



**Construction Materials Extraction**  
STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS.  
May 15, 2024

**GENERAL INFORMATION**

<b>Site Name</b>	Twin Buttes HWY 139 Pit (Wagner Pit)	<b>Permit Type</b>	Illegal-110c
<b>Permittee</b>	Twin Buttes Land CO., LLP	<b>Permit Acreage</b>	Approx. 7.08 ac
<b>File No.</b>	M-2023-038	<b>Existing Bond</b>	None
<b>Commodity</b>	Borrow	<b>Bond Adequate?</b>	No
<b>County</b>	Rio Blanco	<b>Inspection Date</b>	Oct 23 & Dec 11, 2023
<b>Method of Mining</b>	Surface	<b>Specialist</b>	Amy Yeldell

**ACTION:**

**Possible violation(s) of:**

- C.R.S. 34-32.5-109(1) before engaging in a new operation, an operator shall first obtain from the Board or Office a reclamation permit.
- C.R.S. 34-32.5-123(2) An operator who operates without a permit shall be subject to a civil penalty of not less than one thousand dollars per day nor more than five thousand dollars per day for each day the land has been affected, not to exceed three hundred sixty-five days.
- C.R.S. 34-32.5-123(4) In addition to the civil penalties imposed in subsections (2) and (3) of this section, the board shall also assess a civil penalty in an amount not less than the amount necessary to cover costs incurred by the division in investigating the alleged violation.
- C.R.S. 34-32.5-124(2), If the board determines that any provision of this article or any notice, permit, or regulation issued or promulgated pursuant to this article has been violated, it may issue a cease-and-desist order.

**RESOLUTION:**

Twin Buttes Land Co., LLC concedes a violation of C.R.S. 34-32.5-109(1) for failing to obtain a reclamation permit prior to engaging in a new operation at the Twin Buttes HWY 139 Pit (Wagner Pit).



## CHRONOLOGY

Oct. 23, 2023	DRMS site inspection, report issued Oct. 30, 2023
Dec. 1, 2023	Consent for Access to Property
Dec. 11, 2023	DRMS site inspection, report issued Jan. 12, 2024
Feb. 27, 2024	Reason to Believe a Violation Exists and Notice of Board Hearing
Apr. 16, 2024	Permit application received (incomplete)
Apr. 17, 2024	Original MLRB Hearing date Notice of Continuance and Consent Agenda Agreement

## REASON FOR VIOLATION

The Operator has engaged in a mining operation prior to obtaining a reclamation permit from the Division.

## STAFF RECOMMENDATIONS

### Violation(s):

*Find a violation pursuant to C.R.S. 34-32.5-109(1), for failure to obtain a Reclamation Permit from the Mined Land Reclamation Board or Office before engaging in a new mining operation.*

### Cease and Desist Order:

*Issue a cease and desist order, in accordance with C. R.S. 34-32.5-124(2), prohibiting any further activity, except those activities approved by the Division in writing, as necessary to comply with the conditions of a Board Order, prevent damage to offsite 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 shall be required to submit to DRMS a 110c permit application, complete for filing purposes, within 30 days of the mailing date of the signed MLRB Order and obtain DRMS approval of the application within the statutory deadlines. The submitted permit application shall, at a minimum, include all affected acreage to date associated with the borrow area.*

### Civil Penalties:

In accordance with C.R.S. 34-32.5-123(2) an operator who engages in mining without a permit shall be subject to a civil penalty of not less than One Thousand dollars (\$1,000) per day, nor more than Five Thousand dollars (\$5,000) per day for each day of violation not to exceed 365 days. In this instance, 50 days of penalty may be assessed from the date of the RTB to the date of April's MLRB hearing, giving a civil penalty range of \$50,000 to \$ 250,000.

Pursuant to C.R.S. 34-32.5-123(4), in addition to the civil penalties imposed above, the Board shall also assess a civil penalty in an amount not less than the amount necessary to cover costs incurred by the

Division in investigating the alleged violation. In this case, the Board shall assess an additional civil penalty in the amount of \$906, based on 16 hours of staff time at \$56.64 per hour (rounded to the nearest dollar).

- In this matter the Division will assess a civil penalty in the amount of one thousand dollars (\$1,000) for 50 days of violation for a total of \$50,000.00 plus the 16 hrs. of staff time. This is a total civil penalty of \$50,906.00 (\$50,000 civil penalty + \$906 staff time). With all but of \$1,906.00 (\$1,000 civil penalty + \$906 staff time) suspended if the Operator complies with the corrective action by the deadline specified.
- The unsuspended portion of the civil penalty, \$1,906, 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, \$49,000 becoming effective and due.

**OPERATORS 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.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**SIGNATURES MUST BE IN BLUE INK**