




**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.

|  |  |  |                             |
|--|--|--|-----------------------------|
| <b>MINE NAME:</b><br>93 Mine / Golden Cloud Mine           | <b>MINE/PROSPECTING ID#:</b><br>File No. M-2020-009  | <b>MINERAL:</b><br>Unknown                 | <b>COUNTY:</b><br>Gilpin    |
| <b>INSPECTION TYPE:</b><br>Illegal (Unpermitted Operation) | <b>INSPECTOR(S):</b><br>Amy Eschberger, Peter Hays   | <b>INSP. DATE:</b><br>February 14, 2020    | <b>INSP. TIME:</b><br>12:00 |
| <b>OPERATOR:</b><br>Black Diamond Excavating, LLC          | <b>OPERATOR REPRESENTATIVE:</b><br>Steven Grapes   | <b>TYPE OF OPERATION:</b><br>ILL - Illegal |                             |
| <b>REASON FOR INSPECTION:</b><br>Citizen Complaint         | <b>BOND CALCULATION TYPE:</b><br>NA  | <b>BOND AMOUNT:</b><br>NA                  |                             |
| <b>DATE OF COMPLAINT:</b><br>January 31, 2020              | <b>POST INSP. CONTACTS:</b><br>NA  | <b>JOINT INSP. AGENCY:</b><br>None         |                             |
| <b>WEATHER:</b><br>Clear                                   | <b>INSPECTOR'S SIGNATURE:</b><br> | <b>SIGNATURE DATE:</b><br>March 3, 2020    |                             |

**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 and Peter Hays of the Division of Reclamation, Mining and Safety (Division) in response to an anonymous illegal mining complaint received by our office on January 31, 2020 (see enclosed complaint). The site is located approximately three miles southwest of Central City, CO near the southern edge of Gilpin County. The site can be accessed via a private road off Virginia Canyon Road. Steven Grapes of Black Diamond Excavating, LLC was present for the inspection. **Photos 1-8** taken during the inspection are included with this report.

The complaint alleges that Black Diamond Excavating LLC excavated tailings material from the 93 Mine claim (M.S. #11211) and possibly also from the adjacent Golden Cloud Mine claim (M.S. #642) and transported this material (approximately one mile north) to a building site located northwest of the Alps Hill Road/Roy Smith Road intersection to use as landscaping fill. The complaint expresses concerns about the redeposited (tailings) material contaminating soil and water in the upper Russell Creek watershed.

An historic waste rock pile exists at the site (see enclosed Google Earth image of site), the majority of which lies on the Golden Cloud Mine claim, and the northern sliver of which lies on the 93 Mine claim. According to the Gilpin County parcel map available online, the 93 Mine claim is owned by Venture Mill Company LLC (see enclosed parcel map showing owner of 93 Mine claim), and the Golden Cloud Mine claim is owned by Paul and Valentina G. Danio (see enclosed parcel map showing owner of Golden Cloud Mine claim). The Division contacted the owner of Venture Mill Company LLC, Patrick Maher, and found out the 93 Mine claim was sold to Steven Grapes in January of this year. The Division notified the new owner of the 93 Mine claim, Mr. Grapes, of the complaint received and the inspection date. The Division also notified the owner of the Golden Cloud Mine claim, Paul Danio, of the complaint and inspection date. Mr. Danio was unable to attend the inspection, but informed the Division he had not transported any material off site from his claim.

At the time of the inspection, there was more than a foot of snow covering the ground. The private access road to the 93 Mine claim (off Virginia Canyon Road) and a portion of the claim had been ploughed. The Golden Cloud Mine claim had not been ploughed, and the Division was not able to access this area. The 93 Mine claim is currently being used for truck and equipment storage for Mr. Grapes' excavation company, Black Diamond Excavation, LLC. Dirt berms have been placed around the edges of the disturbance area to control sedimentation. Mr. Grapes showed the Division the excavation area on his property. This area was cleared of trees and graded nearly flat. The ground surface appeared to consist of native earth. No tailings or waste rock material was observed in this area. Mr. Grapes informed the Division he had been leveling out the ground surface north of the historic waste rock pile to create more storage/parking space on his property. He stated that no tailings or waste rock material had been transported off site. However, some of the excavated dirt had been hauled off site for use as fill material at the home construction site described in the complaint. Mr. Grapes stated he holds a county permit which allows him to transport up to 3,500 cubic yards of dirt from/to his property. Mr. Grapes indicated he has completed leveling his property, and he intends to place the salvaged topsoil over the portion of the tailings pile located on his property. There are plans to construct a garage on the property, after which, a physical address could be assigned to the parcel.

