




COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY
MINERALS PROGRAM INSPECTION REPORT
PHONE: (303) 866-3567

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: Toltec Tunnel	MINE/PROSPECTING ID#: M-1984-039	MINERAL: Ag, Au, Cu, Zn, Pb	COUNTY: San Juan
INSPECTION TYPE: Monitoring	INSPECTOR(S): Wallace H. Erickson	INSP. DATE: Sept. 24, 2013	INSP. TIME: 15:00
OPERATOR: Wilbur F. Benham	OPERATOR REPRESENTATIVE: Keith McFarland	TYPE OF OPERATION: 110(2) - Hard Rock Limited Impact	
REASON FOR INSPECTION: Other Agency Request (ATF & MSHA)	BOND CALCULATION TYPE: None at Toltec Tunnel	BOND AMOUNT: None at Toltec Tunnel	
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: Citizen, ATF, and MSHA	JOINT INSP. AGENCY: None	
WEATHER: Clear	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: November 5, 2013	

GENERAL INSPECTION TOPICS

This list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each. No problems or possible violations were noted during the inspection. The mine operation was found to be in full compliance with Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials and/or for Hard Rock, Metal and Designated Mining Operations. Any person engaged in any mining operation shall notify the office of any failure or imminent failure, as soon as reasonably practicable after such person has knowledge of such condition or of any impoundment, embankment, or slope that poses a reasonable potential for danger to any persons or property or to the environment; or any environmental protection facility designed to contain or control chemicals or waste which are acid or toxic-forming, as identified in the permit.

(AR) RECORDS-----	NA	(FN) FINANCIAL WARRANTY-----	NA	(RD) ROADS-----	NA
(HB) HYDROLOGIC BALANCE-----	NA	(BG) BACKFILL & GRADING-----	NA	(EX) EXPLOSIVES-----	Y
(PW) PROCESSING WASTE/TAILING-----	NA	(SF) PROCESSING FACILITIES-----	NA	(TS) TOPSOIL-----	NA
(MP) GENL MINE PLAN COMPLIANCE-----	NA	(FW) FISH & WILDLIFE-----	NA	(RV) REVEGETATION-----	NA
(SM) SIGNS AND MARKERS-----	NA	(SP) STORM WATER MGT PLAN-----	NA	(SB) COMPLETE INSP-----	NA
(ES) OVERBURDEN/DEV. WASTE-----	NA	(SC) EROSION/SEDIMENTATION-----	NA	(RS) RECL PLAN/COMP-----	NA
(AT) ACID OR TOXIC MATERIALS-----	NA	(OD) OFF-SITE DAMAGE-----	NA	(ST) STIPULATIONS-----	NA

Y = Inspected and found in compliance / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

OBSERVATIONS

This inspection was conducted by the Division of Reclamation, Mining and Safety (DRMS) as follow-up to a previous inspection occurring September 25, 2012, in response to a referral from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), addressed to the Mine Safety and Health Administration (MSHA), referral number 2012-0072, dated September 12, 2012. This report is accompanied by copy of the ATF referral, eight photographs taken during the inspection, and an email transmission received from Keith McFarland on October 18, 2013.

The intent of the inspection was to verify the security and content of two magazines located within the Toltec Tunnel. The Toltec Tunnel is a historic and inactive mine, abandoned prior to the Colorado Mined Land Reclamation Act, and not addressed under a DRMS permit. The Toltec Tunnel is located on the Hobo claim, owned and controlled by Keith McFarland. Mr. McFarland accompanied the DRMS inspector and opened the locked magazines for inspection.

Vehicular access to the site is controlled by pipe and cable barrier across the access road. The cable was locked. The barrier appeared intact and well maintained. The portal was open and not safeguarded against unauthorized entry. As shown in photo 1, an explosives magazine was located approximately 10 feet inside the portal. The magazine was set on a wood pallet and was not in direct contact with mine drainage. As shown in photo 2, the magazine was empty. A second magazine was located approximately 30 feet inside the portal, was set on a wood pallet and was not in direct contact with mine drainage, and was also empty (photos 3 and 4). During the inspection Mr. McFarland discussed a steel grate closure he intended to install at the portal to safeguard against unauthorized entry.

On October 18, 2013, DRMS received four photos from Mr. McFarland showing the portal closure he had installed at the Toltec Tunnel (see photos 5 through 8). Mr. McFarland indicated the closure had been secured by welding the framing members to the railroad rails and by rebar extensions which penetrated into the surrounding rock face. The temporary door had been secured with two locks and will be replaced with a permanent door as soon as such is available from the fabricator.

