



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

June 7, 2024

Brett Fontanari  
Rudolph Fontanari  
3316 E ¾ Road  
Clifton, CO 81520

**RE: Western Slope Flagstone Quarry No. 2, Permit No. M-1996-076, Unresolved Problem(s) Noted in a Past Inspection Report**

Dear Mr. Fontanari:

According to records kept by the Division of Reclamation, Mining and Safety, some problem(s) noted in a past mine site inspection report have not been corrected. Please see the enclosed inspection report for the above noted mine site, issued as a result of a past inspection of this site. Problems noted in this report that remain unresolved according to our records, have been highlighted.

To avoid potential future enforcement actions for non-compliance with State Statutes, Rules and Regulations, and/or conditions specified in your permit for this site, you must submit compliance documentation with the corrective actions by **Monday, July 08, 2024**.

If you require additional information, or have questions or concerns, please feel free to contact me.

Sincerely,

**Amy Yeldell**  
Environmental Protection Specialist

Enclosures: DRMS Inspection Report from March 19, 2024


EC: Travis Marshall, Senior EPS, DRMS





**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.

<b>MINE NAME:</b> Western Slope Flagstone Quarry No. 2	<b>MINE/PROSPECTING ID#:</b> M-1996-076	<b>MINERAL:</b> Gravel	<b>COUNTY:</b> Mesa
<b>INSPECTION TYPE:</b> Multi Person Inspection	<b>WEATHER:</b> Clear	<b>INSP. DATE:</b> March 19, 2024	<b>INSP. TIME:</b> 13:00
<b>OPERATOR:</b> Rudolph Fontanari	<b>OPERATOR REPRESENTATIVE:</b> None	<b>TYPE OF OPERATION:</b> 112c - Construction Regular Operation	
<b>REASON FOR INSPECTION:</b> High Priority	<b>BOND CALCULATION TYPE:</b> Complete Bond	<b>BOND AMOUNT:</b> \$234,840.00	
<b>DATE OF COMPLAINT:</b> NA	<b>POST INSP. CONTACTS:</b> DRMS	<b>JOINT INSP. AGENCY:</b> None	
<b>INSPECTOR(S):</b> Amy Yeldell Clayton Wein	<b>INSPECTOR'S SIGNATURE:</b> 	<b>SIGNATURE DATE:</b> March 27, 2024	

**GENERAL INSPECTION TOPICS**

The following inspection topic(s) were identified as having a **Problem (PB)**, which includes correction actions and a deadline whereby the Operator must demonstrate compliance with the conditions of the Permit and the requirements of the Act and Rules. Failure to address the corrective actions by the deadline may cause the Division to escalate the Problem to a **Possible Violation (PV)** and schedule the issue for formal hearing before the Mined Land Reclamation Board (Board).

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

### **CORRECTIVE ACTION(S)**

#### **INSPECTION TOPIC:** Availability Of Records

**PROBLEM:** The Division was made aware of Rudy Fontanari's passing in January of 2024. If this operation would like to remain permitted, a Succession of Operator and Transfer of Minerals Permit must take place so that a valid Operator is on file. This is cited as a problem.

**CORRECTIVE ACTIONS:** Please submit the Succession of Operators forms which includes a replacement financial warranty and performance warranty by the corrective action date.

**CORRECTIVE ACTION DUE DATE:** 5/20/24

### **OBSERVATIONS**

On March 19, 2024, the Colorado Division of Reclamation, Mining and Safety (Division) was notified that there was water being impounded at the Western Slope Flagstone Quarry No. 2. Given the history of the site the Division conducted an inspection later that day. The Operator was notified via email on March 20, 2024, of the conditions observed on site. Corrective actions to shut off water were to be implemented immediately, and photo documentation provided to the Division.

