



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

April 5, 2018

Daniel Robinson
Robinson Sons Inc.
1228 E. 7th Street
Trinidad, CO 81082

Re: Reason to Believe a Violation Exists and Notice of Board Hearing; Robinson Sons Gravel Pit No. 1; Permit No. M-2008-076

Dear Mr. Robinson,

Pursuant to the corrective action for Violation MV-2016-059, the Board ordered Robinson Sons Inc. to amend Permit No. M-2008-076 within 180 days of the effective date of the Board Order, due September 10, 2017. The Board assessed \$31,566.40 civil penalty and suspended \$28,500.00 of the civil penalty if the Operator complied with the corrective action in the time specified. To date, the amendment application for Permit No. M-2008-076 has not been submitted.

The Division believes you are in violation pursuant to C.R.S. § 34-32.5-124 and § 34-32.5-118(1)(b) for failure to comply with the conditions of the Order for Violation MV-2016-059.

Therefore, the Division has reason to believe a violation exists to the Mined Land Reclamation Act, C.R.S. § 34-32.5-101 et seq., and has scheduled this matter to appear before the Mined Land Reclamation Board.

A Formal Board Hearing will be held during the May 16-17, 2018 Board meeting for consideration of this possible violation. The hearing will occur at 1313 Sherman Street, Room 318, Denver, Colorado, beginning at 9:00 a.m. on May 16, 2018, or as soon thereafter as the matter can be considered. At that hearing you will have the opportunity to present your defense.

This is an important legal proceeding and you must appear in person for this hearing. If you fail to appear, an order and financial judgment may be entered against you. In addition, failure to appear at the hearing may result in legal consequences including, but not limited to, loss of party status and your ability to seek reconsideration from the Board or seek judicial appeal in district court.

If the Board finds a violation at this hearing, it may issue a Cease and Desist Order and/or assess a Civil Penalty in the amount of \$100.00 to \$1,000.00 for each day of violation, pursuant to C.R.S. § 34-32.5-124(7). Pursuant to C.R.S. 34-32.5-124(6)(a), the Board may suspend, modify, or revoke the permit. Pursuant to C.R.S. 34-32.5-118(1)(b), the Board may determine the financial warranty, in the amount of \$52,815.00, subject to forfeiture. If you have evidence indicating the possible violation noted above does not exist or has been corrected, please provide it to the Division no later than May 11, 2018.



Mr. Robinson
Page 2
April 5, 2018

All parties have an opportunity to review and comment on a draft of the Board's Order before it becomes final. If you wish to do so, you must provide the Board with a written request to review the draft Order prior to or at the time of your hearing, or you must inform the Board orally during the hearing your request to review the draft Order. The Board's attorney must receive your comments on the draft Order within three calendar days of the date the draft Order is e-mailed, unless that deadline is extended by the Board's attorney. Submit all comments to Charles Kooyman, First Assistant Attorney General, Colorado Department of Law, by fax at (720) 508-6037, or by email at Charles.Kooyman@coag.gov.

Please note the Division has requested and will be allowed to review and comment on the draft Board Order.

The Board's agenda may not be finalized until the week of the Board meeting. Therefore, we recommend you contact the Board's Secretary, Camille Mojar by telephone at (303) 866-3567, ext. 8136 or by email at Camille.Mojar@state.co.us on Monday, May 14, 2018, to confirm the specific date for the hearing.

If you have any questions about this letter or the hearing, please contact Michael Cunningham at (303) 866-3567, ext. 8116.

Sincerely,



Virginia Brannon
Division Director

CERTIFIED MAIL NO. 7016 2710 0000 2965 2635
Return Receipt Requested

Enclosure: Board Order for Violation MV-2016-059, effective March 14, 2017

cc: Tony Waldron, DRMS
Wally Erickson, DRMS
Michael Cunningham, DRMS
Jeff Fugate, AGO



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

March 14, 2017

Robinson Sons, Inc.
1228 East 7th Street
Trinidad, CO 81082

RE: Findings of Fact, Conclusions of Law and Order
Robinson Sons, Inc.
File No's. M-2008-076, MV-2016-059

On March 13, 2017, 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 provisions which must be satisfied by specific dates to avoid future Board actions.

Failure to submit payment for the unsuspended portion of the civil penalty, by the date specified in the attached Board Order, will result in immediate submittal of those penalties to the State Central Collection Services for further processing and the addition of collection fees.

Sincerely,

Camille Mojar
Board Secretary

Enclosure(s)

Certified Mail

7016 2140 0000 2345 9978

Cc's
Amy Eschberger
Wally Erickson
John Roberts
Camille Mojar



BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

Violation No. MV-2016-059

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

IN THE MATTER OF A POSSIBLE VIOLATION BY ROBINSON SONS, INC., CEASE AND
DESIST ORDER, CORRECTIVE ACTIONS, AND CIVIL PENALTIES FOR MINING WITHOUT
A RECLAMATION PERMIT,
File No. M-2008-076

THIS MATTER came before the Mined Land Reclamation Board ("Board") on February 23, 2017 in Denver, Colorado to consider possible violations by Robinson Sons, Inc. ("Operator"), cease and desist order, corrective action, and civil penalties for mining without a permit, file number M-2008-076. Amy Eschberger appeared on behalf of the Division of Reclamation, Mining and Safety ("Division"). Daniel Robinson appeared on behalf of Operator.

