

STATE OF
COLORADO

Zuber - DNR, Rob <rob.zuber@state.co.us>

DRMS Inspection Report

1 message

Zuber - DNR, Rob <rob.zuber@state.co.us>

Tue, Apr 30, 2024 at 10:22 AM

To: Zach Jenn Prock <zjprock@outlook.com>, Everett Neil <eneil@deltacountyco.gov>

Hello, Mr. Prock -

Here is my report from the April 9th inspection. Barring any other complaints, this matter is considered closed by the Division.

Regards,
Rob

Rob Zuber, P.E.
Environmental Protection Specialist
Active Mines Regulatory Program



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

I am working remotely and can be reached by cell at 720.601.2276.

Physical Address:

1313 Sherman Street, Room 215

Denver, CO 80203

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DRMS_REPORT_M2024010_04302024_with_enclosures.pdf

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MINERALS PROGRAM INSPECTION REPORT
PHONE: (303) 866-3567

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: Prock Gravel Pit	MINE/PROSPECTING ID#: M-2024-010	MINERAL: Sand and gravel	COUNTY: Delta
INSPECTION TYPE: Illegal(Unpermitted Operation)	WEATHER: Clear	INSP. DATE: April 9, 2024	INSP. TIME: 08:45
OPERATOR: Delta County	OPERATOR REPRESENTATIVE: Zach Prock	TYPE OF OPERATION: ILL - Illegal	
REASON FOR INSPECTION: Citizen Complaint	BOND CALCULATION TYPE: None	BOND AMOUNT: NA	
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None	
INSPECTOR(S): Robert Zuber, P.E.	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: April 30, 2024	

GENERAL INSPECTION TOPICS

This list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each. No problems or possible violations were noted during the inspection. The mine operation was found to be in full compliance with Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials and/or for Hard Rock, Metal and Designated Mining Operations. Any person engaged in any mining operation shall notify the office of any failure or imminent failure, as soon as reasonably practicable after such person has knowledge of such condition or of any impoundment, embankment, or slope that poses a reasonable potential for danger to any persons or property or to the environment; or any environmental protection facility designed to contain or control chemicals or waste which are acid or toxic-forming, as identified in the permit.

(AR) RECORDS----- <u>N</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>N</u>
(HB) HYDROLOGIC BALANCE----- <u>Y</u>	(BG) BACKFILL & GRADING----- <u>N</u>	(EX) EXPLOSIVES----- <u>N</u>
(PW) PROCESSING WASTE/TAILING---- <u>N</u>	(SF) PROCESSING FACILITIES----- <u>N</u>	(TS) TOPSOIL----- <u>N</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>Y</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>N</u>
(SM) SIGNS AND MARKERS----- <u>N</u>	(SP) STORM WATER MGT PLAN---- <u>N</u>	(RS) RECL PLAN/COMP-- <u>N</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>N</u>	(SC) EROSION/SEDIMENTATION--- <u>Y</u>	(ST) STIPULATIONS----- <u>N</u>
(AT) ACID OR TOXIC MATERIALS----- <u>N</u>	(OD) OFF-SITE DAMAGE----- <u>Y</u>	

Y = Inspected / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

On April 2, 2024, Rob Zuber of the Division received a phone call from Everett Neil, who works for Delta County as a Code Compliance Officer. Mr. Neil informed Mr. Zuber that a citizen who lives off 1600 Road, south of the City of Delta, told him that a neighbor has been excavating material, processing rock with a screener, and hauling the material offsite on public roads, including Tessman Road (a public right-of-way).

The following is based on phone conversations prior to the day of the inspection and a conversation at the site entrance during the inspection.

Information provided by Mr. Neil:

- The destination of the trucks is unknown.
- The parcel (ID 349314100003) is shown in the figure below.
- The owner of the parcel and possible violator is Zach Prock. His phone number is 970.275.1508.
- Mr. Prock has permits with the County to build a wedding venue at the site.

