



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources
1313 Sherman Street, Room 215
Denver, Colorado 80203

March 23, 2017

Thomas Joseph
Colorado Backhoe Service
25193 South Road
Pueblo, CO 81006

**Re: Reason to Believe a Violation Exists and Notice of Board Hearing;
The Orr Pit; Permit No. M-2009-074**

Dear Mr. Joseph:

On March 1, 2017, the Division of Reclamation, Mining, and Safety (Division) conducted an inspection of The Orr Pit and nearby lands. During the inspection the Division observed approximately six acres of affected lands located outside of the approved permit boundary. Pursuant to C.R.S. 34-32.5-123(2), the Division believes this is a violation of:

- C.R.S. 34-32.5-109(1) for failure to first obtain a reclamation permit from the Mined Land Reclamation Board before engaging in a new mining operation.

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

A Formal Board Hearing will be held during the April 26-27, 2017 Board meeting for consideration of this possible violation. The hearing will be held at 1313 Sherman Street, Room 318, Denver, Colorado, beginning at 9:00 a.m. on April 26th or as soon thereafter as the matter can be considered. At the 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 financial 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 pursuant to C.R.S. 34-32.5-123(2). If you have evidence indicating 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



March 23, 2017

Page 2 of 2

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 John J. Roberts, First Assistant Attorney General, Colorado Department of Law, (720) 508-6037 (fax), or John.Roberts@coag.gov.

Please note 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, Camille Mojar, at (303) 866-3567 ext. 8136, or Camille.Mojar@state.co.us on April 24, 2017, to confirm the specific date for the hearing.

If you have any questions about this letter or the hearing, please contact Elliott Russell at (303) 866-3567, ext. 8132, or Elliott.Russell@state.co.us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Virginia Brannon", with a long horizontal flourish extending to the right.

Virginia Brannon
Division Director

CERTIFIED MAIL NO. 7014 2120 0001 7885 7078
Return Receipt Requested

Enclosure: 3-1-2017 Inspection Report M-2009-074

cc: Tony Waldron, DRMS
Wally Erickson, DRMS
Elliott Russell, DRMS
Jeff Fugate, AGO for DRMS