

1313 Sherman Street, Room 215 Denver, Colorado 80203

August 24, 2016

Notice to Parties and Interested Persons to the Hitch Rack Ranch Quarry Permit Application

Re: Notice of Rescheduled Pre-hearing Conference for a 112 Construction Materials Reclamation Permit Application, Transit Mix Concrete Co., Hitch Rack Ranch Quarry, DRMS File No. M-2016-010

Dear Party and/or Interested Person:

In a previous notice from the Division of Reclamation, Mining and Safety (Division), you were informed that the Formal Board Hearing for consideration of the above referenced permit application had been rescheduled to the October 26-27, 2016 Board meeting. In that notice you were given an approximate time period for the rescheduled Pre-hearing Conference.

Please be advised the date of the Pre-hearing Conference has been set for Wednesday, October 05, 2016, to occur at the Centennial Hall Auditorium, 200 South Cascade Avenue, Colorado Springs, Colorado, beginning at 2:00 p.m. and ending at or before 5:00 p.m. The Board has appointed Mr. Jeff Graves to preside as the Pre-hearing Conference Officer.

In preparation for the Pre-hearing Conference, the Division strongly recommends all parties review Construction Materials Rule 2.6 – Pre-hearing Procedures, and Rule 2.7 – Pre-hearing Conferences. A copy of Construction Materials Rules 2.6 and 2.7 are enclosed. The entirety of the Construction Materials Rules may be accessed through the Division's web site at <a href="http://mining.state.co.us">http://mining.state.co.us</a>, and specifically at the following link, <a href="http://mining.state.co.us/SiteCollectionDocuments/Revised-ConstrMatadoptedAug92006indexed.pdf">http://mining.state.co.us/SiteCollectionDocuments/Revised-ConstrMatadoptedAug92006indexed.pdf</a>.

Pursuant to Construction Materials Rules 2.6(2) and (3), at the Pre-hearing Conference you must provide the Division and all parties a written list of witnesses and exhibits you intend to use at the Formal Board Hearing. The Division estimates each party must bring a minimum of 150 copies of their list of witnesses and exhibits to the Pre-hearing Conference for distribution to all other parties.

Pursuant to Rule 2.7.3(4), any party who does not attend the Pre-hearing Conference forfeits its party status and all associated rights and privileges, unless such party provides a fully executed proxy authorization form to the Pre-hearing Conference Officer, and the party's authorized representative is present. An official proxy authorization form is enclosed, or may be accessed at the following link, http://mining.state.co.us/SiteCollectionDocuments/AuthorizationRep.pdf.

Pursuant to Rule 1.4.9(2)(c), on or before the recommendation deadline for the application the Division must issue a recommendation to the Board for approval, approval with conditions, or denial of the application. The Division's recommendation and rationale for its recommendation



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shall be sent to the applicant and to all objectors of record at least three (3) working days prior to the Pre-hearing Conference. Therefore, the Division's recommendation deadline has been moved up from October 04, 2016 to September 29, 2016.

If you have any questions, please contact me at 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at 303-866-3567, ext. 8129, or by email at <a href="mailto:amy.eschberger@state.co.us">amy.eschberger@state.co.us</a>.

Sincerely,

any Eichberger

Amy Eschberger

**Environmental Protection Specialist** 

Attachment: CERTIFICATE OF SERVICE

Enclosures: 1) Construction Materials Rules 2.6 and 2.7

2) Authorization to Represent a Party

ec w/enclosures: Paul Kos, Norwest Corporation

Tony Waldron, DRMS Wally Erickson, DRMS Peter Hays, DRMS Tim Cazier, DRMS Jeff Graves, DRMS Jeff Fugate, AGO Scott Schultz, AGO John Roberts, AGO



### **CERTIFICATE OF SERVICE**

I, Amy Eschberger, hereby certify that on August 24, 2016, I deposited a true copy of the foregoing Notice to Parties and Interested Persons to the Hitch Rack Ranch Quarry Permit Application, dated August 24, 2016, Re: Notice of Rescheduled Pre-hearing Conference for a 112 Construction Materials Reclamation Permit Application, Transit Mix Concrete Co., Hitch Rack Ranch Quarry, DRMS File No. M-2016-010, with enclosures, in the US Mail, first class postage paid, addressed to the following:

