

UPDATED: 7/31/2018



COLORADO

**Division of Reclamation,
Mining and Safety**

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

July 31, 2018

Cripple Creek & Victor Gold Mining Co.

Attn: Mr. Mike Schaffner

100 North Third Street

Victor, CO 80860

Re: Findings of Fact, Conclusions of Law, and Order, Cripple Creek & Victor Gold Mining Co.

File No. M-1980-244, MV-2018-011

On July 30, 2018 the Mined Land Reclamation Board signed the enclosed Board Order for the above captioned operation. We strongly advise that you read this document carefully since it may contain deadlines for corrective actions, civil penalties, cease and desist orders or other actions that may require your immediate attention to avoid future board actions.

Sincerely,

Camille Mojar
Board Secretary

Enclosure(s)

Certified Mail

7017 2400 0000 9205 7455

cc:

Elliott Russell

Michael Cunningham

Jeff Fugate

Scott Schultz

Charles Kooyman



**BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO**

Notice of Violation No. MV-2018-011

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

IN THE MATTER OF A POSSIBLE VIOLATION BY CRIPPLE CREEK & VICTOR GOLD MINING COMPANY, CORRECTIVE ACTIONS, CEASE AND DESIST ORDER, AND CIVIL PENALTIES FOR FAILURE TO NOTIFY OF SLOPE AND ENVIRONMENTAL PROTECTION FACILITY FAILURE AND FOR FAILURE TO COMPLY WITH A CONDITION OF ITS PERMIT, FILE NUMBER M-1980-244

THIS MATTER came before the Mined Land Reclamation Board ("Board") on May 16, 2018, in Denver, Colorado as a consent agenda item to consider a possible violation by Cripple Creek & Victor Gold Mining Company ("Operator"), cease and desist order, corrective action, and a civil penalty for failure to notify the Division of slope and Environmental Protection Facility failure and for failure to comply with a permit condition, file number M-1980-244.

The Board, having considered the materials presented with this consent agenda item and being otherwise fully informed of the facts in the matter, enters the following:

FINDINGS OF FACT

1. The Operator holds a 112d-3 permit for a gold mining operation located in Section 30, Township 15 South, Range 69 West, 6th Principal Meridian in Teller County, Colorado, permit number M-1980-244. Located southeast of Cripple Creek, Colorado and north of Victor, Colorado, the site is known as the Cresson Project. The Cresson Project is a designated mining operation.

2. On February 27, 2018, the Division conducted an inspection of the site. Justin Bills and Clara Steward, representing the Operator, attended the inspection. During the inspection, the Division observed evidence that there had been a slope failure in the Environmental Protection Facility known as the Squaw Gulch Valley Leach Facility. Specifically, the Division observed equipment removing stacked ore and moving it to another location in the Squaw Gulch Valley Leach Facility, an activity not typically observed at the facility. The Division then enquired as to why ore was being removed. After discussing the matter with a representative of the Operator who was familiar with the activity, the Division learned that ore was being removed because there had been a slope failure and removal of the ore was necessary to check for possible damage to the geomembrane liner designed to

contain and control metallurgical processing fluids containing designated chemicals. Operator informed the Division that the slope failure had occurred when Operator dumped ore from the 9,850' lift down to the 9,650' lift. Lifts are permitted to be 100 feet high, but a portion of the 9,750' lift was not complete, so the dump of ore that caused the slide had been made from the higher, completed 9,850' lift instead. The slope failure occurred on December 16, 2017. Non-crushed ore (run-of-mine materials) was dumped 200 feet to an area of down-sloping ground and contacted the drain cover fill for the geomembrane liner.

3. The approved permit for the Cresson Project outlines the structure of lifts and the nature of ore that may be dumped in the Squaw Gulch Valley Leach Facility.

4. Amendment 10, Volume I, Exhibit U, Sections 7.2.3 and Amendment 10, Volume V, Appendix 9 of the permit specifically address the type of ore to be stacked and the sequence for loading procedures at the Squaw Gulch Valley Leach Facility. The Operator did not notify the Division that there had been a slope failure.

5. On March 15, 2018, the Division sent the Operator the February 27, 2018, inspection report (signed March 15, 2018) and a Reason to Believe a Violation Exists letter. The Division's letter provided notice regarding the alleged violations and information about the April 25, 2018, hearing.

6. On April 12, 2018, the Operator admitted the violation and agreed to the Division's recommendations to the Board.

CONCLUSIONS OF LAW

7. The Board has jurisdiction over this matter pursuant to the Colorado Mined Land Reclamation Act, Article 32 of Title 34, C.R.S. (2017).

8. The Cresson Project is a "Designated Mining Operation" as that term is defined by section 34-32-103(3.5), C.R.S.

9. The Operator is engaged in a "mining operation" as that term is defined in section 34-32-103(8), C.R.S.

10. The Squaw Gulch Valley Leach Facility at the Cresson Project is an "Environmental Protection Facility" pursuant to Rule 1.1(15) of the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations.

11. Section 34-32-121.5, C.R.S., provides that "[a]ny person engaged in a 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, but for in situ leach mining operations in no event more than twenty-four hours after the discovery of such failure or an imminent failure, of ... any impoundment, embankment, or slope that poses a reasonable potential for danger ... to the environment; ... or any environmental protection facility designed to contain or control chemicals or waste that are acid- or toxic-forming, as identified in the permit."

12. Pursuant to Rule 8.1(a), the Operator was required to notify the Division "as soon as reasonably practicable, but no later than twenty-four (24) hours after the Operator has knowledge of a failure or imminent failure of ... any impoundment, embankment, stockpile or slope that poses a reasonable potential for danger to human health, property or the environment."

13. Pursuant to Rule 8.1(b), the Operator was required to notify the Division "as soon as reasonably practicable, but no later than twenty-four (24) hours after the Operator has knowledge of a failure or imminent failure of ... any Environmental Protection Facility designed to contain or control designated chemicals or process solutions as identified in the permit."

14. The slope failure in the Squaw Gulch Valley Leach Facility constituted a failure of an impoundment, embankment or slope that posed a reasonable potential for danger to the environment pursuant to Rule 1.1(20).

15. The slope failure in the Squaw Gulch Valley Leach Facility resulted in an imminent failure of an Environmental Protection Facility pursuant to Rule 1.1(20).

16. By failing to notify the Division of the failure of the slope, the Operator violated section 34-32-121.5, C.R.S. and Rules 8.1(a) and 8.1(b).

17. The Operator failed to comply with condition of its permit, specifically Amendment 10, Volume I, Exhibit U, Sections 7.2.3 and Amendment 10, Volume V.

18. The Board may impose a civil penalty of not less than \$100 per day or more than \$1,000 per day for each day during which a violation of a mining operation permit. § 34-32-124(7), C.R.S. (2017). Here, the Board may impose a penalty based on 130 days of violation from the December 16, 2017 slope failure to the April 25, 2018 Board meeting, at \$100 to \$1,000 per day for a civil penalty of \$13,000 to \$130,000.

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board finds the Operator in violation of sections 34-32-121.5 and -124, C.R.S., and Rules 8.1(a) and 8.1(b) for failure to notify the Division of the failure of a slope and Environmental Protection Facility and for failure to comply with conditions of its permit.

The Operator shall CEASE AND DESIST any further leaching activities on the 9,850' lift at the Squaw Gulch Valley Leach Facility, Cresson Project, within 500 feet of the slope failure and possible damaged liner area until the Division reviews and approves the Environmental Protection Facility recertification.

The Board imposes against the Operator the following CORRECTIVE ACTIONS. The Operator shall:

1. recertify the Squaw Gulch Valley Leach Facility as an Environmental Protection Facility as soon as possible, not to exceed 180 days from the effective date of this order;
2. conduct daily inspections of the Squaw Gulch Valley Leach Facility's Leak Detection System and weekly samplings of the Squaw Gulch Valley Facility's Underdrain System until the Division reviews and approves the Environmental Protection Facility recertification. Results of the inspections and samplings shall be provided to the Division on a monthly basis; and
3. file a Technical Revision to clarify the operational procedures whereby ore is placed in the Squaw Gulch Valley Leach Facility. The Technical Revision shall include and consolidate all aspects of the ore placement. The Operator shall file the Technical Revision with the Division as soon as possible, not to exceed thirty days from the effective date of this order.

The Board imposes a CIVIL PENALTY for 130 days of violation at \$1,000 per day for a total civil penalty of \$130,000. All but \$32,500 of the penalty is suspended if the Operator complies with the corrective actions within the time specified. The portion of the civil penalty not suspended, \$32,500, shall be due and payable within thirty days of the effective date of this Order. If the Operator does not comply with the corrective actions set forth in this Order, the suspended civil penalty, \$97,500, will become due and payable. Failure to submit any due and unpaid civil penalties shall result in immediate submittal of such penalties to State collections.

DONE AND ORDERED this 30th day of July 2018.

**FOR THE COLORADO MINED LAND
RECLAMATION BOARD**



Forrest Luke, Acting Chair

NOTICE OF JUDICIAL REVIEW RIGHTS

This order becomes effective and final upon mailing. Any party adversely affected or aggrieved by agency action may commence an action for judicial review by filing a complaint with the district court within thirty-five (35) days after the effective date of this order, pursuant to section 24-4-106, C.R.S. (2015) and the Colorado Rules of Civil Procedure. In the event that a complaint for judicial review is filed, designations of record made in accordance with section 24-4-106(6), C.R.S. should be served on the Board at: 1313 Sherman Street, Room 215, Denver, CO 80203, Attention: Camie Mojar.

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, this 31st day of July 2018, addressed as follows:

By certified mail to:
7017 2400 0000 9205 7455

Cripple Creek & Victor Gold Mining Co.
Attn: Mr. Mike Schaffner
100 North Third Street
Victor, CO 80860

By electronic mail to:

Elliott Russell
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Camille Mojar, Board Administrator

Cripple Creek & Victor Gold Mining Company
Cresson Project/M-1980-244
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