



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: Clear Creek Mile Marker 269	MINE/PROSPECTING ID#: File No. M-2019-051	MINERAL: N/A	COUNTY: Jefferson
INSPECTION TYPE: Illegal (Unpermitted Operation)	INSPECTOR(S): Amy Eschberger	INSP. DATE: September 30, 2019	INSP. TIME: 11:00
OPERATOR: N/A	OPERATOR REPRESENTATIVE: N/A	TYPE OF OPERATION: ILL – Illegal (suction dredge)	

REASON FOR INSPECTION: Citizen Complaint	BOND CALCULATION TYPE: None	BOND AMOUNT: No Bond Held
DATE OF COMPLAINT: September 26, 2019	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
WEATHER: Clear	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: September 30, 2019

GENERAL INSPECTION TOPICS

This list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each. No problems or possible violations were noted during the inspection. The mine operation was found to be in full compliance with Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials and/or for Hard Rock, Metal and Designated Mining Operations. Any person engaged in any mining operation shall notify the office of any failure or imminent failure, as soon as reasonably practicable after such person has knowledge of such condition or of any impoundment, embankment, or slope that poses a reasonable potential for danger to any persons or property or to the environment; or any environmental protection facility designed to contain or control chemicals or waste which are acid or toxic-forming, as identified in the permit.

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

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

OBSERVATIONS

This inspection was conducted by Amy Eschberger of the Division of Reclamation, Mining and Safety (Division) in response to a complaint (see enclosed) received by our office on September 26, 2019 from John Davenport of Denver Trout Unlimited (DTU). The complaint is regarding a suction dredge operation that occurred in Clear Creek on September 23, 2019. DTU is concerned the suction dredge activities will impact macroinvertebrates and the stream bottom, having negative results on the health of the stream. The complaint includes no additional details on the activities observed, including the type of equipment used or the duration of the activities. The complaint also does not include a name and/or contact information for the operator. The complaint does include a photograph of two individuals at the creek, one of which appears to be operating a suction dredge hose in the creek. However, no other details could be ascertained from the photograph.

The site is located on Clear Creek, approximately 2.5 miles west of Golden, CO in Jefferson County. Access to the site is directly off US-6/Clear Creek Canyon Road. A pull-off area is located adjacent to the road 0.15 mile east of the site and also 0.2 mile west of the site. **Photos 1-4** taken during the inspection are included with this report.

During the inspection, the Division observed the section of Clear Creek from the 1st tunnel to the 2nd tunnel off US-6/Clear Creek Canyon Road, an approximate 5-mile stretch. This included the area described in the complaint near mile marker 269, which is located approximately one mile west of the 1st tunnel. The Division observed a few travelers present at the small parking lot located just west of mile marker 269. However, the Division observed no evidence of suction dredging activities taking place in the creek. Therefore, no further action will be taken by the Division with regard to the complaint submitted.

It should be noted, the Division does not at this time regulate dredging operations on the basis of the size of the dredge, but rather on the areal extent of the disturbance. C.R.S. 34-32-103(12) defines prospecting as the act of searching for or investigating a mineral deposit, but excludes those activities which cause no or very little surface disturbance, including any single activity which results in the disturbance of a single block of land totaling 1,600 square feet or less of the land's surface, not to exceed two such disturbances per acre; except that the cumulative total of such disturbances will not exceed five acres statewide in any prospecting operation extending over 24 consecutive months. If prospecting activities (including suction dredging) are planned to exceed the amount of surface disturbance exempted under C.R.S. 34-32-103(12), a Notice of Intent to Conduct Prospecting Operations application (NOI) must first be submitted to our Office (along with the \$86.00 application fee) for Division review and approval. For prospecting activities that occur on federal land, the applicant must provide evidence to the Division the NOI was also sent to the appropriate federal agency.

To obtain a formal determination from the Division on whether or not a proposed activity is considered prospecting or mining (requiring an NOI or reclamation permit), the operator should submit to the Division an "Is It Mining" form (see enclosed), which is available for download from the Division's website at <https://mining.state.co.us>.

Even if the Division determines that an NOI or a reclamation permit is not required for an operation, there may be other agencies that regulate such an operation, including:

- 1) Colorado Department of Water Resources with regard to the administration of water rights if the operation makes a consumptive use of water.
- 2) Colorado Department of Public Health and Environment (CDPHE), Water Quality Control Division (WQCD) with regard to the discharge of pollutants into the waters of the state.

