



M-2017-049 / Transit Mix Concrete Co. Filing of Responses and Motion to Modify Draft Prehearing Order

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Fri, Apr 20, 2018 at 4:08 PM

To: "drms.temp@state.co.us" <drms.temp@state.co.us>

Cc: "Anderson, Scot W." <scot.anderson@hoganlovells.com>, "Titus, Elizabeth H. \"Liz\"" <liz.titus@hoganlovells.com>

Attached please find the following documents for filing on behalf of Transit Mix Concrete Co., pursuant to the Mined Land Reclamation Board Order dated March 19, 2018:

1. Transit Mix's Response in Opposition to Ingersoll Trust's Motion to Dismiss Application for Mining Permit for Lack of Jurisdiction
2. Transit Mix's Response in Opposition to Ms. Kimble's Motion to Vacate Formal Hearing
3. Transit Mix's Motion Requesting Modification of Draft Prehearing Order

Thank you.

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3 attachments



Transit Mix_s Response in Opposition to Ms. Kimble_s Motion to Vacate Formal Hearing.PDF
607K



Transit Mix_s Motion Requesting Modification of Draft Prehearing Order.PDF
14K



Transit Mix_s Response to Ingersoll Trust_s Motion.PDF
2341K

BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF TRANSIT MIX CONCRETE COMPANY
FOR A 112 CONSTRUCTION MATERIALS RECLAMATION PERMIT,
File No. M-2017-049

**TRANSIT MIX'S MOTION REQUESTING MODIFICATION OF DRAFT
PREHEARING ORDER**

Transit Mix Concrete Co. ("Transit Mix"), by and through the undersigned counsel, hereby submits this Motion Requesting Modification of Draft Prehearing Order (the "Motion") pursuant to the Mined Land Reclamation Board Order Regarding Deadlines For And Service Of Motions, Witness and Exhibit Lists, and Exhibits. Transit Mix submits this Motion to the Mined Land Reclamation Board (the "Board") to request that the Board correct errors contained in the Draft Prehearing Order, dated April 11, 2018 ("Draft Order"). Transit Mix received and promptly reviewed a copy of the Draft Order on April 17, 2018.

The Board should modify the Draft Order to correct the following errors:

1. Addition of Transit Mix as Applicant to List of Parties

Transit Mix, as the Applicant, is not included on the list of parties referenced in Section III of the Draft Order, and as attached to the Draft Order, even though the Applicant is a party to the Formal Hearing. As a result, Transit Mix and its attorneys do not receive the electronic communications sent to the parties on that list. Transit Mix respectfully requests that the Board add Scot W. Anderson (scot.anderson@hoganlovells.com), on behalf of Transit Mix, to the list of parties referenced in Section III of the Draft Order, as attached to the Draft Order.

2. Addition of Michael Day to Transit Mix Witnesses

Michael Day (“Day”), Senior Hydrogeologist, Hydro-Logic Solutions, Inc., was included in the Witness List, Exhibit List and Exhibits Provided by Transit Mix to the Board on April 10, 2018 (“Transit Mix Witness and Exhibit List”), but was not included in the Transit Mix Witnesses listed in Section V of the Draft Order. Transit Mix respectfully requests that the Board add Day to the Witnesses listed for Transit Mix in Section V of the Draft Order so that the Draft Order correctly reflects the Transit Mix Witness and Exhibit List timely submitted to the Board by Transit Mix.

3. Addition of Mulliken Letter to Transit Mix Exhibits

The Steven K. Mulliken Objection Letter dated December 19, 2017, including all attachments (“Mulliken Letter”) was included in the Transit Mix Witness and Exhibit List, but was not included in the Transit Mix Exhibits listed in Section V of the Draft Order. Transit Mix respectfully requests that the Board add the Mulliken Letter to the Transit Mix Exhibits listed in Section V of the Draft Order so that the Draft Order correctly reflects the Witness and Exhibit List timely submitted to the Board by Transit Mix.

WHEREFORE, for the reasons set forth above, Transit Mix respectfully requests that the Mined Land Reclamation Board modify the Draft Order as described herein.

Respectfully submitted,

/s/ Scot W. Anderson

John W. Cook (#9670)

Scot W. Anderson (#17395)

Elizabeth H. Titus (#38070)

Hogan Lovells

Attorneys for Applicant Transit Mix Concrete Co.

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CERTIFICATE OF SERVICE

I hereby certify that on this this 20th day of April, 2018, five true and correct copies of the foregoing MOTION REQUESTING MODIFICATION OF DRAFT PREHEARING ORDER were provided to the Division pursuant to the Mined Land Reclamation Board Order dated March 19, 2018, and written notice was provided to all parties included on the Revised Party List After Prehearing Conference; Hitch Rack Ranch Quarry, dated April 10, 2018, that this document was filed with the Division by reference to the Division's website for filing.

/s/ Helen R. Hyatt

Helen R. Hyatt