



Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Mark Gordon, Governor



Todd Parfitt, Director

CERTIFIED MAIL, RETURN RECEIPT REQUESTED: 7017 1070 0000 5306 0162

Mr. Randy Stevens
P.O. Box 1074
Saratoga, Wyoming 82331

RE: Notice of Violation, Docket No. 5990-19, Randy Stevens

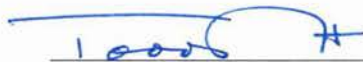
Dear Mr. Stevens:

Enclosed you will find a Notice of Violation issued to you under the provisions of W.S. §35-11-701(c)(i). The Notice of Violation is for conducting unauthorized mining operations in violation of the Environmental Quality Act. You are willfully and knowingly extracting solid minerals from the property located within SENE & NESE of Section 10, T17N, R84W without LQD authorization. This action is a violation of Wyoming Statutes § 35-11-401(a).

The Land Quality Division (LQD) is attempting to resolve this issue without further enforcement action and requires that you contact Robin Jones, LQD District 1 Supervisor, within fifteen (15) days of receipt of this letter to schedule a meeting to resolve this enforcement action. Should a resolution of the enforcement action be reached as a result of this meeting, a settlement agreement will be signed.

If you have questions, please contact Robin Jones, LQD District 1 Supervisor, at (307) 777-8956 or Brian Goodnough at (307) 777-5922 or brian.goodnough@wyo.gov.

Sincerely,



Todd Parfitt
Director
Department of Environmental Quality



Kyle Wendtland
Administrator
Land Quality Division

Date: December 23, 2019

Enclosure: Notice of Violation Docket No. 5990-19

cc: Matt VanWormer, Attorney General's Office
Robin Jones, Cheyenne DEQ-LQD
Tammi Pusheck, LQD Records Manager
Karin Quigley, LQD Administrator's Administrative Assistant
Jody Paessler, DEQ Director's Administrative Assistant

DEQ Exhibit 29

**BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING**

NOTICE OF VIOLATION

**IN THE MATTER OF THE NOTICE OF)
VIOLATION ISSUED TO:)**

**Mr. Randy Stevens)
P.O. Box 1074)
Saratoga, Wyoming 82331)**

DOCKET NUMBER [ENTER 5990-19]

NOTICE IS HEREBY GIVEN THAT:

1. Notice of Violation is being sent to you pursuant to the Environmental Quality Act (EQA), Wyoming Statutes § 35-11-701(c)(i), which requires that a written notice be issued in case of failure to correct or remedy an alleged violation.
2. Wyoming Department of Environmental Quality, Land Quality Division (DEQ-LQD) received a written complaint regarding illegal mining on August 21, 2019. The complaint indicated that mining was occurring on the private property located within SENE & NESE of Section 10, T17N R84W that is owned by Mr. Randy Stevens (Stevens). The EQA, W.S. § 35-11-701(a) provides the Administrator with authorization to investigate a written complaint filed with the department for any cause to believe a person is violating any provision of the EQA or any rule, regulation, standard, permit, license, or variance.
3. DEQ-LQD obtained access consent by the surface owner Mr. Stevens on November 14, 2019. DEQ-LQD conducted an investigation of the property and the alleged illegal mining operation on November 19, 2019. Based upon inspection, DEQ-LQD has determined that mining has been occurring on the property located within SENE & NESE of Section 10, T17N R84W that is owned by Mr. Stevens.
4. The EQA, at W.S. § 35-11-401(a), states that no mining operation or operation by which solid minerals are intended to be extracted from the earth shall be commenced after the effective date of the act, except in accordance with its requirements. The landowner Mr. Stevens of the property located within SENE & NESE of Section 10, T17N, R84W has and is willfully and knowingly extracting solid minerals without DEQ-LQD authorization. This action is a violation of W.S. § 35-11-401(a).
5. As an exception to W.S. § 35-11-401(a), the EQA permits a landowner, without authorization, to extract sand, gravel, dirt, scoria, limestone, dolomite, shale, ballast or feldspar from his or her own property for noncommercial use. W.S. § 35-11-401(e)(iii). DEQ-LQD's inspection shows that Mr. Stevens has extracted some minerals from his own property for noncommercial use. However, the inspection also demonstrates that Mr. Stevens' noncommercial use cannot account for the full amount of minerals extracted from his property SENE & NESE of Section 10, T17N R84W. As such, the noncommercial use exemption at W.S. § 35-11-401(e)(vi) does not cover

Mr. Stevens' extraction of minerals. Mineral extraction has also occurred with 300 feet of an occupied dwelling without landowner consent.

