

STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

1313 Sherman St., Room 215

Denver, Colorado 80203

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John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Piñeda
Director

May 1, 2012

Ignacio Vasquez, Sr.

P.O. Box 938

Lyons, CO 80540

**Re: Findings of Fact, Conclusions of Law and Order, Ignacio Vasquez, Sr.
File No. M-2000-089, MV-2012-016**

On May 1, 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 8853

Cc's
Michael Cunningham
John Roberts

BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

Notice of Violation No. MV-2012-016

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

IN THE MATTER OF THE NOTICE OF POSSIBLE VIOLATION BY IGNACIO VASQUEZ, SR., CORRECTIVE ACTIONS, AND CIVIL PENALTIES FOR FAILURE TO PROTECT AREAS OUTSIDE OF THE AFFECTED LAND, File No. M-2000-089

THIS MATTER came before the Mined Land Reclamation Board ("Board") on April 11, 2011 in Denver, Colorado to consider a possible violation and civil penalties against Ignacio Vasquez, Sr. ("Operator") for failure to comply with the conditions of a Board order, permit, or regulation, file number M-2000-089. Michael Cunningham appeared on behalf of the Division of Reclamation, Mining and Safety ("Division"). Arthur Vasquez appeared on behalf of the Operator.

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

FINDINGS OF FACT

1. The Operator holds a 110c permit, number M2000-089, for a 9.7-acre sandstone operation. The site, known as the Perdue site, is located in Section 5, NW ¼, Township 3 North, Range 70 West, 6th Principal Meridian, 3.5 miles northwest of Lyons, Colorado in Boulder County.
2. The Division conducted an inspection of the site on May 25, 2011 and observed that the northeast and southeast permit boundary markers were missing. The Operator was present for the inspection. The Division notified the Operator of a possible violation and required the Operator to conduct a survey and replace the boundary markers.
3. The Division conducted a follow-up inspection of the site on August 31, 2011 and found that the Operator had replaced the northeast and southeast permit boundary markers. The Division determined that 11.6 acres had been disturbed.
4. On September 2, 2011, the Division sent the Operator the inspection report and a Reason to Believe a Violation Exists letter which provided notice regarding the alleged violation and the October 2011 hearing.

5. The Operator disturbed 1.9 acres of land outside of the approved permit boundary, and therefore failed to protect areas outside of the affected land from slides or damages occurring during the mining and reclamation operation.

6. On October 12, 2011, the Board held a hearing to consider alleged violations by the Operator for affecting land outside the approved affected area boundary. The Board issued an order, effective December 9, 2011 finding the Operator in violation of section 34-32.5-116(4)(i), C.R.S. ("December 2011 Order") The Board ordered the Operator to complete corrective action by providing all materials necessary for a 112c conversion application to secure a reclamation permit for all areas affected by the mining operation within 60 days. The Board also imposes a civil penalty of \$4,200 with all but \$200 of the penalty is suspended if the Operator timely complied with the corrective action.

7. The Division received payment of the unsuspended portion of the civil penalty imposed, \$200, on January 8, 2012.

8. The Operator failed to complete the corrective action ordered in the December 2011 Order.

9. On February 14, 2012, the Division issued a Reason to Believe a Violation Exists letter to the Operator informing it of a possible violation for failure to comply with the conditions of a Board order and failure to cure a default under a performance warranty. The letter also provided information about the April 2012 hearing.

CONCLUSIONS OF LAW

1. 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. (2010) ("Act").

2. Pursuant to section 34-32.5-124, C.R.S., the Board may find a violation and impose a penalty when it finds that an operator has failed to comply with the conditions of an order, permit, or regulation. The Operator failed to complete the corrective action ordered in December 2011 Order. Therefore, the suspended amount of the civil penalty, \$4,000 is due.

3. Under section 34-32.5-118(1)(b), C.R.S. a financial warranty shall be subject to forfeiture whenever an operator fails to cure a default under a performance warranty. The Operator received written notice of his default under a performance warranty and failed to cure the default despite ample time to do so.

ORDER

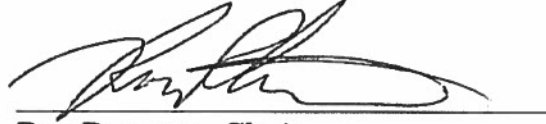
The Board finds that the Operator is in violation of the Act pursuant to section 34-32.5-124, C.R.S., for failure to comply with an order, permit, or regulation.

The Board finds that the Operator is in violation of the Act, pursuant to section 34-32.5-118(1)(b), C.R.S. for failing to cure a default under a performance warranty despite having received written notice of the default and having ample time to cure the default.

The Board finds that the full amount of the suspended civil penalty imposed by the December 2011 Order, \$4,000, is due and payable. However, the Board waives all but \$300 of that amount, which shall be due and payable within 30 days of the effective date of this Order. The Board further orders that all of the civil penalty is waived if the Operator complies with the corrective action required by the December 2011 Order within 30 days of the effective date of this Order.

DONE AND ORDERED this 1st day of May 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 1st day of May 2012 addressed as follows:

By inter-office or electronic mail to:

Ignacio Vasquez, Sr.
P.O. Box 938
Lyons, CO 80540

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, 7th Floor
Denver, CO 80203

