

February 24, 2023

Nathan Barton  
Wasteline Inc.  
P.O. Box 3471  
Rapid City, SD 57709

**RE:     Need for State Reclamation Permit, Kelly's Pond, File No. M-2023-006**

Dear Mr. Barton:

On February 17, 2023 the Division of Reclamation, Mining and Safety (Division) received your correspondence responding the Division's inquiry, RE: "Is It Mining". The Division has assigned file number M-2023-006 to this project. Please display the file number on any correspondence regarding this specific project.

The information you provided indicates you propose to excavate soil and alluvium from Dan and Kelly Ferguson's property to create a pond approximately 2-3 acres in size with an approximate depth of 10-15 feet. Construction material produced from the excavation will be processed at the nearby Lob Lolly Pit (M-2013-066). The project proposes to excavate approximately 30,000 -70,000 cubic yards of material. The excavation activity will be conducted with a dozer and a loader. Material will be loaded into dump trucks and hauled off site.

The Colorado Mined Land Reclamation Board (Board) has requested the Division make preliminary determinations regarding the need for a mined land reclamation permit. Based on the information provided in your response, it is the Division's opinion the project is a mining operation. Pursuant to Colorado law, you are required to first obtain a mined land reclamation permit from the Board prior to initiating the mining operation. If you disagree with the Division's determination you may petition the Board for a declaratory order whereby you may obtain an exemption from permit requirements. Such request must be made in writing and must be received no later than ten days prior to a regularly scheduled Board meeting. The next available Board meeting is scheduled for March 22, 2023.

If you have any questions please contact me at (303) 866-3567 extension 8186, otherwise we look forward to working with you through the permitting process.

Sincerely,

Travis Marshall  
Senior Environmental Protection Specialist

ec:     Russ Means, DRMS  
          Clayton Wein, DRMS