



COLORADO

Division of Reclamation,
Mining and Safety


Department of Natural Resources

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.

MINE NAME: Midway Pit	MINE/PROSPECTING ID#: M-1988-018	MINERAL: Sand and gravel	COUNTY: El Paso
INSPECTION TYPE: Monitoring	WEATHER: Cloudy	INSP. DATE: January 24, 2023	INSP. TIME: 09:00
OPERATOR: Midway Aggregates, RLLP	OPERATOR REPRESENTATIVE: Joe Baxter & Tim Gerken	TYPE OF OPERATION: 112c - Construction Regular Operation	

REASON FOR INSPECTION: Normal I&E Program	BOND CALCULATION TYPE: Partial Bond	BOND AMOUNT: \$62,260.00
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
INSPECTOR(S): Timothy Cazier, P.E.	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: February 1, 2023

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.

INSPECTION TOPIC: Availability Of Records

PROBLEM/POSSIBLE VIOLATION: Problem No. 1: Rule 1.13.5 states, if an Operator temporarily ceases production of the mining operation for one hundred eighty (180) days or more, the Operator must file a Notice of Temporary Cessation in writing to the Office.

CORRECTIVE ACTIONS: The Division requires the Operator file for Temporary Cessation by the Corrective Action Due Date. The start date of the initial 5 year Temporary Cessation period is retroactive to the last date the pit was active August 10, 2018).

CORRECTIVE ACTION DUE DATE: 2/15/23

INSPECTION TOPIC: Backfilling & Grading

PROBLEM/POSSIBLE VIOLATION: Problem No. 2: The site is utilizing off-site fill without prior approval by the Division per 3.1.5(9) of the Rule.

CORRECTIVE ACTIONS: The operator shall provide a notarized affidavit, stating that the fill is, in fact, inert and addressing all requirements pursuant to Rule 3.1.5(9), which describes the intended use of inert/off-site fill by the corrective action date.

CORRECTIVE ACTION DUE DATE: 2/15/23

INSPECTION TOPIC: Gen. Compliance With Mine Plan

PROBLEM/POSSIBLE VIOLATION: Problem No. 3: The current mine plan needs to be updated and clarified pursuant to C.R.S. 34-32.5-112 (1)(c)(VI). The operator must provide sufficient information to describe or

identify how the operator intends to conduct the operation.

CORRECTIVE ACTIONS: The operator shall submit a Technical Revision, with the required \$216 revision fee, to update and clarify the current approved mine plan to reflect existing and proposed activities (to include at least 32 acres of disturbance) by the corrective action date.

CORRECTIVE ACTION DUE DATE: 3/6/23

INSPECTION TOPIC: Revegetation

PROBLEM/POSSIBLE VIOLATION: Problem No. 4: Tamarisk (salt cedar) trees are present within or have volunteered into the permit area and are becoming established. This is a problem for failure to employ weed control methods for a state listed noxious weed species within the permitted area, and to reduce the spread of weeds to nearby areas as required by Section 3.1.10 (6) of the rule.

CORRECTIVE ACTIONS: The operator shall implement the existing weed control plan in accordance with Section 3.1.10 (6) of the Rule and submit documentation demonstrating the tamarisk on site have been treated by the Corrective Action date.

CORRECTIVE ACTION DUE DATE: 3/31/23

OBSERVATIONS

This inspection was conducted by Tim Cazier (DRMS) as part of the regular monitoring program. The Permittee (Midway Aggregates) was represented by Messrs. Joe Baxter and Tim Gerken (Telesto) during the inspection. This is a 112c sand and gravel mine. The mine was not operating at the time of the inspection. However, a haul truck brought in fill from offsite during the inspection. The Midway Pit site is approximately 21 miles south of the city of Colorado Springs just west of I-25. Access is from I-25 exit 119.

Availability of Records: Annual reports are current, having been filed through August 2022, stating the last mining activity was August 10, 2018. **The lack of mining activity since 2018 is cited as Problem No. 1 on p. 1 of this report.** The previous inspection was on October 2, 2018. The approved post-mine land use is rangeland. There were no open infractions prior to the inspection. Both the surface and minerals are privately owned.

Acid And Toxic Materials: No acid or toxic materials were observed.

Backfilling and Grading: No change in grading was observed from the previous inspection. Sufficient backfill material appeared to be available for highwall backfill. Shortly after arrival, an independent contractor (Pate Construction) arrived in a haul truck bringing in offsite fill. The driver indicated he and others had been bringing offsite fill for some time. He estimated he'd brought in roughly 70 loads and had about a dozen trips left. He stated the material was coming from the nearby Fort Carson. The area where the imported material had been placed was observed (see **Photo 1**) during the inspection. Most of the material was a mixture of sand and clay (see **Photo 2**), but there was also a considerable amount of what appeared to be concrete bases for guardrail posts (see **Photo 3**) and some sections of asphalt. The placed imported material appeared to be clean and inert as required by Rule 3.1.5(9). The approved permit does not allow the import of backfill material. **The absence of written approval for the importation of backfill material is cited as Problem No. 2 on p. 1 of this report.**

Financial Warranty: The \$62,260 bond held by the DRMS was last updated in 2017 and included 22 acres of reseeding. This amount is inadequate for the observed mine disturbance. Please see the cited problem under "Gen. Compliance with Mine Plan" for related corrective actions.

