



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

November 22, 2016

Memorandum

To: Mined Land Reclamation Board
From: DRMS Staff

RE: Possible violation for to obtain a permit prior to engaging in a new mining operation.
Fedinec Pit, Permit Number: M-1977-057.

Dear Board Members,

Consent Agenda item for a consideration of possible violation for failure to obtain a Mined Land Reclamation Board Permit prior to engaging in a new mining operation. Please see the attached documents for your reference on the matter:

Inspection Report	05/10/2016
Survey of Findings	10/14/2016
Inspection Report	10/27/2016
Reason to Believe Letter	11/08/2016
Signed Consent Agreement	11/28/2016

Sincerely,

DRMS Staff

Cc: Pioneer Sand Company, Inc.
Jeff Fugate, DRMS AGO Consultant



Inspection Report

05/10/2016





COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY
MINERALS PROGRAM INSPECTION REPORT
PHONE: (303) 866-3567

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: Fedinec Pit	MINE/PROSPECTING ID#: M-1977-057	MINERAL: Crushed stone mater	COUNTY: Moffat
INSPECTION TYPE: Monitoring	INSPECTOR(S): Amy C. Yeldell	INSP. DATE: May 10, 2016	INSP. TIME: 12:00
OPERATOR: Pioneer Sand Company, Inc.	OPERATOR REPRESENTATIVE: Wayne Brantley	TYPE OF OPERATION: 110c - Construction Limited Impact	

REASON FOR INSPECTION: Normal I&E Program	BOND CALCULATION TYPE: None	BOND AMOUNT: \$19,300.00
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
WEATHER: Clear	INSPECTOR'S SIGNATURE: <i>Amy Yeldell</i>	SIGNATURE DATE: May 23, 2016

The following inspection topics were identified as having Problems or Possible Violations. OPERATORS SHOULD READ THE FOLLOWING PAGES CAREFULLY IN ORDER TO ASSURE COMPLIANCE WITH THE TERMS OF THE PERMIT AND APPLICABLE RULES AND REGULATIONS. If a Possible Violation is indicated, you will be notified under separate cover as to when the Mined Land Reclamation Board will consider possible enforcement action.

INSPECTION TOPIC: Availability Of Records

PROBLEM/POSSIBLE VIOLATION: Problem: It appears that approximately 11 acres have been affected which is larger than the approved 5 acres. Depending on the extent of disturbances this could be a possible violation pursuant to: 1.) C.R.S. 34-32.5-109(1) for failure to first obtain from the board or office a reclamation permit prior to engaging in a new operation. AND/OR 2.) 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.

CORRECTIVE ACTIONS: The operator shall, survey the current disturbance to clarify the total affected acreage to date. The operator shall provide the Division with documentation of their findings, including updated maps by the corrective action date. Upon receipt of this information the Division will make its determination of how to proceed forward and rectify the situation.

CORRECTIVE ACTION DUE DATE: 8/18/16

INSPECTION TOPIC: Signs & Markers

PROBLEM/POSSIBLE VIOLATION: Problem: The mine identification sign was not posted at the entrance of the mine site. This is a problem for failure to post a mine identification sign as required by Section 3.1.12(1) of the rule.

CORRECTIVE ACTIONS: The operator shall, at the entrance of the mine site, post a sign which shall be clearly visible from the access road with the following: the name of the operator, a statement that a reclamation permit for the operation has been issued by the Colorado Mined Land Reclamation Board; and the permit number. The operator shall submit photo documentation that a proper sign has been posted by the corrective action date.

CORRECTIVE ACTION DUE DATE: 7/18/16

OBSERVATIONS

This inspection was conducted as part of the Colorado Division of Reclamation, Mining and Safety (Division) normal monitoring program. The Fedinec Pit is a 110c permitted site that includes a total of 5 permitted acres. This site is located approximately five miles southeast of Craig, Colorado and is accessed from Moffatt County Road 120. Wayne Brantley represented Pioneer Sand Company, Inc. and accompanied Amy Yeldell of the Division on the inspection.

Some t-posts were observed though it is unclear which or if all of them make up the permit boundary markers. The post and wood backing of where the mine sign was placed was observed. No actual sign was present. This is cited as a problem the operator shall post adequate signage per Rule 3.1.12.

The site was inactive at the time of the inspection. According the annual reports the site has been active and some reclamation work was conducted in 2013. This site is approved for intermittent status which requires that a site be active annually. If the mine ceases production for more than a year it shall go into temporary cessation or begin final reclamation. No equipment, fuel or structures were observed. Lots of miscellaneous metal was observed. This needs to be removed upon final reclamation.

Several berms and benches were observed. They are mostly stable and the lower ones appear to be reclaimed and have vegetative cover. Some erosion was observed on the steeper slopes. The site was very wet at the time of the inspection. Also there are a few stockpiles of riprap and soil material. It is unclear which stockpile is the remaining topsoil pile. The upper/ northwest corner is mostly bare rock outcrops and low vegetation along the top ridges.

Some weeds were observed, specifically scotch thistle. This spring has been abnormally wet which has made it difficult to effectively spray. The operator is encourage to coordinate with a licensed sprayer and treat all noxious weeds as weather conditions allow.

The mining plan calls for multiple benches with a minimum width of 20' between each bench and highwalls that are approximately 40' tall. Final reclamation allows for these benches to remain with a flat pit floor graded to an elevation of 6800'. Then 6"-12" of topsoil will be replaced and the benches and pit floor will be seeded. The consolidated slopes are approved to be left at maximum of 80 degrees or a 1.25:1 slope. Non-

consolidated material may be left at a maximum of 60 degrees or 1.5:1 slope. In laserfiche there are documents from application process where the Division requested additional geotechnical stability analysis for such steep slopes. However nothing further on this topic can be found in the file. Such steep sloping is non-typical of the Division by today's standards especially with the post mining land use of Pastureland (limited cattle grazing). The Division would caution the operator about leaving such steep slopes especially in unconsolidated material as this could lead to future erosion issues. All slopes should naturally blend in with surrounding topography and be stable and free of erosion. It is also noted that all recent bond calculations and inspections have made the assumption that slopes will be reclaimed to the Divisions standard 3:1 slope. Permit documentation is attached.

The original permit application mentioned the mine access road needs to be incorporated into the mining permit boundary. No maps to date have depict this road. Also the original reclamation plan does not specify if the mine access road shall be removed upon final reclamation. Please clarify this through a Technical Revision (TR).

The current site conditions do not meet the approved reclamation plan configuration. The operator shall submit a Technical Revision to update the reclamation plan to meet as built conditions prior to requesting release.

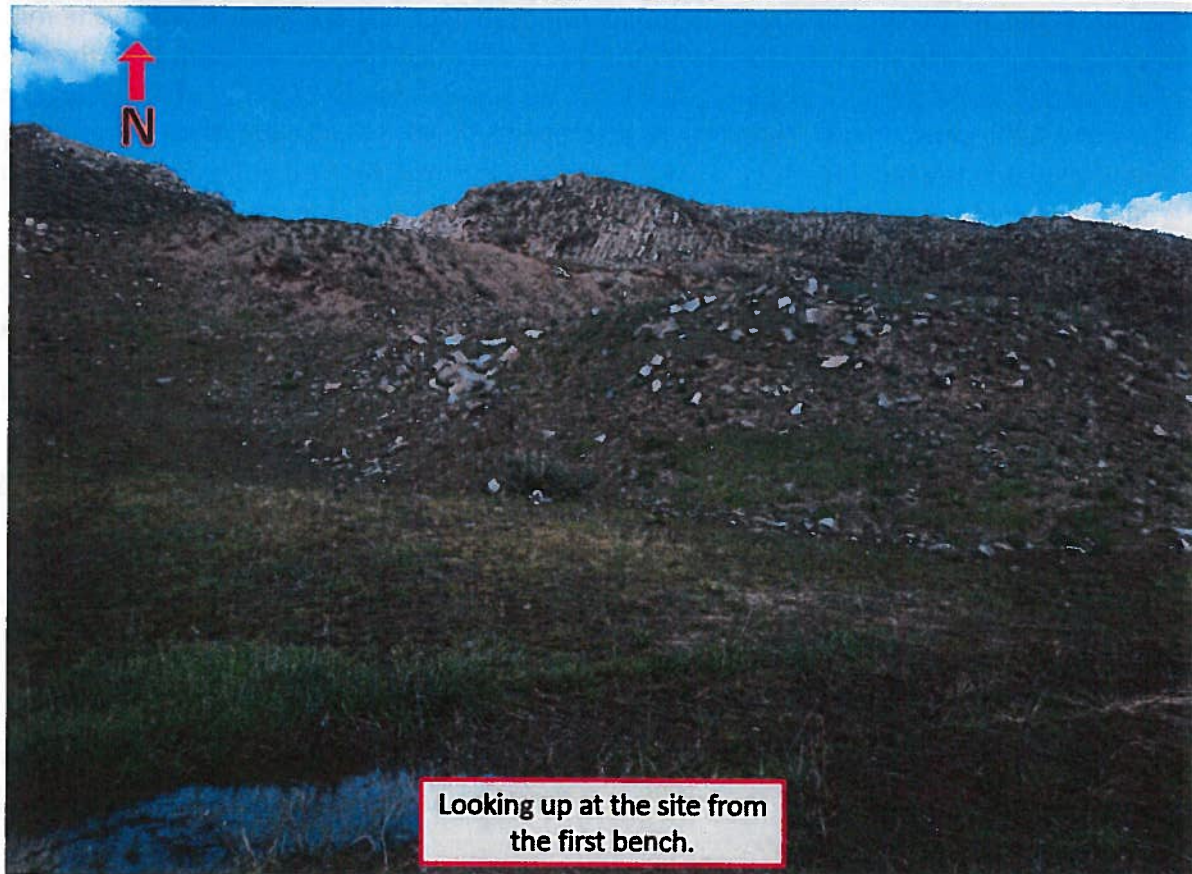
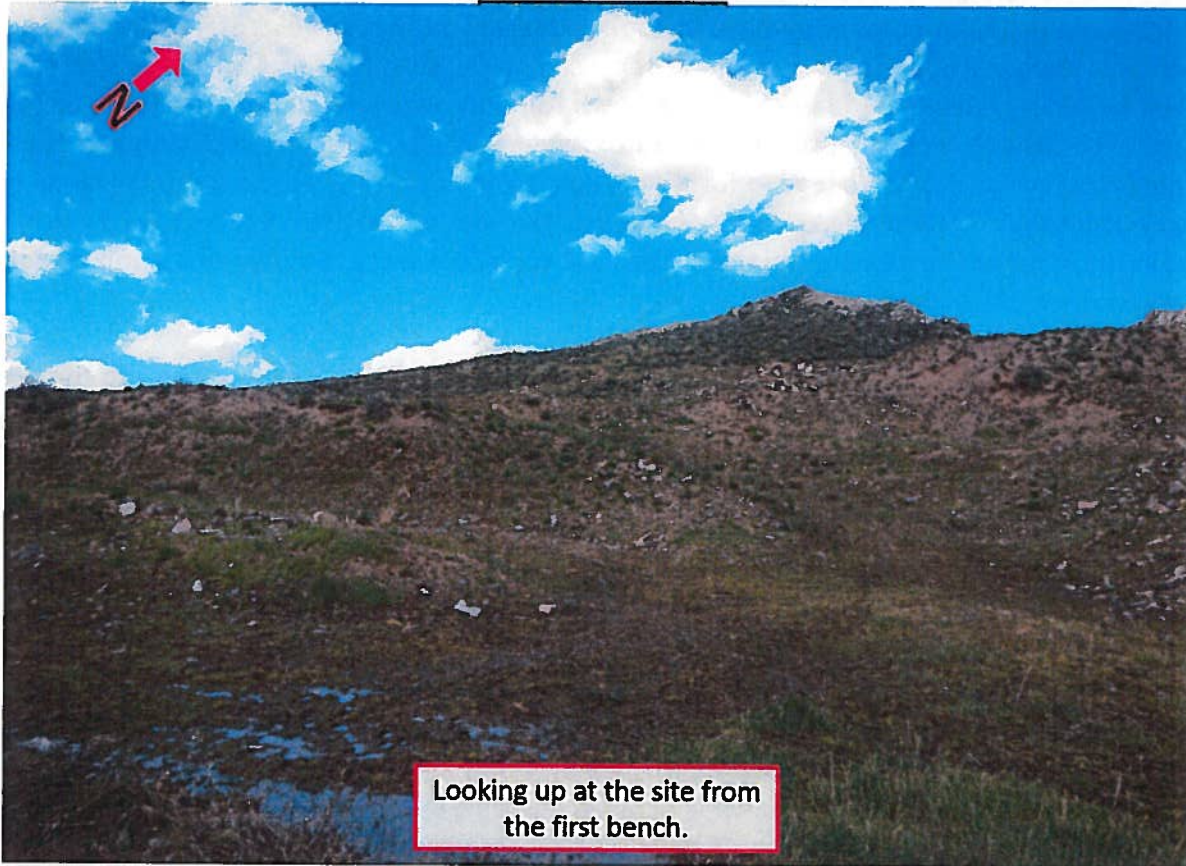
In the July 1998 succession of operator inspection report (attached), Division staff noted that Pioneer believed the site to be larger than the approved boundary. Division staff recommended that the site be resurveyed to distinguish what disturbances were pre-law verse active mining. The Division has no records of this delineation being made. The original permit boundary is a 5 ac square. No new maps have been submitted since the 1977 permit application. There are no coordinates to pinpoint where the corners are located within the mine site. Staff digitized using google earth what appears to be the affected lands. This permit boundary does not match the boundary delineated in the permit. The site appears to be approximately 11 acres which is larger than the approved 5 acres or a 110c permit limit. This acreage discrepancy is cited a problem. Depending on the extent in which land has been affected outside of the permit boundary this may be a possible violation of mining without a permit or failure to protect lands from off-site damages. The Division is requesting that the operator survey the current disturbance to clarify the total affected acreage to date. Then the operator shall provide the Division with documentation of their findings, including an updated map, by the corrective action date. Upon receipt of this information the Division will make its determination of how to proceed forward and rectify the situation.

