



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 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: Motorcross Borrow Pit	MINE/PROSPECTING ID#: M-2022-006	MINERAL: Borrow material for	COUNTY: Weld
INSPECTION TYPE: Monitoring	WEATHER: Clear	INSP. DATE: February 21, 2023	INSP. TIME: 12:00
OPERATOR: SEMA Construction, Inc.	OPERATOR REPRESENTATIVE:	TYPE OF OPERATION: 111 - Construction by Government Agency	

REASON FOR INSPECTION: Citizen Complaint	BOND CALCULATION TYPE:	BOND AMOUNT: \$39,000.00
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
INSPECTOR(S): Peter Hays	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: March 13, 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: Gen. Compliance With Mine Plan

POSSIBLE VIOLATION: The Permittee has supplied construction material from the site to an unrelated project other than for the government contract provided in the approved permit application as the basis for the need for a Special 111(1)(a) permit. Therefore, the Division has reason to believe SEMA Construction, Inc. has failed to comply with the conditions of a permit pursuant to C.R.S. 34-32.5-124(1).

CORRECTIVE ACTIONS: This possible violation requires a hearing before the Mined Land Reclamation Board (MLRB). The schedule and other details for the MLRB hearing will be provided under separate cover to the Operator.

CORRECTIVE ACTION DUE DATE: 4/19/23

OBSERVATIONS

The Motorcross Borrow Pit was inspected by Peter Hays with the Division of Reclamation, Mining and Safety (Division/DRMS) in response to a citizen complaint (CT1) received on January 19, 2023. Mr. Tyson Geist with SEMA Construction, Inc. was present during the inspection.

The Motorcross Borrow Pit Special 111(1)(a) Operation permit application was approved by the Division on April 22, 2022 and issued on June 6, 2022. The 27.82 acres site is permitted to solely supply construction materials for the North I-25 Express Lane CDOT project. The permit supersedes and overlays a previous permit issued at the same location and CDOT project, File No. M-2019-041.

The complaint form submitted by Mr. Kevin McCarthy states fill dirt from the Motorcross Borrow Pit was being supplied to a Mead development from the site.

Rule 1.1 (50) states a Special 111(1)(a) Operation Permit applies to any sand, gravel or quarry aggregate Operation which is operated for the sole purpose of obtaining materials for highway, road, utility, or similar construction, is under a federal, state, county, city, town, or special district contract, the contract calls for work to be commenced and completed within a specifically short time and will affect thirty (30) acres or less.

The Operator confirmed between 1,200 and 1,500 cubic yards, approximately ten (10) truckloads of material, were removed from the site during a two (2) day period. The material was transported to a construction site not associated with the I-25 project. The Operator stated no compensation was received for the material and the transportation of the material was stopped when the Operator was informed of the complaint by the Division. The Operator stated all future material removed from the site will be for the sole purpose of supplying material to the I-25 project. Grant, Condition and Agreement No. 1 of the permit M-2022-006, indicates the Permittee is bound by all applicable requirements of the Act, and all applicable rules and regulations of the Board, and the terms of the permit application. Further, in the Permittee's Performance Warranty they promised to comply with all terms of the reclamation permit. Supplying construction material to an unrelated project other than the government contract provided as the basis for the need for a Special 111(1)(a) permit is a violation of the approved permit. Therefore, the Division has reason to believe SEMA Construction, Inc. has failed to comply with the conditions of a permit pursuant to C.R.S. 34-32.5-124(1).

As cited on page 1, this possible violation requires a hearing before the Mined Land Reclamation Board (MLRB). The schedule and other details for the MLRB hearing will be provided under separate cover to the Operator.

The site was inactive during the inspection. Three (3) highwalls were observed during the inspection. All three highwall are oriented east to west. The height of the highwalls was estimated at 10 feet, 6 feet and 4 feet, respectively, from south to north. The highwalls were vertical, stable and no erosion features were noted during the inspection.

The mine sign and boundary markers were observed during the inspection as required by Rule 3.1.12.

Photographs taken during the inspection are attached. If you need additional information or have any questions, please contact me at Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at 303.866.3567 x 8124, or by email at peter.hays@state.co.us.

PHOTOGRAPHS



View of the site from the northeast corner looking southwest



View of the north highwall from the east end looking west



View of the south and middle highwalls from the east end looking southwest



View of the south highwall from the east end looking west



View of the south highwall from the excavation area looking southeast

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>Y</u>
(HB) HYDROLOGIC BALANCE----- <u>N</u>	(BG) BACKFILL & GRADING----- <u>Y</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>PV</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>N</u>
(SM) SIGNS AND MARKERS----- <u>N</u>	(SP) STORM WATER MGT PLAN---- <u>N</u>	(RS) RECL PLAN/COMP-- <u>N</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>	

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

Inspection Contact Address

Tyson Geist
SEMA Construction, Inc.
7353 S Eagle St
Centennial, CO 80112

Enclosure: Mr. McCarthy complaint form

Ec: Jared Ebert, DRMS

DRMS Complaint Intake Tool

By Submitting this form you are requesting an investigation of compliance with DRMS rules.



