




**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.

<b>MINE NAME:</b> Speer Mining Resource	<b>MINE/PROSPECTING ID#:</b> M-1983-176	<b>MINERAL:</b> Gravel	<b>COUNTY:</b> Adams
<b>INSPECTION TYPE:</b> Monitoring	<b>WEATHER:</b> Cold, Windy	<b>INSP. DATE:</b> February 9, 2023	<b>INSP. TIME:</b> 10:00
<b>OPERATOR:</b> Asphalt Specialties Co., Inc.	<b>OPERATOR REPRESENTATIVE:</b> Greg Geras	<b>TYPE OF OPERATION:</b> 112c - Construction Regular Operation	
<b>REASON FOR INSPECTION:</b> Normal I&E Program		<b>BOND CALCULATION TYPE:</b> Calculated in Technical Revision 5	
<b>DATE OF COMPLAINT:</b> NA		<b>BOND AMOUNT:</b> \$678,169.00	
<b>INSPECTOR(S):</b> Nikie Gagnon		<b>POST INSP. CONTACTS:</b> None	
<b>INSPECTOR'S SIGNATURE:</b> 		<b>JOINT INSP. AGENCY:</b> Adams County	
		<b>SIGNATURE DATE:</b> March 09, 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:** Reclamation Success

**PROBLEM #1:** The operator has not completed reclamation at the site within five (5) years from the date that mining activities ceased as required by C.R.S. 34-32.5-116(4)(q)(I) and Rule 3.1.3. According to a letter provided by the operator on July 18, 2018, mining activities ceased at the site on January 22, 2018 when processing of existing stockpiles was completed.

**CORRECTIVE ACTIONS:** By the corrective action due date, the operator shall provide a schedule for completing all remaining reclamation activities at the site. The expectation is that all required earthwork and initial seeding will be completed by the end of this year.

**CORRECTIVE ACTION DUE DATE:** April 10, 2023

**INSPECTION TOPIC:** Reclamation Success

**PROBLEM #2:** The current reclamation plan needs to be updated and clarified pursuant to C.R.S. 34-32.5-116. The operator must follow the approved reclamation plan or provide sufficient information to describe or identify how the operator intends to conduct reclamation. Specifically, the reclamation plan needs to be updated to describe how existing structures at the site (office and shop buildings, truck scale) will be reclaimed or to specify which of these structures, if any, will remain for reclamation and their proposed use in relation to

the approved post-mining land use. The current approved reclamation plan includes leaving only an underdrain pipeline and a 2 acre clay lined pond, with all affected lands to be backfilled (besides the 2 acre pond), graded, retopsoiled, and revegetated.

**CORRECTIVE ACTIONS:** By the corrective action due date, the operator shall modify TR-5, currently under review by the Division, to update and clarify the current approved reclamation plan to reflect existing and proposed activities. Specifically, the reclamation plan must be updated to describe how existing structures will be reclaimed, and including their dimensions, all permanent components requiring demolition (e.g., concrete pads), and removal/disposal information. For any buildings proposed to remain for reclamation, the operator must provide demonstration that leaving these buildings is in compliance with the local land use and zoning laws. Additionally, the revision must include an updated reclamation plan map in accordance with Rules 6.2.1(2) and 6.4.6 which identifies any structures proposed to remain for reclamation. For any structures proposed to be removed for reclamation, the operator must provide an updated bond estimate for the site which includes costs for demolishing, removing, and disposing of such structures.

**CORRECTIVE ACTION DUE DATE:** April 10, 2023

**INSPECTION TOPIC:** Hydrologic Balance

**PROBLEM #3:** The Division has no evidence that the operator has a valid well permit, substitute water supply plan (SWSP), or approved water augmentation plan for the exposed groundwater at the site. This is a problem related to C.R.S. 34-32.5-116(4)(h) and Rule 3.1.6(1)(a) governing injury to existing water rights. Specifically, based on the most recent Google imagery, the Division estimates the current pond size to be 2.55 acres in size; however, the operator's current SWSP (for January 1, 2023 - December 31, 2023) only covers up to 2 acres of exposed groundwater at the site.

