



**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> Priola Pit	<b>MINE/PROSPECTING ID#:</b> M-2007-087	<b>MINERAL:</b> Sand and gravel	<b>COUNTY:</b> Adams
<b>INSPECTION TYPE:</b> Monitoring	<b>INSPECTOR(S):</b> Tyler V. O'Donnell	<b>INSP. DATE:</b> December 19, 2014	<b>INSP. TIME:</b> 11:30
<b>OPERATOR:</b> Albert Frei & Sons Inc.	<b>OPERATOR REPRESENTATIVE:</b> Ben Frei and Albert Frei Jr.	<b>TYPE OF OPERATION:</b> 112c - Construction Regular Operation	

<b>REASON FOR INSPECTION:</b> Citizen Complaint	<b>BOND CALCULATION TYPE:</b> None	<b>BOND AMOUNT:</b> \$77,000.00
<b>DATE OF COMPLAINT:</b> December 8, 2014	<b>POST INSP. CONTACTS:</b> None	<b>JOINT INSP. AGENCY:</b> None
<b>WEATHER:</b> Clear	<b>INSPECTOR'S SIGNATURE:</b> <i>Tyler O'Donnell</i>	<b>SIGNATURE DATE:</b> January 5, 2015

**GENERAL INSPECTION TOPICS**

This list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each. No problems or possible violations were noted during the inspection. The mine operation was found to be in full compliance with Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials and/or for Hard Rock, Metal and Designated Mining Operations. Any person engaged in any mining operation shall notify the office of any failure or imminent failure, as soon as reasonably practicable after such person has knowledge of such condition or of any impoundment, embankment, or slope that poses a reasonable potential for danger to any persons or property or to the environment; or any environmental protection facility designed to contain or control chemicals or waste which are acid or toxic-forming, as identified in the permit.

(AR) RECORDS----- <u>N</u>	(FN) FINANCIAL WARRANTY----- <u>Y</u>	(RD) ROADS----- <u>Y</u>
(HB) HYDROLOGIC BALANCE----- <u>Y</u>	(BG) BACKFILL & GRADING----- <u>Y</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>Y</u>	(FW) FISH & WILDLIFE----- <u>Y</u>	(RV) REVEGETATION---- <u>Y</u>
(SM) SIGNS AND MARKERS----- <u>Y</u>	(SP) STORM WATER MGT PLAN---- <u>Y</u>	(SB) COMPLETE INSP---- <u>Y</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>N</u>	(SC) EROSION/SEDIMENTATION--- <u>Y</u>	(RS) RECL PLAN/COMP-- <u>Y</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

## **OBSERVATIONS**

This inspection was conducted by Tyler O'Donnell of the Division of Reclamation, Mining and Safety (DRMS). Albert Frei & Sons Inc., the Operator, was represented by Ben Frei and Albert Frei Jr. during the inspection. Steve O'Brian with Environment, Inc., the consultant representing Albert Frei & Sons, was also present during the inspection. Cap Land Company, the Landowner, was represented by Gary Priola during the inspection. Lena Vanderlaan was also present representing the Landowner. Joe O'Leary, the attorney representing Cap Land Company, was also present during the inspection.

The Priola Pit is located in Adams County approximately 2 miles north of Commerce City Colorado, just west of the I-76 westbound frontage rd. and just east of the City of Thornton's water storage reservoir. The Priola Pit is a 13.68-acre 112c Construction Materials Reclamation Permit, which was issued in May of 2009. The approved post-mining land use is industrial/commercial.

This inspection was conducted in response to a citizen complaint DRMS received on December 8, 2014 by fax from Mr. Priola. Mr. Priola expressed several concerns about the backfilling operations at the site in his correspondence with DRMS (please see the enclosed fax and emails). DRMS has summarized the concerns expressed by Mr. Priola, please see the following list of Mr. Priola's concerns:

- 1) Nature of the backfill material.
- 2) Quantity of backfill material.
- 3) Compliance with Adams County permit(s).
- 4) Completion of final reclamation.
- 5) Damage/destruction to a deep groundwater well.

The inspection begun with a discussion of the issues detailed in the fax and emails from Mr. Priola. Following the discussion DRMS, the Operator, and the Landowner walked the site and conducted a visual examination of the Priola Pit.

DRMS observed that the site had been backfilled approximately 10 to 12 feet higher than the original land surface (see Photo 2). It appeared that the site had been backfilled to raise the land surface to an elevation similar to the adjacent land along the north and east boundaries. Based on a visual estimate it appears that the Operator has backfilled the site to within a few feet of the final elevation approved in the reclamation plan map (please see the enclosed map). The slopes of the backfilled area vary from approximately 2H:1V to 3H:1V or flatter. The approved reclamation plan requires the slopes to be graded to 3H:1V or flatter.

The backfill material consisted of a mix of concrete, asphalt, rock, masonry products, soil and other inert fill. No solid waste or yard waste was observed in the backfill. DRMS observed a few slabs of concrete (see photo 1); however, the majority of the observed inert fill was approximately the size of a basketball or smaller (see Photos 2 through 5).

Along the northern, western, and southern boundaries, the approved reclamation plan map depicts a buffer of approximately 25 feet between the backfill and the permit boundary. However, during the inspection it appears that the Operator had backfilled up to the permit boundary in portions of the site. At the present time backfilling closer to the permit boundary will not be cited as a problem; however, when the Operator completes

final reclamation the Operator will either need to comply with the approved reclamation plan map or must have revised the reclamation plan map to accurately depict the desired final topography.

