



COLORADO
Division of Water Resources
Department of Natural Resources

Water Division 1 - Main Office
810 9th Street, Suite 200
Greeley, CO 80631

August 30, 2018

Tim D. and Jeanne Iverson
5011 West F Street
Greeley, CO 80631-9449
Via Certified Mail: 7015 0640 0003 4026 9474

Subject: Show Cause Order - Iverson Mine
DRMS Permit No. M-2011-001; Well Permit No. 76674-F

To: Tim D. and Jeanne Iverson, and all agents, employees, lessees, assigns or successors of the same

Based on information available to the Division of Water Resources, we understand the Iverson Mine ("Iverson Lake" or "Iverson Pit") is not being covered by an augmentation plan decreed by the Division 1 Water Court or a substitute water supply plan ("SWSP") approved by the State Engineer. Iverson Lake is located along the Cache La Poudre River in Section 34, Township 6 North, Range 66 West of the 6th P.M. ("Subject Property"). According to the Weld County Assessor's property information, you are listed as the owners of the Subject Property identified as Parcel Numbers 080534200085 and 080534400084.

The last SWSP approval dated September 15, 2017 was issued to Martin Marietta Materials, Inc. ("MMM") in accordance with § 37-90-137(11), Colorado Revised Statutes ("C.R.S.") to cover the depletions caused by two existing gravel pit operations, the Greeley 35th Avenue Pit and the Iverson Pit. The plan approved on September 15, 2017 expired on March 31, 2018 and a subsequent SWSP approval issued to MMM on May 2, 2018 only covers the depletions from the Greeley 35th Avenue Pit. We have no record of a current SWSP approval to cover depletions from Iverson Lake.

Any excavation exposing tributary ground water is considered a well and all wells are subject to all applicable decrees, rules, regulations and statutes governing the withdrawal, use, and measurement of water in the South Platte River system, including the South Platte Rules and §§ 37-92-101, C.R.S., et seq. To legally expose ground water, one must obtain a valid well permit from the Office of the State Engineer and in order to obtain this permit the owner is required to obtain either a plan for augmentation decreed by the Division 1 Water Court or a SWSP approved by the State Engineer. Martin Marietta Materials, Inc. obtained Permit No. 76674-F on September 5, 2012 and SWSP approvals through March 2018. As identified in Conditions of Approval 3 and 4 of the permit, if a SWSP is not extended or if a court decree is not entered for a plan for augmentation, the diversion of ground water from Iverson Pit must cease immediately and the Division Engineer is charged with administration in accordance with applicable decrees, statutes, rules, and regulations.



Pursuant to the authority vested in this office by §§ 37-92-501 & 502, C.R.S., the purpose of this letter is to **ORDER YOU TO SHOW CAUSE WHY THE ILLEGAL EXPOSURE OF GROUND WATER FROM IVERSON LAKE SHOULD NOT RESULT IN THE ISSUANCE OF A CEASE AND DESIST ORDER.**

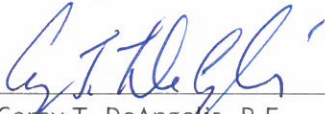
Actions considered sufficient to "Show Cause" would be to:

1. provide this office with evidence the depletions due to evaporation at Iverson Pit are covered by a plan for augmentation decreed by the Water Court or a SWSP approved by the State Engineer; OR,
2. provide proof an SWSP application has been submitted to the State Engineer's Office in accordance with § 37-92-308(5), C.R.S. and such application has sufficient augmentation water to cover evaporative depletions for one year, which may include a temporary change of your Greeley Irrigation Company shares during the irrigation season and some other legal augmentation source to cover the evaporative depletions during the non-irrigation season; OR,
3. fill in the pit by the addition of sufficient material such that ground water is no longer exposed.

Failure to comply with this order and provide notification to our office of such compliance by **November 1, 2018** may result in the issuance of a Cease and Desist Order. The continued illegal use of ground water in violation of a Cease and Desist order will result in the Attorney General's Office initiating injunctive proceedings against you which could subject you to payment of all State costs including reasonable attorney's fees and a penalty of up to \$500.00 for each day such violations continue, §§ 37-92-503 & 504, C.R.S.

If you have any questions regarding this order, please contact Michael Hein (Ext. 1219) at the telephone number listed below.

