




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: OHV Track	MINE/PROSPECTING ID#: File No. M-2023-012	MINERAL: Sand	COUNTY: Larimer
INSPECTION TYPE: Illegal(Unpermitted Operation)	WEATHER: Clear	INSP. DATE: April 20, 2023	INSP. TIME: 09:00
OPERATOR: Eric Johnson - landowner	OPERATOR REPRESENTATIVE:	TYPE OF OPERATION: ILL - Illegal	
REASON FOR INSPECTION: Citizen Complaint	BOND CALCULATION TYPE: N/A	BOND AMOUNT: N/A	
DATE OF COMPLAINT: 04/10/2023	POST INSP. CONTACTS: Yvonne Kendall	JOINT INSP. AGENCY: None	
INSPECTOR(S): Nikie Gagnon	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: April 25, 2023	

GENERAL INSPECTION TOPICS

This list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each. No problems or possible violations were noted during the inspection. The mine operation was found to be in full compliance with Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials and/or for Hard Rock, Metal and Designated Mining Operations. Any person engaged in any mining operation shall notify the office of any failure or imminent failure, as soon as reasonably practicable after such person has knowledge of such condition or of any impoundment, embankment, or slope that poses a reasonable potential for danger to any persons or property or to the environment; or any environmental protection facility designed to contain or control chemicals or waste which are acid or toxic-forming, as identified in the permit.

(AR) RECORDS----- <u>N</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>N</u>
(HB) HYDROLOGIC BALANCE----- <u>N</u>	(BG) BACKFILL & GRADING----- <u>N</u>	(EX) EXPLOSIVES----- <u>N</u>
(PW) PROCESSING WASTE/TAILING---- <u>N</u>	(SF) PROCESSING FACILITIES----- <u>N</u>	(TS) TOPSOIL----- <u>N</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>N</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

OBSERVATIONS

On April 10, 2023, the Colorado Division of Reclamation, Mining and Safety (Division) received a citizen's complaint (enclosed) regarding illegal mining occurring at 264 Simple Ranch Road, Lyons, CO. The property is located in Larimer County, approximately 21 miles north of Lyons, Colorado. The complainant, Yvonne Kendall, alleged the landowner was moving tractor loads of soil from 264 Simple Ranch Road onto a neighboring property at 2300 Dry Creek Drive on multiple occasions.

This inspection was conducted by Nikie Gagnon, representing the Division. Eric Johnson, the property owner, accompanied the Division during the inspection. The land use observed in the area is rural agricultural and according to the Larimer County assessor website, the property zoning is Rural Open. The 35-acre parcel owned by Mr. Johnson contains a home, barn, and corral. An OHV trail used for recreation has been excavated across the property. Although the OHV trail winds around the entire property, the primary area used for recreation is on a hill in the northwest section of the parcel where trails and jumps have been constructed.

Mr. Johnson showed the Division that he is moving dirt around his property for OHV recreation and gardening and no material is leaving his property. In the OHV recreation area, the soil is typically pushed from a few feet away into piles to form jumps. Additionally, Mr. Johnson showed the Division an area near the road below his house that he is clearing brush and grading for the OHV trail. He is also excavating topsoil from here to build gardens around his residence. Mr. Johnson stated he has been bringing in manure from a neighboring property, 2300 Dry Creek Drive, for his gardens. The Division observed piles of manure near garden beds around the residence. Mr. Johnson owns a small tractor, which along with a pickup truck, is the equipment being used to move dirt around his property and move manure. No other equipment was observed on site during this inspection.

The Division, accompanied by Mr. Johnson, stopped by 2300 Dry Creek Drive since this property was mentioned in the complaint. The neighbor, Curt McFarlin, raises alpacas and informed the Division that Mr. Johnson has been moving manure from the alpaca corral to his property for gardening. The Division observed a manure storage area within the alpaca corral. Both property owners confirmed no construction materials are leaving either parcel.

