




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: 22 West Pit	MINE/PROSPECTING ID#: M-2017-032	MINERAL: Borrow material for construction, sand and gravel	COUNTY: Otero
INSPECTION TYPE: Monitoring	INSPECTOR(S): Amy Eschberger, DJ Cunningham	INSP. DATE: January 14, 2020	INSP. TIME: 11:30
OPERATOR: Deep Cut LLC	OPERATOR REPRESENTATIVE: Chris Tomky	TYPE OF OPERATION: 112c - Construction Regular Operation	

REASON FOR INSPECTION: Normal I&E Program	BOND CALCULATION TYPE: None	BOND AMOUNT: \$16,548.00
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
WEATHER: Clear	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: January 24, 2020

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: Revegetation

PROBLEM: Tamarisk (salt cedar) trees are present within or have volunteered into the permit area and are becoming established. This is a problem for failure to employ weed control methods for a state-listed noxious weed species within the permitted area, and to reduce the spread of weeds to nearby areas as required by Rule 3.1.10(6).

CORRECTIVE ACTIONS: By the corrective action date, the operator shall either implement the existing weed control plan and submit photographic evidence demonstrating this has been done, or develop a new weed control and management plan in accordance with Rule 3.1.10(6) and submit this plan as a Technical Revision to the approved plan with the appropriate fee of \$216.00. The proposed weed control and management plan should be developed in consultation with the county extension agency or weed control district office, and should include specific control measures to be applied, a schedule for when control measures will be applied, and a post-treatment monitoring plan.

CORRECTIVE ACTION DUE DATE: March 24, 2020

OBSERVATIONS

This was a normal monitoring inspection of the 22 West Pit (Permit No. M-2017-032) conducted by Amy Eschberger and DJ Cunningham of the Division of Reclamation, Mining and Safety (Division). The operator, Deep Cut, LLC was represented by Chris Tomky during the inspection. The site is located approximately 1.5 miles east of Rocky Ford, CO in Otero County, directly north of Hwy 50. **Photos 1-14** taken during the inspection are included with this report.

This is a 112c operation permitted for 38.35 acres to mine borrow material, sand, and gravel for fill material and specification aggregates (see enclosed Google Earth image of site showing approved permit area). The permit area includes land disturbed by pre-law mining activities, including the northeastern area where large topsoil and overburden stockpiles remain, and the northwestern area which is now mostly covered by mature trees. The rest of the permit area was disturbed under Permit No. M-1977-560 (Rocky Ford East Pit), which operated a concrete batch plant in the western half of the site and mined the eastern half of the site. Once the 22 West Pit permit was issued, the Division approved the release of this land from the Rocky Ford East Pit permit, leaving only the parcel to the east of Co Rd 22 in that permit. While the old batch plant has been removed from the site, various features associated with the batch plant operations remain, including a graveled parking area, concrete slabs, material stockpiles, various pieces of scrap, concrete rubble, five drums from concrete trucks (partially filled with concrete), and a concrete washout area along the northwestern edge of the smaller pond.

The permit area includes portions of two existing ponds created by previous mining operations, totaling approximately 12.6 acres in surface area (1 acre of the smaller pond and 11.6 acres of the larger pond). The southern permit boundary cuts across the two ponds, separating pre-1981 exposed groundwater to the south (which does not require permanent augmentation) from post-1980 exposed groundwater to the north (which does require permanent augmentation). A water court approved plan for augmentation is not currently in place for the post-1980 exposed groundwater inside the permit area. However, the operator has dedicated water rights to the Division of Water Resources (DWR) for long-term replacement of evaporative depletions resulting from the exposure of 15 acres of groundwater, which covers 2.4 acres more than existing exposure. Therefore, the Division did not require the financial warranty for the site to include costs for backfilling the post-1980 exposed groundwater. Prior to expanding the ponds to more than 15 acres, the operator would need to either provide the Division with evidence that DWR has accepted additional dedicated water shares to cover the expansion or provide additional financial warranty to backfill the expanded pond.

The operator maintains a Substitute Water Supply Plan (SWSP) for the site, the most current of which (dated October 9, 2019) covers the period of August 1, 2019 through July 31, 2021. The current SWSP states that a well permit application was submitted to DWR with the SWSP request; however, this application was returned to the operator on November 21, 2018 to address the 600-foot spacing requirement. The SWSP states if the requested 600-foot spacing determination documentation is not returned and a well permit obtained by November 15, 2019, the SWSP may be cancelled. The Division inquired about this matter during the inspection, and Mr. Tomky stated he would follow up with the Division after checking with his water consultant. The operator should be aware that Rule 3.1.6(1)(a) requires operators to maintain compliance with applicable Colorado water laws and regulations governing injury to existing water rights. Therefore, if the site is out of compliance with DWR with regard to the exposed groundwater, this means the site is out of compliance with the mine permit. Accordingly, the operator must provide evidence to the Division demonstrating the required well permit has been obtained.

The operator provided two mining plan options in the permit application. Option 1 would include disturbing the pre-law areas and expanding the pond to the northward and westward boundary extents, with a total pond size of 29.03 acres (inside the permit area). Option 2 would include disturbing the northwestern pre-law area but not

the northeastern pre-law area, and expanding the pond to the westward extent and only partially to the northward extent, with a total pond size of 22.12 acres (inside the permit area). The operation will first mine out the sliver of land connecting the two ponds (approximately one acre in size), then determine whether the pond will be expanded further. The operation will stockpile mined material in the old plant site area located in the western portion of the permit area, and any salvaged topsoil and overburden will be stored along the edges of the permit area for use in reclamation. No material processing will occur on site. All mined material will be sold as pit run construction fill. The operation will maintain a minimum 25 foot setback between the pit slope and the permit boundary as the pond is expanded. The maximum allowed disturbance at any time is 28.24 acres.

