




**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> Wellington Cattle Borrow Pit	<b>MINE/PROSPECTING ID#:</b> M-2021-025	<b>MINERAL:</b> Commod_Table	<b>COUNTY:</b> Teller
<b>INSPECTION TYPE:</b> Illegal(Unpermitted Operation)	<b>INSPECTOR(S):</b> Elliott Russell	<b>INSP. DATE:</b> May 20, 2021	<b>INSP. TIME:</b> 15:30
<b>OPERATOR:</b> Bruce Newell	<b>OPERATOR REPRESENTATIVE:</b> Bruce Newell	<b>TYPE OF OPERATION:</b> ILL - Illegal	

<b>REASON FOR INSPECTION:</b> Citizen Complaint	<b>BOND CALCULATION TYPE:</b> None	<b>BOND AMOUNT:</b> No Bond Held
<b>DATE OF COMPLAINT:</b> NA	<b>POST INSP. CONTACTS:</b> Teller County Planning Department	<b>JOINT INSP. AGENCY:</b> None
<b>WEATHER:</b> Clear	<b>INSPECTOR'S SIGNATURE:</b> 	<b>SIGNATURE DATE:</b> June 15, 2021

**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.**

**GENERAL INSPECTION TOPICS**

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

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

Y = Inspected / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / **PV = Possible violation cited**

### **PROBLEMS/POSSIBLE VIOLATIONS**

**INSPECTION TOPIC:** Availability Of Records

**POSSIBLE VIOLATION:** Failure to first obtain a reclamation permit from the Mined Land Reclamation Board before engaging in a new mining operation as required by 34-32.5-109(1) C.R.S.

**CORRECTIVE ACTIONS:** This possible violation has been scheduled to be considered by the Mined Land Reclamation Board during the July 21-22, 2021 Board meeting. Official notice of the schedule and other details for the MLRB hearing will be provided under a separate document to be sent via certified mail to the Operator.

**CORRECTIVE ACTION DUE DATE:** July 21-22, 2021

### **OBSERVATIONS**

On April 20, 2021, the Colorado Division of Reclamation, Mining and Safety (Division) received an anonymous citizen's complaint regarding an excavation which was occurring 3.5 miles south of Divide, Colorado. The complaint alleged the landowner, Bruce Newell, and an excavation company, Earthworks Land Development, Inc., had removed material from 21478 S. Highway 67, Divide, CO 80814 and had been hauling it to various job sites including a casino and a utility projects in Cripple Creek. On April 27, 2021, the Division spoke with Bruce Newell and discussed the alleged activity and scheduled the inspection. On May 3, 2021, the Division also spoke with Jeff Regester with Earthworks Land Development, Inc. The Division has assigned File No. M-2021-025 for this site.

The Division met Bruce Newell and Jeff Regester at the excavation site along the east side of Highway 67, approximately one-half mile north of the turn off to Mueller State Park. The excavation is accessed by traveling south on an old railroad grade approximately 1,000 feet. Specifically, the site is located in the northwest quarter of the southwest quarter of Section 30, Township 13 South, Range 69 West of the 6<sup>th</sup> Principle Meridian and the entrance is at 38°53'33.37"N 105° 9'29.98"W.

Bruce Newell indicated he wanted to create a large flat area so semi-trucks delivering hay to his ranch could turn around. This area would also be used to store the hay for his cattle. Mr. Newell said there was an existing cut wall created by the historic railroad and the plan was to excavate material east of the railroad bed to make the large flat area which would day-light on the north and south where the two drainages flow to the west. After discussions with Mr. Newell, it appeared the flat area would need to extend about 300 feet east of the railroad grade, where an old fire line created a pinch point in the hill side between the two drainages. Mr. Newell said he traded the material to Mr. Regester in exchange for the equipment usage to make the large flat area. Mr. Regester stated that the project started in late 2019 but no activity occurred at the site in 2020, but had recently hauled material off the site which likely prompted the complaint. Material in 2019 went to a casino construction project in Cripple Creek.

