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Via email to [ginny.brannon@state.co.us](mailto:ginny.brannon@state.co.us)

Ginny Brannon  
Division Director  
Colorado Division of Reclamation  
Mining and Safety  
Department of Natural Resources  
1313 Sherman Street, Room 215  
Denver CO 80203

Re: DRMS File M-1999-042

Dear Director Brannon:

We represent Robert Congdon and Avalanche Creek Marble and Alabaster LLC. There is a hearing scheduled for October 20-21, 2020 before the Mined Land Reclamation Board (MLRB) regarding our clients. Under section 80.1 of the Policies of the MLRB, the Director can decide motions to continue or postpone matters from the MLRB agenda.

We ask that you postpone this hearing. The deadline for written submissions to the Board is next Friday, October 2, 2020. The primary reason for our request for a postponement is as follows:

We received notice regarding the hearing was being scheduled for October 20-21 via a letter dated August 13, 2020. Because there had not been much communication from the Division regarding my clients, we filed a request for records to the DRMS under the Colorado Open Records Act (CORA) on August 26, 2020. We received a response to the CORA request on September 15, 2020.

In looking at the responsive documents, we saw many documents that we have never seen before raising new issues. For instance, there is a letter from Pitkin County and another from the Western Mining Action Project which relates to our

clients' operation and the proposed hearing, but we had never been given copies of those letters. Several important assertions in the letters are false.

Nevertheless, the August 13, 2020 letter about the hearing says that the Division believes that my clients have failed to comply with the "conditions of a permit, specifically failure to maintain legal right of entry and failure to maintain proper mine permitting with the United States Forest Service."

Because the Forest Service has not revoked my clients' plan of operations, we filed a request for information from the Forest Service under the Freedom of Information Act (FOIA) on September 2, 2020 to attempt to determine what the basis was for the statement in the Division's August 13, 2020, letter. We received a response from the Forest Service to the FOIA on September 17, 2020, which included an estimated cost but no documents. We adjusted our request slightly and sent payment for the records on September 24, 2020. We do not anticipate receiving records from the Forest Service in time to review them and select ones to submit to the DRMS by the October 2, 2020 deadline. Some of these documents are likely to relate to the assertion in the August 13, 2020 letter that our clients have failed to maintain proper mine permitting with the Forest Service.

Although we do not know exactly when we will get these documents, we ask that the Director postpone the hearing in this matter to the November or December meeting.

Thank you for your attention to this request so that my clients will be able to receive a response to the FOIA request from the Forest Service in order to adequately prepare for the hearing.

Sincerely,

*Richard M. Stephens*

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