The Division observed wooden stakes placed along the top of the tailings pile, separating the 93 Mine claim (to the north) from the Golden Cloud Mine claim (to the south). As previously mentioned, the Division was unable to access the Golden Cloud Mine claim due to the snow cover. However, the Division did look across the area from the southern boundary of the 93 Mine claim. No activities were observed on the Golden Cloud Mine claim during the inspection. It should be noted, the most recent aerial imagery available for the site in Google Earth, from September 13, 2019, shows some equipment present on the Golden Cloud Mine claim at that time, including what appears to be an excavator, a few trucks, a connex, and four tanks/barrels. During the inspection,

the Division only observed one of the trucks (an SUV) stored on the Golden Cloud Mine claim, in the same location as depicted on the aerial image.

This report serves as notice to the owners of the 93 Mine claim and the Golden Cloud Mine claim that a Notice of Intent to Conduct Prospecting Operations or a Reclamation Permit must be issued by the Division prior to any exploration or mining activities occurring at the site, in accordance with the Colorado Mined Land Reclamation Act, Section 34-32-101, et seq., C.R.S., and the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations (for hard rock mines), or the Colorado Land Reclamation Act for the Extraction of Construction Materials, Section 34-32.5-101, et seq., C.R.S., and the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (for construction material mines).

Any prospecting or mining activities conducted without the Division's approval will be considered illegal mining, resulting in the issuance of a Reason to Believe a Violation Exists notice by the Division and an enforcement hearing before the Mined Land Reclamation Board. Any operator who operates without a permit shall be subject to a civil penalty of not less than \$1,000 per day nor more than \$5,000 per day for each day the land has been affected, pursuant to C.R.S. 34-32-123(2) (for hard rock mines) or C.R.S. 34-32.5-123(2) (for construction material mines).

After conducting this inspection, the Division has determined the activities described in this report do not require a reclamation permit from our office. However, if the operator plans to continue excavating on his property and transporting the material off site and/or selling the material, a reclamation permit may be required.

To receive a formal determination from the Division on whether any proposed activities require a reclamation permit, the operator can complete and submit to our office an "Is it Mining" questionnaire (form enclosed). This questionnaire as well as the various types of permit applications available from our office can be viewed and downloaded from our website at: <https://www.colorado.gov/drms>.

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](mailto:amy.eschberger@state.co.us).*



**PHOTOGRAPHS**



**Photo 1.** View looking southwest across 93 Mine claim from access road off Virginia Canyon Road. Note this property is currently being used for truck/equipment storage for landowner's excavation company.



**Photo 2.** View looking north across 93 Mine claim, showing this property currently being used for truck/equipment storage for landowner's excavation company.





**Photo 3.** View looking northeast across 93 Mine claim, showing this property currently being used for truck/equipment storage for landowner's excavation company.



**Photo 4.** View looking southwest across 93 Mine claim, showing this property currently being used for truck/equipment storage for landowner's excavav.





**Photo 5.** View looking west across 93 Mine claim, showing this property currently being used for truck/equipment storage for landowner's excavation company.



**Photo 6.** View looking north across 93 Mine claim which was leveled for use as storage for landowner's excavation company.





**Photo 7.** View looking east across top of historic waste rock pile, which appeared to be undisturbed by the operation. Note wooden stake (circled in background) marking boundary between 93 Mine claim (at left) and Golden Cloud Mine claim (at right).



**Photo 8.** View looking south at Golden Cloud Mine claim, showing SUV parked on top of historic waste rock pile.

**Inspection Contact Address**

Steven Grapes, Black Diamond Excavating LLC via email at: [blackdiamondexcavation@gmail.com](mailto:blackdiamondexcavation@gmail.com)

Encls: Anonymous complaint, received on January 31, 2020

Google Earth image of site

Gilpin County parcel map of site showing owner of 93 Mine claim

Gilpin County parcel map of site showing owner of Golden Cloud Mine claim

Is it Mining form

CC: Paul Danio via email at: [paulydanio@gmail.com](mailto:paulydanio@gmail.com)

Complainant (contact information confidential)

Peter Hays, DRMS

Michael Cunningham, DRMS



## DRMS Complaint Intake Tool



**COLORADO**  
Division of Reclamation,  
Mining and Safety  
Department of Natural Resources

By Submitting this form you are requesting an investigation of compliance with DRMS rules.

### DRMS Internal Information

**Select Permit Type \***

Minerals

**Permit No List \***

M2020009

**Date of Complaint**

01/31/2020

### COMPLAINANT INFORMATION

**\* Indicates a Required Field**

**Do you wish to remain anonymous? \***

☒ Yes ☐ No

**Connection to Incident \***

Select all that apply

- ☒ Land Owner  
☒ Nearby Resident  
☐ Other

- ☐ Mineral Owner  
☐ Observed Incident

### DESCRIPTION OF COMPLAINT

(Please be as specific as possible)

Note: Please provide as much detail related to location and issue as possible. Without enough detail, DRMS will not be able to process or investigate the complaint and, therefore, DRMS will have no choice but to discard the complaint.

**Location of Concern \***

Please provide as much detail as possible. It is important to narrow down the location. If available, please include Township, Range and Section, physical address, or GPS location. You may also upload a pdf map below.

