

BEFORE THE MINED LAND RECLAMATION BOARD
STATE OF COLORADO

IN THE MATTER OF OURAY SILVER MINES, INC., REVEUNUE MINE
PERMIT No. M-2012-032.

**DIVISION OF RECLAMATION, MINING, AND SAFETY AND OURAY
SILVER MINES, INC. STIPULATED AGREEMENT REGARDING OFFSITE
IMPACTS AND PERMIT AMENDMENT**

THIS STIPULATED AGREEMENT ("Agreement") is made and entered into by and between the Colorado Division of Reclamation, Mining and Safety (the "Division") and Ouray Silver Mines, Inc. ("Operator"). Operator and the Division collectively are referred to as the "Parties" or each individually as a "Party."

The Parties submit this Agreement for consideration by the Mined Land Reclamation Board ("Board"). As grounds for this Agreement, the Division and Operator state the following:

Recitals

A. Ouray Silver Mines, Inc. operates a mine known as the Revenue Mine ("the site") under Permit No. M-2012-032 (the "Permit"), which is an active 112d-1 underground operation located approximately 5 miles southwest of Ouray, Colorado, at approximately 10,600 feet in elevation.

B. On February 25, 2021, the Division received a spill notification, case number 2021-0066, from the Colorado Department of Public Health and Environment ("CDPHE") at the Revenue mine. Operator self-reported the spill to CDPHE when it discovered historic hydrocarbon contamination while drilling a monitoring well near the site of an 1890's mill site.

C. On March 10, 2021, the Division inspected the site. The purpose of the inspection was two-fold. First, it was in response to the spill notification. Second, the Division was conducting a programmatic inspection related to Technical Revisions 12 and 13 filed with the Division on March 1, 2021.¹

D. Operator filed TR-13 at the Division's request for an after-the-fact update to the Permit to reflect the as-built site conditions because site modifications were not accurately reflected in the Permit file. Specifically, in late fall of 2020, Operator buried two pre-existing Connex storage containers placed on the Terrible

¹ TR-12 is under technical review by the Division. As explained in Paragraph H, TR-13 has been withdrawn by Operator.

waste-rock dump by a prior operator to serve as a secondary escapeway for the Monongahela Raise when the headframe and hoist room building were constructed in 2015. Operator buried the storage containers without a Permit revision prior to conducting this activity.

E. TR-13 includes necessary modifications to the mining and reclamation plans and maps and a bond recalculation. Operator self-reported that in 2015 prior operators built the hoist building and headframe and placed the two refuge chambers on the Terrible waste-rock dump in an area approximate 500 feet away from the permitted location and outside the Permit boundary in Governor Basin. Operator buried the refuge chambers in essentially the same location where a prior operator placed them on the surface of the Terrible waste-rock dump. Operator buried these refuge chambers to provide subsurface access to the chambers from the Monongahela Raise, because snow accumulation at the site in winter typically precludes access from the surface.

F. The Division issued its preliminary adequacy review on March 15, 2021. One of the primary concerns identified in the Division's adequacy review was that it was unclear whether all disturbances related to the secondary escapeway, and refuge chamber were within the Permit boundary.

G. On March 18, 2021, Operator notified the Division via email that construction activities conducted at the Monongahela Raise Bore and secondary escapeway impacted lands outside of the approved Permit boundary. The off-site area impacted is approximately 0.50 acres. This constitutes a possible violation of C.R.S. 34-32-116(7)(h) of the Mined Land Reclamation Act for failure to protect areas outside of the affected lands from slides or damage occurring during mining and reclamation operations.

H. On April 1, 2021, Operator withdrew TR-13. Rather than attempt to address these issues through the TR process, in consultation with the Division, Operator determined that the more appropriate course of corrective action would be to submit an Amendment application to address, at a minimum, disturbances outside the Permit boundary.

I. On April 14, 2021, the Parties met to address the remedy for possible off-site impacts and the associated administrative process. During the meeting, the Parties agreed that the Permit, which a prior Operator submitted to the Division, is difficult to understand and would greatly benefit from a holistic review and revision to generate a more cohesive and understandable Permit. Operator indicated that it had retained a consultant to review and revise the Permit.

