



COLORADO


Division of Reclamation,
Mining and Safety

Department of Natural Resources

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: Seeley Lake Reservoir	MINE/PROSPECTING ID#: M-2023-043	MINERAL: n/a	COUNTY: Weld
INSPECTION TYPE: Possible Illegal(Unpermitted Operation)	WEATHER: Clear	INSP. DATE: January 18, 2024	INSP. TIME: 13:00
OPERATOR: Ogilvy Irrigating & Land Co	OPERATOR REPRESENTATIVE: Scott Cockroft	TYPE OF OPERATION: Possible Mining Operation	
REASON FOR INSPECTION: Other Agency Request	BOND CALCULATION TYPE: None	BOND AMOUNT: n/a	
DATE OF COMPLAINT: January 9, 2024	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None	
INSPECTOR(S): Brock Bowles	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: March 5, 2024	

The following inspection topics were identified as having Problems or Possible Violations. OPERATORS SHOULD READ THE FOLLOWING PAGES CAREFULLY IN ORDER TO ASSURE COMPLIANCE WITH THE TERMS OF THE PERMIT AND APPLICABLE RULES AND REGULATIONS. If a Possible Violation is indicated, you will be notified under separate cover as to when the Mined Land Reclamation Board will consider possible enforcement action.

INSPECTION TOPIC: Availability Of Records

POSSIBLE VIOLATION: Ogilvy Irrigation & Land Co. has engaged in a new mining operation without first obtaining a reclamation permit. This is a possible violation for failure to first obtain a reclamation permit from the Mined Land Reclamation Board (Board) or Office before engaging in a new mining operation as required by 34-32.5-109(1) C.R.S.

CORRECTIVE ACTIONS: This possible violation will require a hearing before the Mined Land Reclamation Board. The schedule and other details for the MLRB hearing will be provided under a separate document to be sent via certified mail to the operator.

CORRECTIVE ACTION DUE DATE: Tentative MLRB hearing date 4/17/24

OBSERVATIONS

On January 9, 2024, the Weld County Department of Planning Services (Weld County) contacted the Division about some possible mining activity occurring within the county. This inspection was conducted by Brock Bowles of the Division of Reclamation, Mining and Safety (Division) to investigate this activity. Weld County reported that the Seeley Lake reservoir was being dredged and the material removed from the reservoir was being stacked on an adjoining agricultural field.

The Seeley Lake Reservoir is in Weld County about 1 mile north of the City of Greeley at the intersection of AA Street and N 35th Ave (40.4666°, -104.7357°). Ogilvy Irrigating and Land Company (Ogilvy) owns the Seeley Lake Reservoir and the land on which the reservoir is located according to the Weld County Assessor website.

Background:

The Division received an "Is It Mining?" questionnaire from Hannah Dutrow of AGPROfessionals on August 8, 2023 (attached). The questionnaire referenced a reservoir in Weld County but did not specifically name the Seeley Lake Reservoir. The questionnaire did declare the site is on private property, 600,000 cy of material will be removed, the material will be hauled to a separate property until dry enough to be removed and may be repurposed as fill dirt. The Division stated the operation would need a reclamation permit for this activity. The Division's determination letter was sent to AGPROfessionals on August 21, 2023 (attached). File number M-2023-026 was assigned to that proposed activity.

The Division received a second "Is It Mining?" questionnaire from Tim Naylor of AGPROfessionals on December 12, 2023 (attached). The questionnaire also referenced a reservoir in Weld County but did not specifically name the Seeley Lake Reservoir. The questionnaire did declare the site is on private property, 600,000 cy of material will be removed, and the material will be hauled to a separate property until dry enough to be removed. The Division again determined the proposed operation would need a reclamation permit for the proposed activity. The Division's determination letter was sent to AGPROfessionals on December 19, 2023 (attached). File number M-2023-043 was assigned to this proposed activity.

Upon investigation, the activities discussed in files M-2023-026 and M-2023-043 are the activities reported by Weld County. File number M-2023-043 will be the file number used for the Seeley Lake Reservoir site and this operation moving forward.

