

Additional Pages
Miller Pit 2025 Annual Report
Permit M-1982-112

General Comments: The additional information provided here updates the information provided last year and addresses the condition at the site at the end of the 2024-2025 permit year.

The annual inspection this year was done on February 24, 2025 by Mahkayla Selby of Schmidt Construction and Mark Heifner, an ecological consultant to Schmidt Construction. In general it was found that the reclamation at the site had advanced and matured a considerable amount in comparison to 2023 and early 2024. In early 2024 the vegetation was patchy with a great deal of variation across short distances. Furthermore annual and biennial weeds were abundant. Ecologically the community structure of the young revegetation was best characterized as chaotic. Part of that was due to most of the site being flooded in the summer of 2023 when a severe thunderstorm in mid-summer dropped several inches of rain upstream on Running Creek near the town of Elizabeth. It was a flood that did considerable damage along Running Creek and flooded virtually the entire bottom of the Miller Pit. But sometimes these kinds of floods are a blessing. That appears to be the case here to some degree.

Revegetation Status: From a distance such as up on the high ground east of the pit area, the bottom of the pit which is being revegetated appeared to have a very uniform vegetation cover of grasses and forbs with scattered young trees. Breaks in the cover are few and far between and it is apparent that the species composition contains a wide variety of grasses mixed with broadleaf species that were noted last year but have now formed a more continuous cover that exhibits a fairly even variation in species. Still, in some places the Witchgrass (*Panicum capillare*) is dominant on very fine soils where it appears water may have flowed after the flood and during the draining of the pit. However, these habitats are being invaded by other species and the dominant Witchgrass will become just a member of a more diverse community on these sites. Witchgrass is a Native species.

In most areas total vegetation cover exceeds an estimated 60% to 70% and in many smaller locations reaches 80% to 90% cover. This cover also exhibits a high species diversity for such a young site. It appears unlikely that the vegetation would be this highly developed at this point if the 2023 flood had not occurred. That flood likely “smoothed out” the irregularities in the soil environment that produced a very patchy initial growth. Plus the deep watering of the bottomland soils undoubtedly helped a great deal later in last year’s rather dry end of the season.

Noxious Weeds: The number of Scotch Thistle rosettes and other thistles of this growth form (tall and spiny) may indicate that the intensive weed control applied last year served to knock back the rather large and dense population of these species on the north end of the permit area. It is difficult to make accurate predictions at this early a date in the growing season because late rosettes can appear as warmer weather arrives. However, it looks quite promising at this point in time.

Trees and Shrubs: The Facultative Wetland trees and shrubs that were present throughout the site last year are still there and appear quite healthy. Thus the promise of scattered patches of trees inhabiting the reclamation area and thus extending the bottomland cottonwood forest eastward from the main growth along Running Creek appears likely to verify in coming years.

Effects of the 2023 Flash Flood in early 2025: Many of the effects of the flood have now begun to fade rather dramatically. The vegetation no longer shows the kind of zonation present in many flood sites years after the flood. In part, this lack of lasting impacts is due to the immaturity of the vegetation at the time of the flood. Thus most everywhere experienced similar flood impact and that, over the last 1 ½ growing seasons has evened out the variations that were present in the early immature vegetation. Thus, the flood served to accelerate the revegetation of the site by creating a more uniform early environment that has yet to show much fracturing of the growth environment. This consistency will likely last a few more years before community differentiation begins to appear in the vegetation which will result in a more diverse mosaic of habitats and associated communities. That is exactly what is most desirable on a site like this.

The Soil Berm Status: The berm has been invaded by various typical pioneer species, but as was shown in the soil tests done last year, the growth environment in the soil is rather poor as most of this material includes mostly low fertility sub-soil layers. An advantage of this is that these poor soils do not grow most weeds very well. And, in fact, weed invasion on the pile has been limited over the last season and a half. However, it is improving as the weeds improve the surface layers of the pile. Spraying the weeds that appear this coming summer may be necessary just to reduce the spread of weed seed into the surrounding land which does not appear to have a weed problem. As this is intended by Lakeport to be used as fill in their development, the sooner this material can be removed the better for the land in general.

Vegetation Utilization: As the final land use of the reclamation is for grazing the inspection looked for specifically that. No domestic livestock has ever been on this land since the revegetation began so any grazing impacts would be mainly from deer. Two measures of that are evident on the site: the amount of scat (droppings) on the ground and evidence of food plants being grazed. Both are quite evident on the site, but unlike with domestic livestock, deer do not eat grass plants almost to the ground. The upper portions of the grasses have been grazed to a moderate extent and judging from the abundance of scat it was by deer. As Elk have been moving east on to the plains it would be possible for elk having been here as well. However, no clear evidence of elk was found on the site. Thus it certainly appears the reclaimed land is being used appropriately for wildlife grazing.

