

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



John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Piñeda
Director

December 6, 2013

Andrea Holley
H & H Stone
P.O. Box 246
Dove Creek, CO 81324

**RE: Reason to Believe a Violation Exists, Scheduling of Board Hearing,
H & H Stone Quarry #2, Permit No. M-1998-080.**

Dear Ms. Holley:

On July 16, 2013 The Division of Reclamation, Mining, and Safety (Division) notified you that your financial warranty letter of credit for permit M-1998-080 in the amount of \$6,347.00 was unable to be verified. You were advised that H & H Stone had sixty (60) days to verify that the existing letter of credit was still valid or submit a replacement warranty in the same amount. H & H Stone has failed to comply with the above requirements.

Therefore, the Division believes this is in violation of the Colorado Land Reclamation Act for the Extraction of Construction Materials, C.R.S. 34-32.5-101 et. seq., and specifically C.R.S. 34-32.5-117 (6) for failure to maintain a financial warranty in good standing for the life of the permit. An additional violation may exist per C.R.S. 34-32.5-117(2) for failure to abide by the written promise made by the operator to the board to comply with this article..., and C.R.S. 34-32.5-118(1) and (1)(b), which states, a financial warranty shall be subject to forfeiture whenever the board determines that...The operator is in default under a performance warranty and has failed to cure such default although the operator has been given written notice and has had ample time to do so. Therefore, the Division has found reason to believe violations exist to the Law and has scheduled this matter before the Mined Land Reclamation Board (Board).

A Formal Board Hearing will be held during the February 19 & 20, 2014 Board meeting for consideration of the possible violations. The hearing will occur at 1313 Sherman Street, Room 318, Denver, Colorado, beginning at 9:00 a.m. or as soon thereafter as the matter can be considered. At the hearing you will have opportunity to be represented and heard.

If the Board finds a violation at this hearing, it may issue a Cease and Desist Order and assess a Civil Penalty in the amount of \$100 to \$1,000 for each day of violation. If you have evidence

indicating that the possible violation noted above does not exist or has been corrected, please provide it to the Division as soon as possible or bring it to the hearing.

Following the hearing, all parties have an opportunity to review and comment on a draft of the Board's order before it becomes final. If you wish to do so, you must provide the Board with a written request to review the draft order prior to or at the time of your hearing, or you must inform the Board orally during the hearing that you request to review the draft order. You must include your mailing address and, if possible, a fax or email address. You will be provided a copy of the draft order by e-mail for your review as soon as it is available, unless a hard copy by mail is requested. The Board's attorney must receive your comments on the draft order within three calendar days of the date the draft order is e-mailed, unless that deadline is extended by the Board's attorney. Submit all comments in writing, by e-mail or fax, to Mr. John Roberts, jj.roberts@state.co.us, Fax: number 303-866-5395. Please note that the Division of Reclamation, Mining and Safety has requested and will be allowed to review and comment on the draft Board Order prior to mailing to any party. The Board will resolve any issues regarding the form and substance of the order. This process does not affect your right to request reconsideration by the Board or appeal the form or substance of the order.

Please contact the Board's secretary, Ms. Sitira Pope, at the Division's office in Denver, phone (303) 866-3567 extension 8136, to confirm the specific date for the hearing. The Board's agenda may not be finalized prior to the week of the Board meeting. Therefore, we recommend you contact Ms. Pope on February 17, 2014. If you find you are having difficulty contacting Ms. Pope on that date, you may contact the Division's receptionist at (303) 866-3567 extension 0.

If you have any questions please contact Kate Pickford at (970) 259-5861.

Sincerely,



Loretta E. Pineda
Division Director

CERTIFIED MAIL NO. 7010 1060 0001 0936 1236
Return Receipt Requested

cc: Jeff Fugate, AGO
Tony Waldron, DRMS
Russ Means, DRMS GJFO
Dove Creek State Bank