

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

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**IN THE MATTER OF WESTERN SLOPE FLAGSTONE QUARRY NO. 2, Permit No.  
M-1996-076**

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**STIPULATED SETTLEMENT AGREEMENT BETWEEN THE COLORADO  
DIVISION OF RECLAMATION, MINING, AND SAFETY; AND RUDOLPH  
FONTANARI, WESTERN SLOPE FLAGSTONE, and WESTERN SLOPE  
FLAGSTONE, LLC**

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THIS STIPULATED AGREEMENT ("Agreement") is made and entered into by and between the Colorado Division of Reclamation, Mining and Safety ("Division") and Rudolph Fontanari ("Operator"), Western Slope Flagstone, Western Slope Flagstone LLC ("Fontanari entities") (together jointly as "Parties").

The Parties have reached an agreement to settle two judicial review matters involving Court of Appeals case 2021CA941, regarding Denver District Court Case No. 2019CV34768, and Denver District Court Case No. 2020CV034098, and are executing a Stipulated Settlement Agreement ("Agreement") between them and the Colorado Mined Land Reclamation Board.

In addition to the terms of that Agreement, the Division and Operator agree to the following additional terms regarding the financial warranty required for Permit M-1996-076:

**Agreement**

1. The Division and Operator understand and agree that the financial warranty for the Permit is currently inadequate and will remain so even after Mr. Fontanari submits the additional \$75,000 in financial warranty and completes the actions required by the Agreement:

- a. Completes the required remediation of the highwall on the basalt pit (either backfilled or graded to stable contours) to the satisfaction of the Division; and
- b. Removes the irrigation pipeline and equipment from the permit area and the pipeline ditch to the satisfaction of the Division; and

- c. Re-grades and re-seeds the pipeline ditch and irrigation furrows within the Permit area to the satisfaction of the Division. The Parties acknowledge that additional, future seeding may be required if current weather conditions persist.

2. Upon Mr. Fontanari's successful and timely completion of ALL of the actions specified in the Agreement, the Division will conduct an adequacy review of the financial warranty for the Permit.

3. The Division will proceed with the process to increase the financial warranty in accordance with Rules 4.2.1 and 4.2.5 of the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (the "Rules").

4. Mr. Fontanari may only object to additional increases in financial warranty in good faith and in accordance with the Rules, including Rule 4.2.1.

5. Upon completion of the process for consideration of a financial warranty increase under Rules 4.2.1 and 4.2.5 and payment of any additional amount necessary to ensure that the financial warranty is adequate, the Division and Mr. Fontanari will jointly file with the Colorado Mined Land Reclamation Board a request for a consent order to fully reinstate Permit No. 1996-076.

7. Consideration: The Parties enter into this Agreement based on the valuable consideration and mutual promises described herein, the receipt and adequacy of which is specifically acknowledged by each Party.

8. Agreement Freely Executed; Opportunity to Seek Advice: Each Party acknowledges and represents (1) that it has fully and carefully read and considered this Agreement prior to signing it; (2) that it has had the opportunity to make whatever investigation or inquiry it deems necessary or appropriate in connection with the subject matter and consequences of this Agreement; (3) that it has had the opportunity to seek legal, financial, and other types of advice that may bear on its decision to enter into this Agreement, as seems appropriate to it; and (4) that it is signing this Agreement voluntarily and free from any undue influence, coercion, duress, or fraud of any kind.

9. Interpretation and Construction: This Agreement is based on the Parties' evaluation of the litigation risks unique to the litigation referenced above in Paragraph 4. Nothing in this Agreement shall be construed as a generally applicable policy statement by the Department or the Board.

10. **Execution; Authority to Execute:** This Agreement is effective upon execution by the Parties. Each signatory expressly represents and warrants that he or she has full authority to execute this Agreement on behalf of the Party designated.

11. **Counterparts; Electronic Signature:** This Agreement may be executed in one or more counterparts, each counterpart to be considered an original portion of this Agreement, and all of which together constitute a single instrument. An electronic signature shall be valid as if it were a physical signature.

12. **Successors and Assigns:** This Agreement and any amendments to it shall be binding on the Parties, their successors, their heirs, and their assigns.

13. **Severability:** If any provision of this Agreement is determined to be invalid or unenforceable (in whole or in part) for any reason, the remaining provisions of this Agreement shall remain in full force and effect to the fullest extent permitted by law.

14. **Choice of Law:** This Agreement and any claims arising under it shall be governed by, and construed and enforced in accordance with, the laws of the State of Colorado irrespective of any choice of law principles that may otherwise apply.

15. **Costs:** The Parties shall each bear their own costs, expenses, and attorney's fees incurred in connection with the litigation referenced in Paragraph 4 and with the negotiation and drafting of this Agreement. In the event of subsequent litigation regarding this Agreement, costs, expenses, and attorney's fees shall be awarded as provided by Colorado law.

Signed by the Parties' duly authorized agent this 19th day of October, 2021.

**COLORADO DIVISION OF RECLAMATION  
MINING AND SAFETY**



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Virginia Brannon  
Minerals Program Director,  
Division of Reclamation, Mining and Safety

RUDOLPH FONTANARI

By Rudolph Fontanari, Jr.

Rudolph Fontanari Jr. (owner)  
Print Signatory Name and Title

Western Slope Flagstone, a sole proprietorship

By Rudolph Fontanari, Jr.

Rudolph Fontanari Jr. (owner)  
Print Signatory Name and Title

Western Slope Flagstone LLC

By Rudolph Fontanari, Jr.

Rudolph Fontanari Jr. (owner)  
Print Signatory Name and Title.