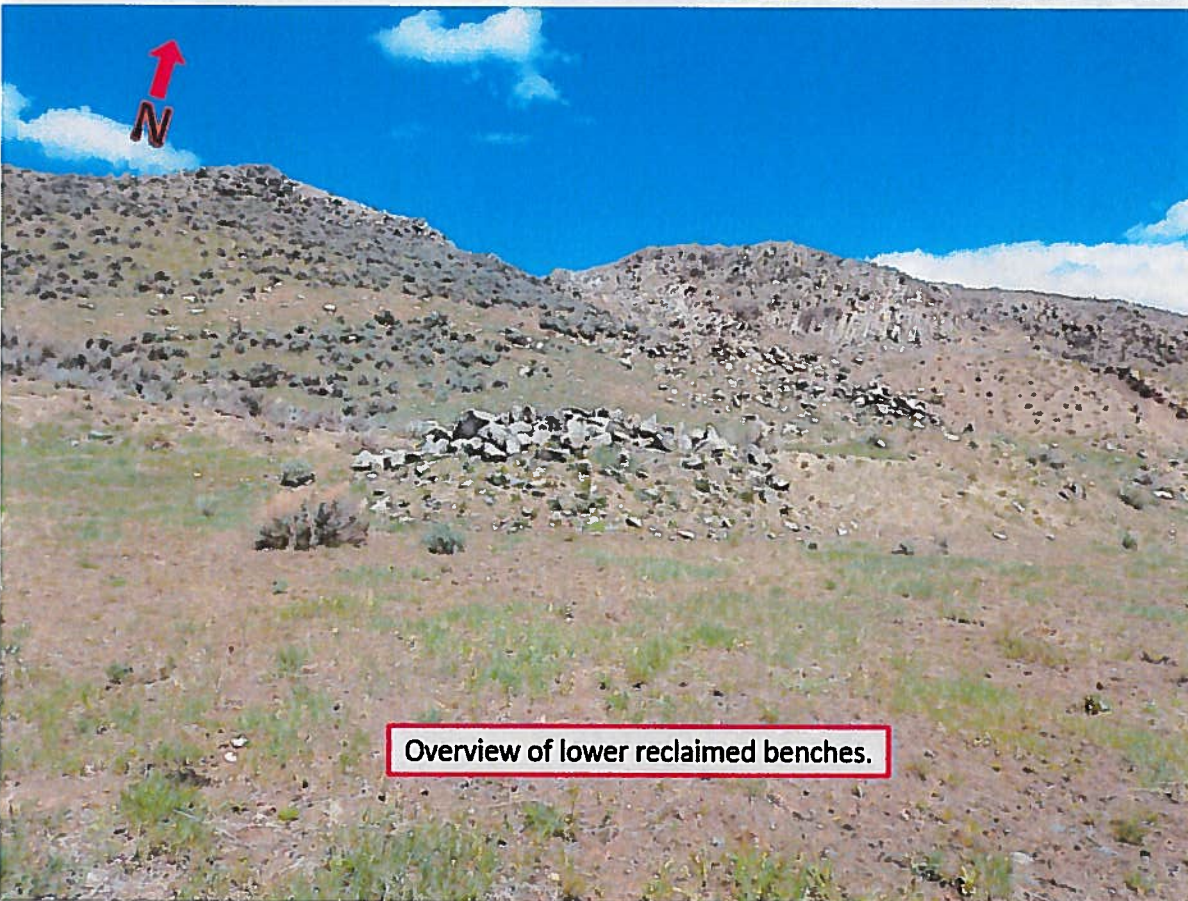
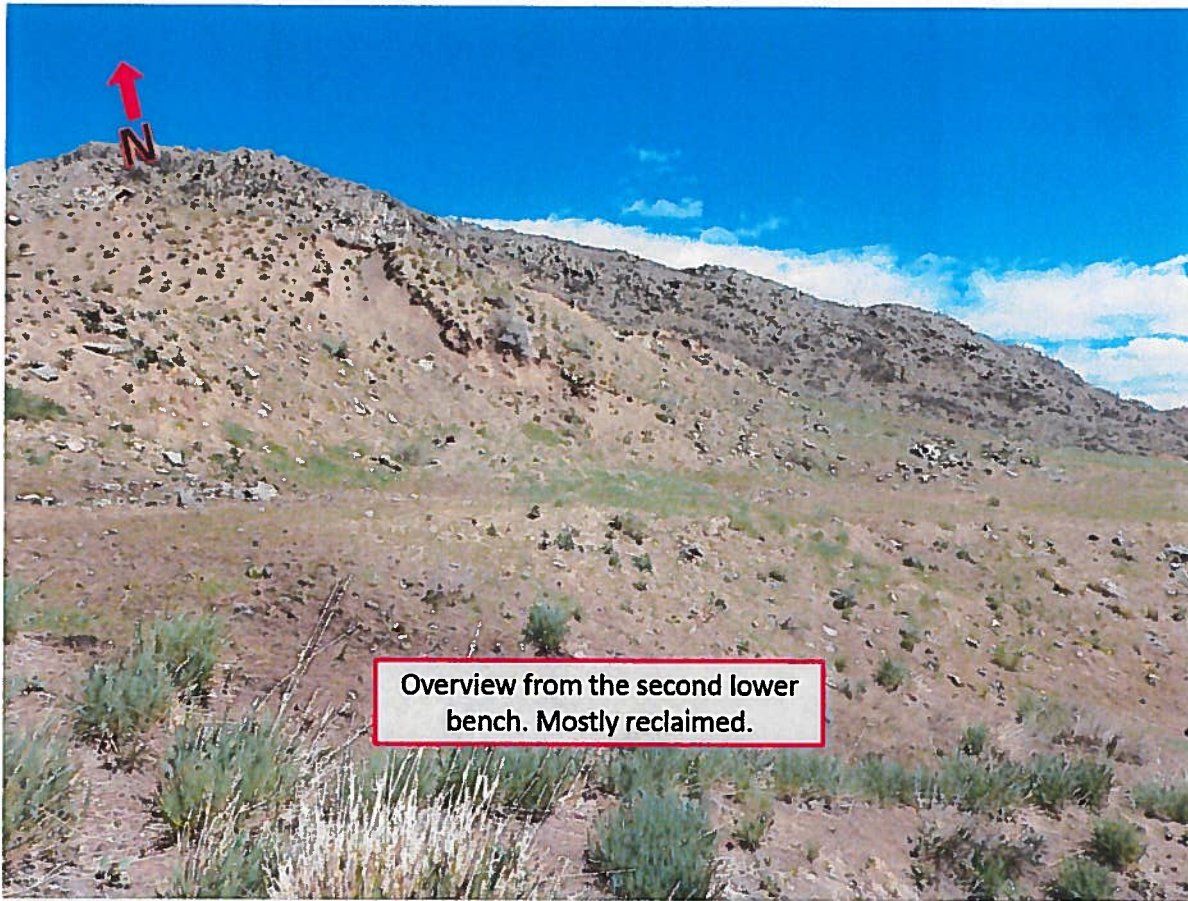
During the inspection it was mentioned this site would be fully reclaimed or transferred if a successive operator was found. Please note that the Division cannot process a Succession of Operator request until the acreage discrepancy is resolved nor can the site be released.

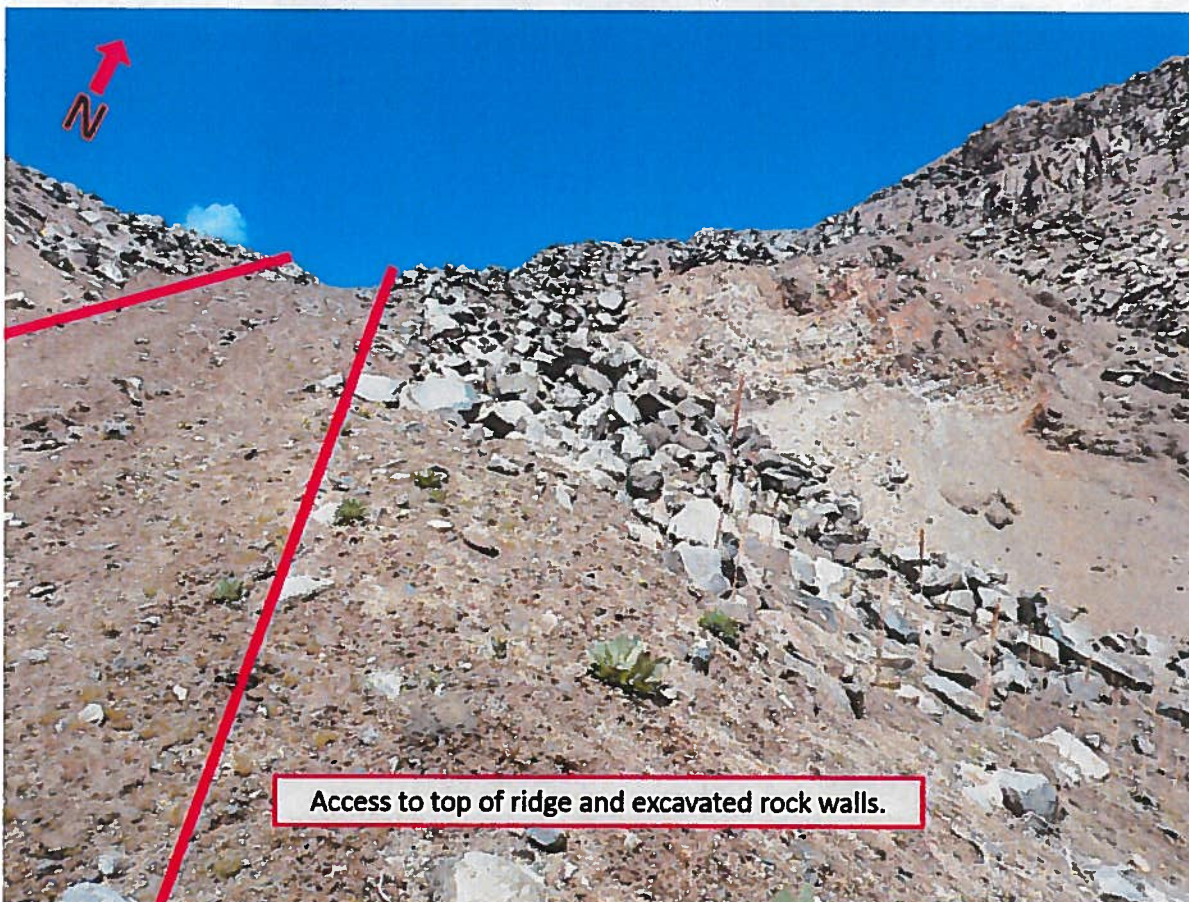
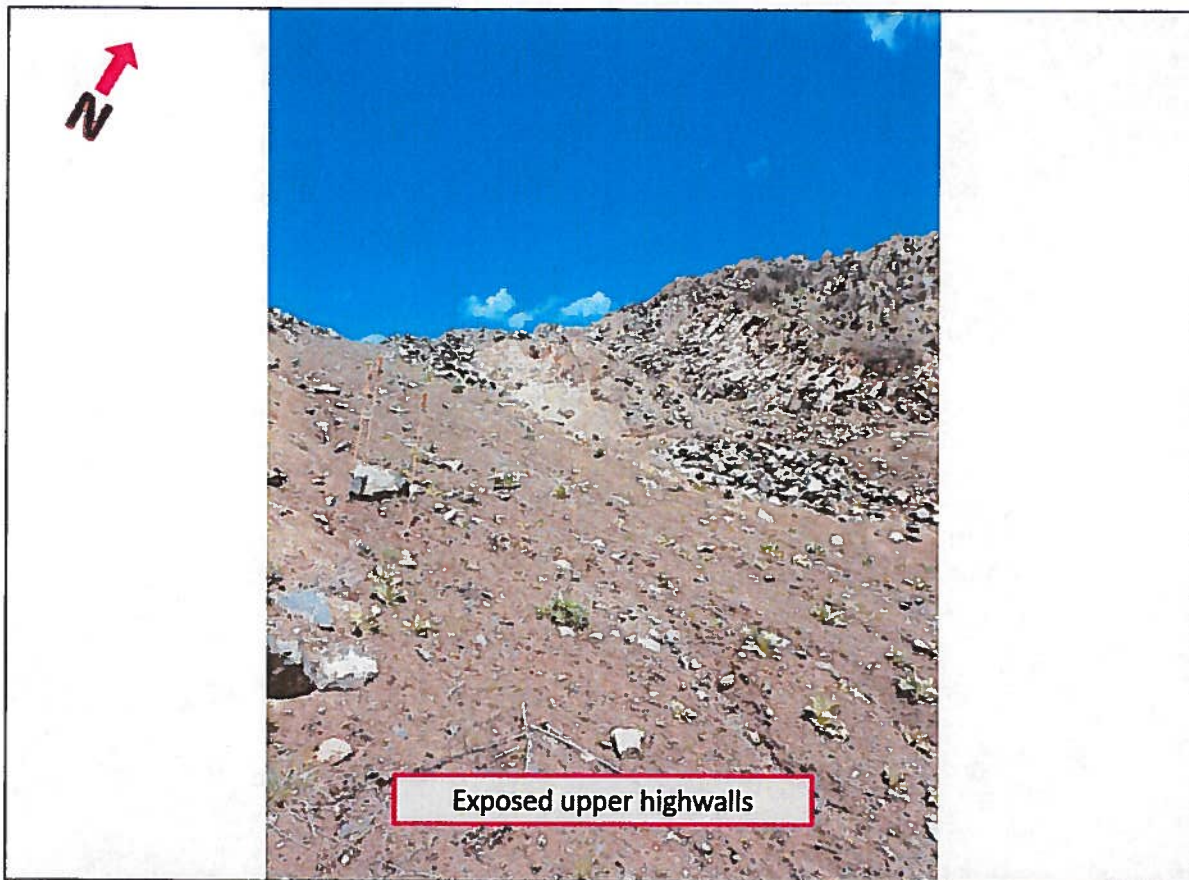
Currently the Division holds a Financial Warranty in the amount of \$19,300 for this site. The last surety increase was calculated in 2012. The Division will wait for the acreage discrepancy to be resolved prior to determining if the current bond is adequate or if a surety increase shall be necessary.

