

SUMMARY OF MINUTES

MINED LAND RECLAMATION BOARD MEETING

The Board Meeting was called to order at 9:00 a.m. on Wednesday, October 28, 2015 at 1313 Sherman Street, Room 318, Denver, Colorado. The following members were present: Barbara Green-acting Chairperson, Jill Van Noord-acting Vice Chair, Thomas Brubaker, Forrest Luke, Karin Utterback-Normann, John Singletary, and Bob Randall. The following people were present for the Division of Reclamation Mining and Safety: Ginny Brannon, Tony Waldron, and Johnnie Abad. John Roberts, Esq. and Alice Hosley, Esq. of the Attorney General's Office were present representing the Board. Jeff Fugate, Esq. and Scott Schultz, Esq. of the Attorney General's Office were present representing the Division. Also present was Petina Falk, Registered Professional Reporter.

1. *Approval of September 2015 Summary of Minutes:* By unanimous vote, the minutes of the September 2015 Board meeting were approved as submitted.
 2. *Approval of Continuances and Withdrawals:* By unanimous vote, the Continuances and Withdrawals were approved.
 3. *Executive Director's Report:*
 - a) *Colorado Water Plan:* Mr. Randall said the final draft of the Colorado Water Plan is set to be formally adopted by the Colorado Water Conservation Board at its November 19, 2015, meeting. He said that for the first time, there has been discussion about adding some measurable objectives into the plan to reflect input from the 30,000 public comments received during the public outreach effort.
 - b) *Chatfield Reallocation Project:* Mr. Randall said the state closed on the \$134 million Chatfield Reallocation Project to expand Chatfield's storage capacity beyond flood-control use. He said it will double the storage in Chatfield and provide water to seven municipal users plus Colorado Parks and Wildlife for environmental uses.
 - c) *Greater Sage-grouse:* Mr. Randall said last month the U.S. Fish and Wildlife Service announced the greater sage-grouse was not warranted for listing under the Endangered Species Act, and they did so in reliance on some land management plans adopted by the Bureau of Land Management. He said the Department has several staff members in Silt, Colorado to talk about how to implement the new plans. Mr. Randall said the Service also relied on the Colorado Habitat Exchange, which is a new voluntary effort spearheaded by the Environmental Defense Fund, Colorado Cattlemen's Association, and the oil and gas industry to provide a credit-trading market for habitat conservation and particularly for sage-grouse.
 - d) *Gunnison Sage-grouse:* Mr. Randall said the Gunnison sage-grouse was listed as threatened less than a year ago after an extraordinary effort by DNR and Colorado Parks and Wildlife to work with local landowners to conserve habitat in the Gunnison Basin believed to be important to the survival of the Gunnison sage-grouse. He said the Fish and Wildlife Service
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found there was insufficient conservation for satellite populations of the Gunnison sage-grouse. Mr. Randall said the Department had focused their efforts on the core of the basin and the greatest number of birds. He said the DNR disagrees with the Fish and Wildlife Service's decision and have brought suit challenging the decision because the Department disagrees that preservation of the satellite population is necessary for survival of the species.

Division Director's Report:

- a) Abandoned Mines: Ms. Brannon said that, in light of the Gold King situation, abandoned mines was a big topic at the recent Interstate Mining Compact Commission meeting. She also said that Bruce Stover, in collaboration with his team and the Colorado Department of Public Health and Environment, put together a map depicting most of the abandoned mines in Colorado. Ms. Brannon said the state has 230 mines with drainage issues that are going into watersheds, another 300 mines that have environmental problems, and approximately 1,000 mines that drain intermittently but are not real environmental issues. She said there is discussion that possibly the best way to address restoring these sites is through a Good Samaritan provision in CERCLA.

4. *Consent Agenda*

A. Consent Agenda

Elbert Mining Co., LLC.

...*File No. M-1983-011*

32460 Inverness Dr.

Evergreen, Colorado 80439

Lake County: Section 6, T11S, R80W, 6th P.M., 9.9 acres, 112; Willow Creek Mine. Consideration of acceptance of the Notice of Temporary Cessation as submitted. (*Dustin Czapl.*)

By unanimous vote, the Board approved the consent agenda.

5. Board Action

Black Range Minerals Colorado, LLC

...*File No. P-2009-025*

110 N. Rubey Drive, Suite 201

Golden, Colorado 80403

Fremont County: Section 21, T17S, R73W, 6th P.M., 4.5 acres, NOI Uranium; Hansen Uranium Project.

By unanimous vote, the Board rejected Appellants' Supplemental Brief and denied Appellants' Motion to Admit Additional Exhibit. By majority vote, the Board reversed the Division's approval of Modification MD-03 to the NOI and remanded the matter to the Division to require submission of a reclamation permit application.

6. Enforcement Hearing

BCI Landscape Contractors, Inc.

...*File No. M-1999-031*

Mr. Bill Cowhey

12650 W. 64th Avenue, #445, Unit E

Arvada, Colorado 80004

Boulder County: Section 6, T3N, R70W, 6th P.M., 8.9 acres, 110(c) Sandstone (silica, stone, quartzite); BCI Quarry. Consideration of a possible violation for failure to submit 2014 annual fee, report and map. (*Michael Cunningham*)

(This item was moved to the Continuances and Withdrawals prior to the beginning of the meeting.)

7. Formal Public Hearing

Todd Sullivan

...*File No. M-2015-017*

JRS Mining LLC

850 N. Davidson Street

Eloy, Arizona 85131

Park County: Section 32, T9S, R77W, 6th P.M., 42.8 acres, 112 Gold, Sand and Gravel; Sullivan Aggregate Pit. Consideration of 112 application with objections. (*Michael Cunningham*)

By unanimous vote, the Board approved the Division's action over the objection.

8. Public Comment

No members of the public wished to comment.

9. Executive Session

At 9:57 a.m., a motion was made, seconded, and carried by at least two-thirds of the entire Board membership in favor of the motion to enter executive session for the purpose of discussing with counsel disputes that are the subject of pending or imminent court action, discussing specific claims or grievances, and receiving legal advice on specific legal questions, pursuant to section 24-6-402(3)(a)(II) and (III), C.R.S., including *Jason Uecker v. MLRB and Division of Reclamation, Mining and Safety*, 2014CV546. At 10:03 a.m., the Board's discussion in executive session concluded, and the Board returned to open session.

Approved by the Board this _____ day of _____ 2015.

Barbara Green, Vice Chair