



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

John Avery
LUKE THE DUKE, LLC
989 CR 120
Hesperus, CO 81326

June 5, 2014

**RE: Reason to Believe a Violation Exists, Scheduling of Board Hearing,
Cross Creek Ranch, Permit No. M-2013-036**

Dear Mr. Avery:

On May 19, 2014 and on June 5, 2014 the Division of Reclamation, Mining and Safety (Division) conducted inspections of activities on your property located at the address above. During the inspection and follow up investigation, it was discovered that mining activities were being conducted at that location that are not contained within a Division issued permit. Based on the findings of the inspection we believe these are violations of:

- C.R.S. § 34-32.5-109 for failing to obtain a reclamation permit prior to engaging in a new mining operation.

Therefore, the Division has reason to believe that a violation exists to the Mined Land Reclamation Act, C.R.S. 34-32.5-101 *et seq.*, and have scheduled this matter to appear before the Mined Land Reclamation Board.

A Formal Public Hearing will be held during the July 30 & 31, 2014 Board Meeting for consideration of these possible violations. The hearing will be held in Room 318 of 1313 Sherman Street, Denver, Colorado, beginning at 9:00 a.m. on June 30, 2014 or as soon thereafter as the matter can be considered. At that hearing you will have the opportunity to present your defense.

This is an important legal proceeding and you must appear in person for this hearing. If you fail to appear an order and money judgment may be entered against you. In addition, failure to appear at the hearing may result in legal consequences including, but not limited to, loss of party status and your ability to seek reconsideration from the Board or seek judicial appeal in district court.



If the Board finds a violation at this hearing, it may issue a Cease and Desist Order and/or assess a Civil Penalty in the amount of \$1,000.00 to \$5,000.00 for each day of violation. If you have evidence indicating that the possible violations noted above do not exist or have been corrected, please provide it to the Division as soon as possible or bring it to 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, Fax: 720-508-6037.

Please note that the Division has requested and will be allowed to review and comment on the draft Board Order.

The Board's agenda may not be finalized until the week of the Board meeting. Therefore, we recommend you contact the Division's office in Denver, phone (303) 866-3567, extension 8136, on July 28, 2014 to confirm the specific date for the hearing.

If you have any questions about this letter or the hearing, please contact Kate Pickford at (303) 866-3567, extension 8177

Sincerely,



Virginia Brannon
Division Director

CERTIFIED MAIL NO. 7010 1060 0001 0936 1069
Return Receipt Requested

cc: Tony Waldron, Minerals Program Supervisor, DRMS
Russ Means, Grand Junction Field Office, DRMS
Kate Pickford, Durango Field Office, DRMS

