

**From:** [Lyons Sandstone](#)  
**To:** [Cunningham, Michael](#); [Bernard Buster](#); [Joshua Buster](#)  
**Subject:** Consent Agenda  
**Date:** Wednesday, May 30, 2012 2:35:07 PM  
**Attachments:** [Consent Agenda.pdf](#)

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Michael,

I have attached a signed and notarized copy of the consent agenda and will Priority mail the original to you no latter than Thursday.

I would like to waive my right to a 30 day notice of the Enforcement Hearing scheduled for July 11-12, 2012 and would like to schedule this matter before the Mined Land Reclamation Board at the June 13-14, 2012 Hearing.

I believe this all I need to do at this time. I appreciate your help in expediting this.

Sincerely,  
Brenda Buster

Lyons Sandstone  
ph. [303.823.5659](tel:303.823.5659)  
fx. [303.823.0173](tel:303.823.0173)

# 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

### STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS

<u>Date</u>	May 29, 2012	<u>Operator</u>	Bernard Buster and Brenda Buster
<u>Permit No.</u>	M-2012-018	<u>Site Name</u>	Buster Moss Rock
<u>Specialist</u>	Michael Cunningham	<u>Objecting Party</u>	N/A

#### Action:

☐ Permit application with objections

☒ Violation

☐ Extension of Board-ordered deadline

☐ Other

#### Resolution:

#### *NATURE OF VIOLATION:*

This item is in regards to a Notice of a Possible Violation, Cease and Desist Order, corrective actions and civil penalties for a possible violation of C.R.S. 34-32.5-109 (1) for failure to obtain from the board or office a reclamation permit prior to engaging in a new mining operation.

#### *CHRONOLOGY:*

April 25, 2012 – The Division observed the product storage area associated with the moss rock operation while conducting regular monitoring inspections in the vicinity. No permit sign was posted at the site and no personnel were present at the time. A review of the Division's records found that a reclamation permit has not been issued for the site.

May 15, 2012 – The Division conducted an inspection of the site. The landowners, Bernard Buster and Brenda Buster were present for the inspection. According to the landowners, moss rock has been gathered and sold from the site for the past year and a half. The Division surveyed

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the disturbed area with a Trimble Juno GPS unit and found the disturbed area to be 0.14 acres in size. Numerous pallets of stacked moss rock were observed throughout the site. Based on the findings of the inspection, the Division had reason to believe the Operator was in violation of C.R.S. 34-32.5-109(1) for failure to obtain from the Board or Office a reclamation permit prior to engaging in a new mining operation.

May 29<sup>th</sup>, 2012 – The Division sent the operator a copy of the inspection report.

May 29<sup>th</sup>, 2012 – The Division sent the Operator a Notice of Possible Violation for failure to obtain from the board or office a reclamation permit prior to engaging in a new mining operation.

**REASON FOR VIOLATION:**

The Operator has affected approximately 0.14 acres prior to obtaining a reclamation permit from the Board or Office.

**STAFF RECOMMENDATION:**

**Violation:**

Find a violation of C.R.S. 34-32.5-109 (1) for failure to obtain from the board or office a reclamation permit prior to engaging in a new mining operation.

**Cease and Desist Order:**

Issue a cease and desist order prohibiting any further mining activities, except for those activities required to prevent damage to off-site areas or protect the public health and safety until the Operator complies with the Board Order.

**Corrective Action(s):**

Require the Operator to submit a Construction Materials Reclamation Permit Application to incorporate the disturbed area. The Operator shall submit a Construction Materials Reclamation Permit Application within 60 days, with all material in an approvable form within 120 days of the signature date of the Board Order.

**Civil Penalty:**

For a violation of C.R.S. 34-32.5-109 (1), a Civil Penalty may be assessed at a rate of \$1,000.00 to \$5,000.00 for each day of violation. In this case, there are 30 days of violation (from the date of Inspection on May 15<sup>th</sup>, 2012 to the June 13<sup>th</sup>, 2012 Board Meeting).

The Division will assess a civil penalty of \$1,000.00 per day of violation for 30 days. For a civil penalty amount of \$30,000.00 with all but \$500.00 suspended if the Operator complies with the corrective action.

Payment of the un-suspended portion (\$500) of the civil penalties is due within 30 days of the mailing date of the Board Order.

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**Operator(s) Signature:**

By signing this, the Operator agrees to comply with the Corrective Action(s) outlined above on the Staff Summary Form for Consent Agenda Items.

Brenda Rusten 5/8/12 Jayne Rhode  
Operator Signature Date Notary Public

My Commission expires: 5/8/2013