Mr. Naylor of AGPROfessionals was contacted on January 11, 2024. He confirmed that the "Is It Mining?" questionnaire he submitted was indeed about the Seeley Lake Reservoir project and that AGPROfessionals was a contractor working on behalf of Ogilvy. Mr. Naylor put the Division in contact with Mr. Scott Cockroft of Ogilvy. Mr. Cockroft contacted the Division on January 16, 2024, and confirmed that the Seeley Lake Reservoir is currently in the process of being cleaned. An inspection was scheduled for January 18, 2024, at 1 pm.

Brock Bowles (Division), Scott Cockroft (Ogilvy), Tom Haren (AGPROfessionals), Tim Naylor (AGPROfessionals), Doug Seeley (NOCO Engineering Co.), and Steve Kramer (Ogilvy) attended the inspection. The weather during the inspection was clear, windy, and cold. The temp was approximately 25°F and the ground was frozen with patchy snow.

Sediment is being removed from the north side of the reservoir where the ditch enters the reservoir. The area being excavated is about 15 acres in size and the depth of the excavation will be about 10-15 feet deep.

Material is being removed from the Ogilvy and adjacent Keirnes property (red polygon on map and photos 1-3).

The excavation is taking place in stages because the material is saturated (photo 4). Material is removed until groundwater is intercepted. A series of ditches directs the water to a diesel-powered pump which pumps the water out of the working area into the southern part of the reservoir which is not currently being excavated (photo 5). Once the water level is lowered and the material has dried out a little, the material is then excavated and put into haul trucks and transported to one of the drying areas (photos 6-9). This process is repeated until the all the material is removed.

Material is being transported to 3 different drying areas:

Area A is north of the reservoir and is on the Keirnes property (photo 6). The Keirnes property was a grass pasture before saturated material was stacked on it. Grass can be seen where material hasn't been stacked yet and historical images from Google Earth shows that the Keirnes property was a pasture. About 10 acres have been disturbed in this area with about 6 acres containing stacked material. Topsoil was not salvaged in this area and no storm water or erosion control structures were noted around the pile. The area around the Keirnes property has been heavily impacted by the haul truck traffic.

Area B is located to the west of the reservoir, situated along the north side of AA Street on the Keirnes property (photo 7). This area is an agricultural field as crop stubble can be seen on the field (photo 8). About 6 acres have been disturbed in this area and about 3 acres contain stacked material. Topsoil was not salvaged in this area and no storm water or erosion control structures were noted around the pile. Areas that do not have material stacked on them have been heavily impacted by compaction of the haul trucks. The north side of AA Street on the Keirnes property where material is being stacked is accessed from the haul road.

Area C is located southwest of the reservoir and is on the PDC Energy Property. The PDC Energy Property area is south of AA Street and is accessed by the haul road. The PDC Energy Property area is an agricultural field and topsoil was not salvaged as crop stubble can be seen on the field (photo 9). About 12 acres have been disturbed in this area and about 4 acres contain stacked material. The Division was told that the entire area will eventually have material stacked on it and a second layer will be added on top. A sediment control ditch was noted on the west, south and east sides (photo 10). Material was actively being hauled to this area and a front-end loader was stacking the material.

There were approximately 5 excavators, 8 haul trucks and one front end loader on site (photo 11). Several other pieces of farm equipment were also on site.

Roads:

A haul road had been installed on the west side of the reservoir. The road is aligned north and south paralleling the property line between Ogilvy and the Keirnes Land Co, LLC. The road is approximately 30 feet wide and 0.4 miles long leading south to where it crosses the public road AA Street (photo 12). AA Street had construction barriers in place closing the road to public use in both directions (photo 13). Large wooden timbers were placed on AA Street and covered in about 24 inches of soil where the haul road crosses AA Street (photo 14). This was done to protect AA Street from the weight of the haul trucks. After AA Street, the haul road continues south for another 500 feet onto the property owned by PDC Energy, Inc. The haul road then turns to the west another 1,200 feet to the stacking area. At the western property line, the road turns south for another 900 feet where it ends at a natural gas well pad (photo 15). This road is not shown on the most recent May 2023 images on Google Earth. The natural gas well pad is accessed through a separate access road.

Right of Entry:

Mr. Cockcroft said they have a 7-year contract with the landowners to store the material until they can figure

out what to do with it.

