



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, Colorado 80203

MEMO

DATE: November 17, 2014

TO: Mined Land Reclamation Board

FROM: Amy Eschberger
Environmental Protection Specialist

RE: Friederichs Pit, M-2010-080
Consent Agenda

Request for an 80-day extension of the Board-ordered deadline for submitting a 110 to 112 Construction Materials Reclamation Permit Conversion Application in approvable form.

The Board packet contains the following documents:

1. Board Order from the May 21, 2014 hearing (dated June 11, 2014) which imposed civil penalties and ordered the Operator to submit a conversion application, with all material in an approvable form within 180 days of the effective date of the Order.
2. Letter from the Operator, received November 17, 2014, requesting an 80-day extension of the deadline for submitting a conversion application in approvable form. Due to extenuating circumstances, the Operator's business partner, Mr. Mark Carrigan, had to sign for the Operator in this request. Mr. Carrigan is not currently authorized by the Division to act on behalf of the Operator. However, the Division will pursue authorization once the Operator is available to sign the required document(s).

DRMS Staff Recommendation:

Staff recommends that the Board approve the requested 80-day extension of the deadline for submitting the conversion application in an approvable form. The Operator has submitted a complete conversion application. However, additional time is needed for adequacy items to be resolved before the application can be approved. The original Board-ordered deadline is December 8, 2014, and the 80-day extension would give a new deadline of February 26, 2015.





COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

June 11, 2014

Rudy Torres
Riverside Aggregates, LLC
1750 County Road HH
Lamar, CO 801052

**Re: Findings of Fact, Conclusions of Law and Order,
Riverside Aggregates, LLC, File No. M-2010-080, MV-2014-009**

On June 11, 2014 the Mined Land Reclamation Board signed the enclosed Board Order for the above captioned operation. We strongly advise that you read this document carefully since it may contain provisions which must be satisfied by specific dates to avoid future Board actions.

Failure to submit payment for the unsuspended portion of the civil penalty, by the date specified in the attached MLRB Order, will result in immediate submittal of those penalties to Central Collection Services for further processing and the addition of collection fees.

Sincerely,

Johnie Abad
Board Secretary

Enclosure(s)

Certified Mail

7012 3460 0000 6385 2427

Cc's

Amy Escheberger
Tom Kaldenbach
John Roberts



**BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO**

Notice of Violation No. MV-2014-009

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

IN THE MATTER OF A POSSIBLE VIOLATION BY RIVERSIDE AGGREGATES, LLC, CEASE AND DESIST ORDER, CORRECTIVE ACTIONS, AND CIVIL PENALTIES FOR FAILING TO PROTECT AREAS OUTSIDE OF THE AFFECTED LAND FROM SLIDES OR DAMAGE, File No. M-2010-080

THIS MATTER came before the Mined Land Reclamation Board ("Board") on May 21, 2014 in Denver, Colorado as a consent agenda item to consider a possible violation by Riverside Aggregates, LLC ("Operator"), cease and desist order, corrective actions, and civil penalties for failing to protect areas outside of the affected land from slides or damage, file number M-2010-080.

The Board, having considered the materials presented with this consent agenda item and having been otherwise fully informed of the facts in the matter, enters the following:

FINDINGS OF FACT

1. The Operator holds a 110(c) permit for an 9.9-acre sand and gravel operation located in Section 18, Township 22 South, Range 47 West, 6th Principal Meridian, Prowers County, Colorado, permit number M-2010-080. The site, located southwest of Wiley, Colorado, is known as the Friederichs Pit.

2. On April 04, 2014, the Division of Reclamation, Mining and Safety ("Division") inspected the site. The Operator and the landowner's son attended the inspection. The Division found, among other things, that the Operator affected approximately 1.5 acres outside the approved permit area.

3. On April 14, 2014, the Division sent the Operator a copy of the inspection report and a Reason to Believe a Violation Exists letter. The Division's letter provided notice regarding the alleged violations and information about the May 21, 2014 hearing.

4. On May 16, 2014, the Operator admitted the violation and agreed to the Division's recommendations.

CONCLUSIONS OF LAW

5. The Board has jurisdiction over this matter pursuant to the Colorado Mined Land Reclamation Act, Article 32 of Title 34, C.R.S. (2013) ("Act").

