



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

July 18, 2017

Greg Westhoff
Morgan Sand & Gravel Inc.
21215 Hwy No 52
Fort Morgan, CO 80701

**Re: Reason to Believe a Violation Exists and Notice of Board Hearing;
Westhoff Pit, M-1977-094**

Dear Mr. Westhoff,

On April 11, 2017 the Division mailed notice to you requiring a financial warranty increase in the amount \$95,387.32, to be submitted by June 12, 2017. To date, the required additional financial warranty has not been submitted to the Division.

The Division believes this is a violation of:

- C.R.S. § 34-32.5-117(4)(c)(II) and 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 a violation exists to the 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 August 23 and 24, 2017 Board meeting for consideration of this possible violation. The hearing will occur at 1313 Sherman Street, Room 318, Denver, Colorado, beginning at 9:00 a.m. on August 23, 2017, 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 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.



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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). Pursuant to C.R.S. § 34-32.5-124(6)(a), the Board may suspend, modify, or revoke the permit. If you have evidence indicating 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.

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 your 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 to John J. Roberts, First Assistant Attorney General, Colorado Department of Law, by fax at (720) 508-6037, or by email at 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's Secretary, Camille Mojar by telephone at (303) 866-3567, ext. 8136 or by email at camille.mojar@state.co.us on Monday, August 21, 2017, to confirm the specific date for the hearing.

If you have any questions about this letter or the hearing, please contact Jared Ebert at (303) 866-3567, ext. 8120.

Sincerely,



Virginia Brannon
Division Director

CERTIFIED MAIL NO. 7016 2140 0000 2346 0974
Return Receipt Requested

cc: Tony Waldron, DRMS
Wally Erickson, DRMS
Jared Ebert, DRMS
Jeff Fugate, AGO