

November 22, 2016

Julie Sevier
Pioneer Sand Company, Inc.
5000 Northpark Drive
Colorado Springs, CO 80918



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

RE: Reason to Believe a Violation Exists and Notice of Board Hearing, Fedinec Pit, Permit No. M-1977-057

Dear Ms. Sevier:

On November 8, 2016 you were sent a letter and given notice that a board hearing has been scheduled for December 15, 2016. This hearing is based on the Division's belief that you have violated C.R.S. 34-32.5-109(1) for failure to obtain from the board or office a reclamation permit prior to engaging in a new operation. This belief was based on corrective action maps submitted on October 14, 2016 documenting a significant disturbance outside of the permit boundary. Based on the November 21, 2016 phone conversation, Pioneer is willing to do whatever is necessary to resolve this matter.

To resolve this matter and avoid an enforcement hearing before the Mined Land Reclamation Board the Division can correct this item via consent agenda. Attached is a Consent Agreement. The agreement must be signed, notarized and received by the Division's Denver office by December 5, 2016. If the agreement is returned after that date the matter cannot be resolved during the December 2016 board meeting and will have to be reviewed in the January 2017 board meeting.

Please submit the enclosed Consent Agreement no later than **Monday, December 5, 2016.**

If you require additional information, or have questions or concerns, please feel free to contact me. Amy Yeldell at the Division of Reclamation, Mining and Safety, 1313 Sherman St., Room 215, Denver, CO 80203. Direct contact can be made by phone at 970-254-8511 or via email at amy.yeldell@state.co.us

Sincerely,

Amy Yeldell
Environmental Protection Specialist
Department of Natural Resources
Division of Reclamation, Mining and Safety
Phone: (970) 254-8511

Ec: Russ Means, Senior EPS, Grand Junction DRMS





COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS

<u>Date</u>	November 22, 2016	<u>Operator</u>	Pioneer Sand Company, Inc.
<u>Permit No.</u>	M-1977-057	<u>Site Name</u>	Fedinec Pit
<u>Specialist</u>	Amy Yeldell	<u>Objecting Party</u>	N/A

Action:

_____ Permit application with objections

__X__ Violation

_____ Extension of Board-ordered deadline

_____ Other

Resolution:

NATURE OF VIOLATION:

This item is in regards to a Notice of a Possible Violation, Cease and Desist Order, corrective actions and civil penalties for a possible violation of C.R.S. § 34-32.5-109(1) for failure to obtain from the board or office a reclamation permit prior to engaging in a new operation.

CHRONOLOGY:

May 10, 2016 - The Division conducted a regular monitoring inspection of Fedinec.

May 23, 2016 - The Division mailed a signed copy of the inspection report.



CHRONOLOGY: (con't)

October 14, 2016 - The Division received the corrective action which required that the site be surveyed. The map depicted that 9.44 acre is currently affected and an additional 1 acre had been affected but was deemed reclaimed. The original permit boundary was 5 acres.

October 27, 2016 - The Division conducted a follow up inspection of the Fedinec Pit. Field conditions were compared to the map submitted on October 14, 2016. The Division found that areas identified as reclaimed did not meet the requirements of the approved reclamation plan or the Rules and therefore would need to also be permitted.

November 2, 2016 – The Division mailed a signed copy of the inspection report.

November 8, 2016 - The Division mailed a signed copy of the Reason to Believe a Violation Exists and Notice of Board Hearing letter.

REASON FOR VIOLATION:

The Operator has affected approximately 5.44 acres outside of the permit boundary for a total of 10.44 acres affected to date. It is the Operator's responsibility to protect areas outside of the affected land from slides or damages occurring during the mining and reclamation operation. Pursuant to C.R.S. § 34-32.5-123(2), an operator who mines substantial acreage beyond the approved permit boundary may be found to be operating without a permit.

STAFF RECOMMENDATION:

Violation:

Find a violation of C.R.S. § 34-32.5-109(1) for failure to obtain from the board or office a reclamation permit prior to engaging in a new operation.

Cease and Desist Order:

Issue a Cease and Desist order for any additional disturbances outside of the existing operations footprint until all required corrective actions are completed.

Corrective Action(s):

Require the Operator to submit a Conversion Application to modify the permit/affected area to incorporate the entire disturbed area. The Operator shall obtain an approved Conversion Application Permit within 180 days of the effective date of the Board Order.

Civil Penalty:

Pursuant to C.R.S. § 34-32.5-123(2), a Civil Penalty may be assessed in an amount not less than \$1,000.00 per day nor more than \$5,000.00 per day the land has been affected, not to exceed 365 days.

In this case, there are 37 days of violation (from the date of the Reason to Believe a Violation Exists and Notice of Board Hearing Letter on November 8, 2016 to the December 15, 2016 Board Meeting), resulting in a range of civil penalty not less than \$37,000.00 and not more than \$185,000.00.

In this matter the Division proposes a civil penalty of \$37,000.00 based on 37 days of violation at \$1,000.00 per day. The Board will suspend all but \$500.00 of the assessed civil penalty to encourage timely compliance from the Operator.

Payment of the un-suspended portion of the civil penalty, \$500.00, is due within 30 days of the effective date of this Board Order. Failure by the Operator to comply by the Board Order due date shall result in the suspended portion of the civil penalty, \$36,500.00, becoming effective and due.

Consent Agreement

Page 4

November 22, 2016

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 the STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS.

Signed and dated this _____ day of _____, 2016.

Pioneer Sand Company, Inc.

(Operator)

Signature: _____

Title: _____

State of _____)

County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2016,

by _____ as _____ of _____.

Notary Public

My Commission Expires: _____

SIGNATURES MUST BE IN BLUE INK