




**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> N/A	<b>MINE/PROSPECTING ID#:</b> M-2021-061	<b>MINERAL:</b> Borrow Material	<b>COUNTY:</b> Arapahoe County
<b>INSPECTION TYPE:</b> Illegal(Unpermitted Operation)	<b>INSPECTOR(S):</b> Patrick Lennberg	<b>INSP. DATE:</b> September 30, 2021	<b>INSP. TIME:</b> 09:30
<b>OPERATOR:</b> Hastings Brothers Excavating	<b>OPERATOR REPRESENTATIVE:</b> Troy Hastings	<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> September 29, 2021	<b>POST INSP. CONTACTS:</b> None	<b>JOINT INSP. AGENCY:</b> None	
<b>WEATHER:</b> Overcast	<b>INSPECTOR'S SIGNATURE:</b> 	<b>SIGNATURE DATE:</b> October 6, 2021	

**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>Y</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>N</u>
(HB) HYDROLOGIC BALANCE----- <u>N</u>	(BG) BACKFILL & GRADING----- <u>Y</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>Y</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 / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

## **OBSERVATIONS**

This inspection was prompted by a complaint received by the Division of Reclamation, Mining and Safety (Division/DRMS) indicating that unpermitted mining was occurring at the site and material was being transported to another site and used as fill material. The complaint located the site at 4525 South Lafayette Street, Cherry Hills with the material being transported a short distance to 4545 South Holly Street Cherry Hills in Arapahoe County. The complainant wished to remain anonymous and did not attend the inspection. Patrick Lennberg represented the Division during the inspection and was joined by Troy Hastings owner of Hastings Brothers Excavation the company responsible for moving material between the sites. The weather overcast and mild.

The complainant alleges on September 25, 2021 material was moved from the 4525 South Lafayette location to the 4545 South Holly Street location. Hauling of material occurred between 7:00 am and 5:00 pm during the Century Bike Ride when cyclists were biking through Cherry Hills Village.

I met Mr. Hastings at the 4525 South Lafayette Street location. The site is a new single-family house under construction. The site was permitted on April 16, 2021 for a new single-family dwelling construction. The permit was issued by the City of Cherry Hills Village. Mr. Hastings showed me a small stockpile of material that remained at the site. The material is excess material leftover from digging and backfilling the foundation of the home under construction at the location. He stated his company moved material to 4645 South Holly Street location where Hasting Brothers is also building a new single-family dwelling. The 4645 South Holly Street location has a permit issued on June 14, 2021, by the City of Cherry Hills Village, for a new single-family dwelling. No material was moved to the 4545 South Holly Street location, which is next door, where Hastings Brothers is also constructing a new single-family dwelling. Mr. Hastings indicated that 300 to 350 cubic yards of material was moved to the 4645 South Holly Street location and used to backfill in and around the new foundation. The material was moved using 4 full time on-highway dump trucks and a fifth truck was used but only part time, driven by Mr. Hastings. Mr. Hastings indicated that hauling of material did not begin until 8:00 am, the time allowed by City of Cherry Hills Village to begin work. No hauling was done prior to 8:00 am. The trucks used the route indicated by complainant, Lafayette Street to East Quincy to South Holly Street. During hauling the cyclist used to paved multi-use path 20 feet adjacent to East Quincy with many police vehicles along the route to insure safety. Mr. Hastings indicated he did not charge for the excess material, only charged for the equipment time used to move the material. Hastings Brothers continues to import fill and structural material from permitted sites.

The Hastings Brothers Excavation appears to have obtained the required local permits for the activities at both locations. Concerns regarding traffic are not under the jurisdiction of the Division. The amount of material moved constitutes a de minimis amount and the Division will not pursue a violation for mining without a permit. In the future, it is recommended if similar activities are going to take place the contractor complete an Is It Mining form, attached, and submit it to our office for an official determination of the proposed activities.

Photographs taken during the inspection are attached.

Please contact Patrick Lennberg (303)866-3567 ext. 8114 or email at [patrick.lennberg@state.co.us](mailto:patrick.lennberg@state.co.us) if you have any questions regarding this report.

**Inspection Contact Address**

Troy Hastings  
Hastings Brothers Excavation  
2390 S. Navajo Street  
Denver, CO 80223

Attachment: Need for a State Reclamation Permit: "Is It Mining"

cc: Jared Ebert, DRMS

ec: Troy Hastings, Hastings Brothers Excavation, [troy@hastingsbrothers.com](mailto:troy@hastingsbrothers.com)  
Mark Danyliw, Hastings Brothers Excavation, [mark@hastingsbrothers.com](mailto:mark@hastingsbrothers.com)

**PHOTOGRAPHS**



**Photo 1:** The remaining stockpile of material at the South Lafayette location



**Photo 2:** New single-family dwelling at the South Lafayette location





**Photo 3:** Backfilling newly formed foundations at 4645 South Holly St



**Photo 4:** Backfilling the same location where the Lafayette St material was used



**Photo 5:** Looking north from the 4645 S. Holly St to the 4545 S. Holly St location



**Photo 6:** An example of the paved multi-use path, this one is along South Holly Street and the one along Quincy Street is further away from the road.

## **Attachments**





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

Date: \_\_\_\_\_

RE:     Need for State Reclamation Permit: “Is It Mining?”

**Name:** \_\_\_\_\_

**Street**

**Address:** \_\_\_\_\_

**Telephone:**

(     ) \_\_\_\_\_

**Mobile:**

(     ) \_\_\_\_\_

**Email**

**Address:** \_\_\_\_\_

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**

\_\_\_\_\_

**Or NAD 27 X UTM**  
**GPS**

**Y UTM**

\_\_\_\_\_

**Direction and Miles to**  
**nearest town/city:**

**County:**

\_\_\_\_\_





2. Is the site of material extraction on public or privately owned property?

Public

Private

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.?

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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.

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5. Will the extracted material be hauled offsite or used on the same parcel of property where the material is extracted?

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6. How will the extracted material be used on site?

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7. If the material is hauled offsite, where will it be hauled to and what is the intended use?

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8. What is the approximate areal extent of the proposed extraction in acres?

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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?

Yes \_\_\_\_ No \_\_\_\_

12. Will site of extraction result in the exposure of tributary ground water?

Yes \_\_\_\_ No \_\_\_\_

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?

Yes \_\_\_\_ No \_\_\_\_

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
Funding	Yes ____	No ____
Design	____	____

Percentages

State \_\_\_\_\_ Federal \_\_\_\_\_ Local Agency \_\_\_\_\_

17. What post mining land uses will be made of the extraction and why? (This question helps us determine the intent of the activity.)

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18. What types and sizes of equipment will be used in the extraction?

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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 questions, please contact the Division at (303)866-3567. Please feel free to visit our web site at: <https://colorado.gov/drms> 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 excerpt for Hard Rock Metal Mines and Construction Materials  
Rule 1.2 excerpt for Hard Rock/Metal Mining

## **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) 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.