



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources

October 30, 2023

Phillip Courtney
Martin Marietta Materials, Inc.
1627 Cole Blvd.
Suite 200
Lakewood, CO 80401

**Re: Martin Marietta Materials, Inc., Rich Pit, Permit M-1985-218,
Consent Agenda Summary Form**

Mr. Courtney:

A possible violation hearing is scheduled for consideration by the Mined Land Reclamation Board (Board). As indicated in the Division's correspondence dated September 11, 2023, Re: Reason to Believe a Violation Exists and Notice of Enforcement Hearing, the formal Board hearing was scheduled to occur during the October 18-19, 2023 meeting. Per your request, the hearing was continued to November 15, 2023.

Please find enclosed the Staff Summary Form for Consent Agenda Items (consent form) for the possible violation at the site. If you concede to the violation, corrective actions and civil penalties, please affix your notarized signature on the enclosed consent form and return the signed form, with original signatures, to the Division no later than November 10, 2023. Upon receipt of the signed and notarized consent form the item will be moved from the Board's agenda for enforcement hearings to consent items and there will not be a formal Board hearing regarding the possible violation.

However, if you wish to contest the possible violation or any of the conditions of the enclosed consent form, please inform the Division at your earliest convenience and do not sign the consent form. In the absence of a signed and notarized consent form, the formal Board hearing will proceed as scheduled for November 15-16, 2023.

If you have any questions, please contact me at amber.gibson@state.co.us or (720) 836-0967.

Sincerely,

Amber M. Gibson
Environmental Protection Specialist



Enclosure - Staff Summary Form for the Consent Agenda Items

Ec: Jared Ebert; Division of Reclamation, Mining & Safety
Russ Means; Division of Reclamation, Mining & Safety
Scott Schultz; Attorney General's Office



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

STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS

Date	October 30, 2023	Applicant	Martin Marietta Materials, Inc.
File No.	M-1985-218	Site Name	Rich Pit
Specialist	Amber Michels Gibson	Objecting Party	N/A
County	Pueblo	Permit Type	112c

Action:

Possible violation of:

- C.R.S. 34-32.5-124 for failure to comply with the conditions of an order, permit, or regulation.

Resolution:

Martin Marietta Materials, Inc. concedes a violation of C.R.S. § 34-32.5-124 for failure to comply with the conditions of an order, permit, or regulation, Corrective Actions, and Civil Penalties, provided herein, for the Rich Pit site, File No. M-1985-218.

Chronology:

July 13, 2023 – DRMS conducted a routine monitoring inspection and found the Operator was mining within an area that does not have approved mining or reclamation plans.

September 11, 2023 – DRMS sent an inspection report and updated reclamation cost estimate to Operator.

September 11, 2023 – DRMS sent Operator a Reason to Believe a Violation Exists and Notice of Board Hearing letter.

September 25, 2023 – Operator requests a continuance to the November 2023 MLRB Hearing.

September 26, 2023 – DRMS grants the Operator’s continuance request.

Reason for Violation:

The Operator has excavated a 29 acre pit in an area that was not approved to be excavated in accordance with the approved mining plan. Additionally, the reclamation plan does not account for an excavated pit in this affected area. Grants, Conditions and Agreements #1 of Permit M-1985-218, indicates the Operator will be bound by all applicable requirements of the Act, and all applicable rules and regulations of the Board, as amended from time to time, the terms of the permit application, the terms of the performance warranty, and the terms of the financial warranty files with the Division. The Operator has failed to comply with this condition by not abiding by the terms of the permit application. Therefore, the Operator failed to comply with the conditions of an order, permit, or regulation.



STAFF RECOMMENDATION

Board Actions:

Find a violation of:

- C.R.S. 34-32.5-124 for failure to comply with the conditions of an order, permit, or regulation.

Issue a Cease and Desist Order:

- Issue a Cease and Desist Order pursuant to C.R.S. 34-32.5-124(2), prohibiting any further activities in the new pit area, except those activities approved by the Division, in writing, as necessary to comply with the conditions of a Board Order, prevent damage to off-site areas, complete reclamation, or to protect public health and safety, until the corrective actions have been resolved to the satisfaction of the Division.

Corrective Action(s):

- The Operator must submit a Technical Revision or Amendment application to update the approved mining and reclamation plans and maps as well as the hydrologic evaluation for the site to address the newly excavated pit area. The Operator shall submit the Technical Revision or Amendment application within 90 days of the effective date of the Board Order, with all materials in an approvable form within statutory deadlines.

Civil Penalty:

Pursuant to C.R.S. § 34-32.5-124(7) an operator who violates any provision of a permit shall be subject to a civil penalty of not less than \$100 per day nor more than \$1,000 per day for each day during which a violation occurs. In this matter, the Board may assess a civil penalty of \$3,700 to \$37,000 for 37 days of violation. The 37 days of violation were calculated from the date of the Reason To Believe and Notice of MLRB Hearing (RTB) letter dated September 11, 2023 to the Board meeting originally scheduled for October 18, 2023.

- In this matter the Division will assess a civil penalty of **\$18,500** based on 37 days of violation at \$500 per day. The Board will suspend a portion of the assessed civil penalty with the exception of **\$2,500**, if the corrective actions cited above are completed to the satisfaction of the Division within the required deadlines.
- The unsuspended portion of the civil penalty, **\$2,500**, is due within 30 days of the effective date of the Board's Order finding the violation which will be sent under a separate cover. Failure of the Operator to comply by the Board Order due date shall result in the suspended portions of the civil penalty, **\$16,000** becoming effective and due.

Operator's Notarized Signature:

As an authorized representative of the Applicant, I hereby attest that the Operator concedes to the above described violation and agrees to comply with the Corrective Action and Civil Penalty proposed in this STAFF SUMMARY FORM FOR CONSENT AGENDA ITEMS.

Signed and dated this _____ day of _____, 2022.

(Applicant)

Signature: _____

Title: _____

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2022,

by _____ as _____ of _____.

Notary Public

My Commission Expires: _____

SIGNATURES MUST BE IN BLUE INK