



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

November 10, 2020

Donnie Martinez
Conejos County Road and Bridge
P.O. Box 157
Conejos, CO 81129

Re: Findings of Fact, Conclusions of Law, and Order, Conejos County Road and Bridge
File No. M-2018-039

On November 6, 2020 the Mined Land Reclamation Board signed the enclosed Board Order for the above captioned operation. Because this document is the final order of the Board, it is legally binding on and affects the above-captioned operation, and we strongly advise that you read this document carefully.

Sincerely,

Camille Mojar
Board Administrator

Enclosure(s)

Certified Mail

7018 2290 0001 8923 1342

cc:

Lucas West
Travis Marshall
Jeff Fugate
Scott Schultz
Charles Kooyman
Nicolas Sarmiento



BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

IN THE MATTER OF THE PETITION OF CONEJOS COUNTY FOR
DECLARATORY ORDER, File No. M-2020-036

THIS MATTER came before the Mined Land Reclamation Board ("Board") on October 21, 2020 via video conference to consider a petition for declaratory order submitted by Conejos County ("Petitioner"), file number M-2020-036. Conejos County Attorney Nicholas Sarmiento and Donnie Martinez appeared on behalf of Petitioner. Lucas West appeared on behalf of the Division of Reclamation, Mining and Safety ("Division").

The Board, having considered the parties' presentations, filings, and having been otherwise fully informed of the facts in the matter, hereby enters the following:

FINDINGS OF FACT

1. The Division received a letter and Is it Mining Questionnaire from Petitioner on July 27, 2020. Petitioner described a project for the Conejos County Road and Bridge department that would involve leveling irrigation reservoirs in fields. Petitioner would conduct the work of leveling the reservoirs and would remove any remaining gravel, dirt, and fill materials for stockpiling and use in county road projects. Landowners would donate any materials removed to Petitioner.
2. On August 5, 2020, the Division informed Petitioner that it viewed the activities described in the July 27, 2020 questionnaire as a mining operation that would require a reclamation permit. The Division's letter also informed Petitioner of its right to petition the Board for an exemption from the permit requirement.
3. On September 11, 2020, Petitioner submitted a petition requesting reconsideration of the Division's determination that the proposed activities constituted a mining operation. The petition explained that some to most of the materials used to construct the irrigation reservoirs had been imported onto the sites. This means that without removing materials from the irrigation reservoirs during deconstruction, landowners would be left with mounds on their property that would prevent other beneficial uses of the land. Petitioner reiterated that any materials removed by it for use in road work projects would be donated by landowners.
4. At the hearing, the Division, presented testimony regarding the proposed project and its scope. The initial questionnaire referenced two cites, but the Division was subsequently informed that those would just be the first two of

many sites scattered across Conejos County. Irrigation reservoirs are being removed throughout Conejos County as landowners transition away from above-ground irrigation reservoirs. Each site would likely involve the removal of about 13,000 cubic yards of material. The Division did not oppose the petition.

5. Petitioner presented testimony regarding the benefit from the project to both landowners and Conejos County, which will use the larger, potato-sized rocks removed from the irrigation reservoirs to fix roads that have frost heaves. Petitioner's current gravel pit has smaller gravel that is less efficient at repairing this type of road damage than the rocks to be removed from irrigation reservoirs. Removing above-ground irrigation reservoirs will also help landowners conserve water and meet sustainability obligations by preventing substantial water loss to evaporation.

CONCLUSIONS OF LAW

6. The Board has jurisdiction over this matter pursuant to the Colorado Land Reclamation Act for the Extraction of Construction Materials, Article 32.5 of Title 34, C.R.S. (2020).

7. Rule 2.5 governs declaratory order petitions. At the October 21, 2020 meeting, the Board convened a non-evidentiary hearing on the petition in accordance with Rule 2.5.4(c). Petitioners participated and testified at the hearing.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board hereby GRANTS the petition of Conejos County and ORDERS that Conejos County Road and Bridge is exempt from the State Reclamation Permitting Requirements under 34-32.5-101 et seq., C.R.S. for the deconstruction of irrigation reservoirs as proposed as well as for future similar projects as they arise.

Conejos County shall submit written notification to the Division at least thirty days prior to each new project covered under this Declaratory Order.

DONE AND ORDERED this 6 day of November 2020.

FOR THE COLORADO MINED LAND
RECLAMATION BOARD


Nell Wareham-Morris, Chair

NOTICE OF JUDICIAL REVIEW RIGHTS

This order becomes effective and final upon mailing. Any party adversely affected or aggrieved by agency action may commence an action for judicial review by filing a complaint with the district court within thirty-five (35) days after the effective date of this order, pursuant to section 24-4-106, C.R.S. (2019) and the Colorado Rules of Civil Procedure. In the event that a complaint for judicial review is filed, designations of record made in accordance with section 24-4-106(6), C.R.S. should be served on the Board at: 1313 Sherman Street, Room 215, Denver, CO 80203, Attention: Camie Mojar

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, this 10th day of November, 2020 addressed as follows:

By certified mail:

7018 2290 0001 8923 1342

Donnie Martinez
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By electronic mail:

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By electronic mail to:

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Camille Mojar, Board Administrator