STATE OF COLORADO

Eschberger - DNR, Amy <amy.eschberger@state.co.us>

RE: Cross Gold Mine, Permit No. M-1977-410, GIR Reply to Save The Colorado letter dated 12/28/2021

Ed Byrne <edbyrne@smartlanduse.com> Fri, Jan 28, 2022 at 3:12 PM
To: "Eschberger - DNR, Amy" <amy.eschberger@state.co.us>, Daniel Takami <danieltakami@gmail.com>
Cc: "Cunningham - DNR, Michael" <michaela.cunningham@state.co.us>, Sergio Rivera <sergio.rivera@novametallix.com>, Richard Mittasch <rmittasch@nedmining.com>, John Henderson <jrhcolaw@comcast.net>, Scott Schultz <Scott.Schultz@coag.gov>, "Daniel V. Pollock" <Dpollock@nedmining.com>, Greg Miller <doctor.arsenic@gmail.com>

Dear Amy,

Please find attached the Grand Island Resources LLC reply to Save The Colorado's 12/28/2021 letter to DRMS. The letter was prepared.GIR's retained expert hydrogeologist, Dr. Greg Miller.

We would like the reply to be included in the public record for our docket: Cross Gold Mine, Permit No. M-1977-410.

Thank you for your consideration of these comments.

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GIR response to Save the Colorado letter to DRMS dated 1-28-21 20220128.docx
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27 January 2022

Amy Eschberger
Environmental Protection Specialist
Colorado Division of Reclamation, Mining and Safety

VIA EMAIL: amy.eschberger@state.co.us

Dear Ms. Eschberger:

I am providing this letter on behalf of Grand Island Resources (GIR) in response to the comment letter you received from Save the Colorado (STC) on December 28, 2021 (STC Letter). STC has four issues with approval of the proposed Amendment 2 to the GIR 110(2) Limited Impact Mining Permit: (1) has there been no meaningful public participation in the AM-02 Application Review, (2) the AM-02 Application fails to demonstrate minimization of impacts to water quality, (3) the Cross Mine should be considered a Designated Mining Operation (DMO), and (4) the AM-02 Application fails to demonstrate compliance with HB 19-1113.

Informed review of the STC Letter finds that there is a fundamental misunderstanding of the law and regulations which has led STC to believe the DRMS should deny Amendment 2 and reclassify the mine. We appreciate this opportunity to respond to STC's comments, including educating STC and others on the status of the new water treatment system and addressing any misunderstandings of the law.

1. There Was No Actual or Potential for Harm from The Discharge

I provide hydrogeologic and chemical expert services to GIR, as a former employee, and currently as a consultant. As you may recall, as a retained expert I provided sworn testimony on December 15, 2021 to the Mined Land Reclamation Board (MLRB) that:

1. A treatment system is in place that will prevent future violations of standards.
2. Contamination of local groundwater from mine surface water discharges is impossible due to local hydrogeology.
3. The violation of discharge standards does not mean that harm has occurred to human health or the environment. No harm has been demonstrated, only violations.

Since that testimony, it is my understanding that no State, Federal, County or City agency has disagreed with my opinion or provided any opinions to the contrary. I also don't believe another expert has put forth a contrary oral or written opinion based on science and mathematics. There is no expert opinion that wells have been contaminated downstream from our below-drinking-water-level discharges at the mine.

To date, we have not received a rebuttal expert opinion proving harm or injury. That is because no domestic or drinking water source was actually impacted, nor was there ever the potential for harm. No Colorado drinking water, livestock water, or agricultural irrigation standards for compounds in water were ever exceeded as a result of GIR's surface water discharge. In a mountain valley with a gaining stream, groundwater flows

to surface water, not surface to ground. Surface water contaminating groundwater would be impossible because the water would be flowing uphill. Clearly this wasn't the case. We hope STC understands there has been no harm.

