



STATE OF
COLORADO

Ebert - DNR, Jared <jared.ebert@state.co.us>

Highway 72 Mill Site, M-2020-044, MLRB Packet

Ebert - DNR, Jared <jared.ebert@state.co.us>

Tue, Aug 9, 2022 at 6:05 AM

To: paulydano@gmail.com, David Emslie <dave@prospectorsgoldandgems.com>

Mr. Danio and Mr. Emslie,

Attached is the packet DRMS staff provided to the Mined Land Reclamation Board for the upcoming hearing.

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Jared Ebert

Senior Environmental Protection Specialist



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources

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Board Packet_Hwy 72 Mill_M-2020-044.pdf

19311K

Memorandum

Date: August 4, 2022

To: Mined Land Reclamation Board

From: Michael Cunningham, Senior Environmental Protection Specialist

RE: Supporting Document(s) for August 17-18, 2022 Board Hearing; Consideration of a possible violation, Cease and Desist Order, corrective actions and civil penalties for failure to obtain a reclamation permit prior to engaging in a new operation; Rocky Flats Environmental Solutions Mill; Rocky Flats Environmental Solutions, LLC; Permit No. M-2020-044

The following document(s) have been included in the Board Packet:

1. Inspection Report for Denver Heavy Equipment, File No. M-2012-033 - dated July 10, 2012.
2. Memorandum of Understanding Between the CDPHE and DRMS – dated May 2017.
3. Statement of Basis and Purpose for the Hard Rock, Metal, and Designated Mining Operations Rulemaking.
4. Inspection Report for Mountain Plains Mill, File No. M-2020-010 – dated February 26, 2020.
5. Inspection Report for Rocky Flats Environmental Solutions Mill, File No. M-2020-044 – dated November 3, 2020.
6. Citizen Complaint – dated April 14, 2022.
7. Request for Inspection of Lands to Determine Compliance – dated June 23, 2022.
8. Cease and Desist Order – dated July 1, 2022.
9. Inspection Report for Rocky Flats Environmental Solutions Mill, File No. M-2020-044 – dated July 14, 2022.



10. Notice of Possible Violation Letter – dated July 13, 2022.

11. Rocky Flats Environmental Solutions MSHA Id Records.

12. MLRB Presentation Photographs:

<https://dnrweblink.state.co.us/drms/0/doc/1365810/Page1.aspx?searchid=0bdfb5eb-cd56-44c1-b44e-fc9c543318a0>



COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY
MINERALS PROGRAM INSPECTION REPORT
PHONE: (303) 866-3567

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: Denver Heavy Equipment	MINE/PROSPECTING ID#: None	MINERAL: N/A	COUNTY: Adams
INSPECTION TYPE: Complaint	INSPECTOR(S): Tom Kaldenbach	INSP. DATE: January 25, 2012	INSP. TIME: 9:00
OPERATOR: John Miner and Paul Daneo	OPERATOR REPRESENTATIVE: Paul Daneo, John Miner	TYPE OF OPERATION: Gold mill	

REASON FOR INSPECTION: Complaint	BOND CALCULATION TYPE: N/A	BOND AMOUNT: N/A
DATE OF COMPLAINT: November 21, 2011	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
WEATHER: Cloudy	INSPECTOR'S SIGNATURE: <i>Tom Kaldenbach</i>	SIGNATURE DATE: July 10, 2012

GENERAL INSPECTION TOPICS

This list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each. No problems or possible violations were noted during the inspection. The mine operation was found to be in full compliance with Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials and/or for Hard Rock, Metal and Designated Mining Operations. Any person engaged in any mining operation shall notify the office of any failure or imminent failure, as soon as reasonably practicable after such person has knowledge of such condition or of any impoundment, embankment, or slope that poses a reasonable potential for danger to any persons or property or to the environment; or any environmental protection facility designed to contain or control chemicals or waste which are acid or toxic-forming, as identified in the permit.

