



**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.

<b>MINE NAME:</b> Midwestern Farms	<b>MINE/PROSPECTING ID#:</b> M-1993-059	<b>MINERAL:</b> Sand and gravel	<b>COUNTY:</b> Prowers
<b>INSPECTION TYPE:</b> Monitoring	<b>INSPECTOR(S):</b> Amy Eschberger	<b>INSP. DATE:</b> November 22, 2016	<b>INSP. TIME:</b> 13:00
<b>OPERATOR:</b> Midwestern Farms	<b>OPERATOR REPRESENTATIVE:</b> Mel DePra	<b>TYPE OF OPERATION:</b> 112c - Construction Regular Operation	
<b>REASON FOR INSPECTION:</b> Normal I&E Program	<b>BOND CALCULATION TYPE:</b> Complete Bond	<b>BOND AMOUNT:</b> \$1,583,000.00	
<b>DATE OF COMPLAINT:</b> NA	<b>POST INSP. CONTACTS:</b> None	<b>JOINT INSP. AGENCY:</b> None	
<b>WEATHER:</b> Cold, windy, light rain	<b>INSPECTOR'S SIGNATURE:</b> 	<b>SIGNATURE DATE:</b> December 28, 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>NA</u>	(EX) EXPLOSIVES----- <u>NA</u>
(PW) PROCESSING WASTE/TAILING---- <u>Y</u>	(SF) PROCESSING FACILITIES----- <u>N</u>	(TS) TOPSOIL----- <u>N</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>Y</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>NA</u>
(SM) SIGNS AND MARKERS----- <u>Y</u>	(SP) STORM WATER MGT PLAN---- <u>Y</u>	(CI) COMPLETE INSP---- <u>Y</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>Y</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>Y</u>	(ST) STIPULATIONS----- <u>NA</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 was a normal monitoring inspection of the Midwestern Farms site (Permit No. M-1993-059) conducted by Amy Eschberger and Wally Erickson of the Division of Reclamation, Mining and Safety (Division) in response to a Technical Revision (Revision No. TR-05) received on October 25, 2016 to revise the approved reclamation plan. The revision was submitted by Eastern Colorado Aggregates (ECA), whom the permittee, Midwestern Farms has authorized to submit permit revisions and amendments. The Division sent an adequacy review for Revision No. TR-05 to ECA on November 09, 2016. On November 14, 2016, the Division approved a 60-day extension of the Revision No. TR-05 decision date to allow the operator more time to address adequacy items. The current decision date for Revision No. TR-05 is set for January 23, 2017. The operator was contacted before the inspection, but was unable to attend. Mr. Mel DePra represented Midwestern Farms during the inspection.

The site is located approximately 2.5 miles west of Holly, CO, in Prowers County. The site is situated between U.S. Hwy 50 and the Arkansas River. The main access to the site is off of Co Rd 30.5. The affected land is owned by Midwestern Farms. However, Colorado Parks and Wildlife (CPW) is in the process of purchasing 700 acres of land in the area, which would include all of the land disturbed by the operation to the south of the railroad tracks. Once the land deal has been finalized, the permittee will need to provide the Division with a description of the basis for legal right of entry to the site and to conduct mining and reclamation for all owners of record of the affected land, as required by Rule 6.4.14. This may be a copy of the access lease, deed, abstract of title, or a current tax receipt. A signed statement by the landowner and acknowledged by a Notary Public stating that the permittee has legal right to enter and mine and/or reclaim is also acceptable.

This is a 112c operation permitted for 1,479.2 acres (see enclosed Google Earth image of site) to mine sand and gravel via the floating suction dredge method to maximum depths of 60 feet. The maximum allowed disturbed acreage at any time is 390 acres, as approved in Revision No. TR-03 on March 02, 2015. A surety increase was issued in 2014 to account for 245 acres of disturbance more than what was approved at that time, and included the removal of a large sand stockpile stored on site. The approved mining plan calls for mining in six major phases, with concurrent reclamation to occur. The approved reclamation plan calls for leaving two ponds per mined phase, each approximately 10-15 acres in size, with a 40 foot wide shallow shelf area (wetlands) created along the shoreline of each pond at 6H:1V slopes. The approved post-mining land use is industrial/commercial for 49.2 acres located north of the railroad tracks, general agriculture (dryland farmland) for 64.2 acres disturbed south of the railroad tracks, wildlife habitat and recreation for the pond areas, and rangeland for the remainder of the site.

