



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

October 9, 2019

Richard Coulson
Coulson Excavating Company, Inc.
3609 North County Road 13
Loveland, CO 80538

**Re: Reason to Believe a Violation Exists and Notice of Board Hearing;
Kirtright Pit; Permit M-1986-123**

Dear Mr. Coulson:

On July 11, 2019, the Division of Reclamation, Mining and Safety (DRMS or Division) sent Coulson Excavating Company, Inc. (Coulson) a notice of a required surety increase (SI02). The required surety amount was increased to \$4,815,790.00, this is an increase of \$4,757,390.00 from the currently held \$58,400.00. The increase in surety was due on September 9, 2019. As of this date, the Division has not received the required financial warranty increase.

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 that 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 have scheduled this matter to appear before the Mined Land Reclamation Board.

A Formal Public Hearing will be held during the November 13-14, 2019 Board Meeting for consideration of this possible violation. The hearing will be held at 1313 Sherman Street, Room 318, Denver, Colorado, beginning at 9:00 a.m. on November 13, 2019 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.

If the Board finds a violation at this hearing, it may issue a Cease and Desist Order 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). 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 that 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. Any information to be considered by the Board during the hearing must be received by the Division on or before November 1, 2019.



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 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, Colorado Department of Law, by fax at (720) 508-6037, or by email at Charles.Kooyman@coag.gov.

Please note that 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 Tuesday, November 12, 2019 to confirm the specific date for the hearing.

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

Sincerely,



Virginia Brannon
Division Director

CERTIFIED MAIL No. **7017 2400 0000 9119 2607**
Return Receipt Requested

ec: Russ Means, DRMS
Jeff Fugate, AGO
Michael Cunningham, DRMS
Eric Scott, DRMS
Ken Coulson, Coulson Excavating Company, Inc.
Peter Wayland, Weiland, Inc.