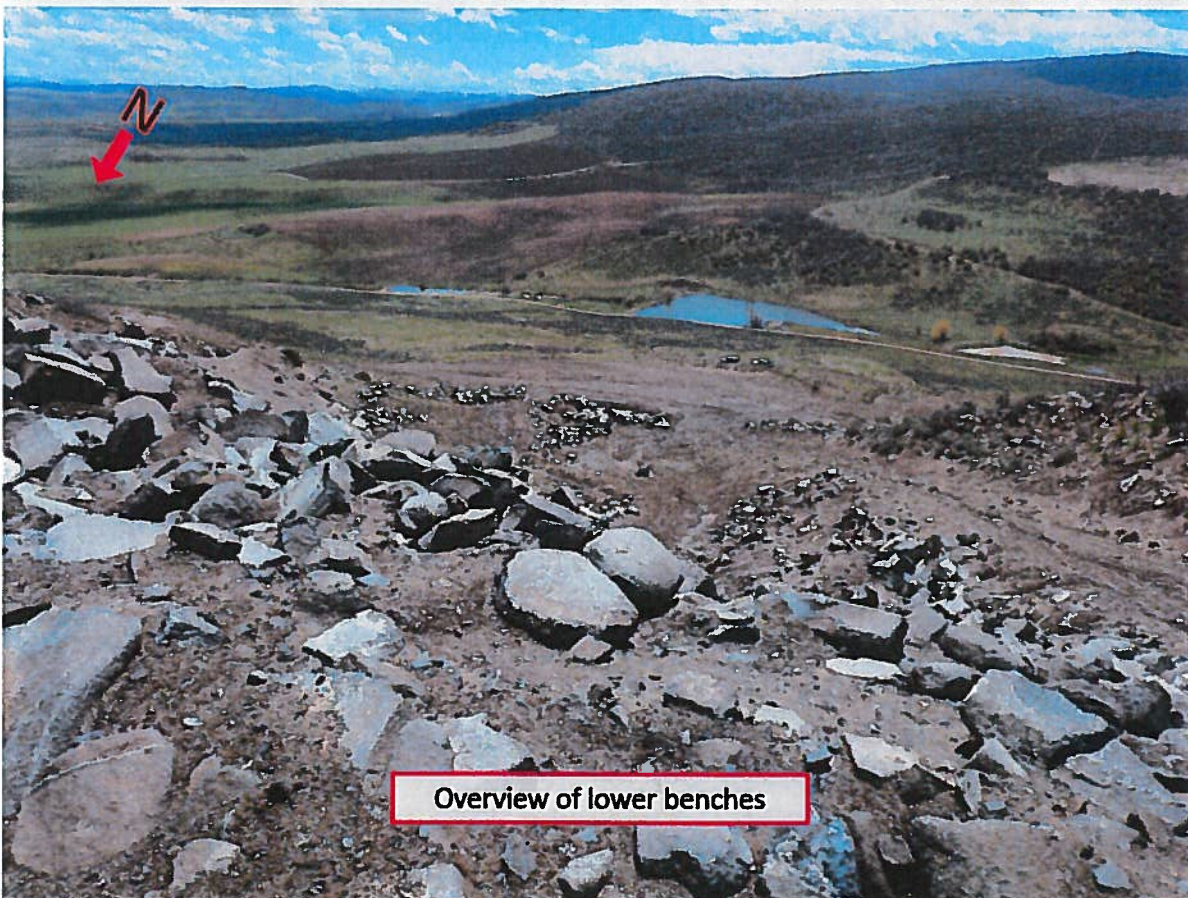
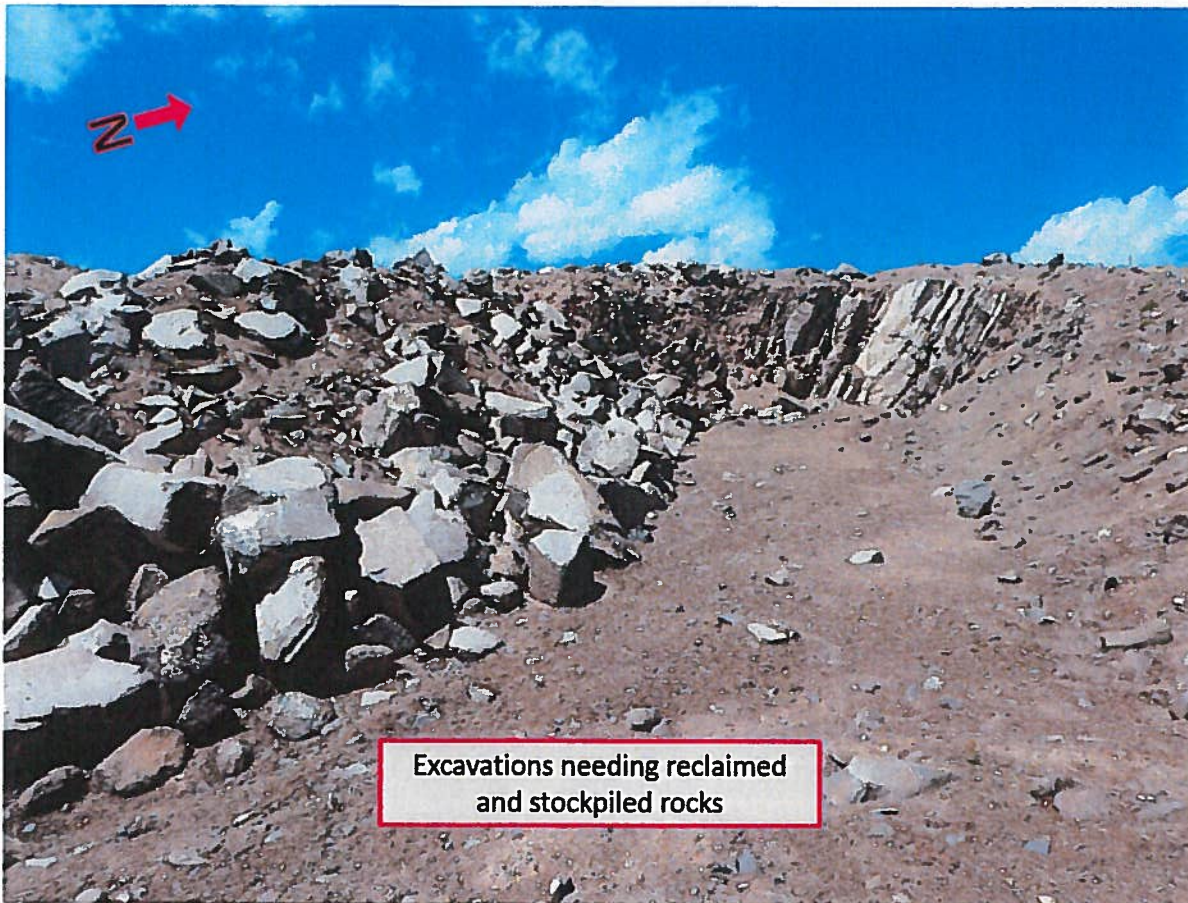
Responses to this inspection report should be directed to: Amy Yeldell at the Division of Reclamation, Mining and Safety, 1313 Sherman St., Room 215, Denver, CO 80203. Direct contact can be made by phone at 970-254-8511 or via email at amy.yeldell@state.co.us

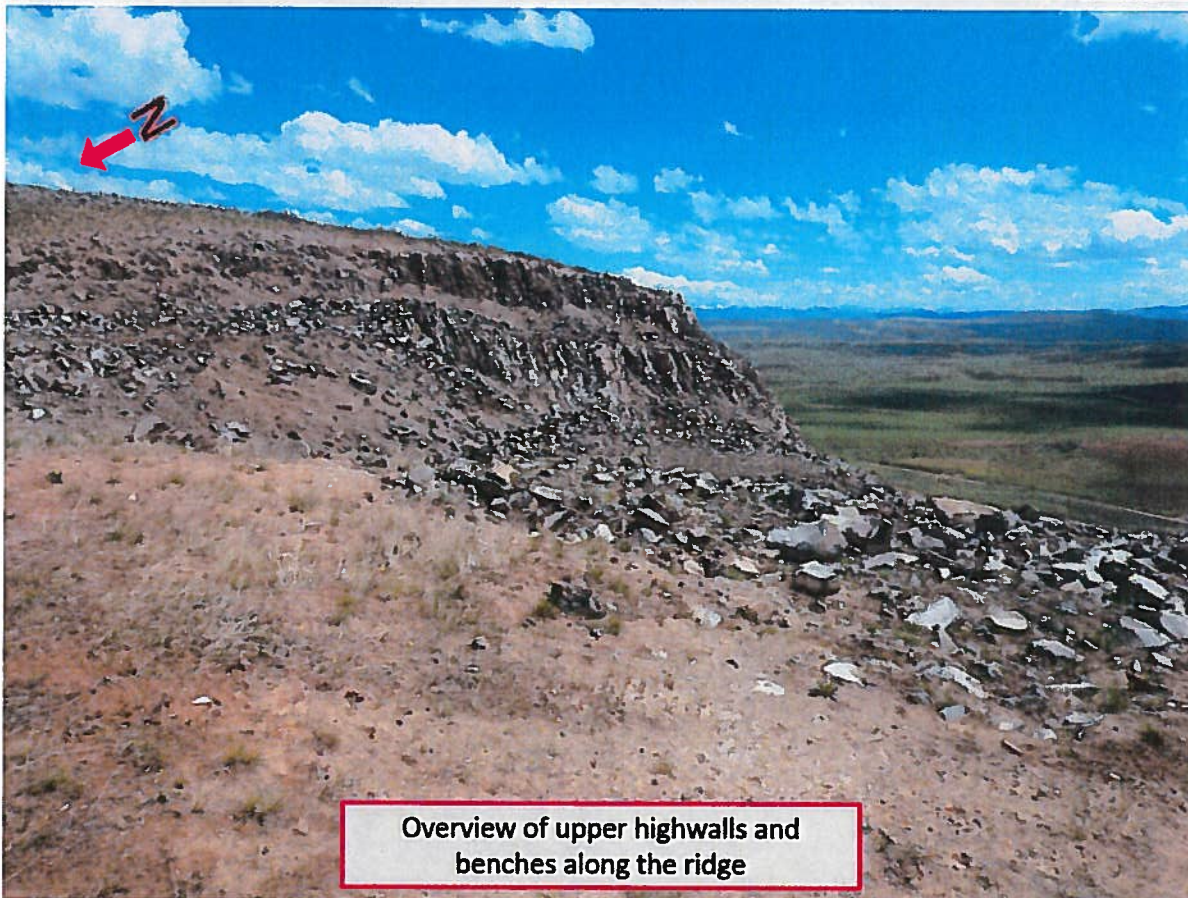
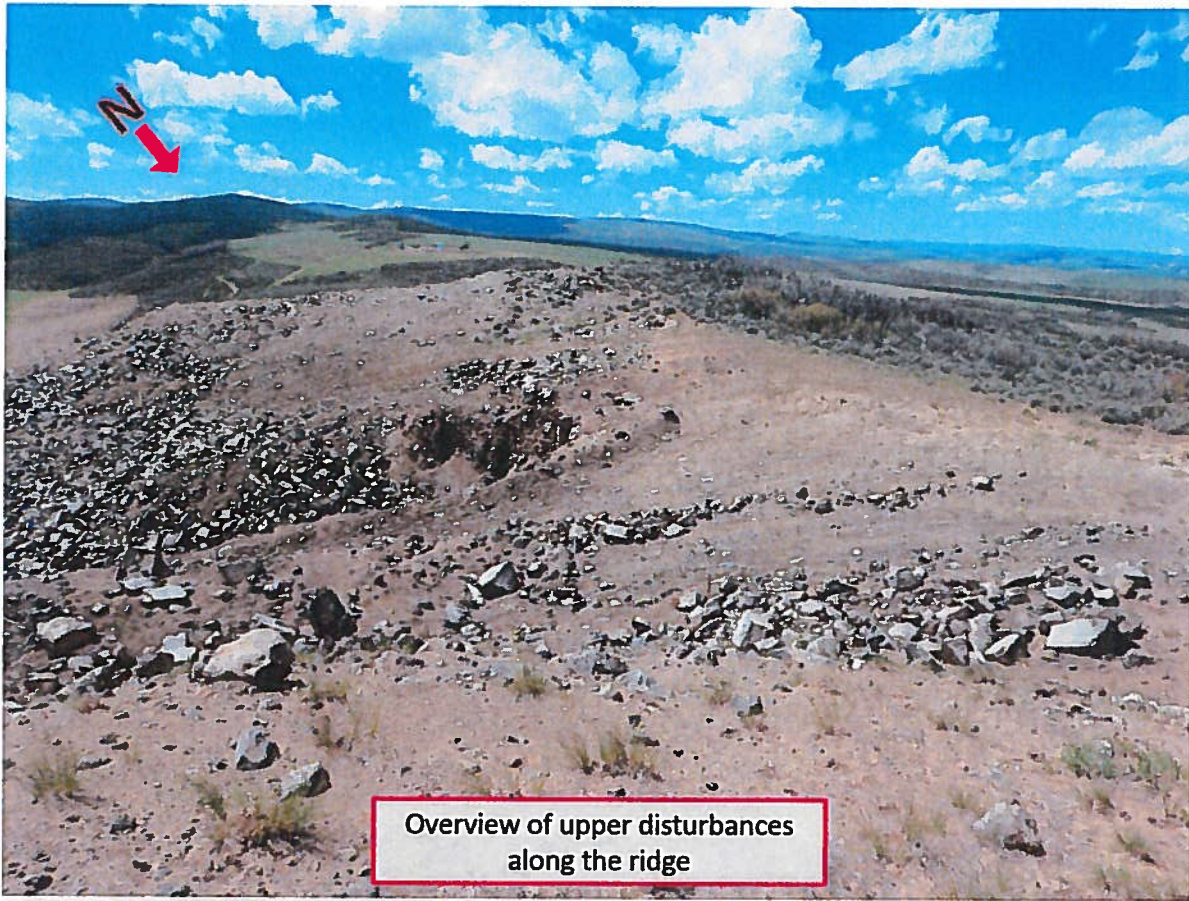
PHOTOGRAPHS