**CORRECTIVE ACTIONS:** By the corrective action due date, the operator shall demonstrate that the operation is in compliance with the Office of the State Engineer (SEO), show evidence that the operator is taking measures to bring the site into compliance with the SEO, or backfill the portion of the exposed groundwater not covered by the current SWSP to at least two feet above the groundwater surface.

**CORRECTIVE ACTION DUE DATE:** April 10, 2023

**INSPECTION TOPIC:** Right of Entry

**PROBLEM #4:** The operator informed the Division in a letter dated February 2, 2023 that the operator no longer has the legal right to enter to conduct reclamation on the portion of the affected lands owned by Raymond Crom. This is a failure to maintain the legal right to enter to conduct mining and reclamation for all owners of record of the surface and mineral rights of the affected lands, as required by C.R.S. 34-32.5-112(1)(c)(IV) and Rule 6.4.14.

**CORRECTIVE ACTIONS:** By the corrective action due date, the operator must provide documentation of its legal right to enter to conduct reclamation on the portion of the affected lands that is not owned by the operator. This may include a copy of a lease or a signed statement by the landowner and acknowledged by a Notary Public stating the operator has the legal right to enter to conduct reclamation.

**CORRECTIVE ACTION DUE DATE:** April 10, 2023

### **OBSERVATIONS**

This was a normal monitoring inspection of the Speer Mining Resource (Permit No. M-1983-176) conducted by Nikie Gagnon of the Division of Reclamation, Mining and Safety (Division). Mr. Greg Geras represented the operator, Asphalt Specialties Co., Inc. (ASCI) during the inspection. Miles Buescher (Environmental Programs) and Carla Jandro (Code Compliance) representing Adams County were also present during the inspection. The weather was cold and windy. A mine sign was posted at the mine entrance pursuant to Rule 3.1.12.

This is a 112c operation permitted for 75.5 acres with an approved post mining land use of general agriculture. According to annual reports submitted by the operator, mining was completed in 2006. ASCI operated an inert fill/material recycling facility on site until July 2018, when Adams County determined the recycling facility was out of compliance with County zoning regulations. According to a letter provided by the operator on July 18, 2018, the material recycling operations ceased on January 22, 2018, when processing of existing stockpiles was completed.

#### **Reclamation Success:**

The site was not active during this inspection, however evidence of recent grading was noted across the site, and backfilling had occurred around the exposed groundwater pond and in the northwestern corner of the permit area. In May 2022, ASCI submitted a schedule to complete reclamation activities at the site, with all activities (up to initial seeding) expected to be completed by October 31, 2022. Based on observations during this inspection, the operator has not fully completed the reclamation activities listed on the 2022 schedule (i.e., completing Phase II of the French drain, filling in the stormwater collection area, clay lining the pond, and topsoiling and seeding the entire site). Additionally, ASCI is storing tractor trailers, vehicles, equipment, and a metal shipping container near the shop building.

While mining/extraction was completed at the site many years ago, the operator continued processing material on site until January 22, 2018 (as mentioned above). Per Rule 1.1(30), mining activities include processing on affected lands. Therefore, it is understood that mining activities ceased at the site on January 22, 2018. This means the operator has failed to complete all reclamation within five (5) years from the date that mining activities ceased (by January 22, 2023), as required by C.R.S. 34-32.5-116(4)(g)(I) and Rule 3.1.3. This issue is cited as a problem in this report (see problem #1 for required corrective actions). Considering the 5 year reclamation deadline has already been missed, the expectation is that all required earthwork and initial seeding is completed by the end of this year.

#### **Reclamation - Backfilling and Grading:**

The majority of the permit area has been backfilled and graded fairly level. An interior access road used for reclamation has been cut down the center of the permit area. According to the most recent annual report filed by the operator on December 9, 2022, the site is in final reclamation and all stockpiles have been removed. However, the Division observed two material stockpiles on site, one large pile sits in the southwestern corner of the permit area and a pile of recycled roofing tiles sits in the center of the site.

Per the settlement agreement with the County, ASCI is required to remove or use the stockpiles leftover from the recycling operations. During the inspection, Mr. Geras indicated this material will be utilized for reclamation. Once the final stockpiles of material have been moved or utilized, the operator will need to spread the required 1½ feet of topsoil/growth media and revegetate the site in accordance with the approved reclamation plan described in AM-4 (approved on January 29, 2010).

