



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

July 1, 2014

Tyler E. Kimzey
Pine Bluffs Gravel & Excavating, Inc.
215 Main Street
P.O. Box 609
Pine Bluffs, WY 82042

**Re: Pine Bluffs Gravel & Excavating, Inc.; Harms Pit; Permit No. M-2013-018;
Reason to Believe a Violation Exists and Notice of Board Hearing**

Mr. Kimzey:

On May 21, 2014, the Division of Reclamation, Mining and Safety (Division) conducted an inspection of Harms Pit (Permit M-2013-018) and nearby lands (please see attached inspection report). The Division's inspection revealed mining had occurred outside of the approved permit boundaries affecting an area of approximately 3.7 acres. Based on the findings of the inspection, we believe this is a violation of:

- C.R.S. 34-32.5-109(1) for failure to first obtain a reclamation permit prior to engaging in a new operation.

Therefore, the Division has reason to believe that a violation exists to the Mined Land Reclamation Act, C.R.S. 34-32.5-101 *et seq.*, and have scheduled this matter to appear before the Mined Land Reclamation Board.

A Formal Public Hearing will be held during the August 20-21, 2014 Board Meeting for consideration of this possible violation. The hearing will be held in Room 318 of 1313 Sherman Street, Denver, Colorado, beginning at 9:00 a.m. on August 20 and August 21 or as soon thereafter as the matter can be considered. At that hearing you will have the opportunity to present your defense.

This is an important legal proceeding and you must appear in person for this hearing. If you fail to appear an order and money judgment may be entered against you. In addition, failure to appear at the hearing may result in legal consequences including, but not limited to, loss of



party status and your ability to seek reconsideration from the Board or seek judicial appeal in district court.

If the Board finds a violation at this hearing, it may issue a Cease and Desist Order and/or assess a Civil Penalty in the amount of \$1,000.00 to \$5,000.00 for each day of violation. If you have evidence indicating that the possible violations noted above do not exist or have been corrected, please provide it to the Division as soon as possible or bring it to the hearing.

All parties have an opportunity to review and comment on a draft of the Board's order before it becomes final. If you wish to do so, you must provide the Board with a written request to review the draft order prior to or at the time of your hearing, or you must inform the Board orally during the hearing that you request to review the draft order. The Board's attorney must receive your comments on the draft order within three calendar days of the date the draft order is e-mailed, unless that deadline is extended by the Board's attorney. Submit all comments in writing, by e-mail or fax, to Mr. John Roberts, jj.roberts@state.co.us, Fax: 720-508-6037.

Please note that the Division has requested and will be allowed to review and comment on the draft Board Order.

The Board's agenda may not be finalized until the week of the Board meeting. Therefore, we recommend you contact the Division's office in Denver, phone (303) 866-3567, extension 8136, on August 18, 2014 to confirm the specific date for the hearing.

If you have any questions about this letter or the hearing, please contact Peter Hays at (303) 866-3567, extension 8124.

Sincerely,



Virginia Brannon
Division Director

CERTIFIED MAIL NO. 7011 3500 0002 9607 6452
Return Receipt Requested

Enclosure: May 21, 2014 Inspection Report

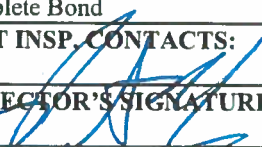
Cc: Tony Waldron, Division of Reclamation, Mining and Safety
Tom Kaldenbach, Division of Reclamation, Mining and Safety
Peter Hays, Division of Reclamation, Mining and Safety



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.

MINE NAME: Harms Pit	MINE/PROSPECTING ID#: M-2013-018	MINERAL: Sand and gravel	COUNTY: Weld
INSPECTION TYPE: Monitoring	INSPECTOR(S): Peter S. Hays	INSP. DATE: May 21, 2014	INSP. TIME: 11:30
OPERATOR: Pine Bluffs Gravel & Excavating, Inc.	OPERATOR REPRESENTATIVE: Lonny Graves	TYPE OF OPERATION: 110c - Construction Limited Impact	

REASON FOR INSPECTION: Normal I&E Program	BOND CALCULATION TYPE: Complete Bond	BOND AMOUNT: \$117,000.00
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
WEATHER: Clear	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: June 30, 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: Off-site Damage

PROBLEM/POSSIBLE VIOLATION: Possible Violation: Land has been affected outside of the approved permit boundary. This is a possible violation at this time pursuant to C.R.S. 34-32.5-109(1) for failure to first obtain from the Board or Office a reclamation permit prior to engaging in a new operation.

CORRECTIVE ACTIONS: This possible violation will require a hearing before the Mined Land Reclamation Board (MLRB). 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: 8/20/14

INSPECTION TOPIC: Sediment Control

PROBLEM/POSSIBLE VIOLATION: Problem: The topsoil stockpiles do not have established vegetation on them and are therefore susceptible to erosion. Rule 3.1.9(1) states if topsoil is not replaced into the backfill area within a time short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be employed so that the topsoil is protected from erosion.

CORRECTIVE ACTIONS: The Operator shall implement the approved topsoil stockpile erosion protection plan by protecting the stockpiles with silt fence at the toe of the stockpiles and seeding the stockpiles with annual foliage approved by the landowner. The Operator shall demonstrate compliance by submitting seed tags, a bill of sale or photographs of seeding and silt fence installation activities.