Response to this inspection report should be addressed to Wally Erickson at the Division's office in Durango at 691 County Road 233, Suite A-2, Durango, Colorado 81301, phone (970) 247-5469.

Inspection Contact Address

Wilbur F. Benham
1012 Kennedy Drive, Apt. A
Norton, KS 67654

Enclosures: ATF referral 2012-007, eight photos, and email from Keith McFarland, dated October 18, 2013

cc w/enclosures: Rebecca Solis, ATF
Melvin Lapin, MSHA
Keith McFarland, K & C Traders

ec w/enclosures: Rebecca Solis, ATF
Melvin Lapin, MSHA
Keith McFarland
Bill York-Feirn, DRMS Denver
Bruce Stover, DRMS Denver
Russ Means, DRMS GJFO

Referral of Information

PART I - REFERRAL

1. TO: (Title, agency and address) Richard LAUFENBERG District Manager MSHA Rocky Mountain District P.O. Box 25367, DFC Denver, CO 802250367	REFERRAL NO. (Optional) 2012-0072
	2a. DATE 09/12/2012
	2b. UI 788020-2012-0438

The following information and attachment (Check applicable box) ☐ are sent to you as requested, ☒ are referred to you for consideration as potential criminal or civil violations coming under your jurisdiction.

COMPLETE FOR REFERRALS OR REQUESTS OUTSIDE ATF - This Referral (Check applicable box) ☐ DOES ☒ DOES NOT contain confidential returns or return information under 26 U.S.C. 6103.

COMPLETE IF APPLICABLE: This is a confirmation of a referral made (Check applicable box) ☐ by telephone ☐ in person on

3. NAME(S) OF PRINCIPALS INVOLVED IN POSSIBLE VIOLATION

Toltec Mining
Wilbur F. Benham

4. STATUTE(S) POSSIBLY VIOLATED

5. FEDERAL LICENSES AND/OR PERMITS HELD (Type and number)

5-CO-33-00661 user of high explosives

6. ATF OFFICER UNCOVERING POTENTIAL VIOLATION

Wadene DUFFY

7. POST OF DUTY

Denver III Field Office

8. SUMMARY OF SIGNIFICANT FACTS AND/OR EXPLANATION OR DESCRIPTION OF ATTACHMENT (Continue on a separate sheet, if necessary.)

Wilbur F. BENHAM, owner of TOLTEC MINING, County Rd 99, Silverton, CO 81433, has two explosives magazines which are stored underground in the Toltec Tunnel. According to Mr. BENHAM, there are no explosives in the magazines at this time, nor has there been any inventory in several years.

The mine site is located approximately 7.5 miles west of Silverton, CO and is only operated from July through October, weather permitting. There is no restricted access to the tunnel or the magazines.

Referrals to MSHA to inspect the magazines have been sent by ATF in October 2009, March 2007 and August 2006; however, there are no records in the ATF Area Office file verifying that any inspections have been conducted by MSHA.

Wilbur BENHAM resides in Norton, KS, has health issues, and states it is too difficult for him to travel to the mine site in Silverton, CO. BENHAM can be reached at (785) 874-8080. Jimmie LOKEY, a friend of Wilbur BENHAM and a resident in Silverton, CO, has keys and can access the Toltec, Toltec 1, Toltec 2 and Toltec tunnel. LOKEY owns Toltec 3. LOKEY can be reached at (970) 387-5512.

Photos and map information are attached to this referral.

9. ATF OFFICIAL APPROVING REFERRAL (Signature)

Rebecca SOLIS

Digitally signed by Rebecca Solis
DN: cn=Rebecca Solis, o=Denver Field Division,
ou=Denver III, email=Rebecca.Solis@atf.gov, c=US
Date: 2012.09.15 18:10:59 -0600

10. TITLE AND ADDRESS

Area Supervisor
Suite 1800
950 17th Street
Denver, CO 80202

11. TELEPHONE NO.

(303) 575-7648

PART II - RESPONSE (See Instruction 4.)