Andre LaRoche Transit Mix Concrete Co. 444 E. Costilla St. Colorado Springs, CO 80903

William & Marion Baker 3375 Turkey Cañon Ranch Road Colorado Springs, CO 80926

Chelsea Luttrall 2453 Gold Rush Drive, #4 Colorado Springs, CO 80906

Robert A. Nathan Asthma & Allergy Associates, PC and Research Center 2709 N. Tejon Street

Colorado Springs, CO 80907

Sara Harper Red Rock Valley Estates Neighborhood Association 11465 Calle Corvo

Colorado Springs, CO 80926

Kathie Rawson Red Rock Valley Estates Neighborhood Association 11795 Calle Corvo

Colorado Springs, CO 80926

Chris Burnell Turkey Cañon Ranch Homeowners Association 15575 Henry Ride Heights Colorado Springs, CO 80926 Mark McClurg Highlands of Turkey Cañon Ranch Homeowners Association 15795 Phantom Canyon View Colorado Springs, CO 80926

James H. Enderson 3215 Austin Drive Colorado Springs, CO 80909

Steve Firks
The Piñons of Turkey Cañon Ranch
Homeowners' Association
15580 Cala Rojo Drive
Colorado Springs, CO 80926

William B. Sheaves, III 4460 Tierra Rojo Drive Colorado Springs, CO 80926

Alane N. Sheaves 4460 Tierra Rojo Drive Colorado Springs, CO 80926

Deidra Steen 15577 Cala Rojo Drive Colorado Springs, CO 80926

Anita Sickels 16299 Cala Rojo Dr. Colorado Springs, CO 80926

Phillip K. Heacock 15930 Cala Rojo Dr. Colorado Springs, CO 80926



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Lisa Pecoraro 16230 Cala Rojo Drive Colorado Springs, CO 80926

Sara Fentman, Jordan Townsend, and Shannon Bell 1260 Glenrock Drive Colorado Springs, CO 80926

Bruce H. Chisnell 11340 Valle Verde Drive Colorado Springs, CO 80926

Reece Eddy Ridgewood Estates Association 1285 Glenrock Drive Colorado Springs, CO 80926

Kenneth R. Baird 2335 Paseo Corta Colorado Springs, CO 80926

John and Kristan Rigdon 1130 Glenrock Drive Colorado Springs, CO 80926

Tracy Y. Offutt 9325 Old Canon City Rd. Colorado Springs, CO 80926

Sherry Diggs 15631 Cala Rojo Dr. Colorado Springs, CO 80926

Wayne Diggs 15631 Cala Rojo Dr. Colorado Springs, CO 80926

Lynn M. Steer 1125 Glenrock Drive Colorado Springs, CO 80926 Ben Donahue Rock Creek Park Association 8801 Rock Creek Lane Colorado Springs, CO 80926

Holly Sandler 21 Crystal Park Road Manitou Springs, CO 80929

Paul Reinsma 15515 Cala Rojo Drive Colorado Springs, CO 80926

Edyn Jessup The Nature Conservancy in Colorado 2424 Spruce Street Boulder, CO 80302

Dan Harrell 16230 Cala Rojo Dr. Colorado Springs, CO 80926

Brent and Lee Louzon 9320 Old Canon City Rd. Colorado Springs, CO 80926

George and Christine Cousineau 1126 Rock Creek Canyon Rd. Colorado Springs, CO 80926

Paul and Cindy Ragan 1400 Chippewa Trl. Woodland Park, CO 80863

Sharon Reinsma 11515 Cala Rojo Drive Colorado Springs, CO 80926

Weldon W. and Jennifer K. Flaharty 1005 Glenrock Dr. Colorado Springs, CO 80926



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Weldon W. and Jennifer K. Flaharty 4190 Little Turkey Creek Road Colorado Springs, CO 80926

