



**COLORADO**  
Division of Reclamation,  
Mining and Safety  
Department of Natural Resources  
1313 Sherman Street, Room 215  
Denver, Colorado 80203

## STAFF SUMMARY FORM FOR CONSENT AGENDA ITEM

<b>Date</b>	January 6, 2015	<b>Operator</b>	ARS Sand & Gravel CO., LLC
<b>Permit No.</b>	M-1980-020	<b>Site Name</b>	Braley S&G Pit No. 1
<b>Specialist</b>	Tyler O'Donnell	<b>Objecting Party</b>	N/A
<b>Permit Type</b>	112c	<b>Permit Acreage</b>	82.96

### **Action:**

<b>Action</b>	<b>Check</b>
Permit application with objections	
Violation	<b>X</b>
Extension of Board-ordered deadline	
Other (specify).	

### **Resolution:**

#### *NATURE OF VIOLATION:*

This item is in regard to a notice of a possible violation, corrective action, a cease-and-desist order, and civil penalty for a possible violation of C.R.S. 34-32.5-101 *et seq.*, specifically C.R.S 34-32.5-116(4)(i) for failure to protect areas outside of the affected land from slides or damages occurring during the mining operation.

#### *CHRONOLOGY:*

November 25, 2014 – The Division of Reclamation, Mining and Safety (Division) observed approximately 1.4 acres of affected land outside of the approved reclamation permit boundary. The 1.4 acres of affected land outside of the permit boundary is composed of an irregular-shaped highwall and a stockpile of sandy loam material.

December 12, 2014 – The Division sent the Operator the inspection report and a Reason to Believe letter for failure to protect areas outside of the affected land from slides or damages occurring during the mining operation.

#### *REASON FOR VIOLATION:*

The Operator failed to protect areas outside of the approved permit boundary from slides or damages occurring during the mining operation as required by C.R.S. 34-32.5-116(4)(i).



*STAFF RECOMMENDATION:*

**Violation:**

Find a violation of C.R.S. 34-32.5-116(4)(i) for failure to protect areas outside of the affected land from slides or damages occurring during the mining operation.

**Cease and Desist Order:**

Issue a cease-and-desist order, in accordance with C.R.S. 34-32.5-124(2), prohibiting any further mining operation activities on the affected lands outside of the approved permit boundary, with the exception of environmental maintenance, reclamation, or corrective action, until the violation has been resolved to the satisfaction of the Division and the Mined Land Reclamation Board (Board).

**Corrective Action(s):**

Submit to the Division a permit amendment application to incorporate all affected lands outside of the approved permit boundary into the permit boundary. The Operator shall submit to the Division within 60 days of the effective date of the Board Order a permit amendment application that is in approvable form without considering any objections that may be received after the application is submitted.

**Civil Penalty:**

For a violation of C.R.S. 34-32.5-116(4)(i), a civil penalty may be assessed at a rate of \$100 to \$1,000 for each day of violation. In this matter, there are 64 days of violation from the date of the inspection (November 25, 2014) to the January 28, 2015 Board Hearing; the Board may assess a civil penalty of \$3,200 to \$32,000.

The Board will assess a civil penalty of \$500 per day of violation for 64 days, for a civil penalty amount of \$32,000 with all but \$1,000 suspended if the Operator complies with the corrective action.

Payment of the un-suspended portion (\$1,000) of the civil penalty is due within 30 days of the mailing date of the Board Order, unless otherwise specified by the Board in the Board Order. Where corrective actions are not completed by the Board Ordered Corrective Action date stated in the Board Order, the suspended civil penalty (\$32,000) is due in full within 30 days of the deadline for the Board Ordered corrective actions.

Failure to submit any portion of the civil penalties by the dates specified in the Board Order shall Result in immediate submittal of the penalties to State collections.

**Operator(s) Signature:**

By signing this, the Operator agrees to the stated violation and will comply with the Corrective Action(s) and Civil Penalty outlined above on the Staff Summary Form for Consent Agenda Items.

\_\_\_\_\_  
Operator Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Notary Public

My Commission expires:\_\_\_\_\_