

**Danielle N. Gruber**  
**The William P. Lemoine and Mary Lee Lemoine Revocable Trust**  
**P. O. Box 141**  
**Hotchkiss, Colorado 81419**

August 11, 2022

Rob Zuber, P.E.  
Environmental Protection Specialist  
Colorado Division of Reclamation, Mining and Safety  
Room 215  
1001 East 62<sup>nd</sup> Avenue  
Denver, CO 81216

Re: Lemoine Gravel Pit, Hotchkiss Colorado, Delta County

Dear Mr. Zuber,

My name is Danielle Gruber. I am the daughter and estate trustee of William P. and Mary Lee Lemoine. My father died last fall and my mother is incapacitated and resides in a nursing home, so I am helping with their affairs. I am seeking additional information on the above referenced gravel pit reclamation process.

My parents leased a portion of their ranch to Delta County to mine gravel over 40 years ago. That lease was supposed to terminate December 31, 2021 with Delta County returning a reclaimed irrigated pasture to the Lemoines for their ownership and enjoyment.

The County planted the parcel twice, but did not provide irrigation, though irrigation water was available. My parents acquired additional shares of irrigation water after entering the lease with Delta County, so water sufficiency and drought are not the reasons for failure. Most likely the lack of an irrigator is the reason for failure. Subsequently, portions of the mined area settled, leaving irrigation challenges. Maintenance leveling was not provided. Without the maintenance leveling and irrigation, each crop failed. This spring, unsurprisingly, the MLRB/DRMS refused to sign off on the reclamation process.

I have asked Delta County what happens from here, particularly if they are unable to reclaim the land as required to satisfy the Reclamation Board's requirements. To date, they have not given me an answer that is complete enough for me to proceed in any direction. A professional farmer leased adjacent parcels on this ranch, and he had great success quickly. Early spring of this year, the farmer offered to provide his services to Delta County to level the sunken areas (maintenance of a pre-established grade which had settled – not re-grading the entire field) and to irrigate the parcel. Delta County Administrator Robbie LeValley responded that if the landowner (or agent) applies a shovel to this land, that hundreds of thousands of dollars in fines could be imposed by the reclamation board upon the landowner.

While I do very much hope that Delta County is able to return this property in the condition they agreed to in the original contract with my parents, I would like to know what penalties Delta County may face from the DRMS if they fail to reclaim this land in a timely manner?

Though Delta County was strongly urged to take advantage of the timely offer of the farmer who is farming the adjacent parcels with success, Delta County was unable to operate in his time constraints, i.e., the farmer does all land preparation before June 15 of the year, after which he must begin with harvesting machinery. The window of opportunity closed to gain his help this year, and now planting for this oncoming season will be quite late. Last year, I had an adjacent parcel planted in early August, and the winter temperatures froze the tender plants enough that we had to start anew this year. I had hoped to avoid that process since it wasn't cost effective the first time. As of today, Delta County continues to make no progress toward reclaiming the property.

I am willing to work with Delta County, but would also like to know what happens if this parcel continues to fail reclamation efforts? From what I understand, the lease between Delta County and my parent's estate has expired, yet my parent's must continue to follow a process involving unfortunate bureaucratic delays, which, by their nature cause the reclamation to risk additional failures.

I like the folks in Delta County, but they are a government agency and as such do not operate as efficiently as a professional farmer. That inefficiency is causing delays to returning the property use to my parent. At 89 years old, with high nursing home costs, time is of the essence and this delay has caused losses of income to my mother.

Of particular interest to me are these questions:

1. Is the MLRB or DRMS, an "insurance" company guaranteeing restoration of mined lands? If a reclamation fails, does the property owner apply for compensation from MLRB to restore the property? If a government organization finds reclamation to be impossible, after numerous failed attempts to reclaim, what happens then?
2. Is the MLRB or DRMS able to indefinitely delay the return of property to a landowner if a lessee fails to meet their obligations in a timely manner, or is there a time limit to reclamation? Are there penalties if the such a time limit exists and is not met?
3. Will the MLRB or DRMS fine the landowner if the lease term has ended and the landowner takes measures to reclaim the parcel privately?
4. Is there some process for a landowner to apply to the MLRB or DRMS for damages due to nonperformance from the lessee who obtained MLRB bond? (I may be misunderstanding this term and process, but I understand the MLRB can fine those who do not perform reclamation as promised. What happens to those fines? Are they available to landowners to remedy the lost use or damages to their land?)
5. Do you have any recommendations for me as the trustee for this land so that we can regain ownership and use of this land?

Understandably, this situation is confusing and concerning to me. I thank you in advance for any help you can offer. Let's all do whatever we can to help this project get this project out of the limbo.

Sincerely,

Danielle Gruber

Trustee

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