

**FAILURE TO PROTECT LANDS OUTSIDE OF THE PERMIT BOUNDARY
PERMITTED CONSTRUCTION MATERIAL EXTRACTION OPERATION**

Enforcement Hearing Presentation Form

GENERAL INFORMATION

Inspection Date:	July 8, 2015	Specialists:	Russ Means / Amy Yeldell
File No.	M-2007-058	Permit Type:	110c
County:	Moffat	Affected Acres:	8.14 ac permitted, 0.62 ac additional disturbance
Operator:	John Corson DBa: C&B Gravel, Inc.	Landowner	Private
Commodity:	Sand and Gravel	Mining Method:	Open surface excavation
Existing Bond:	\$16,496.00	Adequate?	No, based on new disturbances

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 protect areas outside of the affected land from slides or damages occurring during the mining operation.

CHRONOLOGY

- ☐ **July 8, 2015:** DRMS staff inspected the Sheehan Pit. Several problems were noted.
- ☐ **July 23, 2015:** DRMS mails inspection report
- ☐ **July 24, 2015:** DRMS issued a "Reason to Believe" letter for today's hearing.
- ☐ **August 3, 2015:** Operator emails photo-documentation that some of the problems identified in the inspection report had been corrected.
- ☐ **August 3, 2015:** DRMS send letter "Inspection Problems Abated"

HISTORY OF VIOLATIONS: No history found

STAFF RECOMMENDATIONS:

- ▣ **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
- ▣ **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 permit amendment to the current 110c:
 - 1) Incorporate all areas affected outside of the boundary where material is being stockpiled.
 - 2) Correct problems cited in the mining and reclamation plans during the inspection.

CIVIL PENALTIES

- ▣ Pursuant to C.R.S. 34-32.5-124(7), at the hearing, if the Board determines that a violation of the provisions of a permit, the Act, or these Rules has occurred, the Board shall assess a Civil Penalty of not less than one hundred dollars (\$100.00) per day nor more than one thousand dollars (\$1,000.00) per day for each day during which such violation occurs. In this case there are 49 days of violation (from July 8, 2015 the formal inspection date to the August 26, 2015 Board meeting) for a civil penalty range of \$4,900 to \$49,000.
- ▣ **Total Civil Penalty range is \$4,900 to \$49,000.**
- ▣ **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.
- ▣ 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.