




MINERALS PROGRAM INSPECTION REPORT
PHONE: (303) 866-3567

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: Caldwell-Nesselhuf Pit No. 1	MINE/PROSPECTING ID#: M-1997-071	MINERAL: Sand and gravel	COUNTY: Crowley
INSPECTION TYPE: Monitoring	INSPECTOR(S): Patrick Lennberg and Michael Cunningham	INSP. DATE: December 20, 2018	INSP. TIME: 10:40
OPERATOR: William & Beverly Caldwell and Albert & Lola Nesselhuf	OPERATOR REPRESENTATIVE: Gail and Charles Zimmerman, Frank Nusselhuf	TYPE OF OPERATION: 112c - Construction Regular Operation	

REASON FOR INSPECTION: Normal I&E Program	BOND CALCULATION TYPE: Complete Bond	BOND AMOUNT: \$36,000.00
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
WEATHER: Clear	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: January 9, 2019

The following inspection topics were identified as having Problems or Possible Violations. OPERATORS SHOULD READ THE FOLLOWING PAGES CAREFULLY IN ORDER TO ASSURE COMPLIANCE WITH THE TERMS OF THE PERMIT AND APPLICABLE RULES AND REGULATIONS. If a Possible Violation is indicated, you will be notified under separate cover as to when the Mined Land Reclamation Board will consider possible enforcement action.

INSPECTION TOPIC: Gen. Compliance With Mine Plan

PROBLEM/POSSIBLE VIOLATION: Problem: The affected area boundary markers are missing or incorrectly placed. This is a problem for failure to maintain boundary markers around the affected area as required by Rule 3.1.12(2).

CORRECTIVE ACTIONS: The operator shall conduct a survey and replace the boundary markers in the correct location(s). The operator shall provide proof to the Division that this has been done by the corrective action date. Proof of compliance may be in the form of photographs.

CORRECTIVE ACTION DUE DATE: 4/09/19

INSPECTION TOPIC: Gen. Compliance With Mine Plan

PROBLEM/POSSIBLE VIOLATION: Possible Violation: Land has been affected outside of the approved permit boundary. This is a possible violation at this time pursuant to: C.R.S. 34-32.5-116(4)(i) for failure to protect areas outside of the affected land from slides or damages occurring during the mining operation.

CORRECTIVE ACTIONS: This possible violation will require a hearing before the Mined Land Reclamation Board. The schedule and other details for the MLRB hearing will be provided under a separate document to be sent via certified mail to the operator.

CORRECTIVE ACTION DUE DATE: 2/20/19

INSPECTION TOPIC: Permit Stipulations

PROBLEM/POSSIBLE VIOLATION: Problem: During the inspection it was discovered that the operator allowed affected lands to come within 75 feet of the Arkansas River. This is a problem pursuant to C.R.S. 34-32.5-112 (1)(c)(VI) for failure to follow the approved mine plan.

CORRECTIVE ACTIONS: The operator will reestablish the 200 foot buffer along the river, reclaim all affected land, and clearly identify and mark the 200 foot buffer zone. Proof of compliance may be in the form of detailed photographs.

CORRECTIVE ACTION DUE DATE: 4/09/19

INSPECTION TOPIC: Backfilling & Grading

PROBLEM/POSSIBLE VIOLATION: Problem: The operator is not approved to have high-walls steeper than 2H:1V. This is a problem pursuant to C.R.S. 34-32.5-112 (1)(c)(VI) for failure to follow the approved mine plan.

CORRECTIVE ACTIONS: The operator will grade all high walls to approved 2H:1V or shallower. Proof of compliance may be in the form of detailed photographs.

CORRECTIVE ACTION DUE DATE: 4/09/19

INSPECTION TOPIC: Topsoil

PROBLEM/POSSIBLE VIOLATION: Problem: During the inspection, it was discovered that there is inadequate topsoil to complete the approved reclamation at the site. This is a problem related to C.R.S. 34-32.5-116(4)(g) and Rule 3.1.9 for failure to follow the reclamation plan prescribed in the permit.

