

# STATE OF COLORADO

## DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

1313 Sherman St., Room 215

Denver, Colorado 80203

Phone: (303) 866-3567

FAX: (303) 832-8106



John W. Hickenlooper  
Governor

Mike King  
Executive Director

Loretta E. Piñeda  
Director

April 23, 2012

AGC Resources, LLC  
1580 Lincoln Street, Suite 700  
Denver, CO 80203

**Re: Amended Findings of Fact, Conclusions of Law and Order, AGC Resources, LLC,  
File No. M-1983-141, MV-2011-030**

On April 23, 2012 the Mined Land Reclamation Board signed the enclosed Board Order for the above captioned operation. We strongly advise that you read this document carefully since it may contain provisions which must be satisfied by specific dates to avoid future Board actions.

Sincerely,

Sitira Pope  
Secretary to the Board

Enclosure(s)

CERTIFIED MAIL NO.  
7010 1060 0001 0936 8549

Cc's  
Michael Cunningham  
John Roberts

BEFORE THE MINED LAND RECLAMATION BOARD  
STATE OF COLORADO

Notice of Violation No. MV-2011-030

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**AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

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IN THE MATTER OF THE NOTICE OF POSSIBLE VIOLATION BY AGC RESOURCES, LLC, CORRECTIVE ACTIONS, AND CIVIL PENALTIES FOR FAILURE TO PROTECT AREAS OUTSIDE OF THE AFFECTED LAND, FAILURE TO MINIMIZE DISTURBANCE TO THE PREVAILING HYDRAULIC BALANCE, FAILURE TO COMPLY WITH FEDERAL AND STATE WATER QUALITY LAWS, AND FAILURE TO COMPLY WITH THE CONDITIONS OF AN ORDER, PERMIT OR REGULATION, File No. M-1983-141

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THIS MATTER came before the Mined Land Reclamation Board ("Board") on October 12, 2011 in Denver, Colorado to consider a possible violation, corrective actions, and civil penalties against AGC Resources, LLC ("Operator") for failure to protect areas outside of the affected land from slides or damages occurring during the mining operation, failure to minimize disturbance to the prevailing hydraulic balance, failure to comply with federal and state water quality laws, and failure to comply with the conditions of an order, permit or regulation, file number M-1983-141. Michael Cunningham appeared on behalf of the Division of Reclamation, Mining and Safety ("Division"). There were no appearances on behalf of the Operator.

The Board, having considered the materials presented with this matter and having been otherwise fully informed of the facts in this matter, hereby enters the following:

**FINDINGS OF FACT**

1. The Operator holds a 110(2) permit for a 9.83-acre gold and silver mining operation. The site, known collectively as the Cash and Who Do Mines, is located in Section 12, SE ¼, Township 1 North, Range 72 West, 6th Principal Meridian, 10 miles northwest of Boulder, Colorado in Boulder County.

2. On December 21, 2004, the Division conducted an inspection of the site and found that the 3rd level adit was discharging mine water. In April 2007, the Division approved a surface and groundwater monitoring plan through Technical Revision 06 to permit number M-1983-141. Under Technical Revision 06, the Operator is required to submit Annual Water Monitoring Reports to the Division with the Annual Report.

3. On May 5, 2009, the Division inspected the site and found that an unapproved secondary escape-way had been constructed outside the permit boundary. The Division required the Operator to conduct a survey and determine whether the secondary escape-way had been constructed outside the permit boundary.

4. Permit number M-1983-141 was transferred from Mount Royale Ventures, LLC to AGC Resources, LLC in August 2010.

5. On December 22, 2010, the Division conducted an inspection of the site and found that the 3rd level adit was discharging mine water at a rate of approximately 5-10 gallons per minute. The Division required the Operator to obtain a discharge permit from the Colorado Department of Public Health and Environment ("CDPHE").

6. On May 26, 2011, the Operator submitted survey results which demonstrated that the secondary escape-way was constructed outside the permit boundary. The Operator committed to permanently close the secondary escape-way by August 31, 2011.

7. The Operator failed to close and reclaim the secondary escape-way.

8. The Division inspected the site on August 24, 2011 for the purpose of following up on several outstanding problems identified during previous inspections. Boulder County representatives and the landowner, Mark Steen, attended the inspection.

9. During the August 24, 2011 inspection, the Division observed that, among other things, the 3rd level adit was still discharging mine water. The Division also found that the Operator had not obtained a discharge permit from CDPHE.

10. On September 12, 2011, the Division sent the Operator a Reason to Believe a Violation Exists letter which provided notice regarding the alleged violations and the October 2011 hearing.

11. On September 16, 2011, the Division sent the Operator the August 24, 2011 inspection report.

12. The Operator has failed to submit Annual Water Monitoring Reports for 2009 and 2010.

13. The Operator disturbed approximately 100 square feet of land outside of the approved permit boundary.

## CONCLUSIONS OF LAW

14. The Board has jurisdiction over this matter pursuant to sections 34-32-104 through 107, and 124 of the Colorado Mined Land Reclamation Act, Article 32 of Title 34, C.R.S. (2010) ("Act").

