



## COLORADO

Division of Reclamation,  
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215  
Denver, CO 80203

October 16, 2014

Alton Hess  
Sunnyside Gravel and Excavation  
9983 Hwy 550  
Durango, CO 81303

**Re: Sunnyside Gravel and Excavation, Hess Pit, DRMS Permit No. M-1986-033,  
Reason to Believe a Violation Exists and Notice of Board Hearing**

Dear Mr. Hess:

On March 12, 2014, the Division of Reclamation, Mining and Safety (Division) conducted an inspection of the Hess Pit and found the following: The Operator has failed to maintain sufficient financial warranty for assuring completion of reclamation of affected lands (see attached copy of report).

On April 4, 2014, the Division mailed notice to you requiring a financial warranty increase in the amount of \$24,032.06 for a total of \$34,641.06 to be submitted within 60 days of the date of notice (see attached copy of letter). To date, the required additional financial warranty has not been submitted to the Division. We believe this is a violation of:

- C.R.S. § 34-32.5-117(4)(c)(II) and Construction Materials Rule 4.2.1(2) for failure to post additional financial warranty within 60 days of the date of notice of adjustment.

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 has scheduled this matter to appear before the Mined Land Reclamation Board.

A Formal Public Hearing will be held during the November 19-20, 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 November 19, 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 \$100.00 to \$1,000.00 for each day of violation pursuant to C.R.S. § 34-32.5-124(7), and order the permit to be suspended, modified, or revoked. In addition, the Board may find the financial warranty subject to forfeiture, and may set the matter for consideration of forfeiture of the financial warranty at a subsequent



hearing. 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. Please 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: (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 Board Secretary, Johnie Abad, at (303) 866-3567, extension 8136, on Monday, November 17, 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 (970) 259-5861. If you have questions regarding the financial warranty, please contact Barbara Coria at (303) 866-3567, extension 8148.

Sincerely,



Virginia Brannon  
Division Director

CERTIFIED MAIL NO. 7012 3460 0000 6385 0270  
Return Receipt Requested

cc: Tony Waldron, DRMS  
Russ Means, DRMS  
Kate Pickford, DRMS