Large margins of safety exist in the discharge permit. The state permit writer ensures that these safety factors exist for limits to individual compounds, like zinc. The toxicity of Cross Mine discharge is also directly tested against sensitive stand-in species. The state requires controlled direct testing of our effluent on the health of newly hatched minnows, trout, and aquatic invertebrates. There has been no harm.

a. *Forcing GIR to Prove a Negative is Unfair and Overly Burdensome*

STC makes several comments to the effect that my testimony indicated that it will take several months, possibly longer, before the design of the final mine-selected treatment system is complete. That is true, however, left unstated by STC, the current system is installed, functioning and is being constantly tested. When fully successful, it will be expanded. What is not mentioned by STC is that I also testified that:

- Proof of concept testing and engineering by highly-qualified consultants to design the system was done using Cross and Caribou mine groundwater discharge.
- DRMS met with the entire water treatment consultation team and had their questions answered by the team prior to system installation.
- The treatment system was in place on December 15 and producing permit-compliant discharge.
- The system is being operated with the knowledge and approval of CDPHE.
- The system will be upgraded in stages, starting this winter, to meet current and future mine water treatment by increasing capacity and redundancy.

Furthermore,

- DRMS testified that the final configuration of the treatment system is to be presented to DRMS as a Technical Revision, not in Amendment 2.
- DRMS conducted an inspection of the installed treatment system on January 11, 2022.
- DRMS was requested to present a progress report to the MLRB on GIR's water treatment progress on January 19, 2022, with a quarterly report from the mine and DRMS to be presented to the Board in March 2022. The progress report was received at a Board hearing.

In response to this verifiable progress to eliminate discharge violations, STC makes such unsupported suppositions as:

> "…there is no conceivable way the applicant can provide the necessary water quality treatment and mitigation information to enable full Division review before the current decision deadline of January 8, 2022"

> "…the entire water quality treatment facility will have to be substantially, if not wholly, overhauled over the next 6 months and beyond. Given this reality, there is no conceivable way for the applicant to meet its statutory and regulatory burdens at the current time."

The reality is that water treatment was in place and meeting standards, approval of changes had been decoupled from Amendment 2 by DRMS and CDPHE, and a procedure for close-interval DRMS oversight and reporting to the Board had already been implemented, thirteen days before STC was writing "… there is no conceivable way…". It's almost if STC missed half of the meeting, projecting to the future progress that was already made by GIR, DRMS, and the MLRB. Most of what STC found "inconceivable", had already been done.

CDPHE Water Quality Control Division (WQCD) is the primary enforcement agency for the mine wastewater treatment system. CDPHE has not linked approval of the water treatment modifications to their review of Amendment 2. I personally communicated with GIR and CDPHE about installation of two separate pilot treatment systems at the mine this year. The second pilot was converted to the current treatment system.

Technical information and drawings of the pilot plants was requested by the state and provided by GIR in a timely manner. CDPHE WQCD stated that our permit is performance based (does it achieve standards), rather than technology based (use an approved method only), so the treatment technology was to be determined by the mine, and permitted by CDPHE based on performance. As Colorado's health and environment agency, if CDPHE WQCD separates approval of Amendment 2 from approval of the water treatment system, it is my opinion that the public is indeed protected by review and regulation.

b. *STC's Expert Opinions*

"On behalf of local residents concerned and directly adversely affected by the ongoing water quality problems at the Cross Gold Mine…" is the opening of the STC letter. I have provided expert public testimony that not a single person or well has been directly adversely affected by GIR's discharge violations, or the water that has been released by the mine. I am unaware of any expert opinion contrary to mine. So right now, as in the past, the only adverse effect on humans from discharge violations, is fear.

GIR would appreciate more information on STC. Which local residents does Save the Colorado represent? Why are they exacerbating fear in individuals? If they have been telling anybody that GIR has caused actual harm rather than there is an alleged violation of water quality standards, GIR would like to know who the person or persons are, so that we can talk to them and set the record straight - reassure them that the mine water discharges have always remained below drinking water compliant levels. We plan to temper the fear with facts.

