report from the site inspection occurring June 4, 2013, signed June 19, 2013. Therefore, if the application is approved the Division will require a financial warranty not less than \$99,409.04.

As described above there are outstanding adequacy issues for the application and the Division must render a recommendation on the application on July 19, 2013. If these adequacy issues are not addressed to the Division's satisfaction prior to July 19, 2013, the Division may have no alternative but to issue a recommendation to deny. Given the existing time constraints the Division recommends the Applicant waive its right to a decision on July 19, 2013, and submit a written request to extend the review period for the application. The request for extension must be received by the Division on or before July 19, 2013. Please note a written request for extension of the review period will most likely result in re-scheduling the application hearing for the October 16-17, 2013, Board meeting.

The Division reserves the right to further supplement this document with additional adequacy issues and details as necessary. 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

ec: Greg Lewicki, Greg Lewicki and Associates  
Russ Means, DRMS GJFO