15. The Operator failed to minimize disturbance to the prevailing hydrologic balance of the affected land and the surrounding area and to the quality and quantity of water in the surface and groundwater systems, in violation of section 34-32-116(7)(g), C.R.S.

16. The Operator failed to comply with applicable federal and state water quality laws and regulations, including statewide water quality standards and site-specific classifications and standards adopted by the Water Quality Control Commission, CDPHE, in violation of Rule 3.1.6 of the Mineral Rules and Regulations of the Board for Hard Rock, Metal, and Designated Mining Operations, 2 C.C.R. 407-1.

17. Operators are required to protect areas outside the affected land from slides or damage occurring during the mining operation and reclamation. C.R.S. § 34-32-116(7)(h) (2010). The Operator affected approximately 100 square feet of land outside of the approved permit boundary, in violation of section 34-32-116(7)(h), C.R.S.

18. By failing to submit Annual Water Monitoring Reports, the Operator failed to comply with the conditions of permit number M-1983-141.

19. Section 34-32-124(7), C.R.S. provides for a civil penalty of not less than \$50 per day nor more than \$200 per day for each day during which a violation occurs. The Board may impose a penalty based on 49 days of violation (from the inspection date to the hearing date) at \$50 to \$200 per day for a civil penalty of \$2,450 to \$9,800.

## ORDER

The Operator did not appear in this matter to present any mitigating factors. There is no information before the Board indicating that any action other than the relief requested is appropriate. Therefore, based on the foregoing, the Board enters the following order:

The Board finds the Operator in violation of section 34-32-116(7)(h), C.R.S., for failing to protect areas outside of the affected land from slides or damages occurring during the mining operation.

The Board finds the Operator in violation of section 34-32-116(7)(g), C.R.S., for failing to minimize disturbance to the prevailing hydrologic balance of the affected land and the surrounding area and to the quality and quantity of water in surface and groundwater systems.

The Board finds the Operator in violation of Rule 3.1.6 by failing to comply with applicable federal and state water quality laws and regulations, including statewide water quality standards and site-specific classifications and standards adopted by the Water Quality Control Commission, CDPHE.

The Board finds the Operator in violation pursuant to section 34-32-124, C.R.S., for failing to comply with the conditions of an order, permit, or regulation.

The Board imposes against the Operator the following CORRECTIVE ACTION: the Operator shall, within 30 days of the effective date of this Order, (a) submit all past due Annual Water Monitoring Reports; (b) submit either a discharge permit from CDPHE or written proof that the application process for such discharge permit has commenced; and (c) complete permanent closure of the secondary escape-way.

*If the Gold Hill Mines Inc. application for permit transfer is approved, Gold Hill Mines Inc. shall not be required to produce AGC Resources LLC's past due Annual Water Monitoring Reports, but shall comply with all water monitoring and reporting requirements in the permit. If the Gold Hill Mines Inc. application for permit transfer is approved; Gold Hill Mines Inc. shall, within 180 days of the effective date of such approval, comply with the corrective actions stated herein.*

The Board imposes a CIVIL PENALTY for 49 days of violation at \$200 per day for a total civil penalty of \$9,800. The civil penalty shall be due and payable within 30 days of the effective date of this Order.

*If the Gold Hill Mines Inc. application for permit transfer is approved, Gold Hill Mines Inc. shall not be liable for civil penalties based upon the previous operator's violation. If Gold Hill Mines Inc. fails to comply with the corrective actions by the amended deadline, it shall be subject to civil penalties beginning from the date it became operator.*

DONE AND ORDERED this 23<sup>rd</sup> day of April 2012.

FOR THE COLORADO MINED LAND  
RECLAMATION BOARD



Ron Peterson, Chair

### NOTICE OF APPEAL 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 notice of appeal with the district court within thirty (30) days after the effective date of this order, pursuant to section 24-4-106, C.R.S. (2011). In the event that an appeal 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: Sitira Pope.

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND BOARD ORDER upon all parties herein by  
depositing copies of same in the United States mail, first-class postage prepaid, at  
Denver, Colorado, this 23<sup>rd</sup> day of April 2012 addressed as follows:

*By inter-office or electronic mail to:*

AGC RESOURCES, LLC  
1580 Lincoln Street, Suite 700  
Denver, CO 80203

Michael Cunningham  
Division of Reclamation, Mining & Safety  
1313 Sherman Street, Room 215  
Denver, Colorado 80203

*By intra-office or electronic mail to:*

John J. Roberts  
Senior Assistant Attorney General  
Office of the Attorney General  
1525 Sherman Street, 7<sup>th</sup> Floor  
Denver, CO 80203

  
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