TR-05 proposes reducing the depth of topsoil replaced to a minimum depth of 8 inches, reducing areas to be retopsoiled by 38 acres (to leave sandy beaches for use by migratory birds), eliminating tree planting and wetland planting, revising the grass/shrub seed mixture, adding a cover crop to the revegetation plan, revising the shoreline grading plan to not include a shelf area, and connecting the two existing ponds to create one final pond. A revised Exhibit L for Estimated Reclamation Costs was also submitted with TR-05. The Division will provide the operator with a revised bond estimate once the adequacy items for TR-05 have been addressed. If a surety increase is required, it will be due within 60 days of approval of TR-05. If a surety reduction is warranted, the permittee may submit a surety reduction request following approval of TR-05.

At the time of the inspection, it was cold and windy with some light precipitation. A permit sign was posted at the main entrance to the site off of Co Rd 30.5 (**Photo 1**). The site was not active at the time of the inspection. Although the operation has mined only Phase 1 of the approved six mining phases, the operation has ceased mining in accordance with the landowner's wishes. Over the past few years, the permittee and landowner, Midwestern Farms, the operator and third party bond warrantor, ECA, and the potential future landowner,

CPW, have been working toward an agreement for final reclamation of the site. All involved parties agree the approved reclamation plan (Revision No. AM-01, approved 2/2/1998) requires some revision in order to provide the greatest probability of reclamation success, given existing site conditions. The revisions to the reclamation plan proposed in TR-05 are intended to reflect the agreements made between all involved parties. According to the last annual report submitted, mining activities last occurred at the site in February 2016. The operator should be advised that Rule 3.1.3 requires all reclamation to be carried to completion with all reasonable diligence, and each phase of reclamation to be completed within five years from the date the operator informs the Division that such phase has commenced. This means that if mining activities (e.g., extraction, processing, movement or hauling off of stockpiled material) ceased in February of 2016, the operator shall complete final reclamation of the site by February of 2021.

During the inspection, the Division first observed the western pond, which is approximately 23.6 acres in surface area (**see enclosed Google Earth image of disturbed area**). This pond has been designated as a state wildlife area by CPW, where public fishing is allowed. The shoreline of this pond has slope gradients of mainly 3H:1V or flatter (**Photos 2-5**). The slope gradients below water line are undetermined. The Division was unable to observe slopes below water line during the inspection due to wave action in the ponds. The western and southern shorelines are well vegetated with native grasses, forbs, and some annual weeds (e.g., Russian thistle, wild sunflowers), and appeared to be stable (**Photos 6 and 7**). The eastern shoreline is flatter and remains sandy with no vegetative cover. Although the map that was submitted with TR-05 is difficult to read, it appears the operator is proposing to leave a portion of the eastern shoreline sandy for use by migratory birds (per CPW's recommendation).

The Division next inspected the portion of land which separates the western pond from the eastern pond (**Photo 8**). The Division estimates this area to be approximately one acre in size. In TR-05, the operator proposes excavating this portion of land down to approximately 10 feet below water line, with a bottom width of approximately 40 feet, connecting the two ponds. The excavated material will be used on site to backfill shorelines to the required final slope gradient. Mr. DePra indicated the proposed 10 foot deep canal would provide shallow water habitat for warm water fish species. The shoreline slopes in this area will be graded to 6H:1V. In its adequacy review of TR-05, the Division inquired about the additional water rights required for increasing the pond surface area as proposed. In an email received on 11/27/2016, Ms. Jackie Corday of CPW informed the Division the parties have agreed to provide up to 15 LAWMA preferred shares to cover the increase in exposed groundwater. If additional shares are needed, CPW would contribute another three shares. The operator should be advised that the Division will not be able to release the site until the appropriate water rights are in place for all exposed groundwater on site. Additionally, until the proposed expansion of the pond is covered by LAWMA's plan for augmentation, the Division will require reclamation costs to backfill this portion of the pond.