Because the operator indicated the stockpiled material will be used for reclamation, the Division would like to remind the operator of the backfill sequence approved in Technical Revision 3 (TR-3) on June 14, 2017, which states the following:

Inert fill/solid waste consisting of hardened concrete and other inert solids as defined by the DRMS Mineral Rules and Regulations Rule 1.1(22) can be placed below the water table in the lake that exists on the site to an elevation of 1 ft above the seasonal high natural groundwater elevation of 5009 ft. Above this elevation (5010 ft), asphalt fragments can be added to the inert fill/solid waste until 1.5 ft below the original natural elevation of the site (from 5020 ft in the southern area to 5015 ft in the northern area) where overburden backfill and topsoil will be placed for the final completion of backfill on the site.

#### Reclamation - Structures:

The Division observed remnants of a concrete truck scale, and two buildings including a metal shop and an old house/office that remain in the southern portion of the permit area. The operator indicated a desire to leave these structures for reclamation. However, according to Carla Jandro, the Adams County code enforcement officer who participated in the inspection, in order to leave the buildings, the operator would need to apply for a change of use since the land is currently zoned only for agriculture and ancillary agriculture or residential uses. Additionally, the approved reclamation plan and map for the mine permit (see enclosed reclamation plan map approved with TR-4) do not address these structures, as the area where they are located is shown to be graded, retopsoiled, and revegetated for reclamation. Therefore, the current reclamation plan needs to be updated and clarified pursuant to C.R.S. 34-32.5-116 to address these structures. This issue is cited as a problem in this report (see problem #2 for required corrective actions).

It should be noted, after this inspection (on February 22, 2023), ASCI submitted a Technical Revision (TR-5) to keep the two buildings and a small driveway area to access the shop for private use post reclamation. However, this revision does not include any demonstration that leaving these structures is compliant with local land use and zoning laws, as required by Rule 3.1.11. In fact, according to the county representatives present during the inspection, the current land use and zoning laws do not allow for these structures to remain. Until the operator provides demonstration that leaving the two buildings is authorized by the county, the Division will need to hold a bond for demolishing and removing these structures.

For problem #2 cited in this report, the Division is giving the operator the option to address the corrective actions through TR-5. If this is the option chosen by the operator, then all of the information required for problem #2 (updated reclamation plan and map, description of structures, updated bond estimate) must be submitted in TR-5. The operator should be advised, the Division will not approve leaving any structures that are currently not authorized to remain by the county. The Division will review TR-5 and issue a decision on or before March 24, 2023, unless the decision date is extended per the operator's request.

#### Hydrologic Balance:

The Division's inspection report signed on March 11, 2022 noted a 0.5 acre depression in the northern part of the permit area that was retaining stormwater. During this inspection, the Division observed material placed in the center of this area, partially backfilling the depression, however, more material is needed and the area should be graded to ensure stormwater is not detained for longer than 72 hours, and flows naturally across the surface.



The Division observed two sections of the Phase I French drain operating. Water from the east flows into the drain that runs along the eastern edge of the permit boundary and discharges into the south end of the open groundwater pond on Mr. Crom's property. Water flows out of the northern side of the pond into a French drain that discharges into the South Platte River in the northwestern corner of the permit area. The Division observed the stand pipes and outlet discharge point. Water was flowing from the French drain into the South Platte River and a few feet of water was observed in the unlined pond. The French drain around the pond is still incomplete. ASCI provided a copy of the engineering certification and as-built drawing for the completed portion of this drain on February 23, 2023. During the inspection, Mr. Geras confirmed the French drain receives regular clean out maintenance.

The operator has an approved Substitute Water Supply Plan (SWSP) in place with the Division of Water Resources (DWR), for the period of January 1, 2023 through December 31, 2023, which covers depletions from the evaporation of exposed groundwater and lagged depletions from previous operations. This SWSP specifies the total surface area of the exposed groundwater must not exceed 2 acres for the approval period. The SWSP also states that by the end of the approval period, by December 31, 2023, the operator must either mitigate the exposed groundwater by backfilling or lining the pond or apply for a plan for augmentation with the Water Court. This deadline is in line with the deadline imposed by the Division for problem #1 cited in this report for completing all reclamation earthwork by the end of the year.

