



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Colorado River Valley Field Office
2300 River Frontage Road
Silt, CO 81652



August 30, 2022

In Reply Refer To:
3809 (COG020)
COC-074205

CERTIFIED MAIL – 7020 1810 3302 2832
RETURN RECEIPT REQUESTED

DECISION

Rocky Mountain Industrials	:	Surface Management
RMR Aggregates, Inc.	:	
Attention: Mr. Brian Fallin, CEO	:	
6200 S. Syracuse Way, Suite 450	:	
Greenwood Village, CO 80111	:	

NONCOMPLIANCE ORDER

The Rocky Mountain Industrials (RMI) Mid-Continent Quarry mining operation, located north of Glenwood Springs in Garfield County, Colorado, is currently authorized under Plan of Operations COC-074205, which the Bureau of Land Management (BLM) approved in 1982 under the surface management regulations at 43 CFR subpart 3809. BLM approved a modification of the plan in 1989 that included a processing bench and an access road that effectively increased the permitted area from 10.6 to 15.9 acres. The permitted area is shown on the enclosed map.

BLM has documented compliance issues at the Mid-Continent Quarry and informally notified RMI of these matters in a Mineral Inspection Report dated January 30, 2017. As detailed in previous discussions and correspondence, BLM's records indicate that:

- surface disturbances associated with the current mill bench and lower access road are not within the authorized area in the approved Plan of Operations;
- the current highwall configuration does not comply with the approved plan;
- stormwater structures have been constructed outside of the approved plan area without approval; and
- the mill bench topsoil storage pile is inadequate for future site reclamation and not graded to the 4:1 required slope.

In November 2018, RMI submitted an initial proposed Plan of Operations under 43 CFR § 3809.431 that would encompass RMI's strategy to address the issues of noncompliance and the proposed mine expansion. BLM determined that RMI's initial Plan of Operations lacked the

required information and did not meet the requirements at 43 CFR § 3809.401. After RMI reworked the plan, BLM accepted it as complete in August 2019.

BLM initially planned to evaluate RMI's proposal to address the compliance issues and the proposed mine expansion in a single document under the National Environmental Policy Act (NEPA). However, BLM has concluded that a combined NEPA review effort is not feasible due to the time needed for preliminary work that must be completed before BLM can thoroughly analyze the proposed mine expansion. BLM therefore is issuing this order for separate resolution of the noted issues.

Based on our inspections and records, BLM has determined that portions of RMI's operations are outside the scope of its approved plan of operations and causing unnecessary or undue degradation, which are prohibited acts under 43 CFR § 3809.605(a) and 43 CFR § 3809.605(c).

Under the authority of 43 CFR § 3809.601(a), RMI is ordered, within 30 days from receipt of this Noncompliance Order, to either:

- Submit a proposed modification under 43 CFR § 3809.431 to update RMI's approved Plan of Operations to reflect the operation's current conditions and bring the operations in compliance with the applicable regulatory standards, or
- Submit a reclamation plan for all surface disturbance and facilities not authorized under RMI's approved Plan of Operations.

If RMI does not comply with this Noncompliance Order, the BLM may take further action pursuant to 43 CFR § 3809.601(b) by requiring suspension of all or part of the Mid-Continent Quarry operation. BLM may also enforce this Order pursuant to the regulations at 43 CFR § 3809.604 or § 3809.700.

Appeal of the Decision

If you are adversely affected by this decision, you may request that the BLM Colorado State Director review this decision. If you request a State Director Review, the request must be received in the BLM Colorado State Office at 2850 Youngfield Street, Lakewood, CO 80215, no later than 30 calendar days after you receive this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR § 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM Colorado State Office to determine when the BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at 2300 River Frontage Road, Silt, Colorado 81652. We will forward your notice of appeal to the IBLA.

If you wish to bypass State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR § 3809.801(a)(1). Your Notice of Appeal must be filed

in this office at 2300 River Frontage Road, Silt, Colorado 81652 within 30 days from receipt of this decision. As the appellant, you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1, which contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case unless a stay is granted by the IBLA.

Request for a Stay

If you wish to file a petition pursuant to the regulations at 43 CFR § 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the IBLA and to the appropriate Office of the Solicitor (see 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 based on the standards listed below.

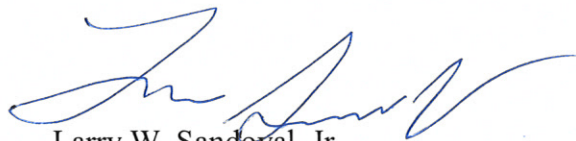
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must show sufficient justification based on the following standards:

1. The relative harm to 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.
4. Whether the public interest favors granting the stay.

If you have any questions concerning this letter, please contact Brittany Cocina, Geologist, at (970) 876-9053 or bcocina@blm.gov.