Kathie and Stan Rawson 11795 Calle Corvo Colorado Springs, CO 80926

Charles and Nancy Reed 4848 Little Turkey Creek Road Colorado Springs, CO 80926

Gerry Klein 11580 Calle Corvo Colorado Springs, CO 80926

Brett E. Powell 305 Pine Oaks Rd. Colorado Springs, CO 80926

David and Linda Martin 8905 Old Canon City Rd. Colorado Springs, CO 80926

Tom Hight 975 Glenrock Dr. Colorado Springs, CO 80926

Tina Swonger RE/MAX Properties, Inc. 2630 Tenderfoot Hill St. Ste. 100 Colorado Springs, CO 80906

Charles A. and Patricia L. Watkins 9580 State Hwy 115 Colorado Springs, CO 80926

Robert W. Pace 1080 Corral Valley Road Colorado Springs, CO 80929 Charles H. and Denise A. Hancock 4241 Little Turkey Creek Rd. Colorado Springs, CO 80926

Richard L. and Susan K. Larsen 6980 Granite Peak Drive Colorado Springs, CO 80923

Michael and Laura Harvey USAID Nigeria U.S. Embassy Abuja, Nigeria

Gary K. McCowen 3070 Little Turkey Creek Road Colorado Springs, CO 80926

Jerry P. and Karen B. Moore 15836 Spanish Peak Vw Colorado Springs, CO 80926

Mark A. Henslee Henslee Family Investments, LLC 245 E. Cheyenne Mountain Blvd. Colorado Springs, CO 80906

Stephen Sovaiko 11335 Valle Verde Drive Colorado Springs, CO 80926

Matthew D. Cook 355 Oakhurst Ln. Colorado Springs, CO 80906

Jagger Lawrence 3510 E. David Ln. Colorado Springs, CO 80917

Ray and Julie Whitehead 15954 Cala Rojo Drive Colorado Springs, CO 80926



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John Gard 11320 Calle Corvo Colorado Springs, CO 80926

Debbie Gard 11320 Calle Corvo Colorado Springs, CO 80926

Craig Engelage 2635 Rossmere St. Colorado Springs, CO 80919

Robert and Judith Cadigan 27 Tanglewood Dr. Colorado Springs, CO 80906

Troy L. Day 2320 Paseo Corto Colorado Springs, CO 80926

Ted D. Kerr Board of Directors Red Rock Valley Estates Water District 11145 Calle Corvo Colorado Springs, CO 80926

Charlton Brice and Denise Brice 11735 Calle Corvo Colorado Springs, CO 80926

Sara and Marty Harper 11465 Calle Corvo Colorado Springs, CO 80926

Reece Eddy Jr. 1285 Glenrock Drive Colorado Springs, CO 80926

Elizabeth W. Dean 3131 Little Turkey Creek Road Colorado Springs, CO 80926 Karen and Paul Blatchford 6280 Gossamer St. Colorado Springs, CO 80911

Richard W. Rudduck 10415 South State Highway 115 Colorado Springs, CO 80926

Warren H. Dean 3131 Little Turkey Creek Road Colorado Springs, CO 80926

Michael and Cynthia Heer 16292 Cala Rojo Dr. Colorado Springs, CO 80926

Joe and Suzie Koscove 11545 Calle Corvo Colorado Springs, CO 80926

Jack and MaryAnn Koscove 15310 South Hwy 115 Colorado Springs, CO 80926

Anne and Tom Fellows 11810 Valle Verde Drive Colorado Springs, CO 80926

Cheryl L. Kimble 683 Grey Eagle Cir. S. Colorado Springs, CO 80919

Carrie S. Bernstein Alderman Bernstein 101 University Boulevard, Ste. 350 Denver, CO 80206

Carol J. and David R. Lick 1940 Spirerock Path Colorado Springs, CO 80919

Lonnie T. Rogers 11945 Calle Corvo Colorado Springs, CO 80926



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Jean A. Miller 12025 Calle Corvo Colorado Springs, CO 80926