C.R.S. 34-32.5-103(13) defines a "mining operation" as the development or extraction of a construction material from its natural occurrences on affected land. The term includes, but is not limited to, open mining and surface operations. C.R.S. 34-32.5-103(3) defines a "construction material" as rock, clay, silt, sand, gravel, limestone, dimension stone, marble or shale extracted for use in the production of nonmetallic construction products. C.R.S. 34-32.5-103(1) defines "Affected Land" as the surface of an area within the state where a mining operation is being or will be conducted, which surface is disturbed as a result of an operation. Given these definitions, the moving of dirt for the purpose of OHV recreation and excavation for garden building is not considered to be a mining operation. Additionally, manure received from the neighboring property does not fall under the definition of a "construction material" and is therefore not regulated by the Division. None of the dirt excavated is leaving Mr. Johnson's property or being sold or otherwise introduced into the market.

Based on these findings, the Division has determined that a reclamation permit is not required from our office for the activities described in this report. However, if the nature of the project were to change, the Division recommends the landowner complete and submit to our office an "Is it Mining" form (enclosed) to receive a formal determination from the Division on whether the proposed activities will require a reclamation permit.

This concludes the Division's Inspection Report. Photographs taken during the inspection are included below. For additional information or questions, please contact me at the Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at 303-866-3567 x 8126 or by email at nikie.gagnon@state.co.us.

