



STATE OF
COLORADO

Renfro - DNR, Joel <joel.renfro@state.co.us>

Midwestern Farms SL-1 Denial and Inspection Report

1 message

Renfro - DNR, Joel <joel.renfro@state.co.us>

Mon, Jun 17, 2024 at 3:45 PM

To: PFM Consulting <pfmconsultingcompany@gmail.com>, accounting@sieteinc.net

Cc: Kelly Spitzer <kelly@tempelgrain.com>, Amy Eschberger - DNR <amy.eschberger@state.co.us>, "Wilkins - DNR, Logan" <logan.wilkins@state.co.us>, Kevin Kaczmarek - DNR <kevin.kaczmarek@state.co.us>

Good afternoon,

Please find the Division's Inspection Report and Denial Letter for SL-1 attached to this email. The release of this site was denied due to unsuccessful revegetation found throughout the site and the abundance of Tamarisk, which is detailed further in my inspection report. Please reach out with any further questions.

--

Best,

Joel Renfro
Environmental Protection Specialist



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

(720) 812-2002

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

Address for FedEx, UPS, or hand delivery:

1001 E 62nd Ave, Denver, CO 80216

Joel.Renfro@state.co.us | <https://drms.colorado.gov>

2 attachments



SL-1 Denial Letter.pdf
149K



Midwestern Farms SL-1 Insp Report.pdf
5036K



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: Midwestern Farms | MINE/PROSPECTING ID#: M-1993-059 | MINERAL: Sand and gravel | COUNTY: Prowers |
| INSPECTION TYPE: Surety Release Inspection | WEATHER: Clear | INSP. DATE: May 1, 2024 | INSP. TIME: 10:30 |
| OPERATOR: Midwestern Farms | OPERATOR REPRESENTATIVE: Baxter Kirkland | TYPE OF OPERATION: 112c - Construction Regular Operation | |
| REASON FOR INSPECTION: Surety Release Requested | BOND CALCULATION TYPE: | BOND AMOUNT: \$382,406.00 | |
| DATE OF COMPLAINT: NA | POST INSP. CONTACTS: CPW (Logan Wilkins) | JOINT INSP. AGENCY: Colorado Parks and Wildlife (CPW) | |
| INSPECTOR(S): Joel Renfro | INSPECTOR'S SIGNATURE:  | SIGNATURE DATE: June 17, 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: Revegetation

PROBLEM/POSSIBLE VIOLATION: Problem: Tamarisk (salt cedar) trees are present within or have volunteered into the permit area and are becoming established. This is a problem for failure to employ weed control methods for a state-listed noxious weed species within the permitted area, and to reduce the spread of weeds to nearby areas as required by Section 3.1.10 (6) of the rule.

CORRECTIVE ACTIONS: The operator shall submit evidence (invoice for service, receipt of chemical purchase, and/or images of sprayed plants) to the Division of implementation of the approved weed control plan by the corrective action due date. If the operator wishes to revise the approved weed control plan, the proposed plan must be submitted in the form of a Technical Revision with the appropriate fee of \$216.00 by the corrective action date. The Division recommends the operator consult with the county extension agency or weed control district office in developing a plan that includes specific control measures to be applied, a schedule for when control measures will be applied, and a post-treatment monitoring plan.

CORRECTIVE ACTION DUE DATE: 8/16/24

OBSERVATIONS

The Midwestern Farms Site was inspected by Joel Renfro with the Division of Reclamation, Mining and Safety (Division/DRMS) as a part of the Division's routine monitoring program on May 1, 2024. This site was previously inspected on September 11, 2019. Baxter Kirkland represented Siete Inc. during the inspection. Greg Spitzer with Midwestern Farms was present during the inspection as well. Logan Wilkins and Kevin Kaczmarek with Colorado Parks and Wildlife (CPW) were present for the inspection. The site is located approximately 2.5 miles west of Holly, CO in Prowers County. The site is situated between Us Hwy 50 and the Arkansas River. The main access to the site is off of Co Rd 30.5. **Photos 1-14** taken during the inspection are included with this report.

This is a 112c operation permitted for 1,479.2 acres to mine sand and gravel. The approved post-mine land use for this site is rangeland, industrial/commercial, and general agriculture. About 400 acres of this site were disturbed when the mine was active, which is the disturbance the permit is currently bonded for. About 700 acres of the property, including the approximately 400 acres of land disturbed by the mine operation, is being used as a State Wildlife Area that is partially being maintained by Colorado Parks and Wildlife, who will inherit the site once released.

Colorado Parks and Wildlife had a timely objection to the release of this site. As the land will be inherited by CPW after release, they expressed concern about revegetation success and noxious weeds throughout the site, particularly, Tamarisk. Tamarisk was cited as an issue in the previous inspection of this site back in 2019.

TR-7 was approved in April 2020 to revise the approved seed mix and to add a permanent boat ramp, dock, restroom, and gravel parking area on the southwest side of the lake. Since the approval, all the new structures have been built and were observed during the inspection.

A problem with erosion along the shorelines was cited during the 2019 inspection. Rip-rap was placed to stabilize the bank, which was examined during the inspection. The rip-rap seemed to be effective, and the banks appeared to be stable.

Reclamation work for this site began in 2016 when mining activity stopped. The earthwork reclamation seemed to be finished in 2017, according to the Division's inspection on October 5, 2017. The following years were spent implementing the reclamation plan, which involved replacing 8 inches of topsoil, grading the shoreline to 3H:1V, and reseeding with the approved seed mix. During the inspection, it was observed that most of the site had grasses established. The regrowth of grass seemed to consist of patches of 1-2 species, with some bare areas of sandy soil in between. Tamarisk was found throughout the site, with noticeable outbreaks around the pond bank and in the northwestern area of the site.