This inspection was conducted by Amy Yeldell and Clayton Wein of the Division on March 19, 2024. The Western Slope Flagstone Quarry No. 2 is a 112c operation that includes 138.75 permitted acres. The site is located approximately three miles northeast of Palisade, CO and can be accessed from I-70 or Rapid Creek Road. No representatives were present during the inspection due to the emergent nature of the inspection. A follow up inspection was conducted on March 21, 2024, by Clayton Wein and Brian Sewall of DWR.

#### **Availability Of Records:**

The Division was made aware of Rudy Fontanari's passing in January of 2024. If this operation would like to remain permitted, a Succession of Operator and Transfer of Minerals Permit must take place so that a valid Operator is on file. This is cited as a problem. Please submit the Succession of Operators forms which includes a replacement financial warranty and performance warranty by the corrective action date.

Note that the current Operator must sign off on the transfer. In this case the executor of the estate or power of attorney will need to sign. Documentation such as a copy of the death certificate and proof of power of attorney or estate documents are required.

#### **Backfilling and Grading:**

Highwall configurations and general site grading appear to be relatively unchanged compared to the conditions observed during previous inspection.

#### **Financial Warranty:**

The Division currently requires and holds a financial warranty in the amount of \$234,840 for this site. The current bond is considered sufficient at this time. As part of the Succession of Operator process the bond will be reevaluated.

Hydrologic Balance:

**March 19, 2024, OBSERVATIONS:**

Water was observed discharging from a buried pipe\* then being conveyed via an earthen ditch into the permit boundary \*\* (Photo 1). Water was estimated to be flowing at less than 30 gallons per minute. The discharging water resulted in ponding of water in two places within the southern pit area (Photos 2 and 3). Water infiltrated from the upper pool through the highwall and into the southern pit. The depth of the impounded water was not measured. Saturated soils on the southern pit floor were visually evident as the result of water flowing into the pit (Photo 4). The source of the water was believed to be from Rapid Creek above the Martin Crawford Ditch.

When back at the office the Division reached out to the Division of Water Resources (DWR). The Division emailed Brian Sewell, Water Commissioner, and he confirmed that there are no other irrigation lines tied into this ditch.

Per the conditions of the permit, Exhibit G, no groundwater exists, and no dewatering is necessary. Additionally, no water will be applied with the exception of dust suppression via truck. The water in the pits is not from existing groundwater or the result of a recent stormwater event. The Operator was directed via email to immediately turn off all water and provide the Division with photo documentation that water is no longer being discharged into the permit boundary (email enclosed).

The Division drove down to the Cameo entrance. No water was observed infiltrating through the hillside along the access road (Photos 5 and 6). Additionally, all drainageways in the bottom were dry. The remaining northeast pit was observed to be dry with no evidence of recent inundation (Photo 7). No run-off of any kind was observed on site aside from the water discharging into the south pit.

\*Approximate location water is discharging from pipe at 39°8'6.27N, 108°18'8.53W

\*\* Approximate location water enters the DRMS permit boundary at 39°8'7.77"N, 108°18'13.84"W

**March 21, 2024 OBSERVATIONS:**

The Division contacted the Division of Water Resources (DWR) on March 19, 2024 in an effort to obtain additional information regarding the Landowner's water diversion system from Rapid Creek. The Division explained the observations taken in the field and estimated that the water may have been coming from a buried pipeline that received water from the landowner's headgate at Rapid Creek. Brian Sewell of DWR offered to meet the Division in the field on March 21, 2024, to investigate the source of the water that was entering the south pit. The Division started the inspection on March 21st at Rapid Creek. The Division observed fresh ATV tracks at the headgate's location and that the headgate was closed (Photo 8). The flume behind the headgate was damp and muddy, indicating that there had been recent flow through the landowner's diversion inlet (Photo 9). No water was observed flowing in the flume. The ATV tracks were observed following the landowner's buried water line up to the south pit. The pipe feeding into the open ditch and into the pit was almost dry (Photo 10). A small amount of water was observed trickling out of the pipe. Brian Sewell and the Division agreed that the water was likely residual flow as gravity flushes the remaining water out of the buried pipe. The level of water in the small, ponded area above the south pit had decreased in size, but was still holding some water (Photo 11). Likewise, the amount of water in the pit floor appeared to have decreased since the March 19th inspection (Photo 12).

