



## COLORADO

Division of Reclamation,  
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215  
Denver, CO 80203

May 25, 2018

McAtee Construction Company  
Attn: Jeff Harms  
220 Edwards Avenue  
Sterling, Colorado 80751

**Re: Reason to Believe a Violation Exists and Notice of Board Hearing;  
Riverside Pit, M-1976-056**

Dear Mr. Harms,

On April 19, 2018, the Colorado Division of Reclamation, Mining and Safety (Division) conducted an inspection of the above referenced site (please see the attached inspection report). In the inspection report, the Division cited the Operator had affected land outside of the approved permit boundary. The Division believes this is a violation pursuant to:

- C.R.S. 34-32.5-109(1) for failure to first obtain from the board or office a reclamation permit prior to engaging in a new 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 June 27 and 28, 2018, 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 June 27, 2018, 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 a representative of McAtee Construction Company must appear in person for this hearing.** If they fail to appear, an order and financial judgment may be entered against McAtee Construction Company. In addition, failure to appear at the hearing may result in legal consequences including, but not limited to, loss of party status and McAtee Construction Company's ability to seek reconsideration from the Board or seek judicial appeal in district court.

If the Board finds a violation for operating without a permit, the Board may issue an immediate cease-and-desist order. Concurrently with the issuance of such an order, the Board may seek a restraining order or injunction. An Operator who operates without a permit shall be subject to a civil penalty of not less than \$1000.00 dollars per day nor more than \$5,000.00 per day for each day the land has been affected not to exceed 365 days. In addition to the civil penalties discussed previously, the Board shall also assess a civil



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penalty in an amount not less than the amount necessary to cover cost incurred by the Division in investigating the alleged violation. 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 no later than June 15, 2018.

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 Charles Kooyman, Assistant Attorney General, Colorado Department of Law, by fax at (720) 508-6037, or by email at [Charles.Kooyman@coag.gov](mailto:Charles.Kooyman@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](mailto:camille.mojar@state.co.us) on Monday, June 25, 2018, 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,



Tony Waldron  
Minerals Program Director

For:

Virginia Brannon  
Division Director

CERTIFIED MAIL NO. 7016 2140 0000 2346 0882  
Return Receipt Requested

cc: Tony Waldron, DRMS  
Michael Cunningham, DRMS  
Russ Means, DRMS  
Jared Ebert, DRMS  
Jeff Fugate, AGO