1. THE REFERRAL ABOVE IS ☐ ACCEPTED ☐ REJECTED (Explain below) ☐ OTHER (Explain below)

2. DATE

3. ACTION PLANNED OR TAKEN AND COMMENTS (Continue on a separate sheet, if necessary.)

4. SIGNATURE

5. TITLE OF OFFICIAL

6. ADDRESS

7. TELEPHONE NO.

COMPLETE FOR REFERRALS WITHIN ATF: THIS RESPONSE IS ☐ INTERIM ☐ FINAL



STATE OF
COLORADO

Erickson - DNR, Wally <wally.erickson@state.co.us>

TOLTEC TUNNEL

1 message

Keith McFarland <keithncon@hotmail.com>

Fri, Oct 18, 2013 at 12:52 PM

To: "wally.erickson@state.co.us" <wally.erickson@state.co.us>

Hi Wally her are some pictures of the gate I installed on the Toltec Tunnel. Hope it will help with the Will Benham issue. Let me know if there is anything else I can do to help.

Thanks for your help, Keith McFarland.

4 attachments



Toltec Tunnel Gate 001.JPG

5606K



Toltec Tunnel Gate 002.JPG

5062K



Toltec Tunnel Gate 003.JPG

5309K

11/5/13

State.co.us Executive Branch Mail - TOLTEC TUNNEL



Toltec Tunnel Gate 004.JPG

6631K

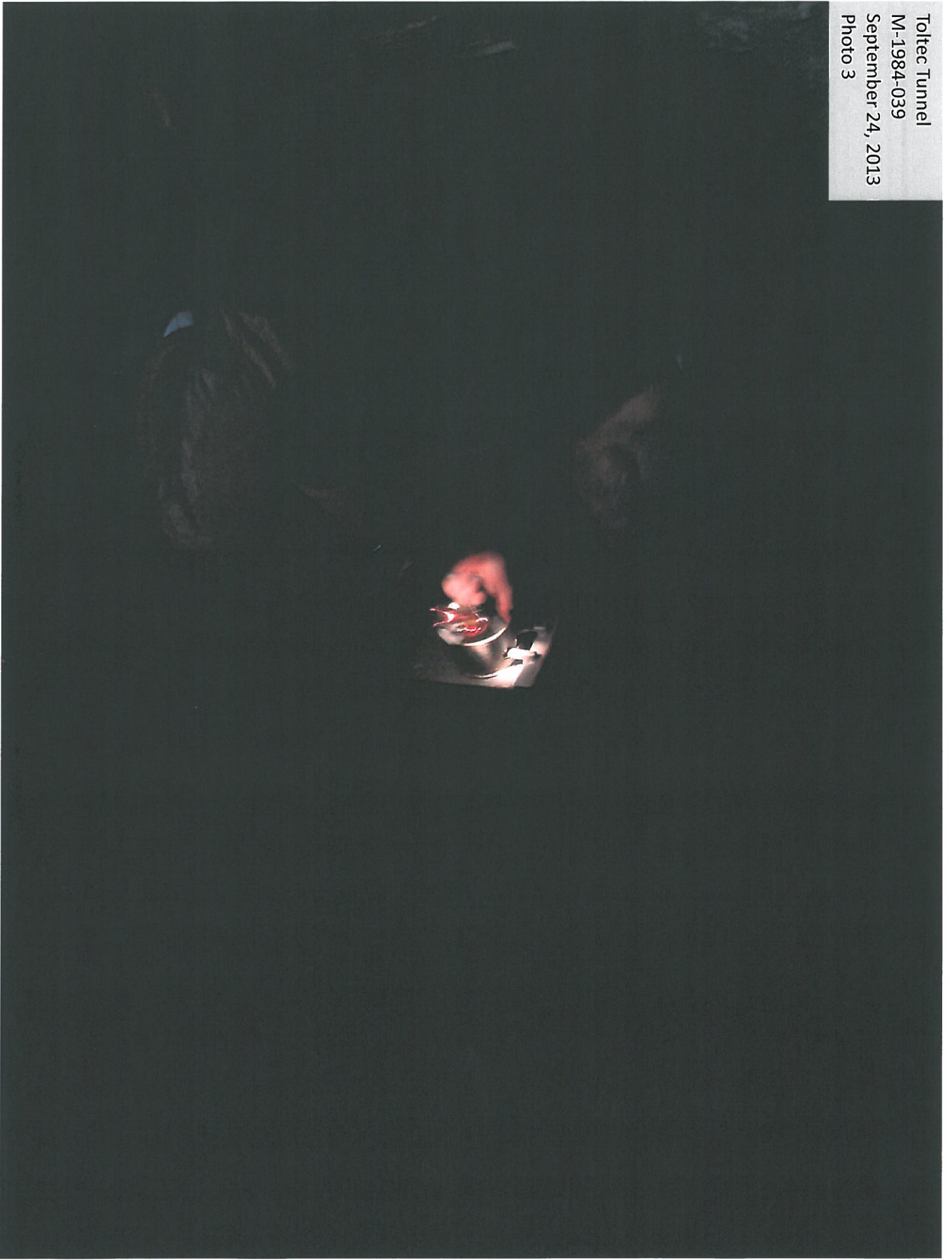
Toltec Tunnel
M-1984-039
September 24, 2013
Photo 1