Fish and Wildlife: No impact to wildlife was observed.

Hydrologic Balance: No standing water was observed in the pit and no exposed groundwater was observed.

Gen. Compliance with Mine Plan: The operation was not in compliance with the approved mine plan as more than the bonded 22 acres had been disturbed. It did not appear any significant additional extraction had taken place since the previous inspection, but the eastern part of the permit area had been graded more, likely for placement of the imported fill material. The maximum allowed disturbed area at one time (bonded area) is 22 acres. Google Earth was used to measure the disturbed area, which was approximately 31.3 acres, based on the most recent 2019 imagery. **The observed disturbance in excess of the 22 bonded acres is cited as Problem No. 3 on pp. 1 and 2 of this report.** No change in highwall configuration was observed. Mr. Baxter confirmed the southern parcel (south of Rancho Colorado Blvd. on the east side of Boca Raton Heights road had been released from the permit (reference AR-1 from 1997 and AR-2 from 2006).

Off-site Damage: The operation appeared to be confined to the permit and affected area boundary, based on Google Earth review and site observations.

Processing Waste: No processing waste was observed.

Roads: Haul and access roads did not appear to be a source of sediment that could be tracked offsite. Road side ditches were clean.

Right of Entry: Site representatives indicated the permit area was owned by the Permittee. The El Paso County Assessor website indicates the land is owned by Kirkland Property Holdings LLC for which the Grantor is James H. Kirkland. James H. Kirkland is also listed as the registered agent for Midway Aggregates, RLLP on the Colorado of Secretary's website.

Reclamation Success: No reclamation has been initiated. The remains of what appeared to be a passenger van (see **Photo 4**) was found at the west end of the site. This and other observed trash (see **Photos 5** and **6**) will need to be removed for final reclamation.

Revegetation: Some large tamarisk were observed in the west pit (see **Photo 5**) and near where the access road enters the floor of the east side (see **Photo 7**), also near where the imported fill was placed. **The presence of a noxious weed List B species is cited as Problem No. 4 on p. 2 of this report.** The Permittee should implement the approved weed control program (TR-3) to reduce propagation of tamarisk on site. No revegetation had been initiated.

Sediment Control: No significant erosion problems were observed and no BMPs were needed at the time of the inspection.

Support Facilities On-site: A backhoe observed on site (see **Photo 8**). Mr. Baxter stated the scale house had been recently removed due to vandal activity on site. The truck scale remained.

Signs and Markers: The permit sign was observed at the site entrance off Boca Raton Heights road (see **Photo 9**) and fences were observed to delineate the affected area boundary.

Permit Stipulations: There are no permit stipulations.

Storm Water MGT Plan: No oil or fuel spills observed.

Topsoil: No change in topsoil stockpiles was observed.

Structures: No new structures were observed within 200 feet of the affected area.

Post Inspection Meeting: At the close of the inspection we discussed the for problems listed on pp. 1 and 2 of this report, and the need to address the imported fill and need to file for temporary cessation quickly as they are high priority. The need to address the increased disturbed area the noxious weeds are also important, but may take more time to address.

Please contact Tim Cazier (303)328-5229 or email at tim.cazier@state.co.us if you have any questions regarding this report.

PHOTOGRAPHS



Photo 1. Placing imported fill (east end, looking south).

PHOTOGRAPHS (cont.)



Photo 2. Placed imported fill (sand and clayey material – east end looking east).



Photo 3. Placed imported fill (asphalt and concrete – east end looking north).

PHOTOGRAPHS (cont.)



Photo 4. Remains of passenger van (west end, looking SE).



Photo 5. Tamarisk and trash in west pit (looking SE).

PHOTOGRAPHS (cont.)



Photo 6. Trash near truck scale (scale house removed).



Photo 7. Tamarisk near access road entrance into east pit floor (looking SW).

PHOTOGRAPHS (cont.)



Photo 8. Backhoe on south end of east pit floor, imported fill on left (looking south) .



Photo 9. Permit sign at entrance.

GENERAL INSPECTION TOPICS

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

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

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

Inspection Contact Address

Joe Baxter
Midway Aggregates, RLLP
750 W 14th Street SW
Loveland, CO 80537

ec: Michael Cunningham, DRMS
DRMS file
Tim Gerken, Telesto

CC: Baxter Kirkland
P.O. Box 580
Rye, CO 81069