

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

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July 11, 2013

John Avery
Cross Creek Ranch
989 CR 120
Hesperus, Colorado

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta Piñeda
Director

Re: Cross Creek Project Site, Reference No. M-2013-036, Division Response to "Is It Mining?" Questionnaire, No Permit Required.

Dear Mr. Avery,

The Division of Reclamation, Mining, and Safety (Division) received your completed "Need for State Reclamation Permit" questionnaire on July 8, 2013. The proposed project under consideration is for the removal and use of excess material generated from irrigation pond construction for road base on your ranch property and roads. Per the submitted questionnaire and a telephone conversation on July 8, 2012 the roads in question are private and located on various parcels connected and owned by the ranch. The material in question is incidental to the construction of an irrigation holding pond and is not being offered for sale or trade to the public. The ranch has the proper water rights to retain the irrigation water in question. Movement of the material does not cross public right-of-ways or appear to impact neighbors unnecessarily.

Based on the information contained in the correspondence and the telephone conversation it is the Division's opinion that no reclamation permit will be required from this agency at this time. However, other local, state or federal permits may be required and it is recommended that you contact those agencies for further clarification if you have questions. Please be advised that this opinion is being offered based on the information provided in your response. **Any significant deviation from the described activity, including removal for sale or trade of any excavated materials from its natural state could result in a review and possible reversal of this opinion.** Please consider the following: If the Division receives different information or a written complaint regarding the proposed activities it is required by law to further investigate. If the investigation shows a possible violation of the Construction Materials Act and Rules an enforcement action would be initiated which could include civil penalties, a cease and desist order, and obtaining a permit for the activities.

The Mined Land Reclamation Board has requested that the Division make determinations as to the need for a Mined Land Reclamation Permit. If you have any concerns or disagree with this decision, you may petition the Board during a formal public hearing for a formal Declaratory Order concerning this matter. The request must be made in writing and received no later than 10 days prior to the next regular scheduled Board Meeting. The next available Board meeting is August 14, 2013.

If you need additional information please contact me at the Division of Reclamation, Mining and Safety, Grand Junction Field Office, 101 S. 3rd St., Suite 301, Grand Junction, Colorado 81501, by telephone at 970.241.1117, or by e-mail at russ.means@state.co.us.

Sincerely,

A handwritten signature in blue ink that reads "G. Russell Means". The signature is stylized with a large, flowing "G" and "M".

G. Russell Means
Senior Environmental Protection Specialist
Western Slope Field Offices Supervisor

CC: Kate Pickford, EPS Durango