The neighbor provided the following information on April 2:

- The trucks were leaving the site for three days (March 29 – March 31, 2024) and traveling on Tessman Road to an unknown destination. He recorded a video of the trucks.
- He saw a screener with the name Rocky Mountain Aggregates on the side of it. This equipment was removed from the property by the time of this phone conversation.

On April 3, 2024, Mr. Prock provided the following information in a phone conversation:

- He has not sold and has no intention to sell the soil, gravel or rock produced by this construction project.
- He has moved some of the material (unknown quantity) to another property he owns in Montrose, Colorado.
- He stated that if we require permit for this operation, then he will cease moving any material off site.
- He agreed to meet me at the site at 9 am on April 9, 2024.

At the beginning of the inspection, the "Is It Mining" guideline was reviewed with Mr. Prock. His answers are as follows:

1. See enclosed figures for location.
2. The site of material excavation is private property, owned by Mr. Prock.
3. Rock and soil have been extracted next to the construction site. The deposit is on flat farmland. To get to the site one must drive up a small hill, and the site is 45 feet in elevation above Tessman Road, which is to the northeast. The site is approximately 2,800 feet from the nearest creek, which is Dry Creek to the east.
4. An excavator was used for extraction. A screener was used to separate the soil, gravel, and larger rock. No crusher was used. No chemicals were used in processing.
5. Most of the material will be used onsite for Mr. Prock's development. Some was hauled to his other property in Montrose, Colorado via Tessman Road, other local roads, and Highway 50.
6. The soil will be used to build a berm around the wedding venue and to fill the pit, gravel will be used for the entrance road and parking lot, and larger rock will be used for landscaping the area around the venue.
7. As indicated, some was hauled to Montrose for use on another property owned by Mr. Prock.
8. The extraction area and depth were measured during the visual inspection.
9. Same as #8.

10. The volume extracted was measured by the Division to be approximately 11,000 CY (from dimensions of the pit and 5% swell factor). The amount removed from the site is estimated to be less than half of this.
11. No explosives were used.
12. No tributary groundwater was exposed.
13. Mr. Prock has not sold, nor does he intend to sell, any of the soil or rock from this extraction.
14. The County representative (Everett Neil) confirmed that a wedding venue is being constructed at the site and it will include a very large parking lot.
15. Mr. Prock has a Special Use Permit with Delta County.
16. Mr. Prock has not obtained additional funding from government agencies.
17. The area where the pit now exists will be part of the parking lot.
18. A small excavator (bucket approximately two feet wide) was used for the extraction.

SITE ACCESS

Mr. Prock signed an access form, enclosed.

OBSERVATIONS

At 9 am on April 9, 2024, Rob Zuber of the Division met Everett Neil of Delta County (complainant) and Zach Prock, landowner, at the site. The weather was cool and clear. The ground was dry.

There was no indication that the pit or piles of soil and rock are negatively impacting the adjacent properties. There was no erosion on the hillside below the pit. There was no indication of significant sediment loading onto the adjacent farmland.

There are no receiving waters near the site, other than a small, poorly defined ditch approximately 150 feet from the pit (it is apparently a tailwater ditch for the pastures in the area). No impacts on the ditch were detected.

Please see the sketch of the site in the enclosures.

A rectangular pit was measured with a laser instrument (aka rangefinder), and the average depth was approximately 10 feet. The deepest portion of the pit was no more than 12 feet. A small amount of water was observed in the pit. Given the amount of water and the topography of the site, this water is not believed to be exposed groundwater. The width of the pit was estimated to be 150 feet, and the length was estimated to be 190 feet. No earth-moving equipment was present at the pit.

Several piles of soil and rock were observed:

- A pile of unprocessed material was next to the pit. Its measurements were estimated as 20 feet by 80 feet and eight feet high.
- Several soil piles were seen, most were approximately the same size as the pile by the pit. One was significantly larger.
- A large rock pile was measured to be 25 feet by 75 feet and eight feet high.
- Two smaller rock piles were seen, each approximately half the size of the large rock pile.