I have worked with attorneys for decades on groundwater toxic torts, both for defendants and plaintiffs. In my experience, most attorneys are not testifying experts in the earth sciences. It is typically outside an attorney's core skills, so courts and attorneys seek hydrogeologic experts to assist. GIR would appreciate getting the

contact information for STC's hydrogeologic expert to have a constructive discussion between experts.

In order for there to have been harm to groundwater wells from our surface water discharge, water would have to flow backwards. Its common knowledge to hydrologists, geologists and engineers in Colorado that mountain groundwater discharges to mountain streams, not the other way around. That's why there is more water in a stream downslope/downstream than at the headwaters. That's just one of the reasons why there has been no harm to groundwater as a result of discharge violations. GIR would appreciate knowing who STC represents that "…is directly and adversely affected…" by the mine's discharge.

According to the May 24, 2021 form 990ez tax filing with the IRS, Save the Colorado spent $202,451 on "Professional fees and other payments to independent contractors" in 2019 and ended the year with significant cash on hand. Many of Save the Colorado's apparently willful misstatements of fact regarding harm or the law could have been easily avoided by employing a knowledgeable expert. STC has the time, resources, and prior experience to employ experts. Again, GIR would like to have a discussion with STC's expert as soon as possible.

2. <u>There Has Been Opportunity for Meaningful Public Review</u>

STC claims that the public has been denied an adequate opportunity to review and comment on Amendment 2 and links water treatment modifications to the amendment. To do this STC must ignore the fact that the public has been given every required opportunity, and more, to comment on plans and process. Because of the iterative process with DRMS there have been 3 public notices in the past 12 months, one for each iteration of the amendment. Each iteration has also caused DRMS to ask for full review of the amendment by every Colorado Public Agency that the MLRB Board deems appropriate, including the Colorado Department of Public Health and Environment (CDPHE).

GIR is pleased to be able to respond here. It is very concerning to GIR that instead of STC's experts' providing GIR with actual evidence of harm and instead of engaging in fruitful discussions of STC's concerns and trying to understand the mine's operations and new treatment system, STC is proceeding with assumptions of the mine's violations which is being driven by uninformed individuals who are spreading such misinformation about the real and potential harm.

a. ***Stopping Amendment 2 Actually Harms the Public and Environment; Delay Is Not Beneficial***

STC makes arguments that delay in the Amendment 2 approval will result only in positive outcomes. This isn't true. Amendment 2 is treated as an abstraction by STC, as if there was no reason for its creation. It's important to understand that Amendment 2 started as a 0.33-acre addition to the permitted disturbance boundary. This expansion was required because a tunnel collapse extended outside the existing 110(2) Amendment 1 permit boundary from 2011. The need to revise the permit was immediate and unexpected.

The reclamation plan for the existing permit did not meet modern standards. The cash bonding for reclamation wouldn't have been sufficient to complete a fraction of the necessary work. Property boundary surveys revealed construction existed outside permit limits. All of these updates to boundaries, bonding, and reclamation needed to be included in Amendment 2. DRMS is, by law and regulation, permitted to propose a bond increase at any time. Technical Amendments are a routine part of the permit process.

Amendment 2 greatly improves the reclamation plan coverage and quality over that approved under Amendment 1. On acceptance, the reclamation bond will increase substantially, but only with an approved amendment, because the bonding is based on costs contained in the amendment and any re-evaluation by DRMS of the overall existing bond. There are numerous proposed construction activities to support stormwater quality that need to happen this year, that are to be approved as part of this permit revision. Without Amendment 2 approval, these activities will have to be re-proposed as Technical Revisions to the existing permit, bonding will not increase, and site environmental construction may be delayed to 2023. This does not benefit the public.