**Gen. Compliance With Mine Plan:**

There appears to be no changes to stockpiles or highwall configurations since the previous inspection. The site was inactive at the time of the inspection. Several pieces of equipment and miscellaneous materials are on site on the west side of the southern pit. Several stockpiles remain on site at both the north and southern pits with no recent evidence of excavation. There were no vehicle/equipment tracks surrounding the processing area or pit floor to indicate recent activity. (Photos 13 -17)

**Reclamation Success:**

No areas were formally evaluated for reclamation success/release.

**Revegetation:**

Staff observed two areas that were previously reclaimed. The first was the backfilled northwest pit. The previously inundated pit has been backfilled and sloped on the north side. Some highwalls remain on the south end. Little to no desirable vegetation was observed (Photo 18). Similarly, the area from where the northern irrigation line was removed has been reclaimed. Though vegetation is dense it is almost entirely Cheatgrass (Photo 19).

**Support Facilities On-site:**

The Scale, scale house, fuel storage and misc. equipment remain on site.

Responses to this inspection report should be directed to: Amy Yeldell at the Division of Reclamation, Mining and Safety, Rm 215, 1001 E 62nd Ave, Denver Co 80216. Direct contact can be made by phone at 303-866-3567 Ext 8183 or via email at [amy.yeldell@state.co.us](mailto:amy.yeldell@state.co.us)

**Inspection Contact Address**

Rudolph Fontanari  
3316 E 3/4 Road  
Clifton, CO 81520

Enclosure: Divisions email to Operator March 20, 2024

EC:

[brettfontanari@yahoo.com](mailto:brettfontanari@yahoo.com)

[tgrosse@juno.com](mailto:tgrosse@juno.com)

CC:

Travis Marshall, Senior EPS, Grand Junction DRMS

Clayton Wein, EPS DRMS

Russ Means, Active Mines Program Manager

Scott Schultz, AGO

Brian Sewell, DWR, Water Commissioner



**PHOTOGRAPHS**







Photo 3: Pooled water on the floor of the southern pit.



Photo 4: Overview of the southern pit, saturated soils visually evident and ponding water.





Photo 5: Highwall along access road is dry, no seeps observed.



Photo 6: Highwall along access road is dry, no seeps observed









Photo 9: The flume behind the landowner's headgate. (March 21, 2024)



Photo 10: The landowners buried pipe that daylights before the southern pit. (March 21, 2024)





Photo 11: The small pool of water above the south pit's highwall.  
(March 21, 2024)



Photo 12: The remaining water observed in the floor of the south pit.  
(March 21, 2024)









Photo 15: Misc. equipment and materials stored on the west side of the southern pit



Photo 16: Misc. equipment and materials stored on the west side of the southern pit.





Photo 17: Overview of the northern pit, stockpiles remain in place.



Photo 18: Reclaimed northwestern pit





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COLORADO

Yeldell - DNR, Amy &lt;amy.yeldell@state.co.us&gt;

## Western Slope Flagstone Quarry No. 2

1 message

Yeldell - DNR, Amy &lt;amy.yeldell@state.co.us&gt;

Wed, Mar 20, 2024 at 10:29 AM

To: t grosse &lt;tgrosse@juno.com&gt;

Cc: Russ Means - DNR &lt;russ.means@state.co.us&gt;, Travis Marshall &lt;travis.marshall@state.co.us&gt;, Scott Schultz &lt;Scott.Schultz@coag.gov&gt;, Clayton Wein - DNR &lt;clayton.wein@state.co.us&gt;

