



COLORADO

**Division of Reclamation,
Mining and Safety**

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

December 19, 2017

KW Enterprises, LLC
Attn: Steven and Kathy Winer
P.O. Box 2055
Durango, Colorado 81303

RE: East Wolf Creek Pass Pit, Permit M-2011-038, Annual Fee and Inspection Compliance Issues.

Mr. and Mrs. Winer,

The Division of Reclamation, Mining and Safety (Division) has conducted a review of KW Enterprises (KW) permit based on our December 19, 2017 telephone conversation. While it is understood that your opinion is you shouldn't need a permit, you did in fact submit and obtain a 111c permit on August 23, 2011 for your activities. This includes a signed and executed Performance Warranty and a Reclamation Financial Warranty in the amount of \$4,509.00 by KW. Any discussions as to the need for such permit should have occurred then and appeal deadlines passed in 2011 as well.

Based on the annual reports and information supplied by KW, it appears the intended project has ended and a release of the permit may be obtained. However, the review of inspection reports indicates a chronic issue of noxious weeds and a lack of documentation of control efforts on the site. A file review also shows a history of delinquent required annual fees, maps, and reports. The Division cannot release a site unless it is in full compliance with the Act and Rules. Therefore, the Division has two options:

Option One: (the preferred path)

- KW Enterprises must submit the delinquent August 23, 2017 Annual Fee of \$504.00, the required map, and annual report by January 17, 2018.
- If the annual fee, map, and report are submitted, the Division will waive the \$504.00 Civil Penalty.
- Submit documentation to the Division of Noxious Weed spraying for Spring and Fall of 2018.
- Pay the August 23, 2018 Annual Fee, and submit the required map and fee on time.
- Request a release and have an inspection in October 2018.

Option Two:

- The Division is issuing a Notice of Violation for failure to pay annual fee, submit the required map, and report for August 23, 2017. It will be sent by separate correspondence. The violation will be withdrawn if the Division receives the Annual fee, Report, and map by January 17, 2018
- A formal public hearing will be scheduled for January 24~25, 2018 before the Mined Land Reclamation Board.
- The Division will ask for confirmation that the annual fee amount and civil penalty in the amount of \$1,008.00 is due.



- The Division will request revocation of the permit and request the financial warranty in the amount of \$4,509.00 is subject to forfeiture.
- Schedule a hearing for March 21~22, 2018 to forfeit the bond.
- The bond money will be used to spray noxious weeds on the site.

As indicated the Division prefers Option One, but is preparing Option Two. Staff would rather work with KW to get the permit released rather than use enforcement, revocation, and bond forfeiture. It's KW Enterprise's option.

You have indicated to staff you may seek legal counsel. If KW chooses to do so please feel free to have your attorney contact me so that I can provide our Attorney General contact information.

If you have any questions please contact me at (303) 866-3567 ext 8185 or by email at russ.means@state.co.us. You may also contact your EPS specialist: Travis Marshall at Ext. 8186 or via e-mail at travis.marshall@state.co.us. Please feel free to visit our web site at: <http://mining.state.co.us/Pages/Home.aspx> for access to the full Act and Rules governing extraction of metals, non-metals, and construction materials in the State of Colorado.

Regards,



Division of Reclamation, Mining and Safety
Senior Environmental Protection Specialist
Grand Junction Field Office

Cc: Travis Marshall, EPS Grand Junction
Tony Waldron, Minerals Program Director, Denver
Jeff Fugate, DRMS AGO Counsel, Denver