### **CONCLUSION**

DRMS is sympathetic and understanding of Mr. Priola's concerns and would like to address the previously outlined list:

- 1) Nature of the backfill material: DRMS approved the Operator to backfill the site with concrete, asphalt, masonry products, soil and other inert fill, the approved permit does not limit the size or specify dimensions of the material to be used as backfill. It appears that the Operator has been backfilling the site with the material described in the approved reclamation plan (see the enclosed page from the approved reclamation plan).
- 2) Quantity of backfill material: Based on DRMS's visual field observations it appears that the backfilled pit is within a few feet of the final elevation in the approved reclamation plan map; therefore, DRMS believes that the Operator may have imported and backfilled nearly enough material to comply with the approved reclamation plan.
- 3) Compliance with Adams County permit(s): DRMS is unable to enforce the terms of any other permit issued by another entity. DRMS would advise you to contact Adams County regarding the enforcement of permits issued by Adams County.
- 4) Completion of final reclamation: In general, it appears that the Operator is completing reclamation in a timely manner; the Operator has 5-years to complete reclamation after mining operations have ceased. DRMS's records indicate that the Operator completed mining in 2011; therefore, the Operator has until approximately 2016 to complete reclamation.
- 5) Damage/destruction to a deep groundwater well: It is DRMS's understanding that the groundwater well was included in a structure agreement between the Operator and the Landowner. DRMS cannot enforce the terms of the agreement, damage compensation would be a private matter.

Based on observations made during the inspection and the review of the approved reclamation permit, it appears that the Operator is in compliance with the approved reclamation plan, although reclamation remains in progress, at the present time DRMS has no ability to act on any of the items detailed in the written complaint.



## PHOTOGRAPHS



**Photo 1:** Backfilled area in the southern portion of the pit. Slabs of concrete observed by DRMS are circled in red dashed lines.



**Photo 2:** Backfilled portion of the pit in the southern central corner. The backfill is closer to the permit boundary (fence) than the approved 25-foot offset. Notice the height of the fence (Approximately a 6-foot fence) compared to the backfill.





**Photo 3:** Backfilled portion of the pit. Backfill material observed by DRMS during the inspection.



**Photo 4:** Backfilled portion of the pit. Backfill material observed by DRMS during the inspection along the northern permit boundary.





**Photo 5:** Backfilled portion of the pit. Backfill material observed by DRMS during the inspection along the western permit boundary.



**Photo 6:** Photo looking east at the backfilled portion of the pit. The pit has been backfilled to the approximate final elevation.





**Photo 7:** Photo looking northeast at Backfilled pit. The pit has been backfilled to the approximate final elevation. The elevation is similar to the elevation of the property to the north.



**Photo 8:** Area where the Operator has begun to place the final cap of growth medium and fines over the inert backfill.



**Inspection Contact Address**

Ben Frei  
Albert Frei & Sons Inc.  
P.O. Box 700  
Henderson, CO 80640

Enclosure: Faxed written complaint  
Emails regarding the Complaint  
Approved reclamation plan map  
Portion of the DRMS approved reclamation plan  
Affidavit of Inert fill

cc: Tom Kaldenbach, DRMS  
Tony Waldron, DRMS

Steve O'Brian  
Environment, Inc.  
7985 Vance Dr., #205A  
Arvada, CO 80003

Gary Priola  
Cap Land Company  
12255 Ursula St.,  
Henderson, CO 80640, CO

✓ "COMPLAINT"

✓ M-2007-087

tod, tak

TYLER O'DONNELL

I'VE TRIED TO EMAIL  
THIS BUT IT KEEPS COMING  
BACK. I DECIDED TO JUST  
FAX IT.