The Division did not survey the current pond size during the inspection. However, according to the most recent aerial imagery available in Google Earth (from August 2022), the Division estimates the pond to be 2.55 acres in size, which is more than the 2 acres approved under the current SWSP (and also more than the 2 acres specified to remain in the approved reclamation plan). If this estimated acreage is still accurate (no additional backfilling has occurred since August 2022), then the amount of exposed groundwater at the site exceeds the amount approved under the SWSP by 0.55 acres. This issue is cited as a problem in this report (see problem #3 for required corrective actions). Additionally, the Division may not hold sufficient bond to backfill the pond to the approved final size of 2 acres.

The operator collects groundwater elevations from site monitoring wells on a bi-monthly basis and provides this data to the Division with their annual report submittal, per commitments made in AM-4 and TR-2. The Division reviewed the annual Groundwater Monitoring report submitted by the operator on December 9, 2022. The Division noted missing data in October and December for monitoring well MH-12. Mr. Geras indicated the monitoring well was destroyed during reclamation work last fall. According to Mr. Geras, this well is downgradient and not necessary. ASCI does not intend to replace this monitoring well. In its review of TR-2, the Division confirmed the operator committed to providing monitoring data only for the two upgradient monitoring wells (MW3-AS and MH-9). Therefore, prior to ceasing monitoring at one of these wells, the operator would need to submit a Technical Revision to revise the approved groundwater monitoring plan.

#### Right of Entry:

In the summer of 2022, ASCI began backfilling the pond to reduce the size in accordance with the approved reclamation plan. However, on August 30, 2022, Raymond Crom, a landowner within the permit area, issued a cease and desist notice to ASCI. As of the date of this inspection report, ASCI no longer has a right to enter the parcel that encompasses the pond. According to Mr. Geras, ASCI cannot complete the French drain or the clay lined pond on Mr. Crom's property until this issue is resolved through litigation. According to Mr. Geras, the dispute is over the final pond size and permanent water rights associated with filling the pond once it has been lined. ASCI provided the Division with a copy of the cease and desist notice from Mr. Crom's attorney on

February 2, 2023. During the inspection, the Division observed recent backfilling on the south side of the unlined pond and berms of material stored around the pond for future clay lining and reclamation.

The Division understands the operator is actively pursuing a resolution with Mr. Crom that would allow them to complete reclamation activities on the portion of the affected lands that he owns. However, the fact that ASCI does not currently have the legal right to enter to conduct reclamation on all of the affected lands means the operator is not in compliance with C.R.S. 34-32.5-112(1)(c)(IV) and Rule 6.4.14. Therefore, this issue is cited as a problem in this report (see problem #4 for required corrective actions).

Financial Warranty:

The Division currently holds a financial warranty for the site in the amount of \$678,169.00. The required financial warranty was last assessed by the Division in 2017. Based on the limited amount of reclamation that appears to have been completed at the site since 2017, the issues described in this report (e.g., larger pond size than approved, structures that may require removal/disposal), and the general increase in costs over the past 6 years since the last bond estimate was calculated, the current bond amount may not be sufficient to reclaim the site in accordance with the approved plan.

The Division will re-calculate the required financial warranty for the site in its review of TR-5. If the Division finds this amount to be higher than the currently held amount, a surety increase will be issued giving the operator 60 days to post the additional required financial warranty.

The Division strongly recommends the operator begin reclaiming the site in accordance with the approved plan as soon as possible to reduce the reclamation liability.

Photographs taken during the inspection are attached.

Please contact Nikie Gagnon via phone at (303) 866-3567 ext. 8126 or email at [nikie.gagnon@state.co.us](mailto:nikie.gagnon@state.co.us) if you have any questions regarding this report.

## PHOTOGRAPHS



Photo 1. Mine sign posted near front entrance.



Photo 2. Looking west from driveway at front entrance.





Photo 3. Inert fill stockpile leftover from recycling activities in 2018.



Photo 4. Inert fill stockpile (recycled roofing tiles) leftover from recycling activities in 2018.





Photo 5. Looking east at graded area. Topsoil berm runs along eastern edge of the permit area (red arrows).



Photo 6. Looking northeast. Graded area and topsoil berm along eastern edge (red arrows).





Photo 7. Looking north from the access road across graded area in the southern portion of the permit area.



Photo 8. Looking south from the access road across graded area in the southern portion of the permit area.





