

BEFORE THE MINED LAND RECLAMATION BOARD  
STATE OF COLORADO

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IN THE MATTER OF  
CROSS GOLD MINE (PERMIT NO. M-1977-410)  
GRAND ISLAND RESOURCES, LLC'S PETITION FOR HEARING  
APPEAL OF DIVISION'S FINAL DETERMINATION OF  
DESIGNATED MINING OPERATION STATUS FOR CROSS GOLD MINE

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PETITION TO INTERVENE

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Save the Colorado ("Intervenor") hereby timely request that the Colorado Mined Land Reclamation Board ("MLRB" or "Board") grant this Petition to Intervene in the above captioned matter under Rules 7.2.4(1)(b) and 1.4.11 of the Board's Mineral Rules and Regulations for Hard Rock, Metal, and Designated Mining Operations ("Rules").

Rule 7.2.4(1)(b), pertaining to Designated Mining Operation ("DMO") status appeals brought by an operator, provides that "[a]ny person who demonstrates that they are directly and adversely affected or aggrieved by the Board's determination and whose interest is entitled to legal protection under the Act may participate as a party in the appeal of the Office's determination brought by the Operator/Applicant." The Colorado Administrative Procedure Act echoes this broad standard for participation in these agency proceedings:

A person who may be affected or aggrieved by agency action shall be admitted as a party to the proceeding upon his filing with the agency a written request therefor, setting forth a brief and plain statement of the facts which entitle him to be admitted and the matters which he claims should be decided. [ . . . ]

C.R.S. § 24-4-105(2)(c). Colorado courts recognize that any person who has been "affected or aggrieved" and has filed a written request is entitled to participate in a MLRB proceeding. New Jersey Zinc Co., Div. of Gulf & Western Industries, Inc. v. Colorado Mined Land Reclamation Bd., 738 P.2d 51, 54 (Colo. App. 1987)("Any person who may be affected or aggrieved by agency action must be admitted as a party upon its request, or it may be admitted as a party for any limited purpose.").

In this case, Intervenor will be directly and adversely affected or aggrieved by any determination excusing the Cross Gold Mine ("Mine") from DMO status. Intervenor's conservation and environmental protection interests, and that of their members, are also entitled to legal protection under the Act. As a result, Intervenor is entitled to participated in this matter before the Board as a full party, in accordance with the Rules.

Intervenor and its members use and enjoy the lands and waters affected by the Mine. Specifically, members of Intervenor live and recreate downstream of the Mine and along Coon

Track Creek and the Middle Fork of Boulder Creek. Intervenor's members also use and enjoy the federal public lands adjacent to where the mine is located, and the surrounding lands and waters, for recreational, conservation, aesthetic, and other purposes. These uses will be impaired and degraded by any toxic or acidic materials exposed, disturbed, used, or released at or from the Mine site. The DMO designation process, and the accompanying Environmental Protection Plan requirement, is devised purposefully and expressly to address these types of materials and ensure their control on and off the mine site. Intervenor and its members are concerned with protecting wildlife, scenery, water quality, quality of life, human health, and other values that are and will be impacted by the operation of the Mine. Should the Mine not be treated as a DMO, Intervenor's and its members' interests would be adversely affected and impaired by the Division applying a less rigorous substantive and procedural environmental and reclamation review to these mines. Such a non-DMO determination would also deprive Intervenor and its members of critical information with respect to how these mines will treat and protect the natural and human resources in the area. As such, Intervenor possesses the requisite interests under the Colorado Mined Land Reclamation Act ("Act") and the Rules for party status in this proceeding.

On June 13, 2022, the Division of Reclamation Mining and Safety ("Division") gave the Mine operator formal notice of its final determination of DMO status for the Mine. On July 13, 2022, the Mine operator filed an appeal of that determination pursuant to Rule 7.2.4. Intervenor supports the Division's final determination of DMO status for the Mine and requests the Board approve this Petition to Intervene and give Intervenor full party status at any hearing of the Board addressing this matter. Intervenor will work with the Mine operator and the Division to coordinate submittal of a formal written Response to the issues raised in the Mine operator's Appeal in preparation for the Board hearing. At such hearing, Intervenor will be prepared to present evidence and testimony demonstrating that the Mine meets the criteria for DMO status and such a designation is appropriate and legally-required for the Mine.

Based on the foregoing, Intervenor requests that the Board promptly GRANT this Petition to Intervene.

Respectfully submitted this July 28, 2022.

*/s/ Jeffrey C. Parsons*

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