6. The EQA, at W.S. § 35-11-701(c)(i), provides the Administrator authorization to grant a cease and desist order to the persons who violating any provisions of the EQA or any rule, regulation, standard, permit, license, or variance. Mr. Stevens is hereby ordered to cease and desist in any activity to extract solid minerals from the property located within SENE & NESE of Section 10, T17N, R84W.
7. W.S. § 35-11-901(a) provides that any person who violates any provisions of the EQA or any rule, regulation, standard, permit, license, or variance is liable for a penalty of ten thousand dollars (\$10,000.00) for each day of violation, which penalty may be recovered in a civil action brought on by the Attorney General in the name of the People of the State of Wyoming.

NOTHING IN THIS NOTICE OF VIOLATION (NOV) shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV be interpreted as being a condition precedent to any other enforcement action.

Signed this 23 day of December, 2019.



Todd Parfitt
Director
Department of Environmental Quality



Kyle Wendtland
Administrator
Land Quality Division

Memorandum

TO: Kyle Wendtland, Administrator, Land Quality Division
Robin Jones, District One Supervisor, Land Quality Division

FROM: Brian Goodnough, Surface Water Hydrologist, District One

DATE: December 18, 2019

RE: Investigation of Citizen Complaint Regarding to Illegal Mining

Introduction

The Wyoming Department of Environmental Quality (DEQ) received a written complaint from a citizen on August 21, 2019. This complaint implicates Mr. Randy Stevens (Stevens) in the act of illegally extracting mineral without Land Quality Division's (LQD) authorization. The alleged illegal mining has been reported to be occurring on the 10 acre tract of land owned by Randy W. Stevens Trust located within the SENE & NESE of Section 10, T17N, R84W within the city limits of the Town of Saratoga, Wyoming.

Per the Environmental Quality Act (EQA), Wyoming Statutes § 35-11-701(a), the Director or Administrator must promptly conduct an investigation of any alleged violation. Therefore, LQD contacted Mr. Stevens to gain permission to access his property to conduct an investigation of the alleged violation. On September 13, 2019, Mr. Stevens denied LQD access to conduct this site investigation. LQD was pursuing a trespass warrant when Mr. Stevens granted access to the 10 acre tract of land to conduct the site investigation on November 14, 2019.

Site Investigation

LQD personnel conducted the site investigation on November 19, 2019. The LQD representative arrived at the property and Mr. Stevens was at his residence. Mr. Stevens escorted LQD representative around the 10 acre tract of land and discussed his plans to develop the property into three (3) residential areas. He indicated that utilities and sewer have been installed beyond the telephone pole. Mr. Stevens stated that he had sold the property west of his residence. Construction was underway at the time of this inspection. He plans to construct a barn on the second property and a residence on the third property.

LQD personnel arrived at the excavation site where the alleged mining had been occurring. At the time of this inspection, there was a grizzly and several stockpiles of sorted materials. The sorted materials included topsoil, subsoil, and alluvium. Mr. Stevens had his back hoe parked by his residence. Mr. Stevens continued the investigation by escorting LQD around the 10 acres tract of land and his residence to locations where he claimed to have utilized the material from the excavation. He continued with a discussion of how he used the materials as fill to construct the roads on the property. Additionally, he indicated he utilized some of the rock for sediment control structures along the roads. We proceeded to his residence where he described the application of some of the topsoil or subsoil to improve the existing soils. We continued to an irrigation ditch where he stated he placed soil and rock within the ditch to raise the elevation and improve flow through the ditch. LQD asked Mr. Stevens if all the materials extracted from the site was used on his property. He responded that it had. Mr. Stevens left the site and LQD continued the site investigation. LQD proceeded to GPS survey the excavation site (0.46 acres). The highwall of the excavation was approximately 9.0 feet in height by 140.0 feet in width, running east to west. There were two (2) piles of sorted alluvium: one pile was pushed up to the perimeter of the excavation and the second was staged for sorting with the grizzly. There was one other stockpile material

