

**UNPERMITTED CONSTRUCTION MATERIAL  
EXTRACTION OPERATION**

**Enforcement Hearing Presentation Form**

**GENERAL INFORMATION**

Inspection Date:	July 8, 2015	Specialists:	Russ Means / Amy Yeldell
File No.	M-2015-027	Permit Type:	N/A
County:	Moffat	Affected Acres:	3.5
Operator:	John Raftopoulos DBA: Rancho Greco Limited Partnership	Landowner	Bureau of Land Management
Commodity:	Borrow	Mining Method:	Open surface excavation
Existing Bond:	N/A	Adequate?	N/A

**NATURE OF HEARING**

This hearing is for consideration of a Notice of Violation, Cease and Desist Order, corrective actions and civil penalties for failure to obtain a reclamation permit prior to engaging in a new mining operation.

**CHRONOLGY**

- ☐ **June 17, 2015:** BLM contacted DRMS concerning trespass issue on Vermillion Creek.
- ☐ **July 8, 2015:** BLM and DRMS staff inspected the Vermillion Creek Borrow Area.
- ☐ **July 9, 2015:** BLM issues "Notice of Willful Trespass."
- ☐ **July 15, 2015:** DRMS issued a "Reason to Believe" letter for today's hearing.

**HISTORY OF VIOLATIONS:** No history found

## STAFF RECOMMENDATIONS:

- ▣ **Find a violation of C.R.S. 34-32.5-109(1)** for mining without a permit.
- ▣ **Issue a Cease and Desist Order** prohibiting any further mining activities, except those activities approved by the Division, in writing, necessary to comply with the conditions of the Board Order, prevents damage to off-site areas, or to protect health and safety.
- ▣ **Corrective Actions:** Within 90 days of the effective date of the signed Board Order require the Operator to have **obtained** an approved “reclamation only” permit for reclamation of all areas affected by this construction materials extraction operation. The approved reclamation plan must address State requirements and incorporate federal requirements either up front or through a revision within 30 days of federal approvals.

## **CIVIL PENALTY**

- ▣ **Pursuant to C.R.S. 34-32.5-123(2)**, a person who operates without a permit issued under the Colorado Land Reclamation Act for the Extraction of Construction Materials shall be subject to a civil penalty of not less than one thousand dollars (\$1,000.00) per day nor more than five thousand dollars (\$5,000.00) per day for each day during which such violation occurs. In this case there are 49 days of violation (from the July 8, 2015 inspection date to the August 26, 2015 Board meeting) for a civil penalty range of \$49,000 to \$245,000.
- ▣ Additionally, **pursuant C.R.S. 34-32.5-123(4)** the Board shall assess a civil penalty in an amount not less than the amount necessary to cover costs incurred by the division investigating the alleged violation. In this case it is estimated that staff spent 30 hours on this matter at the rate of \$56.64 per hour for a total of \$1699.20.
- ▣ **Total Civil Penalty range is \$50,699.20 to \$246,699.20**
- ▣ **Payment of unsuspended civil penalties** to be due within thirty (30) days of the mailing date of the Board Order. Failure to pay the unsuspended penalties by the due date shall result in the matter being turned over to State Collections.

## **SUSPENSION OF CIVIL PENALTIES:**

The Board may suspend all or a portion of the civil penalty to encourage timely compliance with the corrective actions, and compliance with the Act and Rules and Regulations. Staff recommends any suspension of civil penalties does not include staff time of \$1699.20.