



## COLORADO

Division of Reclamation,  
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215  
Denver, CO 80203

January 5, 2016

Mary Ann Gaston  
P.O. Box 91  
Norwood, Colorado 81423

**Re: Concerns regarding: M-1981-154, Norwood Pit operated by San Miguel and M-1988-037, United-Norwood Pit operated by United/ Oldcastle.**

Ms. Gaston,

Please forgive my very late response to your July 8, 2015 letter and our August 19, 2015 meeting. Your letter required some in-depth file review by multiple staff. I will attempt to answer your questions in the order you presented in your referenced letter. A copy of your letter is attached. Please understand that there are issues outside the Division of Reclamation, Mining and Safety (Division) jurisdiction and others that are beyond current staff history which makes some answers difficult and unintentionally vague.

- 1) Records for these sites by the Division in 1981 are limited. M-1981-154 was a pre-law pit that was permitted upon the change in the law. M-1988-037 was issued in 1988 per an enforcement action to address unpermitted activities as reported. The enforcement action is proof that the Division took action as appropriate once the activity was reported. Most illegal mining is discovered by complaints from industry and citizens.
- 2) Maps were submitted with the 1996 Amendment AM-01 for M-1988-037 that met the requirements of the Act and Rules. Unfortunately, the maps are too large to replicate. However they can be found in the public file: <http://drmsweblink.state.co.us/drmsweblink/search.aspx?dbid=0>. There is a map titled "Pre-Mining Map" for M-1988-037 which was received by the Division on February 24, 1996. The map shows the permit boundary and structures that existed at the time. The map can be viewed through our website as well.
- 3) There is not an original pre-mining map for M-1981-154 in the file. We are providing you a copy of the Division accepted pre-mining and mining plan map created in 1993 for an amendment and resubmitted to the Division in 1998.
- 4) The Division does not have jurisdiction over county approved activities within Conditional or Special Use Permits. Please discuss with the County.
- 5) Water use issues are addressed through the Division of Water Resources. It is the Division's understanding that water is supplied to a pond in the northwest part of the permit area from the Farmer's Water Development ditch (Gurley Ditch) and that this water supply arrangement has been adjudicated and approved in the Water Court system. The water is supplied and delivered to United



Companies by Skelton, Inc. pursuant to a Gravel Lease between the parties signed on December 28, 1995.

- 6) The Division was not a party to any agreements in regard to the diversion box. The alleged fence damage is so long ago the Division has no basis to require repairs. To repair any fencing now would now require substantial damage to the willow thicket that is well established and may not be as effective as the natural barrier. If the diversion box is on your property then it should be addressed by the permit. Again, because of the length in time since the installation of the ditch box our records are incomplete. We have asked the current operator to review this question and respond in writing to your inquiry on this issue.
- 7) After discussions with the operators and a review of the permit it was "suggested" in 1996 that the scale house *might* eventually be moved. However, at this time it is not conducive to the overall mining plans for the operator to move the scale house. The Division has no basis to require the relocation of the scale house. Increasing the height of the visual berm means an increased base which would either create an unsafe width for passing trucks or cause material to fall onto your adjacent lands. Neither option is desirable. Discussions of a higher visual berm would also require modifications to right of way agreements within the permit boundaries which neither party is inclined to address at this time.
- 8) The county is required to notify the Division per the Act and Rules when mining is completed. From that date an operator has 5 years to complete the tasks outlined in the approved reclamation plan. The Division can extend that 5 year period if necessary to ensure the land is returned to the approved post mined land use. The County has not notified the Division of a completion of mining activities.
- 9) This is a County Resolution and therefore is not part of our state permit.
- 10) During our August 2015 visit we noted numerous trees and shrubs along the permit boundaries. The permit maps are representations of site conditions, not accurate vegetation surveys, and the Division saw no issues with present conditions.
- 11) The County has not requested any reclamation assessments or releases from the Division so there is no comment.
- 12) Timelines presented in State permits are a best guess under optimum conditions. The proposed dates are not set with deadlines and it is at the discretion of the operator, not the state when mining is completed.
- 13) The Division observed stormwater, not surface water during our August 19, 2015 inspection.
- 14) The Division's documentation states that the ditch on the south side of the United pit is owned by Farmer's Water Development.
- 15) The Division file does not contain agreements with the adjacent landowners. The operator submitted an engineering evaluation to demonstrate that structures would not be damaged by the operation. The evaluation can be viewed at:  
<http://drmsweblink.state.co.us/drmsweblink/0/doc/550531/Page1.aspx?searchid=e306e237-54e0-43ef-a0dc-b7b6de2aad92>.
- 16) The approved reclamation plans for both sites does not include trees. The approved grass seed mix includes Western Wheat Grass, Manchar Smooth brome, and Crested Wheatgrass. Visibility and noise are issues are not within the Division's jurisdiction. Please address these through the County.



- 17) This appears to be a County issues and the State has no comment.
- 18) The entire public file for both permits can be accessed via the internet as indicated above in #2.
- 19) The Division does not regulate other uses of permitted areas so long as they do not interfere or hinder approved mining and reclamation plans. The Division in its inspection found no issues of concern during its August 19, 2015 inspection. Please refer questions regarding other activities or uses to the County.
- 20) Both permits have approved weed control management plans and appeared to be in compliance during the August 19, 2015 inspection. Some listed weeds were observed and evidence of spray controls were noted.
- 21) The Division does not have the jurisdiction to require truck cleaning prior to leaving the site.
- 22) The inspection of August 19, 2015 noted all signs and markers were adequate. No issues were observed.
- 23) The Division Parks and Wildlife were contacted as required by the Act and Rules during permitting and amendments. Wintering of wildlife was noted but no significant issues were raised during the review process.
- 24) Any issues prior to 1977 are considered pre-law and outside the jurisdiction of the Division. If an operator permitted those areas after 1977 then it is probable the disturbances are covered under the mining and reclamation plans assuming the operator did additional disturbances to those areas. Operators doing a Succession of Operator do assume responsibility for any and all liabilities for the permit present when they took over the permit.
- 25) The use of an asphalt plant was approved in TR-03 on December 22, 1994.

The Division understands that there is a long history of contentiousness between you as an adjacent landowner and these two operators. At this time, after careful review of the permit files and inspections conducted on August 19, 2015, the Division believes the permits are in compliance with the Act and Rules. The Division recognizes that other issues may exist however as explained they are outside our jurisdiction.

If you need additional information please contact me at the Division of Reclamation, Mining and Safety, Grand Junction Field Office by telephone at 970.241.1117, or by e-mail at [russ.means@state.co.us](mailto:russ.means@state.co.us).

Sincerely,



G. Russell Means  
Senior Environmental Protection Specialist  
Western Slope Field Office Supervisor