Criteria for appropriate revegetation release are based on Rule 3.1.10(1), stating "In those areas where revegetation is part of the Reclamation Plan, land shall be revegetated in such a way as to establish a diverse, effective, and long-lasting vegetative cover that is capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizer, and is at least equal in extent of cover to the natural vegetation of the surrounding area". The success of revegetation across the site varied, with some areas showing diverse and successful regrowth while others had few grass species and bare ground. Based on the Division's observations, it seems that a long-lasting vegetative cover capable of self-regeneration has not been established. It may be necessary to reseed the site and closely monitor it over the next few years to ensure that reclamation is progressing towards establishing self-sustaining vegetation. As a result, Midwestern Farms does not meet the Division's revegetation standards outlined in Rule 3.1.10 and is not ready to be released.

Rule 3.1.10(6) states “Methods of weed control shall be employed for all prohibited noxious weed species, and whenever invasion of a reclaimed area by other weed species seriously threatens the continued development of the desired vegetation. Weed control methods shall also be used whenever the inhabitation of the reclaimed area by weeds threaten further spread of serious weed pests to nearby areas”. The presence of established Tamarisk throughout the site and the absence of native vegetation around these areas is a cause for concern. Young Tamarisk trees were discovered near older ones, indicating that they are spreading and could become a more significant issue if not addressed promptly. Therefore, the Division will not approve the release of the site due to the presence of Tamarisk and the potential for it to spread. Furthermore, this issue is also cited as a problem in the report.

This concludes the report.

PHOTOGRAPHS



Photo 1. Mine entrance sign, facing south.



Photo 2. CPW Wildlife Area sign, facing south.



Photo 3. Grass regrowth near the pond. Tamarisk trees are imaged as well. Facing south.



Photo 4. Tamarisk found near the powerlines that run through the middle of the site, facing east.



Photo 5. Revegetation north of the site with a large tamarisk outbreak, looking north.



Photo 6. Tamarisk outbreak north of the site, facing north.



Photo 7. Tamarisk found on site.



Photo 8. Tamarisk around the shoreline, facing south.



Photo 9. Revegetation in the middle of the site that appears dense and diverse with grasses, facing west.



Photo 10. Bare patch with little grass regrowth, facing west.



Photo 11. Bare patch along the northernmost shoreline, facing east.



Photo 12. Regrowth along the nethermost shoreline, facing west.



Photo 13. Bare patch in northern portion of the site, facing north.



Photo 14. Cottonwoods in the northern part of the site, facing south.

GENERAL INSPECTION TOPICS

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

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|--|--|--|
| (AR) RECORDS----- <u>N</u> | (FN) FINANCIAL WARRANTY----- <u>N</u> | (RD) ROADS----- <u>N</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>N</u> |
| (MP) GENL MINE PLAN COMPLIANCE- <u>N</u> | (FW) FISH & WILDLIFE----- <u>N</u> | (RV) REVEGETATION---- <u>PB</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

Baxter Kirkland
Midwestern Farms
PO Box 202
Rye, CO 81069

Enclosure
SL-1 Denial Letter

CC:
Amy Eschberger, DRMS
Kelly Spitzer, Midwestern Farms
Logan Wilkins, CPW
Kevin Kaczmarek, CPW
Jodi Schreiber, PFM Consulting



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

June 17, 2024

Baxter Kirkland
Midwestern Farms
P.O. Box 202
Rye, CO 81069

Re: Midwestern Farms - File No. M-1993-059
Midwestern Farms
Surety Release Request (SL-1)
Full/Final Release

Dear Baxter Kirkland:

On June 17, 2024 the Division of Reclamation, Mining and Safety considered your request for a financial warranty release. The Division found that reclamation had not been accomplished at this site and denied this request.

The success of revegetation across the site varied, with some areas showing diverse and successful regrowth while others had few grass species and bare ground. Based on the Division's observations, it seems that a long-lasting vegetative cover capable of self-regeneration has not been established. It may be necessary to reseed the site and closely monitor it over the next few years to ensure that reclamation is progressing towards establishing self-sustaining vegetation. As a result, Midwestern Farms does not meet the Division's revegetation standards outlined in Rule 3.1.10 and is not ready to be released.

The presence of established Tamarisk throughout the site and the absence of native vegetation around these areas is a cause for concern. Young Tamarisk trees were discovered near older ones, indicating that they are spreading and could become a more significant issue if not addressed promptly. Therefore, the Division will not approve the release of the site due to the presence of Tamarisk and the potential for it to spread.

Please review the May 1, 2024 inspection report for the specific reasons for the financial warranty release denial.

In addition, if you have past due annual fees or unpaid civil penalties, your surety cannot be reduced or released.

In accordance with Rule 1.4.11, any person who can demonstrate that they are directly and adversely affected or aggrieved by an action of the Office, may petition for a hearing before the Board on such action within thirty (30) days of the date of the Office decision, if the decision was a denial, without a hearing. Such petitions for a hearing shall state how the petitioner is directly and adversely affected or aggrieved by the Office's decision, and how the petitioner's interests are entitled to protection under the Act. The petitioner shall list and explain any issue the petitioner believes should be considered by



the Board at the hearing on the matter. The petition for a hearing shall specify the application or file number assigned by the Office.

If you have any questions, please contact me by telephone at (720) 812-2002, or by email at Joel.renfro@state.co.us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joel Renfro".

Joel Renfro
Environmental Protection Specialist