Photo 9. Looking west from the access road across graded area in the northern portion of the permit area.



Photo 10. Looking northwest from the access road across graded area in the northern portion of the permit area.





Photo 11. Looking south down the access road cut through the middle of the permit area.



Photo 12. Looking north down the access road cut through the middle of the permit area.





Photo 13. Area of standing water noted in the 2018 inspection report. Arrows points to backfill placed in center.



Photo 14. Edge of 0.5 acre depression area noted in the 2018 inspection report.  
Arrow points to material placed recently.





Photo 15. Stand pipe (circled) for French drain in the northwestern corner of the permit area.



Photo 16. Discharge point into the South Platte River for French drain in the northwestern corner of the permit area.





Photo 17. Clay pile stored near the unlined groundwater pond.



Photo 18. Backfilled area on the western shore of the unlined groundwater pond. Overburden/topsoil on the left.





Photo 19. Backfilled area on the western shore of the unlined groundwater pond.



Photo 20. Backfilled area on the southern shore of the unlined groundwater pond.





Photo 21. Office building located within the permit area, near the mine entrance.



Photo 22. Shop building located within the permit area, near the mine entrance.





Photo 23. Tractor trailers stored on site near the shop building.

### GENERAL INSPECTION TOPICS

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

(AR) RECORDS----- <u>Y</u>	(FN) FINANCIAL WARRANTY----- <u>Y</u>	(RD) ROADS----- <u>N</u>
(HB) HYDROLOGIC BALANCE----- <u>PB</u>	(BG) BACKFILL & GRADING----- <u>PB</u>	(EX) EXPLOSIVES----- <u>N</u>
(PW) PROCESSING WASTE/TAILING---- <u>N</u>	(SF) PROCESSING FACILITIES----- <u>N</u>	(TS) TOPSOIL----- <u>Y</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>N</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>Y</u>
(SM) SIGNS AND MARKERS----- <u>N</u>	(SP) STORM WATER MGT PLAN--- <u>N</u>	(RS) RECL PLAN/COMP-- <u>2PBs</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>N</u>	(SC) EROSION/SEDIMENTATION--- <u>N</u>	(ST) STIPULATIONS----- <u>N</u>
(AT) ACID OR TOXIC MATERIALS----- <u>N</u>	(OD) OFF-SITE DAMAGE----- <u>N</u>	RIGHT OF ENTRY----- <u>PB</u>