Sincerely,



Larry W. Sandoval, Jr.
Field Manager

Enclosures:

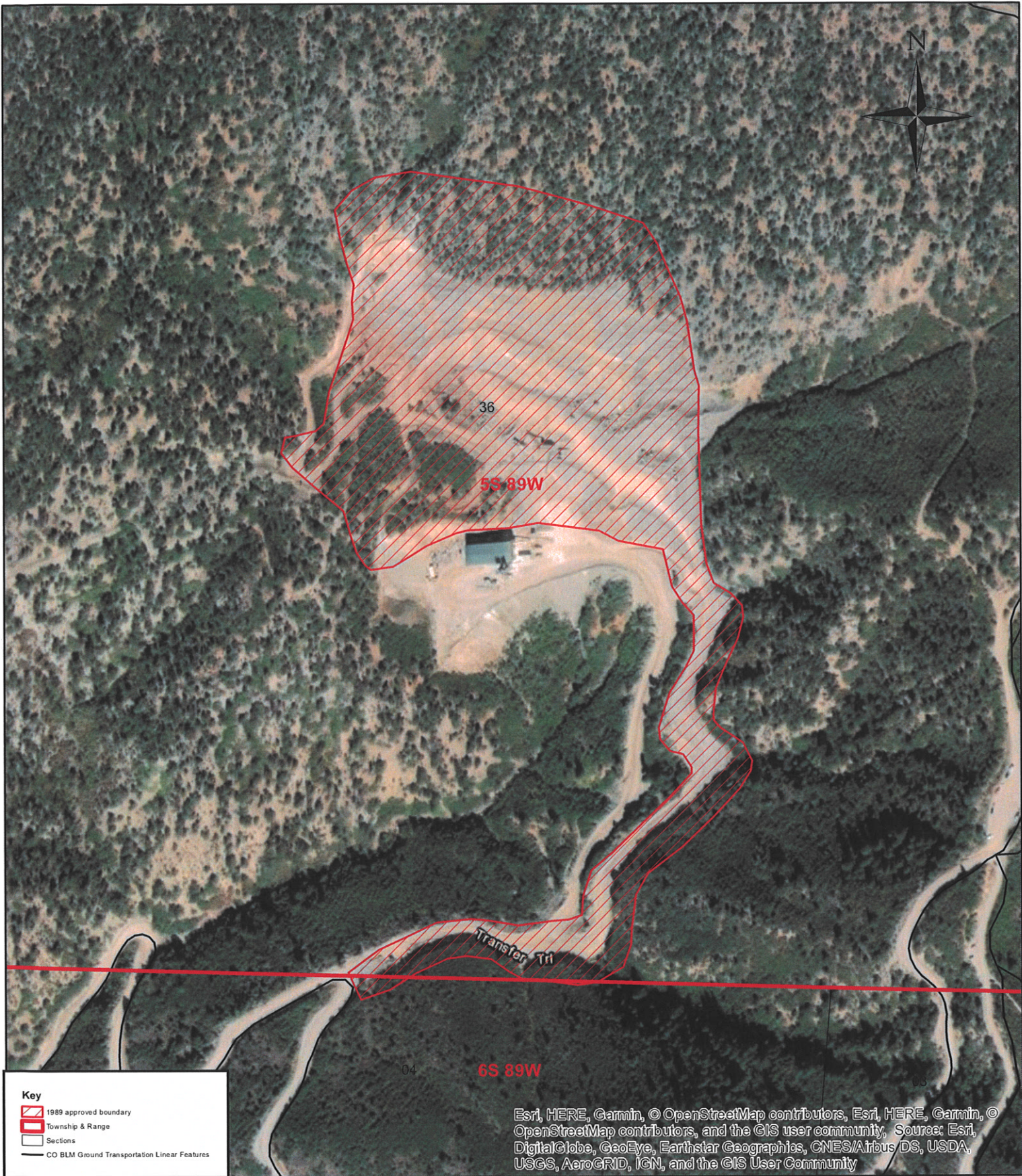
Map of 1989 Approved Permit Area compared to Current Surface Disturbance
Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals

cc: Benjamin E. Gruber
Colorado State Office, BLM
2850 Youngfield Street
Lakewood, CO 80215

Nicolas Sandoval
Colorado State Office, BLM
2850 Youngfield Street
Lakewood, CO 80215

Danielle DiMauro
Office of the Solicitor, DOI
755 Parfet Street, Suite 151
Lakewood, CO 80215

Clayton Wein
Colorado Division of Reclamation, Mining and Safety
101 South 3rd Street, Suite 301
Grand Junction, CO 81501



- Key**
- 1989 approved boundary
 - Township & Range
 - Sections
 - CO BLM Ground Transportation Linear Features

Esri, HERE, Garmin, © OpenStreetMap contributors, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

BLM - Colorado River Valley Field Office
RMR Aggregates, Inc.
Mid-Continent Quarry

0 0.0425 0.085 0.17 Miles



No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This project was developed through digital means and may be updated without notice.

1:4,000

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

1. NOTICE OF
APPEAL.....

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 *Notice of Appeal* 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 *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

Bureau of Land Management
Colorado River Valley Field Office
2300 River Frontage Road
Silt, CO 81652

NOTICE OF APPEAL.....

WITH COPY TO
SOLICITOR...

Office of the Regional Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, CO 80215

3. STATEMENT OF REASONS

Within 30 days after filing the *Notice of Appeal*, 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 *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO
SOLICITOR.....

Office of the Regional Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, CO 80215

4. ADVERSE PARTIES.....

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 *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE.....

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)).

6. REQUEST FOR STAY.....

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 *Notice of Appeal* (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 *Notice of Appeal* (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 *Notice of Appeal* 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.

Standards for Obtaining a Stay. 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.

(Form 1842-1, September 2006)