



October 11, 2021

TBK Bank
Attn: Kammie D. Cathcart
P.O. Box 607
101 N. Main
Holly, Colorado 81047

**Re: Reason to Believe a Violation Exists and Notice of Board Hearing;
J & P Trucking Pit #1, M-2011-021, Letter of Credit No. 131 Subject to Forfeiture.**

Dear Kammie D. Cathcart,

On September 21, 2021 the Colorado Division of Reclamation, Mining and Safety (DRMS or Division) received a notice from TBK Bank that the Letter of Credit (No. 131) issued as a financial warranty for the J & P Trucking Pit #1, permit number M-2011-021 will mature and not renew as of September 27, 2021. DRMS responded with a letter dated September 28, 2021 and indicated the cancellation of the bond would be effective December 27, 2021 per the provisions of the bond. Therefore the Division believes the financial warranty is not being maintained for the entire life of the permit.

Based these findings we believe this is a violation of:

- C.R.S. 34-32.5-117(6)(a) for failure to maintain a financial warranty in good standing for the entire life of a permit issued under this article.

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 (MLRB or Board).

A Formal Public Hearing will be held during the November 17 and 18, 2021 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 17, 2021 or as soon thereafter as the matter can be considered. Please note in accordance with C.R.S. 34-32.5-118(1)(c) and (d), a financial warranty shall be subject to forfeiture whenever the Board determines that the financial warrantor has failed to maintain a financial warranty in good standing as required by section 34-32.5-117; or the financial warrantor no longer has the financial ability to carry out any obligations required under this article.

In order to be considered at the hearing, all exhibits, materials and witness testimony you wish for the Board to consider must be submitted via email to the MLRB Administrator, Camie Mojar at: Camille.mojar@state.co.us, no later than 5:00 PM, November 5, 2021.



Please note the meeting format is subject to change due to the impacts of COVID-19. You will be notified as soon as possible of any changes to the meeting format. If you have good cause not to appear in person you may submit a request to the MLRB to appear virtually via (ZOOM). To do so please submit an email to the MLRB Administrator, no later than 5:00 PM, November 5, 2021 for Board consideration. If approved you will receive an authorization code to attend the meeting for this matter. Please note that only Parties and those who will be testifying may attend by ZOOM. All other interested persons may attend the hearing via the MLRB YouTube Channel:
<https://www.youtube.com/channel/UCDrrAO8bIPFIOWce-yH1fWA>

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. Pursuant to C.R.S. 34-32.5-118(1), the Board may find the financial warranty subject to forfeiture. 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 12, 2021.

The Board's agenda may not be finalized until the week of the Board meeting. Therefore, we recommend you contact the Board's Administrator, Camille Mojar by telephone at (303) 866-3567, ext. 8136 or by email at Camille.Mojar@state.co.us on Monday, November 15, 2021 to confirm the specific date for the hearing.

If the Board finds the financial warranty is subject to forfeiture at the November 17/18 hearing, an additional hearing will be held during the December 15 and 16, 2021 Board meeting for consideration of final forfeiture of the financial warranty. This letter serves as the notice required under C.R.S. 34-32.5-118(2).

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

Sincerely,

Virginia Brannon
Division Director

CERTIFIED MAIL #
Return Receipt Requested

cc: Jared Ebert, DRMS
Russ Means, DRMS
Jeff Fugate, AGO

