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Colorado Mined Land Reclamation Board
1313 Sherman Street
Room 215
Denver, CO 80203

Via Email, US Mail and hand delivery

August 11, 2017

Re: Bates Hunter Mine and Golden Gilpin Mill, DRMS File No. M-1990-041
Appeal of Denial of Application for Technical Revision TR-03.

Dear Members of the Board:

This firm represents Central City Consolidated Mining ("CCCM"), the holder of the above-referenced permit. CCCM appeals the July 11, 2017 denial of the application for TR-03.

The site is located in Central City, in Gilpin County, Colorado. For the reasons outlined below, CCCM asserts that TR-03 should be approved according to the terms set forth by the Division of Reclamation, Mining and Safety ("DRMS").

On January 27, 2107, CCCM submitted an application for a Technical Revision to Permit Number M-1990-041, seeking a determination that the mill building on the Golden Gilpin portion of the permit area may be retained post-mining, and a recalculation of the bond increase of \$144,721 that DRMS had imposed, based on that post-mining use. .

The DRMS had advised CCCM on November 22, 2016 that the mill building on the Golden Gilpin site could remain post-mining only if they are shown to be in compliance with local zoning ordinances, and is shown to have been designated as an historic structure. (See letter of November 22, 2016, attached for convenient reference).

CCCM filed its application for Technical Revision TR-03 on January 27, 2017, seeking to remove the mill buildings from the requirement. The parties agreed to a 120 day extension of time in which DRMS could consider the application. CCCM submitted additional supporting documentation on the TR-03 application on June 21, 2017. That included documentation from the Central City – Black Hawk Historic Preservation District showing the boundaries of the district and that those boundaries included the Golden Gilpin Mill. The submittal also asserted that the City of Black Hawk had stated that the buildings may be considered an historic

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DIVISION OF RECLAMATION,
MINING AND SAFETY

nonconforming use following completion of a Special Use Review process, and that they more than likely would qualify for local landmark designation after the application process is completed. (See May 10, 2017 email from Julie Esterl, attached for convenient reference). The DRMS denied the application for TR-03 in a letter dated July 11, 2017. CCCM appeals this denial on the following grounds.

1. The requirement to demonstrate that the buildings must be shown to have been designated historic by the State Historic Preservation Office, and in conformance with the City of Black Hawk zoning code, is without foundation in the record of the permit and the Rules.

The original application for this permit stated that the post mining land use would retain the existing buildings.

There is no general rule requirement that buildings be demolished as part of final reclamations. The DRMS Hard Rock/Metal Mining Rules state at 3.1.11: "...any buildings or structures including those constructed or placed on the affected lands in conjunction with the mining operations *or* which are historic structures...may remain on the affected land after reclamation at the option of Operator and Landowner if such buildings will not conflict with the post-mining land use, and with the approval of the Board."

The Board approved the initial permit, which stated the buildings would remain post-mining. The operator and landowner have never requested that demolition be required as part of the reclamation plan. As a result, there is no requirement that these buildings be demolished as part of final reclamation. Including the cost of demolition in the recalculation of the Financial Warranty was error on the part of the DRMS.

2. The DRMS was required to have decided the Application for TR-03 by no later than June 26, 2017. That was the date noted by DRMS in its approval of a 120 day extension of the decision date. DRMS dated its decision letter July 11, 2017. It was without authority to deny that application according to the Hard Rock/Metal Mining Rules 1.9.1, according to which an application is automatically considered approved within 30 days (or such later deadline as extended) unless the application is denied. CCCM's application for TR-03 was automatically approved on June 26, 2017 by operation of the Rule.
3. Finally, it should be noted that the TR -03 was a request to affirm (or restore) the status quo post-mining land use, to the extent that the landowner and operator had always intended that the buildings remain on site post-mining. The DRMS's unilateral decision that they should be demolished was used to justify setting a new Financial Warranty at nearly \$150,000. Approximately \$108,000 of this amount is specified for demolition. The permittee believes that this is unjustified, and asks that the Board affirm that the mill buildings may remain on site as part of the post mining land use.

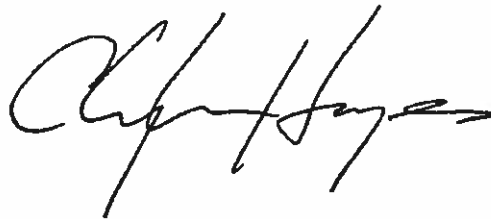
4. CCCM is willing to revise the Financial Warranty upward, provided that the cost of demolition shall not be part of the basis of the calculation.

CCCM requests a hearing before the Board on this appeal.

An original and twelve copies of this letter have been provided to the Board.

With this letter CCCM also advises the Board that it is requesting a hearing on this matter, as provided in DRMS Regulation.

Very truly yours,
Christopher Hayes

A handwritten signature in black ink, appearing to read "Christopher Hayes". The signature is fluid and cursive, with the first name "Chris" and last name "Hayes" clearly distinguishable.