Kenneth Troutt 11575 Calle Corvo Colorado Springs, CO 80926

Joseph Salazar Jr. 11780 Valle Verde Dr. Colorado Springs, CO 80926

Mark Hodges 11440 Valle Verde Dr. Colorado Springs, CO 80926

Mike and Dee Yugovich 4445 Tierra Rojo Drive Colorado Springs, CO 80926

Raven B. Rudduck 10415 South State Hwy 115 Colorado Springs, CO 80926

Eric Bransby 9080 S. Highway 115 Colorado Springs, CO 80926

Sandra J. Boehr 9910 S. Hwy 115 Colorado Springs, CO 80926

Kay M. and C. Scott Kay 1015 Beta Loop Colorado Springs, CO 80905

Sara LaVerne 1863 Northview Dr. Colorado Springs, CO 80909

Susan E. Pringle and Monte W. Junck 7155 Painted Rock Drive Colorado Springs, CO 80911 Richard C. Holden and Yvonne Bredee Holden 2109 Woodburn St. Colorado Springs, CO 80906

Ann Gerber 11680 Valle Verde Dr. Colorado Springs, CO 80926

Cindy and Keith Newby 2919 Virginia Ave. Colorado Springs, CO 80907

Ronald Blair 2945 Little Turkey Creek Road Colorado Springs, CO 80926

Donald Larrabee 3095 Little Turkey Creek Road Colorado Springs, CO 80926

Rand Hassell 3075 Little Turkey Creek Road Colorado Springs, CO 80926

Richard Welch 11820 Calle Corvo Colorado Springs, CO 80926

Hartmut Wright Southwestern Highway 115 Fire Protection District 15580 Cala Rojo Dr. Colorado Springs, CO 80926

Scott Samson 11525 Calle Corvo Colorado Springs, CO 80926

Victoria Spengler Wekamp and Doug Lee Wekamp 3085 Little Turkey Creek Rd. Colorado Springs, CO 80926



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Brian and Betty Gardiner 2010 Roca Roja Circle Colorado Springs, CO 80926

Steven K. Mulliken Mulliken Weiner Berg & Jolivet P.C. Alamo Corporate Center 102 South Tejon Street, Ste. 900 Colorado Springs, CO 80903

Jennifer Divers Day 2320 Paseo Corto Colorado Springs, CO 80926

Thomas Melancon 990 Glenrock Dr. Colorado Springs, CO 80926

Geri Sovaiko 11335 Valle Verde Dr. Colorado Springs, CO 80926

Les Gruen Urban Strategies, Inc. Six South Tejon Street, Ste. 550 Colorado Springs, CO 80903

Michael Lihs and Bertha "Beege" Delgado 3190 Little Turkey Creek Road Colorado Springs, CO 80926

J. Michael and Karen A. Turley P.O. Box 38036 Colorado Springs, CO 80937

Michael Spoor 2838 Tenderfoot Hill Colorado Springs, CO 80906

Barbara L. Hughes and Judy Kline 3011 Springridge Drive Colorado Springs, CO 80906 Dan and Jodi Murphy 3150 Slocum Rd. Peyton, CO 80831

Lawrence Decker L.D. and D.L. Decker Trust 2803 N. Chelton Road Colorado Springs, CO 80909

Benjamin Andrew Simmons and Stacy Simmons 965 Boyfield Dr. Colorado Springs, CO 80906

El Paso County Board of Commissioners 200 South Cascade Ave., Suite 100 Colorado Springs, CO 80903

Turkey Creek Conservation District 200 S. Santa Fe Ave., 4<sup>th</sup> Floor Pueblo, CO 81003

El Paso County Conservation District 5610 Industrial Place, Suite 100 Colorado Springs, CO 80916

Omy Enchlorger 08/24/2016
Signature and date



how that person is affected or aggrieved by the petition for Declaratory Order.

(3) A petition to intervene shall set forth a concise statement of the facts necessary to demonstrate the nature of its position, and the manner in which the statute, rule or order in question does or does not apply to the Petitioner.

#### 2.5.6 Effect of a Declaratory Order

Any declaratory order or other order disposing of a petition pursuant to this rule shall constitute agency action subject to judicial review pursuant to Section 24-4-106, C.R.S.

#### 2.6 PRE-HEARING PROCEDURES - MOTIONS, WITNESS AND EXHIBIT LISTS

The provisions of this Rule 2.6 shall apply to the Applicant and any entity that has party status.