(AR) RECORDS-----	<u>NA</u>	(FN) FINANCIAL WARRANTY-----	<u>NA</u>	(RD) ROADS-----	<u>NA</u>
(HB) HYDROLOGIC BALANCE-----	<u>NA</u>	(BG) BACKFILL & GRADING-----	<u>NA</u>	(EX) EXPLOSIVES-----	<u>NA</u>
(PW) PROCESSING WASTE/TAILING----	<u>NA</u>	(SF) PROCESSING FACILITIES-----	<u>NA</u>	(TS) TOPSOIL-----	<u>NA</u>
(MP) GENL MINE PLAN COMPLIANCE-	<u>NA</u>	(FW) FISH & WILDLIFE-----	<u>NA</u>	(RV) REVEGETATION----	<u>NA</u>
(SM) SIGNS AND MARKERS-----	<u>NA</u>	(SP) STORM WATER MGT PLAN----	<u>NA</u>	(SB) COMPLETE INSP----	<u>NA</u>
(ES) OVERBURDEN/DEV. WASTE-----	<u>NA</u>	(SC) EROSION/SEDIMENTATION---	<u>NA</u>	(RS) RECL PLAN/COMP--	<u>NA</u>
(AT) ACID OR TOXIC MATERIALS-----	<u>NA</u>	(OD) OFF-SITE DAMAGE-----	<u>NA</u>	(ST) STIPULATIONS-----	<u>NA</u>

Y = Inspected and found in compliance / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

OBSERVATIONS

This inspection was conducted in response to a written complaint received by DRMS on November 21, 2011 which indicated possible gold ore milling activity at 3060 W. 58th Ave. in Adams County. Prior to this inspection, DRMS had visited the site on January 6, 2012 with Adams County representatives Craig Tessmer, Reggie Nettles, and Lisa Oliveto of Tri-County Health Department, and Darrell Dearborn of the Hazardous Materials and Waste Management Division (HMWMD) of the Colorado Department of Public Health and Environment. Craig Tessmer and Lisa Oliveto also participated in the current inspection, as well as Derek Boer, Darrell Dearborn, and Edward Smith of the HMWMD who conducted their own inspection. No one was present on the site to represent the operator during the January 6 visit, and the site appeared the same during the current inspection as it did on January 6. (Photographs taken during the January 6 visit are attached to the end of this report.)

The ground was dry. The site is an approximate one-acre area where what appears to be a gold ore processing mill has been set up. John Miner and Paul Daneo represented the operator during the inspection.

Much of the equipment and supplies on the site appeared to be of the type used in the mechanical and chemical milling of rock material (crushing, sizing, and separating minerals from ore). A mining rock drill was stored on the site, but did not appear to have been operated on the site. In addition to the mill equipment on the site, there were approximately ten white 2200-pound woven polypropylene "super-sacks" on wooden pallets, and more than a dozen 55-gallon drums. The sacks and drums were stored in an open area. The sacks and drums contained what appeared to be hard rock mine waste rock or tailings. This material was a yellow-gray sandy rock material. During the inspection, the operator's representatives explained that the material was mine waste rock material that had been obtained from mines in Colorado and out of state that were not owned or controlled by the operator of this mill site. Based on the independent ownership of this mill and the source of the material, it was concluded that this mill site was not within the regulatory jurisdiction of the DRMS, and the inspection was terminated. Representatives from the other agencies continued their inspections.

Photographs taken on the site during the 1/6/12 visit



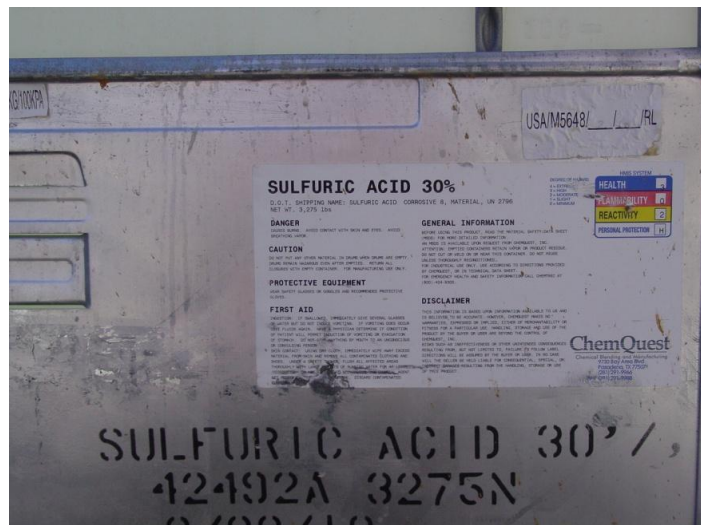












Inspection Contact Address

John Miner
Denver Heavy Equipment
3060 W. 58th Avenue
Denver, CO 80221

cc (via email):

Derek Boer, HMWMD
Lisa Oliveto, Tri-County Health Department

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
HAZARDOUS MATERIALS AND WASTE MANAGEMENT DIVISION
AND THE
COLORADO DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RECLAMATION, MINING AND SAFETY
CONCERNING SOLID WASTE ISSUES**

This revised memorandum of understanding (MOU) replaces and supersedes the MOU signed November 1992 between these Departments. This revised MOU is written by the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division (HMWMD) and the Colorado Department of Natural Resources, Division of Reclamation, Mining and Safety (DRMS) to clarify selected solid waste issues at mine sites. This MOU is intended as guidance, and does not create any legal rights, set any legal standards, or function in any form as "law."

