

STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY
Department of Natural Resources

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John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Pineda
Director

October 31, 2012

Ms. Denise Gonzales
All Rite Paving & Redi Mix, Inc.
PO Box 165
Canon City, CO 81215

Re: Proctor Pit (M-2004-055 & M-2009-054)
Corrective Actions – PAST DUE

Dear Ms. Gonzales;

On August 28, 2012, DRMS conducted an inspection of the Proctor Pit, DRMS File No. M-2004-055 & M-2009-054, located in Otero County. During the site inspection, DRMS found that the mine had tamarisk trees present, which is a failure to employ a weed control plan for state listed noxious weeds (Rule 3.1.10(6)).

This was cited as a problem in the Inspection Report dated September 11, 2012 and sent to the Operator. The corrective actions required by the Operator were due October 29, 2012. At this time, DRMS has not received any evidence that the weed control plan has been implemented at the mine site.

Please submit written notice and photographic evidence that the permit sign has been properly placed no later than **November 9, 2012**. Failure to provide evidence of corrective action by this date will result in having the matter brought before the Colorado Mine Land Board.

In addition, you are reminded that your request for release of permit M-2004-055 (which is included in permit M-2009-054) is due November 12, 2012.

If you have questions, please contact Tom Kaldenbach at 303-866-3567 x 8128.

Sincerely,

A handwritten signature in red ink, appearing to read "TC Wait".

TC Wait
Environmental Protection Specialist

Cc: Tom Kaldenbach, DRMS


Enclosure



**COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY
MINERALS PROGRAM INSPECTION REPORT
PHONE: (303) 866-3567**

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: Proctor Pit	MINE/PROSPECTING ID#: M-2004-055 & M-2009-054	MINERAL: Gravel and sand	COUNTY: Otero
INSPECTION TYPE: Monitoring	INSPECTOR(S): T C. Wait	INSP. DATE: August 28, 2012	INSP. TIME: 11:40
OPERATOR: All Rite Paving & Redi-Mix, Inc.	OPERATOR REPRESENTATIVE: Herb Pearson	TYPE OF OPERATION: 112c - Construction Regular Operation	

REASON FOR INSPECTION: Normal I&E Program	BOND CALCULATION TYPE: None	BOND AMOUNT: \$192,836.00
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
WEATHER: Clear, hot, dry	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: September 11, 2012

The following inspection topics were identified as having Problems or Possible Violations. OPERATORS SHOULD READ THE FOLLOWING PAGES CAREFULLY IN ORDER TO ASSURE COMPLIANCE WITH THE TERMS OF THE PERMIT AND APPLICABLE RULES AND REGULATIONS. If a Possible Violation is indicated, you will be notified under separate cover as to when the Mined Land Reclamation Board will consider possible enforcement action.

INSPECTION TOPIC: Revegetation

PROBLEM/POSSIBLE VIOLATION: Problem: Tamarisk (salt cedar) trees are present within or have volunteered into the permit area and are becoming established. This is a problem for failure to employ weed control methods for a state listed noxious weed species within the permitted area, and to reduce the spread of weeds to nearby areas as required by Section 3.1.10 (6) of the rule.

CORRECTIVE ACTIONS: The operator shall implement the existing weed control plan in accordance with Section 3.1.10 (6) of the Rule. This plan should include specific control measures to be applied, a schedule for when control measures will be applied and a post-treatment monitoring plan. This weed control plan shall be implemented and photographic evidence submitted to the Division by the corrective action date.

CORRECTIVE ACTION DUE DATE: 10/29/12

OBSERVATIONS

This was a normal monitoring inspection conducted by TC Wait of DRMS. Mr. Herb Pearson represented the operator during the site visit. The site is located about 5 miles southwest of Rocky Ford. Post-mine land use for this site is rangeland.

This mine includes two mine permits: M-2004-055 (111) and M-2009-054 (112). The entire 111 mine permit (30 acres) lies within the 112 permit (51 acres) boundary. This site inspection report will consider both permits as one mine operation. At the time of the site inspection, roughly 20 acres has been disturbed by mining activity.

The site includes an access road from the County Road. The mine was accessed by vehicle. The permit sign was posted, and the permit boundaries have been marked. There are stockpiled materials in the west and southeast areas of the mine. Mr. Pearson estimated about 90,000 cubic yards of material on site. The mine has not been worked in about 3 years, but they are hauling from the stockpiles on a monthly basis.

The southern end of the mine pit includes a highwall approximately 12 feet high and 1,200 feet in length. This area may collect runoff water and multiple tamarisk plants are growing. The DRMS file includes a weed control plan from the Operator (D. Gonzales, 8/27/04) that requires monthly inspections for noxious weeds, and herbicide spraying and removal of any noxious weeds present. The number and size of tamarisk present on the site indicates that the Operator is not following their weed control plan.

