

December 4, 2019

George Tempel  
Midwestern Farms  
P.O. Box 246  
Wiley, CO 81092

**Re: Midwestern Farms, Permit No. M-1993-059, Status Update on Problems Cited in September 26, 2019 Inspection Report**

Mr. Tempel:

The Division of Reclamation, Mining and Safety (Division) sent you a Follow-Up on Unresolved Problems on December 3, 2019, listing the four problems cited in the Division's September 26, 2019 inspection report for Midwestern Farms which had not yet been resolved.

On the same date as the letter, the Division received a copy of the new well permit (No. 82871-F) that was issued by the Division of Water Resources (DWR) for this site on January 14, 2019. This well permit covers the 102 acres of exposed groundwater on site. Therefore, the problem cited for hydrologic balance in the Division's September 26, 2019 inspection report is considered resolved.

The remaining unresolved problems at this site include the following:

**Problems:**

- 1) The Performance Warranty on file for this permit was signed (on January 20, 1994) by George H. Tempel, whom is now deceased. According to the Colorado Secretary of State's website, a new registered agent, Kelly A. Spitzer has been designated for Midwestern Farms. This is a problem pursuant to Rule 4.1.1(b), which requires a Performance Warranty be signed by the operator and/or by a person or persons authorized to bind the operator.
- 2) Erosion gullies are present along pond shorelines at several locations. Additionally, the riprap blanket installed along the eastern pond shoreline under Technical Revision No. 6 (TR-6, approved on November 7, 2017) is not effectively controlling erosion at one location in particular, where pond water is overflowing the bank onto the adjacent farm road. This is a problem pursuant to C.R.S. 34-32.5-116(4)(j) and Rule 3.1.6(3) for failure to protect all surface areas of the affected land from erosion.
- 3) There are state-listed noxious weed species present on site, particularly Tamarisk (salt cedar) and Field Bindweed. This is a problem pursuant to Rule 3.1.10(6) for failure to employ weed control methods for all prohibited noxious weed species within the affected lands, and to reduce the spread of weeds to nearby areas.



**Corrective Actions:**

- 1) Submit to the Division an updated and properly executed Performance Warranty for this permit (see enclosed form) that is signed by an authorized agent of Midwestern Farms.
- 2) Provide the Division with photo documentation verifying the erosion damage on pond shorelines has been repaired, and the site has been reconstructed and stabilized to prevent further erosion damage. If the operator proposes an alternative method for stabilizing the eastern pond shoreline (than the plan approved in TR-6), the operator must submit this proposal in the form of a Technical Revision with the appropriate fee of \$216.00 by the corrective action date.
- 3) Implement the approved weed control plan for all state-listed noxious weed species on the affected lands, and provide proof to the Division that this was done. If the operator wishes to revise the approved weed control plan, the proposed plan must be submitted in the form of a Technical Revision with the appropriate fee of \$216.00 by the corrective action date. The Division recommends the operator consult with the county extension agency or weed control district office in developing a plan that includes specific control measures to be applied, a schedule for when control measures will be applied, and a post-treatment monitoring plan.

Please provide evidence these problems have been resolved by **January 2, 2020**.

If the corrective actions are not properly addressed by the date provided above, the problems could be escalated to the level of possible violations and may then be referred to the Mined Land Reclamation Board for further action.

If you have any questions, you may contact me by telephone at 303-866-3567, ext. 8129, or by email at [amy.eschberger@state.co.us](mailto:amy.eschberger@state.co.us).

Sincerely,



Amy Eschberger  
Environmental Protection Specialist

EC: Mel DePra, Midwestern Farms at: [mfdepra@gmail.com](mailto:mfdepra@gmail.com)  
Baxter Kirkland, Kirkland Construction, R.L.L.P. at: [baxter@kirklandconstruction.us](mailto:baxter@kirklandconstruction.us)  
Bev Stithem Kirkland Construction, R.L.L.P. at: [accounting@kirklandconstruction.us](mailto:accounting@kirklandconstruction.us)  
Jackie Corday, Colorado Parks and Wildlife at: [jackie.corday@state.co.us](mailto:jackie.corday@state.co.us)  
Michael Cunningham, DRMS at: [michaela.cunningham@state.co.us](mailto:michaela.cunningham@state.co.us)