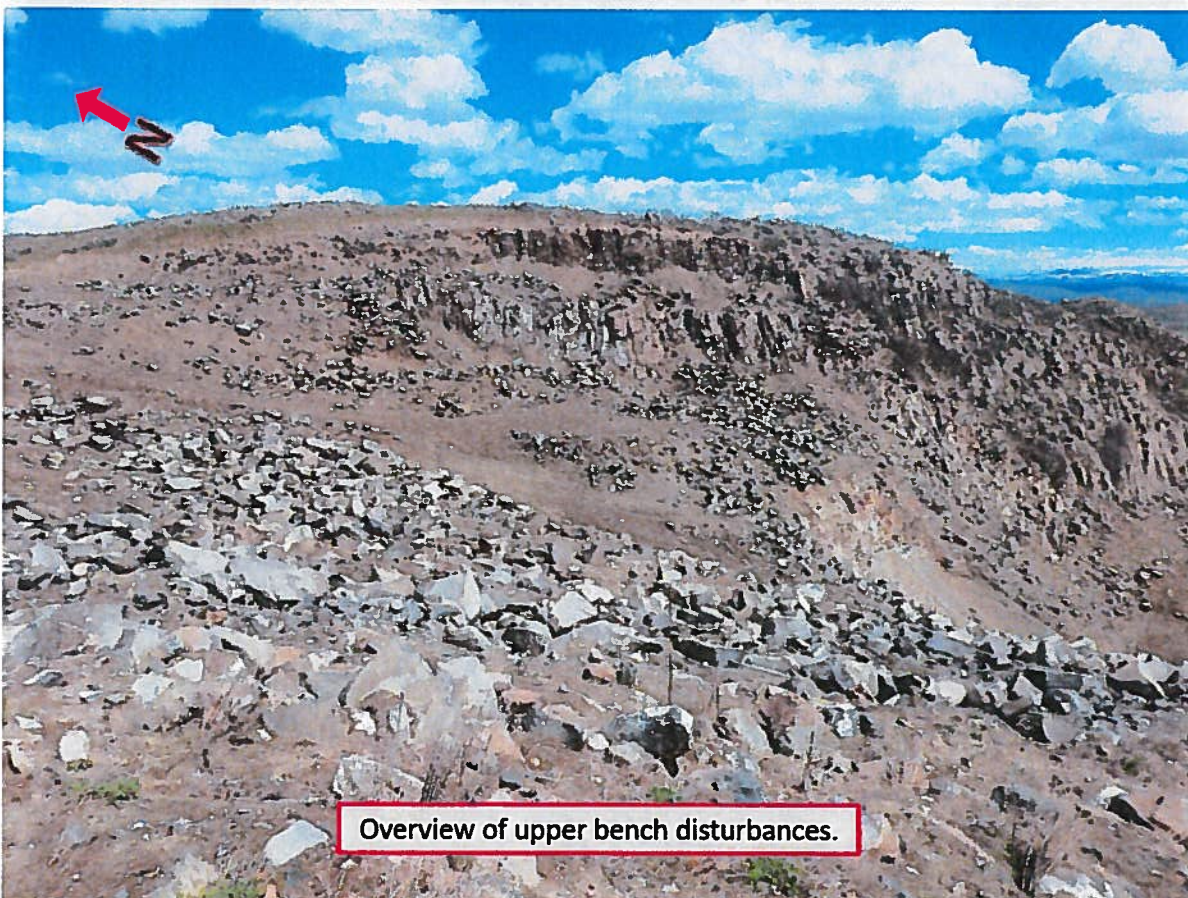
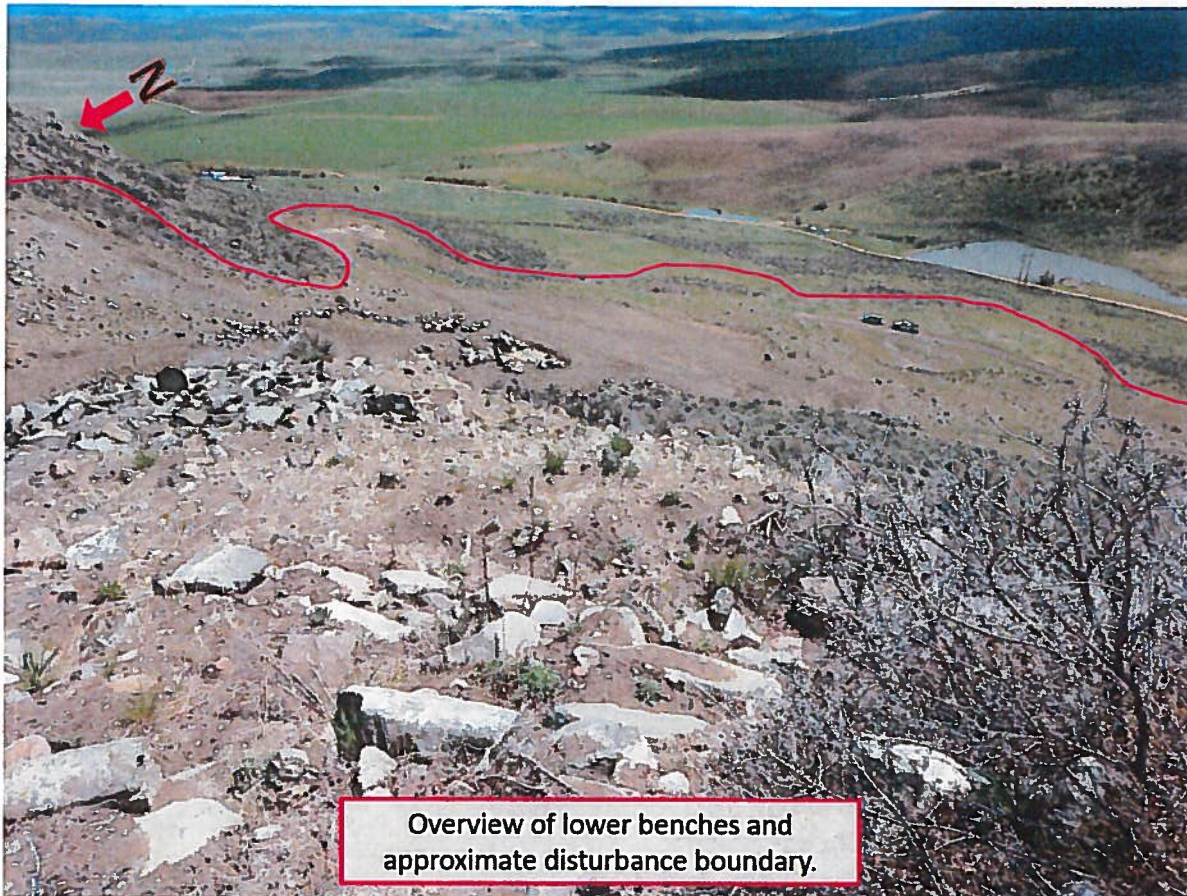


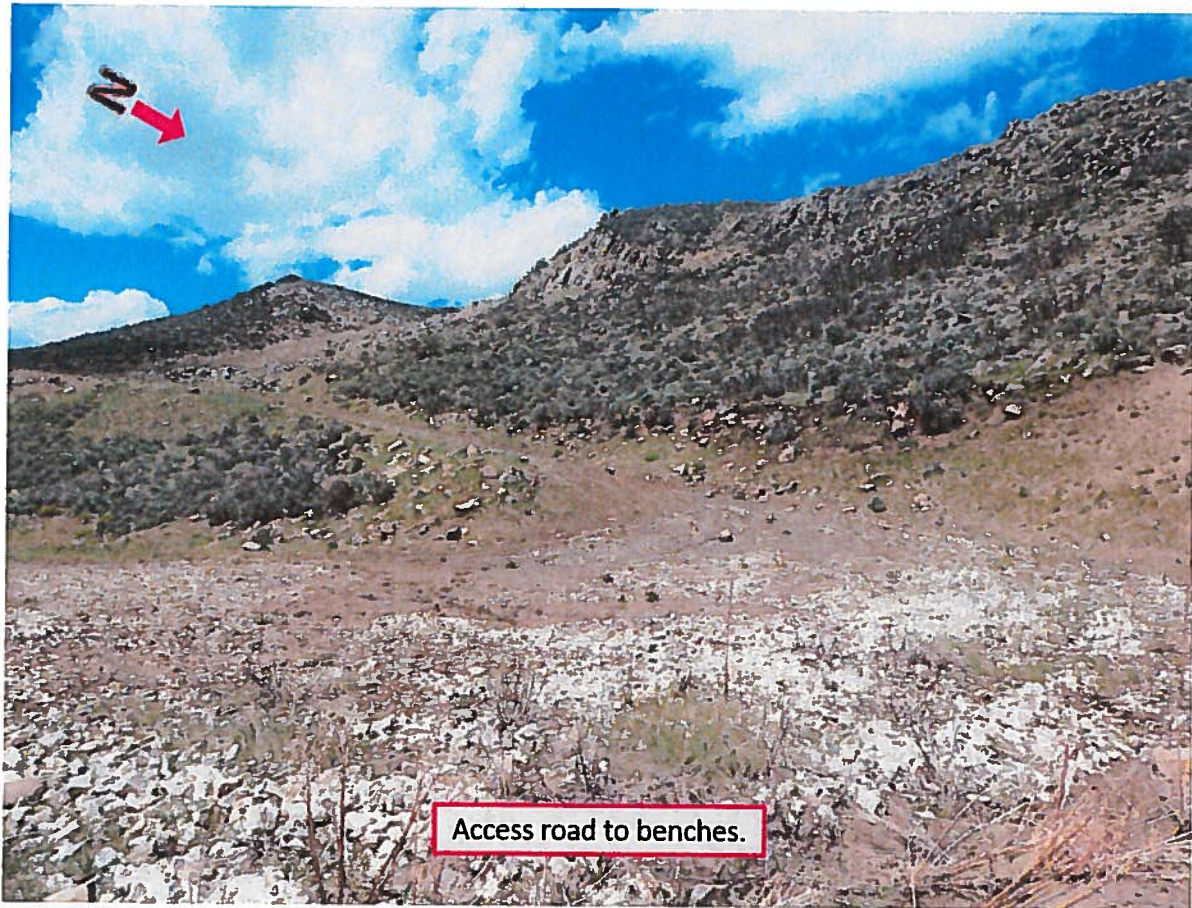












GENERAL INSPECTION TOPICS

The following list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each

(AR) RECORDS-----	<u>PB</u>	(FN) FINANCIAL WARRANTY-----	<u>Y</u>	(RD) ROADS-----	<u>Y</u>
(HB) HYDROLOGIC BALANCE-----	<u>Y</u>	(BG) BACKFILL & GRADING-----	<u>Y</u>	(EX) EXPLOSIVES-----	<u>NA</u>
(PW) PROCESSING WASTE/TAILING----	<u>NA</u>	(SF) PROCESSING FACILITIES-----	<u>NA</u>	(TS) TOPSOIL-----	<u>Y</u>
(MP) GENL MINE PLAN COMPLIANCE-	<u>N</u>	(FW) FISH & WILDLIFE-----	<u>Y</u>	(RV) REVEGETATION----	<u>Y</u>
(SM) SIGNS AND MARKERS-----	<u>PB</u>	(SW) STORM WATER MGT PLAN----	<u>Y</u>	(CI) COMPLETE INSP----	<u>Y</u>
(ES) OVERBURDEN/DEV. WASTE-----	<u>NA</u>	(SC) EROSION/SEDIMENTATION---	<u>Y</u>	(RS) RECL PLAN/COMP--	<u>Y</u>
(AT) ACID OR TOXIC MATERIALS-----	<u>NA</u>	(OD) OFF-SITE DAMAGE-----	<u>N</u>	(ST) STIPULATIONS-----	<u>Y</u>

Y = Inspected and found in compliance / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

Inspection Contact Address

Julie Sevier
Pioneer Sand Company, Inc.
P.O. Box 7650
Colorado Springs, CO 80933

Enclosure

CC:

Russ Means, Senior EPS / Field Office Supervisor, Grand Junction DRMS
Wayne Brantley, Pioneer Sand Company, Inc.

Survey of Findings

10/14/2016





RECEIVED

OCT 14 2016

GRAND JUNCTION FIELD OFFICE
DIVISION OF
RECLAMATION MINING & SAFETY

Amy Yeldell
Environmental Protection Specialist
Minerals Program, Grand Junction Field Office
101 S. 3rd St., Suite 301, Grand Junction, CO 81501

M-1977-057

September 14, 2016

Amy,

This map /survey identifies the total disturbed area totaling 9.44 acres. It is our belief that this acreage was started prior to 1977 (pre-law). The areas identified as reclaimed equals 1 acre.

Pioneer Sand Company acquired this permit in 1998 and has been operating on the lower benches where there was stockpiles of rock.

The current land owner, Jorn Fedinec states that this quarry has looked like it does today since the 1970's.

Pioneer's intention is to turn the mining permit over to Jorn Fedinec who will be continuing to mine annually.

Julie Sevier

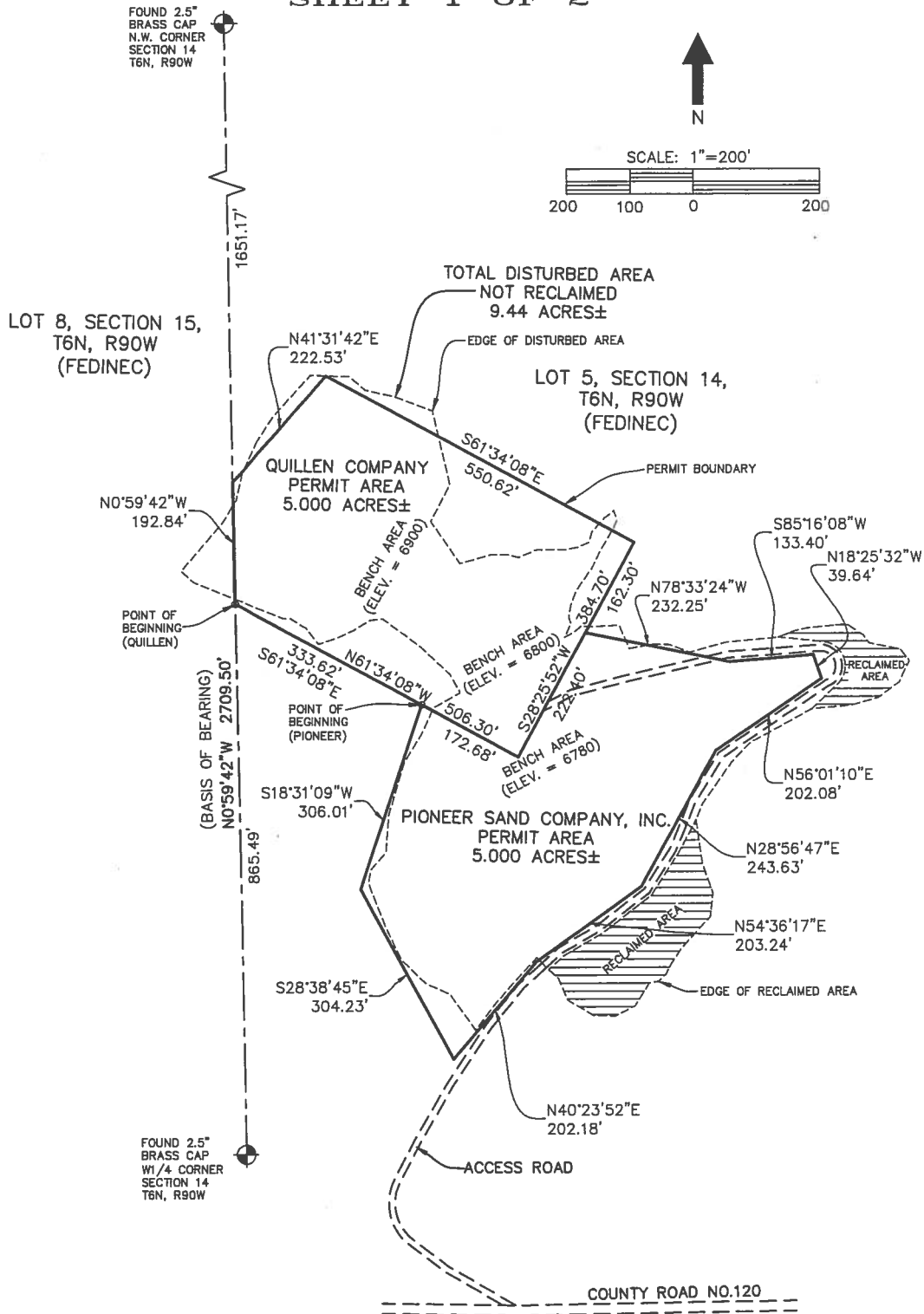
Corporate Real Estate Manager

Pioneer Sand Company

Attached 'Exhibit A' – map / survey

5000 NORTHPARK DRIVE, COLORADO SPRINGS, CO 80918

EXHIBIT "A"
FEDINEC PIT
SHEET 1 OF 2



Inspection Report

10/27/2016




**COLORADO**Division of Reclamation,
Mining and Safety

Department of Natural Resources

MINERALS PROGRAM INSPECTION REPORT**PHONE: (303) 866-3567**

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: Fedinec Pit	MINE/PROSPECTING ID#: M-1977-057	MINERAL: Crushed stone materi	COUNTY: Moffat
INSPECTION TYPE: Monitoring	INSPECTOR(S): Amy C. Yeldell	INSP. DATE: October 27, 2016	INSP. TIME: 12:00
OPERATOR: Pioneer Sand Company, Inc.	OPERATOR REPRESENTATIVE: None	TYPE OF OPERATION: 110c - Construction Limited Impact	
REASON FOR INSPECTION: Priority	BOND CALCULATION TYPE: None	BOND AMOUNT: \$19,300.00	
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None	
WEATHER: Clear	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: November 2, 2016	

GENERAL INSPECTION TOPICS

This list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each. No problems or possible violations were noted during the inspection. The mine operation was found to be in full compliance with Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials and/or for Hard Rock, Metal and Designated Mining Operations. Any person engaged in any mining operation shall notify the office of any failure or imminent failure, as soon as reasonably practicable after such person has knowledge of such condition or of any impoundment, embankment, or slope that poses a reasonable potential for danger to any persons or property or to the environment; or any environmental protection facility designed to contain or control chemicals or waste which are acid or toxic-forming, as identified in the permit.