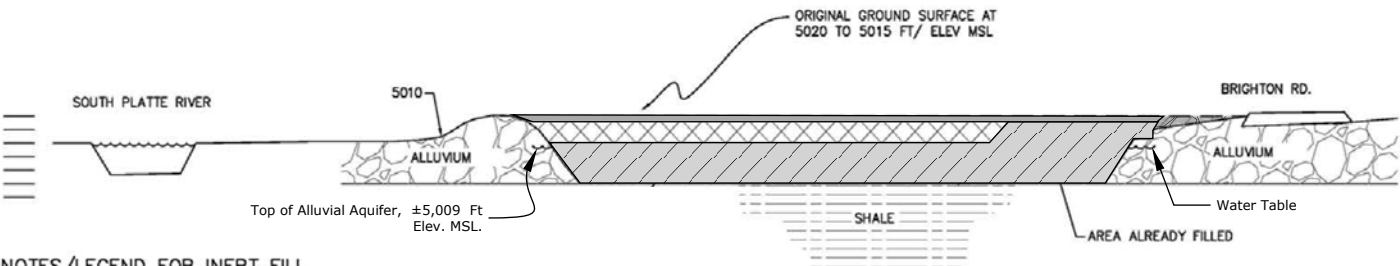
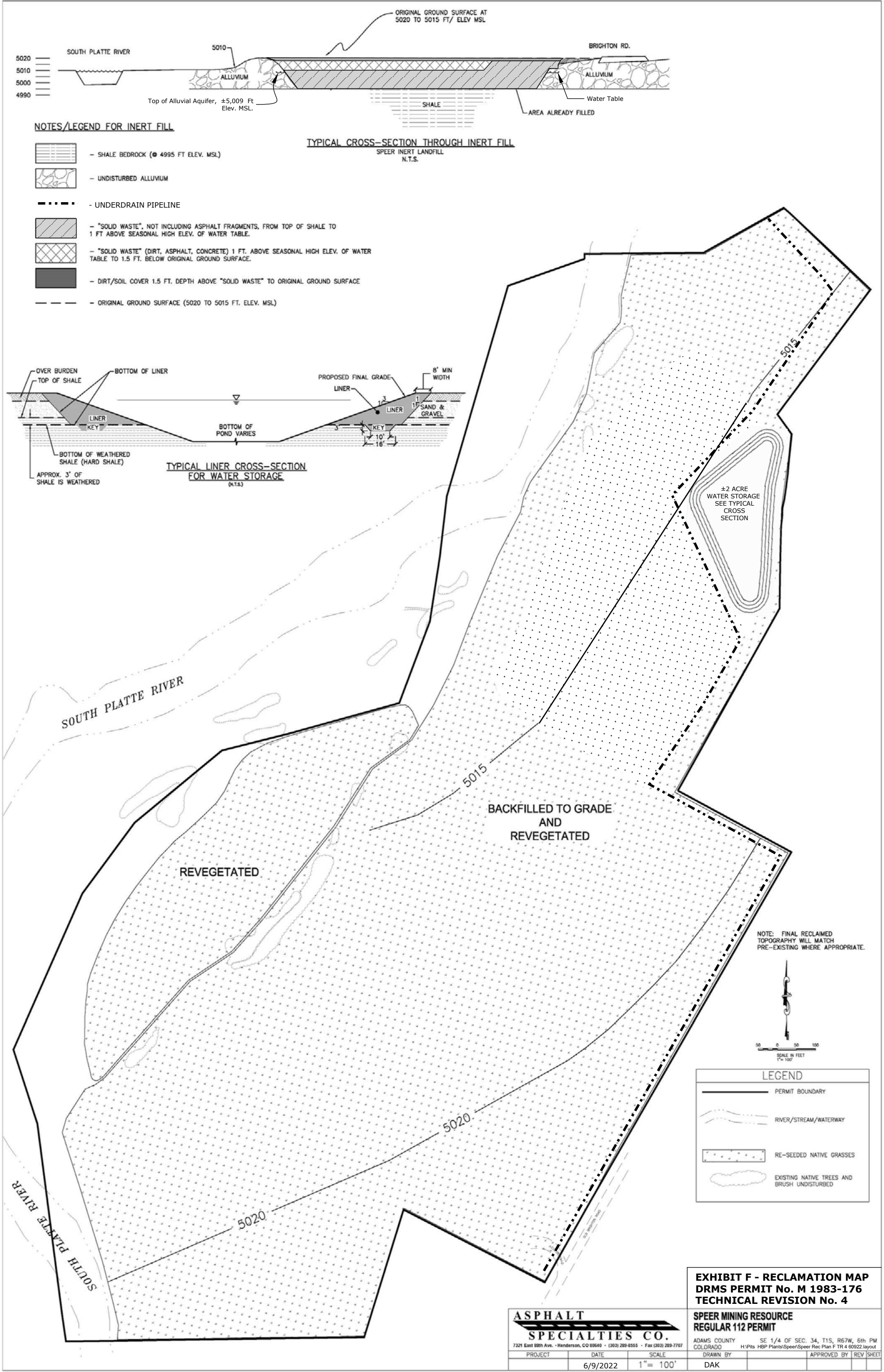
Y = Inspected / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

#### Inspection Contact Address

Greg Geras  
Asphalt Specialties Co., Inc.  
10100 Dallas Street  
Henderson, CO 80640

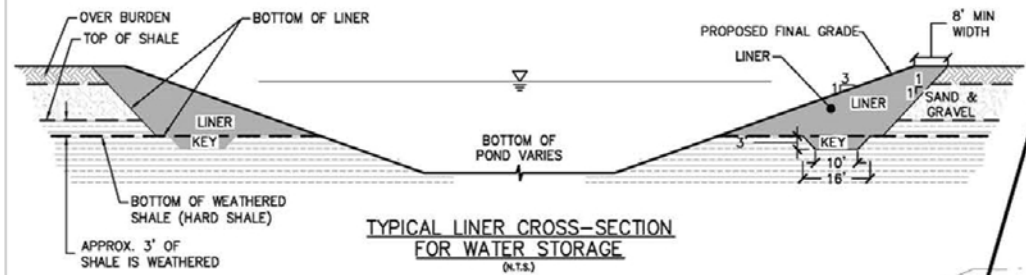
Encl: Reclamation Plan Map, approved in TR-4,  
July 18, 2018 letter regarding date mining operations ceased  
Aerial imagery of pond area from August 2022