The site consisted of a single excavated area into a hill side and a large topsoil stockpile located above and east of the excavation. The eastern slope of the excavated material was approximately 20-25 feet high and was set at the angle of repose. One small stockpile of material and another of imported dark topsoil was located on the southwest portion of the disturbance. One excavator and one front-end loader were on site at the time of the inspection. The Division acquired GPS data with a Trimble Juno 3B and used Google Earth to determine the disturbance was approximately 0.92 acres in size. The Division has attached *DRMS 5-20-2021 Inspection Map M2021025* to this report which depicts the size of the disturbance area. The Division estimates the aerial extent of the excavated material that has been hauled off site is approximately 170 feet by 70 feet. The remainder of the disturbance consisted of areas that have been stripped of topsoil. Mr. Regester stated he puts pride into his

work and knew topsoil needed to be salvaged to complete future reclamation and seeding on the final eastern slope of the pad area. On the attached map, the Division has also estimated the size of area that Mr. Newell believes is needed for the truck turnaround and hay storage area. This approximate 2.3 acre area was determined based on discussions with Mr. Newell and Mr. Regester during the inspection.

C.R.S. 34-32.5-103(13) defines a “mining operation” as the development or extraction of a construction material from its natural occurrences on affected land. The term includes, but is not limited to, open mining and surface operations. C.R.S. 34-32.5-103(3) defines a “construction material” as rock, clay, silt, sand, gravel, limestone, dimension stone, marble or shale extracted for use in the production of nonmetallic construction products. C.R.S. 34-32.5-103(1) defines “Affected Land” as the surface of an area within the state where a mining operation is being or will be conducted, which surface is disturbed as a result of an operation. Affected lands include, but shall not be limited to, private ways, roads (except those roads that were constructed for purposes unrelated to the operation that were in existence before a permit application was filed with the office, and will not be substantially upgraded to support the operation); land excavations, explorations sites, drill sites or working, refuse banks or spoil piles, evaporation or settling ponds, work, parking, storage, or waste discharge areas, and areas in which structures, facilities, equipment, machines, tools or other materials or property that result from or are used in such operations are situated. Given these definitions, the excavation created Bruce Newell’s property is considered to be a mining operation and the land that has been disturbed is considered Affected Land. Given this, a reclamation permit will need to be obtained. This issue is cited as a possible violation at the beginning of this report. Details regarding this enforcement action will be sent under a separate cover.

This concludes the Division’s Inspection Report; a subset of photographs taken during the inspection are included below. For any additional information or questions, please contact me at Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at **303-866-3567 x8132**, or by email at [elliott.russell@state.co.us](mailto:elliott.russell@state.co.us).



**PHOTOGRAPHS**



**Photo 1.** Overview of excavation area; looking south.



**Photo 2.** Overview of excavation area; looking north.





**Photo 3.** Excavation area; looking northeast.



**Photo 4.** Excavation area; looking south.





**Photo 5.** Topsoil stockpile located above and east of excavation; looking southeast.

**Inspection Contact Address**

Bruce Newell  
P.O. Box 37  
Divide, CO 80814

Attachment: DRMS 5-20-2021 Inspection Map M2021025



ec: Bruce Newell, [blnewell64@gmail.com](mailto:blnewell64@gmail.com)  
Jeff Regester with Earthworks Land Development, Inc., [mregester69@gmail.com](mailto:mregester69@gmail.com)  
Michael Crepeau with Teller County Planning Department, [CrepeauM@co.teller.co.us](mailto:CrepeauM@co.teller.co.us)  
Jason Musick with DRMS, [Jason.Musick@state.co.us](mailto:Jason.Musick@state.co.us)



# DRMS 5-20-2021 Inspection Map M2021025

Map prepared by ERR on 6-10-2021  
Aerial Image Dated 10-14-2017

## Legend

-  Disturbance Boundary M2021025
-  Possible Pad Area M2021025