CORRECTIVE ACTIONS: The operator shall submit a technical revision to the permit (with the required \$216 fee) identifying the source of the additional topsoil required to reclaim the site in accordance with the approved reclamation plan by the corrective action date. Additional financial warranty may be required for the importation of off-site topsoil.

CORRECTIVE ACTION DUE DATE: 2/20/19

INSPECTION TOPIC: Availability Of Records

PROBLEM/POSSIBLE VIOLATION: Problem: The current mine plan needs to be updated and clarified pursuant to C.R.S. 34-32.5-115 (4)(e) and Rule 6.4.19. No utility structures agreement for the transmission powerline to the north of the Tri-State transmission line and the power poles along the Arkansas River.

CORRECTIVE ACTIONS: The operator must submit a notarized letter or agreement in accordance with Rule 6.4.19 addressing the potential for damage to the powerlines. If an agreement cannot be reached the operator can provide an engineering evaluation that the structures shall not be damaged by activities occurring at the mining operation.

CORRECTIVE ACTION DUE DATE: 2/20/19

OBSERVATIONS

The Caldwell-Nusselhuf Pit No. 1 was inspected by Patrick Lennberg and Michael Cunningham with the Division of Reclamation, Mining and Safety (Division/DRMS). The inspection was completed as part of the Division's routine mine inspection protocol. The site was previously inspected by the Division on May 8, 2014. Gail and Charles Zimmerman and Frank Nusselhuf accompanied us during the inspection.

The site operates under a 112c Construction Materials permit for 92 acres of total disturbance with a phased mining approach for 8 phases, each phase consisting of 12 affected acres. Currently, about 13 acres have been affected by mining. The Division holds a financial warranty of \$36,000 for 12 acres of disturbance. The approved post-mining land use of the site is rangeland.

In September 2000, Technical Revision 1 (TR-01) was approved, which changed the order of the mine phases from a numerical progression to just clearly marking out the affected boundaries. In 2010, TR-02 was approved to consider the mine as an intermittent operator. In November 2014 the Division received notice from the operator that a contract had been signed with All-Rite Paving and Redi-Mix (All-Rite) to begin operating at the site. The notice was provided to demonstrate the site was active and that filing of Temporary Cessation was not required.

The site was not active at the time of inspection, but there were several product stockpiles remaining onsite. A mine sign was observed as required by Rule 3.1.12. However, the boundary markers for the current 12 acres of affected land, as committed to in TR-01, could not be identified in the field. This matter is being cited as a Problem pursuant to Rule 3.1.12(2). The Division reviewed Google Earth Pro imagery along with observations made from the field, and determined mining has affected approximately 13.6 acres of land, not including the haul road and scale house that are located outside the permit boundary.

Additionally, in the original permit application a scale house was not identified as being part of the mine operations. The scale house was installed by All-Rite between late 2014 and 2015. The haul road has been substantially improved from the prevailing conditions that existed during the operation's limited use in the past. The land affected outside of the permit boundary, approximately 1.4 acres, is being cited as a Possible Violation pursuant to C.R.S. 34-32.5-116(4)(i) for failure to protect areas outside of the affected land from damages occurring during the mining operation. New or improved roads must be included as part of the permitted acreage. The upgraded haul road and scale house may require additional financial warranty for reclamation costs.

In the original permit application, the Operator agreed to keep a 200 foot buffer between affected land and the Arkansas River, as well as a 25 foot radius around all power poles that are within the permit boundary. During the inspection it was noted that mining had encroached to within 17 feet of the power pole that is located in the northern section of the currently mined area. However, material had been replaced to buttress the pole and currently the off-set measures 35 feet from the pole. During the inspection, the Division used a measuring tape to determine the product stockpiles in the southern portion of the mine have encroached to within 75 feet of the Arkansas River. This matter is being cited as a Problem in this report pursuant to C.R.S. 34-32.5-112 (1)(c)(VI) for failure to conduct mining as described in the mining plan.

During the inspection there were a few highwalls that were steeper than the 2H:1V and this is being cited as a

Problem pursuant to C.R.S. 34-32.5-112 (1)(c)(VI) as the current mining plan does not allow for mining highwalls at a steeper grade than 2H:1V. The pit floor is flat and water entering the pit does not flow out.