This MOU reflects the following requirements of the Solid Waste Disposal Sites and Facilities Act (SWDFA) and the Mined Land Reclamation Act (MLRA):

DEFINITIONS:

"Certificate of Designation" (CD) means a document issued by the governing body having jurisdiction to a person authorizing the use of land for a solid waste disposal site and facility pursuant to the Act. The "certificate of designation," which incorporates all information as may be required by the Department and the governing body having jurisdiction, is then issued by the governing body having jurisdiction if the Department has determined that the minimum standards are met. Solid Waste Regulations, 6 C.C.R. 1007-2, Part 1, § 1.2 (SW Regs.)

Persons who dispose of their own waste on their own property do not need a Certificate of Designation. However, such persons shall comply with the substantive standards of the SWDFA and the SW Regs. Section 30-20-102 (3), C.R.S.

A person who is engaged in mining operations pursuant to a permit issued by the Mined Land Reclamation Board (MLRB) or office of mined land reclamation that contains an approved plan of reclamation may dispose of solid waste generated by such operations within the permitted area for such operations. Such waste disposal site and facility is an

approved site for which obtaining a Certificate of Designation under the provisions of section 30-20-105 shall be unnecessary. Section 30-20-102(4), C.R.S.

“Inert material” means non-water soluble and non-putrescible solids together with such minor amounts and types of other materials as will not significantly affect the inert nature of such solids. The term includes, but is not limited to, earth, sand, gravel rock, concrete which has been in a hardened state for at least sixty days, masonry, asphalt paving fragments, and other inert solids. Solid Waste Regulations, 6 C.C.R. 1007-2, Part 1, § 1.2. Inert materials may be solid wastes.

“Beneficial use” means the use of solid waste as an ingredient in a manufacturing process, or as an effective substitute for natural or commercial products, in a manner that does not pose a threat to human health or the environment. Avoidance of processing or disposal cost alone does not constitute beneficial use. Solid Waste Regulations, 6 C.C.R. 1007-2, Part 1, § 1.2.

“Mining operation” means the development or extraction of a mineral from its natural occurrences on affected land. . . The term “mining operation” also includes the following operations on affected lands: Transportation; concentrating; milling; evaporation; and other processing. . . Section 34-32-103(5.8)(8), C.R.S.

MILLING IS MINING:

Any person engaged in a mining operation shall obtain a MLRB permit. If mining operations include milling of ore or waste rock from a mining operation(s) subject to the provisions of the MLRA, then a Designated Mining Operation Reclamation Permit shall be obtained.

Milling pursuant to a MLRB permit does not require a CD pursuant to Section 30-20-102(4). Mining operations disposing of their own waste under a “Colorado Mined Land Reclamation Act” permit will be regulated solely by DRMS.

HEAP LEACHING OPERATIONS:

Facilities conducting heap leaching do not require a CD, but shall require a MLRB permit.

WASTE IMPORTED DURING MINING OPERATIONS:

Any facility which imports waste from off-site during mining must comply with the SWDFA and shall require a CD or a Beneficial Use Determination (BUD) from HMWMD. DRMS shall include in any new or modified permit a condition requiring a CD or BUD prior to importing waste to the facility (except as provided below).

Where the facility is complying with MLRB Permit pre-screening requirements (Rule 3.1.5(9)), inert material may be used as fill during mining without further HMWMD approval in accordance with the pre-approved beneficial use table referenced in the Solid Waste Regulations, 6 C.C.R. 1007-2, Part 1, § 8.6.1(A)(4) (Table 3).

Facilities seeking to import waste during mining operations shall contact the local governing body to determine whether a CD will be required. The applicant shall provide documentation of the CD determination to DRMS.