Sincerely,



Corey T. DeAngelis, P.E.
Division Engineer

CTD/mdh

enc: Permit No. 76674-F

cc: Martin Marietta Materials, Inc.
c/o Baden Tax Management
PO Box 8040
Fort Wayne, IN 46898-8040

ec: Mark Simpson, District 3 Water Commissioner (mark.simpson@state.co.us)
Sarah Brucker, Water Resources Engineer (sarah.brucker@state.co.us)
Michael Hein, P.E., Assistant Division Engineer (michael.hein@state.co.us)
Laserfiche Filing (WDID 0303039)



Form No.
GWS-25

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

EXST

WELL PERMIT NUMBER 76674 - F -
DIV. 1 WD 3 DES. BASIN MD

APPLICANT

MARTIN MARIETTA MATERIALS
C/O BISHOP BROGDEN ASSOCIATES
333 W HAMPDEN AVENUE STE 1050
ENGLEWOOD, CO 80110-

(303) 806-8952

APPROVED WELL LOCATION

WELD COUNTY

1/4 1/4 Section 34
Township 6 N Range 66 W Sixth P.M.

DISTANCES FROM SECTION LINES

Ft. from Section Line
Ft. from Section Line

UTM COORDINATES (Meters, Zone: 13, NAD83)

Easting: Northing:

PERMIT TO EXPOSE WATER IN A PIT

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT

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CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not ensure that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to CRS 37-90-137 (2) and (11) for the construction and operation of a well (gravel pit pond) in accordance with the Greeley 35th Ave/Iverson Combined temporary substitute water supply plan approved by the State Engineer on July 16, 2012, for the Iverson Pit, Division of Reclamation, Mining & Safety Permit Number M-2011-001. The well (pond) shall not be operated unless it is included in a substitute water supply plan approved by the State Engineer or a plan for augmentation approved by the Water Court. The water supply plan for this pit is currently valid through May 31, 2013 and if it is not extended or if a court decree is not entered for a plan for augmentation, diversion of ground water from this well must cease immediately.
- 4) This well is subject to administration by the Division Engineer in accordance with applicable decrees, statutes, rules, and regulations.
- 5) The average annual amount of ground water to be appropriated shall not exceed the amount covered under a water court approved plan for augmentation or substitute water supply plan approved by the State Engineer. The total surface area of the proposed ground water pond shall be limited to 45 acres or the amount covered under a water court approved plan for augmentation or substitute water supply plan approved by the State Engineer, whichever is less.
- 6) The use of ground water, in addition to evaporation and dewatering, is limited to 23.83 acre-feet of water lost with the mined product (809,000 tons/year) or the amount covered under a water court approved plan for augmentation or substitute water supply plan approved by the State Engineer, whichever is less. No other use of water is allowed unless a permit therefor is approved.
- 7) The owner shall mark the well (gravel pit pond) in a conspicuous place with well permit number(s) and court case number(s) as appropriate. The owner shall take necessary means and precautions to preserve these markings.
- 8) A totalizing flow meter must be installed so as to measure any pumping from this gravel pit pond and maintained in good working order. Permanent records of all diversions from the gravel pit pond, tonnage of mined product, and the surface area of ground water exposure shall be maintained by the well owner (recorded at least annually) and submitted to the Division Engineer upon request.
- 9) Pursuant to Rule 10.1.6 of the Water Well Construction Rules, gravel pit wells are exempt from the minimum well construction standards except for contamination considerations as stated in the Rule. The owner of the gravel pit shall take necessary means and precautions to prevent contaminants from entering the gravel pit well.

APPROVED
SKR

State Engineer

DATE ISSUED 09-05-2012

By

EXPIRATION DATE 09-05-2013

Receipt No. 3654515

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT

CONDITIONS OF APPROVAL

- 10) Pursuant to Rule 17.1.4 of the Water Well Construction Rules, the owner shall submit, after initiation of construction, site plan and cross section drawings on 8-1/2" x 11" paper showing the extent of intended excavation, the maximum depth of the pit, and the initial static water level. The owner shall also provide the initial date of ground water exposure in the pit.
- 11) The boundaries of the gravel pit pond shall be more than 600 feet from any existing well, completed in the same aquifer, that is not owned by the applicant, excluding well permit no. 201210 (spacing waiver submitted by the well owners) and those wells whose owners were notified pursuant to CRS 37-90-137(2)(b)(II)(A). Notice was sent to the owners of API no(s). 05-123-21740, 05-123-11299, 05-123-17156, 05-123-17155, and 05-123-13044 and no response was received.
- 12) Pursuant to Policy 2000-4 of the State Board of Examiners of Water Well Construction and Pump Installation Contractors (Board), no pumping equipment shall be installed in the gravel pit well to withdraw water for any beneficial use, unless a separate written request for a variance has been approved by the Board.