PLEASE CALL ME AND  
WE CAN DISCUSS BEHIND  
I WRITE THE FROM COMPLAINT

THANK YOU

GARY PRIOLA

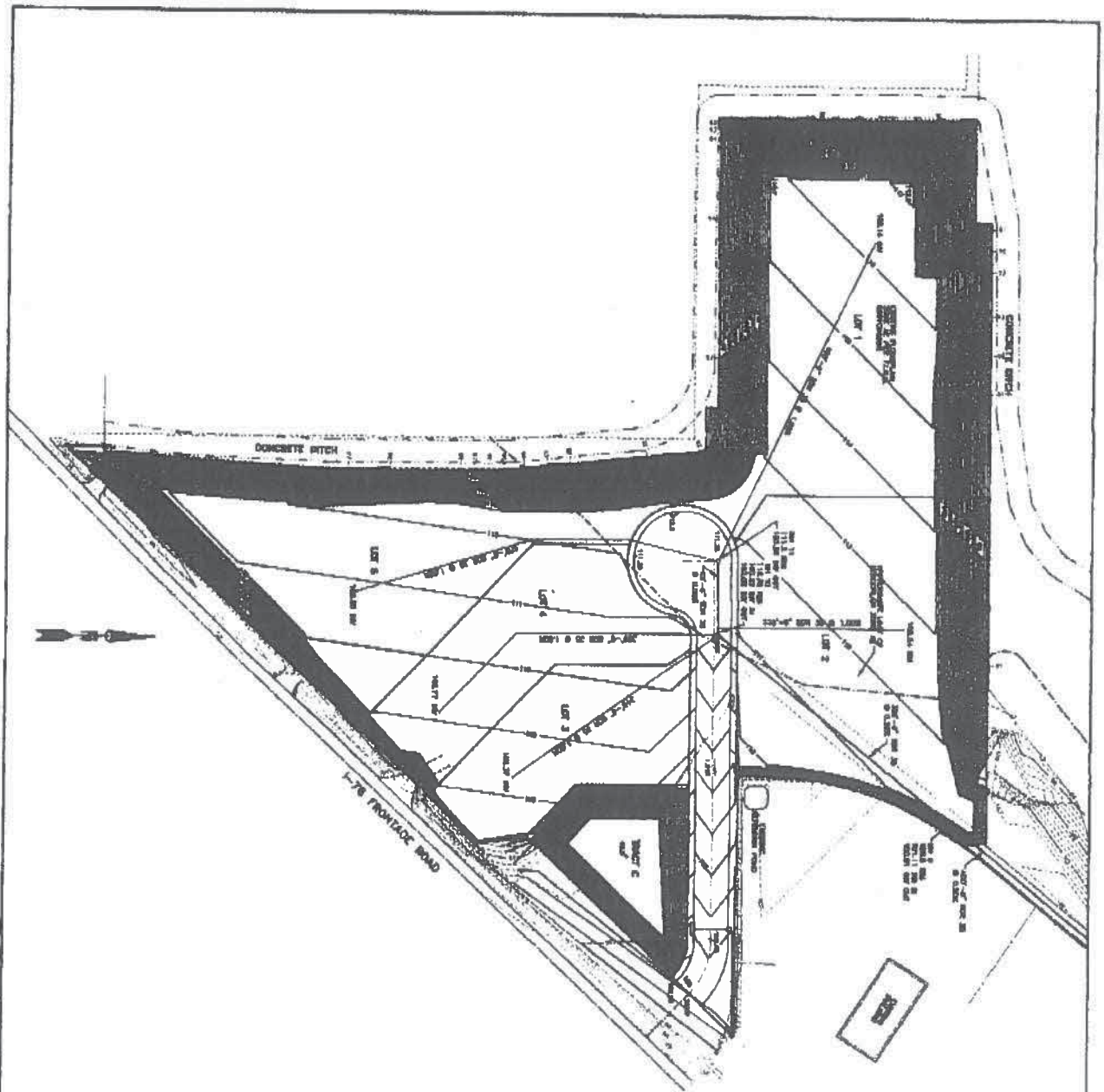
4 PAGES

RECEIVED

✓ DEC 08 2014

✓ DIVISION OF RECLAMATION  
MINING AND SAFETY

fr: Gary Priola



- NOTES:
1. THE DRAINAGE SYSTEM IS DESIGNED TO DRAIN THE WATER FROM THE ROADS, DRIVEWAYS, AND PATIO AREAS TO THE STORM SEWER SYSTEM.
  2. ALL DRAINAGE AREAS ARE TO BE MAINTAINED IN A MANNER THAT WILL PREVENT THE ACCUMULATION OF DEBRIS AND OTHER MATERIALS IN THE DRAINAGE SYSTEM.
  3. THE DRAINAGE SYSTEM IS TO BE DESIGNED TO DRAIN THE WATER FROM THE ROADS, DRIVEWAYS, AND PATIO AREAS TO THE STORM SEWER SYSTEM.
  4. THE DRAINAGE SYSTEM IS TO BE DESIGNED TO DRAIN THE WATER FROM THE ROADS, DRIVEWAYS, AND PATIO AREAS TO THE STORM SEWER SYSTEM.
  5. THE DRAINAGE SYSTEM IS TO BE DESIGNED TO DRAIN THE WATER FROM THE ROADS, DRIVEWAYS, AND PATIO AREAS TO THE STORM SEWER SYSTEM.

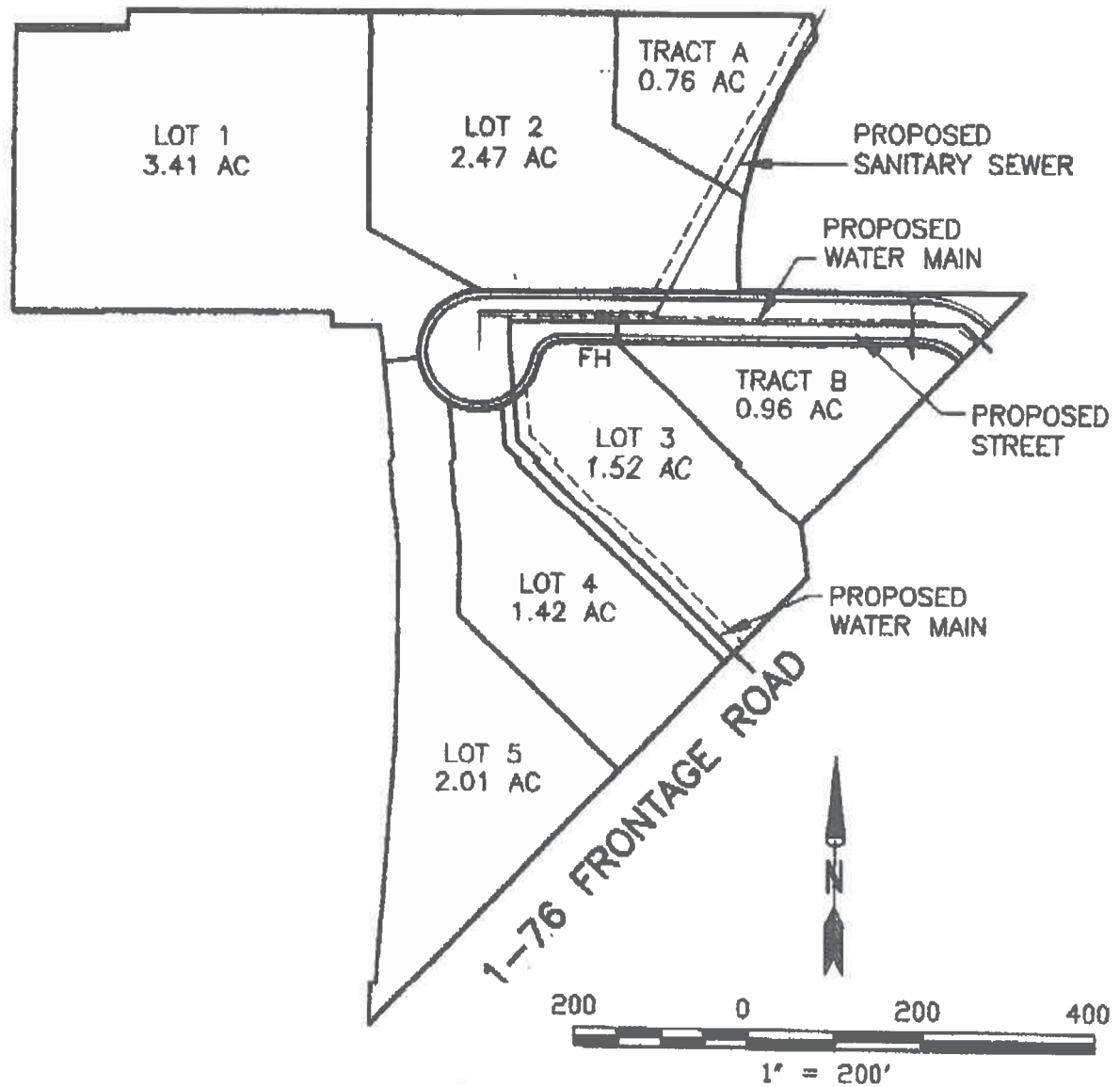
SYMBOL	DESCRIPTION
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	1176" PIPE
	1182" PIPE
	1188" PIPE
	1194" PIPE
	1200" PIPE

<b>DRAINAGE PLAN</b> <b>DEVELOPED CONDITIONS</b>							
SITE PRODA INT ADRIAN, TEXAS 75400		1" = 10'		1" = 10'		1" = 10'	
4000 VOLUMES		1" = 10'		1" = 10'		1" = 10'	



DATE: 7/31/14  
FILE: SP108104  
JOB NO.: 08104-02

# SITE LAYOUT FOR PRIOLA PIT



PREPARED  
BY  
EDGAR JENNINGS PE&PLS

~~Mineral Rights~~  
The proposed mining activities are anticipated to take five years, and up ten years to complete all reclamation activities. This site would be for mining, filling and processing only. A processing plant will be utilized for this operation and change locations periodically as mining progressed. The actual area to mine would consist of 11 acres. It should be noted the Colorado Division of Minerals and Geology has issued a permit. The sand and gravel resources average about 15 feet in depth. Access to the site would be from the existing driveway onto the I-76 Frontage Road.

The site is proposed to be "wet" mined, and as a result will *not* be dewatered nor would a slurry wall/clay liner be installed. Initial disturbance of the site would involve clearing of the site of existing structures in preparation of mining. Topsoil and overburden would be stockpiled on site for use in site reclamation. Excess overburden and topsoil may be hauled off site throughout the life of the mine. Topsoil, overburden, sand and gravel will be excavated by front end loaders, scrapers, excavators, or similar equipment and may be transported by conveyor belt system or haul truck. Hours of operation are anticipated to be from 6am to 10 pm Monday through Saturday. ~~The average annual production is anticipated to be 250,000 tons per year. Mining would proceed from the southeast along the I-76 Frontage Road to the north and northwest as shown on the plans.~~

Filling of the site would occur concurrently with mining. The material proposed to be imported to fill this site originates from two sources. The first source is rock quarry material (fine rock and quarry tailings) from the Albert Frei and Sons (AFS) Clear Creek County Quarry. This material would be stored and crushed at the AFS Recycle Facility at Colorado Boulevard and E 72<sup>nd</sup> Avenue. Crushing produces various sizes of aggregate materials and crusher fines. The second source would be inert material from Denver Water Board utility cuts. This material would also be stored at the AFS Recycle Facility at Colorado Boulevard and E 72<sup>nd</sup> Avenue, where the material is separated into like sized pieces and then crushed to create various sizes of aggregate materials and crusher fines. Inert clean soil would also be separated from the Denver Water Board material. ~~The aggregate and crusher fines from both the Clear Creek County Quarry and the Denver Water Board projects, as well as the soil from the Denver Water Board projects would all be imported and utilized to fill the site. The applicant anticipates needing at least 400,000 cubic yards of material.~~

### Traffic

Truck traffic exiting the site with gravel would primarily exit onto the Frontage Road to Hwy 224, and then to I-76. Since the only source of inert fill would be from the AFS Recycle Plant at East 72<sup>nd</sup> Avenue and Colorado Boulevard. The haul route would consist of the following: north to SH 224, east on SH 224 to Dahlia Street, north on Dahlia to the I-76 Service Road to the site's entrance. Alternatively, the route could consist of the following: north to SH 224, west on SH 224 to the I-76 Frontage Road and then to the site's entrance. The traffic generated is expected to be up to 110 round trips on days when export of material is occurring. The importing of inert fill material is expected to generate around 60 round trips per day. During the periods when



## Priola Pit

Gary Priola <gpriola@gmail.com>  
To: tyler.odonnell@state.co

Sun, Dec 7, 2014 at 9:32 AM

Tyler,

It was a pleasure talking to you last afternoon. I will try to explain some of the history.