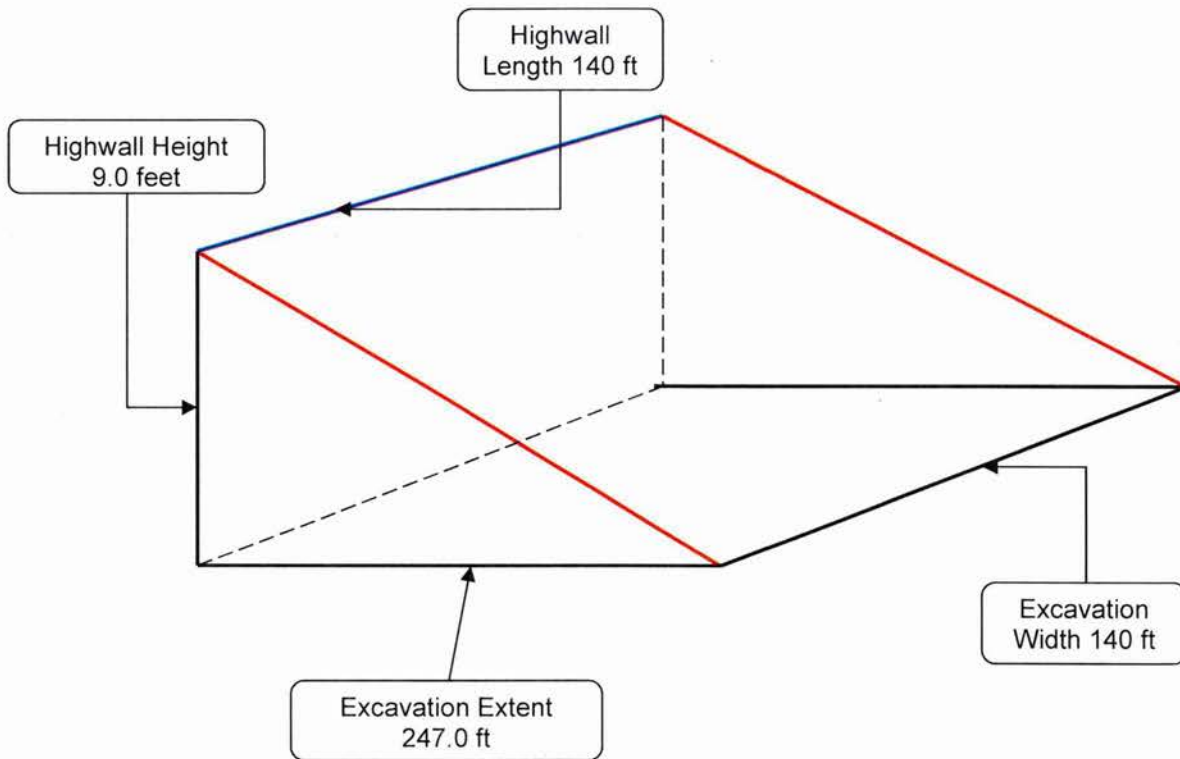
that contained a mixture of topsoil and subsoil. LQD continued to GPS and survey the roads constructed within the property boundary. The total area of constructed roads was calculated at 2.7 acres. LQD collected various photographs to document the excavation site and the constructed roads within the property (**Photos #1 thru #7**).

LQD completed the investigation and proceeded to LMO 1422ET and then LMO 1496ET. LQD met up with Mr. Stevens at LMO 1496ET and proceeded to discuss the site issues. Again, LQD asked Mr. Stevens if all materials excavated from LMO 1496ET were from this site and that no material from the 10 acre tract of land had been imported. He responded affirmatively. LQD collected several photographs of the site to document the site condition (**Photos #8 thru #10**).

Assumptions:

The following pit dimensions were used for determinations made in calculating the volume of material removed in regard to the alleged illegal mining.

- Excavation Area: 0.46 acres
- Road Surface Area: 2.7 acres
- Highwall Height: 9.0 feet
- Highwall Length: 140 feet
- Excavation Extent: 247 feet
- Excavation Width: 140 feet
- Excavations Volume: 5,763 cubic yards
- Alluvium: 1.3 tons = 1 cubic yard



For the 10 acre tract of land, the approximate volume of material extracted from the 0.46 acres is 5,763 cubic yards of topsoil, subsoil, and alluvium. LQD determined conservatively that half of the material extracted would consist of alluvium and the remaining would be topsoil and subsoil. With this calculated volume of material, LQD estimates 3,745 tons or 2,881 cubic yards of alluvium had been excavated from the 0.46 acres. It is conservatively estimated that 20 cubic yards was utilized for sediment control structures and 1,200 cubic yards are stockpiled on the site. LQD has calculated that 1,661 cubic yards of alluvium cannot be accounted for at this location and for personal or private use. If the values are conservatively rounded down, this would leave 1,000 cubic yards of material unaccounted for in a best case estimate.