- 3) EPA Region VIII Water Quality Enforcement Branch regarding a General Permit for Portable Suction Dredges.
- 4) U.S. Bureau of Land Management or the U.S. Forest Service if the proposed operation will occur on federal lands.
- 5) U.S. Army Corps of Engineers regarding a Dredge and Fill (404) Permit.
- 6) The County Planning Department for the county or counties in which the operation is located.
- 7) Colorado Parks and Wildlife and the U.S. Fish and Wildlife Service to assess impacts to fisheries and other wildlife.

Therefore, any person intending to conduct suction dredging operations in this state should contact, at a minimum, the agencies listed above to ensure compliance with their regulations.

Any questions or comments regarding this inspection report should be forwarded to Amy Eschberger at the Colorado Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, via telephone at 303-866-3567, ext. 8129, or via email at amy.eschberger@state.co.us.

PHOTOGRAPHS



Photo 1. View looking east from mile marker 269 off US-6/Clear Creek Canyon Road. Clear Creek is located south of road (at right, not visible in photo).



Photo 2. View looking east (downstream) across Clear Creek in area near mile marker 269. No suction dredging activities were observed during the inspection.



Photo 3. View looking down at Clear Creek in area near mile marker 269. No suction dredging activities were observed during the inspection.



Photo 4. View looking west (upstream) across Clear Creek in area located 0.2 mile west of mile marker 269. No suction dredging activities were observed during the inspection.

Inspection Contact Address

John Davenport
Denver Trout Unlimited
1536 Wynkoop St., Suite 320
CTU Attn: DTU
Denver, CO 80202

Encl: Complaint submitted by Denver Trout Unlimited on September 26, 2019
Is it Mining Form

CC: Michael Cunningham, DRMS



RECEIVED

SEP 26 2019

DIVISION OF RECLAMATION
MINING AND SAFETY

SCANNED

Denver Trout Unlimited

1536 Wynkoop St, Suite 320

CTU Attn:DTU

Denver, CO 80202

Date 9/23/2019

Subject: Suction Pump Dredging - Clear Creek Milemarker 269

TO: Eric Scott

Colorado Division of Reclamation Mining and Safety

Eric,

Attached are photos of an operation that set up next to where I was fishing on Clear Creek on 9/23/2019. Talking with the operator, he was unaware that dredge suction pumps were not permitted by either USFS or Clear Creek County or Jefferson County Open Space rules in Clear Creek.

Denver Trout Unlimited believes it is important to closely monitor this activity because of the impact on macroinvertebrates and stream bottom disturbance and the negative result on the health of the stream.

Our members will be closely watching Clear Creek, the Denver South Platte, and Bear Creek for these activities and would very much appreciate a reporting contact similar to the Spill or Kill 800 number. (see attached.)

Sincerely

John Davenport

President, Denver Trout Unlimited

president@denvertu.org

RECEIVED

SEP 28 2019

OFFICERS

John Davenport
President

Dan Kubik
Vice-President

Harry Grabarz
Treasurer

Sam Agnew
Secretary

Website: denvertu.org

Find Us On Social Media: Denver Trout Unlimited

@DenTroutUnlimited

@denvertu

@denvertroutunlimited



Spill or Kill Reporting Card
National Spill Response Center
(notifies all local agencies)

800-424-8802

Immediate Emergency call 911

If you see:

- Any petroleum product in the water
- Any releases to waterways
- All Mercury spills
- All sanitary sewer releases
- Any releases that result in injury and/or death
- Any deliberate releases or dumping

@denvertu #SPspill type, location, time



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

Date: _____

RE: Need for State Reclamation Permit: "Is It Mining?"

Name: _____

Mailing Address: _____ City: _____ State: _____ Zip Code: _____

Telephone: (____)____-____ Cell: (____)____-____

Email: _____

Enclosed are pertinent sections of the Colorado Mined Land Reclamation Board (Board) Rules governing activities that do not require a reclamation permit. To determine if you need a permit for your proposed activity, first check Rule 1.2 which describes activities the Board has determined do not require state reclamation permits. If you find a match, you can proceed based on your interpretation of the rule, but at your own risk. If you are uncertain how the Rule may apply to your activity, you should answer the list of questions below with as much detail as possible. Please feel free to use additional paper, maps, and attachments to explain your project.