GIR believes the public would want these controls and bonds in place quickly, as well as the proposed Amendment 2 restoration activity, that improves on previous plans, bound and accomplished quickly. DRMS and GIR have completed three review and revision cycles of Amendment 2 at substantial cost to both. The technical challenges and improvements were substantial. A delay and resubmission cycle is an unwarranted do-over of a process DRMS indicates is near complete.

None of the STC identified application technical deficiencies have basis in fact. Many of the items STC states are in planning, or don't exist, have actually been completed prior to the December 15th MLRB hearing. "Missing" documents and plans are not missing at all and DRMS has set the schedule and mechanism for their delivery.

b. *There are no Missing Laboratory Reports*

In discussing the November 23, 2021 revision of Amendment 2 STC suggests that the mine's data on acid-base accounting:

> "…should be expressly requested by the Division in its review of AM-02 and made part of the publicly available application materials to enable Division and public scrutiny…"

STC implies that GIR is withholding critical data. Nothing could be farther from the truth. The acid-base accounting, leach tests, and correspondence between the mine and DRMS ensuring that tests were conducted to DRMS satisfaction, have been part of the public record since 1995. Complete, rescanned original reports from Core Laboratories acid-base accounting and humidity cell leaching were provided electronically to DRMS with the November 23, 2021 submission, at the request of DRMS. All of the information STC says is missing, has been part of the public record for 37 years. Data isn't missing. STC either didn't look, or simply missed the scores of documents that prove acid-base accounting for Cross Mine ore has been done. We would be happy to provide these

records if STC cannot located them on your database. There is no acid mine drainage in this part of the Grand Island District due to the mineralogy.

c. *The Law does not Support the Restart of the Public Process*

The STC Letter states that "…the Division should exercise its authority under Hardrock Rule 1.6.6, which provides for re-initiation of public process where substantial changes to an application have been made," and under this regulation STC calls for "…a re-start of the application approval clock."

As you and STC likely know, this regulation is entitled "Conditions that Require a New Notice to the Public" and speaks to correcting errors in legal section newspaper ads. Rule 1.6.6 provides for corrections to notices, not 'do-overs' or restarting of the application process. The text is clear:

> "1.6.6 Conditions that Require New Notice to the Public
>
> If a notice is in error or a change to the application is so substantial, as determined by the Office, that it affects any of the terms contained in the notice that was published in the newspaper or mailed to the owners of the affected and adjacent lands, or the change is an amendment to the application, the Applicant shall be required to publish and mail a new notice of the application. In the event that the Applicant is required to issue a new notice, all applicable deadlines shall begin to run anew."

This rule addresses a mismatch between the content of a notice and the content of the change that the notice pertains to. If a notice is inaccurate, it must be redistributed; that's common sense. For example, the notice would have to be republished if it indicated an incorrect location. Any schedule for notices restarts on redistribution of the new notice. Restarting the notice clock makes sense too. The rule states that a mismatch is addressed by publishing a corrected notice and restarting the clock on public notices "…all applicable deadlines shall begin to run anew." I do not believe any other interpretation is possible.

Rule 1.6. contains various notice deadlines, the deadlines referred to in Rule 1.6.6. As an example, a 110 ISL mine needs to publish a notice once a week for four (4) weeks. Rule 1.6.6 states that 4-week process would restart with a mismatch, not that the 110 ISL application be resubmitted if there was a mismatch.

DRMS has asked GIR to address water treatment changes as part of a Technical Revision, which is open to future public comment, rather than in Amendment 2. Accordingly, Amendment 2, and all three public notices of the proposed amendment, do not refer to changes in water treatment. If one did, and the other didn't, that would be a mismatch. That hasn't happened, and timely and accurate publication of notices by GIR is clear in the public record.

GIR has provided public notice in accordance with all requirements of Rule 1.6 as it applies to 110(2) permits. GIR has not had to republish or remail any notice due to

mismatch errors described in Rule 1.6.6.[1] STC's claims appear to stem from unfounded interpretation of the regulations. STC's radical new interpretation of Rule 1.6.6 defies plain English understanding.