Storm Water MGT Plan:

Mr. Haren confirmed that a Storm Water Management Plan had been obtained and that the structures were put in place in compliance with the plan.

Topsoil:

No topsoil was salvaged or protected in the areas where the reservoir cleanings were stacked in the agricultural fields.

The topsoil was not salvaged or protected from compaction in the area where the heavy equipment was being staged.

The Division estimates about 47 acres has been affected by the excavation created by Ogilvy at the Seeley Lake Reservoir. A reclamation permit will need to be obtained by the operator for this mining operation. This issue is cited as a possible violation for failure to first obtain a reclamation permit from the Mined Land Reclamation Board before engaging in a new mining operation as required by 34-32.5-109(1) C.R.S. Details regarding this enforcement action will be sent under a separate cover.

PHOTOGRAPHS



Photo 1 – First layer of material being removed. Excavation will continue deeper once water level is lowered.



Photo 2 – Southern end of dredging operations with berm creating barrier between the lake and work area.



Photo 3 – Southeastern part of work area close to residential area.



Photo 4 – Northern excavation area, facing west.



Photo 5 – Deisel pump removing water from the working area.



Photo 6 – Material stacked in Area A. The grass indicates that topsoil was not salvaged.



Photo 7 – Storage Area B with AA Street on left, south side of pile facing west.



Photo 8 – Area B pile extends to west then turns north (between arrows) in agricultural field.



Photo 9 – Area C facing southeast. Material is currently stacked on perimeter of area and center is expected to be filled in.



Photo 10 – Sediment control ditch on southwest corner of Area C.



Photo 11 – Heavy Equipment staging area on west side of reservoir.



Photo 12 – Haul road on west side of reservoir, facing south.



Photo 13 – AA Street closures, west side, and east side, respectively.

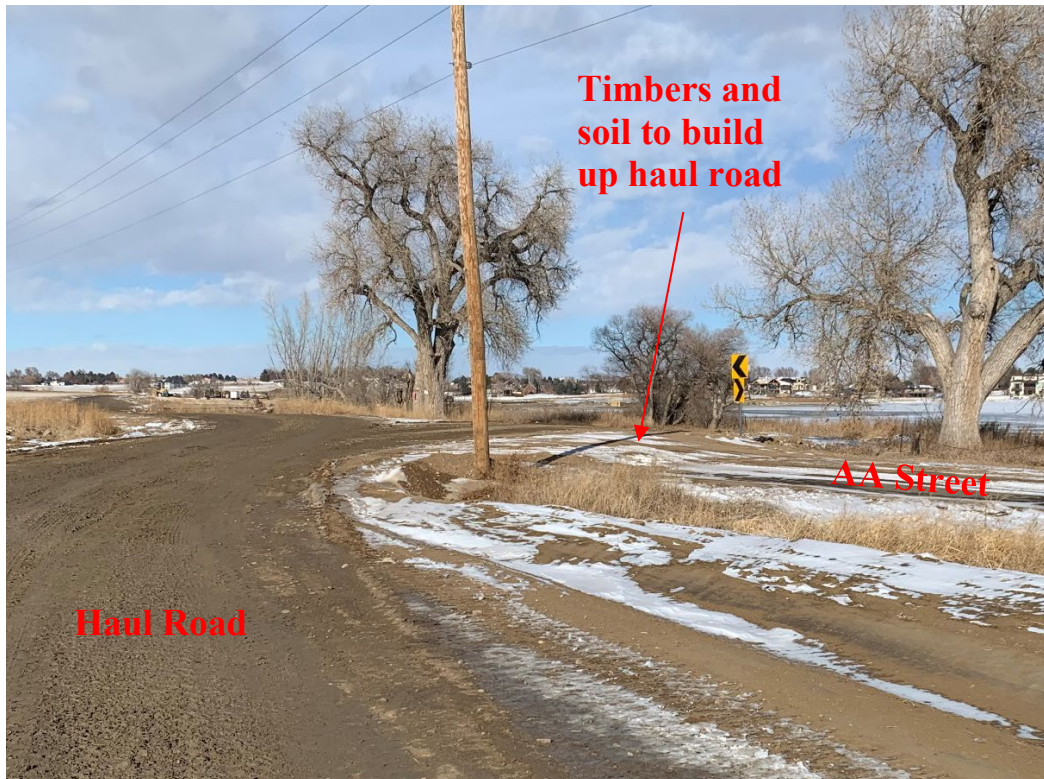


Photo 14 – Intersection of AA Street and haul road, facing north.