Mr. Gross,

Earlier today the Division was notified that there was exposed groundwater at the Western Slope Flagstone Quarry No. 2. The Division conducted an inspection and observed piped water discharging into the southern pit within the DRMS permit boundary (M-1996-076). Per the conditions of the permit, Exhibit G, no groundwater exists and no dewatering is necessary. Additionally no water will be applied with the exception of dust suppression via tuck. The groundwater in the pits is not from existing groundwater or the result of a recent stormwater event. Water being applied and retained on site is a violation of a permit condition. The water being directed through the pipe and discharging into the pit needs to cease immediately. Please provide the Division with photo documentation that the water is no longer flowing into the southern pit. As well as, provide additional documentation when all of the impounded water has infiltrated.

Given the severity, the Division felt it necessary to notify you immediately via email. Please note that the Division will be following up with a formal inspection report. If immediate action is not taken then a Reason to Believe a Violation Exists and Notice of Hearing will be sent with the inspection report.

Currently the Division has a mailing address of 3316 E 3/4 Rd, Clifton CO 81520. Please advise if copies need to be sent elsewhere.

If you or Brett have any questions please feel free to reach out.

--

Amy Yeldell

Environmental Protection Specialist

Active Mines Program, Grand Junction Field Office

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

P 303-866-3567 Ext:8183 | F 303-832-8106

101 S. 3rd St., Suite 301, Grand Junction, CO 81501

[amy.yeldell@state.co.us](mailto:amy.yeldell@state.co.us) | [drms.colorado.gov/](https://drms.colorado.gov/)

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

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

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4 attachments





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STATE OF  
COLORADO

Yeldell - DNR, Amy &lt;amy.yeldell@state.co.us&gt;

**Re: Western Slope Flagstone Quarry No. 2**

1 message

**tgrosse@juno.com** <tgrosse@juno.com>

Wed, Mar 20, 2024 at 11:14 AM

To: amy.yeldell@state.co.us

Thank you, Amy. I know that he was, at times, difficult for you to deal with, and I'm not sure how things will go with Brett, but I guess that is his dealings and not mine. for his mailing address I have the following:

Brett Fontanari  
825 Rapid Creek Road  
Palisade, CO 81526

cell: (970) 623-1635  
email: [brettfontanari@yahoo.com](mailto:brettfontanari@yahoo.com)

P.S. As I mentioned, I WILL forward that last e-mail to him within the next day or so. Plus, I thought very highly of you and the job that you are doing. I hope that our paths cross again...

~trevor  
cell: 970-424-6137

----- Original Message -----

From: "Yeldell - DNR, Amy" &lt;amy.yeldell@state.co.us&gt;

To: "tgrosse@juno.com" &lt;tgrosse@juno.com&gt;

Cc: Russ Means - DNR <[russ.means@state.co.us](mailto:russ.means@state.co.us)>, Travis Marshall <[travis.marshall@state.co.us](mailto:travis.marshall@state.co.us)>, Scott Schultz <[scott.schultz@coag.gov](mailto:scott.schultz@coag.gov)>, Clayton Wein - DNR <[clayton.wein@state.co.us](mailto:clayton.wein@state.co.us)>

Subject: Re: Western Slope Flagstone Quarry No. 2

Date: Wed, 20 Mar 2024 11:02:45 -0600

Hi Trevor,

Thanks for the quick response. I was aware, and sorry for your family's loss. The Division was unsure who to contact. Your email is listed as the official eNotify contact. To date the permit remains in Rudy's name and no transfer has occurred.

Do you have an email and mailing address for Brett that we can add to the file until a transfer is applied for and formally updated?