3. The AM-02 Application Clearly Demonstrates There Will Be No Harm or Continuing Violations of Water Quality

The STC Letter attempts to convince you and the public that there has been actual harm when this is not the case. There have only been notices of violations, which GIR's predecessor and GIR took seriously and addressed. Harm and violations are not the same. Violations are issued so that actions are taken to prevent harm in a timely manner; the safety factors drawn into the permit virtually guarantee this.

Approval of Amendment 2 would cement a modern reclamation plan prepared by top Colorado-based consultants into action and law. Bonding will increase by approximately $350,000 over the existing bond. Environmental monitoring and protection plans for surface water and groundwater, built around the Amendment 2 activities, will be reviewed by the state and implemented this construction season. The water quality concerns put forward by STC, although unwarranted, are best addressed by approval rather than delay.

a. *Evidence of Pollution*

The STC statement that the mine does not have a record of water quality impacts before January 1, 2019 should give anyone pause. The mine had water quality impacts from tunnel discharge when Tom Hendricks came on site in the early 70's. This was before there were rules requiring treatment. He then constructed treatment systems because there were discharges above the newly enacted Clean Water Act standards. He experimented with alternate treatments in the 1990's because of sporadic violations, despite his best efforts. All of this history is found in the mine's public record. The passive, lime-based system was generally effective during periods of low level mine activity.

More importantly, competent basic research of the publicly available water quality data would (should) have stopped STC from making any claims regarding an absence of history on water quality problems before 2019.

4. The Cross Mine Should Not Be Classified as A Designated Mining Operation.

By misstatement of law and a misunderstanding of the mine, STC tries to argue that DMO Permit standards apply to a 110(2) Permit Amendment 2 process. The STC Letter tries to work outside the 110(2) processes by broadly distributing distortions of law and fact. STC is misstating law, distorting the public record, and causing public fear where

[1] GIR did have to mail additional comments to landowners who were missed in the first application iteration. That is because we added the Caribou 300 Level and Potosi shaft disturbance areas. There were additional landowners affected by those additions. DRMS approved notifying only the property owners affected by these additions, not requiring a public notification in the paper or otherwise.

there is demonstrably no harm. Their claims do not change a 110(2) mine to a DMO or 110d mine.

Mines and the public operate under the same set of rules and regulations that the people of the state, through their representatives, have chosen. These rules provide a level, transparent, and fair method for mines to seek permits and objectors to have their voices heard. GIR has submitted an Amendment 2 application to its 110(2) Permit, DRMS is reviewing the application using 110(2) standards, thus the 110(2) permitting process is the applicable law.

a. *Save the Colorado Misunderstands DMO Permit Requirements*

STC asserts many times that the relevant permit process for the Cross Mine is a DMO because of presence of toxic substances and violations of water quality standards. They force the Cross Mine into a DMO designation by wordsmithing the regulations without mentioning that the operations proposed in the 110(2) Amendment 2 are categorically excluded as subject to DMO rules or DMO classification. The exclusion for the Cross Mine is found in the Hardrock Rules. Rule 1.1 (14)(e) states:

> "The various types of DMOs are identified in Section 34-32-112.5, C.R.S. 1984, as amended. Except as to uranium mining operations**, designated mining operations exclude operations that do not use toxic or acidic chemicals in processing for purposes of extractive metallurgy and will not cause acid mine drainage**. Any designated mining operation, including uranium designated mining operations, may seek exemptions from this status pursuant to Rule 7." (emphasis added)

The Cross Mine is excluded from consideration as a DMO by rule, because there is no extractive metallurgy conducted at the Cross Mine under the 110(2) Amendment 2 application. That means there are no toxic chemicals that would designate the Cross Mine as a DMO now, or under an approved Amendment 2. There is no acid mine drainage anywhere on the entire property, and the mine is not generating any, as confirmed by acid/base and humidity cell testing.