The Hayes Law Firm LLC
Attorney for CCCM

Cc: George Otten
Jeff Fugate



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

November 22, 2016

George Otten
Central City Consolidated Mining
11438 Weld County Road 19
Fort Lupton, CO 80621

RE: Bates-Hunter Mine; DRMS File M-1990-041; Enforcement Hearing Summary

Dear Mr. Otten,

This letter is being sent to you to follow up on our telephone conversation on November 21, 2016 regarding the Enforcement Hearing for the Bates-Hunter Mine. On November 16, 2016, the Mined Land Reclamation Board (Board) found Central City Consolidated Mining in violation pursuant to C.R.S. 34-32-117(4)(c)(II) and Rule 4.2.1(2) for failure to post additional financial warranty within 60 days of the date of notice of adjustment. A copy of the signed Board Order will be mailed to you and will outline the details of the civil penalty, Cease and Desist Order, and corrective actions associated with the above described violation.

During our telephone conversation, you informed the Division of a potential sale of the Bates-Hunter Mine. The 110(2) Reclamation Permit for the Bates-Hunter Mine may be transferred at any time during the life of the mine, even if there are outstanding corrective actions. The Successor Operator would assume liability for reclamation of the affected lands, including posting of an adequate financial warranty to complete reclamation activities. In order to bring the site into compliance, either Central City Consolidated Mining or a Successor Operator needs to post a financial warranty in the amount of \$144,721.00. As noted during the November 16, 2016 Board Hearing, you may submit a Technical Revision to demonstrate the mill building is in conformance with local zoning ordinances and to demonstrate the mill building has been designated as a historic structure by the State Historic Preservation Office. Upon demonstration that the mill building can remain after the life of the mine, the Division will reevaluate the financial warranty estimate. In absence of a Technical Revision, the full financial warranty increase of \$144,721.00 will remain due and payable.

If you have any questions, please contact me at (303)866-3567 x8116.

Sincerely,

Michael A. Cunningham
Environmental Protection Specialist



Exhibit K

mcollins@blackfoxmining.com

From: Julie Esterl <julie.esterl@baselinecorp.com>
Sent: Wednesday, May 10, 2017 2:20 PM
To: Vince Harris; 'mcollins@blackfoxmining.com'
Cc: 'Cynthia Linker'; Ethan Watel; 'Janice Beecher'; gotten7386@aol.com; Sara Lang
Subject: RE: Bates-Hunter Mine, Golden Gilpin Mill
Attachments: Local Landmark Designation Application.pdf

Matt,

Thank you for your email and the Land Improvement Survey. The City of Black Hawk is not in a position to grant a Special Use Permit or variance to building setbacks, but is not opposed to the buildings remaining. In addition, City Staff is likely to recommend approval for designating the property as a Local Historic Landmark.

Deon Wolfenbarger, Historic consultant to the City of Black Hawk, has indicated that the Otten property is eligible for local historic landmark designation which would make the owner eligible for state historic tax credits for rehabilitation, but the property owner would need to get listed on the National Register of Historic Places for federal tax credits.

The Procedure for local designation is as follows:

- Submit application to City Manager
- Application is referred to the Historic Preservation Commission (HPC)
- Review and recommendation by HPC to the City Council
- City Council review / Public hearing:
 - o Notices sent to property owners
 - o Signs posted indicating the time, date and place of public hearing
 - o Legal notice placed in the newspaper
 - o Written notice sent to the Building Official
- Council action within 30 days of hearing via Ordinance
- Recording of the Ordinance
- Letters of notification sent to property owners

The City of Black Hawk Municipal Code outlines the process in detail and is located on line – Chapter 16, Article XIX, Sections 16-421 through 16-432. <http://municipalcode.cityofblackhawk.org/>

As you can see, the process will take weeks to months, so it is unlikely that the designation can happen prior to your June 22nd deadline. Perhaps the State would be satisfied if you are in the process. I'm attaching the application for local designation. Please let us know if you would like to pursue that route and we can let you know an estimate of fees and timing for the process.

Thank you,

JULIE ESTERL | Planning Technician | Baseline Engineering, Planning, & Surveying | Corporate
Headquarters: 1950 Ford Street | Golden, CO 80401 | Phone: 303.202.5010 ext. 222 | Fax: 303.940.9959 | Cell:
608.215.9300 | www.baselinecorp.com

From: Vince Harris
Sent: Sunday, April 30, 2017 11:12 PM
To: 'mcollins@blackfoxmining.com'

Cc: 'Cynthia Linker'; Ethan Watel; 'Janice Beecher'; Julie Esterl; gotten7386@aol.com; Sara Lang
Subject: RE: Bates-Hunter Mine, Golden Gilpin Mill

Hello Matt. We did receive your email. We are checking further into this issue and will be getting back to you this week. Thanks for sending and we will be back in touch.

