

ERP

RECEIVED



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

✓ APR 28 2016

DIVISION OF RECLAMATION
MINING AND SAFETY

✓ **STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS**

✓ FR:

Date	April 1, 2016	Operator	Phillips County
Permit No.	M-2004-052	Site Name	Rafert Pit
Specialist	Elliott Russell	Objecting Party	N/A
Permit Type	110c	Permit Acreage	9.90

Action:

- ☐ Permit Application with Objections
☒ Violation
☐ Extension of Board-Ordered Deadline
☐ Other (specify):

Resolution:

NATURE OF VIOLATION:

This item is in regard to a Notice of a Possible Violation, corrective actions, a Cease-and-Desist Order, and civil penalties for a possible violation of C.R.S. §34-32.5-101 et seq., and 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, and C.R.S. 34-32.5-116(4)(j), for failure to stabilize and protect all surface areas of the affected land as to effectively control erosion.

CHRONOLOGY:

March 9, 2016 - The Division of Reclamation, Mining and Safety (Division/DRMS) conducted a normal monitoring inspection of the site. The Division cited two possible violations due to observing evidence of uncontrolled erosion to the affected lands and associated damage to off-site lands.

March 25, 2016 - The Division sent the operator a copy of 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, and for failure to stabilize and protect all surface areas of the affected land as to effectively control erosion.

REASON FOR VIOLATION:

The Operator failed to protect areas outside of the affected land from slides or damages occurring during the mining operation as required by C.R.S. 34-32.5-116(4)(i) and the Operator failed to stabilize and protect all surface areas of the affected land as to effectively control erosion as required by C.R.S. 34-32.5-116(4)(j).



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, and a violation of C.R.S. 34-32.5-116(4)(j), for failure to stabilize and protect all surface areas of the affected land as to effectively control erosion.

Cease and Desist Order:

Issue a Cease and Desist Order prohibiting any further mining activities, except those activities approved by the Division, in writing, as necessary to comply with the conditions of a Board Order, prevent damage to off-site areas, or to protect public health and safety, until corrective actions have been resolved to the satisfaction of the Division and the MLRB.

Corrective Action(s):

Require the Operator to submit a conversion application to increase the size of the current 110c Reclamation Permit to include the affected lands outside of the approved permit boundary. The Operator shall submit the conversion application within 90 days of the mailing date of the Board Order, with all material in an approvable form within 180 days of the mailing date of the Board Order.

Civil Penalty:

Pursuant to C.R.S. § 34-32.5-124(7) a person who violates any provision of a permit shall be subject to a civil penalty of not less than \$100.00 per day, nor more than \$1,000.00 per day for each day during which such violation occurs. In this case, there are 49 days of violation from date of the inspection (March 9, 2015) to the April 27, 2016 Board Meeting; the Board may assess a civil penalty of \$4,900.00 to \$49,000.00.

The Board will assess a civil penalty of \$500.00 per day of violation for 49 days, for a civil penalty amount of \$24,500.00 with all but \$500.00 suspended if the Operator complies with the corrective action.

The portion of the civil penalty not suspended, \$500.00, shall be due and payable within thirty (30) days of the effective date of the Board Order. If the Operator does not comply with the corrective actions set forth in the Order, then the suspended penalties, \$24,000.00, shall be due and payable. Failure to submit any due and unpaid civil penalties shall result in immediate submittal of such penalties to State collections.

Operator's Notarized Signature: As an authorized representative of the Operator, I hereby attest that the Operator concedes to the above described violation and agrees to comply with the Cease and Desist Order, Corrective Action, and Civil Penalty proposed in this STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS.

Signed and dated this 19 day of April, 2016.

Phillips County
(Operator)

Signature: Donald Lock

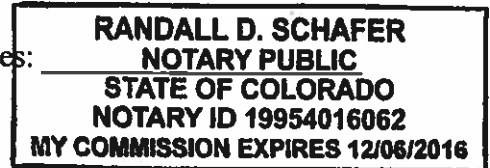
Title: Chairman

State of Colorado)
County of Phillips) ss.

The foregoing instrument was acknowledged before me this 19th day of April, 2016,
by Donald Lock as County Commissioner Chairman of Phillips County.

Randall D. Schafer
Notary Public

My Commission Expires:



SIGNATURES MUST BE IN BLUE INK