CORRECTIVE ACTION DUE DATE: 7/30/14

OBSERVATIONS

The Harms Pit was inspected by Peter Hays with the Division of Reclamation, Mining and Safety (Division/DRMS) as part of the Division's monitoring inspection program. Mr. Lonny Graves with Pine Bluffs Gravel & Excavating, Inc. (Pine Bluffs) was present during the inspection.

The 110c permit for the site was issued by the Division on June 26, 2013. The Harms Pit is approved for 9.98 acres. This was the first inspection of the site by the Division. The Division holds a reclamation bond in the amount of \$117,000, which appeared adequate to perform the approved reclamation plan at the site. The site is approved for intermittent status. The mine identification sign and boundary markers were observed as required by Rule 3.1.12(1).

Based on the inspection observations, the Division believes a possible violation has occurred at the Harms Pit. The Division will schedule this matter for a hearing before the Colorado Mined Land Reclamation Board. A notice of possible violation and information regarding the Board hearing will be sent under separate cover.

The approved mining plan states the existing road to be used during the mining process is already established, Weld County Roads 124 and 127, and there will be no new construction of roads. The access road from the mine site to the intersection of Weld County Road 124 and 127 already exists and will not require any improvements to accommodate the mine related traffic. There will be no new roads or improvements on any of the roads involved.

While preparing for the inspection, a review of the Google Earth satellite image of the area indicated a new road from WCR 127 to the west boundary of the mine site. A copy of the Google Earth image is attached. The permit boundary and new access road were GPS surveyed by the Division during the inspection using a Trimble Juno 3B. A map of the GPS survey results is attached. The survey indicated a permit boundary of 10.0 acres and an access road length of 3,225 feet. The survey permit boundary acreage is greater than the approved 9.98 acres, but is within the accuracy range of the Trimble unit. The new access road was measured during the inspection to be 50 feet wide. The new access road was calculated at 3.7 acres by the Division.

Mr. Graves stated the road was built by Pine Bluffs for the landowner for agricultural purposes. The land between WCR 127 and the Harms Pit was used for agriculture at the time of the inspection. Mr. Graves stated during the inspection the landowner obtained a road permit from Weld County. Mr. Graves emailed the Division a copy of the Weld County Access Permit on May 22, 2014. The permit states the road is 2640 feet long starting at WCR 127 and the proposed use is Field (Agricultural Only). A sign for the Harms Pit was located at the intersection of WCR 127 and the new access road.

Land has been affected outside of the approved permit boundary. This is a possible violation at this time pursuant to C.R.S. 34-32.5-109(1) for failure to first obtain from the Board or Office a reclamation permit prior to engaging in a new operation.

This possible violation will require a hearing before the Mined Land Reclamation Board (MLRB). 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.

The mining activities have affected all of the permitted acreage. Mr. Graves stated material was last processed at the site in March 2014. The excavation area is located in the western portion of the site. The excavation was estimated at 20 feet deep at the middle of the excavation. The eastern portion of the site contained two processed material stockpiles and a location for a processing plant. Mr. Graves stated the processing plant, scale and other equipment are transported to the site as needed. A front-end loader was observed during the inspection. A small lined pond was observed northeast of the excavation area. Mr. Graves stated water was trucked in and stored in the pond for material processing. No exposed groundwater or standing storm water was observed during the inspection.

The approved mining plan states topsoil stockpiles will be protected with silt fence at the toe of the stockpile and any topsoil stockpiles expected to sit more than six months will be broadcast seeded with annual foliage approved by the landowner. Topsoil stockpiles were observed in the southwest corner of the site and along the southern and eastern boundaries. Silt fence and vegetative cover were not observed during the inspection. As cited as a problem above, the Operator will be required to comply with the approved topsoil stockpile erosion protection measures. No noxious weeds or erosion features were observed during the inspection.

The approved post-mining land use is rangeland. No reclamation activities were observed during the inspection. The Operator stated reclamation may begin prior to the gravel resource being mined out due to the lack of rock at the site.

Photographs taken during the inspection are attached.

PHOTOGRAPHS



Mine sign at intersection of WCR 127 and access road



Harms Pit mine sign



Looking east from east end of access road at site



Looking east from SW corner of the site



Looking north from SW corner of the site



Looking east from NW corner of the site



Looking SE from NW corner of the site



Looking west from NE corner of the site



Looking south from NE corner of the site



Looking north from SE corner of the site



Looking NW from SE corner of the site



Looking west from SE corner of the site



Looking NW at processing plant area



Looking SW from NE corner of pit

GENERAL INSPECTION TOPICS

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

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

Mr. Lonny Graves
Pine Bluffs Gravel & Excavating, Inc.
215 Main Street, P.O. Box 609
Pine Bluffs, WY 82042

Enclosure – GPS survey map, Google Earth map

Cc: Tom Kaldenbach, DRMS

I, Peter Hays, hereby certify that on June 30, 2014, I deposited a true and complete copy of this foregoing inspection report in the United States Mail, first class postage paid, to the Operator of record for this site at the address indicated, and to those others within the body of this report who have been designated to receive copies (Division personnel excepted).






Signature

CERTIFIED MAIL 7010 3500 0002 9607 6469
RETURN RECEIPT REQUESTED

Harms Pit

M-2013-018

Legend

-  Harms Pit Permit Boundary
-  New Access Road - 3,223 feet
-  Permitted Access Road

 Harms Pit

Google earth

3000 ft



Harms Pit

M-2013-018

Juno 3B Survey Data
May 21, 2014

Permit Area - 10.0 Acres
New Access Road - 3,225'L x 50'W = 3.7 acres

Legend

- Line_generic 3
- Permit Area 2

Harms Pit

