




**COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY**  
**MINERALS PROGRAM INSPECTION REPORT**  
**PHONE: (303) 866-3567**

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

<b>MINE NAME:</b> Cross Creek Ranch	<b>MINE/PROSPECTING ID#:</b> M-2013-036	<b>MINERAL:</b> Sand & Gravel	<b>COUNTY:</b> La Plata
<b>INSPECTION TYPE:</b> Illegal(Unpermitted Operation)	<b>INSPECTOR(S):</b> Kate A. Pickford	<b>INSP. DATE:</b> June 6, 2014	<b>INSP. TIME:</b> 10:00
<b>OPERATOR:</b> John Avery – LUKE THE DUKE, LLC	<b>OPERATOR REPRESENTATIVE:</b> John Avery	<b>TYPE OF OPERATION:</b> IM - Is it Mining	

<b>REASON FOR INSPECTION:</b> High Priority	<b>BOND CALCULATION TYPE:</b> None	<b>BOND AMOUNT:</b> BT.Bond amount
<b>DATE OF COMPLAINT:</b> NA	<b>POST INSP. CONTACTS:</b> None	<b>JOINT INSP. AGENCY:</b> None
<b>WEATHER:</b> Clear	<b>INSPECTOR'S SIGNATURE:</b> 	<b>SIGNATURE DATE:</b> June 16, 2014

**The following inspection topics were identified as having Problems or Possible Violations. OPERATORS SHOULD READ THE FOLLOWING PAGES CAREFULLY IN ORDER TO ASSURE COMPLIANCE WITH THE TERMS OF THE PERMIT AND APPLICABLE RULES AND REGULATIONS. If a Possible Violation is indicated, you will be notified under separate cover as to when the Mined Land Reclamation Board will consider possible enforcement action.**

**INSPECTION TOPIC:** Availability Of Records

**PROBLEM/POSSIBLE VIOLATION:** Problem: Failure to first obtain a reclamation permit from the Mined Land Reclamation Board before engaging in a new mining operation as required by 34-32.5-109(1) C.R.S.

**CORRECTIVE ACTIONS:** This possible violation will require a hearing before the Mined Land Reclamation Board. The schedule and other details for the MLRB hearing will be provided under a separate document to be sent via certified mail to the operator.

**CORRECTIVE ACTION DUE DATE:** 7/30/14

**INSPECTION TOPIC:** Availability Of Records

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### **OBSERVATIONS**

This inspection was conducted as a follow up inspection to the one conducted May 19, 2014, and was conducted in response to further complaints and additional information regarding the activity at the site. A complainant had mentioned that there were now two ponds at the site and he had concerns that if the material was hauled off site that there would be nothing left to fill in the ponds, for which Mr. Avery has no water rights. The Division confirmed with Danny Huntington, of the Hay Gulch Ditch Company, that Mr. Avery does not have water rights from the Hay Gulch Ditch. He further stated that even if Mr. Avery did have rights, he does not have easements to bring the water to his property. He stated that Mr. Avery claims to have water rights two drainages over, but does not have easements to bring the water over to his property. Matt Schmidt, the area Water Commissioner, stated that he had investigated the site and that the SEO had no concerns because groundwater had not been exposed. But in his conversations with Mr. Avery, nothing was stated by Mr. Avery that the holes would be filled with water.

Mr. Avery led the first part of the inspection, showing where material was being excavated from future building foundations and being replaced with material from his operation a few lots over. The existing material contained too much clay, according to Mr. Avery, so he was excavating that material, making berms along Cross Creek Road with it, and replacing the foundation material with that from his site. He stated that the buildings that were being installed were for his personal use, despite them being located on property belonging to CrossCreek Ranch LLC. Mr. Avery is not directly affiliated with CrossCreek Ranch, LLC, but is a contractor for it. He further showed that he had previously installed a large pond north of the current building sites, and one west of the current building sites. He claimed that the people who were complaining about his operation were the people who were benefitting from the roads he has put in at the subdivision.

Over where the excavation and crushing had been observed during the previous inspection, there was now a very large pit, in addition to the original one. The new pit was approximately 30 feet deep and between 150 and 200 feet long. There were excavators working in the pit. Next to the pit, where the crushing was observed previously, there were two very large stockpiles of gravel, approximately 30 feet high. Crushing was still being conducted. The original hole that was present the previous year had been expanded and trucks were being loaded with an excavator taking material from that pit.

The following day, the Division contacted C & J Gravel and advised it that it would also be receiving a letter scheduling a hearing for a possible violation and that they may want to consider pulling their equipment from the site as soon as possible. The next day, it was observed that the equipment was being hauled off. The next day Mr. Avery was also advised that it would be in his best interest to cease activities and stop exporting materials until the Division was able to further investigate this matter.



PHOTOGRAPHS



### GENERAL INSPECTION TOPICS

The following list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each

(AR) RECORDS----- <u>PV</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>N</u>
(HB) HYDROLOGIC BALANCE----- <u>N</u>	(BG) BACKFILL & GRADING----- <u>N</u>	(EX) EXPLOSIVES----- <u>N</u>
(PW) PROCESSING WASTE/TAILING---- <u>N</u>	(SF) PROCESSING FACILITIES----- <u>N</u>	(TS) TOPSOIL----- <u>N</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>N</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>N</u>
(SM) SIGNS AND MARKERS----- <u>N</u>	(SP) STORM WATER MGT PLAN---- <u>N</u>	(SB) COMPLETE INSP---- <u>N</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>N</u>	(SC) EROSION/SEDIMENTATION--- <u>N</u>	(RS) RECL PLAN/COMP-- <u>N</u>
(AT) ACID OR TOXIC MATERIALS----- <u>N</u>	(OD) OFF-SITE DAMAGE----- <u>N</u>	(ST) STIPULATIONS----- <u>N</u>

Y = Inspected and found in compliance / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

#### Inspection Contact Address

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Hesperus, CO 81326