



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources
1313 Sherman Street, Room 215
Denver, Colorado 80203

July 20, 2018

John P. Ary
Fremont Paving & Redi-Mix, Inc.
839 MacKenzie Avenue
Cañon City, CO 81212

**Re: Reason to Believe a Violation Exists and Notice of Board Hearing
Pueblo East Pit, Permit File No. M-2000-041**

Dear Mr. Ary:

On January 19, 2018, the Division of Reclamation, Mining and Safety (Division) provided you notice of a financial warranty adjustment to the Pueblo East Pit, Permit No. M-2000-041. The notice of financial warranty adjustment detailed an increase of \$1,179,361.00 from the existing financial warranty, for a total required financial warranty of \$3,274,361 for the site. The final deadline to submit the additional financial warranty was June 29, 2018. To date, the required additional financial warranty has not been submitted to the Division. The Division believes the Operator is in 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 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 August 22-23, 2018 Board meeting for consideration of these possible violations. The hearing will be held at 1313 Sherman Street, Room 318, Denver, Colorado, beginning at 9:00 a.m. on August 22nd 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 pursuant to C.R.S. 34-32.5-124(2); and 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). 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 or have been corrected, 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 on or before August 10, 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 orally request to review the draft Order during the hearing. The Board's



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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 Charles J. Kooyman, Assistant Attorney General, (720) 508-6037 (fax), or Charles.Kooyman@coag.gov. 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 August 20, 2018 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,



Virginia Brannon
Division Director

CERTIFIED MAIL NO. 7016 2710 0000 2965 0488
Return Receipt Requested

cc: Russ Means, DRMS
Michael Cunningham, DRMS
Elliott Russell, DRMS
Jeff Fugate, AGO for DRMS
Scott Schultz, AGO for DRMS