Photo 15 – Haul road between western property boundary and storage Area C, facing north.

GENERAL INSPECTION TOPICS

The following list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each.

(AR) RECORDS----- <u>PV</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>Y</u>
(HB) HYDROLOGIC BALANCE----- <u>N</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>Y</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>N</u>	(ST) STIPULATIONS----- <u>N</u>
(AT) ACID OR TOXIC MATERIALS----- <u>N</u>	(OD) OFF-SITE DAMAGE----- <u>N</u>	

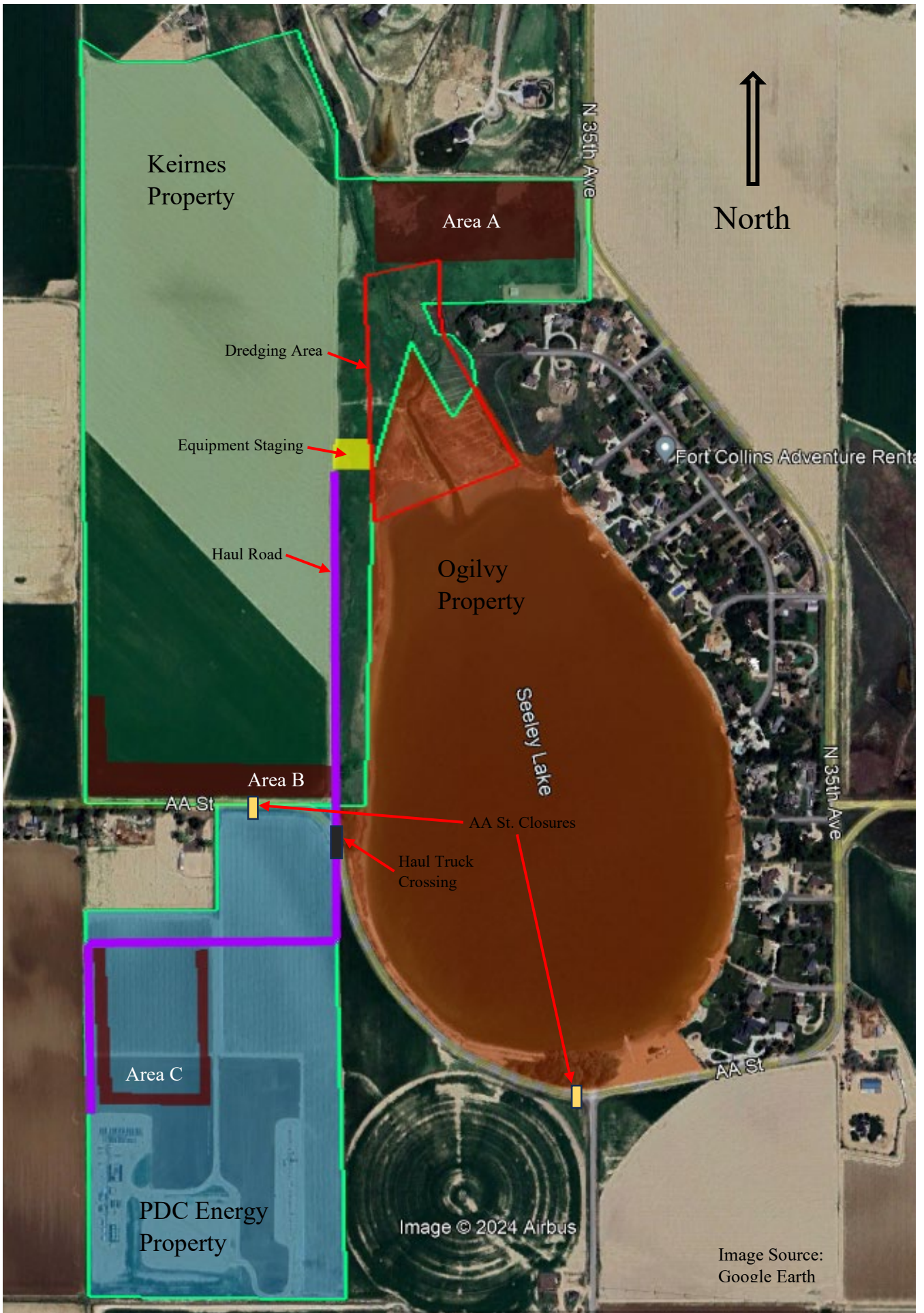
Y = Inspected / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

