

November 29, 2016

John Kuijvenhoven  
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Dustin Czapala  
Environmental Protection Specialist  
Department of Natural Resources  
Division of Reclamation and Mining Safety  
101 s 3rd St. Suite 301  
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Subject: Colona Pit, Permit # 1994-005

Mr. Czapala:

Regarding your letter dated November 28, 2016

Thank you for your response regarding our issues with the Colona Pit, and our attempts to address reclamation in the above referenced site.

Regarding your response to the operator's right to entry. You have determined as follows:

1. That the operator has provided accurate information
2. That the issue falls outside the jurisdiction of the Division.

Respectfully we disagree with your findings. We ask you to revisit the question of the purpose of Item 19 in your annual report. We believe that the board would find that the purpose would be to establish that the operator has a legal right to enter the property so that the division can conclude that ALL of the property in the permitted area is subject to a legal right of entry.

It should be clear that the division's responsibility is to monitor all permitted sites for multiple purposes and reasons, including cases where the operator may have abandoned a section of the property, and should therefore be conducting reclamation, or applying to the division for an amended permit, or reclamation plan.

United's response to the right to entry question is clearly a fig leaf intended to give you the opportunity to find in their favor, your having done so is understandable given the company's massive presence, and clout with the state.

The facts however support the conclusion that for all intents and purposes, the operator in fact abandoned approximately one half of the permitted area, that the operator failed to notify the state that the property was no longer being mined, that the operator no longer had a lease, and that the state's monitoring of the permit had failed to uncover these facts. This is therefore a case where the operator failed to report accurately, or where the state has failed in its monitoring responsibilities, or both.

If it is your conclusion that Question 19 in your 112c annual report would not be the appropriate and only way for the state to become aware of this type of condition, or that the state does not have an interest in this type of condition, so that corrective measures may be taken, then we respectfully request the opportunity to bring this matter to the board.

Your second paragraph concludes that the beneficial use currently approved for “this site” is wildlife habitat. Respectfully you seem to be missing the point. Yes, the ‘current’ beneficial use does in fact call for wildlife habitat, (which in this case is a 17 acre lake) but as you know the operator has ceased mining on this site, is no longer seeking to provide a 17 acre lake, and the whole purpose of this discussion is for an AMENDED application, or a TR so that a new reclamation plan may be sought and approved. The revised plan should therefore also seek a newly approved beneficial use. Please note that the originally approved beneficial use was in fact agricultural.

Your third paragraph in fact recognizes that the lake was not in fact created. You go on to point out that there is therefore a shortage of topsoil. You however fail to acknowledge that in my letter dated 27 October, I pointed out that the topsoil material had already been removed from the site prior to your approval of the amended reclamation plan, and before the operator was re-permitted for a lake.

We acknowledge that you will review the adequacy of the financial warranty amount, as well as the source and suitability of the topsoil, prior to placement.

In your fourth paragraph, you state that we have requested an irrigation system. That is not exactly what we requested. What our letter states is that there be the availability of adequate irrigation, and irrigation water, which was the pre-mining condition of the land, and speaks directly to the beneficial use that we seek to see approved, and implemented.

In reviewing the operator’s currently proposed TR, we find it to be non specific. In our correspondence with the operator, prior to our contacting The Division, and in response to very specific questions regarding materials and placement, we were not provided assurance that the material types, or the installation would be in accordance with the standards set forth in Rule 3 of Mineral Rules and Regulations.

It is the very non specific nature of the operator’s currently proposed reclamation TR that has led to the present controversy.

By copy of this letter we respectfully request the operator to propose a new TR, or an amendment with a new reclamation plan that is both consistent with your Rule 3, and also meets our needs as outlined previously.

We thank you for your consideration of these matters

Sincerely

John Kuijvenhoven  
Uncompahgre Holdings, LLC

cc Russ Means, DNR.  
Pete Siegmund, Oldcastle, United Companies.