



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources
1313 Sherman Street, Room 215
Denver, Colorado 80203

August 12, 2016

Marcy Brossman
Cheyenne County
P.O. Box 567
Cheyenne Wells, CO 80810

**RE: Consent Agenda Summary Form
Munsch Pit (Permit No. M-2000-018)**

Dear Ms. Brossman,

Enclosed you will find the Staff Summary Form for the Consent Agenda Items for the possible violations found at the Munsch Pit (Permit No. M-2000-018). As we discussed, if you do not wish to contest the violation, please sign and notarize the enclosed form and return the signed original copy no later than **September 15, 2016**.

Please thoroughly review the enclosed Consent Agenda Summary Form. If executed and returned to the Division, there will be no Mined Land Reclamation Board hearing held for this matter as it will be placed on the Board's Consent Agenda Items.

However, if you wish to contest the possible violation or any of the conditions of the enclosed consent form, please inform the Division at your earliest convenience and do not sign the consent form. In the absence of a signed and notarized consent form, the formal Board hearing will proceed as scheduled for September 28-29, 2016.

If you need additional information or have any questions, please contact me at Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at **303-866-3567 x8132**, or by email at elliott.russell@state.co.us.

Sincerely,

Elliott R. Russell
Environmental Protection Specialist

Certified Mail No. 7014 2120 0001 7871 1004

Enclosure: Staff Summary Form for the Consent Agenda Items: Munsch Pit (M-2000-018)

CC: Wally Erickson; Division of Reclamation, Mining & Safety





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 ITEMS

Date: August 12, 2016

Operator: Cheyenne County

Permit No.: M-2000-018

Permit Type: 110c

Specialist: Elliott Russell

Action: Possible Violation of C.R.S. 34-32.5-116(4)(h) and C.R.S. 34-32.5-116(4)(i)

Resolution: Cheyenne County (Operator), concedes to the violation of C.R.S. 34-32.5-116(4)(h), for failure to minimize disturbance to the prevailing hydrologic balance, and 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 to the Cease-and-Desist Order, Corrective Actions, and Civil Penalties provided herein, for the Munsch Pit, Permit No. M-2000-018.

Chronology:

- June 29, 2016 - DRMS site inspection, report signed and mailed July 29, 2016
- July 29, 2016 - RTB signed and mailed to Operator

Reason for Violation: As detailed in the Division's inspection report, signed July 29, 2016, the Division observed that Ladder Creek had breached into the pit and caused lands located outside of the approved permit boundary to be affected. Additionally, the Division has determined that the mining operation has also affected lands located outside of the approved permit boundary.

Staff Recommendation:

Violation: Find a violation of violation of C.R.S. 34-32.5-116(4)(h), for failure to minimize disturbance to the prevailing hydrologic balance, and 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 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 conversion application shall address the re-establishment of the prevailing hydrologic balance. 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. Please note, a violation of C.R.S. 34-32.5-116(4)(h) and C.R.S. 34-32.5-116(4)(i) constitutes a violation of a permit provision, specifically condition 1 of the May 2, 2000 issued permit. In this case, there are 62 days of violation from the signature date of the RTB letter (July 29, 2016) to the September 28, 2016 Board Meeting; the Board may assess a civil penalty of \$6,200.00 to \$62,000.00.

The Board will assess a civil penalty of \$500.00 per day of violation for 62 days, for a civil penalty amount of \$31,000.00 with all but \$500.00 suspended if the Operator complies with the corrective actions.

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, \$30,500.00, 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 _____ day of _____, 2016.

Operator: Cheyenne County

Name: _____ (please print clearly):

Signature: _____

Title: _____

State of _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2016,
by _____ as _____ of Cheyenne County.

Notary Public

My Commission Expires: _____

SIGNATURES MUST BE IN BLUE INK