Concerns the "93 Mine M.S. #11211. It appears all vegetation and native soil along with any tailing material from the area with-in all South, West & North boundaries of said claim's area on the west side of Virginia Canyon Road. It's likely some tailing material or slope wash from the, adjoining, "Golden Cloud Mine M.S. #642 was also removed at the same time. The material was transported by the new owner to a building site located Northwest of Alps Hill Road & Roy Smith Road and used as landscaping fill. Any slope-wash from this re-deposited material will eventually end-up in Russell Creek.

**Incident County \***

Gilpin County

**Is this an ongoing issue(s)?**

☒ Yes ☐ No

**Nature of Complaint \***

Select all that apply

- |  |  |
|--|--|
| <input type="checkbox"/> Illegal Mining  | <input type="checkbox"/> Dust                                  |
| <input type="checkbox"/> Ground Water / Water Well Impact                        | <input type="checkbox"/> Acid or Toxic Materials/Spills        |
| <input checked="" type="checkbox"/> Surface Water Impact / Stormwater Management | <input type="checkbox"/> Property Damage                       |
| <input type="checkbox"/> Mine Plan Compliance                                    | <input checked="" type="checkbox"/> Waste Management / Dumping |
| <input type="checkbox"/> Signs and Markers                                       | <input type="checkbox"/> Overburden / Development Waste        |
| <input type="checkbox"/> Financial Warranty                                      | <input checked="" type="checkbox"/> Backfilling and Grading    |
| <input checked="" type="checkbox"/> Processing Waste / Tailings                  | <input type="checkbox"/> Processing Facilities                 |
| <input type="checkbox"/> Fish / Wildlife   | <input type="checkbox"/> Erosion / Sedimentation               |
| <input type="checkbox"/> Off-Site Damage   | <input type="checkbox"/> Roads                                 |
| <input type="checkbox"/> Explosives / Blasting                                   | <input type="checkbox"/> Topsoil                               |
| <input type="checkbox"/> Revegetation  | <input type="checkbox"/> Weeds                                 |
| <input checked="" type="checkbox"/> Reclamation Plan Compliance                  | <input type="checkbox"/> Other <input type="text"/>            |

**Detailed description of the issue(s) \*** (?)

Please provide as much detail as possible. It is important to narrow down the issue(s).

Concerned with soil and water contamination. Concern for contamination to upper Russell Creek watershed.

**Have you contacted the operator or party conducting the operation? If yes, please provide details. \***

☐ Yes ☒ No

**If known, please provide the name of the operator or party conducting the operation.**

Black Diamond Excavating

**If known, please provide the Permit or NOI Number (ie M-1970-111 or P-1970-111).**

Must be entered in the following format: M1970111 or P1970111 (No dashes allowed)

**Have you contacted any other agencies or local governments related to this issue or issues? If so, please provide details. \***

☒ Yes ☐ No

**Details**

Gilpin County Planning & Commissioners> Also Sarah Russell Colorado Dept of Mine Safety.

**ADDITIONAL INFORMATION**



**Are there supporting photos, maps, or documents you wish to upload? \***

☐ Yes ☒ No

**What is your preferred method for DRMS to communicate with you throughout the investigation? \***

Select all that apply

- ☐ Phone ☒ E-mail ☐ US Mail



# File No. M-2020-009 | 93 Mine/Golden Cloud Mine | Illegal Mining Complaint

(Image data from September 13, 2019)



Google Earth

© 2020 Google



200 ft





Enter Address or Account



Parcels: VENTURE MILL COMPANY LLC

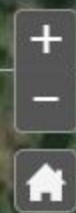
Parcel Information

Parcel ID: N001197  
Accounts : N001197  
Owner: VENTURE MILL COMPANY LLC  
Site Address:  
Subdivision:  
Mailing Address:  
PO BOX 3338  
IDAHO SPRINGS, CO 80452

MS Number: 11211  
MS Name: 93

Legal: S: 22 T: 3S R: 73W S: 23 T: 3S R: 73W  
MINE: 93 - 11211 100% 4.71 ACRES (NINETY  
THREE) RUSSELL (SRO)  
Tax Area: 10  
Property Class: NON-PROD. PAT. LAND  
Recorded Acreage: 4.71  
[Zoom to](#)





Enter Address or Account



Parcel Information

Parcels: DANIO PAUL & VALENTINA G

Parcel ID: N000543  
Accounts : N000543  
Owner: DANIO PAUL & VALENTINA G  
Site Address:  
Subdivision:  
Mailing Address:  
PO BOX 1074  
CENTRAL CITY, CO 80427

MS Number: 642  
MS Name: Golden Cloud

Legal: S: 22 T: 3S R: 73W MINE: GOLDEN CLOUD - 642 100% 4.69 ACRES RUSSELL  
TAX SALE CERT: 201700100 TAX Year: 2017  
Tax Area: 10  
Property Class: NON-PROD. PAT. LAND  
Recorded Address: 1 60  
[Zoom to](#)





**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 you 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 it 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](http://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.