



July 31, 2013

Mr. Travis Marshall
Colorado Division of Reclamation, Mining and Safety
101 South 3rd Street, Suite 301
Grand Junction, CO 81501

RECEIVED

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GRAND JUNCTION FIELD OFFICE
DIVISION OF
RECLAMATION MINING & SAFETY

RE: Highway 50 Borrow Area No. 2, Mine Permit M-1999-076

Dear Mr. Marshall:

The Colorado Division of Reclamation, Mining and Safety (DRMS) Minerals Program Inspection Report documenting observations recorded during a June 12, 2013 inspection at the Highway 50 Borrow Area No. 2 (Mine Permit No. M-1999-076) identified a hydrologic balance problem at the mine area. The report describes the problem as improperly impounding surface drainage/groundwater in the pit at the site and requires submittal of documentation from the State Engineer's Office demonstrating that the impoundment of water in the pit is authorized by that office. Elam Construction, Inc. (Elam) recognizes that impoundment of water in the pit must be authorized by the State Engineer's Office and is taking the actions necessary to ensure proper management of water at the site. The actions being considered for mitigation of the hydrologic balance problem are to obtain the permit and/or water right required to authorize the impoundment or to eliminate the impoundment by backfilling the pit or otherwise preventing the storage of water in the pit. The current landowner at the site has indicated through meetings that he prefers the impoundment remain in place. Elam has retained the services of Western Water & Land, Inc. (WWL) to assess the feasibility of obtaining the authorizations required to meet the landowner's wishes and maintain the impoundment at the site. Currently, the pit contains exposed groundwater and receives irrigation return flow from upgradient irrigated lands. As a result, a well permit will be required for the feature. Because water in the pit is ultimately tributary to the Gunnison River which is potentially subject to calls by the Redlands Power Canal, a plan for augmentation decreed by the Water Court will be required before a well permit will be issued by the State Engineer's Office. The plan will specify the replacement sources to offset out-of-priority depletions which will include purchase of water in an approved upstream reservoir (e.g., Blue Mesa Reservoir) and possible use of dry-up credits associated with historical irrigation with water rights held by the landowner.

WWL has completed a portion of the hydrologic analyses required to support an application for a plan for augmentation. To date, the analyses have included calculation of evaporative losses and stream depletions for the impoundment and evaluation of the use of historical consumptive use credits for water rights offered by the landowner to offset those depletions when out of priority. Results of the analyses indicate that the water rights currently offered by the landowner are of little value with respect to offsetting depletions from the pit. It is possible that other rights held by the landowner may be of much more value for the plan for augmentation, but the landowner has not yet offered those rights for use in the plan. WWL has discussed the results of the analyses completed to date with the local water commissioner who confirmed the findings.

The challenge that Elam is currently facing is obtaining the commitments necessary from the landowner to support preparation and implementation of a plan for augmentation for the impoundment. The commitments include use of existing irrigation rights and dry-up of irrigated lands and the financial obligations associated with the annual purchases of water which will extend in perpetuity or until water is no longer exposed in the pit. Elam has not yet had the chance to

meet with the landowner to resolve these issues. If the issues can be resolved, WWL will complete the analyses required for the application, and our legal counsel (Williams, Turner & Holmes, PC) will draft and file the application with the Water Court in Water Division 4. If the issues cannot be resolved, Elam will take the actions required to otherwise mitigate the impoundment. In either case, Elam anticipates that an application for approval of a plan for augmentation will be filed with the Water Court or plans will be completed to otherwise mitigate the hydrologic balance problem by March 31, 2014.

If you have any questions or need additional information, please contact me at (970) 245-9301 or gayle.lyman@elamconstruction.com.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gayle Lyman", with a long, sweeping horizontal line extending to the right.

Gayle Lyman
Compliance Director
Elam Construction, Inc. / Grand Junction Pipe & Supply / Sandco