The Board, having considered the parties' presentations and having been otherwise fully informed of the facts in the matter, hereby enters the following:

FINDINGS OF FACT

1. Operator holds a 112c reclamation permit for an 78-acre sand, gravel, and borrow material mining operation located in Section 26, Township 33 South, Range 67 West, 6th Principal Meridian, Las Animas County. The site is known as the Robinson Sons Gravel Pit No. 1.
2. On October 27, 2016, the Division received information about the site by telephone from the Mine Safety and Health Administration.
3. The Division conducted an inspection of the site on November 23, 2016. During the inspection, the Division observed, among other things, that Operator had affected 6.74 acres outside of the approved affected land boundary, including 0.9 acre at the top of a ridge adjacent to the eastern permit boundary (an extraction area and haul road); and 5.84 acres located adjacent to the mine access road (two extraction areas, haul road, truck scale, scale house, and scale access ramps). The Division provided a copy of the November 23, 2016 inspection report to the Operator on January 23, 2017.
4. On January 23, 2017, the Division mailed the Operator a Reason to Believe a Violation Exists letter. The Division's letter provided notice regarding the alleged

violations of section 34-32.5-109(1), C.R.S. and information about the February 23, 2017 hearing.

5. At the hearing, Mr. Robinson testified that the Operator admits that Operator removed material and stockpiled such material at the top of the ridge, and removed material from adjacent to the mine access road for use by the operation. Mr. Robinson further testified that the Operator agrees with the Division that the Operator needs for a permit to encompass the land disturbed outside the permit boundary.

6. The Division testified that it spent ten hours on this matter, at the cost of \$56.64 an hour, incurring costs of \$566.40 in the investigation of the violation.

CONCLUSIONS OF LAW

7. The Board has jurisdiction over this matter pursuant to the Colorado Mined Land Reclamation Act for the Extraction of Construction Materials, Article 32.5 of Title 34, C.R.S. (2016).

8. Section 34-32.5-109(1), C.R.S. provides that "before engaging in a new operation, an operator shall first obtain from the board or office a reclamation permit." By disturbing 6.74 acres of land beyond the approved permit boundary, the Operator engaged in a new operation without first obtaining a permit, in violation of section 34-32.5-109(1), C.R.S.

9. Pursuant to section 34-32.5-123(1), C.R.S., the Board may issue a cease and desist order when it finds that an operator has failed to obtain a valid permit.

10. The Board may impose a civil penalty of not less than \$1,000 per day or more than \$5,000 per day for each day during which a violation occurs. C.R.S. § 34-32.5-123(2) (2016). Here, the Board may impose a penalty based on thirty-one (31) days of violation (from the January 23, 2017 Reason to Believe letter to the February 23, 2017 hearing) at \$1,000 to \$5,000 per day for a civil penalty of \$31,000 to \$155,000.

17. In addition to the civil penalty authorized by §34-32.5-123(2), the Board is authorized to impose an additional civil penalty in an amount not less than the amount necessary to cover costs incurred by the Division in investigating the alleged violation. § 34-32.5-123(4), C.R.S. Here, the Division spent ten hours investigating the alleged violation at the rate of \$56.64 per hour, for a total of \$566.40.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board hereby finds Robinson Sons, Inc. in violation of section 34-32.5-109(1), C.R.S. for engaging in a mining operation without first obtaining a reclamation permit.


Robinson Sons, Inc. shall CEASE AND DESIST any further mining activities on the affected land outside the permit boundary, except environmental maintenance, reclamation, or corrective actions, until the violation set forth herein has been resolved to the satisfaction of the Division and the Board.

The Board imposes against Robinson Sons, Inc. the following CORRECTIVE ACTION: the Operator shall, within ninety days of the effective date of this Order, submit an application to amend permit number M-2008-076 to incorporate all affected lands into the permit and addressed by the reclamation plan and warranties. All materials for the amendment application shall be submitted in an approvable form within one hundred eighty days.

The Board imposes a CIVIL PENALTY of \$31,000.00 pursuant to section 34-32.5-123(2), C.R.S. and a CIVIL PENALTY of \$566.40 pursuant to section 34-32.5-123(4), C.R.S. for investigation costs incurred by the Division for a total civil penalty of \$31,566.40. All but \$3,066.40 of the total assessed civil penalty is suspended if the Operator complies with the corrective action in the time specified. The portion of the civil penalty not suspended, \$3,066.40, shall be due and payable within thirty days of the effective date of this Order. Failure to submit the unsuspended portion of the full civil penalty by the date specified above shall result in immediate submittal of such unsuspended penalties to State collections.

DONE AND ORDERED this 13 day of March 2017.

FOR THE COLORADO MINED LAND
RECLAMATION BOARD


Thomas Brubaker, 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. (2014) 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.

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 14 day of March 2017 as follows:

By certified mail:

7016 2140 0000 2345 9978

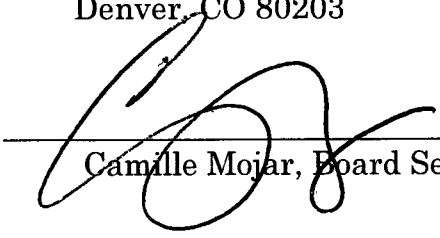
Robinson Sons, Inc.
1228 East 7th Street
Trinidad, CO 81082

By electronic mail to:

Amy Eschberger
Division of Reclamation, Mining & Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

Wally Erickson
Division of Reclamation, Mining & Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

John J. Roberts
First Assistant Attorney General
Department of Law
Business and Licensing Section
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 8th floor
Denver, CO 80203



Camille Mojar, Board Secretary