(AR) RECORDS----- <u>N</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>Y</u>
(HB) HYDROLOGIC BALANCE----- <u>Y</u>	(BG) BACKFILL & GRADING----- <u>Y</u>	(EX) EXPLOSIVES----- <u>NA</u>
(PW) PROCESSING WASTE/TAILING---- <u>N</u>	(SF) PROCESSING FACILITIES----- <u>NA</u>	(TS) TOPSOIL----- <u>Y</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>Y</u>	(FW) FISH & WILDLIFE----- <u>Y</u>	(RV) REVEGETATION---- <u>Y</u>
(SM) SIGNS AND MARKERS----- <u>N</u>	(SP) STORM WATER MGT PLAN---- <u>N</u>	(CI) COMPLETE INSP---- <u>Y</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>N</u>	(SC) EROSION/SEDIMENTATION--- <u>Y</u>	(RS) RECL PLAN/COMP-- <u>Y</u>
(AT) ACID OR TOXIC MATERIALS----- <u>NA</u>	(OD) OFF-SITE DAMAGE----- <u>N</u>	(ST) STIPULATIONS----- <u>Y</u>

Y = Inspected and found in compliance / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

OBSERVATIONS

This inspection was follow up conducted by the Colorado Division of Reclamation, Mining and Safety (Division). The Fedinec Pit was initially inspected on May 10, 2016. During the initial inspection it appeared that a larger area had been affected than permitted. The Division required the operator to get the site surveyed and provide the Division with the results. During this inspection, field conditions were compared to the map submitted on October 14, 2016.

The Fedinec Pit is a 110c permitted site that is approved for a total of 5 permitted acres. This site is located approximately five miles southeast of Craig, Colorado and is accessed from Moffatt County Road 120. No company representative was present during the inspection. Amy Yeldell of the Division conducted the inspection.

Some t-posts were observed throughout the site but they do not appear to delineate the approved permit boundary. The mine sign was observed at the beginning of the affected area.

The site was inactive at the time of the inspection. No equipment, fuel or structures were observed. Lots of miscellaneous metal was observed. It does not appear that any of it has been cleaned up since the last inspection.

The main focus of this inspection was to document site conditions and determine if areas designated as previously affected had been reclaimed well enough that they would not need to be incorporated into the permit area. According to the letter supplementing the map, 9.44 acres have been affected to date. An additional one acre has been affected but is stated as being reclaimed.

The reclaimed areas in question are south and east of the access road. The south portion consists of an old bench. The majority of this area has well established native grasses that likely volunteered in over the years. The slopes appear to be stable and free of erosion. Unfortunately there are small stockpiles that had not been properly graded and do not blend in. Miscellaneous metal debris was observed protruding out of the piles. This leads the Division to believe that there may be additional metal scraps buried in the stock piles which was not part of any approved reclamation plan. Amongst the native vegetation are weeds such as thistle and hounds tongue. The slopes appear to be graded at an unapproved 1.5:1 slope. If the bench width was decreased this slope could easily be relaxed to at least a 2:1 if not shallower.

The reclaimed area on the east side of the access road appears to be the result of creating the road switch back. This area is a berm of excess material above the road grade that then slopes down into the undisturbed vegetation. The slope is approximately 1.5:1 which is an unapproved slope angle. The material creates an almost bench like appearance that does not naturally blend in with the contour. The native vegetation have volunteered well but there are a few bare spots and weeds in this area making reclamation unsuccessful. To reclaim the road this area would likely need to be redisturbed.

Total disturbed area including the areas delineated as reclaimed make up a highly irregular shape. The total affected land to date is 10.44 acres according to the map submitted by Pioneer. Per the Act and Rules only 9.9 acres may be permitted under a 110c. Anything larger must be permitted under a 112c. Its the Division's recommendation that upon converting the permit that the Operator make the permit boundary a more

uniform shape that encompasses all disturbances to date. This will make reclamation in the future easier by allowing more natural contouring.

The undisturbed areas surrounding this site consist of gentle sloping (3:1 or less) grass hills and near vertical rock outcrops. Steep benches do not blend in with the surrounding areas nor do they meet the approved current reclamation plan. The current reclamation plan calls for the entire pit floor to be dropped and flat for future agricultural uses.

Additional observations:

The Pioneer permit area has approximately 3 main levels of benches. Three small stockpiles of approximately 2 foot diameter boulders remain on site. For additional production of rock material it would be necessary to harvest more material from the outcrop above in the Quillen permit area. The bench area slopes appear to be approximately 1.5:1. Between the upper access road and the second bench there is a large eroded gully. This has been identified on several inspection reports however it has not been addressed. There is little to no topsoil stockpiles in this area. Various noxious weeds (mullen, knapweed, thistle, hounds tongue, and cheat grass) are scatter amongst the native vegetation.

The Quillen permit area is the source of the rock material. A natural rock outcrop has been mined and subsequent rock highwalls have been created. It is unclear if this rock material is competent and could be left near vertical upon final reclamation or if the highwall would need to be relaxed. There is no evidence of blasting which further suggests that the rock breaks off in blocks and may not be competent. The only vegetation in this area are weeds (mullen, knapweed, thistle, hounds tongue, and cheat grass). It appears that the weeds were sprayed late this summer. Due to the amount of dead vegetation present aggressive weed management over the next few years will necessary to keep populations in check. Above the rock wall in the undisturbed portions is sagebrush and native grasses. There are several rock stockpiles throughout this area. One stockpile is located along the northern boundary and may be topsoil based on the amount of grass growing. It is not sufficient in volume to cover the 5 acres of the original permit area 6-12". However this is to be expected if this site was originally a rock outcrop. This site will likely be topsoil deficient.

The current DRMS permit indicates that the subsurface mineral rights belong the Fedinec family. The BLM has notified the Division that this is incorrect and that it is a split estate. Currently royalties for subsurface rights have been paid and the operation is in compliance with the BLM. The conversion application will need to be corrected to reflect BLM as the subsurface owners.

It is also noted that the original permit application maps do not depict the mine access road. The permit application adequacy review and inspection report both state that the permit boundary should be revised to include the access road. The Division has not further correspondence of if this was ever address. Does Pioneer have record any additional documentation regarding this matter?

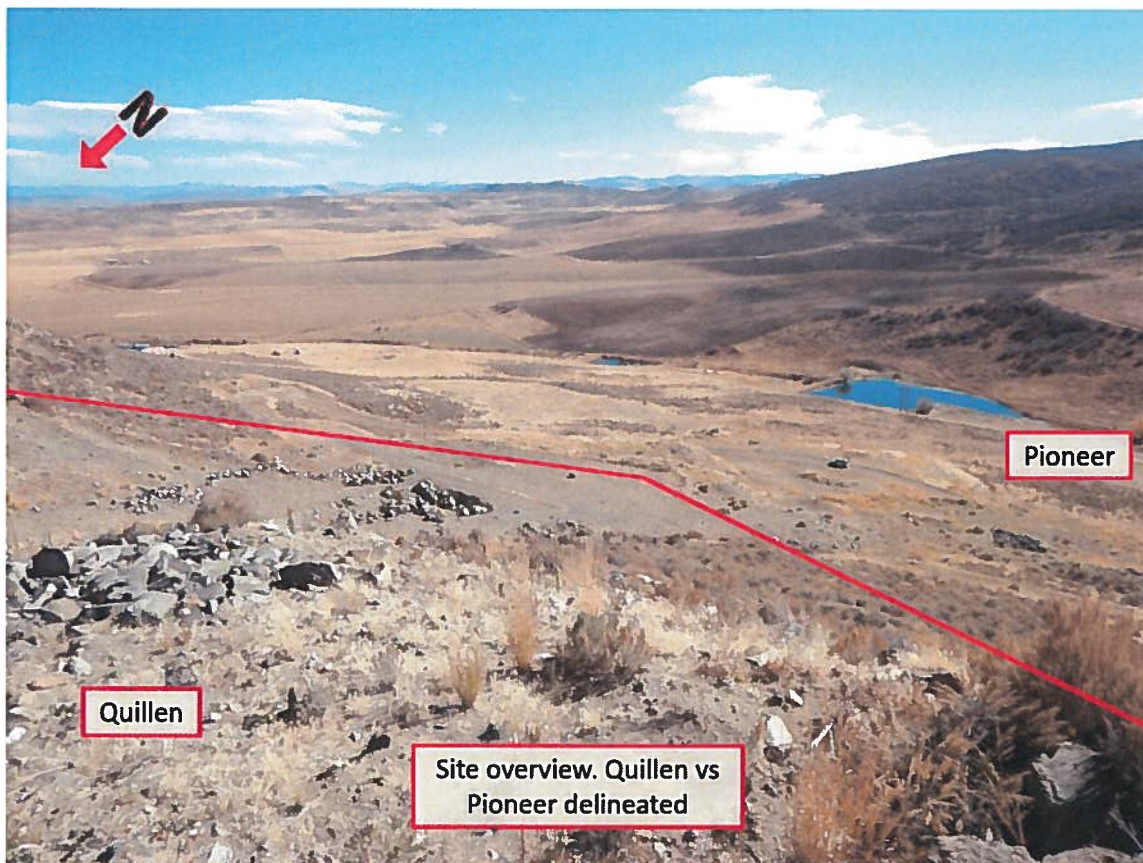
A Reason to Believe letter for a possible violation has/will be sent to the operator. The Division will be presenting before the Board our findings and recommend that a permit conversion be required to incorporate at least the 10.44 acres shown to be affected into the permit. The Division recommends that if you do not contest this disturbance that you begin the conversion application process prior to Board.

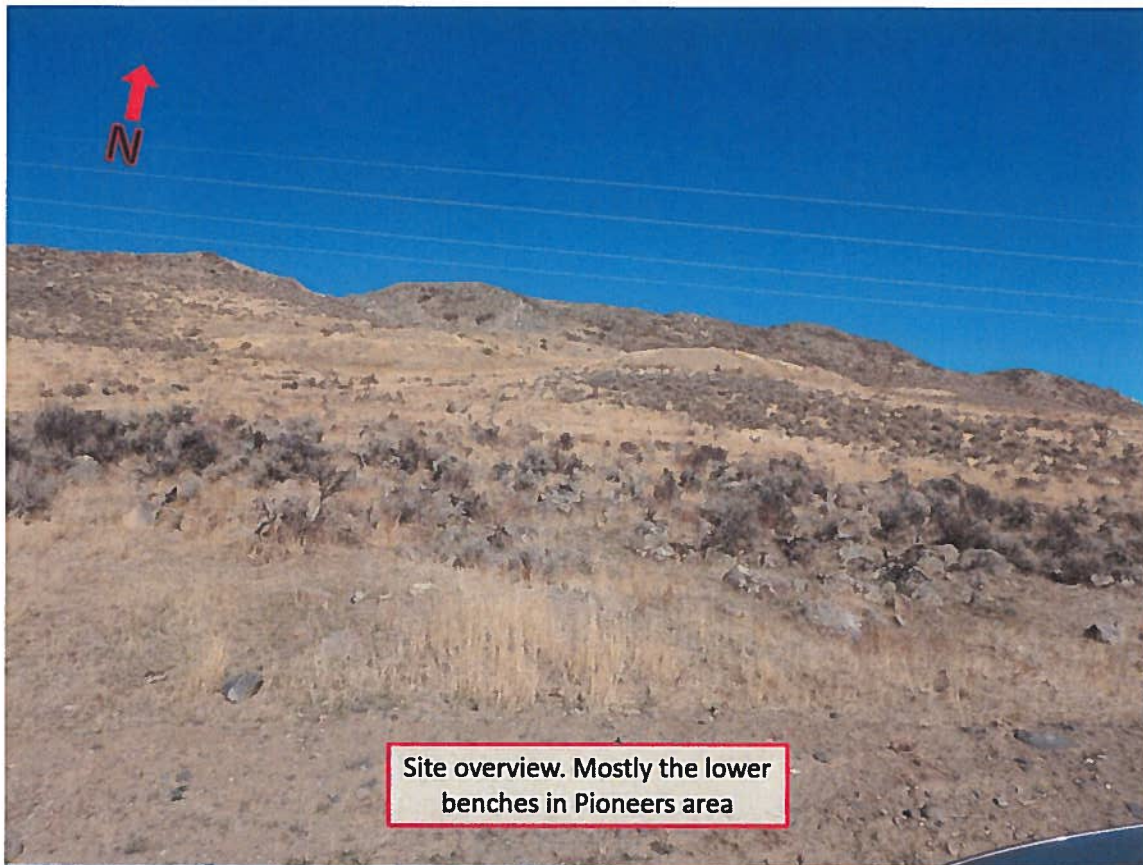
Currently the Division holds a Financial Warranty in the amount of \$19,300 for this site. The last surety

