



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: AFS - Bennett Pit	MINE/PROSPECTING ID#: M-2001-038	MINERAL: Sand & borrow material	COUNTY: Adams
INSPECTION TYPE: Monitoring	WEATHER: Clear	INSP. DATE: May 21, 2024	INSP. TIME: 13:00
OPERATOR: Albert Frei & Sons Inc.	OPERATOR REPRESENTATIVE: Joel Boldoc and Martina Gilbert	TYPE OF OPERATION: 112c - Construction Regular Operation	
REASON FOR INSPECTION: Citizen Complaint	BOND CALCULATION TYPE: None	BOND AMOUNT: \$487,175.00	
DATE OF COMPLAINT: April 23	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: County	
INSPECTOR(S): Nikie Gagnon	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: June 20, 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: Hydrologic Balance

PROBLEM: The Division has no evidence that the operator has a valid well permit, substitute water supply plan, or approved water augmentation plan for the exposed groundwater at the site. This is a problem related to 34-32.5-116(4)(h) of the Colorado Revised Statutes and 3.1.6(1)(a) of the Construction Materials Rules and Regulations governing injury to existing water rights.

CORRECTIVE ACTIONS: The operator shall demonstrate that the operation is in compliance with the Office of the State Engineer, show evidence that the operator is taking measures to bring the site into compliance with the SEO, or backfill the pits to at least two feet above the groundwater surface by the corrective action date specified.

CORRECTIVE ACTION DUE DATE: 7/20/24

INSPECTION TOPIC: Signs & Markers

PROBLEM: The mine identification sign was not posted at the entrance of the mine site. This is a problem for failure to post a mine identification sign as required by Section 3.1.12(1) of the rule. The Operator shall, at the entrance of the mine site post a sign, which shall be clearly visible from the access road, with a minimum size equaling one hundred and eighty-seven (187) square inches, such as eleven (11) inches in height and seventeen (17) inches in width, with appropriate font size, with the following: the name of the Operator, a statement that

a reclamation permit for the operation has been issued by the Colorado Mined Land Reclamation Board; and the permit number.

CORRECTIVE ACTIONS: The operator shall, at the entrance of the mine site, post a sign which shall be clearly visible from the access road with the following: the name of the operator, a statement that a reclamation permit for the operation has been issued by the Colorado Mined Land Reclamation Board; and the permit number. The operator shall submit photo documentation that a proper sign has been posted by the corrective action date.

CORRECTIVE ACTION DUE DATE: 7/20/24

OBSERVATIONS

On Monday, April 23, 2024, the Division of Reclamation, Mining and Safety (Division/DRMS) received a call and email from Katie Keefe, the Environmental Programs Manager at Adams County. Ms. Keefe informed the Division that she received a call from Victoria Katchen, an adjacent landowner to the Bennett Pit, asking questions concerning water in the Bennett Pit and the recent transfer of ownership to Martin Marietta.

Nikie Gagnon, representing DRMS, contacted Ms. Katchen to discuss her observations at the pit. The Division followed up with Joel Boldoc with Martin Marietta (Operator). Mr. Boldoc investigated the situation and informed the Division that over the past year, the groundwater levels have risen in the area, in association with higher seasonal flows in Kiowa Creek, which is immediately adjacent to the eastern side of the permit area. On April 29, 2024, Mr. Boldoc emailed a graph to the Division showing the groundwater levels collected to date at four monitoring wells located on the eastern and southern sides of the site.

As a follow-up to the initial conversation regarding the complaint, on April 30, 2024, Mr. Boldoc emailed the current stormwater permit for the site, along with a renewal application that was sent to the CO Department of Public Health and Environment (CDPHE) on July 7, 2021. According to the Operator, CDPHE has not responded to their request to add pit dewatering to their permit. CDPHE provided an administrative extension to allow the existing permit to remain active. Also in the April 30, 2024 email, Mr. Boldoc stated they are doing three things to address this pond issue:

1. Obtain a Substitute Water Supply Plan (SWSP).
2. Submit a modification request to CDPHE to get formal approval to begin dewatering. Once this request is approved, they will dewater the pit.
3. Start backfilling the pit to reduce the exposed area.

The Division arranged a joint inspection with Adams County for May 21, 2024. The Division reviewed the annual groundwater data provided to the Division on August 3, 2023. The reported groundwater level at Monitoring Well 4 (GW-4) on the eastern side of the permit area was 5291.40 feet on August 3, 2022 and 5301.80 feet on July 3, 2023, indicating a rise of 10.4 feet. Based on the most recent graph from the Operator submitted on April 29, 2024, the groundwater levels are continuing to trend higher in 2024 and the groundwater level in February 2024 was approximately 5301.50 feet.

