



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

March 9, 2020

Julio Villon  
Holcim (US) Inc.  
3500 Highway 120  
Florence, CO 81226

Re: Findings of Fact, Conclusions of Law, and Order, Holcim (US) Inc.  
File No. M-1977-247, MV-2020-002

On February 28, 2020, the Mined Land Reclamation Board signed the enclosed Board Order for the above captioned operation. Because this document is the final order of the Board, it is legally binding on and affects the above-captioned operation, and we strongly advise that you read this document carefully.

Sincerely,

  
Camille Mojar  
Board Administrator

Enclosure(s)

Certified Mail

7018 2290 0001 8923 1137

cc:  
Tim Cazier  
Michael Cunningham  
Jeff Fugate  
Scott Schultz  
Charles Kooyman



**BEFORE THE MINED LAND RECLAMATION BOARD  
STATE OF COLORADO**

Notice of Violation No. MV-2020-002

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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

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**IN THE MATTER OF A POSSIBLE VIOLATION BY HOLCIM (US) INC., CEASE AND DESIST ORDER, CORRECTIVE ACTIONS, AND CIVIL PENALTIES FOR FAILING TO PROTECT AREAS OUTSIDE OF THE AFFECTED LAND FROM SLIDES OR DAMAGE, File No. M-1977-247**

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THIS MATTER came before the Mined Land Reclamation Board ("Board") on January 22, 2020 in Denver, Colorado as a consent agenda item to consider a possible violation by Holcim (US) Inc. ("Operator"), cease and desist order, corrective action, and civil penalties for failing to protect areas outside of the affected land from slides or damage, file number M-1977-247.

The Board, being fully informed of the facts in the matter, enters the following:

**FINDINGS OF FACT**

1. The Operator holds a 112c reclamation permit for a 100-acre anhydrite and gypsum site located in Section 5, Township 47 North, Range 11 East, 10th Principal Meridian in Fremont County, Colorado, permit number M-1977-247. The site is known as the Coaldale Quarry.
2. On June 18, 2019, the Division conducted a routine monitoring inspection of the site. At the beginning of the inspection, Operator self-reported a possible violation due to land outside the approved boundary being disturbed as part of mining-related activities.
3. On June 24, 2019, Operator sent the Division an electronic permit boundary file to assist the Division's determination as to whether the area disturbed outside the permit boundary was greater than two acres.
4. The Division sent the report from the June 18, 2019 inspection to Operator on October 18, 2019 and indicated that a follow-up inspection was necessary.
5. The Division conducted the second inspection on November 7, 2019 and confirmed that the area disturbed outside the permit boundary was 1.98 acres. The Division sent Operator the inspection report on November 18, 2019 and cited a

possible violation due to land outside the approved affected area boundary being disturbed during mining activities.

6. On December 4, 2019, the Division mailed the Operator a Reason to Believe a Violation Exists letter, informing the Operator of the possible violation and providing details regarding a hearing on this matter scheduled for January 22, 2020.

7. Operator sent the Division a letter date January 7, 2020 acknowledging that it had disturbed land outside the approved boundary and discussing its intended methods for remedying the situation.

8. On January 10, 2020, the Operator signed the consent agreement admitting the violation and agreed to the Division's recommendations to the Board.

### **CONCLUSIONS OF LAW**

9. The Board has jurisdiction over this matter pursuant to the Colorado Land Reclamation Act for the Extraction of Construction Materials, Article 32.5 of Title 34, C.R.S. (2019) ("Act").

10. Section 34-32.5-116(4)(i), C.R.S. requires operators to protect areas outside of the affected land from slides or damage occurring during the mining operation and reclamation. By conducting mining operations outside the permitted boundary, the Operator affected land outside the approved affected area during the mining operation, in violation of section 34-32.5-116(4)(i), C.R.S.

11. Pursuant to section 34-32.5-124(2), C.R.S. the Board may issue a cease and desist order if it determines that a provision of the Act has been violated. The Operator failed to protect areas outside of the affected land from slides or damage occurring during the mining operation and reclamation, in violation of section 34-32.5-116(4)(i), C.R.S.

12. Pursuant to section 34-32.5-124(7), C.R.S. the Board may impose a civil penalty of not less than \$100 per day nor more than \$1,000 per day for each day during which a permit violation occurs. The Board may impose a civil penalty against the Operator based on 76 days of violation (from the date of the November 7, 2019 inspection to the January 22, 2020 Board meeting) at \$100 to \$1,000 per day for a civil penalty of \$7,600 to \$76,000.

### **ORDER**

Based on the foregoing findings of fact and conclusions of law, the Board finds the Operator in violation of section 34-32.5-116(4)(i), C.R.S. for failing to protect

areas outside the affected land from slides or damage occurring during the mining operation or reclamation.

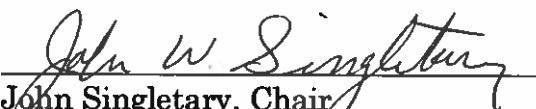
The Operator shall CEASE AND DESIST all further mining activities on lands outside the approved permit boundary, except those activities approved by the Division, in writing, as necessary to comply with the conditions of a Board order, prevent damage to off-site areas, or to protect public health and safety, until corrective actions have been resolved to the satisfaction of the Division and the Board.

The Board imposes the following CORRECTIVE ACTION against the Operator: the Operator shall submit to the Division a 112c permit amendment application to include the affected lands outside of the approved permit boundary. The Operator shall submit the new permit application within 90 days of the mailing date of the Board Order, with all material in an approvable form within 180 days of the mailing date of the Board Order.

The Board imposes a CIVIL PENALTY for of \$100.00 per day of violation for a civil penalty amount of \$7,600.00 with all but \$1000 of the penalty suspended if the Operator complies with the corrective action. If the Operator does not comply with the corrective actions set forth in the Order, then the suspended penalties, \$6,600.00, shall be due and payable. Failure to submit any due and unpaid civil penalties shall result in immediate submittal of such penalties to State collections.

DONE AND ORDERED this 28<sup>th</sup> day of February 2020.

FOR THE COLORADO MINED LAND  
RECLAMATION BOARD

  
John Singletary, Chair

## **NOTICE OF JUDICIAL REVIEW RIGHTS**

This order becomes effective and final upon mailing. Any party adversely affected or aggrieved by agency action may commence an action for judicial review by filing a complaint with the district court within thirty-five (35) days after the effective date of this order, pursuant to section 24-4-106, C.R.S. (2019) and the Colorado Rules of Civil Procedure. In the event that a complaint for judicial review is filed, designations of record made in accordance with section 24-4-106(6), C.R.S. should be served on the Board at: 1313 Sherman Street, Room 215, Denver, CO 80203, Attention: Camie Mojar.

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, this 9<sup>th</sup> day of March 2020 addressed as follows:

*By certified mail to:*  
7018 2290 0001 8923 1137

Julio Villon  
Holcim (US) Inc.  
3500 Highway 120  
Florence, CO 81226

*By electronic mail to:*

Tim Cazier  
Division of Reclamation, Mining & Safety  
1313 Sherman Street, Room 215  
Denver, CO 80203

Michael Cunningham  
Division of Reclamation, Mining & Safety  
1313 Sherman Street, Room 215  
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Assistant Attorney General  
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1300 Broadway, 10th floor  
Denver, CO 80203

  
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Camille Mojan, Board Administrator

Holcim (US) Inc.  
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MV-2020-002