MINE SITES USED AS LANDFILLS AS A POST MINING LAND USE:

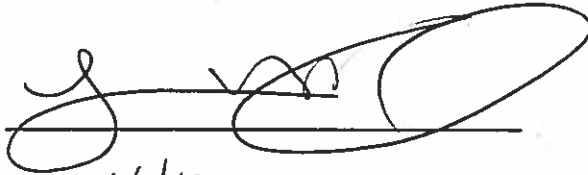
DRMS shall provide HMWMD a notice that includes electronic access to any new mining permit application, or mining permit amendment, which proposes post-mining landfill operations within ten days of filing with DRMS.

DRMS shall not approve landfilling as a post-mining land use until the operator has obtained either a CD or a BUD as discussed below. If the landfilling proposal involves disposal of material other than inert fill, the proponent shall obtain a CD from the local governing body. § 30-20-102, C.R.S. If the landfilling proposal involves disposal of only inert fill, the proponent shall obtain a BUD from HMWMD.

At a site where post-mining landfilling has been proposed, DRMS shall not release the reclamation bond on such a site until an approved CD (including financial assurance) or BUD has been issued by the appropriate authority.

May 2017 MOU between CDPHE/HMWMD and DNR/DRMS

Where DRMS has released the site following compliance with DRMS reclamation requirements, all SWDFA requirements apply and the site shall have a CD or BUD prior to further operations.



Date 6/1/17

Larry Wolk, MD MSPH
Executive Director & Chief Medical Officer
Colorado Department of Public Health
and Environment



Date 7.12.17

Virginia Brannon, Director

Colorado Department of Natural
Resources
Division of Reclamation, Mining and
Safety

DEPARTMENT OF NATURAL RESOURCES

Mined Land Reclamation Board

Division of Reclamation Mining and Safety

2 C.C.R. 407-1

STATEMENT OF BASIS AND PURPOSE AND SPECIFIC STATUTORY AUTHORITY FOR

Amendments to the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, And Designated Mining Operations (2 C.C.R. 407-1).

Basis and Purpose

I. Statutory Authority

These modifications to the Rules are made pursuant to the authority granted to the Mined Land Reclamation Board in Sections 34-32-104, 34-32-105(3), 34-32-106(1)(b), and 34-32-108(1) C.R.S.

The specific authority for these rules is provided in Section 34-32-108(1), C.R.S. -- “The Board may adopt and promulgate reasonable rules and regulations respecting the administration of this article and article 32.5 of this title and in conformity therewith.”

II. Purpose of revising the Rules

The primary purpose of the amendments include the deletion of the custom milling definition and exemption, clarifying and amending certain portions of the existing rules including the size of the required posted sign, an estimated completion date for Notices of Intent to Conduct Prospecting Activities, and general editorial clean up.

Discussion of Regulatory Amendments

I. Deleted Definition of Custom Mill:

Deleted Rule 1.1(12) Definition –

Custom Mill” is a mill that is not engaged in the processing of ore from any permitted mine that is owned or under common control with the milling facility or the entity operating the milling facility. An Applicant or Operator who intends to mill ores from other mining operations must submit adequate information to demonstrate that waste (material or stream) from such ores will be processed or disposed of in a manner to protect human health, property and the environment. "Custom Mill" does not include mills regulated by the Radiation Control Division of the Colorado Department of Public Health and the Environment under Part 18 of Rules and Regulations Pertaining to Radiation Control.

Deleted Rule 1.2.1 Reclamation Permit Exemption Specified by Rule –

The Board has determined that certain types of activities do not need reclamation permits either because the excavated substance is not a mineral as defined in Section 34-32-103(7), Colorado Revised Statutes 1984, as amended or because the activity is not a mining operation as defined by Section 34-32-103(8), C.R.S. 1984, as amended. Such activities include the following: (e) a custom mill.

II. Scope and Applicability of Deletion of Custom Mill Definition and Permit Exemption

The statutory definition of “Mining Operation” in the Colorado Mined Land Reclamation Act (“Act”) includes the following operations of affected lands: Transportation; concentrating; *milling*; evaporation; and other processing. § 34-32-103(8), C.R.S. “Custom Mill” is not defined or even mentioned in the Act. After several discussions with the Colorado Department of Public Health and the Environment, Hazardous Materials and Waste Management Division (HMWMD) the Division determined that the regulatory definition of Custom Mill was causing unnecessary confusion over jurisdiction and authority and that CDPHE was not actively regulating “custom mills.” An updated and revised MOU between HMWMD and the Division was executed in June of 2017 incorporating the changes. The revised MOU states: 1) Any person engaged in a mining operation shall obtain a MLRB permit. If mining operations include milling of ore or waste rock from a mining operation(s) subject to the provisions of the MLRA, then a Designated Mining Operation Reclamation Permit shall be obtained; and 2) Milling pursuant to a MLRB permit does not require a CD pursuant to Section 30-20-102(4). Mining operations disposing of their own waste under a “Colorado Mined Land Reclamation Act” permit will be regulated solely by DRMS.

