



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

April 15, 2021

Daniel Robinson
Robinson Sons, Inc.
1228 East 7th Street
Trinidad, CO 81082

Re: Findings of Fact, Conclusions of Law, and Order, Robinson Sons, Inc.
File No. M-2008-076, MV-2019-005

On April 14, 2021 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 Mojat
Board Administrator

Enclosure(s)

Certified Mail
7018 2290 0001 8923 1755

cc:
Daniel Cunningham
Jared Ebert
Jeff Fugate
Scott Schultz
Charles Kooyman



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

Violation No. MV-2019-005

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

**IN THE MATTER OF THE FORFEITURE OF THE FINANCIAL WARRANTY
OF ROBINSON SONS, INC. FOR FAILURE TO POST ADDITIONAL
FINANCIAL WARRANTY WITHIN SIXTY DAYS OF THE DATE OF NOTICE
OF ADJUSTMENT, File No. M-2008-076**

THIS MATTER came before the Mined Land Reclamation Board ("Board") on March 24, 2021 via video conference to consider the forfeiture of the financial warranty of Robinson Sons, Inc. ("Operator") for failure to post additional financial warranty or comply with modified corrective actions in the Board's Order dated May 30, 2019 and as further modified by the Board's Order dated June 23, 2020. Daniel Cunningham and Jared Ebert appeared on behalf of the Division of Reclamation, Mining and Safety ("Division"). Daniel Robinson appeared on behalf of Operator.

The Board, having considered the parties' presentations and having been otherwise fully informed of the facts in the matter, enters the following:

FINDINGS OF FACT

1. Operator holds a 112c reclamation permit for a 180.6-acre sand, gravel, and borrow material mining operation located in Section 26, Township 33 South, Range 67 West, 6th Principal Meridian, Las Animas County. The site is known as the Robinson Sons Gravel Pit No. 1.

2. Through an order dated and effective May 30, 2019 (the "May 30, 2019 Order"), the Board found Operator in violation of 34-32.5-117(4)(c)(II) and Rule 4.2.1(2) for failure to post additional financial warranty within 60 days of the date of notice of adjustment. The Board also ordered the following corrective actions:

- a. (1) By July 24, 2019, advance the reclamation of affected lands as necessary to ensure the sufficiency of the existing \$52,815.00 financial warranty; OR
- b. (2) by July 24, 2019, submit to the Division the additional financial warranty in the amount of \$120,915.00.

3. Through a consent order effective November 21, 2019, the Board extended the deadline to complete the corrective actions to October 22, 2019.

4. Following a hearing at the Board's April 22, 2020 meeting, and pursuant to a request from Operator, the Board issued an Order extending the deadline for Operator to complete the corrective actions to December 27, 2020.

5. On October 1, 2020, the Division conducted an aerial inspection of the site and noted that though continued progress had been made on reclamation of the north western headwall, no progress had been made on the highwall along the southern border of the site since the Division's December 11, 2019 aerial inspection.

6. On December 18, 2020, the Division conducted another inspection, observing erosion gullies and noting that additional work was still needed to bring the site into compliance with the Board's previous orders. The inspection report noted that Operator had not been responsive to multiple Division calls, voicemails, and emails.

7. On January 13, 2021, the Division conducted another inspection of the site, noting that Operator had made no progress on complying with the corrective actions required by the Board's orders. The inspection report noted that the Division would pursue final forfeiture of the financial warranty and would notify Operator of the date of a Board hearing on the matter.

8. By a letter date February 4, 2021, the Division informed Operator that Board would consider whether to order final forfeiture of the financial warranty for Operator's failure to comply with required corrective actions at its March 24, 2021 meeting.

9. At the March 24, 2021 Board meeting, Operator requested an additional sixty days to comply with the corrective actions, explaining that drought conditions during spring of 2020 had caused the failure of reseeding efforts and that Operator had been unable to continue reclamation efforts in parts of the site due to disputes with a neighboring landowner, press of other work off-site, and winter conditions. Operator stated that he would work with the Division and comply with the Board's previous order.

10. The Division did not oppose the requested extension. The Division did, however, note that no reclamation had been done in the past year, and that Operator had not been responsive to communications from the Division. The Division suggested requiring an in-person inspection in thirty days.

CONCLUSIONS OF LAW

11. The Board has jurisdiction over this matter pursuant to the Colorado Mined Land Reclamation Act for the Extraction of Construction Materials, Article 32.5 of Title 34, C.R.S. (2020).

12. Under section 34-32.5-118(3)(a), C.R.S., at a hearing to consider whether a financial warranty should be forfeited, the Board has authority to modify any determination that the financial warranty is subject to forfeiture, settle or compromise the determination, or confirm its determination that a financial warranty should be forfeited.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board hereby grants the request for an extension of the deadline to complete the corrective actions identified in the May 30, 2019 Order, as modified by the Board's June 30, 2020 Order, to sixty days from the effective date of this Order.

Operator shall communicate with the Division regarding its efforts to comply with the Board's orders on a weekly basis, at times to be scheduled by the Division and Operator.

The Division shall conduct an in-person inspection of the site within thirty days of the effective date of this Order.

DONE AND ORDERED this 14th day of April 2021.

FOR THE COLORADO MINED LAND
RECLAMATION BOARD



Lauren Duncan, 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. (2020) 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 15th day of April 2021 as follows:

By certified mail:

7018 2290 0001 8923 1755

Daniel Robinson
Robinson Sons, Inc.
1228 East 7th Street
Trinidad, CO 81082

By electronic mail to:

Daniel Cunningham
Division of Reclamation, Mining & Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

Jared Ebert
Division of Reclamation, Mining & Safety
1313 Sherman Street, Room 215
Denver, CO 80203

Charles J. Kooyman
Assistant Attorney General
Office of the Attorney General
1300 Broadway, 8th Floor
Denver, CO 80203

Jeff Fugate
First Assistant Attorney General
Department of Law
Natural Resources Section
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 10th floor
Denver, CO 80203

Scott Schultz
Assistant Attorney General
Department of Law
Natural Resources Section
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 10th floor
Denver, CO 80203



Camille Mojar, Board Administrator