Inspection Contact Address

Scott Cockroft
Ogilvy Irrigating & Land Co.
822 7th St. Ste. 760
Greeley, CO 80631

Enclosures: Is It Mining? Questionnaire 2023-8
 Is It Mining? Determination 2023-8
 Is It Mining? Questionnaire 2023-12
 Is It Mining? Determination 2023-12
 Site Map from Inspection 2024-1

CC: Jared Ebert, DRMS
 Russ Means, DRMS
 Scott Schultz, COAG



Keirnes
Property

Area A

North

Dredging Area

Equipment Staging

Fort Collins Adventure Rentals

Haul Road

Ogilvy
Property

Seeley Lake

Area B

AA St

AA St. Closures

Haul Truck
Crossing

Area C

PDC Energy
Property

Image © 2024 Airbus

Image Source:
Google Earth



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

Date: _____

RE: Need for State Reclamation Permit: “Is It Mining?”

Name: _____

Street

Address: _____

Telephone:

() _____

Mobile:

() _____

Email

Address: _____

Enclosed are pertinent sections of the Colorado Mined Land Reclamation Board (Board) Rules governing activities that do not require a reclamation permit. To determine if you need a permit for you proposed activity, first check Rule 1.2 which describes activities the Board has determined do not require state reclamation permits. If you find a match, you can proceed based on your interpretation of the rule, but at your own risk. If you are uncertain how the Rule may apply to your activity, you should answer the list of questions below with as much detail as possible. Please feel free to use additional paper, maps, and attachments to explain your project.

Please include in your determination request answers to the following questions:

1. Please provide the legal location of the proposed project and submit a site map that clearly delineates the location of the proposed extraction site and the location of the nearest city, town, and county location name.

Section:

Township:

Range:

PM

Or NAD 27 X UTM
GPS

Y UTM

Direction and Miles to
nearest town/city:

County:



2. Is the site of material extraction on public or privately owned property?

Public

Private

3. What type(s) of material or metal is/are proposed to be extracted and describe the physical nature of the site i.e., river terrace, rocky knob, in-stream gravel deposit, etc.?

4. What processing or extraction method(s) will be used on site? Include any equipment or chemical(s) that will be used in the processing and extraction of the materials.

5. Will the extracted material be hauled offsite or used on the same parcel of property where the material is extracted?

6. How will the extracted material be used on site?

7. If the material is hauled offsite, where will it be hauled to and what is the intended use?

8. What is the approximate areal extent of the proposed extraction in acres?

9. To what approximate depth will the extraction extend?

10. In cubic yards, approximately how much material will be removed:

11. Will material extraction involve the use of explosives?

Yes ____ No ____

12. Will site of extraction result in the exposure of tributary ground water?

Yes ____ No ____

13. Will either the landowner or the mine site operator receive any type of compensation, i.e., monetary, in-kind, haulage fees, etc., from the proposed material extraction?

Yes ____ No ____

14. Please supply a copy of any documents that will ensure that the area of extraction will be reclaimed to some beneficial land use once extraction activities have been completed.

15. Do you have permits for this activity from any other governmental agencies such as building, construction, or grading permits, and if so, what are they?

16. Are there state/federal/local agency participants in terms of funding?

	Yes	No
Funding	Yes ____	No ____
Design	____	____

Percentages

State _____ Federal _____ Local Agency _____

17. What post mining land uses will be made of the extraction and why? (This question helps us determine the intent of the activity.)

18. What types and sizes of equipment will be used in the extraction?

Please send the completed questionnaire to the Division at the address above for review. The Board has directed the Division to make a decision based on the information you have supplied. We trust that the activities will be performed as represented. If we receive a complaint, we are required by law to conduct an inspection of the site. Which could result in a violation, a cease and desist order, and other corrective actions including submittal of a permit application.