The first drainage plan was solely done by Albert Frei and Sons, Cap Land Co. was not asked for any input. They knew it was to be developed for I-2 zoning. The plan was drawn up in 2008. I did not see it until 2009 after asking them to see the plan. Months after I asked did they show it to me.

After I reviewed it I ask them why there was a 25' path on the north, west, and south sides of the back northern 1/3 of the site. I was told it was needed to mow the grass on the 3 to 1 slopes. I told them the grass is drouth resistance and doesn't need mowing. I said this is a waste of 1 acre of prime I-2 Industrial land.

After sometime they compromised and agreed to start covering up the path with fill. We also marked a pole in the center of the site to bring the fill to the modified level.. This was all done with 2 of them agreeing Ben Frei and Joe Frei, in 2010.

This modified plan conforms with the I-2 zone the property is in. The property is needed to run the sewer to the existing line which is needed for a new sewer line now in the works. 8 businesses will benefit but the sewer line going through my land to the north to hook up with the main line.

These changes were made for the best use of the property which ADCO wants, for the area which consists of appox 36 acres total, which well benefit from a sewer line.

AFS committed to 400,000 cy in the original fill permit, as of now they have only brought in appox 266,198 cy, and I still need the 133,802 cy which they agreed too.

They advised me at the end of Oct. they were done with bringing in anymore fill and won't finish the modified plan which they had the intent since 2010 and have covered the path to fence and they have brought in only 17,000cy. in the last 6 months, leaving 133,802 cy of the original plan they have committed themselves to in the application for ADCO

They have diverted my other 133,802 cy, too finish their fastracks project at 72nd and Colo.

I would like you to come out to my site next week, to get a idea what I have been talking about; before you meet with the AFS 12/19/14.

Enclosed are copies of the modified plan filed with ADCO. and page 6 of AFS's application to ADCO.

Thank you  
President  
Gary Priola  
Cap Land Co.  
303 915 8589





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## Fwd: AFS Priola Pit

2 messages

Gary Priola <gpriola@gmail.com>

Tue, Dec 9, 2014 at 2:53 PM

To: "O'Donnell - DNR, Tyler" <tyler.odonnell@state.co.us>

----- Forwarded message -----

From: **Gary Priola** <gpriola@gmail.com>

Date: Tue, Dec 9, 2014 at 1:31 PM

Subject: AFS Priola Pit

To: Chris LaRue <clarue@adcogov.org>, Joe O'Leary <joseph.oleary.law@gmail.com>, Craig Lena Vander Laan <vanderlaanfamily@msn.com>

Chris

As follows is a list of grievances you asked for by e-mail concerning the use of the the permit issued to Albert Frei and Sons 12/30/2008, # m-2007-087.

1. As of 10/30/14 AFS states they are done with the filling process. According to the permit 400,000 cy are required to bring the site to completion for I-2 industrial use. records show that only 266,198 cy have been delivered with a 133,802 cy balance to complete.
2. AFS destroyed a 650ft deep well in 2009 that they are now refusing to pay the \$50,000 minimum cost for damages, per the permit stated liability.
3. AFS has numerous times brought in very large concrete chunks, black top chunks violating the permit standards of 30%-50% crush fines and the balance clean soil.
4. AFS drew up the original drainage plan without all input from CAP the property owner in 2008 The plan was presented to CAP months after I Gary Priola the President demanded to closely examine the details, after seeing it I told them it had to be modified for the best use of the property. They agreed and showed intent by preforming the modifications as time went along.
5. Now AFS is refusing to bring anymore fill to the site when they are committed to at least 133,802 cy by the conditional use permit issued by ADCO in 12/30/2008.

Enclosed is Information to support the above grievances. If you have questions call me at 303 915 8589 anytime.

Thank You

Gary Priola  
President  
Cap Land Co.

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4 attachments



**Scan 24.jpeg**  
150K



**Scan 25.jpeg**  
219K



**Scan 26.jpeg**  
232K



**Scan 27.jpeg**  
208K

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**O'Donnell - DNR, Tyler** <tyler.odonnell@state.co.us>  
To: Gary Priola <gpriola@gmail.com>

Wed, Dec 10, 2014 at 7:25 AM

Gary,  
Thank you for this information.  
Tyler

[Quoted text hidden]

--

Tyler O'Donnell  
Environmental Protection Specialist



**COLORADO**

**Division of Reclamation,  
Mining and Safety**

Department of Natural Resources

P 303.866.3567 x 8131 | F 303.832.8106 | C 303.319.5842

1313 Sherman Street, Room 215, Denver, CO 80203

[Tyler.ODonnell@state.co.us](mailto:Tyler.ODonnell@state.co.us) | <http://mining.state.co.us>



INFORMATION PROVIDED  
BY APPLICANT

May 23, 2008

CAP Land Company  
Mr. Kevin Priola  
P.O. Box 105  
Henderson, CO 80640

Dear Mr. Priola;

RE: Damage Reimbursement Agreement  
Albert Frei and Sons, Inc.

Albert Frei and Sons, Inc. has made application for a Colorado Mined Land Reclamation (MLR) permit to extract construction materials from a tract of land located in Part of the NW 1/4 Sec. 31, T-2-S, R-67-W, 6th P.M., Adams County, Colorado.