6. Under section 34-32.5-116(4)(i), C.R.S., operators are required to protect areas outside of the affected land from slides or damage occurring during the mining operation and reclamation. The Operator affected approximately 1.5 acres outside the approved permit boundary, in violation of section 34-32.5-116(4)(i), C.R.S.

7. The Board may issue a cease and desist order if it determines that any provision of the Act was violated. C.R.S. § 34-32-124(2)(a) (2013). The Operator violated section 34-32.5-116(4)(i), C.R.S.

8. The Board may impose a civil penalty of not less than \$100 per day nor more than \$1,000 per day for each day during which a violation occurs. Here, the Board may impose a penalty based on 47 days of violation (from the date of the April 04, 2014 inspection to the May 21, 2014 Board) at \$100 to \$1,000 per day for a civil penalty of \$4,700 to \$47,000.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board finds the Operator in violation of section 34-32.5-116(4)(i), C.R.S. for failing to protect areas outside the affected land from slides or damage occurring during the mining operation or reclamation.

The Operator shall **CEASE AND DESIST** any further activity on lands affected outside the approved permit boundary, with the exception of environmental maintenance, reclamation, or corrective actions, until violations have been resolved to the satisfaction of the Division and the Board.

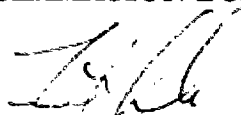
The Board imposes against the Operator the following **CORRECTIVE ACTION**: the Operator shall, within 90 days of the effective date of this Order, submit a conversion application to change permit number M-2010-080 to a 112 Reclamation Permit. The Operator shall submit a conversion application, with all material in an approvable form within 180 days of the effective date of this Order.

The Board imposes a **CIVIL PENALTY** for 47 days of violation at \$100 per day for a total civil penalty of \$4,700. All but \$500 of the penalty is suspended if the Operator complies with the corrective actions in the time specified. The portion of the civil penalty not suspended, \$500, shall be due and payable within thirty (30) days of the effective date of this Order. If the Operator does not comply with the

corrective action, then the full civil penalties (unsuspended and suspended) shall be due and payable within 30 days of the deadline for corrective actions set forth in this Order.

DONE AND ORDERED this 11th day of June 2014.

FOR THE COLORADO MINED LAND
RECLAMATION BOARD



Forrest Luke, Chair

NOTICE OF APPEAL RIGHTS

This order becomes effective and final upon mailing. Any party adversely affected or aggrieved by agency action may commence an action for judicial review by filing a notice of appeal with the district court within thirty-five (35) days after the effective date of this order, pursuant to section 24-4-106, C.R.S. (2013). In the event that an appeal is filed, designations of record made in accordance with section 24-4-106(6), C.R.S. should be served on the Board at: 1313 Sherman Street, Room 215, Denver, CO 80203, Attention: Sitira Pope.

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER upon all parties herein by depositing copies
of same in the United States mail, first-class postage prepaid, at Denver, Colorado,
this 11th day of June, 2014 addressed as follows:

Rudy Torres
Riverside Aggregates, LLC
1750 County Road HH
Lamar, CO 81052

By inter-office or electronic mail to:

Amy Eschberger
Division of Reclamation, Mining & Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

By intra-office or electronic mail to:

Tom Kaldenbach
Division of Reclamation, Mining & Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

By intra-office or electronic mail to:

*John Roberts
Senior Assistant Attorney General
Department of Law
Business and Licensing Section
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 8th floor
Denver, CO 80203*


Johnnie Abad, Board Secretary

Riverside Aggregates, LLC
Friederichs Pit, M-2010-080
MV-2014-009

Riverside Aggregates LLC
30687 County Road 19
Lamar, CO 81052
(719) 336-0778
(719) 336-3312 Fax

RECEIVED

NOV 17 2014

DIVISION OF RECLAMATION
MINING AND SAFETY

To: CO Mined Land Reclamation Board

From: Rudy Torres, Riverside Aggregates, LLC

Date: November 17, 2014

I am requesting that the Board extend the deadline for submitting my conversion application (for M-2010-080) in approvable form by 80 days. Additional time is needed for completion of adequacy items and of the newspaper notice comment period.

Thank you,

Rudy Torres

Rudy Torres . *signed by Mark Carrigan*
Signed by Mark Carrigan Manager as Rudy is unable to sign at this time.

RECEIVED

NOV 17 2014

DIVISION OF RECLAMATION
MINING AND SAFETY