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

DRMS Internal Information

Select Permit Type *

Minerals

Permit No List *

M2022006

Date of Complaint

01/19/2023

COMPLAINANT INFORMATION

*** Indicates a Required Field**

Do you wish to remain anonymous? *

☐ Yes ☒ No

Connection to Incident *

Select all that apply

- ☐ Land Owner
☒ Nearby Resident
☐ Other

- ☐ Mineral Owner
☐ Observed Incident

DESCRIPTION OF COMPLAINT

(Please be as specific as possible)

Note: Please provide as much detail related to location and issue as possible. Without enough detail, DRMS will not be able to process or investigate the complaint and, therefore, DRMS will have no choice but to discard the complaint.

Location of Concern *

Please provide as much detail as possible. It is important to narrow down the location. If available, please include Township, Range and Section, physical address, or GPS location. You may also upload a pdf map below.

3/4 mile south of Hwy 56 on the east side of WCR 7 & on west side of I-25. East of Berthoud, CO

Incident County *

Weld County

Is this an ongoing issue(s)?

☒ Yes ☐ No

Nature of Complaint *

Select all that apply

- | | |
|---|---|
| <input checked="" type="checkbox"/> Illegal Mining | <input type="checkbox"/> Dust |
| <input type="checkbox"/> Ground Water / Water Well Impact | <input type="checkbox"/> Acid or Toxic Materials/Spills |
| <input type="checkbox"/> Surface Water Impact / Stormwater Management | <input type="checkbox"/> Property Damage |
| <input type="checkbox"/> Mine Plan Compliance | <input type="checkbox"/> Waste Management / Dumping |
| <input type="checkbox"/> Signs and Markers | <input type="checkbox"/> Overburden / Development Waste |
| <input type="checkbox"/> Financial Warranty | <input type="checkbox"/> Backfilling and Grading |
| <input type="checkbox"/> Processing Waste / Tailings | <input type="checkbox"/> Processing Facilities |
| <input type="checkbox"/> Fish / Wildlife | <input type="checkbox"/> Erosion / Sedimentation |
| <input type="checkbox"/> Off-Site Damage | <input type="checkbox"/> Roads |
| <input type="checkbox"/> Explosives / Blasting | <input type="checkbox"/> Topsoil |
| <input type="checkbox"/> Revegetation | <input type="checkbox"/> Weeds |
| <input type="checkbox"/> Reclamation Plan Compliance | <input type="checkbox"/> Other <input type="text"/> |

Detailed description of the issue(s) * (?)

Please provide as much detail as possible. It is important to narrow down the issue(s).

My understanding is that this permit is specifically for construction of I-25. We have noticed trucks heading south and when we followed them, we discovered fill dirt was being supplied to a Mead development. This limited permit was approved without any notice or input from adjoining landowners and we are told it was approved in this manner because of the limitation in time and use for the I-25 project. An expansion of use beyond that does not seem appropriate.

Have you contacted the operator or party conducting the operation? If yes, please provide details. *

☒ Yes ☐ No

Details

We discussed the original use with SEMA operator when the project started. While we don't agree with embarking on a project of this scale with no county approval and no ability for public input, we have decided not to pursue further actions regarding the use of this pit specifically for I-25. However, an expansion of use beyond that is another story.

If known, please provide the name of the operator or party conducting the operation.

SEMA

If known, please provide the Permit or NOI Number (ie M-1970-111 or P-1970-111).

Must be entered in the following format: M1970111 or P1970111 (No dashes allowed)

M2022006

Have you contacted any other agencies or local governments related to this issue or issues? If so, please provide details. *

☐ Yes ☒ No

ADDITIONAL INFORMATION

Are there supporting photos, maps, or documents you wish to upload? *

☐ Yes ☒ No

What is your preferred method for DRMS to communicate with you throughout the investigation? *

Select all that apply

☐ Phone ☒ E-mail ☐ US Mail

Report Possible Violation/Illegal Activity



COLORADO

**Division of Reclamation,
Mining and Safety**

Department of Natural Resources

COMPLAINANT INFORMATION

Note: You are requesting an investigation of a compliance issue with DRMS rules. This form is not intended for comments or objections on permitting actions under review.

Date of Complaint

01/19/2023

***** *Indicates a Required Field*

This form is for requests to investigate compliance issues with DRMS rules. This form is not intended for comments or objections on permitting actions.

Do you wish to remain anonymous? *

☐ Yes ☒ No

Please note that, if you choose to remain anonymous, the complaint will be investigated but the Division will not contact you to follow up on the complaint.

Your First Name *

Kevin

Your Last Name *

McCarty

Your Address *

2275 Alpine Sky Drive

Your City *

Berthoud

Your State

CO

Your Zip Code *

Maximum of 10 digits. (Example) 80202

80513

Email Address *

Enter a valid email address in this field to receive a confirmation e-mail and copy of your Complaint form.

kevin@mccartylw.com

Your Phone Number *

Used only to follow up. Please enter phone number in this format: (Example) 123-456-7890

970-581-1953

Alternate Phone Number

Used only to follow up. Please enter phone number in this format: (Example) 123-456-7890

Connection to Incident *

Select all that apply

- | | |
|---|--|
| <input type="checkbox"/> Land Owner | <input type="checkbox"/> Mineral Owner |
| <input checked="" type="checkbox"/> Nearby Resident | <input type="checkbox"/> Observed Incident |
| <input type="checkbox"/> Other <input type="text"/> | |

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Must be entered in the following format: M1970111 or P1970111 (No dashes allowed)

M2022006

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