With the calculated volumes stated above, LQD estimates 2,881 cubic yards of topsoil and subsoil had been excavated from the 0.46 acres. If Mr. Stevens applied 6 inches of soil to construct the 2.7 acres of road surface, it would take an estimated 289 cubic yards. Conservatively estimating, there are 150 cubic yards of this material was stockpiled on the site. LQD estimates 2,442 cubic yards of topsoil and subsoil that cannot be accounted for at this location. Based on the LQD inspection, there should be additional topsoil, subsoil, and alluvium stockpiled on the property.

Based on Quality Landscape & Nursey Inc.'s LMO 1496ET Annual Report, there has been minimal mined materials reported over the last five (5) years. LQD has established that there are no more minable areas within this LMO boundary. However, the inventory of alluvium stockpiled continues to fluctuate over time. The volumes of alluvium stockpiled at the LMO 1496ET have been documented through multiple inspection reports. These photos have shown an increase and decrease of volumes since the excavation commenced in March of 2018 (**Photos #12 thru #19**). Since there are no more minable areas within the LMO 1496ET boundary, LQD was unable to establish that the source (origin) of this material is from this site or alternative sites.

Conclusion

Based on site investigations of the 10 acre tract of land owned by Randy W. Stevens Trust and Quality Landscape & Nursey Inc.'s LMO 1496ET, LQD has determined that Mr. Stevens has removed minerals from the 10 acre tract of land without authorization. Mr. Stevens has utilized some of the materials as fill to construct the roads, sediment control structures, amend soils, and rework the irrigation ditch on his property. However, the volumes removed from the excavation are not consistent and exceeded the volume of material utilized for these improvements. The similarity of the alluvium present on both properties further indicates that materials have been transported to the LMO 1496ET. Additionally, LQD has received complaints with photograph documentation of alluvium being transported by Mr. Stevens beyond LMO 1496ET, to other destinations (**Photo #11**). Mr. Stevens' movement of alluvium beyond LMO 1496ET and recent fluctuations in the amount (volume) of alluvium stored at LMO 1496ET show that Mr. Stevens' has utilized the minerals mined from his 10 acre tract of land for non-private commercial purposes. In addition, as noted above even if the alluvium values are rounded down to account for material swell factors and potential calculated volumetric error, a 1,000 cubic yard deficit of material removal remains.

**Site Investigation of Citizen Complaint Regarding to Illegal Mining
Randy Stevens 10 Acre Tract of Land**

Photo Addendum



Photo #1: Topsoil and subsoil stockpiled at 10 acre tract of land.



Photo #2: Highwall looking west at the 10 acre tract of land. The highwall is approximately 9.0 feet in height and 140 feet in length.



Photo #3: Grizzly and the sorted alluvium at the 10 acre tract of land.

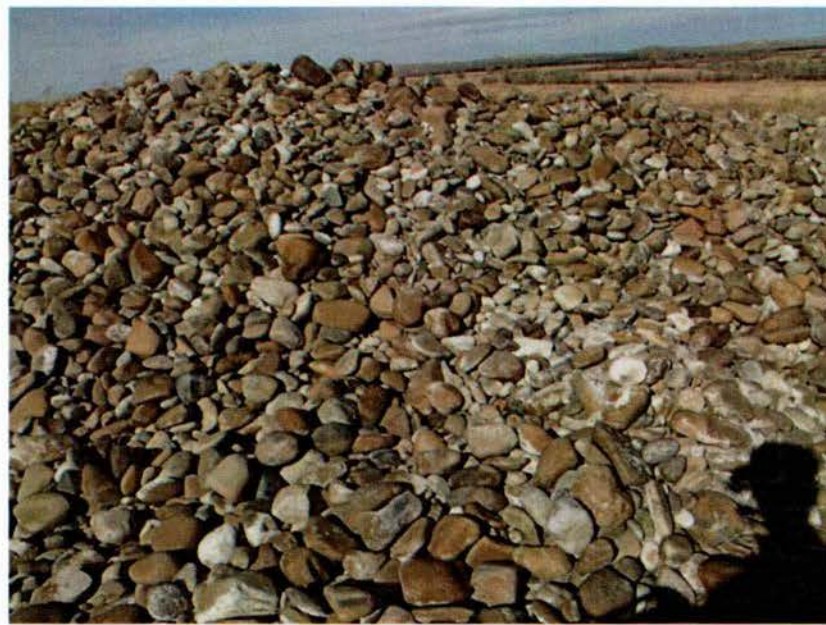


Photo #4: Stockpiled alluvium at the 10 acre tract of land.