III. Statutory language was added to Rule 1.5.6.

IV. The definition of “Off-site” in Rule 1.1(44) was amended for clarity.

V. Language was added to Rule 1.16 regarding property leases and the need for operators to notify the Office to when leases that affect legal right of entry are changed.

VI. In response to public feedback, language regarding the size of signs was added to Rule 1.6.2 in order to ensure that permit application notices are visible to the public.

VII. Rule 1.10 AMENDMENT TO A PERMIT was amended to allow for electronic submittals and reduce the amount of paperwork submitted.

VIII. In response to past issues, the Division added language to Rule 3.1.3 Time Limit and Phased Reclamation to insure timely reclamation of sites.

IX. Language was added to Rule 3.1.11 Buildings and Structures to provide clarity to operators.

X. In response to public feedback, language further clarifying Rule 3.1.12 Signs and Markers was added regarding the size of signs.

XI. Language was added to Rule 6.3.3(g) EXHIBIT C – Mining Plan, that mirrors the statutory definition of “affected lands.”

XII. Rule 6.3.1 EXHIBIT G – Source of Legal Right-to-Enter was edited for clarity.

IXX. Language was added to Rule 6.4.4(j) EXHIBIT D – Mining Plan that includes the statutory definition of “affected lands.”

XX. Language was moved from Rule 7.2.10 and 7.2.11 to Rule 4.17.4 Specific Provisions – Designated Mining Operations, to provide clarity to operators. The language previously found in Rule 4.17.4 is proposed to be subsequently eliminated.

Stakeholder Involvement in the Process

The following describes the Division’s effort to work with and reach out to stakeholders.

I. Extent of Agency Consultation with Operators, Consultants, Environmental Organizations, and Government Representatives

The Division utilized various methods to inform individual industry representatives, industry trade associations, environmental organizations, and federal government agencies of the proposed regulatory revisions. These methods included:

1. Posting a Stakeholder Process Notification Request Form on the Division’s website to notify stakeholders of upcoming stakeholder meetings and related draft documents.
2. The Division hosted 2 informal stakeholder meetings in both Grand Junction (2/7/19) and Denver (2/14/19).


Alternatives Considered and Why Rejected

The Division considered all of INFORM and Sheep Mountain Alliance’s comments. INFORM and Sheep Mountain Alliance commented that “an expansive definition of “milling”” should be added to the Rules and that the term “production” should be added to Rule 3.1.3. The Division does not believe that INFORM and Sheep Mountain Alliance’s suggested Rule changes are within the scope of this proposed rule-making.



MINERALS PROGRAM INSPECTION REPORT
PHONE: (303) 866-3567

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: Mountain Plains Mill	MINE/PROSPECTING ID#: M2020-010	MINERAL: Metals Mill	COUNTY: Jefferson
INSPECTION TYPE: Possible Illegal (Unpermitted Operation)	INSPECTOR(S): Eric Scott	INSP. DATE: January 29, 2020	INSP. TIME: 09:30
OPERATOR: Paul Danio	OPERATOR REPRESENTATIVE: Paul Danio	TYPE OF OPERATION: ILL – Possible Illegal	
REASON FOR INSPECTION: Citizen Complaint	BOND CALCULATION TYPE: None	BOND AMOUNT: No Bond Held	
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None	
WEATHER: Cloudy	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: February 26, 2020	

GENERAL INSPECTION TOPICS

This list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each. No problems or possible violations were noted during the inspection. The mine operation was found to be in full compliance with Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials and/or for Hard Rock, Metal and Designated Mining Operations. Any person engaged in any mining operation shall notify the office of any failure or imminent failure, as soon as reasonably practicable after such person has knowledge of such condition or of any impoundment, embankment, or slope that poses a reasonable potential for danger to any persons or property or to the environment; or any environmental protection facility designed to contain or control chemicals or waste which are acid or toxic-forming, as identified in the permit.

