



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

September 18, 2023

Mr. H. Bruce Humphries
Regulatory Permits Management Inc.
25049 E. Alder Dr.
Aurora, CO 80016
(303) 854-7499
hlhumphries2@comcast.net

Re: Dill Pit, Permit No. M-2009-077, Off-site Damage problem abatement

Dear Mr. Humphries:

The Division received the operator's corrective action response on September 8, 2023 for Problem #1 cited in the Division's August 12, 2023 inspection report.

In their response, the operator commits to not using the off-site stockpiled material for use in the mining operation, which was one of the two options provided by the required corrective actions. Based on the commitment provided, the Division considers Problem #1 to be abated at this time. However, the Division would like to provide a response to the additional statements made in the operator's corrective action letter.

The operator's letter states the stockpiling of imported reclamation material outside of the approved permit boundary was a misunderstanding of the Division's February 24, 2017 approval of the operator's inert fill notice (received on February 22, 2017). It appears the operator believed the Division's approval of their notice authorized them to store the imported reclamation material outside of the approved permit boundary on lands owned by the operator. The Division noted this potential misunderstanding in its August 12, 2023 inspection report, and this factor was considered in the Division's decision to cite the issue as a Problem rather than a Possible Violation. Another contributing factor to the Division's decision to not pursue a Possible Violation for this matter is the fact the operator owns the approved affected lands as well as the lands disturbed by the stockpiles of imported material.

As stated in the operator's response, nothing in C.R.S. 34-32.5-116(4)(i) "prevents a landowner from accepting fill material from off site and its placement on its own private property, as long as it is outside a mine site permit boundary". A landowner may use their property as they see fit, as long as that use is compliant with all applicable laws. However, in this case, there is no dispute over the fact that the landowner/operator imported the material in question to the site for use in reclamation of the Dill Pit. This intent was documented in the operator's inert fill notice



submitted to our office on February 22, 2017. The operator also confirmed this intent during the Division's June 15, 2023 inspection. It is for this reason the surface disturbed by the stockpiled material adjacent to the approved permit boundary could be interpreted as "affected lands" per C.R.S. 34-32.5-103(1), as it is considered "storage" and "areas in which...other materials or property that result from or are used in such operations are situated".

However, given the factors mentioned above, the Division is not citing a Possible Violation at this time for off-site affected lands, and is instead providing the operator the opportunity to commit to not using the material for the operation. By making this commitment, the operator is authorized to use the material for other purposes, as long as it is not used for the operation in any way. However, if the operator does intend to use the material for the operation in any way, an Amendment application must be submitted to incorporate the stockpiling area into the approved permit boundary.

While the Division does not dispute the off-site stockpiles were the result of a misunderstanding by the operator, the Act and Rules are very clear about what is considered affected lands. The operator should be advised moving forward that any activities approved by the Division in association with the mine permit, including activities approved under Rule 3.1.5(9) (for the importation of fill generated outside of the approved permit area) are approved with respect to the approved permit boundary. Additionally, if the operator intends to store any additional materials and/or create any new surface disturbances adjacent to the approved permit boundary, a Technical Revision must be submitted to update the mining plan map to label all existing or planned disturbances adjacent to the permit boundary. This would help differentiate these disturbances/activities from those associated with the mining operation, and help prevent any future misunderstandings.

The Division would be happy to meet with the operator to discuss this matter further, if needed. If you require additional information, or have questions or concerns, please feel free to contact me by phone at (303) 866-3567, ext. 8147, or by email at joel.renfro@state.co.us.

Sincerely,



Joel Renfro
Environmental Protection Specialist

Cc:

Tracy and Ed Grimes
Amy Eschberger, DRMS