Photo #5: Constructed road at the 10 acre tract of land.



Photo #6: Road, fill material, and sediment control structure constructed at the 10 acre tract of land.

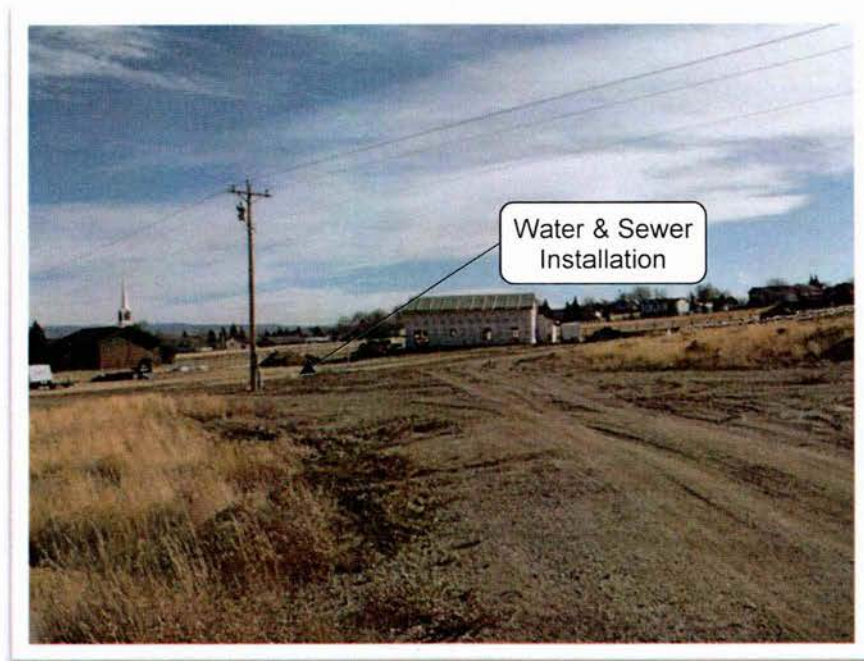


Photo #7: Constructed road and power line. Water and sewer have been installed to this point on the property. Resident construction in the background on a lot sold by Mr. Stevens.

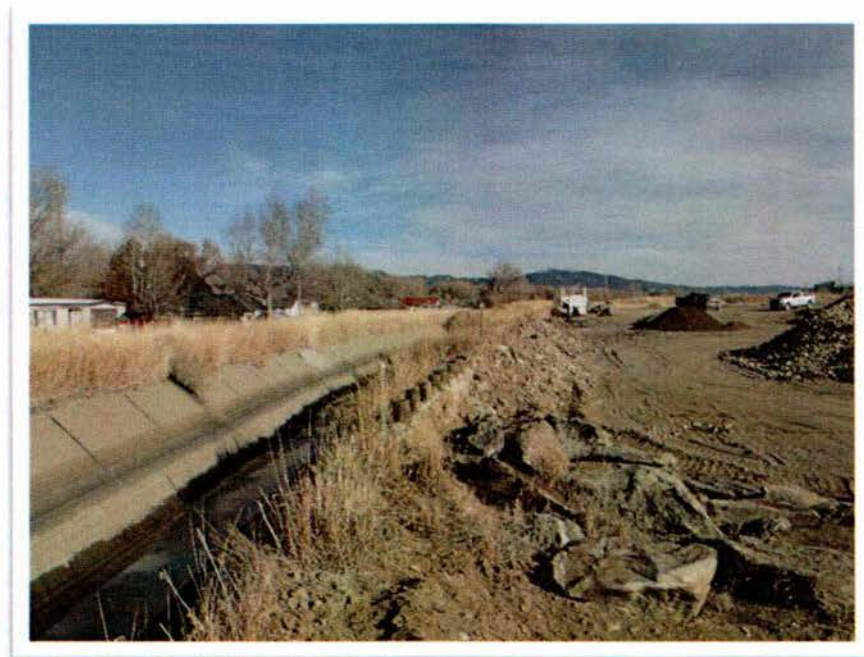


Photo #8: LMO 1496ET looking east along Hugus Mullison Ditch. Alluvium pushed up along the edge of the property. This material is similar to the material at the 10 acres tract of land owned by Mr. Stevens.

