



January 30, 2024

Dustin Hribar
Huerfano County
1038 Russell Ave
Walsenburg, CO 81089

Re: Huerfano Count, Peak View Pit, Permit M-2014-028, Consent Agenda Summary Form (REVISED)

Dear Dustin Hribar,

A possible violation hearing is scheduled for consideration by the Mined Land Reclamation Board (Board). As indicated in the Division's correspondence dated January 18, 2024, Re: Reason to Believe a Violation Exists and Notice of Enforcement Hearing, the formal Board hearing is scheduled to occur during the February 21-22, 2024 meeting.

Please find enclosed the **revised** Staff Summary Form for Consent Agenda Items (consent form) for the possible violation at the site. **The revision reduces the total civil penalty from \$3,600 to \$3,400. The total unsuspending amount remains at \$500.** If you concede to the violation, corrective actions and civil penalties, please affix your notarized signature on the enclosed consent form and return the signed form, with original signatures, to the Division no later than February 14, 2024. Upon receipt of the signed and notarized consent form the item will be moved from the Board's agenda for enforcement hearings to consent items and there will not be a formal Board hearing regarding the possible violation.

However, if you wish to contest the possible violation or any of the conditions of the enclosed consent form, please inform the Division at your earliest convenience and do not sign the consent form. In the absence of a signed and notarized consent form, the formal Board hearing will proceed as scheduled for February 21-22, 2024.

If you have any questions, please contact me at amber.gibson@state.co.us or (720) 836-0967.

Sincerely,

Amber M. Gibson
Environmental Protection Specialist



Enclosure - Staff Summary Form for the Consent Agenda Items

Ec: Jared Ebert; Division of Reclamation, Mining & Safety
Russ Means; Division of Reclamation, Mining & Safety
Scott Schultz; Attorney General's Office



COLORADO
**Division of Reclamation,
Mining and Safety**
Department of Natural Resources
1313 Sherman Street, Room 215
Denver, CO 80203

STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS

Date	January 30, 2024	Applicant	Huerfano County
File No.	M-2014-028	Site Name	Peak View Pit
Specialist	Amber M. Gibson	Objecting Party	N/A
County	Huerfano	Permit Type	112c

Action:

Possible violation of:

- C.R.S. 34-32.5-116(4)(i) for failure to protect areas outside of the affected land from slides or damages occurring during the mining operation.

Resolution:

Huerfano County concedes a violation of C.R.S. 34-32.5-116(4)(i) for failure to protect areas outside of the affected land from slides or damages occurring during the mining operation at the Peak View Pit site, File No. M-2014-028.

Chronology:

- December 12, 2023 – DRMS conducted a routine monitoring inspection and found the Operator has affected approximately 0.5 acres of land outside of the approved affected area boundary.
- December 21, 2023 – DRMS sent an inspection report to the Operator.
- January 18, 2024 – DRMS sent the Operator a Reason to Believe a Violation Exists and Notice of Board Hearing letter.

Reason for Violation:

The Operator has extended their pit north of the approved permit and affected area boundaries. The Operator has failed to protect lands outside of the affected land from slides or damages occurring during the mining operation.

STAFF RECOMMENDATION

Board Actions:

Find a violation of:

- C.R.S. 34-32.5-116(4)(i) for failure to protect areas outside of the affected land from slides or damages occurring during the mining operation.



Issue a Cease and Desist Order:

- Issue a Cease and Desist Order pursuant to C.R.S. 34-32.5-124(2), prohibiting any further activities within the affected 0.5 acres of land outside of the approved affected area boundary, except those activities approved by the Division, in writing, as necessary to comply with the conditions of a Board Order, prevent damage to off-site areas, complete reclamation, or to protect public health and safety, until the corrective actions have been resolved to the satisfaction of the Division.

Corrective Action(s):

- The Operator must submit an Amendment application to update the approved mining and reclamation plans and maps to account for all of the affected land. The Operator shall submit the Amendment application within 90 days of the effective date of the Board Order, with all materials in an approvable form within statutory deadlines.

Civil Penalty:

Pursuant to C.R.S. § 34-32.5-124(7) an operator who violates any provision of a permit shall be subject to a civil penalty of not less than \$100 per day nor more than \$1,000 per day for each day during which a violation occurs. In this matter, the Board may assess a civil penalty of \$3,400 to \$34,000 for 34 days of violation. The 34 days of violation were calculated from the date of the Reason To Believe and Notice of MLRB Hearing (RTB) letter dated January 18, 2024 to the Board meeting scheduled for February 21-22, 2024.

- In this matter the Division will assess a civil penalty of **\$3400** based on 34 days of violation at \$100 per day. The Board will suspend a portion of the assessed civil penalty with the exception of **\$500**, if the corrective actions cited above are completed to the satisfaction of the Division within the required deadlines.
- The unsuspended portion of the civil penalty, **\$500**, is due within 30 days of the effective date of the Board's Order finding the violation which will be sent under a separate cover. Failure of the Operator to comply by the Board Order due date shall result in the suspended portions of the civil penalty, **\$2,900** becoming effective and due.

Operator's Notarized Signature:

As an authorized representative of the Applicant, I hereby attest that the Operator concedes to the above described violation and agrees to comply with the Corrective Action and Civil Penalty proposed in this STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS.

Signed and dated this _____ day of _____, 2024.

(Applicant)

Signature: _____

Title: _____

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2024,

by _____ as _____ of _____.

Notary Public

My Commission Expires: _____

SIGNATURES MUST BE IN BLUE INK