Does this imply the use developing is wildlife habitat? At this point, No. That habitat is the riparian woodlands along Running Creek and not the open grassland of the reclamation area. That said, the revegetation area is being utilized, probably at night, as an additional source of food in open country where the deer can see any predators approaching. That is difficult at night in the riparian forest so they stay in the open grassland at night but remain near the forest where it is easier to hide at night.

In conclusion it appears the final land use of grazing is being achieved without the introduction of domestic livestock. That is good because domestic livestock have a tendency to impact these young grasslands rather heavily which tends to reduce species diversity in the vegetation. At this point, high species diversity is very important for the revegetation as that diversity tends to translate into increased vegetation community stability. Of course, it also

provides a more natural look to the land which, considering Lakeport's plans for this land, is what is desired. Lakeport intends to keep this land in a somewhat natural state for community activities probably with trails through the bottomland in addition to a recreation center.

Construction Waste Deposition: The deposition of construction waste has been a problem on the **unmined** portions of the permit area for a very long time. As far back as the time when Rick Hunt owned the property and had a construction business associated with the Big R Pit Permit waste has been discarded on an area of this permit. Of course, doing that only made the process of mining the gravels beneath the waste less attractive. The landowner prior to Lakeport did clean up a good deal of the waste, but now a new area of waste disposal has appeared as shown on the map and in the photos. Mining is no longer an option for these areas as Schmidt has completely closed their sand and gravel operation and the mining lease was cancelled by the previous landowner except for reclamation work.

Photos of this waste are included in this report. Most of the waste is composed of thick broken concrete that looks like it came from a street that was dismantled. There are also piles of asphalt that was probably pavement as well. Less abundant materials include large pieces of rebar, part of at least one post from a light pole, and concrete "pancakes" created by cleaning out mixer trucks by dumping unused concrete on the ground. There are also other materials included such as a good deal of old tree stumps.

As this material is not on land being reclaimed by Schmidt, Schmidt has no objections to this use of the land by the landowner with one major exception - this material is not a part of the permitted mining operation that has been shut down. And the material is being deposited on permitted land. It is assumed that this deposition is being done under an appropriate approval from Elbert County, but as this material is not a part of the mining operation the local issue is up to the landowner. However, this use was never envisioned in the special use permit issued by Elbert County for the mining operation. Overlapping jurisdictions and different interpretations can create problems in permitting at any level. Schmidt believe this needs to be straightened out with respect to the Reclamation Permit.

Schmidt's concern is that this material is being placed on land contained in the Reclamation Permit and that permit does not call for this occurring. In the opinion of Schmidt, if Lakeport desires to use their property in this way and it is not within land that has been mined or

is planned to be mined, then Schmidt believes they should be allowed to do this IF the deposition of this material is going to be utilized in their development.

But the presence of this material does create a problem in the event the development does not proceed as planned. In that case, who is going to clean up this material as a part of closing the Reclamation Permit held by Schmidt. It seems to Schmidt that this kind of land use and its reclamation needs to be addressed so the land is not turned into another construction waste dump that has no sensible use other than a habitat for small rodents. It seems to Schmidt that there should be a conference between the Division, Schmidt Construction, and Lakeport to find a proper solution to this situation. Schmidt sees several options available as a solution to the problem of having this waste dumped inside a Reclamation Permit intended for the extraction of sand and gravel which is no longer being done and there are no plans to renew that activity because it appears the land is going to become a housing development.

Enclosed in this annual report is a copy of a letter to Donna Barrentine, the project manager for Lakeport's plans. Those plans have been approved by Elbert County and Schmidt has been told by Ms. Barrentine that the construction should begin later this year. However, Schmidt's Reclamation Permit is still attached to the land where the waste deposition is occurring. It seems that if Lakeport desires to use the land in this way and because none of that land was ever affected land subject to mining or related activities, perhaps the permit in this area should be released so the landowner can use the land as they desire without the restrictions present in a Reclamation Permit. Thus, the permit would be reduced to only that land that was mined and is being reclaimed and excludes any other land in the permit. This also corrects the difficulty of having all of this construction waste sitting on permitted land where the permittee had nothing to do with the deposition of the construction waste.

Schmidt concludes this portion of this annual report with a request that the Division call together all affected parties to find a proper solution to this problem so a major headache problem does not occur in the future that drags everyone down. There are several options available, but it seems sensible to fix this conflict of land uses now rather than waiting until later.