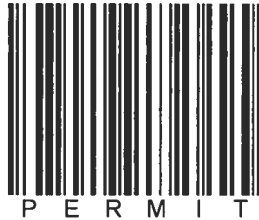


Enforcement



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: ✓ Kym A. Schure
12826 County Road 37
Sterling, Colorado 80751

RE: ✓ Findings of Fact, Conclusions of Law and Order
Dollerschell Pit
File No. M-1986-074, MV-2014-040 ✓

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

7014 0150 0000 9138 2685

Cc's

✓ Elliott Russell
Tom Kaldenbach
John Roberts



BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

Violation No. MV-2014-040

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

IN THE MATTER OF A POSSIBLE VIOLATION BY KYM A. SCHURE, CEASE AND DESIST ORDER, CORRECTIVE ACTIONS, AND CIVIL PENALTIES FOR MINING WITHOUT A RECLAMATION PERMIT, File No. M-1986-074

THIS MATTER came before the Mined Land Reclamation Board ("Board") on November 19, 2014 in Denver, Colorado as a consent agenda item to consider the possible violation by Kym A. Schure ("Operator"), cease and desist order, corrective actions and civil penalties for mining without a permit, file number M-1986-074.

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

FINDINGS OF FACT

1. The Operator holds a 110(c) reclamation permit for a 9.9 sand and gravel pit located in the NW ¼ of Section 21, Township 8 North, Range 53 West, 6th Principal Meridian in Logan County. The site is known as the Dollerschell Pit.

2. On or about October 2, 2014, the Division received a complaint from Robert and Deborah Hradecky, alleging that a fence on their property adjacent to the Dollerschell Pit site, had been removed. The complaint further alleged that the Operator had placed a pile of dirt on the Hradecky's property where the fence had been.

3. On October 6, 2014, the Division of Reclamation, Mining and Safety ("Division") conducted a normal monitoring inspection of the Dollerschell Pit. Rob Kircher, a representative of Cornerstone Construction & Excavating, the site mining contractor, attended the inspection. The Division contacted the Operator prior to the inspection; the Operator declined to attend the inspection.

4. During the inspection, the Division found that the Operator had disturbed approximately 5.89 acres of land outside the permit boundary. The Division cited the land affected outside of the approved permit boundary as a possible violation for failing to obtain a reclamation permit prior to engaging in a new operation.

5. The October 6, 2014 inspection report cited the Operator for affecting land outside of the permit boundary and lacking or having misplaced boundary

markers. The inspection report required the Operator to complete corrective actions, including replacing the damaged fence in the southeast corner of the adjacent landowner's property by October 10, 2014, and replacing boundary markers in the correct locations by November 5, 2014.

6. On October 9, 2014, the Division mailed the Operator a copy of the October 6, 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 October 9, 2014, the Division received photographic documentation of corrective action, showing the permit boundary fence had been rebuilt.

8. On October 20, 2014, the Operator admitted the violation and agreed to the Division's recommendations to the Board.

CONCLUSIONS OF LAW

9. 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. (2014) ("Act").

10. "An operator who mines substantial acreage beyond the approved permit boundary may be found to be operating without a permit." C.R.S. § 34-32.5-123(2). The Operator's mining disturbance of land outside the permit boundary, affecting more than two (2) acres, constitutes mining substantial acreage beyond the approved permit boundary for permit number M-1986-074.

11. By mining substantial acreage beyond the approved permit boundary, the Operator engaged in a mining operation without first obtaining a reclamation permit, in violation of section 34-32.5-109(1), C.R.S.

12. 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 obtain a permit before conducting mining operations, in violation of section 34-32.5-109(1), C.R.S.

13. Pursuant to section 34-32.5-123(2), C.R.S. the Board may impose a civil penalty of not less than \$1,000 per day nor more than \$5,000 per day for each day during which the violation occurs. The Board may impose a civil penalty against the Operator based on forty-four (44) days of violation (from the October 6, 2014 inspection to the November 19, 2014 Board meeting) at \$1,000 to \$5,000 per day for a civil penalty of \$44,000 to \$220,000.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board hereby finds Pine Bluffs Gravel & Excavating, Inc. in violation of section 34-32.5-109(1), C.R.S. for failing to obtain a reclamation permit prior to engaging in a new mining operation.

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 the violations cited herein 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 \$14,725 to cover costs of reclamation of the existing unapproved disturbances; and
- B. the Operator shall, within ninety (90) days of the effective date of this Order, submit to the Division a conversion application to increase the size of the current 110 reclamation permit to include the affected lands outside the approved permit boundary. The Operator shall submit all application materials in an approvable form within one hundred eighty (180) days of the effective date of this Order.

The Board imposes a CIVIL PENALTY for 44 days of violation at \$1000 per day for a civil penalty of \$44,000 pursuant to section 34-32.5-123(2), C.R.S. All but \$1,000 of the \$44,000 civil penalty is suspended if the Operator complies with the corrective action in the time specified. The portion of the civil penalty not suspended, \$1,000, shall be due and payable within thirty (30) days of the effective date of this Order. Failure to timely complete the corrective actions shall result in the suspended portion of the civil penalty, \$43,000, becoming immediately effective and due. Failure to timely submit 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

Jill H. Van Noord
Jill H. Van Noord, 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:

Kym A. Schure
12826 County Road 37
Sterling, CO 80751

By inter-office or electronic mail to:

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

By inter-office or electronic mail to:

Tom Kaldenbach
Division of Reclamation, Mining & Safety
1313 Sherman St., 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

Kym A. Schure
M-1986-074
MV-2014-040