- (1) All motions, except those made during a hearing, or when the Board deems an oral motion to be appropriate, shall be in writing and shall state the grounds for the motion. Motions shall be received by the Board no later than two (2) Working Days following the Pre-hearing Conference. Any written response to a motion must be received by the Board no later than three (3) Working Days prior to the date of the Formal Board Hearing.
- (2) A party to a Formal Board Hearing may use witnesses or exhibits at the Formal Board Hearing. Parties shall provide a written list of all potential witnesses and exhibits at the Pre-hearing Conference in accordance with the following:
  - (a) The list of potential witnesses must include each witness' name, current address and phone number, area of expertise (if expert witness), and the subject matter of the testimony. Parties are not obligated to use any witness even if listed, but parties may not, without express permission from the Board at the Formal Board Hearing, introduce testimony from a witness that was not listed in accordance with this Rule.

- (b) Information on exhibits shall be exchanged as follows:
  - (i) For any materials not already in the Office public files, each party to the Hearing shall provide all other parties to the Hearing and the Office with copies of any materials to be used as exhibits at the Formal Board Hearing at or before the Pre-hearing Conference. Where an item cannot practicably be reproduced, the exhibit must be made available to the parties and the Office for inspection upon request.
  - (ii) For any materials that are already in the Office public files, and for any materials not provided to the other parties pursuant to the exception set out in Rule 2.6(2)(b)(i), each party shall provide all other parties and the Office with a list of the materials to be used with sufficient specificity to describe the exhibit, including but not limited to the specific title or description of each exhibit, such as maps, reports, adequacy responses, correspondence, agreements, data printouts, photographs, and drawings. The list must also specify where the other parties to the Formal Board Hearing and the Office may review and obtain a copy of, or inspect, each exhibit.
- (3) All motions, responses, replies, witness lists, and exhibit lists shall identify the names, address and phone number of the submitting party, and the file number assigned to the case by the Office. If a party is represented by an attorney or other representative, the name, address and phone number of the attorney or other representative shall be provided on all documents submitted to the Board. All motions and lists shall be served on all parties and the Office at the same time they are served on the Board. The Board shall be served through the Office of Mined Land Reclamation. The Board shall be provided thirteen (13) copies, one of which shall be unbound.

#### 2.7 PRE-HEARING CONFERENCES

#### 2.7.1 General Provisions

Prior to the Formal Board Hearing on any matter, the Board may hold a Pre-hearing Conference in accordance with the following procedures:

- (1) The Pre-hearing Conference will be held to describe the Office's review process, to explain the rights and responsibilities of parties, to discuss and resolve issues to the extent possible, to describe the Board Hearing processes, to propose a list of issues under the Board's jurisdiction, to simplify that list, and to identify parties.
- (2) The Pre-hearing Conference shall be conducted by a Pre-hearing Conference Officer appointed by the Board.
- (3) The Pre-hearing Conference Officer shall prepare a proposed Pre-hearing Order. The proposed Pre-hearing Order shall be made available to all parties prior to the formal Board Hearing. In no instance shall the Pre-hearing Conference Officer's recommendations to the Board be considered final agency action for the purposes of judicial review under Section 24-4-106, C.R.S.
- (4) The proposed Pre-hearing Order shall include:
  - (a) a recommended list of the parties and their names, addresses, and phone numbers;
  - (b) a recommended list of issues to be considered by the Board at the Formal Board Hearing; and
  - (c) a recommended schedule for the hearing with time allotments set for presentation by each party and the Office.
- (5) In the case of a Pre-hearing Conference held on the matter of a 112 Reclamation Permit application, the Pre-hearing Conference shall be held after the Office has issued its

written recommendation and at least ten (10) calendar days prior the Formal Board Hearing.

#### 2.7.2 Board Consideration of the Proposed Pre-hearing Order

At the Formal Board Hearing on a matter for which a Pre-hearing Conference was held, the Pre-hearing Conference Officer or a representative of the Pre-hearing Conference Officer shall present the proposed Pre-hearing Order to the Board for its consideration. The Board shall consider any objection to the proposed Pre-hearing Order submitted by a party, as well as any changed circumstances related to the Formal Board Hearing arising subsequent to the Pre-hearing Conference, and shall subsequently adopt, amend and adopt, or reject the proposed Pre-hearing Order. If the proposed Pre-hearing Order is rejected by the Board, the Chair of the Board shall direct the Formal Board Hearing on the matter.