J. On May 13, 2021, the Division delivered to Operator a Reason to Believe a Violation Exists letter ("RTB") along with a final copy of the Division's March 10, 2021, inspection report. As outlined in the RTB, the Division commenced an enforcement action pursuant to its authority under Section 34-32-124 of the Act to address the off-site impacts.

K. The RTB was originally set for consideration by the Board on June 23, 2021. This matter was subsequently continued to the July 21, 2021 hearing. Due to lack of Board quorum in July, this matter was re-set for consideration on August 18, 2021.

L. To resolve outstanding issues in this matter, including but not limited to addressing the off-site impact issue and conducting a comprehensive Permit review and revision, the Parties enter this Agreement. The Parties agree that a Permit Amendment as outlined and authorized by the Act and Regulations, which both clarifies the terms of the Permit and the enforceable provisions of the Permit, is both necessary and in Parties' best interest. Based on the Parties' discussions, the Parties agree and stipulate to the following terms:

Agreement

1. While conducting mining construction activity associated with burying two refuge chambers a prior operator placed on the surface of the Terrible waste-rock dump, Operator inadvertently disturbed an area outside the Permit boundary.

2. Failing to protect areas outside a permit boundary from slides or damage during the mining and reclamation operations is a violation of C.R.S. 34-32-116(7)(h) and the Permit. Operator is in violation of C.R.S. 34-32-116(7)(h) for failure to protect areas outside of the affected lands from slides or damage occurring during the mining operation and reclamation

3. The Parties agree that under the circumstances described in this Agreement, the issuance of a Cease and Desist Order is not necessary.

4. Operator shall submit a holistic Permit Amendment application that will establish a permit consolidation and correction of the Permit boundary submitted by a prior Operator for the site in a cohesive, understandable, and clear manner. At a minimum, the Permit Amendment application shall contain the following components:

- Incorporate into the Permit the impacted off-site area associated with the RTB issued on May 13, 2021, including a sufficient buffer area to complete the necessary reclamation work and correct the Permit boundary at the Terrible waste-rock dump;
- Clarify and consolidate all applicable details of AM-01 and all Technical Revisions approved to date and incorporate substantive provisions and Permit conditions and components into their respective and proper Exhibits;
- Make any and all clarifying changes to the Permit Operator determines to be appropriate after conducting its own review or based on the suggestions of its retained permitting consultant.

5. Operator shall submit to the Division a complete and reviewable Permit Amendment application and its associated revision fee within 120 days of the date of

the Mined Land Reclamation Board hearing, and gain approval of such Amendment within the applicable regulatory deadlines pursuant to Rule 1.4.8 and Rule 1.10(4).

6. Pursuant to 34-32-124(7), C.R.S. a person who violates any provision of a permit shall be subject to a civil penalty of not less than \$100.00 per day, nor more than \$1,000.00 per day for each day during which such violation occurs. In this matter, the Board may assess a civil penalty of \$4100.00 to \$41,000.00 for 41 days of violation (May 13, 2021— June 23, 2021) at \$100.00 to \$1,000.00 per day. The Parties agree to a civil penalty of \$500 per day for a civil penalty amount of \$20,500.00 with all but \$1,500.00 will be suspended if Operator complies with the terms of this Agreement.

7. Operator shall pay the unsuspended portion of the civil penalty (\$1,500.00) no later than 30 days from the date of the Board hearing.

8. Operator acknowledges that failure to comply with all requirements and timeframes specified in this Agreement constitutes failure to comply and will result in the scheduling of an enforcement hearing before the Board.


9. This Agreement does not supplant, alter, impair or negate the applicable requirements in the Colorado Mined Land Reclamation Act or the Rules and Regulations of the Colorado Mined Land Reclamation Board.

WHEREFORE, the Parties respectfully request that the Board approve this Agreement at its August 18, 2021, meeting.

Respectfully submitted this 18th day of August 2021.


G. Russell Means

Colorado Division of
Reclamation, Mining and
Safety


Ouray Silver Mines, Inc.
Brian K. Briggs
CEO