The Mined Land Reclamation Act is also clear on this point. If the Cross Mine was a DMO for other reasons, such as area, the Act as implemented at CRS § 34-32-112.5.(2) allows the mine to apply for exemption from classification as a DMO if it is not using or storing acid- or toxic-producing materials. A complete exemption from DMO rules is possible. The Act states:

> "If an operator demonstrates to the board at the time of applying for a permit or at a subsequent hearing **that toxic or acidic chemicals are not stored or used on-site and that acid- or toxic-producing materials will not be used, stored, or disturbed in quantities sufficient to adversely affect any person, any property, or the environment, the board shall exempt such operations whether conducted pursuant to section 34-32-110 or otherwise.** The board may promulgate rules governing the conduct of mining operations which are exempted pursuant to this subsection (2)." (emphasis added)

Note the focus of the Act on adverse effect, vs. the mere presence of a single molecule of a toxic substance. Rule-making and legislation have long recognized that "the dose makes the poison" and numeric levels are set accordingly. That is why the statute states "toxic-forming", and the Hardrock Rule states at 1.1(14)(f)1. that mines that are not acid producing, and do not use designated toxic chemicals, are again not subject to DMO rules.

> "Metal mining operations, permitted under Section 34-32-110, C.R.S. 1984, as amended, **which do not use or store designated chemicals, shall be excepted from the requirements applicable to Designated Mining Operations, unless they have a potential to produce acid or toxic mine drainage in quantities sufficient to adversely affect any person, property or the environment**. It shall be the burden of the Operator or Applicant to demonstrate to the satisfaction of the Office that such potential does not exist." (emphasis added)

The Rule states "…in quantities sufficient to adversely affect any person, property or the environment." STC writes that the mere "…presence of toxic materials trigger DMO consideration." This is inaccurate for so many reasons.

For example, the entire state of Colorado is classified Zone 1, the highest classification, for radon gas risk because of the common occurrence of uranium in Colorado soil. No expert would testify that uranium is not a toxic element. But no expert would state that every mine in Colorado is a DMO because there is a toxic element merely 'present' in the soil. Adverse effects matter. If Save the Colorado's claims were true, the entire Colorado Mineral belt would be implicated by the presence of ubiquitous minerals present at thousands of locations. There have been no adverse effects from the mine's discharges, other than fear produced by fanning the flames of public misinformation.

STC's argument is not credible, and the details of their failure are found in the regulations that they omit. The answer to the question of 'is the Cross Mine is a DMO?' is found in the exemptions and exclusions cited above. It is my expert opinion that a reasonable person's review of the Amendment 2 Application and the DRMS public record would find no indication of any currently proposed extractive metallurgy at the Cross Mine. Similarly, a reasonable person would find extensive third-party analytical reports and correspondence between the mine and DRMS regarding acid-generation and leach testing conducted on representative composite samples of Cross Mine ore in the public record. The Amendment 2 record contains the complete Core Laboratories that was resubmitted to DRMS at their request.

It is my expert opinion that the Core Laboratory data package demonstrates that the ore is not acid-generating and does not leach trace metals above acceptable values. Because the host crystalline rocks contain less potentially acid generating material than ore, it can be inferred that waste rock is similarly non-acid non-toxic generating. The Cross Mine has none of the acid generation or toxic leaching characteristics that would classify the Cross Mine as a DMO.

5. The AM-02 Application Should Not Be Delayed While GIR and DRMS Are Discussing End Dates

STC introduces recent amendments and revisions to Hardrock Rules that address long term water treatment "end dates." The rule also contains several processes to seek an exemption to determining an end date for water treatment. STCs argument is that the there is no end date exemption for the Cross Mine because:

1. The 110(2) Cross Mine does not have a required Environmental Protection Plan (EPP).
2. There is no prior record that water quality impacts existed before January 1, 2019.