(AR) RECORDS----- <u>N</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>N</u>
(HB) HYDROLOGIC BALANCE----- <u>N</u>	(BG) BACKFILL & GRADING----- <u>N</u>	(EX) EXPLOSIVES----- <u>N</u>
(PW) PROCESSING WASTE/TAILING---- <u>N</u>	(SF) PROCESSING FACILITIES----- <u>N</u>	(TS) TOPSOIL----- <u>N</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>N</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>N</u>
(SM) SIGNS AND MARKERS----- <u>N</u>	(SP) STORM WATER MGT PLAN---- <u>N</u>	(RS) RECL PLAN/COMP-- <u>N</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>N</u>	(SC) EROSION/SEDIMENTATION--- <u>N</u>	(ST) STIPULATIONS----- <u>N</u>
(AT) ACID OR TOXIC MATERIALS----- <u>N</u>	(OD) OFF-SITE DAMAGE----- <u>N</u>	

Y = Inspected and found in compliance / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

OBSERVATIONS

The Division of Reclamation, Mining and Safety (Division/DRMS) conducted a site inspection of the Mountain Plains Mill based on the appearance of the facility on the Discovery Channel television show "Reclaimed". The mill is considered a possible unpermitted milling operation by the Division based on material presented on the show. The site inspection was conducted by Eric Scott and Michael Cunningham with the Division. The Division contacted mill representative Paul Danio prior to the inspection. Mr. Danio and his business associates Dave Emslie, and Steve McClintock met DRMS at the site and were present during the inspection.

The Mountain Plains Mill site is located in northern Jefferson County approximately 0.25 miles east of Highway 93, and 0.8 miles north of Westgate Road. The site is on approximately 2 acres of land leased from Mountain Plains Industrial Center LLC (MPIC), and situated on a strip of property east of a railroad spur, on the eastern edge of the larger MPIC parcel. Parcel ownership is based on the Division's search of the Jefferson County Assessors website. Mr. Danio stated that the 2 acre mill site was leased beginning in May of 2019 and that the mill facility was constructed beginning in the summer of 2019.

The facility consisted of a conveyor for ore into a small rod mill, followed by separation tables and a flotation circuit for the crushed ore, with the supporting infrastructure and materials. Several shipping containers/trailers and two water tanks were also located on site (see attached photos). Mr. Danio stated that any/all waste tailings generated were then to be removed from the site for use in a subsequent commercial process, or for disposal at a proper facility. The mill did appear to be operational or near-operational at a limited scale. Although it was open to the environment at the time of the inspection, Mr. Danio stated that in the future the facility would be enclosed by a building.

During an episode of the Reclaimed program, the mill was depicted as processing ore obtained from a nearby site in Gilpin County. Mr. Danio stated that although the mill was operated for limited testing after construction (approximately 10 tons processed) the activities depicted in the TV program were staged, and the mill was essentially utilized as a prop for filming. The mill was not operating at the time of the inspection. Only small amounts of unprocessed material, and waste tailings were noted on-site (photos 5 and 7).

During the inspection the Division reminded Mr. Danio and his associates that the Mined Land Reclamation Board, through a formal Rulemaking on May 22, 2019, removed the definition of 'custom mill' from the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations (Rules). Additionally, the Memorandum of Understanding (MOU) between the Division and the Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division was revised in May 2017. The revised MOU clarified that milling is a mining activity which is subject to the provisions of the Rules and is solely regulated by the Division. The Division considers the operation of this mill facility to be a mining activity and therefore subject to DRMS permitting requirements. To-date no Reclamation Permit has been submitted or approved for this facility. This inspection report serves as notice to the mill owners that a Reclamation Permit is required to be submitted and approved by the Division in accordance the Rules prior to metals milling/processing activities occurring at the site.

Any metals milling/processing activities conducted without the Division's approval may be considered illegal mining resulting in the issuance of a Reason to Believe a Violation Exists notice by the Division and an

enforcement hearing before the Mined Land Reclamation Board. Any Operator who operates without an appropriate permit shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) per day nor more than five thousand dollars (\$5,000) per day for each day the land has been affected pursuant to C.R.S 34-32-123(2).

Since the site activity related to milling depicted on the television show appeared to be staged, and the mill facility was not operating at the time of the inspection, no enforcement activity will be initiated by the Division at this time. The Division requests the mill claim owners contact the Division to discuss the future of the site. The Division has assigned the possible illegal operation investigation File No. M2020-010. This file number should be referenced by the mill owners for communications with the Division. The Division may conduct additional site inspections to evaluate/document the operational status of the mill facility in the future.