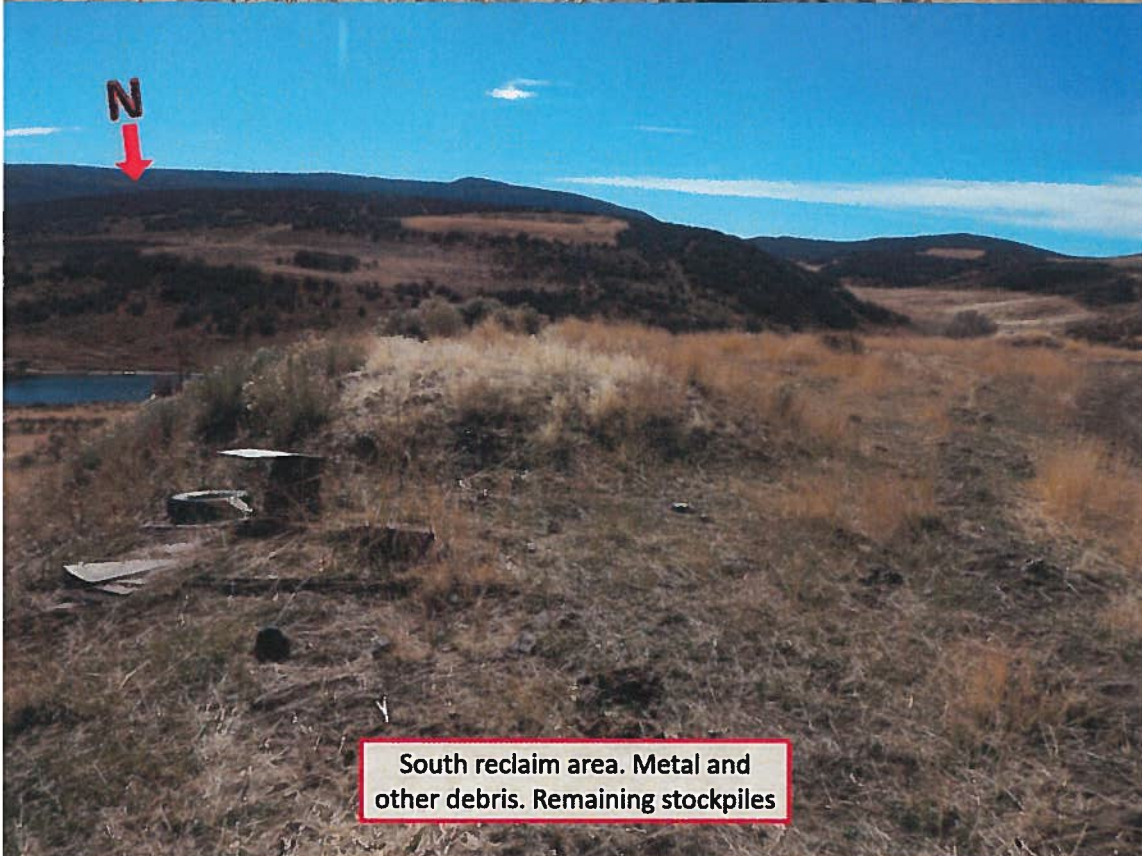
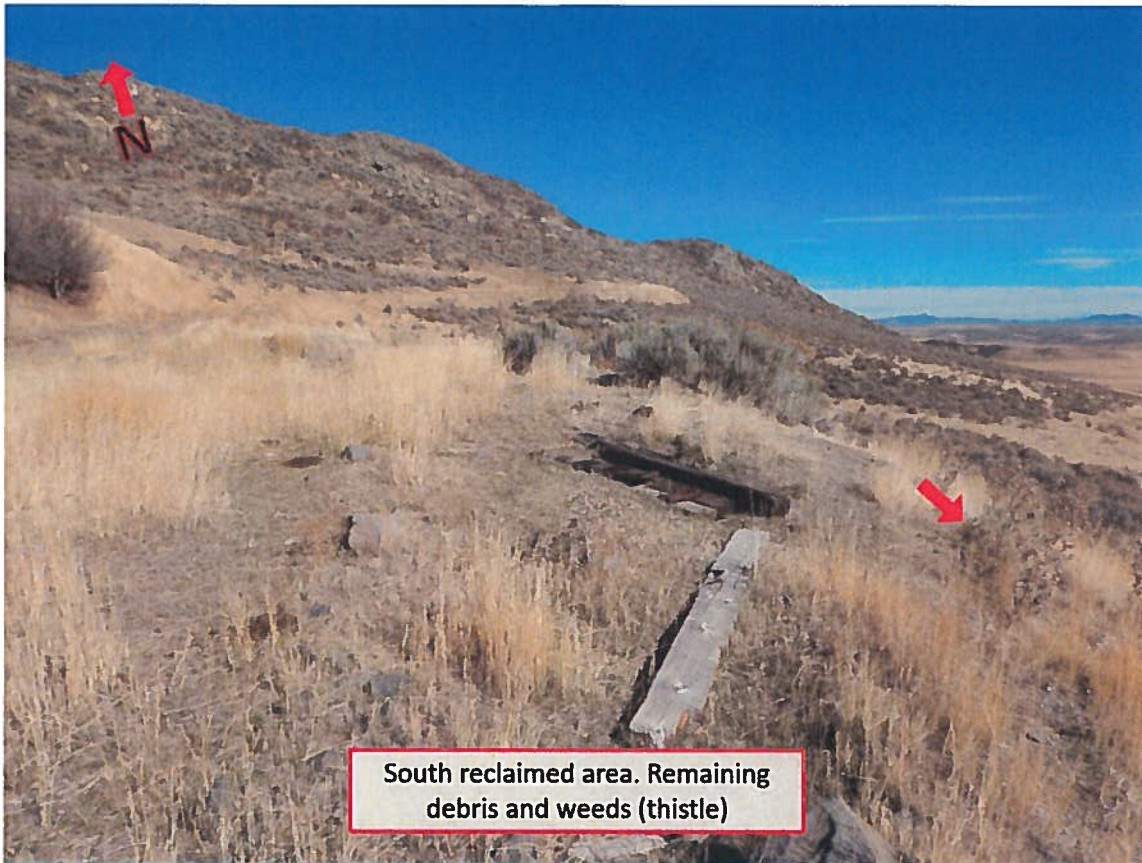
increase was calculated in 2012 based on 5 acres of disturbance. The Division will wait for the acreage discrepancy to be resolved prior to determining if the current bond is adequate or if additional surety shall be necessary.

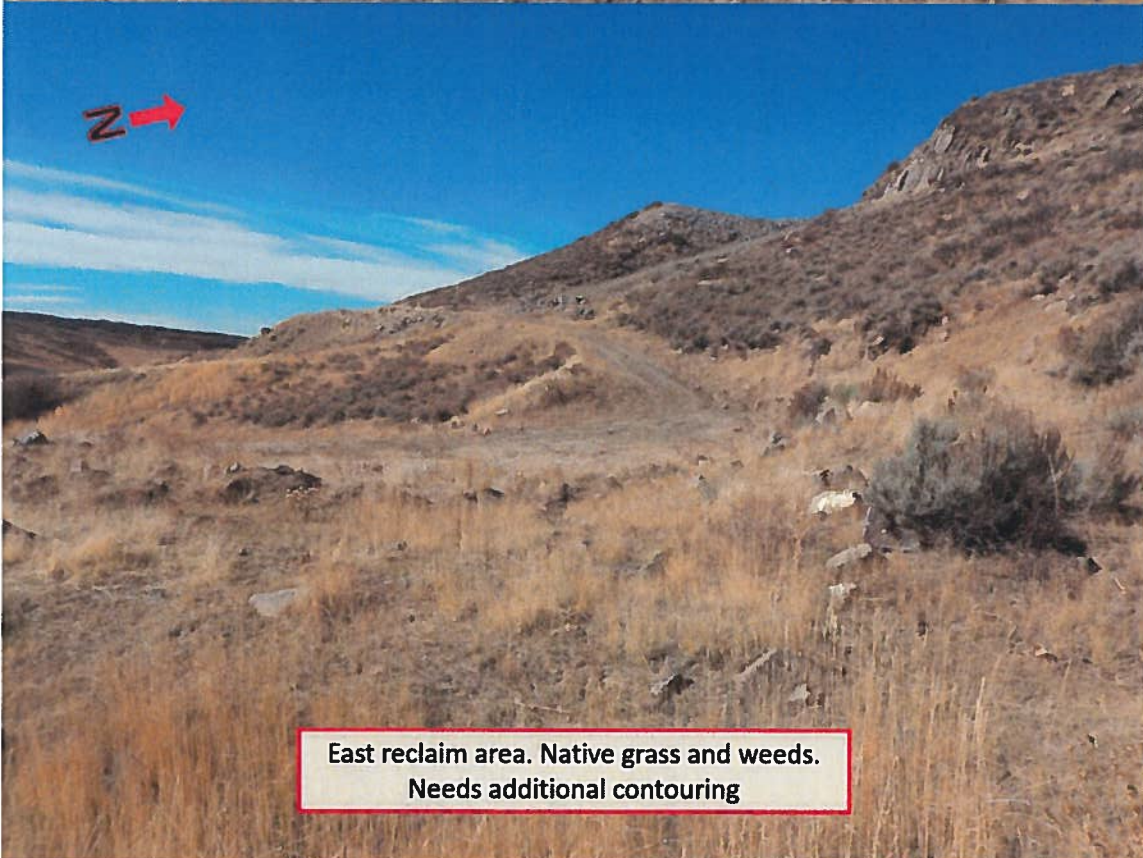
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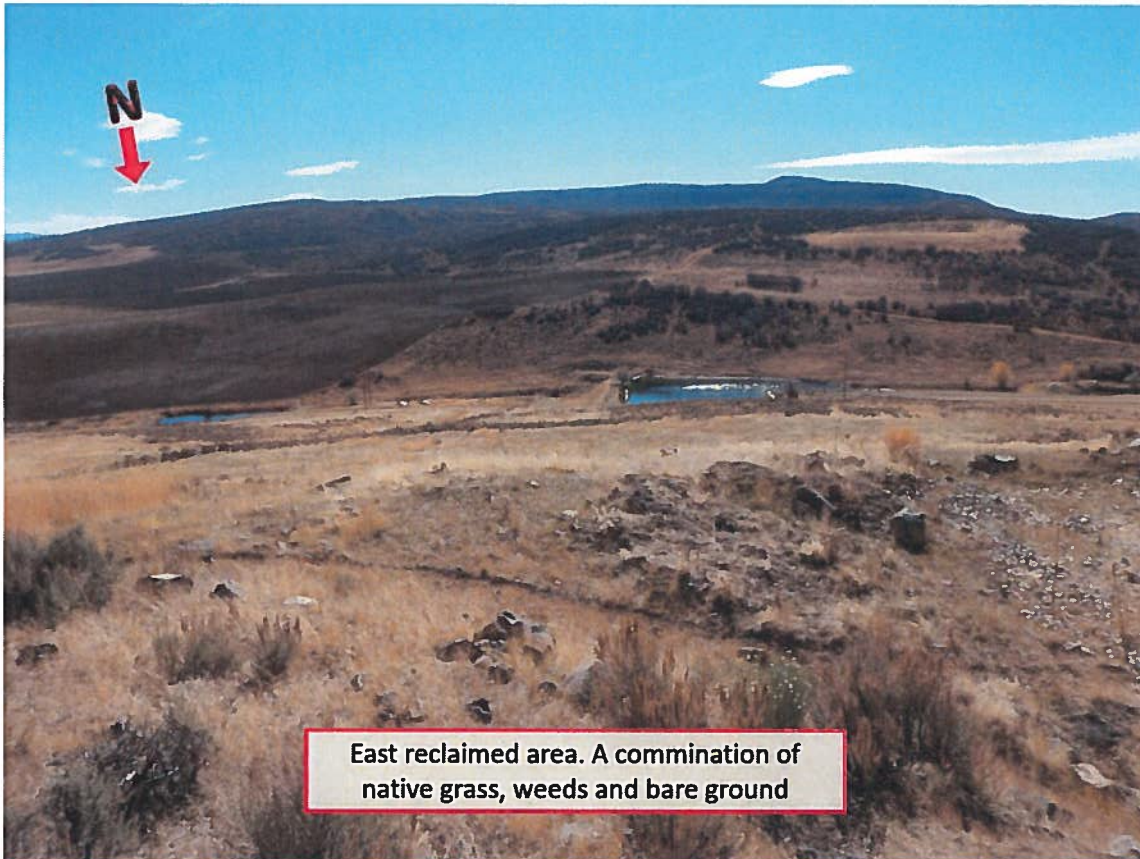
PHOTOGRAPHS



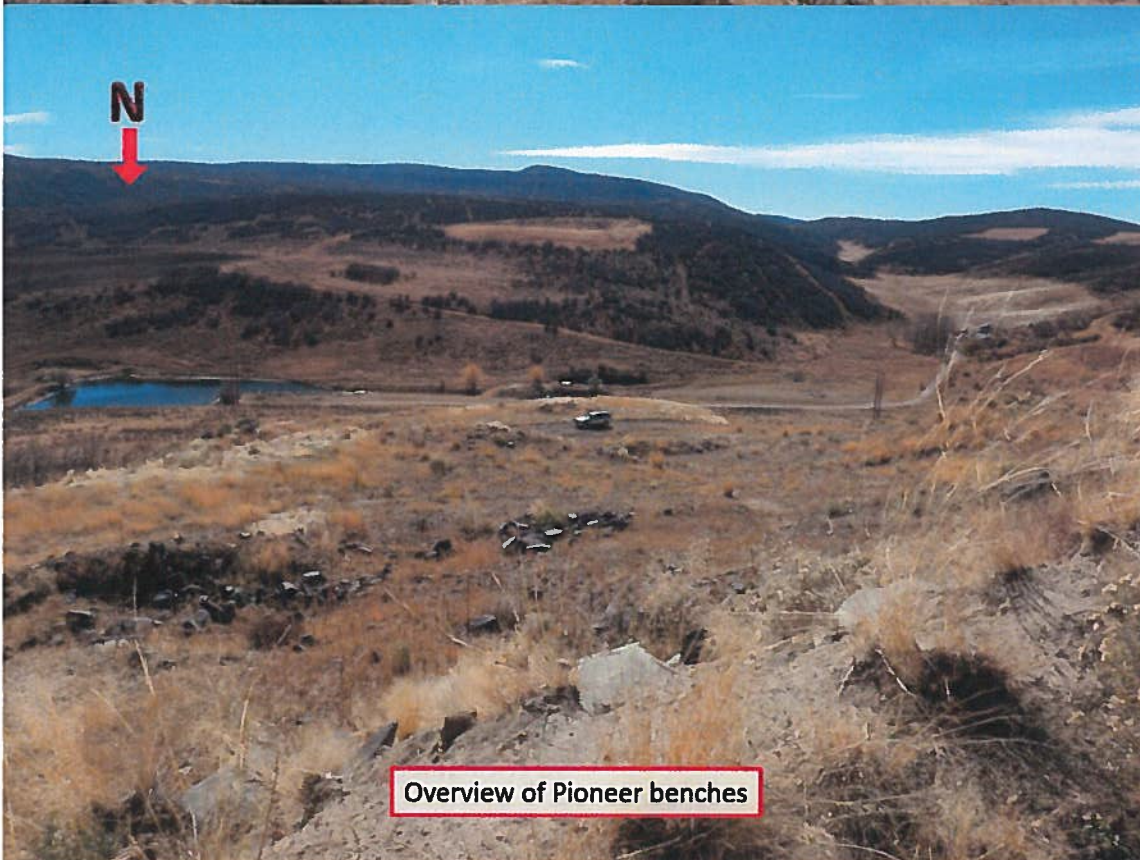








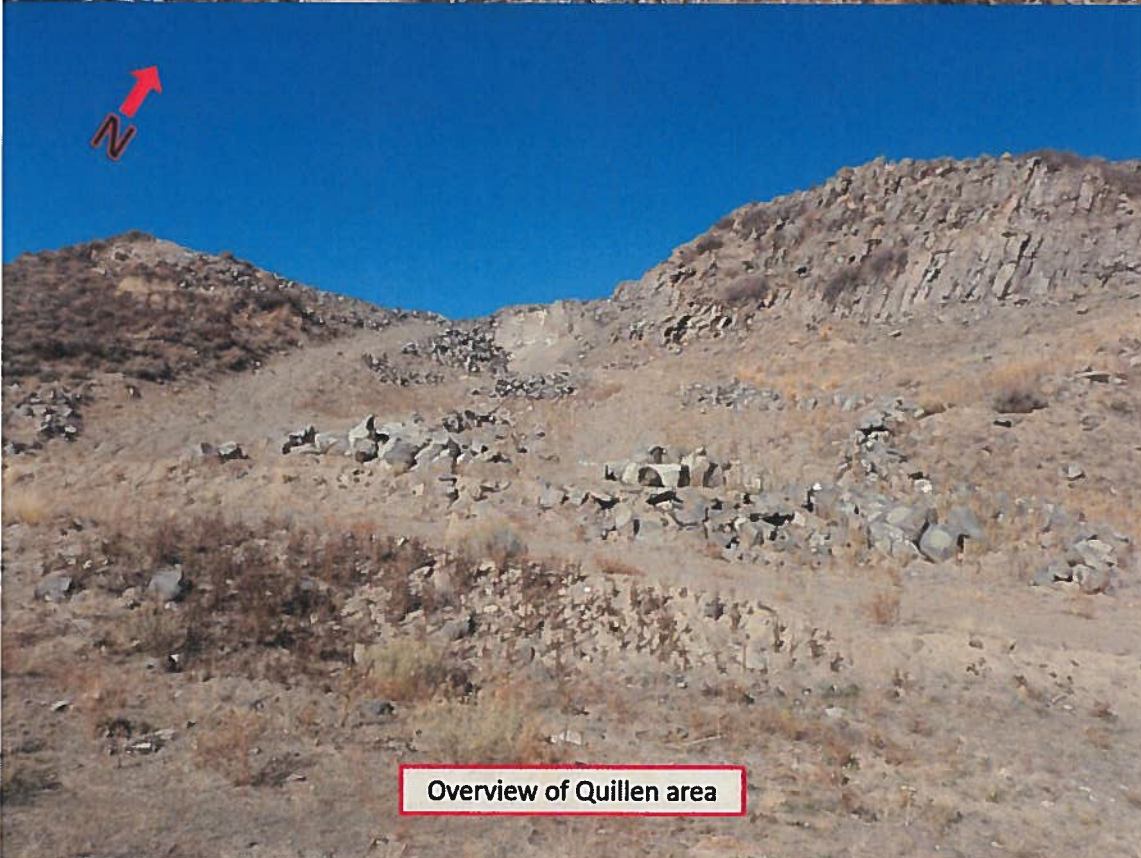
East reclaimed area. A combination of native grass, weeds and bare ground