--

Amy Yeldell  
Environmental Protection Specialist  
Active Mines Program, Grand Junction Field Office



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



Mailing: DRMS Room 215, [1001 E 62nd Ave, Denver, CO 80216](#)

On Wed, Mar 20, 2024 at 10:55 AM [tgrosse@juno.com](mailto:tgrosse@juno.com) <[tgrosse@juno.com](mailto:tgrosse@juno.com)> wrote:

Good morning Amy,

I am not sure whether you are aware or not, but Rudy passed away in January, and Brett Fontanari is now the operator and the Trust is still the owner. I am completely out of the loop. I will forward this to Brett, but I have no connection to the ownership or operation of any of those things. I will forward this to Brett, but I strongly suggest that you call him or notify him in some way that is more direct (again, I am "out of the loop"). I am uncertain as to whether he has filed change of operator forms or any of the other forms needed... His direct cell phone number is (970) 623-1635.

~trevor  
cell: 970-424-6137

----- Original Message -----

From: "Yeldell - DNR, Amy" <[amy.yeldell@state.co.us](mailto:amy.yeldell@state.co.us)>

To: [t grosse <tgrosse@juno.com>](mailto:tgrosse@juno.com)

Cc: Russ Means - DNR <[russ.means@state.co.us](mailto:russ.means@state.co.us)>, Travis Marshall <[travis.marshall@state.co.us](mailto:travis.marshall@state.co.us)>, Scott

Schultz <[Scott.Schultz@coag.gov](mailto:Scott.Schultz@coag.gov)>, Clayton Wein - DNR <[clayton.wein@state.co.us](mailto:clayton.wein@state.co.us)>

Subject: Western Slope Flagstone Quarry No. 2

Date: Wed, 20 Mar 2024 10:29:55 -0600

Mr. Gross,

Earlier today the Division was notified that there was exposed groundwater at the Western Slope Flagstone Quarry No. 2. The Division conducted an inspection and observed piped water discharging into the southern pit within the DRMS permit boundary (M-1996-076). Per the conditions of the permit, Exhibit G, no groundwater exists and no dewatering is necessary. Additionally no water will be applied with the exception of dust suppression via truck. The groundwater in the pits is not from existing groundwater or the result of a recent stormwater event. Water being applied and retained on site is a violation of a permit condition. The water being directed through the pipe and discharging into the pit needs to cease immediately. Please provide the Division with photo documentation that the water is no longer flowing into the southern pit. As well as, provide additional documentation when all of the impounded water has infiltrated.

Given the severity, the Division felt it necessary to notify you immediately via email. Please note that the Division will be following up with a formal inspection report. If immediate action is not taken then a Reason to Believe a Violation Exists and Notice of Hearing will be sent with the inspection report.

Currently the Division has a mailing address of [3316 E 3/4 Rd, Clifton CO 81520](#). Please advise if copies need to be sent elsewhere.

If you or Brett have any questions please feel free to reach out.

--

Amy Yeldell  
Environmental Protection Specialist  
Active Mines Program, Grand Junction Field Office



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Yeldell - DNR, Amy &lt;amy.yeldell@state.co.us&gt;

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**Fwd: Western Slope Flagstone Quarry No. 2**

1 message

**Yeldell - DNR, Amy** <amy.yeldell@state.co.us>

Wed, Mar 20, 2024 at 11:46 AM

To: brettfontanari@yahoo.com

Mr. Fontanari,

Yesterday the Division was notified that there was exposed groundwater at the Western Slope Flagstone Quarry No. 2. Later that day, the Division conducted an inspection and observed piped water discharging into the southern pit within the DRMS permit boundary (M-1996-076). Per the conditions of the permit, Exhibit G, no groundwater exists and no dewatering is necessary. Additionally no water will be applied with the exception of dust suppression via tuck. The groundwater in the pits is not from existing groundwater or the result of a recent stormwater event. Water being applied and retained on site is a violation of a permit condition. The water being directed through the pipe and discharging into the pit needs to cease immediately. Please provide the Division with photo documentation that the water is no longer flowing into the southern pit. As well as, provide additional documentation when all of the impounded water has infiltrated.

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Amy Yeldell  
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