



**COLORADO**

**Division of Reclamation,  
Mining and Safety**

Department of Natural Resources

1313 Sherman Street, Room 215  
Denver, CO 80203

June 28, 2017

Adam Schultejann  
120 85 LLC  
10925 East 120<sup>th</sup> Avenue  
Henderson, Colorado 80640

**Re: 120<sup>th</sup> Estates Partners, DRMS File No. M-2001-085  
Consent Agenda Summary Form**

Mr. Schultejann:

A possible violation at the 120<sup>th</sup> Estates Partners site (Henderson Pit) has been scheduled for consideration by the Mined Land Reclamation Board (Board). As indicated in the Division's correspondence dated June 22, 2017, RE: Reason to Believe a Violation Exists, the formal Board hearing has been scheduled to occur during the July 26 -27, 2017, Board meeting.

Please find enclosed the Staff Summary Form for Consent Agenda Items (consent form) for the possible violation at the site. If 120 85 LLC concedes to the violation please affix your notarized signature on the enclosed consent form and return the signed form, with original signatures, to the Division no later than July 13, 2017. Upon receipt of the signed and notarized consent form the item will be moved from the Board's agenda for enforcement hearings to consent items and there will be no formal Board hearing regarding the possible violation.

However, if you wish to contest the possible violation or any of the conditions of the enclosed consent form, please inform the Division at your earliest convenience and do not sign the consent form. In the absence of a signed and notarized consent form the formal Board hearing will proceed as scheduled for July 26 -27, 2017. If you have any questions please feel free to contact me at (303) 866-3567 ext. 8120.

Sincerely,

Jared Ebert  
Environmental Protection Specialist III

Enclosure: Staff Summary Form for the Consent Agenda Items, 120<sup>th</sup> Estates Partners, File No. M-2001-085  
CC: Wally Erickson, DRMS





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### STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS

<b>Date</b>	June 28, 2017	<b>Operator</b>	120 85 LLC
<b>Permit No.</b>	M-2001-085	<b>Site Name</b>	120 <sup>th</sup> Estate Partners
<b>Specialist</b>	Jared Ebert	<b>Objecting Party</b>	N/A

#### Action:

Possible violation pursuant to C.R.S. 34-32.5-124 and Construction Rule 1.15(1)(c)

#### Resolution:

120 85 LLC (Operator), concedes to the violation of Construction Materials Rule 1.15(1)(c), for failure to provide monitoring information with the annual report as required under the approved reclamation plan, and pursuant to C.R.S. 34-32.5-124, for failure to comply with the conditions of the permit, and to the Cease and Desist Order, Corrective Actions, and Civil Penalties, provided herein, for the 120<sup>th</sup> Estate Partners, Permit No. M-2001-085.

#### Chronology:

March 15, 2017 DRMS cited a problem for delinquent groundwater reports and imposed a corrective action deadline of April 19, 2017, to submit groundwater reports for the fourth quarter of 2014, all four quarters of 2015 and 2016, and the first quarter of 2017. Subsequently, the corrective action deadline was extended to May 11, 2017, by request from the Operator.

May 10, 2017 DRMS received incomplete groundwater reports which indicate groundwater elevations had been recorded annually instead of quarterly as required by permit.

June 22, 2017 RTB mailed to Operator

#### Reason for Violation:

With the approval of Technical Revision No. 6 in November of 2014, the Operator committed to conducting groundwater level monitoring on a quarterly basis at two designated monitoring



wells. The Operator further committed to submit the results of the groundwater monitoring to the Division with their annual reports. Based on the Division's findings, the Operator has not submitted the results of groundwater monitoring to the Division with their annual reports. Also, based on the data submitted to the Division on May 10, 2017, the Operator did not conduct the groundwater monitoring at the frequency required by the permit.

### STAFF RECOMMENDATION

#### Violation:

Find a violation of Construction Materials Rule 1.15(1)(c), for failure to provide all monitoring information required as part of the approved Reclamation Plan with the Annual Report, and pursuant to C.R.S. § 34-32.5-124, for failure to comply with the conditions of a permit.

**Cease and Desist Order:** Not applicable.

#### Corrective Action:

Order the Operator to initiate and comply with the approved groundwater monitoring plan beginning with the second quarter of 2017. Order the Operator to submit the results of groundwater monitoring to the Division with their annual report due on the anniversary date of the permit, due each year on July 25.

#### Civil Penalty:

Pursuant to C.R.S. § 34-32.5-124(7) a person who violates any provision of a permit issued under C.R.S. § 34-32.5-101 shall be subject to a civil penalty of not less than \$100.00 per day, nor more than \$1,000.00 per day for each day during which such violation occurs.

In this matter, the Board may assess a civil penalty of \$3,400 to \$34,000 for 34 days of violation. The 34 days of violation are calculated from the date of the RTB, June 22, 2017 to the July Board meeting, July 26, 2017.

In this matter the Division will assess a civil penalty of **\$3,400** based on 34 days of violation at \$100 per day. The Board will suspend all but **\$1,000** of the assessed civil penalty to encourage timely compliance from the Operator.

The unsuspended portion of the civil penalty, **\$1,000**, 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 portions of the civil penalty, **\$2,400**, 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 this STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS.

Signed and dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
(Operator)

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017,

by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**SIGNATURES MUST BE IN BLUE INK**