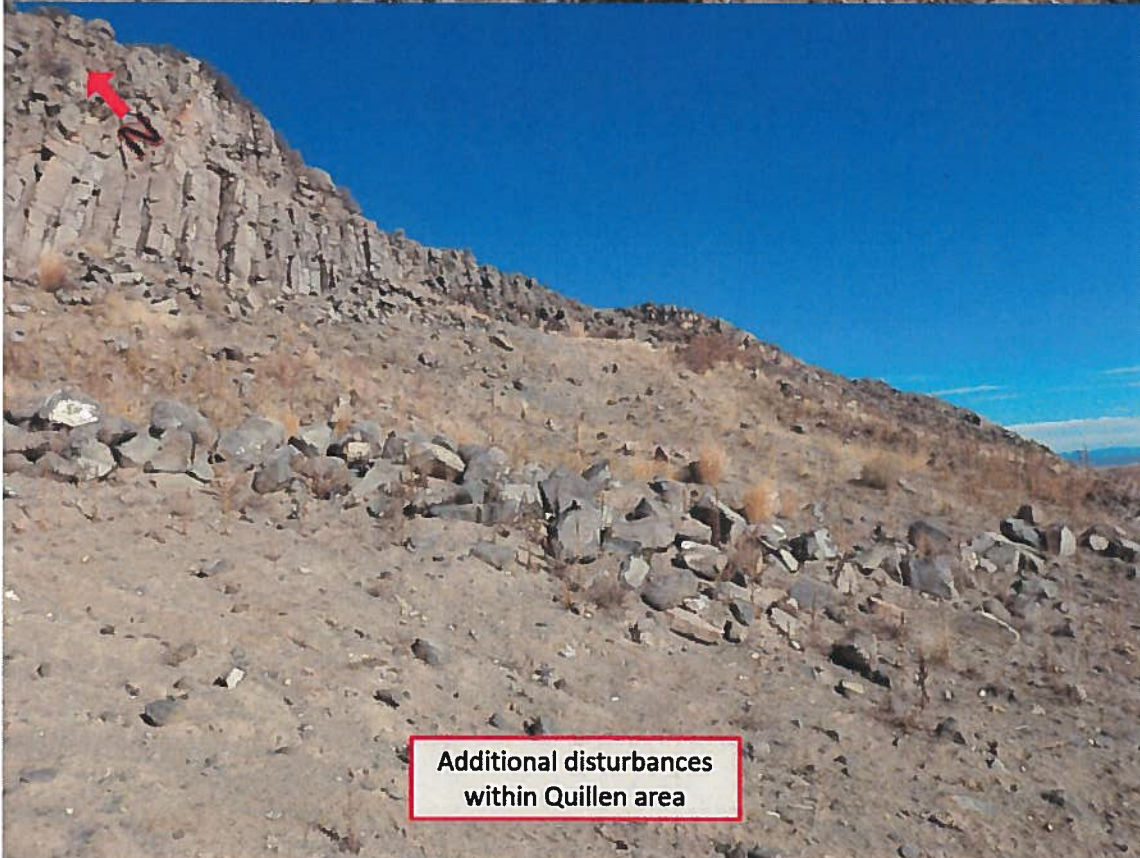
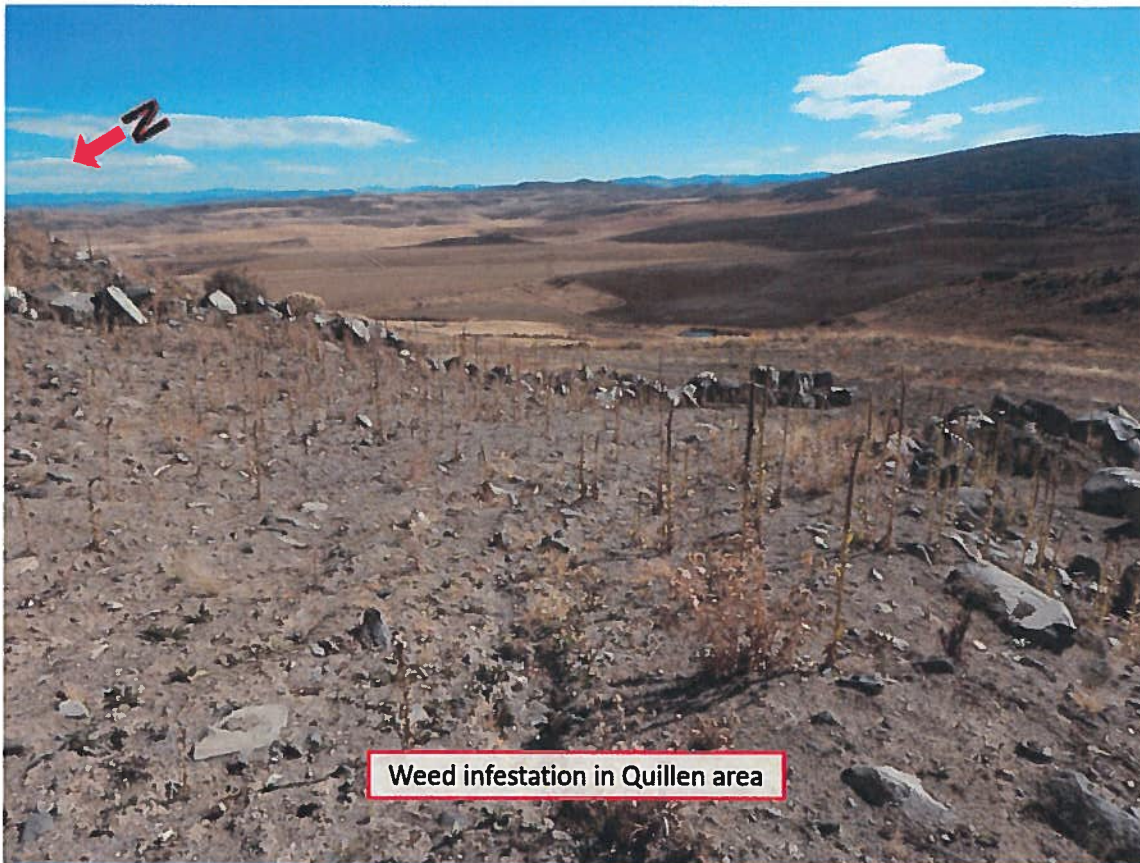
Overview of Pioneer benches

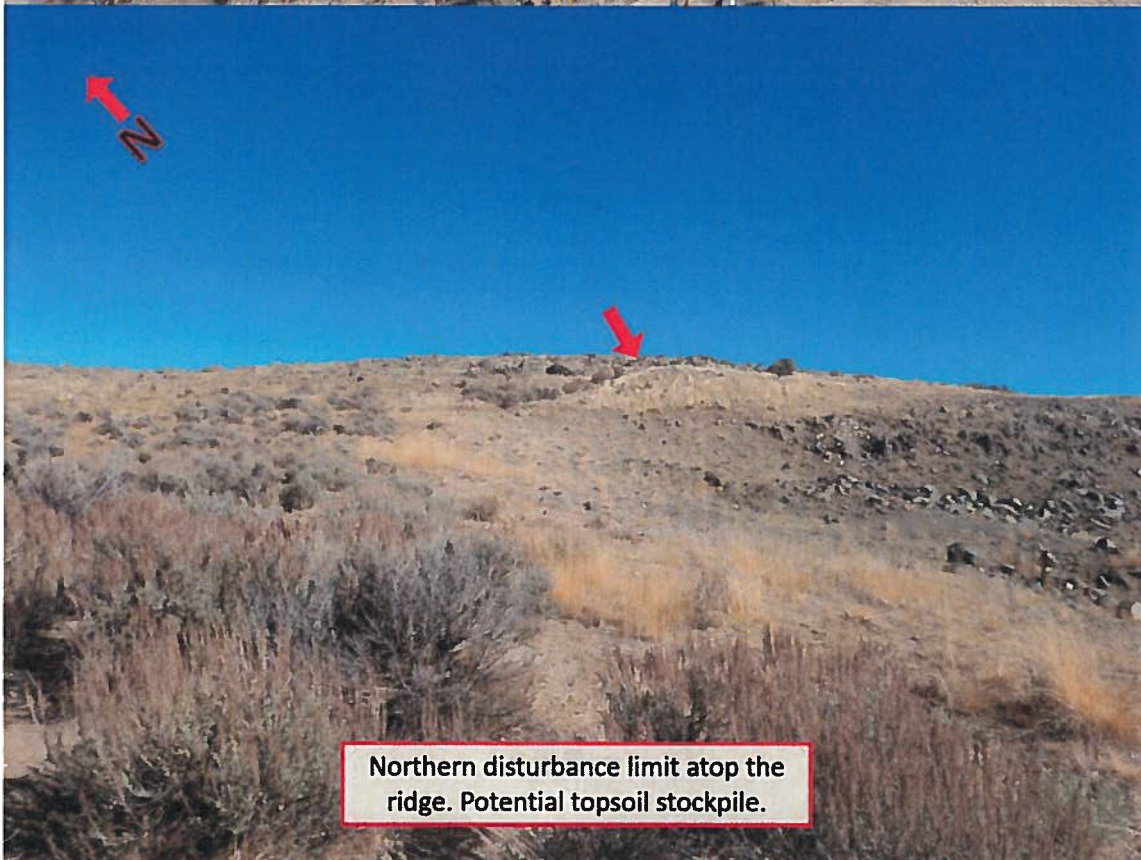
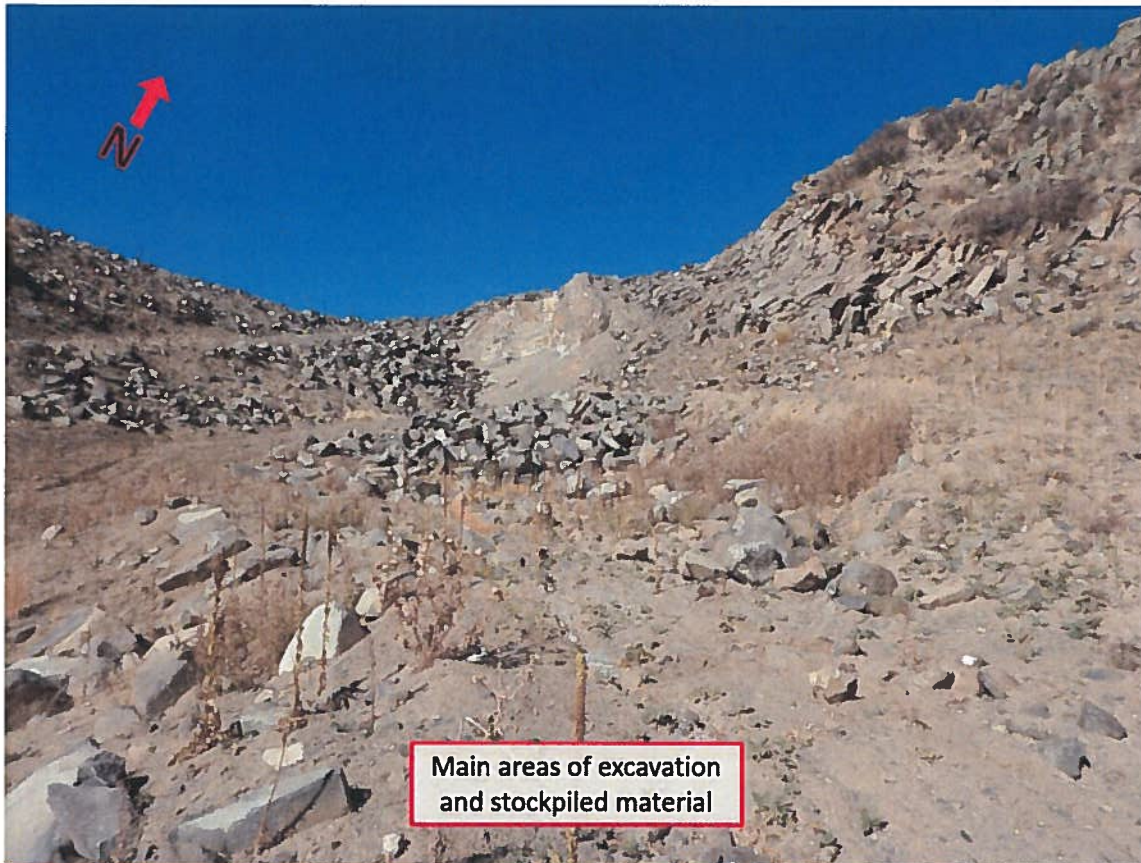