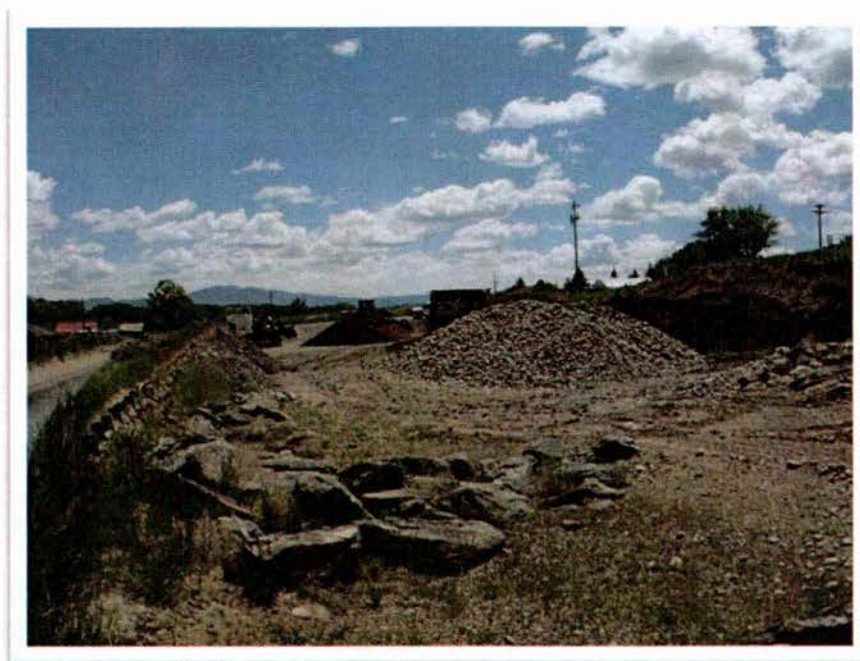


Photo #9: Photo taken by LQD of alluvium stockpile at LMO 1496ET on June 13, 2019. Grizzly in the background sorting materials.



Photo #10: Photo taken by LQD of alluvium stockpile at LMO 1496ET on August 29, 2019.



Photo #11: Citizen provided photograph on May 27, 2018 of Mr. Stevens truck hauling alluvium beyond the LMO 1496ET going south on 1st Street.

**LMO 1496ET Rock Storage Area
Time Series from June 2017 through August 2019**



Photo #12: June 2, 2017 – LMO 1496ET general overview of the site and alluvium stockpile.



Photo #13: July 5, 2017 - LMO 1496ET general overview of the site and alluvium stockpile.



Photo #14: March 27, 2018 - LMO 1496ET general overview of the site and alluvium stockpile.



Photo #15: June 12, 2018 - LMO 1496ET general overview of the site and alluvium stockpile.



Photo #16: July 26, 2018 - LMO 1496ET general overview of the site and alluvium stockpile.

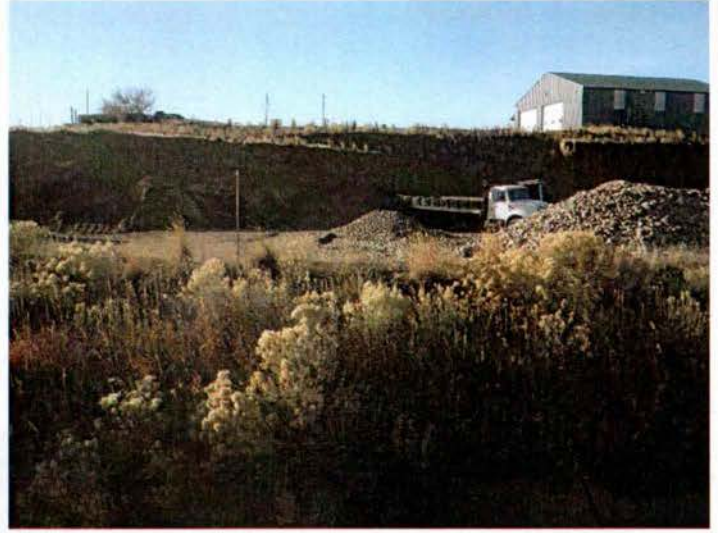


Photo #17: November 1, 2018 - LMO 1496ET general overview of the site and alluvium stockpile.



Photo #18: June 13, 2019 - LMO 1496ET general overview of the site and alluvium stockpile.



Photo #19: August 29, 2019 - LMO 1496ET general overview of the site and alluvium stockpile.