The Division inspected the larger eastern pond, which is approximately 71.9 acres in surface area. The Division observed material stockpiled along the western shoreline at the southwestern portion of the pond (**Photos 9 and 10**). Mr. DePra indicated this material would probably be used to backfill the shoreline in that area, and the rest would be pushed into the pond. The eastern and southern shorelines of the eastern pond have near vertical to 1H:1V slope gradients approximately 6-8 feet above water line (**Photos 11-13**). The Division estimates that approximately 6,800 linear feet of the eastern pond's shoreline will require additional grading for reclamation. In its adequacy review for TR-05, the Division inquired as to how the operator intends to grade the pond shorelines below water line as proposed. Mr. DePra indicated the operator may use the dredge (which remains on site) for backfilling the shorelines. The western shoreline that was backfilled by the dredge during operation has slope gradients flatter than 3H:1V (**Photos 14 and 15**). Although the map that was submitted with TR-05 is difficult to read, it appears the operator is proposing to leave the western shoreline sandy for use by migrating birds (per CPW's recommendation). The Division observed Tamarisk (salt cedar) trees growing mainly along

the western shoreline of the eastern pond. The Division realizes the site is adjacent to the Arkansas River, which is a source for Tamarisk. However, Tamarisk is a state-listed noxious weed species, and must be removed from the site as soon as possible. The operator will need to implement the approved weed control and management plan for this site.

During the inspection, Mr. DePra pointed out areas located to the east (**Photo 16**) and northeast (**Photo 17**) of the eastern pond where TR-05 proposes borrowing some of the available topsoil to use for reclamation of other areas. The borrow areas are located in the adjacent agricultural fields. As mentioned previously, the map provided with TR-05 is difficult to read. Therefore, the Division was uncertain as to the proposed locations for this activity. The email received from Ms. Corday on 11/27/2016 states that CPW prefers topsoil be borrowed from north of the eastern pond and from a sliver of land along the eastern shoreline where slope grading will occur. Because borrowing topsoil disturbs the land, the operator will need to be sure this acreage is included in the maximum disturbance at any time (currently set at 390 acres). Additionally, the Division will require reclamation costs for revegetating these areas.

The Division inspected the central stockpiling and processing area located between the two ponds. This area is sandy and gravelly with some weedy vegetation present. The large sand stockpile that was present on site during the Division's last inspection (on 1/21/2015), estimated to consist of approximately 325,000 CY, has been removed from the site (**Photos 18-20**). According to the operator, this material was used to construct the new railroad overpass on Hwy 50 through a contract with CDOT. This activity was completed in 2015. The Division currently holds reclamation costs for removing this stockpile, which can be eliminated now that its removal has been verified. A few sand stockpiles remain in the central area (**Photos 21 and 22**), none as large as the stockpile that was removed. These stockpiles could be used to backfill pond shorelines and to achieve final reclamation grade in the central area. The Division also observed that the elevated conveyor which crossed the railroad tracks to the north had been demolished. Scraps from its demolition remained in the central area (**Photos 23 and 24**). The Division currently holds reclamation costs for demolishing this structure, which can be eliminated now that its demolition has been verified. The operator will need to specify in the adequacy response for TR-05 whether the scrap parts will be buried on site or removed from the site. If the parts will be buried on site, the operator will need to indicate on the revised reclamation plan map the proposed locations for burial.

The Division observed that several pieces of equipment, hoses, pipes, and miscellaneous parts remain on site in the central area. The floating dredge remains on site, and is stored in the eastern pond (**Photo 25**). The main crusher has been dismantled. Three Caterpillar 773E haul trucks are being stored on site for use in reclamation (**Photo 26**). Mr. DePra indicated the operator brought the trucks in recently so that reclamation earthwork may be completed soon. According to TR-05, the operator intends to complete grading and soil preparation this winter, with cover crop seeding commencing as close to December 1, 2016 as possible. Permanent seeding is anticipated to be completed by June 15, 2017. In its adequacy review to TR-05, the Division points out that the suggested timetable is not consistent with either of the proposed cover crop methods and corresponding seed plans. The Division recommends the operator not rush implementation of the revegetation plan, but follow the appropriate timetable for greatest probability of success in plant establishment and development.

TR-05 proposes re-disturbing the 64.2 acre dryland farmland area that had been retopped and seeded with winter wheat in the Fall of 2014. On 8/25/2014, the Division denied an Acreage Reduction request (Revision No. AR-01) to remove this parcel of land from the permit area, as it had not been seeded at that time. TR-05 proposes changing the post-mining land use of this area to upland rangeland and recreation, and redistributing the topsoil to achieve a more uniform depth of 8 inches. This area will be revegetated in accordance with the proposed revised seed mixture. The current bond amount held by the Division does not include reclamation costs for this 64.2 acre area. Therefore, if it will be redisturbed as proposed, the Division will require costs for regrading and revegetating this parcel.