#### 2.7.3 Parties Rights and Responsibilities

- (1) All parties have the right to present evidence, call witnesses, and cross-examine all other parties' witnesses. All parties are entitled to be represented by an attorney, or may designate a proxy, by way of a written proxy authorization, to attend the Pre-hearing Conference on behalf of the party. The proxy authorization must be on a form approved by the Board and presented to the Pre-hearing Conference Officer on or before the date of the Pre-hearing Conference.
- (2) In order for a person to seek judicial review of the Board's decision, that person must have been a party to the Formal Board Hearing that considered the issue. However, all parties to the Formal Board Hearing on a matter that do not file for judicial review are required by Section 24-4-106, C.R.S., to be named as defendants in any judicial review action.
- (3) Any person who is a party to a matter before the Board and who wishes to withdraw as a party must do so in writing prior to the commencement of or on the record during the Formal Board Hearing on the matter.

- (4) Any party who does not attend the Pre-hearing Conference forfeits its party status and all associated rights and privileges, unless such party provides a fully executed proxy authorization form to the Pre-hearing Conference Officer and the party's authorized representative is present. A party may attend the Pre-hearing Conference via telephone if such a request is made to the Pre-hearing Conference Officer, or a representative, at least five (5) working days, or less for good cause shown, prior to the scheduled Pre-hearing Conference date, and facilities at the site of the Pre-hearing Conference allow for a conference call.
- (5) If all parties to a 112 Reclamation Permit application that is to be considered at a Formal Board Hearing withdraw, the Board directs the Office to act on behalf of the Board and to timely approve or deny the application, unless the Office determines that a Formal Board Hearing should be held.

#### 2.8 HEARINGS

### 2.8.1 General Provisions - Board Hearings

- (1) Except as otherwise provided by statute, the proponent of an order shall have the burden of proof, and every party to the proceeding shall have the right to present its case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Subject to these rights and requirements, where a hearing will be expedited and the interests of the parties will not be substantially prejudiced thereby, a person conducting a hearing may receive all or part of the evidence in written form. Any party who does not attend the Board Hearing forfeits its party status and all associated rights and privileges.
- (2) The rules of evidence and requirements of proof shall conform to the extent practicable, with those in civil non-injury cases in district courts. However, when necessary to do so in order to ascertain facts affecting the substantial rights of the parties to the proceeding,

# How A Party May Designate A Representative To A Pre-Hearing Conference

#### INSTRUCTIONS

If, as a party, you will not be able to attend a Pre-hearing Conference you may designate another person, such as an attorney or a consultant, to appear on your behalf without losing your party status. However, in order for the Pre-hearing Conference Officer to recognize your representative, *you must complete the attached form*. The form must include your notarized signature and you must sign in blue ink. For items that do not apply, please write N/A in the blank space.

Your representative must present the original notarized form to the Pre-hearing Conference Officer at the time of the pre-hearing conference.

Please note that you must appear in person to maintain your party status for a hearing. You may designate a representative to represent you at the Prehearing Conference only, but you must attend the formal Board hearing or lose your party status pursuant to Construction Materials Rule 2.8.1(1).

# AUTHORIZATION TO APPEAR ON BEHALF OF A PARTY

# (Please Type Or Print the Requested Information)

## SIGNATURES MUST BE IN BLUE INK

¥		
I(person's name)		(title, if applicable)
of	(name of company, associ	ation, organization, etc. if applicable)
hereby delegate to	(person or entity's name)	
	(person or entity's name)	
the right to appear on be	half ofcompany, association, organization	_ at the Pre-hearing conference. , etc.)
	THIS DAY OF	
Authorized Signature (m	If corporate attest (security be signed in blue ink)	al)
Transfer Digitation (An	and he digited in blue life;	
Title:		
State of	1	
County of	<u> </u>	
The forgoing instrument	was acknowledged before me this	, day of,,
	as	
	No My commission expire	otary Public
	IVIV COHHHISSION EXDIT	58.

SIGNATURE MUST BE IN BLUE INK