If you have any questions, please contact the Division at (303)866-3567. Please feel free to visit our web site at: <https://colorado.gov/drms> for further access to the full Act and Rules governing extraction of metals, non-metals, and construction materials in the State of Colorado.

Sincerely,

Division of Reclamation, Mining and Safety Staff

Enclosure: Rule 1.2 excerpt for Hard Rock Metal Mines and Construction Materials
Rule 1.2 excerpt for Hard Rock/Metal Mining

1.2 SCOPE OF RULE AND ACTIVITIES THAT DO NOT REQUIRE A RECLAMATION PERMIT

1.2.1 Specified by Rule

The Board has determined that certain types of activities do not need reclamation permits either because the excavated substance is not a mineral as defined in Section 34-32-103(7), Colorado Revised Statutes 1984, as amended or because the activity is not a mining operation as defined by Section 34-32-103(8), C.R.S. 1984, as amended. Such activities include the following:

- (a) the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe;
- (b) the development or extraction of coal (refer to the Colorado Surface Coal Mining Reclamation Act Section 34-33-101, et seq., C.R.S. 1984, as amended);
- (c) smelting, refining, cleaning, preparation, transportation, and other off-site operations not conducted on affected land; and
- (d) the extraction of geothermal or groundwater resources.

1.2 ACTIVITIES THAT DO NOT REQUIRE A RECLAMATION PERMIT

103(3) and
(13)

1.2.1 Specified by Rule

The Board has determined that certain types of activities do not need reclamation permits either because the excavated substance is not a construction material as defined in Section 34-32.5-103(3), Colorado Revised Statutes 1984, as amended or because the activity is not a mining operation as defined by Section 34-32.5-103(13), C.R.S. 1984, as amended. Such activities include the following:

- (a) the exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe:
- (b) the development or extraction of coal (refer to the Colorado Surface Coal Mining Reclamation Act Section 34-33-101, et seq., C.R.S. 1984, as amended);
- (c) cleaning, preparation, transportation, and other off-site operations not conducted on permitted land: and
- (d) the extraction of geothermal or groundwater resources.

1.2.2 Reserved

1.2.3 Reserved

1.2.4 Extraction or Exploration on Federal Lands

Any person who intends to extract or explore for construction materials on federal lands shall apply for a Mined Land Reclamation Board permit or submit a Notice of Intent to conduct exploration operations unless specifically exempted by the Board according to the provisions of this Subsection 1.2.



August 21, 2023

Hannah Dutrow
AGPROfessionals
3050 67th Ave.
Greeley, CO 80634

**RE: AGPROfessionals, Reference No. M-2023-026, Division Response to “Is It Mining?”
Questionnaire, Permit Required**

Dear Ms. Dutrow,

On August 8, 2023, the Division of Reclamation, Mining and Safety (Division) received information for an “Is It Mining” questionnaire regarding a proposed project to excavate approximately 600,000 cubic yards of sediment from an existing irrigation reservoir. The excavated material will be transported from the property and may be utilized as fill dirt. Please use the reference number M-2023-026 regarding any correspondence or submittals for this site in the future.

The Mined Land Reclamation Board (Board) has requested the Division make determinations as to the need for a Mined Land Reclamation Permit. Based on the information provided in the questionnaire, the Division has determined **a permit is required for the proposed activity.**

If you disagree with this decision, you may petition to appear before the Board during a formal public hearing for a Declaratory Order concerning this matter. Pursuant to Rule 2.5.2(1), the request must be submitted to the Board in writing and be received no later than 10 days prior to the hearing. The written request must contain the information required pursuant to Rule 2.5.2(2) (copy enclosed). The next available Board hearing will be held on September 20, 2023. All hearings are held at 1313 Sherman St., Room 318, in Denver, Colorado 80203. Please be advised the Division will oppose a Declaratory Order request for this proposed operation on the above stated reasons and other facts it may bring forth in testimony before the Board if necessary.

If you have questions please contact me at (303) 866-3567 extension 8116, otherwise we look forward to working with you through the permitting process.

Sincerely,

Michael A. Cunningham
Senior Environmental Protection Specialist

CC: Russ Means, DRMS





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

Date: _____

RE: Need for State Reclamation Permit: “Is It Mining?”