It should be noted that the revised reclamation plan map submitted with TR-05 appears to show the 49.2 acre industrial/commercial area located above the railroad tracks to have been "previously released from mining permit". Please be advised the Division has no record of an acreage reduction approval for this portion of the permit area. Therefore, this area is still considered to be part of the total approved permit area of 1,479.2 acres. The Division believes this area meets the post-mining land use of industrial/commercial, and could be released upon submittal of an acreage reduction request. However, until it is released, the operator should ensure that any maps submitted to the Division include the industrial/commercial area located above the railroad tracks in the permit boundary.

This concluded the inspection.

## **PHOTOGRAPHS**



**Photo 1.** View of permit sign posted at main site entrance off of Co Rd 30.5.



**Photo 2.** View looking northeast from western shoreline of western pond, showing slope gradients of 3H:1V or flatter.





**Photo 3.** View looking south from western shoreline of western pond, showing slope gradients of 3H:1V or flatter.



**Photo 4.** View looking west from southwestern shoreline of western pond, showing slope gradients of 3H:1V or flatter.



**Photo 5.** View looking east from southwestern shoreline of western pond, showing slope gradients of 3H:1V or flatter.



**Photo 6.** View looking north from southwestern shoreline of western pond, showing vegetation present along shoreline.





**Photo 7.** View looking east from southwestern shoreline of western pond, showing vegetation present along shoreline.



**Photo 8.** View looking northwest from southwestern shoreline of eastern pond, showing portion of land between two ponds (indicated) which TR-05 proposes to extract to connect the two ponds.



**Photo 9.** View looking north from southwestern shoreline of eastern pond, showing sand stockpiled along western shoreline which could be used for reclamation of pond shorelines.



**Photo 10.** Another view looking north from southwestern shoreline of eastern pond, showing sand stockpiled along western shoreline which could be used for reclamation of pond shorelines.





**Photo 11.** View looking east along southern shoreline of eastern pond, showing slope gradients of near vertical at approximately 6-8 feet above water line, which will require grading for reclamation.



**Photo 12.** View looking north along eastern shoreline of eastern pond, showing slope gradients of near vertical at approximately 6-8 feet above water line, which will require grading for reclamation.



**Photo 13.** View looking south along eastern shoreline of eastern pond, showing slope gradients of near vertical at approximately 6 feet above water line, which will require grading for reclamation.



**Photo 14.** View looking south along western shoreline of eastern pond, showing slope gradients of flatter than 3H:1V created by dredge during operation.





**Photo 15.** View looking southeast along western shoreline of eastern pond, showing slope gradients of flatter than 3H:1V created by dredge during operation.



**Photo 16.** View looking east across agricultural land located east of eastern pond proposed in TR-05 as topsoil borrow area.



**Photo 17.** View looking east across agricultural land located northeast of eastern pond proposed in TR-05 as topsoil borrow area.



**Photo 18.** View looking southwest across area where large sand stockpile had been stored in central area, showing it has been removed from the site.





**Photo 19.** View looking west across area where large sand stockpile had been stored in central area, showing it has been removed from the site.



**Photo 20.** View looking northwest across area where large sand stockpile had been stored in central area, showing it has been removed from the site.



**Photo 21.** View of sand stockpile that remains on site in central stockpiling and processing area.



**Photo 22.** View of another sand stockpile that remains on site in central stockpiling and processing area.





**Photo 23.** View of parts and scraps from demolished conveyor, stored in central stockpiling and processing area.



**Photo 24.** View of parts from demolished conveyor along with tires, stored in central stockpiling and processing area.



