



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

February 1, 2022

Mr. Joe Forster
Jack D. Tabb, LLC
1615 Saratoga St.
Antigo, WI 54409

RE: Gunnell Mine; DRMS File No. M-2021-068; Consent Agenda Summary Form

Dear Mr. Forster,

Enclosed you will find the Staff Summary Form for the Consent Agenda item for the possible violation found at the Gunnell Mine. If you do not wish to contest the violation, please sign and notarize the enclosed form and return the signed original copy no later than **February 4th, 2022**.

If you have any questions, please contact me at (303)866-3567 ext. 8116.

Sincerely,

Michael A. Cunningham
Environmental Protection Specialist

Enclosure: *Staff Summary Form for the Consent Agenda Items; Gunnell Mine; DRMS
File No. M-2021-068*

CC: Russ Means, DRMS
Amy Eschberger, DRMS
Jill Van Noord, Holland & Hart LLP





STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS

Date	February 1, 2022	Operator	Jack D. Tabb, LLC
Permit No.	M-2021-068	Site Name	Gunnell Mine
Specialist	Michael Cunningham	Objecting Party	N/A
Permit Type	110d	County	Gilpin

Action:

- ☐ Permit Application with Objections
☒ Violation
☐ Extension of Board-Ordered Deadline
☐ Other (specify):

Resolution:

NATURE OF VIOLATION:

This item is in regard to a Notice of a Possible Violation, Cease and Desist Order, corrective actions and civil penalties for a possible violation of C.R.S. §34-32-109 et seq., for failure to obtain a reclamation permit prior to engaging in a new operation.

CHRONOLOGY:

December 7, 2021 - The Division of Reclamation, Mining and Safety (Division) received an anonymous citizen complaint alleging an unpermitted mining operation was being conducted at the Gunnell Mine in Gilpin County.

December 8, 2021 - The Division received a phone call from Mr. Joe Forster, with Jack D. Tabb, LLC, inquiring about obtaining a reclamation permit for a mining operation at the Gunnell Mine.

December 9, 2021 – The Division conducted an inspection of the Gunnell Mine with the Operator, Mr. Forster, and representatives from Central City’s Community Development office. The Division determined that the Operator was engaged in a mining operation without a valid reclamation permit.

January 4, 2022 – The Division mailed the Operator a copy of the inspection report.

January 6, 2022 – The Division mailed the Operator a copy of the Notice of Possible Violation letter.



REASON FOR VIOLATION:

The Operator failed to obtain a reclamation permit prior to engaging in a new mining operation as required by C.R.S. 34-32-109.

STAFF RECOMMENDATION:

Violation:

Find a violation of C.R.S. 34-32-109, for failure to protect areas outside of the affected land from slides or damages occurring during the mining operation and reclamation.

Cease and Desist Order:

Issue a Cease and Desist Order prohibiting any further mining activities, 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 MLRB.

Corrective Action(s):

Require the Operator to submit a new 110d reclamation permit application to incorporate all affected lands. The Operator shall submit the new permit application within 30 days of the mailing date of the Board Order, with all material in an approvable form within statutory timeframes.

Civil Penalty:

Pursuant to C.R.S. § 34-32-123(3) any operator who operates without filing a permit shall be subject to a civil penalty of not less than \$50.00 per day, nor more than \$200.00 per day for each day during which such violation occurs. In this case, there are 70 days of violation from date of the inspection (December 9, 2021) to the February 16, 2021 Board Meeting.

Impose a civil penalty of \$50.00 per day of violation for 70 days, for a civil penalty amount of \$3,500.00 with all but \$500.00 suspended if the Operator complies with the corrective actions by the corrective action deadline.

Payment of the unsuspended civil penalty is due within 30 days of the effective date of the Board Order. If the Operator does not comply with the corrective actions set forth in the Order, then the suspended penalties, \$3,000.00, 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.

Operator's Notarized Signature: As an authorized representative of the Operator, I hereby attest that the Operator concedes to the above described violation and agrees to comply with the Cease and Desist Order, Corrective Action, and Civil Penalty proposed in this STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS.

Signed and dated this _____ day of _____, _____.

(Operator)

Signature: _____

Title: _____

State of _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
by _____ as _____ of _____.

Notary Public_____

My Commission Expires: _____

SIGNATURES MUST BE IN BLUE INK