



**COLORADO**

**Division of Reclamation,  
Mining and Safety**

Department of Natural Resources

1313 Sherman Street, Room 215  
Denver, CO 80203

April 9, 2019

Jess E. Minium  
Mt. St. Helen Mining and Recovery, L.P.  
205 Oak Street  
Kelso, Washington 98626

**Re: Denial of Request for Permission to take samples from Apache OU-7, Leadville, CO**

Dear Mr. Minium,

The Division of Reclamation, Mining and Safety (DRMS) is in receipt of your letter dated March 29, 2019. In your letter you raise several issues and ask for permission to take samples from the Apache OU-7 EPA CERCLA Site.

DRMS would like first to address the fact that there is no permit for this site now nor has one ever been one issued. The citation for C.R.S. 34-32-106 you reference regards the Duties of the Mined Land Reclamation Board and has no reference to a "Jurisdictional Permit". The Act, Rules and DRMS do not recognize or reference a "jurisdictional" permit. DRMS over several years has responded to inquiries about the possibility of activities at this specific site from several individuals. DRMS assigns reference numbers for proper tracking of correspondence. This site reference number is M2012028, it is not an approved permit. M2012028 is a public file that may be accessed through our public website. This is the link: <https://mining.state.co.us/Reports/Pages/ImagedDocumentData.aspx>

In order for any type of work to occur on this site DRMS made a determination that this site would require a Designated Mining Operation permit. This was based on the geo-chemical analysis submitted to DRMS at the time. Please see the attached determination letter dated September 12, 2013. No such permit was ever applied for or issued.

A major component for any permit issued by DRMS is a clear right of entry to do mining and exploration. Apache OU-7 EPA is part of a CERCLA clean up with jurisdictional issues involving the Environmental Protection Agency (EPA), Colorado Department of Public Health and Environment (CDPHE), along with the Town of Leadville. No documentation has ever been presented to DRMS that has stated any other jurisdictions have granted Mt. St. Helens Mining and Recovery or others permissions to proceed with any type of activities at this site. The Town of Leadville has specific deed covenants regarding this property that forbid activities on site without their explicit permission. See the attached City Ordinance 3, Series 2013. DRMS has serious reservations regarding the piercing of the geomembrane cap of a CERCLA cleanup cell, compromising further hydrological balance issues, and disturbing toxic and or acid generating materials at this site.



In closing, DRMS wants to be clear to you or any other parties associated with this property that there are no permits issued by this Agency. All activities shall have appropriate permits otherwise it is a violation of Colorado Law. **Any** activities in regard to mining or exploration (for which sampling falls under) without the required permits and permissions would be a violation of the law and DRMS will take legal action which could include, Civil penalties and a Cease and Desist Order enforced by the Courts. Activities may also violate EPA CERCLA laws, CDPHE hazardous waste and water laws, and Leadville Town Ordinances. Those entities may take their own appropriate legal actions as well if the site is disturbed. DRMS cannot consider nor issue any permit or Notice of Exploration unless there can be demonstrated that the person or entity applying for a permit or Notice has clear, legal right of entry. If Mt. St. Helen Mining and Recovery, L.P. wishes to conduct activities on the site it must submit an appropriate application, including fees, as well as the demonstration of right of entry and concurrence from all other jurisdictions specifically mentioned in this letter or as otherwise required..

The request for permission to take samples from Apache OU-7, Leadville, CO **is denied** based on no DRMS permit being issued or under consideration.

Regards,

A handwritten signature in blue ink, appearing to read "G. Russell Means".

G. Russell Means  
Division of Reclamation, Mining and Safety  
Minerals Program Director

Cc: Jeff Fugate, DRMS Attorney General Counsel (e-mail)  
Craig Gander, CDPHE Hazardous Waste Division (e-mail)  
Linda Keifer, EPA Region 8, (e-mail)  
Town of Leadville, administrative services (e-mail)

Attachments: DRMS Letter, DMO Determination, 9/12/13  
City of Leadville Ordinance 3, Series 2013