

3/20/13



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

San Luis Valley Field Office  
46525 Colorado Highway 114  
Saguache, Colorado 81149



In Reply Refer To:  
3603/9235 (COF030, NS)

Mr. Ralph Porco  
11150 Fdr 255  
La Jara, CO 81144

RECEIVED  
MAR 20 2013  
Durango Field Office  
Division of Reclamation,  
Mining and Safety

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7010 2780 0002 2375 1443

Dear Mr. Porco:

### NOTICE OF TRESPASS

YOU ARE HEREBY NOTIFIED That the Bureau of Land Management has conducted an investigation and evidence tends to show that you are in trespass. We allege that you have violated the law(s) specified below and the regulation(s) approved by the Secretary of the Interior pursuant to the authority vested in him by said law. Trespass Notice (Case: COC-075658) has been initiated to document the unauthorized removal of federal minerals from your operation. Careful consideration has been given to the information you have submitted, as well as information provided by the Conejos County Land Use Office and the Colorado Division of Reclamation, Mining & Safety (CODRMS). We have accepted this information as complete and have analyzed it in conjunction with survey data pertaining to this trespass. This decision is based on all the available information. It is our opinion that you are in violation of the Revised Statute 2478; 43 U.S.C. 1201 and Sections 302 and 310 of the Federal Land Policy Management Act of 1976, as amended; 43 U.S.C. 1732, 1740 and in violation of 43 CFR 9239.0-7 which states:

*The extraction, severance, injury, or removal of timber or other vegetative resources or mineral materials from public lands under the jurisdiction of the Department of the Interior, except when authorized by law and the regulations of the Department, is an act of trespass. Trespassers will be liable in damages to the United States, and will be subject to prosecution of such unlawful acts.*

The above stated violation occurred in Conejos County, approximately 2.5 miles southwest of Capulin, CO; located in Township 35 North, Range 08 East, New Mexico Principle Meridian, Section 19, NW1/4NE1/4. It is our opinion that you have committed an act of innocent trespass by removing mineral material from the above site; however, any further infractions will be considered willful. By your own admission and verified through our volume calculation, 100 cubic yards (CY) of material was removed without a contract.

The following value has been calculated based on above stated volume and the appraised value:

**Base Charges**

20 % of Cadastral Survey (\$15,000.00) = \$3,000 (based on 20% of pit disturbance on BLM)

Rip Rap – 100 CY X \$2.00 per CY = \$200.00

**Pending Additional Charges**

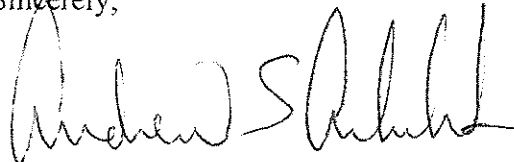
20% of CODRMS Reclamation bond of \$8,300 = Reclamation of BLM Disturbance: \$1,660.00

To resolve this trespass a payment of \$3,200.00 must be received within 60 days of receipt of this letter. BLM will collect a charge of \$1,657.00 against your current reclamation bond if the disturbance to BLM is not reclaimed within 180 days from receipt of this letter. If this payment is not received, or a payment plan is not agreed upon within 60 days of receipt of this letter, we will refer this trespass to BLM Colorado State Office for referral to the Solicitor's Office or the Department of Justice for prosecution as a criminal trespass.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you have any questions concerning this matter, please contact Nicolas Sandoval in this office at (719) 852-6286.