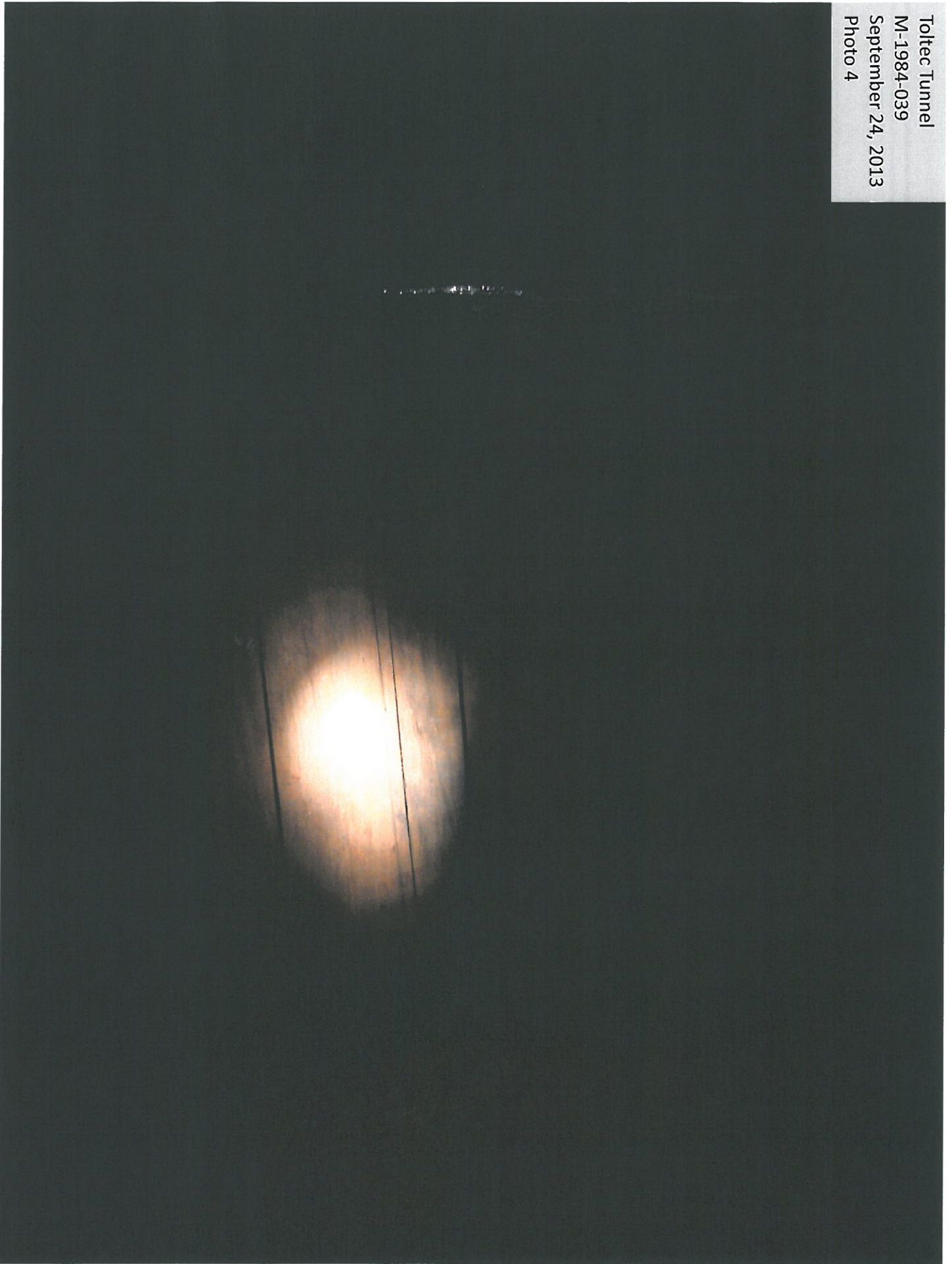
Toltec Tunnel
M-1984-039
September 24, 2013
Photo 2