If you need additional information or have any questions, please contact me at Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at 303.866.3567 x 8140, or by email at eric.scott@state.co.us.

Inspection Contact Address

Paul Danio via e-mail

CC:

David Emslie
Total Eclipse Mining LLC
309 S. Summit View Drive, Unit 16
Fort Collins, CO 80524
Certified Mail # 7019 2280 0001 8255 0336

Carey Christensen via e-mail
Jefferson County Planning and Zoning Division
100 Jefferson County Parkway
Suite 3550
Golden CO 80419

Charlie McKay
Mountain Plains Industrial Center LLC
20009 Highway 72
Arvada CO 80007
Certified Mail # 7019 2280 0001 8255 0329

PHOTOGRAPHS



Photo 1 – Overview of mill facility (partial)

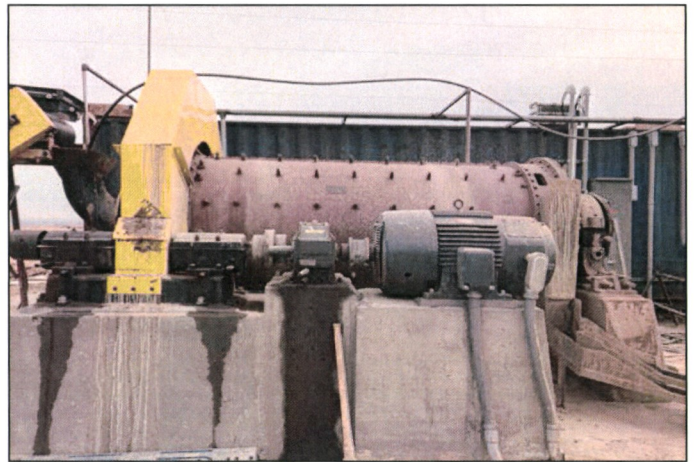


Photo 2 – Small rod mill used to crush ore prior to sorting tables.



Photo 3 – Top view of sorting tables with flotation circuit in background of photo



Photo 4 – Side view of flotation circuit



Photo 5 – End of milling process after flotation circuit, note small pile of processed tailings at end of conveyor



Photo 6 – Water tanks and unlined holding pond



Photo 7 – Small pile of unprocessed material located at north end of facility next to initial conveyor to rod mill



Photo 8 – Storage container containing tools and electrical infrastructure for mill



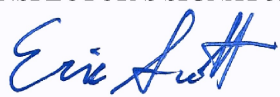
Photo 9 – Interior of container shown in Photo 8

**COLORADO**Division of Reclamation,
Mining and Safety

Department of Natural Resources

MINERALS PROGRAM INSPECTION REPORT**PHONE: (303) 866-3567**

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: Hwy 72 Site	MINE/PROSPECTING ID#: M2020-044	MINERAL: Gold	COUNTY: Jefferson
INSPECTION TYPE: Possible Illegal(Unpermitted Operation)	INSPECTOR(S): Eric Scott	INSP. DATE: September 21, 2020	INSP. TIME: 13:00
OPERATOR: Rocky Flats Environmental Solutions LLC	OPERATOR REPRESENTATIVE: Paul Danio	TYPE OF OPERATION: ILL – Possible Illegal Mill	
REASON FOR INSPECTION: Citizen Complaint	BOND CALCULATION TYPE: None	BOND AMOUNT: No Bond Held	
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None	
WEATHER: Clear	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: 11/3/2020	

GENERAL INSPECTION TOPICS

This list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each. No problems or possible violations were noted during the inspection. The mine operation was found to be in full compliance with Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials and/or for Hard Rock, Metal and Designated Mining Operations. Any person engaged in any mining operation shall notify the office of any failure or imminent failure, as soon as reasonably practicable after such person has knowledge of such condition or of any impoundment, embankment, or slope that poses a reasonable potential for danger to any persons or property or to the environment; or any environmental protection facility designed to contain or control chemicals or waste which are acid or toxic-forming, as identified in the permit.