A loader was moving soil from one of the piles to the construction area during the inspection.

It appears that the volume of material in the piles is smaller than the volume of the pit. The exact amount was not calculated, but it appears that the majority of the extracted material remains onsite.

The construction area was seen south of the soil piles. Several workers were onsite constructing a foundation that is approximately the size of a large single-family home (as stated before, it will be a wedding venue). The equipment onsite (next to the construction area) was the loader, a motor grader, a skid steer, and two small excavators.

Photographs taken during the inspection are provided in this report.

ADDITIONAL INFORMATION

On April 29, 2024, Mr. Prock sent a letter committing to not remove more excavated material from this site. Based on this letter and information obtained by the Division in phone conversations and the inspection, the Division has decided to not pursue enforcement actions, as long as Mr. Prock abides by his commitment. This letter is included as an enclosure.

PHOTOGRAPHS



Construction area, with brush burning in background



Soil and rock piles, looking north from construction area



Rock pile along west side of site (note berm between piles and irrigation ditch)



Pit, looking north



Slope below pit, looking northeast

Inspection Contact Address

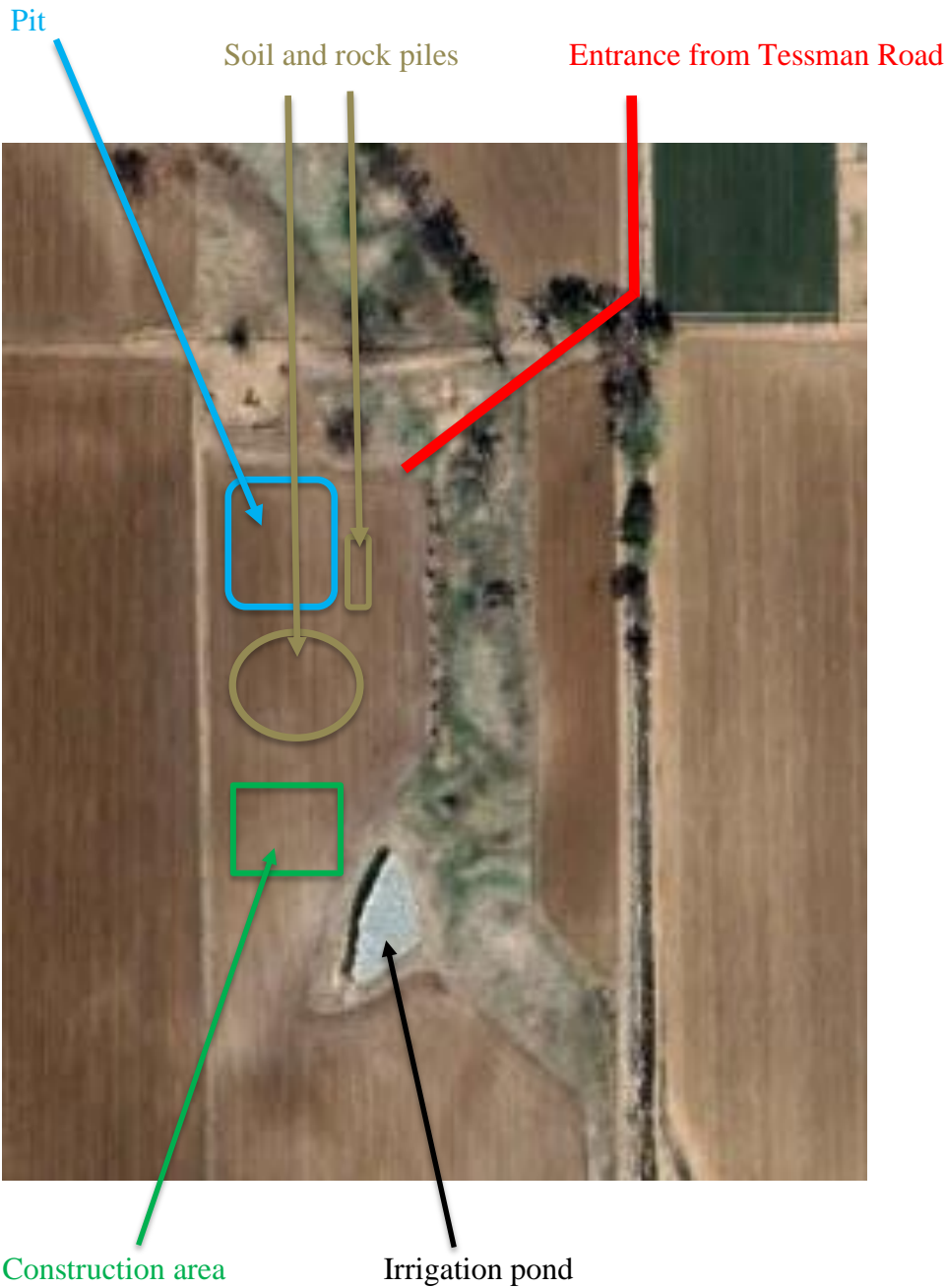
Zach Prock
Delta County
72015 Kinikin Road
Montrose, CO 81401

