



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

February 27, 2024

Kent Holsinger
Holsinger Law, LLC
1800 Glenarm Place, Suite 500
Denver, CO 80202

Re: Sanders Gravel Pit; File No. M-2021-066; Response to Reclamation Authority Questions

Dear Mr. Holsinger,

The Division of Reclamation, Mining and Safety (DRMS) is in receipt of your letter dated January 25, 2024, in which you request clarification on the Division's authority and jurisdiction over reclamation of the Sanders Gravel Pit. The Division provides the following responses to clarify the issues (in italics) raised in your correspondence:

1. ***DRMS regards itself as the exclusive governing body for mining and reclamation matters;***

Response: The DRMS is the exclusive governing body for matters related to mining and reclamation in Colorado. Pursuant to C.R.S. 34-32.5-109, no governmental office of the state, other than the Mined Land Reclamation Board (MLRB), nor any political subdivision of the state shall have the authority to issue a reclamation permit pursuant to this article, to require any performance standards different than established in this article, or to require any performance or financial warranty of any kind.

2. ***While local jurisdictions may condition some reclamation related activities (like noise, traffic, etc.) they cannot completely prohibit DRMS permitted reclamation work;***

Response: Approved reclamation plans must conform to the requirements of the Colorado Land Reclamation Act for the Extraction of Construction Materials (Act) and Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials (Rules). Pursuant to C.R.S. 34-32.5-109, the Operator shall be responsible for assuring that the mining operation and the post-mining land use comply with city, town, county or city and county land use regulations and any master plan for extraction adopted pursuant to C.R.S. 34-1-304 unless a prior declaration of intent to change or waive the prohibition is obtained by the applicant from the affected political subdivisions. Any mining operator subject to this article shall also be subject to zoning and land use authority and regulation required by political subdivisions as provided by law.



3. ***Where, as with Sanders, a DRMS permit has been issued, local jurisdictions cannot question the method of reclamation set forth in a permit or direct different reclamation from that set forth in a permit, as reclamation methods are the exclusive jurisdiction of the DRMS; and***

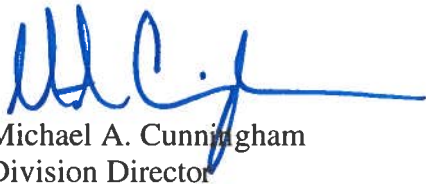
Response: Certain aspects of reclamation may be subject to local zoning and land use authority; however, specific reclamation methods and techniques fall under the jurisdiction of DRMS as the sole entity with the authority to issue a Reclamation Permit and to require a performance and financial warranty.

4. ***DRMS will not withdraw the Sanders reclamation permit and forego reclamation requirements and the financial guarantee therein because Routt County denied the SUP.***

Response: As a condition of the issuance of the Reclamation Permit for the Sanders Gravel Pit, the Operator signed a Performance Warranty and agreed to be bound by all applicable requirements of the Act and Rules of the MLRB. Typically, the denial of a county SUP means that mining under an approved Reclamation Permit may not commence. In the case of the Sanders Gravel Pit, the Operator was found to have commenced mining operations without an approved Reclamation Permit. The MLRB ordered the Operator to obtain a Reclamation Permit to include all affected lands disturbed by the mining operation. Therefore, the Operator must complete all reclamation in accordance with the approved Reclamation Permit. The performance and financial warranties shall remain in place until such time as the Operator has demonstrated they have successfully complied with reclamation performance requirements of the Act and Rules.

If you have any questions, please contact me at (303)866-3567 ext. 8135.

Sincerely,



Michael A. Cunningham
Division Director

CC: Russ Means, DRMS
Hunter Ridley, DRMS