CC: Amy Eschberger, Senior EPS, DRMS



NOTES/LEGEND FOR INERT FILL

- SHALE BEDROCK (● 4995 FT ELEV. MSL)
- UNDISTURBED ALLUVIUM
- UNDERDRAIN PIPELINE
- "SOLID WASTE", NOT INCLUDING ASPHALT FRAGMENTS, FROM TOP OF SHALE TO 1 FT ABOVE SEASONAL HIGH ELEV. OF WATER TABLE.
- "SOLID WASTE" (DIRT, ASPHALT, CONCRETE) 1 FT. ABOVE SEASONAL HIGH ELEV. OF WATER TABLE TO 1.5 FT. BELOW ORIGINAL GROUND SURFACE.
- DIRT/SOIL COVER 1.5 FT. DEPTH ABOVE "SOLID WASTE" TO ORIGINAL GROUND SURFACE
- ORIGINAL GROUND SURFACE (5020 TO 5015 FT. ELEV. MSL)



LEGEND	
	PERMIT BOUNDARY
	RIVER/STREAM/WATERWAY
	RE-SEEDDED NATIVE GRASSES
	EXISTING NATIVE TREES AND BRUSH UNDISTURBED

EXHIBIT F - RECLAMATION MAP  
DRMS PERMIT No. M 1983-176  
TECHNICAL REVISION No. 4

SPEER MINING RESOURCE  
REGULAR 112 PERMIT

ASPHALT  
SPECIALTIES CO.

7321 East 80th Ave. • Henderson, CO 80640 • (303) 289-8555 • Fax (303) 289-7707

PROJECT	DATE	SCALE
	6/9/2022	1" = 100'

ADAMS COUNTY  
COLORADO

DRAWN BY	APPROVED BY	REV SHEET
DAK		



# ASPHALT



10100 Dallas St. • Henderson, CO 80640 • (303) 289-8555 • Fax: (303) 289-7707

July 18, 2018

Mr. Jared Ebert  
Environmental Protection Specialist III  
Colorado Division of Reclamation, Mining, and Safety (DRMS)

Re: Notice of Non-Compliance with Adams County Received by DRMS for ASCI  
Speer Mining Resource, DRMS Permit No. M-1983-176

Dear Mr. Ebert,

Per your Notice of Non-Compliance letter dated June 20, 2018, the documentation DRMS received from the Adams County Attorney's Office on May 25, 2018 that Asphalt Specialties Co., Inc. (ASCI) is conducting recycling and filling activities at the Speer Mining Resource (the "Facility") without the necessary permits is incorrect.

- Only reclamation activities are currently ongoing at the Facility.
- ASCI has not accepted any new aggregate material for disposal at the Facility since December 1, 2017 when the facility was closed as an Inert Landfill.
- Recycling of material at the Facility ceased on January 22, 2018 when processing of existing stockpiles was completed. Remaining recycled aggregate stockpiles are presently being removed.

ASCI and Adams County are currently in final negotiations regarding a settlement to the litigation initiated by Adams County that resolves Adams County's concerns. ASCI has signed a settlement agreement and we are awaiting signatures from Adams County. We anticipate having the finalized agreement soon. I would be happy to update you further once the settlement is executed.

Please contact me at 720-322-7055 or [GregG@asphaltspecialties.com](mailto:GregG@asphaltspecialties.com) if additional information or further clarification is needed.

Sincerely,



Greg Geras  
Land Resource Manager  
[GregG@asphaltspecialties.com](mailto:GregG@asphaltspecialties.com)  
Asphalt Specialties Co., Inc.

cc:  
Mr. Dan Hunt, ASCI  
Mr. Gary Stillmunkes, ASCI  
ASCI file



# M-1983-176 / Speer Mining Resource / Asphalt Specialties Co., Inc. (112c)

Blue outline = 2.55 acres = Estimated pond surface area (located in northern portion of permit area)  
(Image data from 8/3/2022)