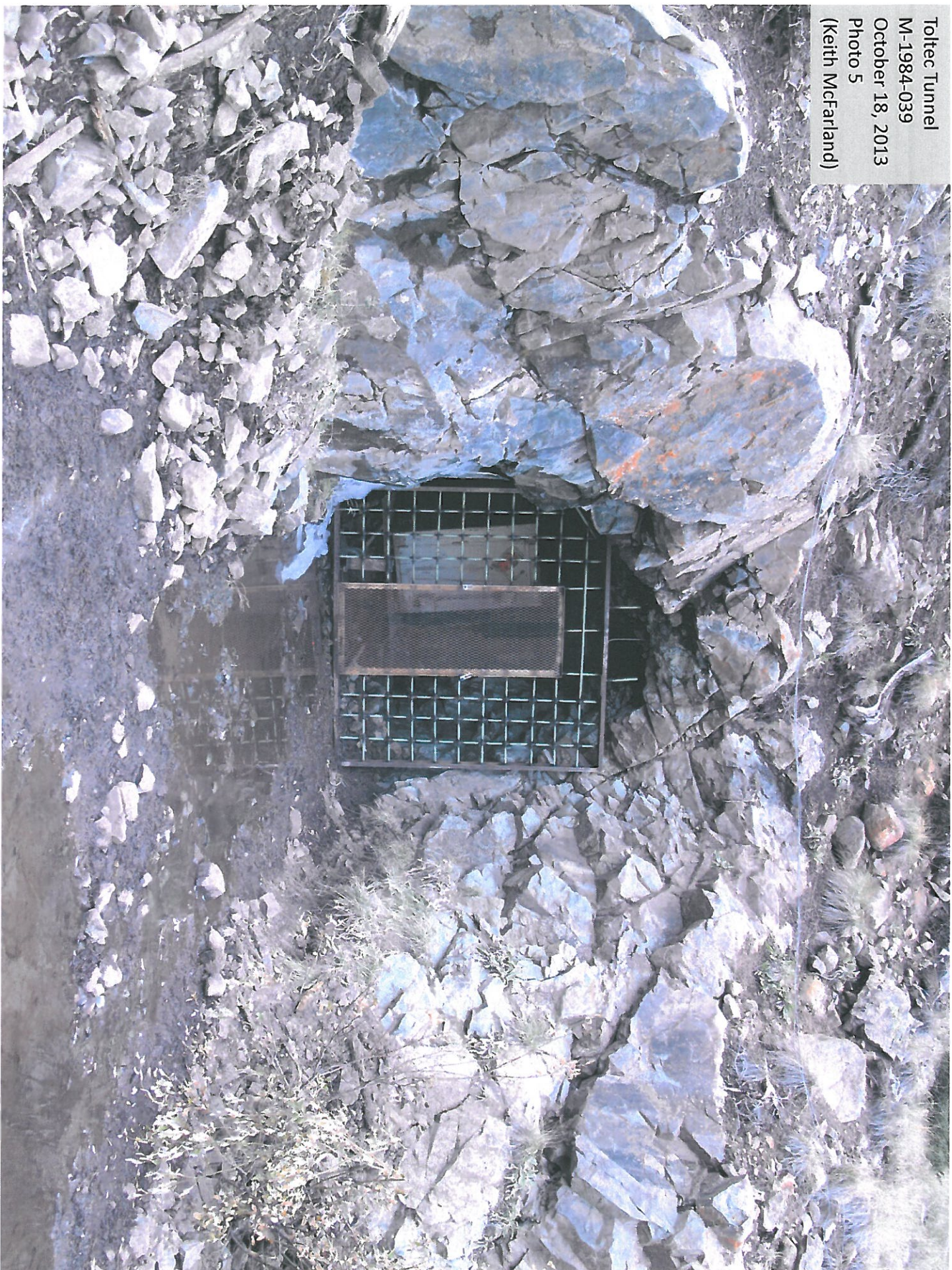
Toltec Tunnel
M-1984-039
September 24, 2013
Photo 3



Toltec Tunnel
M-1984-039
September 24, 2013
Photo 4



Toltec Tunnel
M-1984-039
October 18, 2013
Photo 5
(Keith McFarland)



Toltec Tunnel
M-1984-039
October 18, 2013
Photo 6
(Keith McFarland)



Toltec Tunnel
M-1984-039
October 18, 2013
Photo 7
(Keith McFarland)



Toltec Tunnel
M-1984-039
October 18, 2013
Photo 8
(Keith McFarland)