Best regards,

VINCENT HARRIS, AICP | Planning Director | Baseline Engineering, Planning, & Surveying | Corporate Headquarters: 1950 Ford Street | Golden, CO 80401 | Phone: 303.202.5010 x217 | Fax: 303.940.9959 | Cell: 303.912.1900 | www.baselinecorp.com

From: mcollins@blackfoxmining.com [<mailto:mcollins@blackfoxmining.com>]
Sent: Tuesday, April 25, 2017 11:13 AM
To: Vince Harris
Cc: 'Cynthia Linker'; Ethan Watel; 'Janice Beecher'; Julie Esterl; gotten7386@aol.com
Subject: RE: Bates-Hunter Mine, Golden Gilpin Mill

Hello, Vince (et al) – We have recently completed an Improvement Location Survey (certificate attached) for Mr. Otten's millsites in the City of Black Hawk and are ready to discuss the next steps with you.

I should point out that our goal is not to put the City of Black Hawk or Baseline Engineering on the spot regarding the compliance of the parcels, nor request any particular use at this time. What we are trying to accomplish is to prevent the State of Colorado Division of Reclamation, Mining and Safety ("DRMS") from requiring the destruction of the Golden Gilpin mill on Mr. Otten's property. As you are surely aware, the "City of Mills" has precious few historic mills left. The Golden Gilpin stands as the likely best intact example of an historic mill building remaining. The building, along with the equipment inside, is an excellent example of what conventional milling looked like shortly after the advent of rotary grinding (latter part of the 19th century). Indeed, Mr. Otten's properties have been operating millsites since the mid-1800's. Currently, the DRMS is requiring Mr. Otten to provide a \$150,000 bond to ensure the removal of the building and equipment upon the termination of his reclamation permit. This, despite Mr. Otten's clear intent and existing permit for these to remain. It would be a shame to see this facility lost to time, as it would make an excellent candidate site for educational tourism.

At this stage, the DRMS is requiring Mr. Otten to demonstrate that the building (as is sits) is not in violation of any City of Blackhawk zoning regulations, etc. and that it's continued existence is provided for in the City's land use and planning. Mr. Otten would like the mill to remain to be used for education and become an asset for the City upon its final retirement, whenever that may be possible. Our current deadline for compliance is the 22nd of June, 2017.

We would welcome a meeting or other communication with you to discuss what can be accomplished and what actions we need to take to allow for this to happen.

Please let me know your thoughts at your earliest convenience.

Best regards,

Matt Collins, P.E., Q.P.
General Manager

Black Fox Mining LLC
1508 Ridge Rd.
Nederland, CO 80466
(303)570-6269
www.blackfoxmining.com

LinkedIn public profile: <http://www.linkedin.com/pub/matt-collins/10/8ba/5b/>

Need to send me a large file? Please use this URL: <https://www.hightail.com/u/MattCollins>

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From: Vince Harris (<mailto:vince@baselinecorp.com>)

Sent: Monday, February 20, 2017 9:15 AM

To: 'mcollins@blackfoxmining.com' <mcollins@blackfoxmining.com>

Cc: 'Cynthia Linker' <CLinker@cityofblackhawk.org>; Ethan Watel <ethan@baselinecorp.com>; Janice Beecher (jbeecher@cityofblackhawk.org) <jbeecher@cityofblackhawk.org>; Julie Esterl <julie.esterl@baselinecorp.com>

Subject: RE: Bates-Hunter Mine, Golden Gilpin Mill

Importance: High

Good morning Matt. To quicken up a response to you I am simply putting information in this email response.

We can definitely provide you another letter, but we cannot at this time or even possibly later have the letter say "It is in conformance with the local Zoning Ordinances". So, another letter today will simply state it is not know yet if it complies with the local zoning regulations. We don't even know where the property lines are in relationship to the property improvements on the parcel. Until an Improvement Location Survey (ILS) is prepared that shows the improvements and the property lines etc, and we can review that survey against the Zoning regulations attributed to the Environmental Character Preservation (ECP) Zone District standards we can't provide any type of letter addressing the issue(s). If by chance all the buildings do comply with the ECP Zoning standard's we can state it meets Zoning District standards (however - I am doubting that it will comply with all the Zoning Standard's), and the use is still subject to a Special Review Use (SRU) Permit. Once that (SRU) application is submitted, it goes thru the regular review process and the Board of Aldermen are the decision makers on an approval or denial of a SRU application. This SRU explanation is in the letter we sent to you on February 10 (attached again for your reference). Those explanations are in the letter at the end of page 2 and on page 3. There are 3 bulleted items with the explanations.

I recognize that this answer is not your preferred answer, but we simply can't just write a conformance letter (or lack of conformance letter) until we know where property lines are and improvements are on the property. I am more than happy to further discuss this with you and please contact me if you have more questions.

Thanks Matt.

Best regards,

VINCENT HARRIS, AICP | Planning Director, Golden | Baseline Engineering, Planning, & Surveying |
Corporate Headquarters: 1950 Ford Street | Golden, CO 80401 | Phone: 303.202.5010 x217 | Fax: 303.940.9959 | Cell:
303.912.1900 | www.baselinecorp.com

From: Julie Esterl

Sent: Friday, February 17, 2017 10:24 AM

To: Vince Harris