**Photo 25.** View of floating dredge that remains on site, stored in eastern pond.



**Photo 26.** View of three Caterpillar 773E haul trucks stored on site for use in reclamation.

**Inspection Contact Address**

Leonard Read  
Eastern Colorado Aggregates, RLLLP  
P.O. Box 580  
Rye, CO 81069

Enclosure(s): Google Earth image of site  
Google Earth image of disturbed area

Cc: George Tempel  
Midwestern Farms  
P.O. Box 246  
Wiley, CO 81092

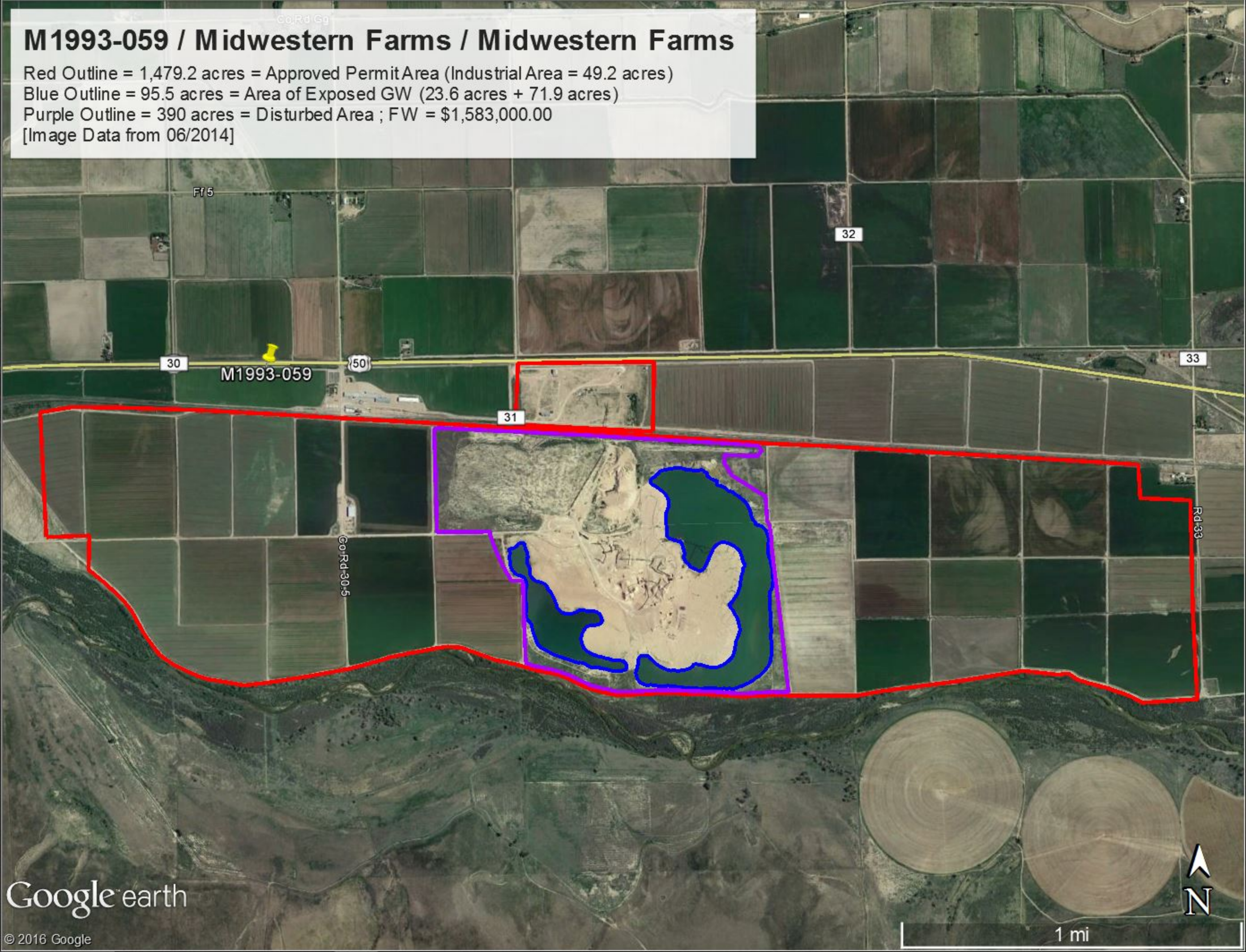
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Wally Erickson, DRMS



# M1993-059 / Midwestern Farms / Midwestern Farms

Red Outline = 1,479.2 acres = Approved Permit Area (Industrial Area = 49.2 acres)  
Blue Outline = 95.5 acres = Area of Exposed GW (23.6 acres + 71.9 acres)  
Purple Outline = 390 acres = Disturbed Area ; FW = \$1,583,000.00  
[Image Data from 06/2014]





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