

# 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



February 13, 2014

Paul F. Martin  
DGMC  
125 W Main Street  
Farmington, NM 87401

John W. Hickenlooper  
Governor

Mike King  
Executive Director

Loretta E. Piñeda  
Director

**RE: Reason to Believe a Violation Exists, Continuance of Scheduled Board Hearing,  
Incas Mine, Permit No. M-1986-076**

Dear Mr. Martin:

On October 1, 2013 The Division of Reclamation, Mining and Safety (Division) conducted a monitoring inspection of the above site. As part of that review, the financial warranty was recalculated to determine the adequate amount required for reclamation based on the current disturbance at the site in accordance with Rule 4.2.1. On October 29, 2013 the Division notified you that the required bond for this site had been increased from the current \$18,033.00 the Division holds to \$29,902.68. This is an increase of \$11,869.68. The notice of financial warranty increase advised that the additional bond needed to be submitted within 60 days of the notice. The deadline for submittal of the additional financial warranty was December 28, 2013. The Division has not received the additional financial warranty.

The Division believes this is in violation of the Colorado Land Reclamation Act for Hard Rock, Metal and Designated Mining Operations, C.R.S. 34-32-101 et. seq., and specifically C.R.S. 34-32-117 (4)(c)(II) for failure of the financial warrantor fulfill the new requirements within sixty days after the date of notice of an adjustment. 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).

You have requested a continuance of the matter set for February 19, 2014 to gain compliance. Your request was to move the item to the April Board hearing which is April 30th, 2014. The time request is too great as you have had 40 days plus the 60 days already allotted under the law. The Division is willing to continue the issue to the March Board hearing only to gain voluntary compliance. If DGMC fails to submit acceptable replacement financial warranty documents by March 21, 2014 the Division will proceed with enforcement action. Please note the notice of the March hearing below which will only be withdrawn with full compliance by March 21<sup>st</sup>, 2014.

A Formal Board Hearing will be held during the March 26 & 27, 2014 Board meeting for consideration of the possible violation. 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. Failure to appear at the hearing will result in loss of party status which means you will lose your rights to appeal before this Board or in district court.

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 \$50 to \$200 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. . 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](mailto: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 Division's office in Denver, phone (303) 866-3567, extension 8144, 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 the division on March 24, 2014. If you find you are having difficulty reaching someone, you may contact the Division's receptionist at (303) 866-3567, extension 0 for assistance.

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 1182  
Return Receipt Requested

cc: Julie Murphy, AGO  
Tony Waldron, DRMS  
Russ Means, DRMS GJFO