Mining will progress southward as the demand requires. As of yet no portion has been reclaimed. There is not adequate topsoil stockpiled on the site for reclamation. This was cited as a problem in 2009 during a site inspection (DRMS, 1/16/09). The Operator's response was that the importing of topsoil for reclamation will be addressed in the 112 (M-2009-054) permit application. Reviewing the M-2009-054 permit application, there is no language addressing the importation of topsoil for reclamation. Per the 1/16/09 inspection report, an estimated 10,800 cubic yards of topsoil will need to be imported for reclamation of the site.

Because of the two different active permit files for this mine, there is some potential confusion and a lot of duplication and inefficiency for both DRMS and the Operator.

- 1) The Operator has not formally requested release of the 111 permit (M-2004-055) per Rule 4.17, and as stated in the 112 permit (M-2009-054) permit adequacy response #1, (Banks and Gesso, LLC, 10/16/09).
- 2) The Operator is submitting duplicate annual reports and fees to keep two permits open for one mine site. The permit fee for the 111 permit (M-2004-055) is \$504 each year.
- 3) The Operator is carrying bonds for both permits for one mine site. The bond for the 111 permit (M-2004-055) is \$75,000. The bond for the 112 permit (M-2009-054) is \$192,800, which includes additional money for importing topsoil.
- 4) Because there are two active permits for one mine site, DRMS is inspecting the mine twice as often as needed, and there is potential for confusion between the requirements in the mine and reclamation plans of the 111 permit (M-2004-055) and the 112 permit (M-2009-054). For example, the 111 permit mine plan does not allow for a highwall, and requires mine operations to have slopes of 3:1. This is not the case at the mine site, and could give a false "problem" cited for the Operator, depending on which permit application is being inspected.

DRMS strongly recommends that the Operator request release of the 111 permit (M-2004-055) within 60 days of this inspection letter in order to better streamline the permit inspections and reporting.

Construction Rule 4.17.1 contains the following three instructions for requesting release.

- 1) A request for release must include the names and addresses and phone numbers of all owners of record to the affected land.
- 2) The request must be sent by Certified Mail and be separate from other types of communication to the Office.
- 3) The request must contain a signed statement by the Operator or their agent that all applicable portions of the Reclamation Plan requirements have been satisfied in accordance with these Rules and all applicable requirements under the Act. In the case of the Proctor Pit, the signed statement should refer to the 112 permit (M-2009-054) which replaces the 111 permit (M-2004-055).

Backfilling and Grading:

The mine has not changed much since 2009. The mine has a highwall approximately 1200 feet long and 10-12 ft high along the southern edge of the mine area. No backfilling or grading has occurred. The reclamation plan for the 112 permit (M-2009-054) states that final grading will be 4:1 from the top of the slope to the pit floor, then approximately a 1% grade downward to the north.

Reclamation Success:

The site has not undergone any reclamation efforts at the time of the inspection.

Topsoil:

There are no topsoil stockpiles on site. The 112 permit (M-2009-054) response to adequacy review #1 (Banks and Gesso, LLC 10/16/09) indicates that 7,107 cubic yards of topsoil is expected to be imported for reclamation. About 10,800 cubic yards of topsoil was estimated by DRMS in the 12/16/08 inspection.

