



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

January 19, 2018

Bad Boys of Cripple Creek Mining Co., Inc.
Harriet Graham
1429 Locust Drive
Cañon City, CO 81212

Re: Findings of Fact, Conclusions of Law, and Order, Bad Boys of Cripple Creek Mining Co., Inc.
File No. M-1996-081, MV-2017-060

On January 18, 2018 the Mined Land Reclamation Board signed the enclosed Board Order for the above captioned operation. We strongly advise that you read this document carefully since it may contain deadlines for corrective actions, civil penalties, cease and desist orders or other actions that may require your immediate attention to avoid future board actions.

Sincerely,


Camille Mojar
Board Secretary

Enclosure(s)

Certified Mail

7016 2710 0000 2904 5345

cc:
Elliott Russell
Wally Erickson
John Roberts
Jeff Fugate
Scott Schultz
Charles Kooyman



BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

Violation No. MV-2017-060

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

IN THE MATTER OF A POSSIBLE VIOLATION BY BAD BOYS OF CRIPPLE CREEK MINING CO., INC.; CEASE AND DESIST ORDER; CORRECTIVE ACTIONS; AND CIVIL PENALTIES FOR FAILING TO PROTECT AREAS OUTSIDE OF THE AFFECTED LAND FROM DAMAGE, File No. M-1996-081

THIS MATTER came before the Mined Land Reclamation Board ("Board") on December 13, 2017 in Denver, Colorado to consider possible violations by Bad Boys of Cripple Creek Mining Co., Inc. ("Operator"); cease and desist order; corrective action; and civil penalties for failing to protect areas outside of the affected land from slides or damage, permit number M-1996-081. Elliott Russell appeared on behalf of the Division of Reclamation, Mining and Safety ("Division"). Harriet Graham appeared on behalf of the Operator.

The Board, having considered the parties' presentations, testimony, and the administrative record, and being otherwise fully informed of the facts in the matter, enters the following:

FINDINGS OF FACT

1. The Operator holds a 110(2) permit for a 0.9-acre turquoise mining location located in Teller County, Colorado, permit number M-1996-081. The site is known as the Bad Boys Pit.
2. The Division conducted a routine monitoring inspection of the site on September 21, 2017. Harriet Graham was present at the inspection on behalf of the Operator. During the inspection, the Division observed that the topsoil and several overburden stockpiles were located beyond the permitted boundary. The Division also observed several other problems, including a failure to maintain legal right of entry after a portion of the permitted area had been sold, failure to post required signs, and missing or incorrectly placed boundary signs.
3. The Division's September 21, 2017 inspection report, signed on November 13, 2017, detailed a possible violation for off-site damage, as well as compliance problems regarding failure to maintain legal right of entry, failure to

post a mine identification sign, and missing or incorrectly placed boundary markers. The inspection report required the Operator to appear at a hearing before the Board on December 13-14, 2017 regarding the violation and set a January 12, 2018 deadline for the Operator to address the compliance problems identified in the report.

4. The inspection report also stated that the financial warranty set during the 1996 permitting process was insufficient to cover the costs of reclaiming the current mine disturbance. The Division calculated a new financial warranty of \$8,504, detailed in a reclamation cost estimate included with inspection report. The inspection report informed the Operator that a surety increase of \$4,806 was necessary to bring the current financial warranty amount of \$3,698 up to the new amount. The Division also informed Operator that the surety increase would be presented at the December 13-14, 2017 Board meeting.

5. On November 13, 2017, the Division mailed a Reason to Believe a Violation Exists and Notice of Board Hearing letter to the Operator. The letter identified failing to protect areas outside of the affected land from slides or damage, as the violation to be considered by the Board at its December 13-14, 2017 regularly scheduled meeting.

6. At the Board's December 13, 2017 meeting, testimony was presented by the Division's representative, Elliott Russell, regarding both the violation and the increase in the financial warranty. Mr. Russell presented photographic evidence of the off-site disturbances and map overlays indicating where mining activities had gone beyond the permitted area. Regarding the increase in financial warranty, Mr. Russell testified that estimated fees related to moving equipment for a reclamation were standardized expenses throughout the Division's assessments and necessary to ensure that adequate funds were available to conduct reclamation if the Operator failed or was unable to do so.

7. The Operator's representative, Ms. Graham, also testified regarding the issues presented. Ms. Graham did not present evidence that the off-site disturbances had actually occurred within the permitted boundaries. Regarding the increase in financial warranty amount, Ms. Graham testified that businesses closer to the permitted area were available to perform reclamation work without expenses related to mobilization and transportation of machinery.

CONCLUSIONS OF LAW

8. The Board has jurisdiction over this matter pursuant to the Colorado Land Reclamation Act, Article 32 of Title 34, C.R.S. (2017) ("Act").

9. Under section 34-32-116(7)(h), C.R.S., operators are required to protect areas outside of the affected land from slides or damage occurring during the mining operation and reclamation. Operator affected approximately 0.6 acres of land outside the boundary of the permit area.

10. The Division and the Board shall take reasonable measures to assure the continued adequacy of financial warranties. § 34-32-124-117(4)(b)(II), C.R.S. The Board may increase or decrease the amount and duration of required financial warranties upon a showing of good cause. § 34-32-117(4)(c)(I), C.R.S. Operators are required to maintain a financial warranty in good standing for the entire life of a permit. § 34-32-117(6)(a), C.R.S. Operator received written notice of an increase in financial warranty for the site and disputes the amount of the increase.

11. The Board may issue a cease and desist order if it determines that any provision of the Act was violated. § 34-32-124(2), C.R.S. Operator is in violation of section 34-32-116(7)(h), C.R.S.

12. The Board shall impose a civil penalty of not less than \$50 per day nor more than \$200 per day for each day during which a violation occurs. § 34-32-124(7), C.R.S. Here, the Board may impose a penalty based on thirty (30) days of violation at \$50 to \$200 per day for a civil penalty of \$1,500 to \$6,000.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board orders as follows:

The Board finds Bad Boys of Cripple Creek Mining Co., Inc. in violation of the Act under section 34-32-116(7)(h), C.R.S. for failing to protect areas outside the affected land from slides or damage occurring during the mining operation and reclamation.

Bad Boys of Cripple Creek Mining Co., Inc. shall CEASE AND DESIST all further mining activities, except those approved by the Division, in writing, as necessary to prevent further damage to off-site areas or to protect public health and safety, until corrective actions listed below have been resolved to the satisfaction of the Division.

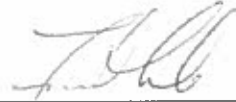
The Board imposes the following CORRECTIVE ACTIONS against Operator:

- A. Bad Boys of Cripple Creek Mining Co., Inc. shall, within ninety (90) days of the effective date of this Order, submit to the Division an interim financial warranty in the amount of \$4,804;
- B. Bad Boys of Cripple Creek Mining Co., Inc. shall, within sixty (60) days of the effective date of this Order, submit to the Division a complete amendment application to increase the size of the current 110(2) Reclamation Permit to include the affected lands outside the approved permit boundary, with all material in an approvable form within statutory deadlines.

The Board imposes a CIVIL PENALTY of \$50 per day for thirty (30) days of violation for a total civil penalty of \$1,500 pursuant to section 34-32-124(7), C.R.S. The total civil penalty is suspended.

DONE AND ORDERED this 18 day of January 2018.

FOR THE COLORADO MINED LAND
RECLAMATION BOARD



Forrest Luke, Chair

NOTICE OF JUDICIAL REVIEW RIGHTS

This order becomes effective and final upon mailing. Any party adversely affected or aggrieved by agency action may commence an action for judicial review by filing a complaint with the district court within thirty-five (35) days after the effective date of this order, pursuant to section 24-4-106, C.R.S. (2016) and the Colorado Rules of Civil Procedure. In the event that a complaint for judicial review is filed, designations of record made in accordance with section 24-4-106(6), C.R.S. should be served on the Board at: 1313 Sherman Street, Room 215, Denver, CO 80203, Attention: Camie Mojar.

Bad Boys of Cripple Creek Mining Co., Inc.
Bad Boys Pit / M-1996-081
MV-2017-060

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado this 19th day of January 2018 addressed as follows:

By certified mail to:
7016 2710 0000 2904 5345

By electronic mail to:

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Camille Mojar, Board Secretary