PHOTOGRAPHS

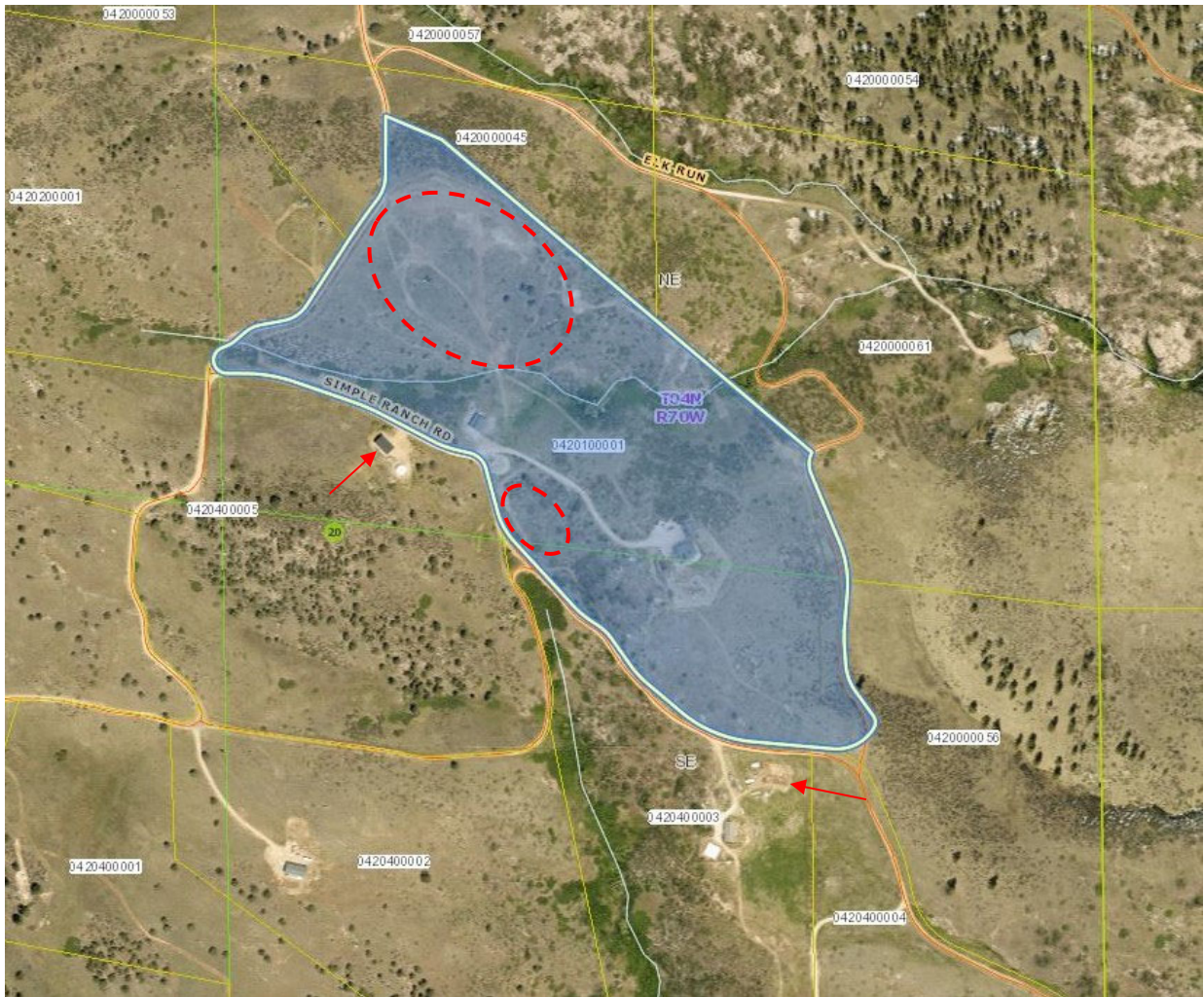


Photo 1. The image above shows the parcel owned by Mr. Johnson. The red dashed lines indicate areas of recent soil disturbance. The larger dashed circle is the primary OHV recreation area on a hill where trails and jumps are constructed. The smaller circle is the graded embankment excavated for garden & OHV trail material. The arrows indicate Ms. Kendall's home on the northwest end, and the alpaca corral south of Mr. Johnson's property.



Photo 2. Looking southeast. Mr. Johnson's residence is on the top of the hill and the barn is on the bottom left. Ms. Kendall's home is on the right side of the road.



Photo 3. Looking northwest at the OHV recreation area from the driveway at 264 Simple Ranch Road.



Photo 4. Graded embankment area next to the road on the west side of the property. Brush cleared from this area circled. Arrows point to area where soil was pushed up to form jumps.



Photo 5. Looking south from the excavated embankment on Mr. Johnson's property next to the road. OHV trail comes through here (red arrow).



Photo 6. View of OHV recreation area from northwestern boundary of property. Soil has been pushed around to build the OHV trail and jumps.



Photo 7. Closer view of the jump area. Red arrows point to one area where the property owner indicated material was excavated to build the jumps in background.



Photo 8. Manure pile next to the driveway near the residence.



Photo 9. Alpaca corral at 2300 Dry Creek Drive. Arrow points to manure storage area.

Inspection Contact Address

Eric Johnson
264 Simple Ranch Rd
Lyons, CO 80540

Enclosures: Complaint received on 4/10/2023
Is it Mining form

CC: Yvonne Kendall
Amy Eschberger, Senior EPS, DRMS

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

04/10/2023

***** *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 *

Yvonne

Your Last Name *

Kendall

Your Address *

111 Simple Ranch Road

Your City *

Lyons

Your State

CO

Your Zip Code *

Maximum of 10 digits. (Example) 80202

80540

Email Address *

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

vonniejunekendall@gmail.com

Your Phone Number *

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

303-823-5714

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"/> | |

DESCRIPTION OF COMPLAINT

(Please be as specific as possible)

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. 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.

264 Simple Ranch Road, Lyons, CO 80540, a 35 acre parcel of land with a residence and barn.

Incident County *

Larimer County

Is this an ongoing issue(s)?