PHOTOGRAPHS

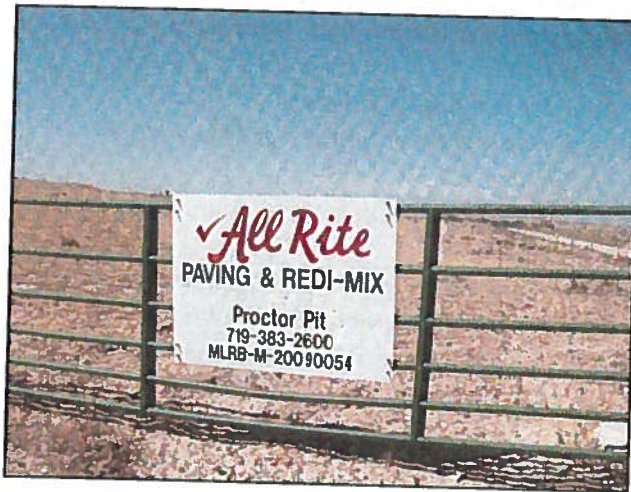


Photo 1. Permit sign

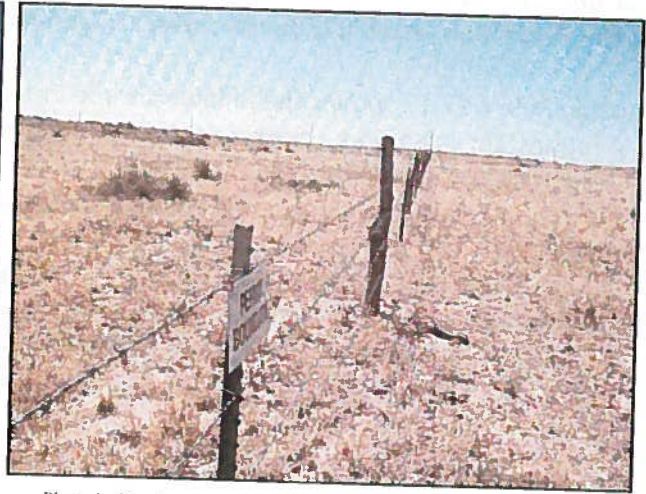


Photo 2. Permit boundary fence line and marker (east side looking south)



Photo 3. Stockpile and mine floor looking west



Photo 4. Active highwall area. Note tamarisk growing in pit.

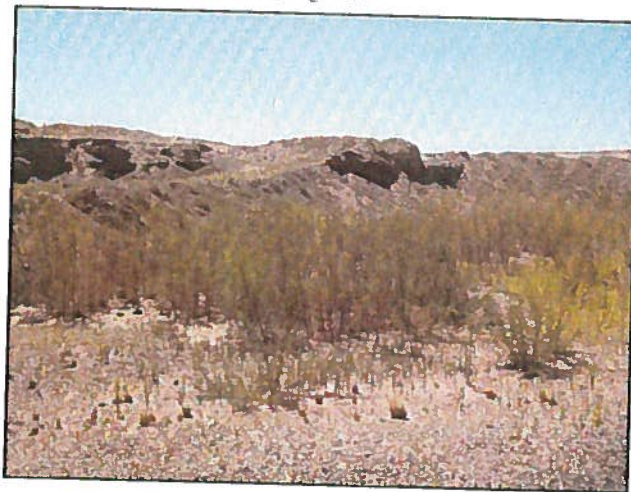


Photo 5. Looking southeast at highwall and tamarisk.

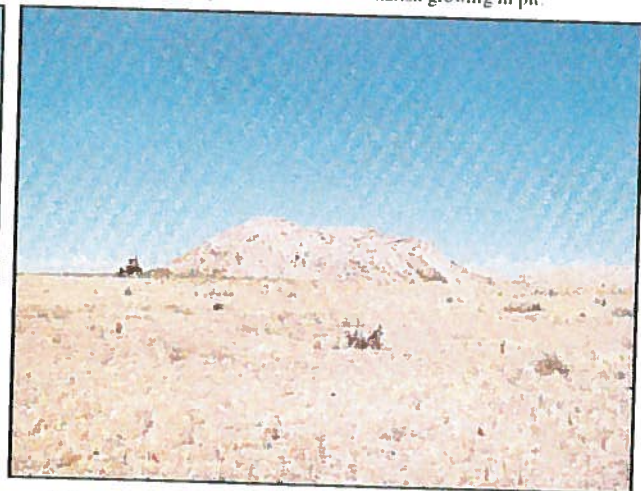


Photo 6. Southern stockpile of site with loading equipment (looking west)

GENERAL INSPECTION TOPICS

The following list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each

(AR) RECORDS----- <u>Y</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>Y</u>
(HB) HYDROLOGIC BALANCE----- <u>N</u>	(BG) BACKFILL & GRADING----- <u>Y</u>	(EX) EXPLOSIVES----- <u>NA</u>
(PW) PROCESSING WASTE/TAILING---- <u>N</u>	(SF) PROCESSING FACILITIES----- <u>NA</u>	(TS) TOPSOIL----- <u>Y</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>Y</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>PB</u>
(SM) SIGNS AND MARKERS----- <u>Y</u>	(SP) STORM WATER MGT PLAN---- <u>NA</u>	(SB) COMPLETE INSP---- <u>NA</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>Y</u>	(SC) EROSION/SEDIMENTATION--- <u>Y</u>	(RS) RECL PLAN/COMP-- <u>Y</u>
(AT) ACID OR TOXIC MATERIALS----- <u>NA</u>	(OD) OFF-SITE DAMAGE----- <u>NA</u>	(ST) STIPULATIONS----- <u>NA</u>

Y = Inspected and found in compliance / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

Inspection Contact Address

Herb Pearson
All Rite Paving & Redi-Mix, Inc.
839 Mackenzie Ave.
Canon City, CO 81215

Enclosure

CC:

