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November 2, 2020

Via email to 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. We had previously requested and were granted a continuation or postponement of a hearing previously scheduled before Mined Land Reclamation Board (MLRB). The request was granted and the hearing is now scheduled for November 18-19, 2020.

A primary reason for the earlier request was that we had requested documents from the Forest Service under the Freedom of Information Act (FOIA) and did not expect to get the requested records prior to the deadline for submitting materials to the MLRB before its October 2020 hearing.

On October 23, 2020, we received records from the Forest Service. However, upon review of the documents in the FOIA response last week, it became readily apparent that important documents were missing. For instance, there are emails which reference attached documents and the attachments were not provided. There are other indications that the Forest Service has not provided everything we requested. Unfortunately, we are forced to file an appeal with the Forest Service regarding FOIA which is due 45 days from October 23. However, we will not wait that long, but will file the appeal this week to try to get a complete copy of the file as soon as possible.

While this failure on the Forest Service's part to adequately respond to our FOIA is certainly not the MLRB's fault, we believe our clients are hindered in their ability to prepare for the November 18-19 hearing (especially since submissions are due this Friday, November 6, 2020).

Therefore, I am requesting another continuation or postponement of the MLRB hearing to the Board's December calendar. I am hoping that we will get a speedy resolution of the FOIA appeal so we can be adequately prepared for the MLRB hearing when it occurs.

Sincerely,

Richard M. Stephens

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