Review of HB 19-1113 and CRS § 34-32-116(7) reveals a conflict between the Act as enabled and other portions of the Act and Hardrock Rules. A Catch-22. A 110(2) mine needs an EPP to get an exemption, but EPP's, by definition, are only for DMO's. Non-acid-generating non-metallurgical 110(2) operations like the Cross Mine are categorically exempted from DMO rules and application requirements. The Act and Rules define EPP's as plans created by and for DMO's only.

The Act specifies that exemption from the "end date" requires:

> *"An environmental protection plan and reclamation plan adequate to ensure compliance with applicable water quality standards."*

The Act EPP above is a reduced standard from the requirements found in the Rule definitions for DMO EPP's, that state:

> *""Environmental Protection Plan" means a plan submitted by a Designated Mining Operation for approval as part of the Operator's or Applicant's permit for such operation for* ***the protection of human health, property or the environment*** *in conformance with the duties of Operators as prescribed by the Act and these Rules." (emphasis added)*

An EPP meeting "…applicable water quality standards" would plan for a very small subset of the risk that an EPP that covers "…the protection of human health, property or the environment…" plans for. Possibly there is no Catch-22. Functionally, this rule describes two different EPPs. Using a plain-language interpretation of the "end-date" rule, it appears that a comprehensive EPP is required for DMO's and that an EPP and Reclamation plan that addresses only "…applicable water quality standards." is required for everyone else. We seek clarification from DRMS.

There are no time restrictions found in the Act or CRS on submission of an appropriate EPP to DRMS for approval. The mine anticipates submitting the water quality protective EPP in a Technical Revision to the amended permit, after the Amendment 2 process is complete. This is the same manner as DRMS has requested that the mine submit the currently completed Groundwater Monitoring Plan and Stormwater Management Plan, the in-progress engineering design of hydraulic plugs for closure, and any plans for modification of the existing filtration and polishing treatment. These documents will be submitted as Technical Revisions, after Amendment 2 is complete, in compliance with

Hardrock Rules, DRMS policy, and the schedule set by DRMS. All Technical Revisions are open for public comment.

The Save The Colorado claim that the Amendment 2 process is dead in its tracks because of HB 19-1113 is just another of STC's claims supported by selective quotation, poor research, and fanciful interpretation of the regulations. There are no restrictions on GIR creating an appropriate EPP and submitting it to the state for consideration of an end date exemption, a fact unmentioned by STC. The water quality history records prior to 2019 exist. They are extensive, and widely available for public review.

It appears that STC claims that Amendment 2 can't proceed without an end date are not real. GIR is not prohibited from applying for an exemption, and the law appears to be crafted to let mines like the Cross continue operating without an end date for discharge. GIR will seek DRMS guidance on applying for an exemption to an end date, and what a non-DMO EPP should look like. GIR will comply with all evolving regulations.

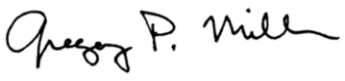
6. Conclusion

The STC Letter begins with the blatant misstatement that there are direct adverse effects to local residents. STC's allegations are based on a clear misunderstanding of the law. STC falsely claims there are records intentionally hidden from public review. All of this has led STC to arrive at the wrong conclusion that a mine that is categorically exempt from the Designated Mining Operation Rule, is a DMO.

Based on review of the public record regarding Cross Mine permitting, and my personal, academic, and professional experience, it is my opinion to a reasonable degree of scientific certainty that there has been no harm to human health or the environment from the 2020-2021 GIR discharge permit violations.

The STC Letter is not an accurate representation of fact, as I describe in great detail above. The STC Letter uses misinformation and misinterpretation of the laws and regulations in an attempt to convince DRMS and the public that Save the Colorado is not only an authority on mine permit classification, but that DRMS has mis-classified the Cross Mine for decades. Based on the above, we hope, like GIR did, you also determine that the STC Letter is based on false assumptions and is not persuasive. Thank you for your time and consideration. If you or STC have any questions, or require any further information, please do not hesitate to contact me or Daniel Takami.

Sincerely,



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