



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

May 2, 2023

Coulson Excavating Company, Inc.
Attn: Ken & Richard Coulson
3609 North County Road 13
Loveland, CO 80538

Re: Notice of Outstanding Corrective Action, Kirtright Pit, Permit No. M-1986-123

Dear Ken and Richard:

The above-mentioned site has a problem noted that, according to Division of Reclamation, Mining and Safety (Division/DRMS) records has not yet been resolved. According to our records, the following problem was to be resolved on or before June 20, 2022, see Attachment 1. Listed below is a description and corrective action for the problem. Please resolve the corrective action and provide evidence of such resolution on or before **May 29, 2023**.

Please note that if the corrective action is not properly addressed, and evidence provided to the Division by the date provided above, the Division may pursue additional enforcement actions.

1. **Problem:** Failure to maintain legal right of entry per Rule 6.4.14. Pursuant to Rule 6.4.14 the Operator is to provide documentation of the legal right to enter to conduct mining and reclamation, for Owners of Record described in Rule 1.6.2(1)(e)(i). This may include a copy of a lease, deed, abstract of title, a current tax receipt, or a signed statement by the Landowner and acknowledged by a Notary Public stating that the Operator/Applicant has legal right to enter to conduct mining and reclamation

Corrective Action: The permittee/operator must provide proof of legal right to enter and conduct mining and reclamation operations.

If you need additional information or have any questions, please contact me by telephone at **303-866-3567 x8114**, or by email at patrick.lennberg@state.co.us.

Sincerely,



Patrick Lennberg
Environmental Protection Specialist

Attachment 1: Inspection Report Signed April 20, 2022.

cc: Jared Ebert; DRMS


ec: Richard Coulson, Coulson Excavating Company, Inc., caitlyn@coulsonex.com
Peter Wayland, Weiland, Inc., pwayland@weilandinc.com

Attachment 1



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: Kirtright Pit	MINE/PROSPECTING ID#: M-1986-123	MINERAL: Sand and gravel	COUNTY: Larimer
INSPECTION TYPE: Monitoring	INSPECTOR(S): Brock Bowles	INSP. DATE: February 15, 2022	INSP. TIME: 10:30
OPERATOR: Coulson Excavating Company, Inc.	OPERATOR REPRESENTATIVE: Ken Coulson	TYPE OF OPERATION: 112c - Construction Regular Operation	
REASON FOR INSPECTION: Normal I&E Program		BOND CALCULATION TYPE: None	
DATE OF COMPLAINT: NA		BOND AMOUNT: \$58,400.00	
WEATHER: Cloudy		JOINT INSP. AGENCY: None	
INSPECTOR'S SIGNATURE: 		SIGNATURE DATE: April 20, 2022	

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: Right of Entry
PROBLEM/POSSIBLE VIOLATION: Problem: Failure to maintain legal right of entry per Rule 6.3.7.
CORRECTIVE ACTIONS: The permittee/operator must provide proof of legal right to enter and conduct mining and reclamation operations.
CORRECTIVE ACTION DUE DATE: 6/20/22

OBSERVATIONS

This inspection was conducted by Brock Bowles of the Division of Reclamation, Mining and Safety (Division). Ken Coulson of Coulson Excavating Co (Operator) was present for the inspection. The Kirtright Pit is located 5 mile east of Loveland. The site is an active 112c operation with 79.8 acres permitted and the post-mining land use is wildlife. This inspection was carried out as a part of the Division's routine monitoring inspection program. At the time of the inspection it was cool, overcast and the ground was mostly snow covered.

The mine entrance sign was in place on the scale house at the entrance of the mine (photo 1). The site was mostly reclaimed and vegetated with the exception of the scale house and some older equipment near the entrance (photo 1). No mining was taking place, or has taken place for a while. This is evident by the amount and condition of the vegetation on the site (photos 2 & 3). No product stockpiles were remaining.

The SWSP for the Kirtright Pit expired in December 2020. An updated application has been submitted to DWR and is pending approval. According to the expired SWSP, the site contains 4 unlined ponds with a total surface area of 17.68 acres. This information is inconsistent with Exhibit F approved in TR2 (2015) which shows the site has 5 ponds that were installed after 1981 for a total of 21.59 acres. When the new SWSP is issued the Division will determine if the parameters described in the SWSP are consistent with the conditions on the mine site.

The southwest corner of the permit has 2 pre-1981 ponds for a total of 2.99 acres. The depletion of the Pre-1981 ponds does not need to be accounted for. The operator has filed an Application for a Plan for Augmentation is scheduled to appear in water court in February 2024, case #19CW3157 to address the water in the unlined ponds.

On the southwest corner of the east pond, approximately 25 dump truck loads (piles) of soil have been deposited (photo 4). The soil appears to be topsoil by the amount of grassy vegetation in the soil. The fence and fence posts along Lacy Lane were cut and were placed off to the side giving access to this part of the permit. It is not clear who placed the soil or where it came from. No other disturbances were seen on the site, but it should be noted that the ground was mostly snow covered. The topsoil piles are not consistent with the reclamation plan and need to be addressed. The operator needs to incorporate the soil into the surrounding landscape and revegetate it or remove the piles altogether.

According to the 2021 Annual Report, no mining activity has taken place since Dec 2008. The 2010, 2014 and the 2018 inspection reports also state that mining has been completed. As per Rule 3.1.3, all reclamation shall be carried to completion within 5 years from the date the operator has ceased mining. The reclamation of the ponds need to wait until the Augmentation Plan scheduled for water court in 2024 is complete. All other reclamation items, such as removing the scale and scale house, should be completed before the court date.

The operator would like to maintain this permit to use as a processing facility for material extracted from the adjacent Stroh Pit (M-2002-78) where mining has not begun yet, and it is not known when mining will begin. Mining permits are for operations that are developing and extracting construction materials from its natural occurrence (Rule 1.1(30)). Sites that are only being used for cleaning, preparation and transportation do not need a reclamation permit as per Rule 1.2.1. Mining is complete at the Kirtright Pit and therefore reclamation needs to be completed (Rule 3.1.3), and lands within the current permit boundary cannot be used as a processing facility for another mine.

The original right-of-entry was signed by Mr. Virgil Kirtright in February 1986. According to the Larimer

County Assessor website, the land within the permit boundary is now divided into 4 different parcels all of which are no longer owned by Mr. Virgil Kirtright. A new lease agreement/right-of-entry needs to be submitted for each parcel within the permit boundary. Please see the first page of this report for additional information about corrective actions and corrective actions due dates.

PHOTOGRAPHS



Photo 1 – Mine entrance sign, scale house and some equipment



Photo 2 – From the center of the pit area, looking west towards pond 1



Photo 3 – From the center of the pit area, looking east towards ponds 2 and 3



Photo 4 – Soil piles on the southwest corner of the southeast pond

GENERAL INSPECTION TOPICS

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

(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

Inspection Contact Address

Ken Coulson
Coulson Excavating Company, Inc.
3609 North County Road 13
Loveland, CO 80538