Name: _____

Street

Address: _____

Telephone:

() _____

Mobile:

() _____

Email

Address: _____

Enclosed are pertinent sections of the Colorado Mined Land Reclamation Board (Board) Rules governing activities that do not require a reclamation permit. To determine if you need a permit for you proposed activity, first check Rule 1.2 which describes activities the Board has determined do not require state reclamation permits. If you find a match, you can proceed based on your interpretation of the rule, but at your own risk. If you are uncertain how the Rule may apply to your activity, you should answer the list of questions below with as much detail as possible. Please feel free to use additional paper, maps, and attachments to explain your project.

Please include in your determination request answers to the following questions:

1. Please provide the legal location of the proposed project and submit a site map that clearly delineates the location of the proposed extraction site and the location of the nearest city, town, and county location name.

Section:

Township:

Range:

PM

Or NAD 27 X UTM
GPS

Y UTM

Direction and Miles to
nearest town/city:

County:



2. Is the site of material extraction on public or privately owned property?

Public

Private

3. What type(s) of material or metal is/are proposed to be extracted and describe the physical nature of the site i.e., river terrace, rocky knob, in-stream gravel deposit, etc.?

4. What processing or extraction method(s) will be used on site? Include any equipment or chemical(s) that will be used in the processing and extraction of the materials.

5. Will the extracted material be hauled offsite or used on the same parcel of property where the material is extracted?

6. How will the extracted material be used on site?

7. If the material is hauled offsite, where will it be hauled to and what is the intended use?

8. What is the approximate areal extent of the proposed extraction in acres?

9. To what approximate depth will the extraction extend?

10. In cubic yards, approximately how much material will be removed:

11. Will material extraction involve the use of explosives?

Yes ____ No ____

12. Will site of extraction result in the exposure of tributary ground water?

Yes ____ No ____

13. Will either the landowner or the mine site operator receive any type of compensation, i.e., monetary, in-kind, haulage fees, etc., from the proposed material extraction?

Yes ____ No ____ This is not a mine site, it is an irrigation reservoir.

14. Please supply a copy of any documents that will ensure that the area of extraction will be reclaimed to some beneficial land use once extraction activities have been completed.

15. Do you have permits for this activity from any other governmental agencies such as building, construction, or grading permits, and if so, what are they?

A construction stormwater permit from CDPHE and a county grading permit for the temporary storage area are expected to be applied for.

The maintenance of the reservoir is exempt from a county grading permit as it is classified as "maintenance and cleaning of existing ditches, lakes, ponds, and water storage reservoir."

16. Are there state/federal/local agency participants in terms of funding?

	Yes	No
Funding	Yes ____	No ____
Design	____	____

Percentages

State _____ Federal _____ Local Agency _____

17. What post mining land uses will be made of the extraction and why? (This question helps us determine the intent of the activity.)

18. What types and sizes of equipment will be used in the extraction?

Please send the completed questionnaire to the Division at the address above for review. The Board has directed the Division to make a decision based on the information you have supplied. We trust that the activities will be performed as represented. If we receive a complaint, we are required by law to conduct an inspection of the site. Which could result in a violation, a cease and desist order, and other corrective actions including submittal of a permit application.

If you have any questions, please contact the Division at (303)866-3567. Please feel free to visit our web site at: <https://colorado.gov/drms> for further access to the full Act and Rules governing extraction of metals, non-metals, and construction materials in the State of Colorado.

Sincerely,

Division of Reclamation, Mining and Safety Staff

Enclosure: Rule 1.2 excerpt for Hard Rock Metal Mines and Construction Materials
Rule 1.2 excerpt for Hard Rock/Metal Mining

1.2 SCOPE OF RULE AND ACTIVITIES THAT DO NOT REQUIRE A RECLAMATION PERMIT

1.2.1 Specified by Rule

The Board has determined that certain types of activities do not need reclamation permits either because the excavated substance is not a mineral as defined in Section 34-32-103(7), Colorado Revised Statutes 1984, as amended or because the activity is not a mining operation as defined by Section 34-32-103(8), C.R.S. 1984, as amended. Such activities include the following:

