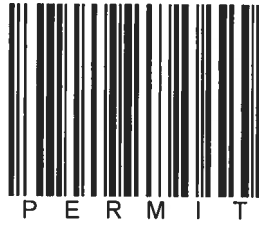


Enforcement



QATESTOCR



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

DATE: ✓ December 5, 2014

TO: ✓ Kendra Schlacter
45037 County Road 24
Holyoke, Colorado 80734

RE: ✓ Findings of Fact, Conclusions of Law and Order
Holyoke Gun Club
File No. M-1977-075, MV-2014-041 ✓

On December 5, 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 Board Order, will result in immediate submittal of those penalties to the State 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 2571

Cc's

✓ Michael Cunningham
Tom Kaldenbach
John Roberts



BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

Notice of Violation No. MV-2014-041

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

IN THE MATTER OF A POSSIBLE VIOLATION BY HOLYOKE GUN CLUB,
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-1977-075

THIS MATTER came before the Mined Land Reclamation Board ("Board") on November 19, 2014 in Denver, Colorado as a consent agenda item to consider a possible violation by Holyoke Gun Club ("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-1977-075.

The Board, being fully informed of the facts in the matter, enters the following:

FINDINGS OF FACT

1. The Operator holds a reclamation permit for a 7-acre sand and gravel operation located in the NW ¼ of Section 16, Township 7 North, Range 44 West, 6th Principal Meridian in Phillips County, Colorado, permit number M-1977-075. The site, known as the Holyoke Gun Club Pit, is located just east of Holyoke, Colorado.

2. On July 5, 2013, the Division of Reclamation, Mining and Safety ("Division") approved the Operator's application to convert its permit from a 110c to a 112c reclamation permit ("Application CN-01").

3. The Division calculated the estimated reclamation liability for the site to be \$38,022.89, \$35,522.89 more than the \$2,500 financial warranty already held by the Division. As of July 5, 2014, the Operator had not submitted the additional \$35,522.89 financial warranty.

4. On September 15, 2014, the Division conducted a normal monitoring inspection of the site. Aaron Schlachter and Stacy Rueter attended the inspection on behalf of the Operator. During the September 15, 2014 inspection, the Division observed that the mine site identification sign at the entrance was not compliant with Rule 3.1.12(1) of the Mineral Rules and Regulation of the Board. The Division was unable to locate permit boundary markers. The Division found that the Operator had disturbed 1.45 acres beyond the permit boundary.

5. The September 15, 2014 inspection report cited the Operator for affecting land outside of the permit boundary and lacking compliant mine identification signs and affected area boundary markers. The inspection report required the Operator to, by November 16, 2014, post a sign at the entrance to the mine, mark the boundaries of the affected area, and submit photographic documentation that the corrective action has been completed.

6. On October 17, 2014, the Division mailed the Operator a copy of the September 15, 2014 inspection report and a Reason to Believe a Violation Exists letter, informing the Operator of the possible violation and providing details regarding a hearing on this matter scheduled for November 19, 2014.

7. On November 18, 2014, the Operator admitted the violation and agreed to the Division's recommendations to the Board.

CONCLUSIONS OF LAW

8. The Board has jurisdiction over this matter pursuant to the Colorado Land Reclamation Act for the Extraction of Construction Materials, Article 32.5 of Title 34, C.R.S. (2013) ("Act").

9. Section 34-32-116(4)(i), C.R.S. requires operators to protect areas outside of the affected land from slides or damage occurring during the mining operation and reclamation. The Operator affected land outside the approved affected area during the mining operation, in violation of section 34-32-116(4)(i), C.R.S.

10. Pursuant to section 34-32.5-124(2), C.R.S. the Board may issue a cease and desist order if it determines that a provision of the Act has been violated. The Operator failed to protect areas outside of the affected land from slides or damage occurring during the mining operation and reclamation, in violation of section 34-32.5-116(4)(i), C.R.S.

11. Pursuant to section 34-32.5-124(7), C.R.S. 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 the violation occurs. The Board may impose a civil penalty against the Operator based on sixty-five (65) days of violation (from the September 15, 2014 inspection to the November 19, 2014 Board meeting) at \$100 to \$1,000 per day for a civil penalty of \$6,500 to \$65,000.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board finds the Operator in violation of section 34-32-116(7)(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 all further activity on affected lands inside the approved permit boundary, with the exception of environmental maintenance, reclamation, or corrective actions, until the interim financial warranty is submitted and approved by the Division. Further, the Operator shall cease and desist all activity on affected lands outside the approved permit boundary, with the exception of environmental maintenance, reclamation, or corrective actions until all violations have been resolved to the satisfaction of the Division and the Board.

The Board imposes the following CORRECTIVE ACTION against the Operator:

- A. the Operator shall, within thirty (30) days of the effective date of this Order, submit to the Division an interim financial warranty in the amount of \$18,625 to cover reclamation costs for all existing disturbances; and
- B. the Operator shall, after re-notifying the public and adjacent landowners, request that the Board affirm the Division's July 5, 2013 approval of conversion Application CN-01. The Operator shall submit such request for Board consideration at the Board's February 2015 regular meeting.

The Board imposes a CIVIL PENALTY for 65 days of violation at \$100 per day for a total civil penalty of \$6,500. All but \$500 of the civil 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 timely comply with the corrective actions, then the suspended penalties, \$6,000, shall be due and payable in full within thirty (30) days of the deadline for corrective actions. Failure to timely submit any due and unpaid civil penalties shall result in immediate submittal of such penalties to State collections.

DONE AND ORDERED this 5th day of December 2014.

FOR THE COLORADO MINED LAND
RECLAMATION BOARD


Bill H. Van Noord, Vice 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. (2014). 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: Johnie Abad.

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 5th day of December 2014 addressed as follows:

Kendra Schlacter
Holyoke Gun Club
45037 County Road 24
Holyoke, Colorado 80734

By inter-office or electronic mail to:

Elliott Russell
Division of Reclamation, Mining & Safety
1313 Sherman Street, Room 215
Denver, CO 80203

By inter-office or electronic mail to:

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

By intra-office or electronic mail to:

John J. 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



Board Secretary