The approved post-mining land use for the site is a combination of industrial/commercial (for the western portion where the old batch plant operated) and recreational (for the pond area). The existing concrete washout area will remain for use as a boat ramp and swimming area. Newly created and/or disturbed pond shorelines will be graded to 3H:1V or flatter 5 feet above the water table and 10 feet below the water table, except in the swimming area, where shorelines will be graded to 5H:1V approximately 100 feet out from the boat ramp. Land disturbed by this operation, including newly created pond shorelines will be retopsoiled at a depth of approximately 6 inches and revegetated with a grass seed mixture. If the operator implements the Option 1 mining plan, where the northeastern pre-law area is disturbed, there will be a surplus of topsoil to complete reclamation of pond shorelines. If the Option 2 mining plan is implemented, topsoil for reclamation will come from newly stripped areas. The industrial/commercial area will be graded for use as a parking area, and will not be retopsoiled or revegetated. The existing scrap and concrete rubble left by previous operations will be hauled off site for reclamation. Any other items/features left by previous operations (concrete slabs, concrete drums) will remain on site at the discretion of the landowner/operator. The existing access road will remain and a new gravel road will be constructed around the perimeter of the remaining pond.

The site was not active during the inspection. The operator has not yet initiated mining at the site. At this time, the operator is only hauling material off site from existing stockpiles in the western portion of the permit area. Depending on the material demand next year, the operator may begin mining the sliver of land connecting the two ponds. The Division observed a portable screening plant has been brought to the site since the last inspection, currently stored near the ponds. While this equipment has not been used on site at this time, the Division would like to remind the operator the approved permit does not authorize on-site material processing. To incorporate this activity into the permit, the operator would need to submit a Technical Revision to revise the mining plan accordingly.

During its pre-operation inspection of the site (on October 25, 2017), the Division observed several weeds in the permit area including the state-listed noxious weed species Tamarisk (salt cedar). The Division instructed the operator to address this weed problem once the permit was issued. During the current inspection, the Division observed no evidence the operator is implementing the approved weed control and management plan at the site. Numerous Tamarisk trees were observed on site, primarily along the northern edge of the permit area and between the two ponds. **Therefore, the Division is citing a problem in this report (see page 1) for failure to employ weed control methods for a state-listed noxious weed species within the permitted area, and to reduce the spread of weeds to nearby areas as required by Rule 3.1.10(6). The operator will need to either implement the approved weed control and management plan and submit photographic evidence this has been done, or develop a new plan in consultation with the county extension agency or weed control district office, and submit this plan in a Technical Revision.**

The currently held financial warranty of \$16,548.00 includes costs for grading the 12.33 acre plant site area flat for use as a parking area, grading 675 feet of pond shoreline to 3H:1V, grading 100 feet of pond shoreline to 5H:1V, retopsoiling 0.5 acres (of newly created pond shoreline) at an approximate depth of 6 inches, revegetating 0.5 acres (of newly created pond shoreline) with a grass seed mixture, and removing 100 cubic

yards of scrap and 300 cubic yards of concrete rubble from the site. Given the limited activities that have occurred since the permit was approved in August of 2018, the currently held financial warranty is considered adequate to complete reclamation of the site.

This concludes the report.

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 southwest, showing old material stockpiles left in western portion of permit area which operator is currently hauling off from.



Photo 2. View looking west, showing small material stockpile left in western portion of permit area.



Photo 3. View looking north across western half of permit area which will be used as a stockpiling area by this operation.



Photo 4. View looking south, showing portable screening plant brought to site, currently stored near ponds.



Photo 5. View looking southeast across larger pond. The southern permit boundary cuts across the center of this pond.



Photo 6. View looking southeast across smaller pond, the northwestern edge of which was used as a concrete washout area by the previous batch plant operation (note concrete in foreground). Also note Tamarisk trees present in this area.



Photo 7. View looking west, showing concrete rubble and some asphalt paving fragments stored just west of smaller pond.



Photo 8. View looking north, showing Tamarisk trees present along northern edge of permit area.



Photo 9. View looking northwest, showing Tamarisk trees present along northern edge of permit area.



Photo 10. View looking northeast, showing Tamarisk trees present along northern edge of permit area.



Photo 11. View looking north, showing Tamarisk trees present near center of permit area, adjacent to main access road.



Photo 12. View looking south across sliver of land separating the two ponds. Note the numerous Tamarisk trees present in this area.



Photo 13. View looking north, showing 3 of 5 old cement mixer drums left on site (near ponds) from previous batch plant operation.



Photo 14. Closer view of one of old cement mixer drums left on site by previous batch plant operation. Note concrete left inside drum.

GENERAL INSPECTION TOPICS

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

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

Inspection Contact Address

Chris Tomky
Deep Cut LLC
20330 County Road CC
Rocky Ford, CO 81067

Encl: Google Earth image of site showing approved permit area

CC: Steve O'Brian, Environment, Inc.
DJ Cunningham, DRMS
Michael Cunningham, DRMS

M-2017-032 / 22 West Pit / Deep Cut LLC (112c Operation)

Red Outline = 38.35 acres = Approved Permit Area

Blue Outline = 12.6 acres = Total Pond Surface Within Permit Area (1 acre small pond + 11.6 acres large pond)

(Image data from 3/19/2016)

