



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources
1313 Sherman Street, Room 215
Denver, Colorado 80203

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APR 13 2017

DIVISION OF RECLAMATION
MINING AND SAFETY

STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS

Date: March 27, 2017

Operator: Colorado Backhoe Service

Site Name: The Orr Pit

Permit No.: M-2009-074

Permit Type: 110c

Specialist: Elliott Russell

Action: Possible Violation of C.R.S. 34-32.5-109(1)

Resolution: Colorado Backhoe Service (Operator), concedes to the violation of C.R.S. 34-32.5-109(1), for failing to first obtain a reclamation permit from the Mined Land Reclamation Board before engaging in a new mining operation; and to the Cease-and-Desist Order, Corrective Actions, and Civil Penalties provided herein, for The Orr Pit, Permit No. M-2009-074.

Chronology:

- March 1, 2017 - DRMS site inspection, report signed and mailed March 23, 2017
- March 23, 2017 - RTB signed and mailed to Operator

Reason for Violation: As detailed in the Division's inspection report, signed March 23, 2017, the mining operation has affected approximately 6 acres outside of the approved permit boundary. The Division considers mining more than two acres outside of the approved permit boundary as a violation for mining without a permit and thus the Operator failed to first obtain a reclamation permit from the Mined Land Reclamation Board before engaging in a new mining operation.

Staff Recommendation:

Violation: Find a violation of C.R.S. 34-32.5-109(1) for failure to first obtain a reclamation permit from the Mined Land Reclamation Board before engaging in a new mining operation.

Cease and Desist Order: Issue a Cease and Desist Order prohibiting any further activities at the site, except those activities approved by the Division, in writing, until corrective actions have been resolved to the satisfaction of the Division and the MLRB.



Corrective Actions:

- Require the Operator to submit an interim financial warranty of \$15,000.00 within 30 days of the mailing date of the Board Order to cover the reclamation costs associated with existing unapproved disturbances (determined by a \$2,500.00 per acre average).
- Require the Operator to file 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 Operator shall file 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. The conversion application shall include information regarding the importation of material for processing and/or backfilling.

Civil Penalty: Pursuant to C.R.S. § 34-32.5-123(2) an operator who operates without a permit shall be subject to a civil penalty of not less than \$1,000.00 per day, nor more than \$5,000.00 per day for each day during which such violation occurs. In this case, there are 34 days of violation from the signature date of the RTB letter (March 23, 2017) to the April 26, 2017 Board Meeting; the Board may assess a civil penalty of \$34,000.00 to \$170,000.00.

The Board will assess a civil penalty of \$1,000.00 per day of violation for 34 days, for a civil penalty amount of \$34,000.00 with all but \$1,000.00 suspended if the Operator complies with the corrective actions.

The portion of the civil penalty not suspended, \$1,000.00, 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, \$33,000.00, 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 Actions, and Civil Penalty proposed in this STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS.

Signed and dated this 13 day of April, 2017.

Operator: Colorado Backhoe Service

Name: Thomas A. Joseph (please print clearly):

Signature: [Signature]

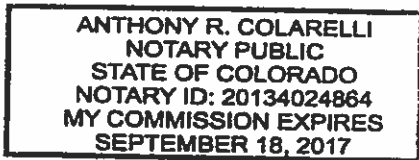
Title: Owner

State of Colorado)

County of Pueblo) ss.

The foregoing instrument was acknowledged before me this 13 day of April, 2017,

by Thomas Joseph as President of Colorado Backhoe Service.



[Signature]
Notary Public

My Commission Expires: 9-18-17

SIGNATURES MUST BE IN BLUE INK