Sincerely,



Andrew S. Archuleta  
Field Manager  
San Luis Valley Field Office

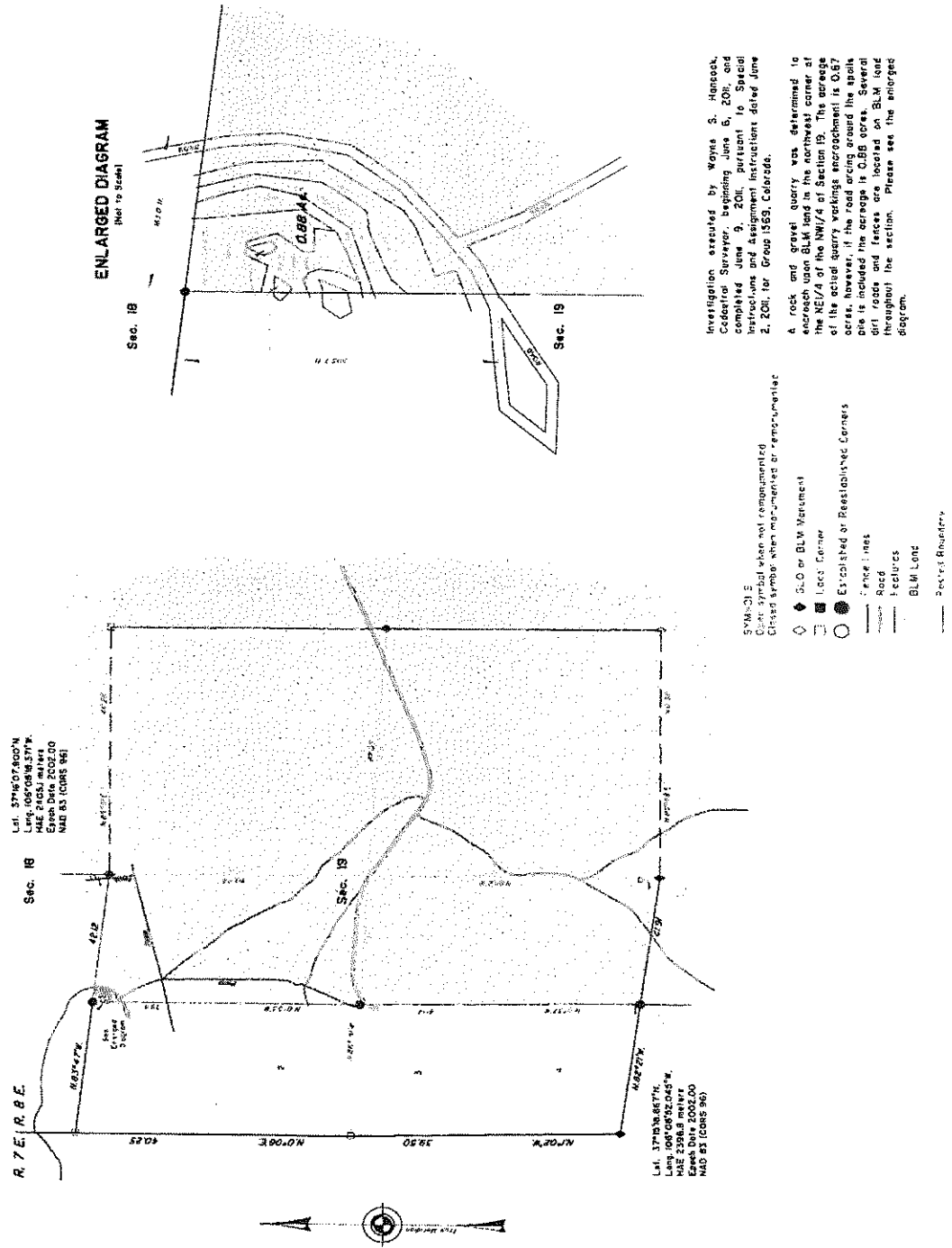
**Enclosure(s)**

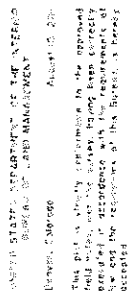
- Investigation Diagram – T. 35 N. R. 08 E., NMPM;
- Survey Plat – CO230350N0080E0
- Form 1842-1

cc: Wally Erickson/Mining Engineer, CODRMS

Raj Giri/Mining Engineer, BLM

# TOWNSHIP 35 NORTH, RANGE 8 EAST, OF THE NEW MEXICO PRINCIPAL MERIDIAN, COLORADO. INVESTIGATION DIAGRAM



[illegible][illegible]

T. 35 N., R. 8 E., N.M.P.M.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,  
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

<b>1. NOTICE OF APPEAL</b> .....	A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
<b>2. WHERE TO FILE</b>  NOTICE OF APPEAL.....	BUREAU OF LAND MANAGEMENT SAN LUIS VALLEY FIELD OFFICE 46525 COLORADO HIGHWAY 114 SAGUACHE, COLORADO 81149
WITH COPY TO SOLICITOR.....	REGIONAL SOLICITOR ROCKY MOUNTAIN REGION 755 PARFET STREET, SUITE 151 LAKEWOOD, COLORADO 80215
<b>3. STATEMENT OF REASONS</b>  WITH COPY TO SOLICITOR.....	Within 30 days after filing the <i>Notice of Appeal</i> , file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413).  REGIONAL SOLICITOR ROCKY MOUNTAIN REGION 755 PARFET STREET, SUITE 151 LAKEWOOD, COLORADO 80215
<b>4. ADVERSE PARTIES</b> .....	Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the <i>Notice of Appeal</i> , (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
<b>5. PROOF OF SERVICE</b> .....	Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
<b>6. REQUEST FOR STAY</b> .....	Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your <i>Notice of Appeal</i> (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.  <b>Standards for Obtaining a Stay.</b> Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

**NOTE:** A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

#### 43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

##### STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska  
Arizona State Office ----- Arizona  
California State Office ----- California  
Colorado State Office ----- Colorado  
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri  
and, all States east of the Mississippi River  
Idaho State Office ----- Idaho  
Montana State Office ----- Montana, North Dakota and South Dakota  
Nevada State Office ----- Nevada  
New Mexico State Office --- New Mexico, Kansas, Oklahoma and Texas  
Oregon State Office ----- Oregon and Washington  
Utah State Office ----- Utah  
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

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(Form 1842-1, September 2006)