The operator was asked to identify any topsoil that has been salvaged or stockpiled at the site and none could be located. The lack of salvaged topsoil at the site is being cited as a Problem pursuant to C.R.S. 34-32.5-116(4)(g) and Rule 3.1.9 for failure to remove and segregate sufficient topsoil from other spoil material for use in reclamation. The operator has affected approximately 13.6 acres and the currently approved reclamation plan requires 6-inches of topsoil evenly spread over the affected land. The Division calculated, given the current affected land, that the operator would need 10,490 cubic yards of topsoil to perform reclamation.

A review of the permit file after the inspection showed that there is only one power line operator, Tri-State Power, which has given permission for mining around power poles. There are additional power lines that are within 200 feet of affected lands. Not having sufficient structure agreements is being cited as a Problem pursuant to C.R.S. 34-32.5-115 (4)(e) and Rule 6.4.19. Currently, the operator does not have structure agreements for the power lines that are to the north of the Tri-State lines and the power poles that run along the southern boundary near the river. The operator will have to obtain new and/or updated agreements with the power line owners.

On the east side of the mining area a minor amount of metal debris was found in a small drainage. Associated with this debris was an approximately 2,000 gallon capacity metal underground storage tank. It is not clear where the tank came from or what it may have contained. It is currently not being used and has a rock plugging the drain spigot. The operator was unaware of the debris that has been deposited in the small drainage. Pursuant to C.R.S. 34-32.5-116 (4)(e), a duty of the operator, all refuse shall be disposed of in manner that controls unsightliness or deleterious effects of such refuse. Also, all storage tanks, petroleum and any hazardous materials on site for any period of time shall have appropriate secondary containment.

A number of problems have been identified during the inspection; the problems and associated corrective actions are listed at the beginning of the report. The Operator may correct the problems through the Technical Revision process; however, the Division recommends addressing all of the identified issues through a permit Amendment.

Photographs taken during the inspection are attached.

Please contact Patrick Lennberg (303)866-3567 ext. 8114 or email at patrick.lennberg@state.co.us if you have any questions regarding this report.

Inspection Contact Address

Gail and Charles Zimmerman
19002 County Road CC.5
Rocky Ford, CO 81067

Enclosure

CC: Michael Cunningham, DRMS
EC: Gail Zimmerman, gzimm3man@gmail.com
Frank Nesselhuf, jnesselhuf@gmail.com

PHOTOGRAPHS



Photo 1: Mine sign at entrance off of County Road A 5/10



Photo 2: Looking north at the scale house.



Photo 3: Typical mining face along the northern edge of affected land.



Photo 4: Looking east across the pit, note the power lines that cross the permit area.



Photo 5: Looking southwest at the mining face that makes up the western edge of the pit.



Photo 6: Looking south from the edge of affected land towards the Arkansas River, 75 feet to river bank.



Photo 7: Looking north from the southern edge of affected land towards stockpiles, note proximity of stockpiles to power pole.



Photo 8: Looking west from the southern edge of affected land.



Photo 9: Typical stockpiles of material remaining at the site.



Photo 10: Looking west across the mine pit.



Photo 11: Debris left behind from recent mining operations.



Photo 12: Metal underground storage tank in drainage.

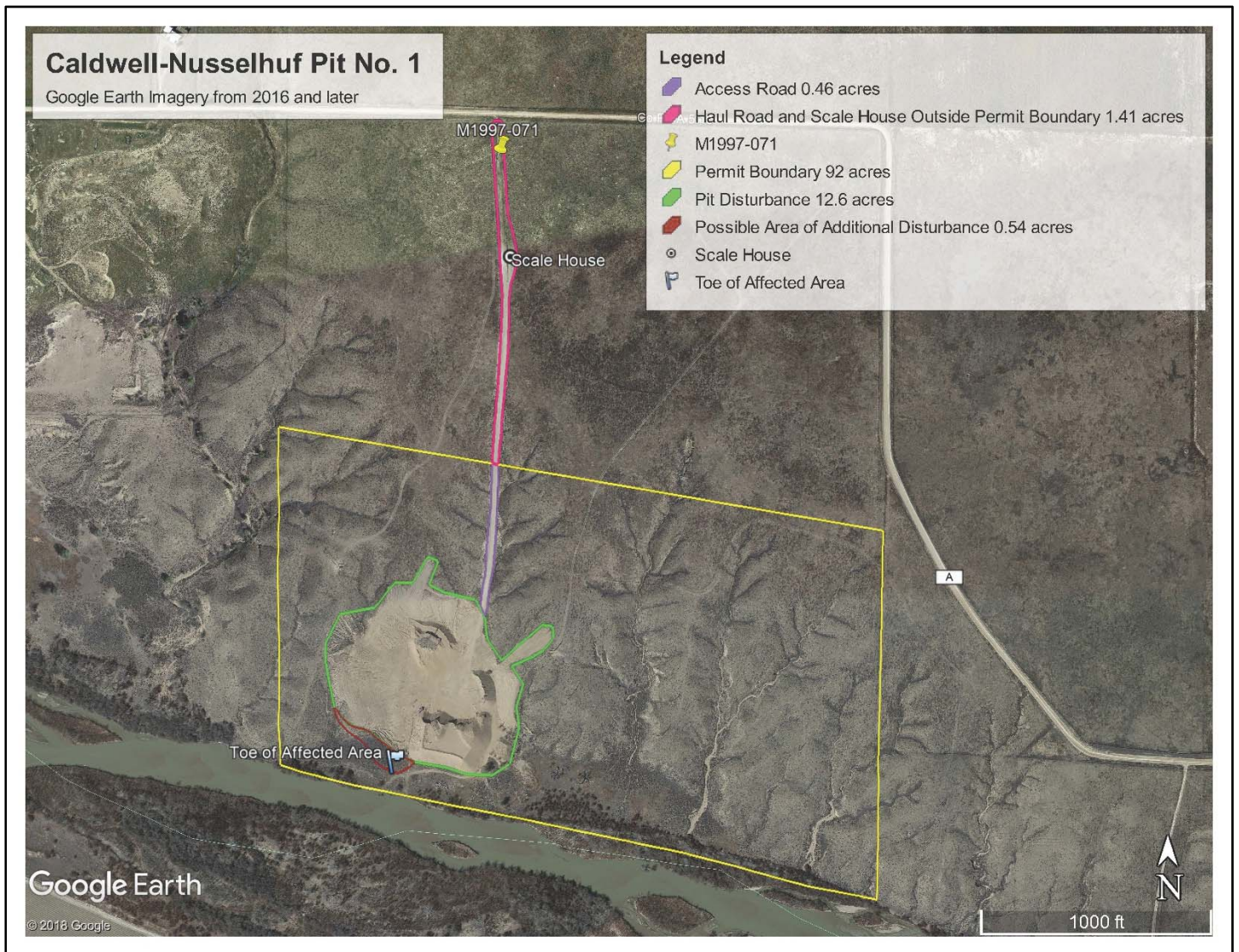


Figure 1: Map created after the inspection depicting conditions encountered during inspection.

GENERAL INSPECTION TOPICS

The following list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each

(AR) RECORDS----- <u>PB</u>	(FN) FINANCIAL WARRANTY----- <u>Y</u>	(RD) ROADS----- <u>Y</u>
(HB) HYDROLOGIC BALANCE----- <u>Y</u>	(BG) BACKFILL & GRADING----- <u>PB</u>	(EX) EXPLOSIVES----- <u>NA</u>
(PW) PROCESSING WASTE/TAILING---- <u>N</u>	(SF) PROCESSING FACILITIES----- <u>Y</u>	(TS) TOPSOIL----- <u>PB</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>PV</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>N</u>
(SM) SIGNS AND MARKERS----- <u>Y</u>	(SP) STORM WATER MGT PLAN---- <u>N</u>	(RS) RECL PLAN/COMP-- <u>Y</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>N</u>	(SC) EROSION/SEDIMENTATION-- <u>Y</u>	(ST) STIPULATIONS----- <u>PB</u>
(AT) ACID OR TOXIC MATERIALS----- <u>NA</u>	(OD) OFF-SITE DAMAGE----- <u>Y</u>	

Y = Inspected and found in compliance / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited