

STATE OF
COLORADO

Cunningham - DNR, Michael <michaela.cunningham@state.co.us>

Carlton Tunnel - CCV

JAMES CHAPMAN <jchap9092@msn.com>

Wed, Dec 16, 2020 at 6:11 PM

To: "Cunningham - DNR, Michael" <michaela.cunningham@state.co.us>

Michael,

Thanks for taking the time to talk this morning. I filled out the complaint form and attached the property deeds to that area with a blue high light. Also I attached the agreed upon easement to the Carlton Tunnel that was done a couple years ago. That was the final easement agreement. I do not have a copy with the reception number.

I have another map to attach with this e-mail. This map was one that the CC-V mine was trying to pressure me into giving them an easement for the red area. This deal that the easement to the Carlton Tunnel was in was originally a land deal that they wanted to get access to some monitoring wells on Arequa gulch. We had the land deal and the road easement done and at the title company when the mine sprang this expanded easement (red area) that they wanted to include. I had to bring in the folks that were holding the conservation easement on this area in with the mine for a face to face meeting. The conservation folks explained to the mine that the only thing that we could do was offer a parking area for their equipment when the sediment ponds need to be cleaned. That is on the attachment on the complaint.

The red area that is on this map is the south $\frac{1}{2}$ of the legal that read the surface only of the west $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of the southeast $\frac{1}{4}$ on the deed attachment on the complaint. I also outlined with green to the west the rest of the boundry area that was surveyed by CC-V. The area that I outlined in green to the west is The Home Placer that I own. It is also where the USGS stream flow gage is located.

I have also attached a court case that CC-V mining agreed to so they could get a diversion point on 4-mile. Under findings of fact 9.4, they agreed to stay off our land in that area. The diversion point is located on the home placer. With the way they had their survey stacks it appeared to me that they were attempting to show access from the Shelf Road to the USGS station. They do not have an access to that station. It was mentioned in the court case that they would have to work something out with us to gain access.

I do not want to cause any problems for the mine. What the mine does is their own business on their own property. I do not give implied easements nor do I want any implied ownership by the mine on land that I own.

Thanks

Jim

Sent from [Mail](#) for Windows 10

From: Cunningham - DNR, Michael**Sent:** Wednesday, December 16, 2020 10:54 AM**To:** jchap9092@msn.com**Subject:** Carlton Tunnel - CCV

Hi Jim,

It was nice speaking with you this morning. The following is a link to the complaint form which you can use to submit your concerns about the CCV operation: https://dnrlaserfiche.state.co.us/forms/DRMS_Complaint.

Regards,


Michael Cunningham


Señor Environmental Protection Specialist



[Quoted text hidden]

2 attachments

 **2020-12-16_184132.pdf**
273K

 **2020-12-16_184248.pdf**
572K

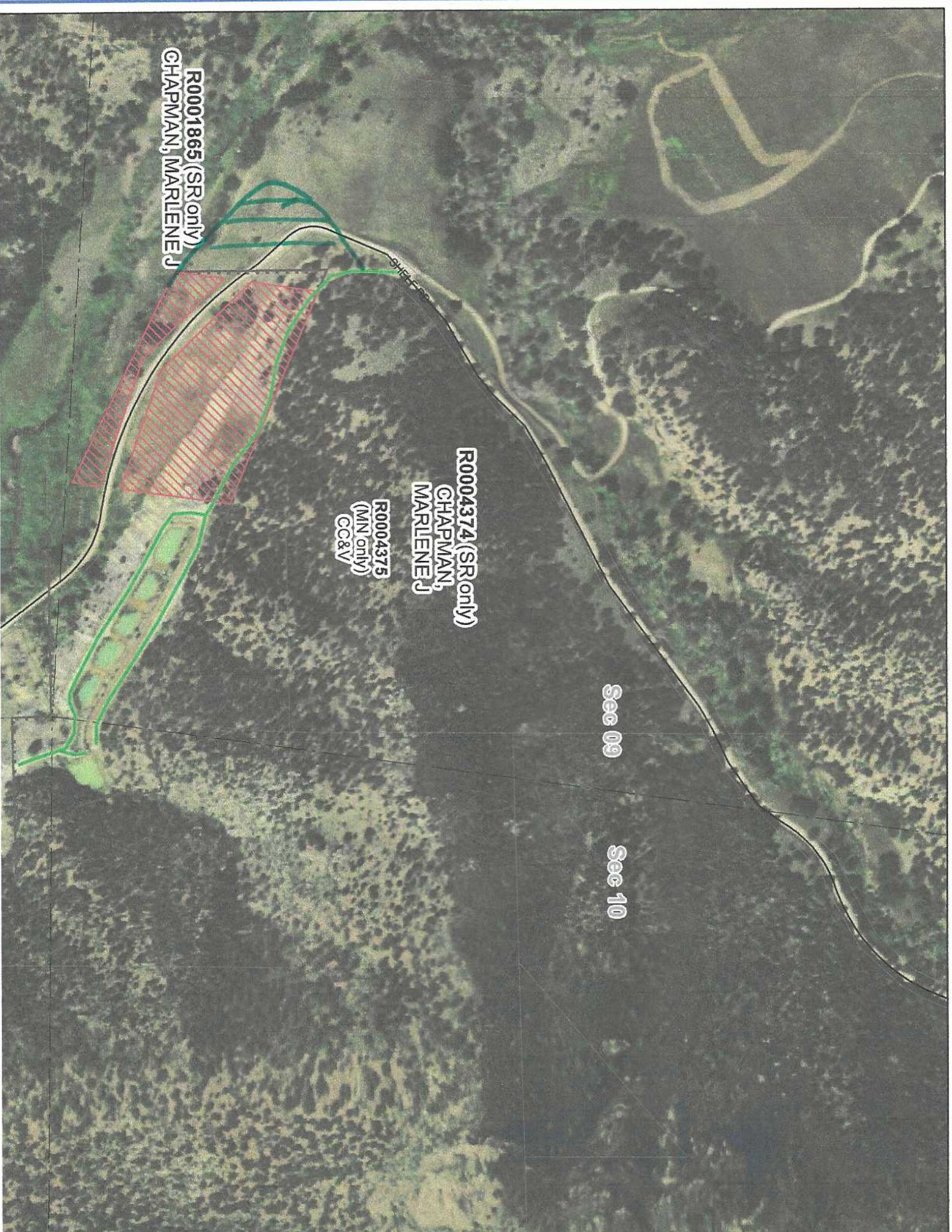
Sec 09

Sec 10

R0004374 (SR only)
CHAPMAN,
MARLENE J

R0004375
(MN only)
CC&V

R0001865 (SR only)
CHAPMAN, MARLENE J



DISTRICT COURT, WATER DIVISION 2 STATE OF COLORADO Pueblo Judicial Building 501 N. Elizabeth Street, Suite 116 Pueblo, Colorado 81003	DATE FILED: November 2, 2016 CASE NUMBER: 1998CW115
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: CRIPPLE CREEK AND VICTOR GOLD MINING COMPANY, IN TELLER AND FREMONT COUNTIES	Δ COURT USE ONLY Δ
	Case No.: 98CW115
FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE OF THE WATER COURT	

This matter comes before the Court for consideration upon the Application for Surface Water Right and Appropriative Rights of Exchange filed by the Cripple Creek & Victor Gold Mining Company ("CC&V") in Case No. 98CW115.

All matters contained in the Application have been reviewed, all pleadings, motions, and stipulations of the parties have been considered, and testimony and evidence have been taken as necessary. Being otherwise fully advised, the Court enters the following Findings of Fact, Conclusions of Law, Judgment and Decree of the Water Court ("Decree").

FINDINGS OF FACT

1. Procedural Background:

1.1 Name, mailing address, and telephone number of Applicant:

Cripple Creek and Victor Gold Mining Company
Kevin J. Riley
Process Manager
P.O. Box 191
Victor, Colorado 80860
Telephone: (719) 689-4053

1.2 Application: CC&V filed the Application for Surface Water Right and Appropriative Rights of Exchange on September 18, 1998. All notices of the Application have been given in the manner prescribed by law.

1.3 Jurisdiction: The Court has jurisdiction over the subject matter of this proceeding and over all affected parties, whether or not they have appeared in this action. The water rights involved are not located within a designated groundwater basin.

1.4 Statements of Opposition and Intervention: Timely Statements of Opposition were filed by James R. and Marlene J. Chapman, Catlin Canal Company and Pisgah Reservoir Company, Robert N. Shoemaker, Mabel M. Wilson, Arthur and Ellen Dilley, Bud L. and Betty M. Chess, Colorado State Engineer and Division Engineer for Water Division 2, Colorado State Board of Land Commissioners, Roy and Beneta Canterbury, City of Colorado Springs, U.S. Department of the Interior Bureau of Land Management, Cañon Heights Irrigation and Reservoir Company, City of Cripple Creek, Southeastern Colorado Water Conservancy District, and James Like. Following the expiration of the time for filing statements of opposition, motions to intervene were granted to Lakemoor West Property Owners Association on June 7, 1999 and to the Colorado Division of Wildlife and the Wildlife Commission n/k/a Colorado Parks and Wildlife and the Parks and Wildlife Commission on November 18, 2002. On May 10, 2016, the Court granted a motion to substitute James Richard Chapman,

gage (USGS Gage 7096250) at this location, known as the "Fourmile Creek below Cripple Creek near Victor" gage. The annual maximum volume of water to be exchanged under the Direct Flow Exchange shall not exceed 800 acre-feet.

9.4 CC&V shall not physically divert water at Diversion Point No. 3, but shall use publically-available measurement data collected by USGS at Gage 7096250 to determine the Direct Flow Exchange potential at Diversion Point No. 3. CC&V does not own USGS Gage 7096250 and does not have any right to physically access or operate the gage for any purpose. CC&V acknowledges that USGS Gage 7096250 and the decreed location for CC&V's Diversion Point No. 3 are located on property currently owned by the Estate of Marlene J. Chapman ("Chapman Property"). CC&V shall not access USGS Gage 7096250 or enter the Chapman Property for any reason unless and until a separate agreement for access is executed by CC&V and the owner of the Chapman Property. This decree does not authorize or contemplate any physical diversion of water or construction of facilities on the Chapman Property.

9.5 The maximum Storage Exchange flow rate shall not exceed 30.0 cfs. The annual maximum volume of water to be exchanged to Wrights Reservoir under the Storage Exchange shall not exceed 800 acre-feet.

9.6 Pursuant to the Stipulation dated September 26, 2000 between CC&V and the Colorado Water Conservation Board concerning the appropriation of instream flow ("ISF") water rights in Fourmile Creek in Case Nos. 00CW101 through 00CW106 ("Stipulation") (attached as **Exhibit B** and incorporated by reference into this Decree), the following terms and conditions are imposed upon the Appropriative Rights of Exchange decreed herein:

CC&V agrees that, as a protective term and condition, it will not exercise its appropriative rights of exchange as decreed herein in a manner that will cause the flow in Fourmile Creek to fall below the applicable seasonal ISF amount for each stream segment as listed in Exhibit A to the Stipulation during the period of October 15 through April 14. This protective term and condition shall not apply to CC&V's exchange during the period of April 15 through October 14. This protective term and condition also does not