On September 25, 2019, the Division approved Amendment 1 (AM1) which expanded the permit area to 107.88 acres. According to the Adequacy Response submitted by the Operator on June 17, 2019, the groundwater level under the southern part of the mine is 5294 feet. Exhibit G in the approved amendment states that "the southern one-third will be mined dry until the water table is encountered. If that happens the

floor will be backfilled so it stays at least 2 feet over the groundwater table.” Additionally, in the 2nd Adequacy Response submitted on July 15, 2019, the Operator commits to submitting an amendment application and receiving approval of the application prior to lining a portion of the mine or mining into groundwater.

During this inspection, the Division observed exposed groundwater in the southern pit area (Photos 1-3). The water was estimated to be 2-5 feet in the bottom of the pit, which runs south to north in this area. The Operator has begun backfilling the north end of the pit and the current exposed groundwater is approximately 8 acres. Based on observations during this inspection, the Operator is not in compliance with Section 34-32.5-116(4)(h) of the Colorado Revised Statutes and Rule 3.1.6(1)(a) of the Construction Materials Rules and Regulations governing injury to existing water rights (See Problem 1 above). Therefore, within 60 days, the Operator shall provide proof to the Division they have submitted an application for a well permit and Substitute Water Supply Plan through the Colorado Division of Water Resources to address the exposed groundwater. The Operator shall continue to backfill the pit to 2 feet above current groundwater level, and/or, per the approved AM1, the Operator shall submit an amendment application to the Division to update the mining and reclamation plans to incorporate mining below the water table and the associated pit lining in the southern portion of the permit area.

The Operator is approved to import inert fill which is utilized at the base of the western slope to build the 3H:1V slope. Once sufficient fill material is received, the slope will be graded to the final 3H:1V and covered with finer material, topsoiled and seeded. During this inspection, the Division observed the inert fill in the mined area (Photo 7). No issues with the fill were noted. The operator submits an inert fill report to the Division on an annual basis. The last one was received on June 30, 2023.

The Division observed the mine signage at the entrance to the permit area (Photo 9). The required mine identification sign was not posted at the entrance. This is a problem for failure to post a mine identification sign as required by Section 3.1.12(1) of the rule (See Problem 2 above). The Operator shall, at the entrance of the mine site post a sign, which shall be clearly visible from the access road, with a minimum size equaling one hundred and eighty-seven (187) square inches, such as eleven (11) inches in height and seventeen (17) inches in width, with appropriate font size, with the following: the name of the Operator, a statement that a reclamation permit for the operation has been issued by the Colorado Mined Land Reclamation Board; and the permit number. Please note, Martin Marietta is not the current operator of the permit. According to correspondence submitted to the Division on January 13, 2024, Albert Frei and Sons remains a viable company within Martin Marietta. Therefore, the mine sign must show Albert Frei and Sons as the operator, or Martin Marietta shall submit a Transfer of Mineral Permit and Succession of Operator application to the Division.

This concludes the Division's Inspection Report; a subset of photographs taken during the time of the inspection are included below. If you need additional information or have any questions, please contact me at the Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at 303-866-3567 x8126, or by email at nikie.gagnon@state.co.us.

PHOTOGRAPHS



Photo 1: Looking southeast at ponded water in the southern pit.



Photo 2 Looking west towards the highwall in the southern pit.



Photo 3: Looking north across the southern mined pit.



Photo 4: Looking southeast at Kiowa Creek, adjacent to the eastern side of the permit area.



Photo 5: Monitoring Well #4 on the southeastern side of the permit area.



Photo 6: Looking at recently backfilled and graded area at the southern end of the permit area. Slopes are generally 3H:1V.



Photo 7: Center of the previously mined area. Inert fill placed along the western highwall.



Photo 8: Active mining on the north end of the permit area.



Photo 9: Signage placed at the entrance to the site. Required mining permit sign is missing.

GENERAL INSPECTION TOPICS

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

(AR) RECORDS----- <u>N</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>N</u>
(HB) HYDROLOGIC BALANCE----- <u>PB</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>PB</u>	(SP) STORM WATER MGT PLAN---- <u>N</u>	(RS) RECL PLAN/COMP-- <u>Y</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

Joel Boldoc and Martina Gilbert
Albert Frei & Sons Inc.
1627 Cole Boulevard, Suite 200
Lakewood, CO 80401

Enclosure: Water Level Graph submitted by Operator on 4/29/2024

CC: Jared Ebert, Senior EPS, DRMS



STATE OF
COLORADO

Gagnon - DNR, Nikie <nikie.gagnon@state.co.us>

RE: Bennett Pit M-2001-038

1 message

Joel Bolduc <Joel.Bolduc@martinmarietta.com>
To: "Gagnon - DNR, Nikie" <nikie.gagnon@state.co.us>

Mon, Apr 29, 2024 at 12:09 PM

Hi Nikie,

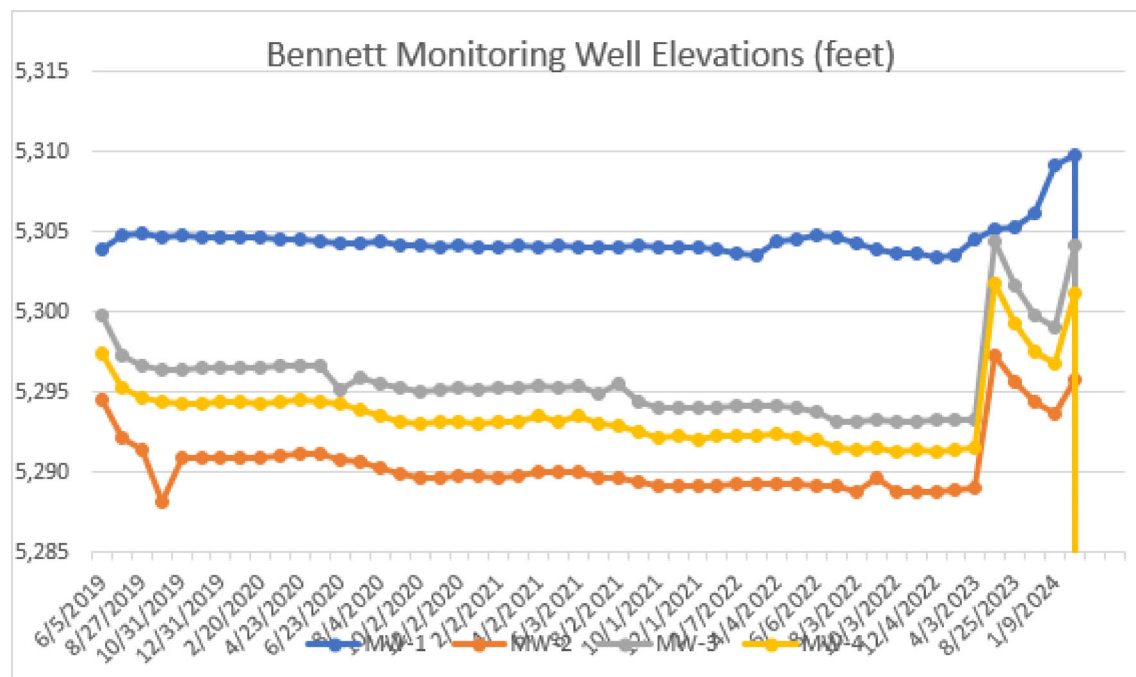
Thank you for the message.

I am free anytime on Tuesday May 14th or Thursday May 16th for a site inspection. I am checking if the plant manager is available those days, she should be.

Below is the updated groundwater chart. MW-2, MW-3 and MW-4 are adjacent to the creek and MW-1 is further west (away) from the creek.

We will get this addressed, I'll let you know how shortly.

Joel



From: Gagnon - DNR, Nikie <nikie.gagnon@state.co.us>
Sent: Monday, April 29, 2024 11:15 AM
To: Joel Bolduc <Joel.Bolduc@martinmarietta.com>
Subject: Bennett Pit M-2001-038

EXTERNAL SENDER – PLEASE ASSESS AND VERIFY

Hi Joel.

I received a call from Adams County today. A neighbor called them about water in the Bennett Pit since last spring. I'd like to schedule an inspection of the site during the week of May 13. Are you still the person overseeing this site or should I contact someone else to schedule the inspection?

In the meantime, could someone please check the site and send me an update on the mining activities and how water is being managed? I know you are monitoring groundwater levels at the site, but this site is not approved for mining into and exposing groundwater.

Let me know what you find out or if I should talk to someone else at Martin Marietta.

Kind regards,

--

Nikie Gagnon

Environmental Protection Specialist



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

P 303.866.3567 x8126 | C 720.527.1640 | F 303.832.8106

Physical: [1313 Sherman Street, Room 215, Denver, CO 80203](#)

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

nikie.gagnon@state.co.us | <https://www.drms.colorado.gov>