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- (c) smelting, refining, cleaning, preparation, transportation, and other off-site operations not conducted on affected land; and
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1.2 ACTIVITIES THAT DO NOT REQUIRE A RECLAMATION PERMIT

103(3) and
(13)

1.2.1 Specified by Rule

The Board has determined that certain types of activities do not need reclamation permits either because the excavated substance is not a construction material as defined in Section 34-32.5-103(3), Colorado Revised Statutes 1984, as amended or because the activity is not a mining operation as defined by Section 34-32.5-103(13), C.R.S. 1984, as amended. Such activities include the following:

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- (b) the development or extraction of coal (refer to the Colorado Surface Coal Mining Reclamation Act Section 34-33-101, et seq., C.R.S. 1984, as amended);
- (c) cleaning, preparation, transportation, and other off-site operations not conducted on permitted land: and
- (d) the extraction of geothermal or groundwater resources.

1.2.2 Reserved

1.2.3 Reserved

1.2.4 Extraction or Exploration on Federal Lands

Any person who intends to extract or explore for construction materials on federal lands shall apply for a Mined Land Reclamation Board permit or submit a Notice of Intent to conduct exploration operations unless specifically exempted by the Board according to the provisions of this Subsection 1.2.

STATE OF
COLORADO

Ebert - DNR, Jared <jared.ebert@state.co.us>

DRMS - Is it Mining Determination, M-2023-043

Ebert - DNR, Jared <jared.ebert@state.co.us>

Tue, Dec 19, 2023 at 12:43 PM

To: Tim Naylor <tnaylor@agpros.com>

Cc: sshealy@agpros.com, Kelsey Bruxvoort <Kbruxvoort@agpros.com>

Hello Tim,

Michael Cunningham forwarded me the "Is it Mining?" questionnaire dated December 12, 2023 regarding a proposed project in Weld County. Please see the attached letter with the Division's determination.

Thank you,

Jared

--

Jared Ebert

Senior Environmental Protection Specialist

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

P 303.866.3567 ext. 8120 | F 303.832.8106 | Cell (720) 413-6466

Physical: 1313 Sherman Street, Room 215, Denver, CO 80203

Mailing: DRMS Room 215, 1001 E 62nd Ave, Denver, CO 80216

jared.ebert@state.co.us | <https://drms.colorado.gov/>**DRMS_IsItMining_Response_AGPRO_M2023043_19December2023.pdf**

258K



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

1313 Sherman Street, Room 215
Denver, CO 80203

December 19, 2023

Tim Naylor
AGPROfessionals
3050 67th Avenue
Greeley, CO 80634

**RE: AGPROfessionals Site, Reference No. M-2023-043, DRMS Response to “Is It Mining?”
Questionnaire, Permit Required**

Dear Tim Naylor,

On December 13, 2023, the Division of Reclamation, Mining and Safety (Division) received an “Is It Mining?” questionnaire regarding the above referenced site. According to the questionnaire, the proposed project will excavate approximately 600,000 cubic yards of sediment from an existing irrigation reservoir. The excavated material will be stored on a separate parcel until dried enough to be removed.

The Mined Land Reclamation Board has requested the Division make determinations as to the need for a Mined and Reclamation Permit. Based on the information provided in the questionnaire, the Division has determined **a reclamation permit is required for this activity**. The proposed activity meets the definition of a mining operation in accordance with C.R.S. 34-32.5-103(13). In accordance with C.R.S. 34-32.5-109(1) before engaging in a mining operation, an operator shall first obtain a reclamation permit. Given the description of the operation, a 112c reclamation permit would likely be appropriate.

If you disagree with this decision, you may petition to appear before the Board during a formal public hearing for a Declaratory Order concerning this matter. Pursuant to Rule 2.5.2(1), the request must be submitted to the Board in writing and be received no later than seven days prior to the hearing. The written request must contain the information required pursuant to Rule 2.5.2(2). The next available Board hearing will be held on January 17, 2024. All hearings are held at 1313 Sherman St., Room 318, in Denver, Colorado 80203.

If you have questions please contact me at Jared.Ebert@state.co.us or at (303) 866-3567 extension 8120.

Sincerely,

Jared Ebert
Senior Environmental Protection Specialist

Ec: Tim Naylor, tnaylor@agpros.com

