



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, Colorado 80203

July 12, 2018

Karl Nyquist
Prowers Aggregate Operators, LLC
7991 Shaffer Parkway, Suite 200
Littleton, CO 80127

**Re: West Farm Pit, Permit No. M-2008-078
Reason to Believe a Violation Exists and Notice of Board Hearing**

Mr. Nyquist:

On June 14, 2018, the Division of Reclamation, Mining and Safety (Division) conducted an inspection of your operation and nearby lands (see inspection report mailed separately on July 12, 2018) and found the following:

- 1) The operation has had an unauthorized release of pollutants to the surface drainage system. Specifically, sediment-laden wastewater from the wash plant was discharged to the Arkansas River.
- 2) The operator has affected 37.52 acres outside of the approved affected land boundary.

Based on these findings, the Division believes the operation is in violation of:

- C.R.S. 34-32.5-116(4)(h) and Rule 3.1.6(1) for failure to minimize disturbances to the prevailing hydrologic balance of the affected land and of the surrounding area and to the quantity or quality of water in surface systems during the mining operation; and
- C.R.S. 34-32.5-109(1) for failure to first obtain a reclamation permit from the Mined Land Reclamation Board (MLRB) or Office prior to engaging in a new operation; and
- C.R.S. 34-32.5-124 for failure to comply with the conditions of an order, permit, or regulation.

Therefore, the Division has reason to believe that violations exist to the Mined Land Reclamation Act, C.R.S. 34-32.5-101 et seq., and has scheduled this matter to appear before the MLRB.

A Formal Public Hearing will be held during the August 22-23, 2018 Board Meeting for consideration of these possible violations. The hearing will be held in Room 318 of 1313 Sherman Street, Denver, Colorado, beginning at 9:00 a.m. on August 22nd 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 money 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 pursuant to C.R.S. 34-32.5-123(1), and assess a civil penalty in the amount of \$1,000.00 to \$5,000.00 for each day the land has been affected, not to exceed 365 days, pursuant to C.R.S. 34-32.5-123(2). In addition to the civil penalties discussed previously, the Board shall also assess a civil penalty in an amount not less than the amount necessary to cover costs incurred by the Division in investigating the alleged violation(s), pursuant to C.R.S. 34-32.5-123(4). The Board may suspend, modify, or revoke the permit pursuant to C.R.S. 34-32.5-124(6)(a). If you have evidence indicating the possible violations noted above do not exist, please provide it to the Division as soon as possible. Any information to be considered by the Board during the hearing must be received by the Division at least two weeks prior to the Board Hearing, due by August 8, 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 that you request to review the draft Order. The Board's attorney must receive your comments on the draft Order within three (3) calendar days of the date the draft Order is e-mailed, unless that deadline is extended by the Board's attorney. Please note that the Division has requested and will be allowed to review and comment on the draft Board Order. Please submit all comments in writing to: Charles J. Kooyman, Colorado Department of Law, Business and Licensing Section, 1300 Broadway, 8th Floor Denver, CO, 80203, 720-508-6440 (phone), 720-508-6037 (fax), or charles.kooyman@coag.gov.

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 the Monday prior to the Board meeting to confirm the specific date your item will appear before the Board.

If you have any questions about this letter or the hearing, you may contact Amy Eschberger at 303-866-3567, ext. 8129 or amy.eschberger@state.co.us.

Sincerely,



Virginia Brannon
Division Director

CERTIFIED MAIL NO. 7014 0150 0000 9138 7376
Return Receipt Requested

cc: Russ Means, DRMS
Michael Cunningham, DRMS
Amy Eschberger, DRMS
Jeff Fugate, AGO for DRMS