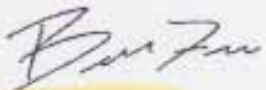
Since the CAP Land Company Mr. Kevin Priola owns structures within 200 feet of the mining area. State law requires the applicant to agree to reimburse the owner of any structure for damage done to the structure as a result of the permitted operation. According to the MLR law your signature on this agreement must be notarized.

Albert Frei and Sons, Inc., agrees to reimburse CAP Land Company for any damages done to the structures listed below that remain on the mine as a result of the proposed mining operation.

Your acknowledging signature and a notary seal in the spaces provided below should satisfy the MLR law reimbursement requirement.

Please return the original in the supplied envelope by June 23, 2008 so we can supply it to the Division of Reclamation, Mining & Safety. Thank you for your cooperation.

Sincerely,



Ben Frei  
Secretary

cc Division of Reclamation, Mining &  
Safety  
File

Structure list:

3 - water wells      3 - strand wire fence  
7 - sheds & barns      3 - houses  
1 - garage      greenhouse & office  
1 - irrigation well      3 - 3 strand wire fences

ACKNOWLEDGED BY:  
CAP Land Company



Title V.R. Henderson

STATE OF COLORADO      )  
COUNTY OF FIDELITY      ) ss.

The foregoing was acknowledged,  
and subscribed before me, a Notary  
Public, this 23 day of  
MAY, 2008.

My commission expires 10-23-2011

  
Notary Public



designation. Mining is anticipated to take five years, and up to another 10 years until October 22, 2018 to complete all reclamation activities.

### **Mining / Filling**

The proposed mining activities are anticipated to take five years, and up ten years to complete all reclamation activities. This site would be for mining, filling and processing only. A processing plant will be utilized for this operation and change locations periodically as mining progressed. The actual area to mine would consist of 11 acres. It should be noted the Colorado Division of Minerals and Geology has issued a permit. The sand and gravel resources average about 15 feet in depth. Access to the site would be from the existing driveway onto the I-76 Frontage Road.

The site is proposed to be "wet" mined, and as a result will *not* be dewatered nor would a slurry wall/clay liner be installed. Initial disturbance of the site would involve clearing of the site of existing structures in preparation of mining. Topsoil and overburden would be stockpiled on site for use in site reclamation. Excess overburden and topsoil may be hauled off site throughout the life of the mine. Topsoil, overburden, sand and gravel will be excavated by front end loaders, scrapers, excavators, or similar equipment and may be transported by conveyor belt system or haul truck. Hours of operation are anticipated to be from 6am to 10 pm Monday through Saturday. The average annual production is anticipated to be 250,000 tons per year. Mining would proceed from the southeast along the I-76 Frontage Road to the north and northwest as shown on the plans.

Filling of the site would occur concurrently with mining. The material proposed to be imported to fill this site originates from two sources. The first source is rock quarry material (fine rock and quarry tailings) from the Albert Frei and Sons (AFS) Clear Creek County Quarry. This material would be stored and crushed at the AFS Recycle Facility at Colorado Boulevard and E 72<sup>nd</sup> Avenue. Crushing produces various sizes of aggregate materials and crusher fines. The second source would be inert material from Denver Water Board utility cuts. This material would also be stored at the AFS Recycle Facility at Colorado Boulevard and E 72<sup>nd</sup> Avenue, where the material is separated into like sized pieces and then crushed to create various sizes of aggregate materials and crusher fines. Inert clean soil would also be separated from the Denver Water Board material. **The aggregate and crusher fines from both the Clear Creek County Quarry and the Denver Water Board projects, as well as the soil from the Denver Water Board projects would all be imported and utilized to fill the site. The applicant anticipates needing at least 400,000 cubic yards of material.**

### **Traffic**

Truck traffic exiting the site with gravel would primarily exit onto the Frontage Road to Hwy 224, and then to I-76. Since the only source of inert fill would be from the AFS Recycle Plant at East 72<sup>nd</sup> Avenue and Colorado Boulevard. The haul route would consist of the following: north to SH 224, east on SH 224 to Dahlia Street, north on Dahlia to the I-76 Service Road to the site's entrance. Alternatively, the route could consist of the following: north to SH 224, west on SH 224 to the I-76 Frontage Road and then to the site's entrance. The traffic generated is expected











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**M2007087**

**Gary Priola** <gpriola@gmail.com>

Wed, Dec 10, 2014 at 8:16 AM

To: "O'Donnell - DNR, Tyler" <tyler.odonnell@state.co.us>

Tyler

Here is another picture I found that my daughter took with me holding the tape measure , if a person would get a backhoe and start digging one would find this stuff all over the site. As of now AFS is trying to get CAP to do the reclamation because they say they did work on the new modified drainage plan approved by ADCO in September 2014, and this is not their obligation. They keep using the permit for their benefit and ignoring parts like for ex, of mixing concrete and black top chunks as big as 3' to 4' long, when the permit calls for 30%-50% crushed fines and the balance clean soil.

Thank You

Gary

[Quoted text hidden]



**Scan 28.jpeg**  
229K







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## AFS Priola Pit meeting 12/19/14

1 message

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Gary Priola <gpriola@gmail.com>

Tue, Dec 23, 2014 at 5:08 PM

To: "O'Donnell - DNR, Tyler" <tyler.odonnell@state.co.us>, Joe O'Leary <joseph.oleary.law@gmail.com>, Craig Lena Vander Laan <vanderlaanfamily@msn.com>

Tyler,

After meeting with you representing the DRMS concerning m2007087 at the AFS Priola-PIT fill site 12/19/14, I Gary Priola President of Cap Land Co. want to file a complaint with the DRMS board as to the type of fill material used after DRMS's inspection in April 2011.

