

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



May 10, 2013

Melanie Bounds
Huerfano County Government
401 Main Street, Suite 105
Walsenburg, CO 81089

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Pineda
Director

Re: File No. M-2013-016, Orphan View Gravel Pit, 112c Decision Letter - Performance Warranty Request - for Construction Material Operations that do not Require a Financial Warranty

Dear Ms. Bounds:

On May 10, 2013, the Division of Reclamation, Mining and Safety approved your 112c permit application.

No financial warranty was set by the Division for this operation. However, you must submit a performance warranty in order for us to issue a permit. We have enclosed a performance warranty form with this letter for your use. Please have the performance warranty signed by an appropriate official, notarized, and return it to us.

PLEASE NOTE THAT MINING OPERATIONS MAY NOT COMMENCE UNTIL A PERMIT HAS BEEN ISSUED BY THE DIVISION AFTER RECEIPT OF YOUR PERFORMANCE WARRANTY. A PERMIT CANNOT BE ISSUED UNTIL WE HAVE VERIFIED THE ADEQUACY OF YOUR PERFORMANCE WARRANTY.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in blue ink that reads "Timothy A. Cazier".

Timothy A. Cazier, P.E.
Environmental Protection Specialist

ec: Tom Kaldenbach, DRMS
DRMS file
Joe Gagliano, L J Development, Inc.

This is the CC List:

Mr. Joe Gagliano
L J Development, Inc.
256 N. Merrill Drive
Pueblo West, CO 81007

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PERFORMANCE WARRANTY

Operator: Huerfano County

Operation: Orphan View Gravel Pit

Permit No: M-2013-016

This form has been approved by the Mined Land Reclamation Board pursuant to sections 34-32-117, C.R.S., of the Mined Land Reclamation Act and 34-32.5-117, C.R.S., of the Colorado Land Reclamation Act for the Extraction of Construction Materials. Any alteration or modification of this form, without approval by the Board shall result in the financial warranty being invalid and result in the voiding of any permit issued in conjunction with such invalid financial warranty and subject the operator to cease and desist orders and civil penalties for operating without a permit pursuant to sections 34-32-123, C.R.S., of the Mined Land Reclamation Act and 34-32.5-123, C.R.S., of the Colorado Land Reclamation Act for the Extraction of Construction Materials .

KNOW ALL MEN BY THESE PRESENTS, THAT:

WHEREAS, the Colorado Mined Land Reclamation Act, C.R.S. 34-32-101 et seq. (the "Act"), as amended, and the Colorado Land Reclamation Act for the Extraction of Construction Materials, C.R.S. 34-32.5-101 et seq. (the "Act"), as amended, provides that no permit may be issued under the Act until the Mined Land Reclamation Board (the "Board") receives a performance warranty (or warranties) that is a written promise to comply with all applicable requirements of the Act.

WHEREAS, Huerfano County (the "Operator"), has applied for a permit to conduct a mining operation known as Orphan View Gravel Pit (the "Operation") on certain lands in Huerfano County, Colorado. These lands are described in the permit application, as amended and supplemented, and are referred to herein as the "Affected Lands".

WHEREAS, in its application for the permit, the Operator has agreed to be bound by all requirements of the Act and all applicable rules and regulations of the Board, as amended from time to time.

WHEREAS, the Board has determined, in accordance with the Act, that the estimated costs of reclamation with regard to those affected lands in Huerfano County which are now or may become subject to the permit are those amounts for the stated periods of time as set forth in the financial warranty, which may be amended from time to time to reflect revised estimates of said costs of reclamation.

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WHEREAS, the Operator hereby gives the Board a performance warranty pursuant to Section 34-32-117(2) or Section 34-32.5-117(2) of the Act, and herein promises the Board that it will comply with all applicable requirements of the Act with regard to those Affected Lands.

NOW, THEREFORE, the Operator hereby promises the Board that it will comply with all applicable requirements of the Act and rules and regulations of the Board with respect to the Affected Lands.

FURTHER, the Operator hereby promises the Board that it will comply with all of the terms of the application for a permit, as amended and supplemented, as well as any conditions attached to the permit by the Board.

FURTHER, the Operator promises the Board, pursuant to 34-32-112(2)(d) or 34-32.5-112(1)(c)(iv) of the Act, that it has the lawful authority to enter upon the Affected Lands to conduct mining operations, including, but not limited to, reclamation. The Operator further recognizes the right of the Board to enter to reclaim lands affected by the operation.

The description of lands herein is for convenience of reference only, and no error in such description, nor any revision of the permitted mining area, nor the disturbance by the Warrantor of lands outside of the permitted mining area shall alter or diminish the Operator's obligation hereunder, which shall extend to the reclamation of all such lands disturbed.

The obligation of the Operator hereunder is such that, if the Operator shall successfully comply with the requirements of the Act, applicable rules and regulations, and the permit, then the Board, upon a finding that the Operator has so complied, shall release this performance warranty, and the Operator from its obligation hereunder, to the extent that the Board determines that such compliance has been accomplished. The obligation of the Operator hereunder shall continue until released in whole or in part by the Board in accordance with applicable law.

In further satisfaction of the requirements of the Act, the Operator promises to be responsible for the cost of reclamation up to the amount established by the Board and has attached hereto its financial warranty, which may be amended from time to time. The Operator agrees that it will maintain a financial warranty (or warranties) for the estimated costs of reclamation in good standing for the entire life of the permit. Please note that under the provisions of the Colorado Mined Land Reclamation Act and the Colorado Land Reclamation Act for the Extraction of Construction Materials, any Applicant or Operator that submits proof, acceptable to the Board or Division of Reclamation, Mining and Safety, that an Applicant or Operator is a unit of County or Municipal government, or is a department or division of State government, the Applicant or Operator is not required to submit or post any other instrument of financial responsibility but hereby promises to be responsible for the cost of reclamation up to the amount specified by the Board.

If the Board determines that the Operator is in default under this performance warranty and has failed to cure such default, although written notice of such default and ample time to cure such default have been given, the Operator's financial warranty shall be subject to forfeiture.

This performance warranty may be executed in multiple copies, each of which shall be treated as an original, but together they constitute only one agreement, the validity and interpretation of which shall be governed by the laws of the State of Colorado.

The provisions hereof shall bind and inure to the benefit of the parties hereto and their successors -and assigns.

SIGNED, SEALED AND DATED this _____ day of _____.

Huerfano County (SEAL)
Operator

By: _____

Title: _____

NOTARIZATION OF OPERATOR'S ACKNOWLEDGEMENT

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____,
by _____ as _____ of _____.

NOTARY PUBLIC

My Commission expires: _____

APPROVED:
State of Colorado
Mined Land Reclamation Board
Division of Reclamation, Mining and Safety

By: _____ Date: _____
Division Director