

STATE OF
COLORADO

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

Re: Report of Potential Illegal Mining in Clear Creek County

Ebert - DNR, Jared <jared.ebert@state.co.us>
To: Dustin Bertelsen <dbertelsen@clearcreekcounty.us>
Cc: Nikie Gagnon - DNR <nikie.gagnon@state.co.us>

Thu, Dec 19, 2024 at 1:43 PM

Hello Dustin,

Thank you for bringing this matter to the Division's attention. We have reviewed the incident. Please see the attached response letter and the information provided by Eli Josephs. I have also included the letter we sent to Mr. Josephs. Please let me know if you have any further questions.

Jared

[Quoted text hidden]

3 attachments

IsItMining (3) Filled.pdf
609K



730MineTrail_LetterToCounty_19Dec2024.pdf
213K



730MineTrail_M2024058_LetterToJosephs_19Dec2024.pdf
216K



December 19, 2024

Dustin Bertelsen
Clear Creek County
P.O. Box 2000
1111 Rose Street
Georgetown, CO 80444

RE: 7:30 Mine Trail, DRMS File No. M-2024-058, November 20, 2024 Complaint

Dear Dustin Bertelsen,

The Division of Reclamation, Mining and Safety (DRMS or Division) received your complaint regarding the above referenced site on November 20, 2024. The complaint the Division received asserted that an excavator was used to cut through an old tailings pile, and that construction material and mining equipment were observed at the site. Photos were provided showing the excavator, the trail, a wooden mine door, wood pallets, wood boards, and site signage. The complaint also noted a PVC pipe draining some sort of fluid from the Porter Mine Tunnel.

The Division contacted Eli Josephs, and he claims that he was not building a new road but was clearing an existing road of erosion, brush and trees to access his private property. He cited a Clear Creek County Ordinance 4 that he claims gives him the right to conduct this activity. The Division asked Mr. Josephs to provide us a description of his plans to help us ascertain if a reclamation permit through our office would be required. On November 22, 2024, Mr. Josephs provided a response to the Division's "Is It Mining?" questionnaire (his response is attached). Mr. Josephs indicates he is not extracting and hauling materials from the site but is moving some topsoil on his property. He also indicated that he may possibly build a backcountry cabin on the property and/or use the site for tourism.

The Division does not have jurisdiction over the dispute between Mr. Josephs and Clear Creek County regarding the use of motorized equipment on the 7:30 Mine Trail or his right to repair access to his property. Further, there are many historic mine openings in this area, and it is not atypical for those openings to be discharging water. The clearing/or building of a road, the movement of topsoil on private property, and the construction of a cabin does not necessarily implicate that a mining operation is occurring as defined by C.R.S. 34-32-103(8). The Division has informed Mr. Josephs that should he plan to conduct a mining operation as defined by this statute that he would first need to obtain a reclamation permit from our office. Further, if he intends to operate a tourist mine, he will need to comply with the Regulations of the Mine Safety and Training Program for Tourist Mines (2. C.C.R. 407-6).



Should you have any additional questions, please feel free to contact me at Jared.Ebert@state.co.us or at (720) 413-6466.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jared Ebert", with a stylized flourish at the end.

Jared Ebert
Senior Environmental Protection Specialist

EC: Nikie Gagnon, DRMS Nikie.Gagnon@state.co.us



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 your 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 Y UTM
GPS _____

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 and any supporting materials to the Division at the address below for review.

Colorado Division of Reclamation, Mining and Safety
1313 Sherman St Rm 215
Denver CO 80203

If you prefer, you may email the completed questionnaire and supporting materials to drms_info@state.co.us.

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: drms.colorado.gov 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.



December 19, 2024

Eli Josephs
319 E. Magnolia Street
Fort Collins, CO 80524

RE: 7:30 Mine Trail, DRMS File No. M-2024-058, Complaint and "Is It Mining?" Response

Dear Eli Josephs,

The Colorado Division of Reclamation, Mining and Safety ("DRMS" or "Division") appreciates your response to our inquiry about the complaint we received from Clear Creek County on November 20, 2024. Based on the information you provided in the "Is it Mining?" form, you do not plan to extract and or haul minerals from the site. You also indicated that topsoil will be moved and stockpiled on site from a .02-acre area. The form indicated the site may be used for a backcountry cabin and/or tourism.

The complaint the Division received asserted that an excavator was used to cut through an old tailings pile, and that construction material and mining equipment were observed at the site. Photos were provided showing the excavator, the trail, a wooden mine door, wood pallets, wood boards, and site signage. The complaint also noted a PVC pipe draining some sort of fluid from the Porter Mine Tunnel.

In accordance with C.R.S. 34-32-103(8), a "Mining operation" means the development or extraction of a mineral from its natural occurrences on affected land. The term "mining operation" includes, but is not limited to, open mining, in situ mining, in situ leach mining, surface operations, and the disposal of refuse from underground mining, in situ mining, and in situ leach mining. The term "mining operation" also includes the following operations on affected lands: Transportation; concentrating; milling; evaporation; and other processing. The term "mining operation" does not include: The exploration and extraction of natural petroleum in a liquid or gaseous state by means of wells or pipe; the development or extraction of coal; the extraction of geothermal resources; smelting, refining, cleaning, preparation, transportation, and other off-site operations not conducted on affected land; or the extraction of construction material where there is no development or extraction of any mineral."

Pursuant to C.R.S. 34-32-109(2), one must first obtain a reclamation permit before engaging in a new mining operation. Based on your response to the "Is It Mining?" form, it does not appear that you have or intend to conduct a mining operation. However, should your plans change, you will first need to obtain a reclamation permit from our office. Further, the Division strongly urges you to take caution if any additional earthwork is conducted at the site and/or accessing historic underground mine workings. This letter does not preclude you from compliance with other rules and regulations, including but not limited to those of Clear Creek County and/or the Town of Silver Plume.



If you intend to operate a Tourist Mine, you will need to comply with the Regulations of the Mine Safety and Training Program for Tourist Mines (2. C.C.R. 407-6). Please contact Brandon Neal with the Mine Safety and Training Program with the Division should you have any questions about operating a tourist mine.

Should you have any additional questions, please contact me at Jared.Ebert@state.co.us or (720) 413-6466. You may also contact Nikie Gagnon at Nikie.Gagnon@state.co.us or at (720) 527-1640.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jared Ebert", with a stylized flourish at the end.

Jared Ebert
Senior Environmental Protection Specialist

CC: Dustin Bertelsen, dbertelsen@clearcreekcounty.us