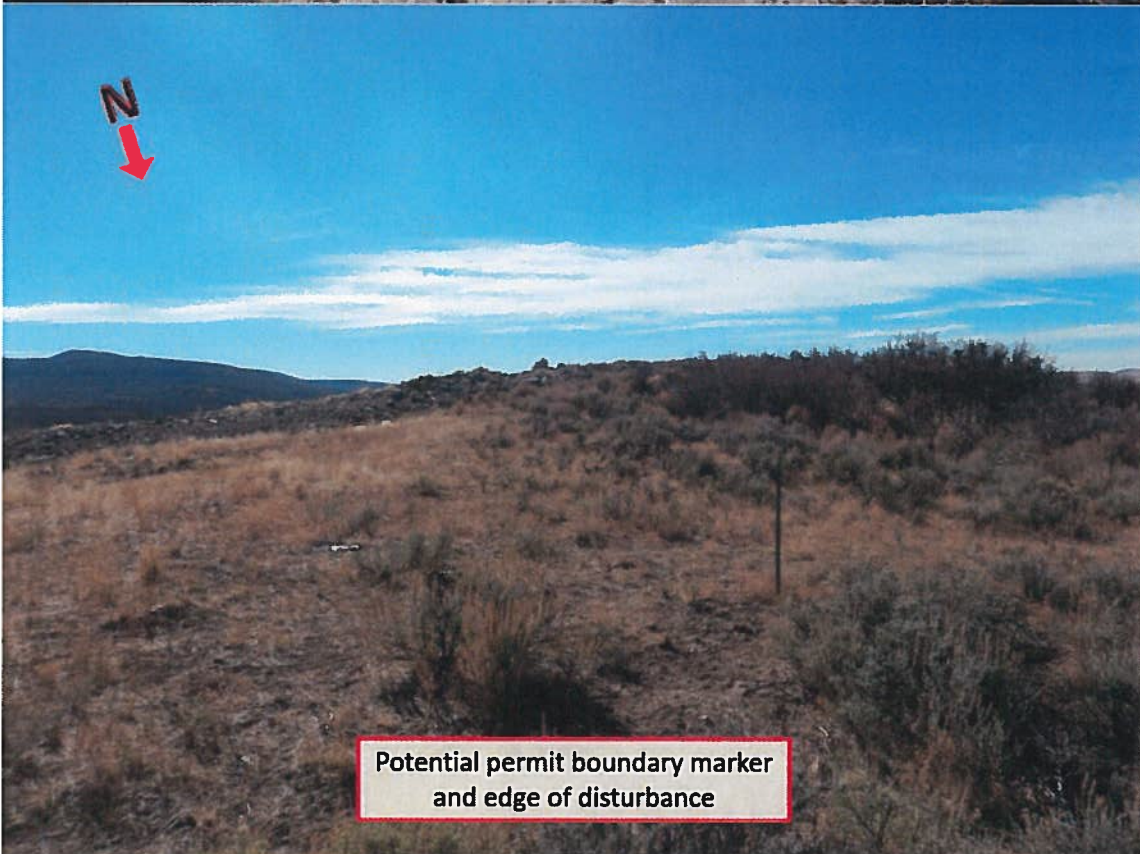
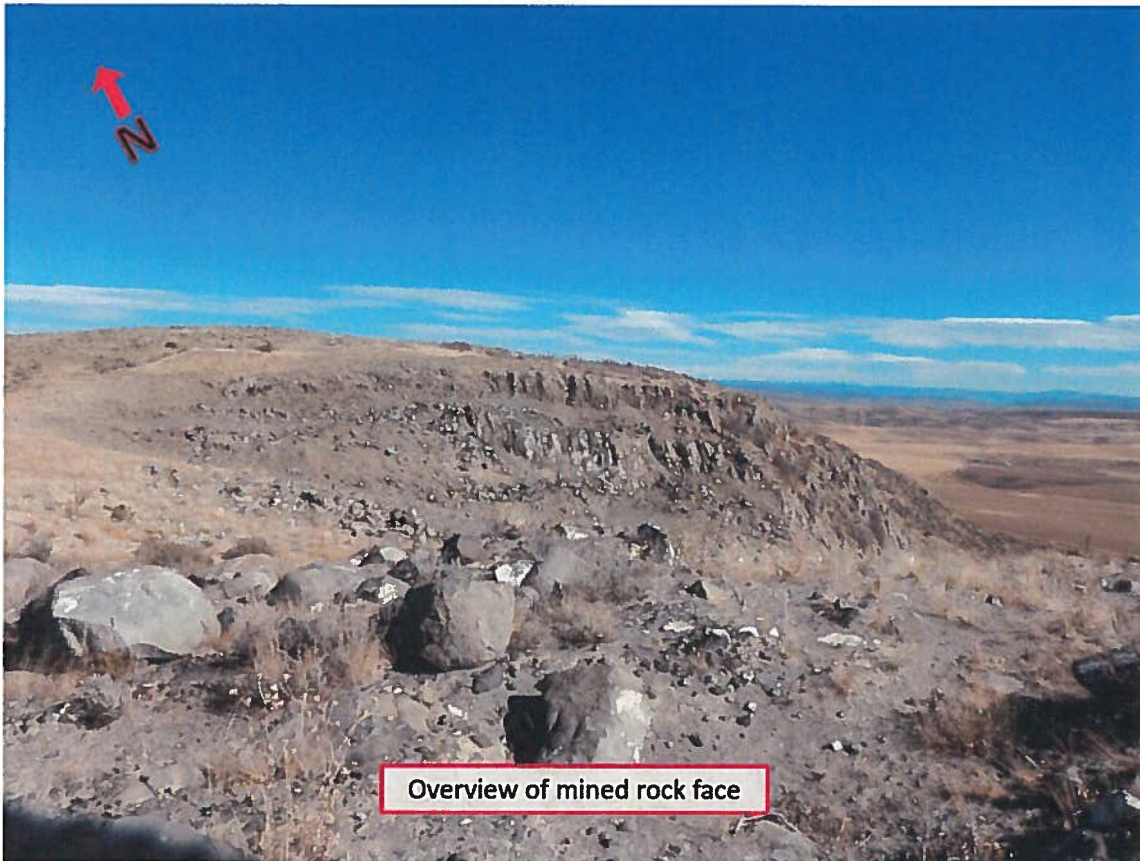
Eroded gully between benches

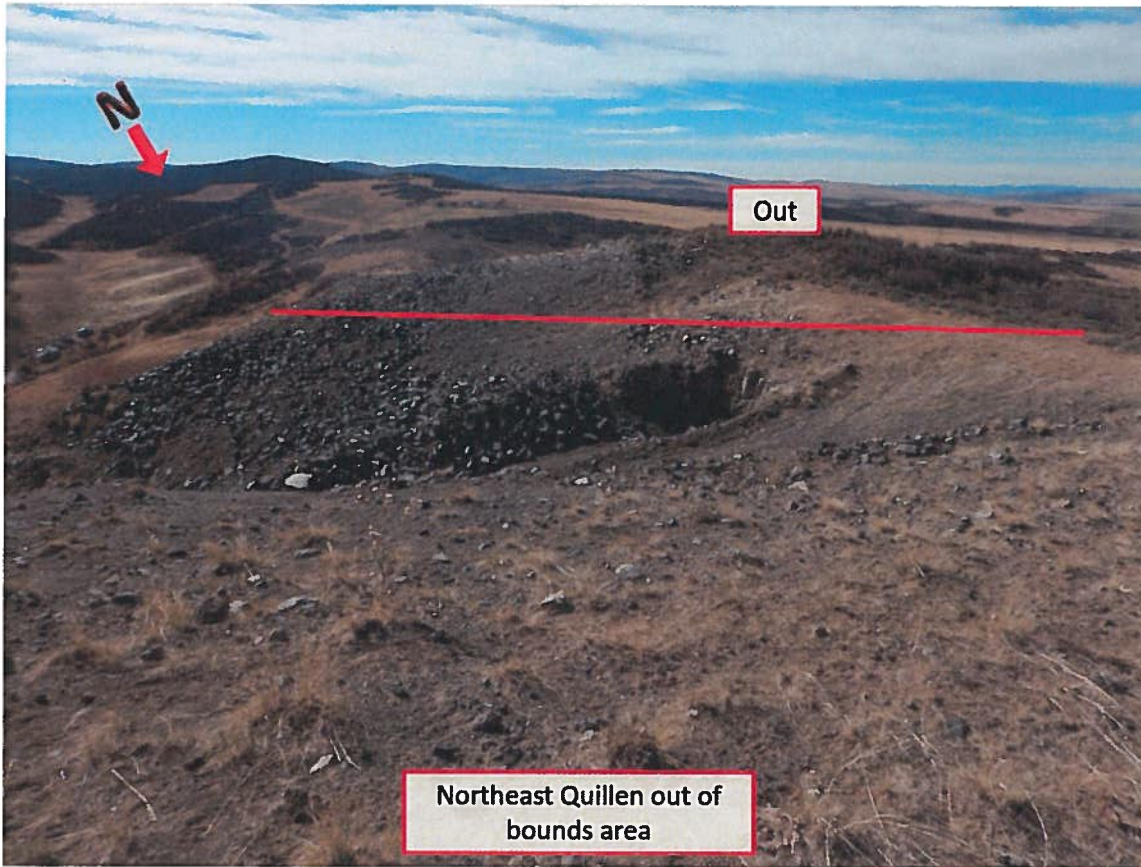


Overview of Quillen area









Inspection Contact Address

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

Enclosure

EC:

Russ Means, Senior EPS / Field Office Supervisor, Grand Junction DRMS
Wayne Brantley, Pioneer Sand Company, Inc.
Jennifer Maiolo, Little Snake River Field Office, BLM

Reason to Believe Letter

11/08/2016





COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

November 8, 2016

Fedinec Pit
Julie Sevier
5000 Northpark Drive
Colorado Springs, CO 80918

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

Ms. Sevier:

On May 10, 2016, the Division of Reclamation, Mining and Safety (Division) conducted an inspection of Fedinec Pit (Permit M-1977-057) and nearby lands (please see attached inspection report). During the inspection, it appeared that a substantial acreage beyond the approved permit boundary had been mined. The Division required the operator to get the disturbance surveyed and submit documentation of their findings. Based on the map submitted we believe these are violations of:

- C.R.S. 34-32.5-109(1) for failure to obtain a Mined Land Reclamation Board Reclamation Permit prior to engaging in a new mining operation.

Therefore, the Division has reason to believe that a violation exists to the Mined Land Reclamation Act, C.R.S. 34-32.5-101 et seq., and have scheduled this matter to appear before the Mined Land Reclamation Board.

A Formal Public Hearing will be held during the December Board Meeting for consideration of these possible violations. The hearing will be held in Room 318 of 1313 Sherman Street, Denver, Colorado, beginning at 9:00 a.m. on December 15th, 2016 or as soon thereafter as the matter can be considered. At that hearing you will have the opportunity to present your defense.

This is an important legal proceeding and you must appear in person for this hearing. If you fail to appear an order and money judgment may be entered against you. In addition, failure to appear at the hearing may result in legal consequences including, but not limited to, loss of party status and your ability to seek reconsideration from the Board or seek judicial appeal in district court.

If the Board finds a violation at this hearing, it may issue a Cease and Desist Order and/or assess a Civil Penalty in the amount of \$1000.00 to \$5,000.00 for each day of violation pursuant to C.R.S. 34-32.5-123(2). Pursuant to C.R.S. 34-32-124(6) (a): Upon a determination, after hearing, that a violation of a



permit provision has occurred, the Board may suspend, modify, or revoke the pertinent permit. If you have evidence indicating that the possible violations noted above do not exist or have been corrected, please provide it to the Division as soon as possible or bring it to the hearing.

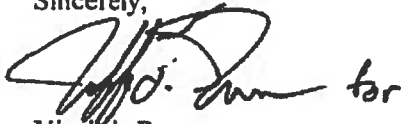
If the matter is brought before the Mined Land Reclamation Board, following the hearing, all parties have an opportunity to review and comment on a draft of the Board's Order before it becomes final. If you wish to do so, you must provide the Board with a written request to review the draft Order prior to or at the time of your hearing, or you must inform the Board orally during the hearing that you request to review the draft Order. The Board's attorney must receive your comments on the draft Order within three calendar days of the date the draft Order is e-mailed, unless that deadline is extended by the Board's attorney. Submit all comments in writing, by e-mail or fax, to John J. Roberts, First Assistant Attorney General, Colorado Department of Law, (720) 508-6037 (fax), or John.Roberts@coag.gov.

Please note that the Division has requested and will be allowed to review and comment on the draft Board Order.

The Board's agenda may not be finalized until the week of the Board meeting. Therefore, we recommend you contact the Board Secretary, at (303) 866-3567 ext. 8136 on Monday, March 21, 2016 to confirm the specific date of the hearing.

If you have any questions about this letter or the hearing, please contact Amy Yeldell at (303) 866-3567, extension # 8183.

Sincerely,


Virginia Brannon
Division Director

CERTIFIED MAIL NO. 7014 2120 0001 7885 6736
Return Receipt Requested

cc: Tony Waldron, DRMS
Russ Means, DRMS
Jeff Fugate-AGO
Jennifer Maiolo, BLM



Signed Consent Agreement

11/28/2016



Key
GDM



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

1313 Sherman Street, Room 215
Denver, CO 80203

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NOV 28 2016

**STAFF SUMMARY FORM FOR DIVISION OF RECLAMATION
CONSENT AGENDA ITEMS MINING & SAFETY**

<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
- ☒ 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.

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 22 day of November, 2016.

Pioneer Sand Company, Inc.
(Operator)

Signature: Julie Sevier

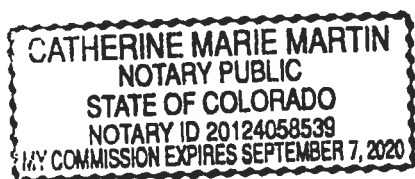
Title: Corporate Real Estate Manager

State of COLORADO

County of EL PASO

The foregoing instrument was acknowledged before me this 22 day of Nov., 2016,

by JULIE SEVIER as CREM of PIONEER SAND CO.



Catherine Marie Martin
Notary Public

My Commission Expires: 9/7/2020

SIGNATURES MUST BE IN BLUE INK

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



ORIGIN ID: COSA (719) 599-8100
 CHERYL SHEA
 PIONEER
 5000 NORTH PARK DR
 COLORADO SPRINGS, CO 80918
 UNITED STATES US

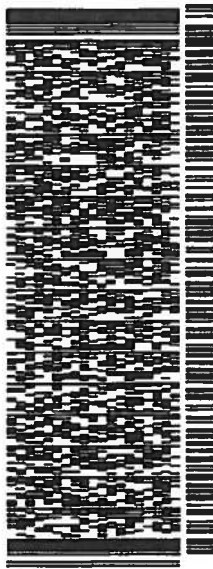
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 ACTWGT:
 CAD: 7114323JNET3790
 BILL SENDER

TO **DEPT OF RECLAMATION MINING & SAFETY**
STATE OF COLORADO/AMY YELDELL
1313 SHERMAN ST STE 215

DENVER CO 80203

(303) 898-3567 REF
 NV

DEPT



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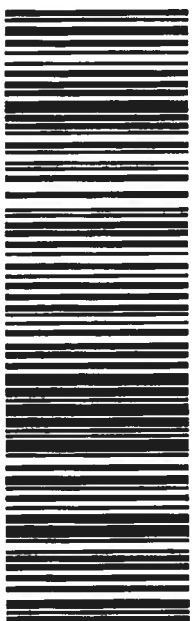
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MON - 28 NOV 3:00P
 STANDARD OVERNIGHT

72 DENA

80203
 CO-US DEN



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NOV 28 2016

DIVISION OF RECLAMATION
 MINING AND SAFETY

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