

# ASPHALT



## SPECIALTIES CO.

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September 15, 2023

Ms. Nikie Gagnon  
Environmental Protection Specialist  
Colorado Division of Reclamation, Mining, and Safety

**Re: Corrective Action Submittal for Problems Identified at ASCI's Speer Mining Resource (DRMS Permit No. M-1983-176) During 2/9/2023 Inspection**

Ms. Gagnon,

Please find the following update on ASCI's corrective actions regarding the remaining problems identified during the February 9, 2023 inspection at the Speer Mining Resource (Permit No. M-1983-176). Note: Corrective action for Problem #3 were accepted by DRMS per the letter dated April 11, 2023.

**DRMS Problem Identified #1**

**INSPECTION TOPIC:** Reclamation Success

**PROBLEM:** 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 REQUIRED:** 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.

**ASCI CORRECTIVE ACTIONS:** ASCI resumed reclamation activities at the Site in the summer of 2022 with the intent to complete site reclamation within the 5-year period. This included construction of an approx. 2-acre sealed, clay-lined pond located on property owned by the adjacent landowner, Mr. Raymond Crom. However, ASCI stopped work on the pond when a cease and desist letter was received from a lawyer representing Mr. Crom on August 30, 2022 (see Problem #4 for additional discussion). Since that time, ASCI has made multiple attempts to resolve issues with Mr. Crom so reclamation could resume. Unfortunately, negotiations with Mr. Crom have been unsuccessful and the matter is now pending resolution in the judicial system. ASCI intends to complete all remaining reclamation activities not associated with the lawsuit by the end of 2023; however, completion of the French drain and clay-lining of the pond is contingent upon pending legal proceedings. Per the corrective actions required, the following is ASCI's schedule to complete remaining reclamation activities at the site.

Reclamation Activity	Completion Date
Complete Earthwork on Property Owned by Operator: <ul style="list-style-type: none"> <li>Removal of stockpiles</li> <li>Removal of topsoil berm along Brighton Road</li> <li>Removal of truck scale concrete pad</li> <li>Finish Site Grading</li> </ul>	December 31, 2023
Complete Seeding*	December 31, 2023
Complete Phase II of French Drain	To Be Determined (TBD)
Clay Line Pond	TBD

\* = Excludes existing dirt roads/paths used for heavy equipment travel on-site as these will be needed to complete reclamation after pending legal resolution.

## **DRMS Problem Identified #2**

### **INSPECTION TOPIC:** Reclamation Success

**PROBLEM:** 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 REQUIRED:** 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.

**ASCI CORRECTIVE ACTIONS:** Per the corrective actions required, ASCI has submitted a modified TR-5 document to DRMS concurrently with this corrective action submittal to address this problem.

**DRMS Problem Identified #4**

**INSPECTION TOPIC:** Right of Entry

**PROBLEM:** 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 REQUIRED:** 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.

**ASCI CORRECTIVE ACTIONS:** As introduced under Problem #2, ASCI recommenced reclamation activities in the Summer of 2022 to comply with our obligation to construct a sealed, clay-lined water storage reservoir on the property owned by the adjacent landowner, Mr. Raymond Crom. On August 30, 2022, ASCI received a letter from an attorney representing Mr. Crom directing ASCI to cease and desist activities on Mr. Crom's property. Since then, ASCI has reached out to Mr. Crom multiple times, including organizing and participating in a mediation hearing with Judge Thomas French on April 25<sup>th</sup>, 2023, to negotiate a resolution that would allow ASCI to complete reclamation as expeditiously as possible. Unfortunately, ASCI's efforts to resolve the dispute and re-establish our legal right to enter to complete reclamation proved to be unsuccessful as Mr. Crom filed a lawsuit against ASCI. ASCI subsequently filed a Motion to Dismiss. Most recently, on August 31<sup>st</sup>, 2023 attorneys for ASCI filed a reply to Mr. Crom's response to the Motion to Dismiss. This is where the matter currently stands.

The dispute revolves around Mr. Crom's incorrect assertion that ASCI owes him five (5) acre-feet of water per year in perpetuity. This is not true. ASCI is still willing to construct the sealed, clay-lined water storage reservoir on Mr. Crom's property; however, Mr. Crom does not hold any water rights to fill the pond.

It is ASCI's intention to re-establish our legal right to enter and complete reclamation activities as soon as possible; however, at this time, documentation of ASCI's legal right to enter to complete reclamation on the portion of the affected lands that are not owned by ASCI has not



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been obtain. ASCI will provide the requested legal right to enter documentation to DRMS as soon as possible once resolution has been reach from the pending legal proceedings.

Please contact me at (303) 289-8555 or [GregG@asphaltspecialties.com](mailto:GregG@asphaltspecialties.com) if additional information or further clarification is needed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg Geras", with a long horizontal flourish extending to the right.

Greg Geras  
Land Resource Manager  
Asphalt Specialties Co., Inc.