☐ Yes ☒ No

Nature of Complaint *

Select all that apply

- | | |
|--|--|
| <input type="checkbox"/> Illegal Mining | <input checked="" type="checkbox"/> Dust |
| <input type="checkbox"/> Ground Water / Water Well Impact | <input type="checkbox"/> Acid or Toxic Materials/Spills |
| <input checked="" 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 checked="" type="checkbox"/> Overburden / Development Waste |
| <input type="checkbox"/> Financial Warranty | <input checked="" type="checkbox"/> Backfilling and Grading |
| <input type="checkbox"/> Processing Waste / Tailings | <input type="checkbox"/> Processing Facilities |
| <input checked="" type="checkbox"/> Fish / Wildlife | <input checked="" type="checkbox"/> Erosion / Sedimentation |
| <input type="checkbox"/> Off-Site Damage | <input checked="" type="checkbox"/> Roads |
| <input type="checkbox"/> Explosives / Blasting | <input checked="" type="checkbox"/> Topsoil |
| <input checked="" 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).

Eric Johnson has been moving land around on his parcel for over 2 years. He has carved an OHV track on his property. The topsoil has been scraped off of acres of land; he has changed the natural topography of the hillside to impact my view negatively; the OHV trail impacts a natural waterway; a neighbor also took tractor loads of soil from 264 SRR onto his property 2300 Dry Creek Drive on multiple occasions.

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

☐ Yes ☒ No

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

Eric Johnson

If known, please provide the Permit or NOI Number (ie M1970111 or P1970111).

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

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

☒ Yes ☐ No

Details

I contacted Larimer County Planning Dept-they said that OHV trails are not allowed anywhere in the county. Then Code Enforcement got involved, and said that they can have an OHV track as long as it is not for commercial use. This use is not listed anywhere in the Land Use Code, and Section 3.2.4 should apply, Classification of New and Unlisted Uses. When I asked Planning how much of my land I could excavate for an OHV track, they told me to contact this department.

ADDITIONAL INFORMATION

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

☒ Yes ☐ No

Attachments are accepted for informational purposes only. Action by DRMS requires a direct observation by DRMS staff.

Upload Supporting Documents

Maximum of 5 files can be uploaded and each file size must be 10mb and under. PDF, JPG, and PNG formats only.

Photo1.jpg	193.59KB
Photo2.jpg	179.3KB
Photo3.jpg	290.62KB
IMG_1311.jpg	5.36MB
Photo4.jpg	5.55MB

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

Select all that apply

☒ Phone ☒ E-mail ☐ US Mail









This parcel

ELK RUN

SIMPLE RANCH RD

264

DRY CREEK DR





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

Date: _____

RE: Need for State Reclamation Permit: “Is It Mining?”

Name: _____

Street

Address: _____

Telephone:

() _____

Mobile:

() _____

Email

Address: _____

Enclosed are pertinent sections of the Colorado Mined Land Reclamation Board (Board) Rules governing activities that do not require a reclamation permit. To determine if you need a permit for you proposed activity, first check Rule 1.2 which describes activities the Board has determined do not require state reclamation permits. If you find a match, you can proceed based on your interpretation of the rule, but at your own risk. If you are uncertain how the Rule may apply to your activity, you should answer the list of questions below with as much detail as possible. Please feel free to use additional paper, maps, and attachments to explain your project.

Please include in your determination request answers to the following questions:

1. Please provide the legal location of the proposed project and submit a site map that clearly delineates the location of the proposed extraction site and the location of the nearest city, town, and county location name.

Section:

Township:

Range:

PM

Or NAD 27 X UTM
GPS

Y UTM

Direction and Miles to
nearest town/city:

County:



2. Is the site of material extraction on public or privately owned property?

Public

Private

3. What type(s) of material or metal is/are proposed to be extracted and describe the physical nature of the site i.e., river terrace, rocky knob, in-stream gravel deposit, etc.?

4. What processing or extraction method(s) will be used on site? Include any equipment or chemical(s) that will be used in the processing and extraction of the materials.

