



In the Matter of Colorado Milling Co.

1 message

Linda Miller <Linda.Miller@coag.gov>

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To: "ctk@kennedylawyer.com" <ctk@kennedylawyer.com>, "jrholaw@comcast.net" <jrholaw@comcast.net>, "goldtontine@gmail.com" <goldtontine@gmail.com>, "mike@bzzrez.com" <mike@bzzrez.com>, "camille.mojar@state.co.us" <camille.mojar@state.co.us>, Charles Kooyman <Charles.Kooyman@coag.gov>, Jeff Fugate <Jeff.Fugate@coag.gov>, "russ.means@state.co.us" <russ.means@state.co.us>, "michaela.cunningham@state.co.us" <michaela.cunningham@state.co.us>, "amy.eschberger@state.co.us" <amy.eschberger@state.co.us>
Cc: Scott Schultz <Scott.Schultz@coag.gov>

Please find the Division's attached Motion to Strike "Colorado Milling Company, LLC'S Motion for Reconsideration of Civil Penalty or for Reduction of Civil Penalty" for Failure to Meet the Requirements of Rule. 2.9.1(2).

LINDA MILLER

Paralegal

Department of Law

Natural Resources and Environment Section

1300 Broadway, 7th Floor

Denver, Colorado 80203

Direct: (720) 508-6277

linda.miller@coag.gov



Division's Motion to Strike Colorado Milling's Motion for Reconsideration_.pdf
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BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

DIVISION'S MOTION TO STRIKE "COLORADO MILLING COMPANY, LLC'S
MOTION FOR RECONSIDERATION OF CIVIL PENALTY OR FOR REDUCTION
OF CIVIL PENALTY" FOR FAILURE TO MEET THE REQUIREMENTS OF
RULE 2.9.1(2)

**IN THE MATTER OF COLORADO MILLING COMPANY, LLC; GOLD HILL
MILL; Permit No. M-1994-117; Violation No. MV-2019-018**

**Civil Penalties for Failure to Comply with the Conditions of Order MV-
2017-036**

The Division of Reclamation, Mining and Safety ("Division") submits its Motion to Strike Colorado Milling Company LLC's ("Colorado Milling" or "Operator") "Motion for Reconsideration of Civil Penalty or for Reduction of Civil Penalty" ("Motion"). The Division requests that the Mined Land Reclamation Board ("Board") strike Colorado Milling's Motion for the failure to meet the requirements of Rule 2.9.1(2) and states as follows:

I. To Seek Reconsideration of Board Decisions, a Petition Must Set Forth New and Relevant Facts That Were Not Known at the Time of the Hearing and Explain Why Such Facts Were Not Known at the Time of the Hearing

- 1) Colorado Milling does not have cause for seeking reconsideration of Board decisions until the requirements prescribed in Hard Rock Rule 2.9.1(2) are met:

Such petitions must set forth a clear and thorough explanation of the grounds justifying reconsideration, *including but not limited to new and relevant facts that were not known at the time of the hearing and the*

explanation why such facts were not known at the time of the hearing.

- 2) Colorado Milling's Motion for Reconsideration does not contain any "new and relevant facts that were not known at the time of the hearing."
- 3) Colorado Milling's Motion for Reconsideration does not contain any explanation as to why such new and relevant facts were not known at the time of the hearing.
- 4) Colorado Milling's Motion for Reconsideration is nothing more than a regurgitation of the same excuses they presented at length during the June 26, 2019, enforcement hearing.
- 5) Colorado Milling's Motion for Reconsideration does not contain any grounds for justifying reconsideration of the civil penalties assessed by the Board.
- 6) Colorado Milling's Motion for Reconsideration does not meet the requirements of Hard Rock Rule 2.9.
- 7) As a result of the Motion's failure to meet the requirements of Hard Rock Rule 2.9, Colorado Milling does not have cause to seek reconsideration of Board Decisions.

II. Colorado Milling Still Has Not Complied with the Board Order

- 8) Colorado Milling has had ample time by which to comply with Board Order MV-2017-036.
- 9) Colorado Milling has not communicated with the Division regarding their required amendment application since the June 26, 2019, enforcement hearing.
- 10) Colorado Milling has not submitted anything to the Division regarding their required amendment application since the June 26, 2019, enforcement hearing.
- 11) Colorado Milling remains out of compliance with the Board Order.

III. Conclusion

Colorado Milling remains in violation of the Board's Order of (Violation No. MV-2017-036) as they have not diligently pursued and attained the Division's approval and issuance of the amendment application within the statutory deadlines. The Division respectfully requests that the Board strike Colorado Milling's Motion for Reconsideration based on the Motion's failure comply with Rule 2.9.1(2).

Respectfully submitted to the Colorado Mined Land Reclamation Board on September 4, 2019.

/s/ Scott Schultz

Scott Schultz #38666
Assistant Attorney General
Attorney for the Division of Reclamation,
Mining and Safety

Certificate of Service

I, Linda Miller, hereby certify that on this 4th day of September, 2019, I served **via electronic mail or regular mail** a true copy of the foregoing DIVISION'S MOTION TO STRIKE "COLORADO MILLING COMPANY, LLC'S MOTION FOR RECONSIDERATION OF CIVIL PENALTY OR FOR REDUCTION OF CIVIL PENALTY" FOR FAILURE TO MEET THE REQUIREMENT OF RULE 2.9.1(2), addressed to the following:

Cynthia Kennedy, counsel for Colorado Milling Company LLC,
ctk@kennedylawyer.com

John Henderson, counsel for Colorado Milling Company LLC, jrholaw@comcast.net

Mark Steen, goldtontine@gmail.com

Mike Bynum, mike@bzrez.com

Camille Mojar, MLRB Secretary, camille.mojar@state.co.us

Charles Kooyman, AGO for MLRB, Charles.kooyman@coag.gov

Jeff Fugate, AGO for DRMS, jeff.fugate@coag.gov

Russ Means, DRMS, russ.means@state.co.us

Michael Cunningham, DRMS, michaela.cunningham@state.co.us

Amy Eschberger, DRMS, amy.eschberger@state.co.us

/s/ Linda Miller September 4, 2019
Signature and Date