

**STAFF SUMMARY FORM FOR
CONSENT AGENDA ITEMS**

Date: April 30, 2014

Operator: Robins Construction, LLLP

Permit No.: M-2009-053

Operation: Robins Rock Pit

Permit Type: 110c

Specialist: Wallace H. Erickson

Action: Possible Violation of permit conditions and section 34-32.5-109(1) C.R.S.

Resolution: Robins Construction, LLLP (Operator), concedes to the violation of permit conditions and section 34-32.5-109(1) C.R.S., for failing to first obtain a reclamation permit from the Board or Office prior to engaging in a new operation; and to the Cease and Desist Order, Corrective Actions, and Civil Penalties, provided herein, for the Robins Rock Pit, Permit No. M-2009-053.

Chronology:

- March 5, 2010 Permit No. M-2009-053 issued
- November 20, 2013 DRMS site inspection
- April 3, 2014 DRMS inspection report signed and mailed to Operator
- April 16, 2014 RTB signed and mailed to Operator

Reason for Violation: The mining operation has affected approximately four acres outside of the approved permit boundary, as described in the Division's inspection report generated from the November 20, 2013, inspection of the Robins Rock Pit, Permit No. M-2009-053, signed April 3, 2014.

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MAY 01 2014
Durango Field Office
Division of Reclamation,
Mining and Safety

Staff Recommendation:

Violation: Find a violation of permit conditions and section 34-32.5-109(1) C.R.S., for failure to first obtain a reclamation permit from the Board or Office prior to engaging in a new operation.

Cease and Desist Order: Issue a Cease and Desist Order prohibiting any further mining activities on the unpermitted portions of the affected lands, except for those activities required to prevent damage to off-site areas or protect the public health and safety, until the Operator complies with the Corrective Actions and Civil Penalty.

Corrective Action: Within 90 days of the effective date of this Board Order, the Operator shall file with the Division an application to amend the existing permit, OR an application to convert the existing 110c permit to an 112c operation. Once approved, the amended or converted permit must enclose all affected lands and include an updated reclamation plan and financial warranty.

Civil Penalty: Pursuant to section 34-32.5-123(2) C.R.S., an Operator who operates without a permit shall be subject to a civil penalty of not less than \$1,000.00 per day nor more than \$5,000 per day for each day the land has been affected, not to exceed 365 days.

In this case the Board could find 48 days of violation (from the signature date of the inspection report, April 3, 2014, to the Board hearing date, May 21, 2014), resulting in a range of civil penalty not less than \$48,000.00 and not more than \$240,000.00.

Pursuant to section 34-32.5-123(4) C.R.S., in addition to the civil penalties imposed in section 34-32.5-123(2) C.R.S., the Board shall also assess a civil penalty in an amount not less than the amount necessary to cover costs incurred by the Division in investigating the alleged violation.

In this case the Board could assess an additional civil penalty in the amount of \$453.12, based on eight hours of staff time at \$56.64 per hour.

In this matter the Board will assess a civil penalty of \$48,453.12 based on 48 days of violation at \$1,000.00 per day, and eight hours of staff time at \$56.64 per hour. The Board will suspend all but \$500.00 of the assessed civil penalty to encourage timely compliance from the Operator.

The unsuspended portion of the civil penalty, \$500.00, is due within 30 days of the effective date of this Board Order. Failure by the operator to comply by the board order due date shall result in the suspended civil penalty portion of \$47,953.12 becoming affective and due.

Operator's Notarized Signature: As an authorized representative of the Operator, I hereby attest that the Operator concedes to the above described violation and agrees to comply with the Cease and Desist Order, Corrective Action, and Civil Penalty proposed in this STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS.

Signed and dated this 1ST day of May, 2014.

Robins Construction, LLLP
(Operator)

Signature: Randall L. Robins

Title: General Partner

State of Colorado

County of Conchos

The foregoing instrument was acknowledged before me this 1ST day of May, 2014,

by Randall L. Robins as General Partner of Robins Construction, LLLP

Bart Sowards
Notary Public

My Commission Expires: 2-8-15



SIGNATURES MUST BE IN BLUE INK

RECEIVED
MAY 01 2014
Durango Field Office
Division of Reclamation,
Mining and Safety



GENERAL ACCOUNT
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5/1/2014

PAY TO THE
ORDER OF

Division of Reclamation, Mining and Safety

\$500.00

\$

Five Hundred Dollars And No Cents

DOLLARS

Division of Reclamation, Mining and Safety
1313 Sherman St. Room 215
Denver, CO 80203



Randall J. Roberts
AUTHORIZED SIGNATURE

MEMO

Security features. Details on back.

ROBINS CONSTRUCTION LLLP-GENERAL ACCOUNT

107757

5/1/2014	107757			\$500.00	\$0.00	\$500.00
		W Comp Expires:	GL Ins Expires:		W9 On File: NO	
Date	Order / Invoice	Description	Amount	Deduction	Net Amount	
05/01/14	0 / 5/1/14	00001 Robins Rock Pit	\$500.00	\$0.00	\$500.00	

ROBINS CONSTRUCTION LLLP -GENERAL ACCOUNT

107757

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Date	Order / Invoice	Description	Amount	Deduction	Net Amount	
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5/1/2014	107757	Division of Reclamation, Mining and Safety	\$500.00	\$0.00	\$500.00
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COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

April 30, 2014

Randy Robins
Robins Construction, LLLP
P.O. Box 212
Antonito, CO 81120

RE: Consent Agenda Summary Form, Robins Rock Pit, Permit No. M-2009-053

Dear Mr. Robins:

A possible violation at the Robins Rock Pit has been scheduled for consideration by the Mined Land Reclamation Board (Board). As indicated in the Division's correspondence dated April 16, 2014, RE: Reason to Believe a Violation Exists, the formal Board hearing has been scheduled to occur during the May 21 – 22, 2014, Board meeting.

Please find enclosed the Staff Summary Form for Consent Agenda Items (consent form) for the possible violation at the Robins Rock Pit. If you concede to the violation please affix your notarized signature on the enclosed consent form and return the signed form, with original signatures, to the Division no later than **May 6, 2014**. Upon receipt of the signed and notarized consent form the item will be moved from the Board's agenda for enforcement hearings to consent items and there will be no formal Board hearing regarding the possible violation.

However, if you wish to contest the possible violation or any of the conditions of the enclosed consent form, please inform the Division at your earliest convenience and do not sign the consent form. In the absence of a signed and notarized consent form the formal Board hearing will proceed as scheduled for May 21 – 22, 2014.

Sincerely,

Wallace H. Erickson
Environmental Protection Specialist

Enclosure: Staff Summary Form for Consent Agenda Items

Ec w/enclosure: Randy Robins, Robins Construction, randy@robinsconstruction.com
Scott Johnson, Summit Engineering, scott4622@gmail.com
Russ Means, DRMS GJFO, russ.means@state.co.us