Enclosures

Cc: Amy Eschberger

ENCLOSURES

SKETCH OF SITE (approximate shapes and sizes)



CONSENT FORM



CONSENT FOR ACCESS TO PROPERTY

Name of Property Owner: Zach Prock
Location of Property: Off Tessenman Road, Delta, Colorado - Parcel ID 3493141000

The Colorado Division of Reclamation, Mining and Safety ("DRMS") is requesting your consent to allow DRMS Staff to access your property on April 9, 2024 (date) and for any follow-up visits that DRMS determines to be necessary. DRMS seeks access to your property to determine compliance with Colorado law and/or for the following purposes:

determine the extent of activities and the need for a DRMS permit
Also, this inspection is a response to a complaint by another party.
Once granted access to your property, DRMS Staff may take actions including but not limited to:

- Conducting a visual inspection of your property
- Taking photographs, video, and/or other documentation of conditions on your property
- Taking samples of soil, surface water, groundwater, or any materials stored on or disposed of on the property as DRMS determines to be necessary
- Other actions related to determining whether conditions at the property violate Colorado law, raise concerns of potential impacts to health, safety, welfare or the environment, or require any emergency response action

If DRMS Staff identifies any potential violations of laws or regulations at your property, you could face legal action, including but not limited to fines and/or requirements that you obtain any necessary permits. You are not required to consent to this request for access to your property. However, if you do not consent, DRMS Staff may still obtain access to your property through an administrative search warrant or other legal means. DRMS may also conduct an aerial inspection (e.g., drone flight) of your property without obtaining your consent. So, if you do not consent, it is still possible that DRMS Staff will be able to inspect your property.

Informed Consent

Check one:

- ☒ I own the property identified above.
☐ I am legally authorized to grant permission to access the property described above.

I have read and I understand the information provided to me regarding DRMS's request for consent to access my property. The information was provided to me in a language that I understand. I have had the opportunity to ask DRMS Staff questions.

By signing below, I AGREE to allow DRMS Staff access to my property, and voluntarily provide my informed consent.

Signature: Zach Prock

Name of Landowner or Authorized Legal Representative (Printed): ZACH PROCK

Date: 4/9/24



COMMITMENT LETTER

Prock Investments llc
72015 Kinikin Rd Montrose, CO 81401

April 29, 2024

To Whom it may concern;

I will not be moving any excavated material off of the property I own on Tessman Rd

Thank you

A handwritten signature in black ink, appearing to read 'Zach Prock', with a stylized flourish at the end.

Zach Prock