Please include in your determination request answers to the following questions:

1. Please provide the legal location of the proposed project and submit a site map that clearly delineates the location of the proposed extraction site and the location of the nearest city, town, and county location name.
Section____;Township____;Range____;PM____County____
Or NAD27 GPS X UTM____Y UTM____
Direction and miles to nearest town/city_____
2. Is the site of material extraction on public or privately owned property?
3. What type(s) of material or metal is/are proposed to be extracted and describe the physical nature of the site i.e., river terrace, rocky knob, in-stream gravel deposit, etc.?
4. What processing or extraction method(s) will be used on site? Include any equipment or chemical(s) that will be used in the processing and extraction of the materials.
5. Will the extracted material be hauled offsite or used on the same parcel of property where the material is extracted?
6. How will the extracted material be used on site?
7. If the material is hauled offsite, where will it be hauled to and what is the intended use?



8. What is the approximate areal extent of the proposed extraction in acres?
9. To what approximate depth will the extraction extend?
10. In cubic yards, approximately how much material will be removed?
11. Will material extraction involve the use of explosives?
12. Will site of extraction result in the exposure of tributary ground water?
13. Will either the landowner or the mine site operator receive any type of compensation, i.e., monetary, in-kind, haulage fees, etc., from the proposed material extraction?
14. Please supply a copy of any documents that will ensure that the area of extraction will be reclaimed to some beneficial land use once extraction activities have been completed.
15. Do you have permits for this activity from any other governmental agencies such as building, construction, or grading permits, and if so, what are they?
16. Are there state/federal/local agency participants in terms of funding (yes)-(no), design (yes)-(no). What are the percentages?
17. What *post mining* uses will be made of the site of extraction and why?
(This question helps us determine the intent of the activity)
18. What types and sizes of equipment will be used in the extraction?

Please send the completed questionnaire to the Division at the address above for review. The Board has directed the Division to make a decision based on the information you have supplied. We trust that the activities will be performed as represented. If we receive a complaint, we are required by law to conduct an inspection of the site. Which could result in a violation, a cease and desist order, and other corrective actions including submittal of a permit application.

If you have any question, please contact Wally Erickson for Eastern Colorado sites at (303)866-3567, ext. 8176, or Russ Means for Western Colorado sites at (303)866-3567, ext. 8185. If you are unsure which area your project lies please feel free to contact either for further guidance and assistance. Please feel free to visit our web site at: www.mining.state.co.us for further access to the full Act and Rules governing extraction of metals, non-metals, and construction materials in the State of Colorado.

Sincerely,

Division of Reclamation, Mining and Safety Staff

Enclosure: Rule 1.2.1 for both Hard Rock Metal Mines and Construction Materials

1.2 SCOPE OF RULES AND ACTIVITIES THAT DO NOT REQUIRE A RECLAMATION PERMIT

1.2.1 Specified by Rule

The Board has determined that certain types of activities do not need reclamation permits either because the excavated substance is not a mineral as defined in Section 34-32-103(7), Colorado Revised Statutes 1984, as amended or because the activity is not a mining operation as defined by Section 34-32-103(8), C.R.S. 1984, as amended. Such activities include the following:

- (a) the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe;
- (b) the development or extraction of coal (refer to the Colorado Surface Coal Mining Reclamation Act Section 34-33-101, et seq., C.R.S. 1984, as amended);
- (c) smelting, refining, cleaning, preparation, transportation, and other off site operations not conducted on affected land;
- (d)
- (e) a custom mill.

1.2 ACTIVITIES THAT DO NOT REQUIRE A RECLAMATION PERMIT

103(3) and (13)

1.2.1 Specified by Rule

The Board has determined that certain types of activities do not need reclamation permits either because the excavated substance is not a construction material as defined in Section 34-32.5-103(3), Colorado Revised Statutes 1984, as amended or because the activity is not a mining operation as defined by Section 34-32.5-103(13), C.R.S. 1984, as amended. Such activities include the following:

- (a) the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe;
- (b) the development or extraction of coal (refer to the Colorado Surface Coal Mining Reclamation Act Section 34-33-101, et seq., C.R.S. 1984, as amended);
- (c) cleaning, preparation, transportation, and other off-site operations not conducted on permitted land; and
- (d) the extraction of geothermal or groundwater resources.

1.2.2 Reserved

1.2.3 Reserved

1.2.4 Extraction or Exploration on Federal Lands

Any person who intends to extract or explore for construction materials on federal lands shall apply for a Mined Land Reclamation Board permit or submit a Notice of Intent to conduct exploration operations unless specifically exempted by the Board according to the provisions of this Subsection 1.2.