After April 2011 AFS had the Bond reduced from \$563,000 to \$78,000. Once reduced AFS changed the type of fill material coming into the site. AFS had shown the intent to comply with the ADCO permit to fill with nothing but crusher fines and clean soil to the appox.level of 10 feet below the level you observed 12/19/14.until reducing the Bond amount, April 2011.

The last appox.10 feet of fill since April 2011 has had junk concrete and black top up to 4 feet in length being brought in after I expressed my concern to AFS only to be given numerous excuses, and periodically continuing to slip hundreds of loads in which were quickly covered up.

At this time I have been advised that the site has been compromised with the junk brought in. It will cost up to an est.1 million dollars in additional construction costs, because of AFS compromising the site by using junk concrete and black top to cut down on their fill costs.

I want the DRMS to help me enforce the clean up of the site with exposing this fill scam.

AFS wants to walk away by asking CAP to assume the fill permit with DRMS. AFS has worked under the modified drainage plan since 2010, showing the intent, until they found a better opportunity to use the required clean fill going to the AFS Priola- Pit site, on a different project junior to the AFS Priola-Pit site,which is senior started in 2008 going on 8 years 1/1/15, when it was to take 2 years.

As I have stated earlier they were obligated under the ADCO permit to fill with clean fill, not the junk they used to cut costs and use CAP's clean fill for another more lucrative project.

I plead with you to advise me how to bring this scam to light and get it cleaned up, DRMS's board must have some control over this mess with some power and a good solution. Have a Merry Xmas and Happy New Year.

Thank You  
Gary Priola  
Preisident  
Cap Land Co.



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## AFS priola-pit fill conditions

1 message

Gary Priola <gpriola@gmail.com>

Tue, Dec 30, 2014 at 5:33 PM

To: "O'Donnell - DNR, Tyler" <tyler.odonnell@state.co.us>, Joe O'Leary <joseph.oleary.law@gmail.com>, Craig Lena Vander Laan <vanderlaanfamily@msn.com>

Tyler,

Thank you for returning my call today. As a land owner and developer, CAP is concerned about the quality of inert fill going in the Priola pit site. The original intent of the site was to develop it as a prime I-2 industrial site with high quality office warehouses, thus requiring good quality structural fill.

AFS represented themselves as owners and developers with ADCO on the drainage plan filed with the DRMS in 2008. CAP, as the owner and developer, objected to the design of the plan when first shown it in 2009. CAP never had any input designing the plan in 2008.

AFS was to fill the site for reclamation with crusher fines mixed with clean soil or a good structural fill suitable for a high quality I-2 industrial development

The city of Thornton submitted a letter to ADCO in 2008 expressing concern about the use of asphalt as a contaminant in the filling process. If you look at the pictures taken by you on 12/19/14, you will see pieces of asphalt mixed in all over the site.

CAP's question is how can the DRMS address this issue now that AFS has had their bond reduced from \$563,00 to \$78,000 in April 2011 and want to walk away and leave us with the problem, after they brought in junk fill after the bond reduction.

Figures submitted by AFS on 12/24/14 by CAP's request show a balance of 82,760 cy of clean fill is still required by the ADCO permit. AFS has enough clean fill for the reclamation process and to clean up the site of the large pieces of concrete and asphalt.

Enclosed are the figures submitted from AFS records. In the permit AFS stated they would have to bring in at least 400,000 cy, less the 317,240 delivered as of 10/31/14 leaving a balance to complete of 82,760 cy to finish their obligations, plus doing the reclamation work required by the DRMS.

If you have any questions, please call or reply by email.

Thank you.

Gary Priola  
President  
Cap Land Co.

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**2 attachments**



Scan 30.jpeg  
91K



Scan 29.jpeg  
148K







**Priola Site****Cubic****Yards**

3/1/2010 to 6/30/2010	30,000.00
7/1/2010 to 6/30/2011	75,420.00
7/1/2011 to 6/30/2012	75,720.00
7/1/2012 to 6/30/2013	49,260.00
7/1/2013 to 6/30/2014	55,400.00
7/1/2014 to 9/30/2014	13,020.00
10/1/2014 to 10/23/2014	18,420.00
Total Inert Material imported	317,240.00

Sand & Gravel Extracted (117,198) (83,713.00)

Material added to land 233,527.00

Amount paid to date

400,000 CY'S PER PERMIT QUOTED TO BE AT LEAST 400,000 CY'S  
- 317,240 " TOTAL INERT MATERIAL IMPORTED  
82,760 " BALANCE TO COMPLETE SITE AS OF 12/30/14

# AFS-PRIOILA PIT CONDITIONAL USE APPLICATION



SCALE 1"=100'  
COUNTOUR INTERVAL 2 FEET

DRWS FILE NO. 1 M-2007-087  
**MAP EXHIBIT F (REVISED)**

**ALBERT FREI AND  
SONS, INC.**

**PRIOLA PIT**

**RECLAMATION PLAN MAP**

PRIOT OF THE 16 1/4 NW/4, 36 1/4 NW/4, AND NW/4 NW/4  
SECTION 31, TOWNSHIP 2 SOUTH, RANGE 67 WEST, 60TH E.M.  
ADAMS COUNTY, COLORADO

ORIGINAL DRAWINGS PREPARED BY:

**ADCO CONSULTING, INC.**  
2090 EAST 104TH AVENUE, SUITE 305  
THORNTON, COLORADO 80233-4316  
(303) 450-2204 FAX: (303) 452-4515  
CAD FILE AD08115/AD08115B.DWG

NOV 09, 2007 - 15:30:33

DATE:	DATE:	DATE:	DATE:
SCALE:	1"=100'	SCALE:	1"=100'
BOOK:		BOOK:	
PAGE:		PAGE:	
FILE NO.:	31-27-166L	SHEET NO.:	4 OF 4

**AFS-PRIOILA PIT**  
THAT PART OF SECTION 31, TOWNSHIP 2 SOUTH,  
RANGE 68 WEST OF THE SIXTH PRINCIPAL  
MERIDIAN, COUNTY OF ADAMS, STATE OF  
COLORADO.

NOTE: FUTURE DETENTION  
POND SIZE, ETC. TO BE  
APPROVED BY ADAMS COUNTY.  
THIS MAP REVISED FROM  
ORIGINAL TO REFLECT  
DETENTION POND AREAS

## LEGEND

- PERMIT LINE/AFFECTED LANDS
- 200 FOOT LINE
- ROADS
- OVERHEAD POWER/TELEPHONE LINES
- BURIED POWER/TELEPHONE LINES
- BURIED GASLINE
- FENCE
- SLURRY WALL
- BUILDING
- COMMERCIAL DEVELOPMENT AREA
- REVEGETATED AREA

**ADCO CONSULTING, INC.**

2090 EAST 104TH AVENUE, SUITE 305  
THORNTON, COLORADO 80233-4316  
(303) 450-2204 FAX: (303) 452-4515  
CAD FILE AD08115/AD08115B.DWG

REVISED: JULY 28, 2008



## RECLAMATION PLAN AND TIMETABLE

**RECLAMATION PLAN**

The proposed future use is to back fill the excavated area and level the property so it can be developed for commercial uses. This site contains 7 lots which have commercial and agricultural zone designations with Adams County. The land owners intend to have the entire area zoned commercial at some point. Please refer to **MAP EXHIBIT F - RECLAMATION PLAN MAP** for the location of the areas discussed in this text.

As mining progresses the slopes into the excavated area will be mined at or near 2h to 1v as discussed in the **MINING PLAN**. This leaves a stable slope around the excavated area which will insure that if mining ceases before it is complete no bank stabilization will be needed even if the mined area was not backfilled.

In the **MINING PLAN** we explained how mining would take place on 10.96 acres  $\pm$  within the permit boundary. During the reclamation phase the entire excavated area will be backfilled using material as defined in Colorado Department of Health Regulations as "Inert material", i.e. old concrete, asphalt, dirt, sand and gravel, masonry products and rubble from construction sites. As the material arrives the driver will be directed to an area where fill is being placed. The material will then be pushed into the hole using either a front-end loader or bulldozer. Because there will be a need for finer fill and topsoil to complete the cap over course material, some of that material will be segregated and saved for this purpose. The pond created by mining will be backfilled to the original ground surface level and an additional fill will be placed so the site has a uniform elevation of 5107 feet which is slightly higher than the frontage road. This will make the development area elevation the same as the Roy property elevation on the north. No water will be left on the site.

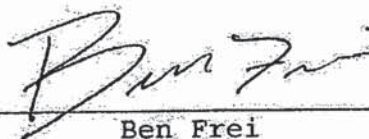
Setbacks from the property line will be 25 feet. This will leave a level area around the fill that will be graded so any surface water runoff will flow to the property interior and be retained on site. This setback will allow access to the property line. When filling is complete the side slopes and setback area will be resoiled and revegetated using the approved seed mixture. The reclamation timetable shows the amount of land in each reclamation area when complete. Approximately 30% of the area in the permit will be resoiled and revegetated the other 70% will require only grading and shaping.

STATE OF COLORADO       )  
                                  ) ss.       AFFIDAVIT  
COUNTY OF ADAMS       )

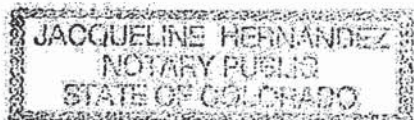
BEN FREI, being first duly sworn upon oath, deposes and says:

1. He is the Secretary of Albert Frei and Sons, Inc., a Colorado Corporation, and is empowered to act for and on behalf of said corporation in all respects in connection with any applications, petitions, contracts, correspondence, bonds or activities with or before the Colorado Mined Land Reclamation Board under the provisions of the Colorado Mined Land Reclamation Act.

2. That all material imported into the mine known as the Priola Pit, M-2007-0875 will be clean and inert material as defined in Rule 1.1(20) and required by the Mined Land Reclamation Act.

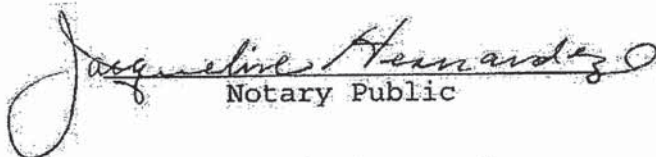
  
Ben Frei

SUBSCRIBED and sworn to before me this 15<sup>th</sup> day of  
May, 2008 by Ben Frei, as Secretary of  
Albert Frei and Sons, Inc.



MY COMMISSION EXPIRES 10/31/2009

(notarial seal)

  
Notary Public

My commission expires:

10-31-2009