5. Will the extracted material be hauled offsite or used on the same parcel of property where the material is extracted?

6. How will the extracted material be used on site?

7. If the material is hauled offsite, where will it be hauled to and what is the intended use?

8. What is the approximate areal extent of the proposed extraction in acres?

9. To what approximate depth will the extraction extend?

10. In cubic yards, approximately how much material will be removed:

11. Will material extraction involve the use of explosives?

Yes ____ No ____

12. Will site of extraction result in the exposure of tributary ground water?

Yes ____ No ____

13. Will either the landowner or the mine site operator receive any type of compensation, i.e., monetary, in-kind, haulage fees, etc., from the proposed material extraction?

Yes ____ No ____

14. Please supply a copy of any documents that will ensure that the area of extraction will be reclaimed to some beneficial land use once extraction activities have been completed.

15. Do you have permits for this activity from any other governmental agencies such as building, construction, or grading permits, and if so, what are they?

16. Are there state/federal/local agency participants in terms of funding?

	Yes	No
Funding	Yes ____	No ____
Design	____	____

Percentages

State _____ Federal _____ Local Agency _____

17. What post mining land uses will be made of the extraction and why? (This question helps us determine the intent of the activity.)

18. What types and sizes of equipment will be used in the extraction?

Please send the completed questionnaire to the Division at the address above for review. The Board has directed the Division to make a decision based on the information you have supplied. We trust that the activities will be performed as represented. If we receive a complaint, we are required by law to conduct an inspection of the site. Which could result in a violation, a cease and desist order, and other corrective actions including submittal of a permit application.

If you have any questions, please contact the Division at (303)866-3567. Please feel free to visit our web site at: <https://colorado.gov/drms> for further access to the full Act and Rules governing extraction of metals, non-metals, and construction materials in the State of Colorado.

Sincerely,

Division of Reclamation, Mining and Safety Staff

Enclosure: Rule 1.2 excerpt for Hard Rock Metal Mines and Construction Materials
Rule 1.2 excerpt for Hard Rock/Metal Mining

1.2 SCOPE OF RULE AND ACTIVITIES THAT DO NOT REQUIRE A RECLAMATION PERMIT

1.2.1 Specified by Rule

The Board has determined that certain types of activities do not need reclamation permits either because the excavated substance is not a mineral as defined in Section 34-32-103(7), Colorado Revised Statutes 1984, as amended or because the activity is not a mining operation as defined by Section 34-32-103(8), C.R.S. 1984, as amended. Such activities include the following:

- (a) the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe;
- (b) the development or extraction of coal (refer to the Colorado Surface Coal Mining Reclamation Act Section 34-33-101, et seq., C.R.S. 1984, as amended);
- (c) smelting, refining, cleaning, preparation, transportation, and other off-site operations not conducted on affected land; and
- (d) the extraction of geothermal or groundwater resources.

1.2 ACTIVITIES THAT DO NOT REQUIRE A RECLAMATION PERMIT

103(3) and
(13)

1.2.1 Specified by Rule

The Board has determined that certain types of activities do not need reclamation permits either because the excavated substance is not a construction material as defined in Section 34-32.5-103(3), Colorado Revised Statutes 1984, as amended or because the activity is not a mining operation as defined by Section 34-32.5-103(13), C.R.S. 1984, as amended. Such activities include the following:

- (a) the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe:
- (b) the development or extraction of coal (refer to the Colorado Surface Coal Mining Reclamation Act Section 34-33-101, et seq., C.R.S. 1984, as amended);
- (c) cleaning, preparation, transportation, and other off-site operations not conducted on permitted land: and
- (d) the extraction of geothermal or groundwater resources.

1.2.2 Reserved

1.2.3 Reserved

1.2.4 Extraction or Exploration on Federal Lands

Any person who intends to extract or explore for construction materials on federal lands shall apply for a Mined Land Reclamation Board permit or submit a Notice of Intent to conduct exploration operations unless specifically exempted by the Board according to the provisions of this Subsection 1.2.