(AR) RECORDS----- <u>N</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>N</u>
(HB) HYDROLOGIC BALANCE----- <u>N</u>	(BG) BACKFILL & GRADING----- <u>N</u>	(EX) EXPLOSIVES----- <u>N</u>
(PW) PROCESSING WASTE/TAILING---- <u>N</u>	(SF) PROCESSING FACILITIES----- <u>N</u>	(TS) TOPSOIL----- <u>N</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>N</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>N</u>
(SM) SIGNS AND MARKERS----- <u>N</u>	(SP) STORM WATER MGT PLAN---- <u>N</u>	(RS) RECL PLAN/COMP-- <u>N</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>N</u>	(SC) EROSION/SEDIMENTATION--- <u>N</u>	(ST) STIPULATIONS----- <u>N</u>
(AT) ACID OR TOXIC MATERIALS----- <u>N</u>	(OD) OFF-SITE DAMAGE----- <u>N</u>	

Y = Inspected / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

OBSERVATIONS

The Division of Reclamation, Mining and Safety (Division/DRMS) attempted to conduct a site inspection of property located at 17200 Hwy 72 in Jefferson County based on multiple anonymous citizen complaints of unpermitted "mining and milling" activity left on DRMS voicemail. The site visit was conducted by Michael Cunningham and Eric Scott with the Division.

The subject property, 17200 Hwy 72, is located in northern Jefferson County approximately 2.44 miles east of Highway 93, at the south end of Umber Ct. The property is located immediately adjacent to several RV storage facilities to the north, and a railroad line and vacant land to the south. The site is on approximately 1.9 acres of land recently purchased by Rocky Flats Environmental Solutions LLC. This property was transferred from the previous owner, Thoros Products, in April of 2020, and is subject to institutional controls put in place in June of 2007 by US EPA. Parcel ownership is based on information obtained from the Jefferson County Assessor's Office.

Upon arriving at the property at approximately 1300 on September 21, 2020, DRMS representatives immediately announced their presence and identified themselves to the individual present within the building. This individual asked DRMS to wait by the building entrance while he contacted Mr. Paul Danio who was also present on site. Mr. Danio joined DRMS shortly thereafter, and after DRMS personnel identified themselves, Mr. Danio immediately directed DRMS to leave the property and denied access for any further observations. DRMS left the subject property at that time.

While waiting for Mr. Danio to appear, and prior to being directed to leave the property, DRMS noted that the building contained much of the milling equipment (conveyor, separation tables, and floatation circuit) that was present at a previous location briefly operated by Mr. Danio known as Mountain Plains Mill. This site was inspected by DRMS in late January of 2020 (M2020-010).

DRMS was unable to ascertain if the milling equipment observed at this site was complete and operational at this time, however, the mill was not operating at the time of the inspection and appeared to be under construction. Only small amounts of covered, unprocessed material were noted on-site, as observed from the adjacent Stor-rite property.

DRMS will again at this time remind Mr. Danio and the property owner that the Mined Land Reclamation Board, through a formal Rulemaking on May 22, 2019, removed the definition of 'custom mill' from the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations (Rules). Additionally, the Memorandum of Understanding (MOU) between the Division and the Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division was revised in May 2017. The revised MOU clarified that milling is a mining activity which is subject to the provisions of the Rules and is solely regulated by the Division. The Division considers the operation of a mill facility to be a mining activity and therefore subject to DRMS permitting requirements. To-date no Reclamation Permit has been submitted or approved for this facility. This inspection report serves as notice to the owners that a Reclamation Permit is required to be submitted and approved by the Division in accordance the Rules prior to metals milling/processing activities occurring at the site.

Any metals milling/processing activities conducted without the Division's approval may be considered illegal mining resulting in the issuance of a Reason to Believe a Violation Exists notice by the Division and an

enforcement hearing before the Mined Land Reclamation Board. Any Operator who operates without an appropriate permit shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) per day nor more than five thousand dollars (\$5,000) per day for each day the land has been affected pursuant to C.R.S 34-32-123(2).

Since the mill facility was not operating at the time of the inspection, no enforcement activity will be initiated by the Division at this time. The Division requests the mill/property owners contact the Division to discuss the future of the site. The Division has assigned the possible illegal operation investigation File No. M2020-044. This file number should be referenced by the mill owners for communications with the Division. The Division may conduct additional site observations to evaluate/document the operational status of the mill facility in the future.

If you need additional information or have any questions, please contact me at Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, or by email at eric.scott@state.co.us.

Inspection Contact Address

Paul Danio / David Emslie
Rocky Flats Environmental Solutions LLC
309 S Summit View Dr Unit 16
Ft Collins CO 80524
Certified Mail#



STATE OF
COLORADO

Ebert - DNR, Jared <jared.ebert@state.co.us>

Fwd: Illegal Transport of Mine Tailings Without Permits.

Info - DNR , DRMS_ <drms_info@state.co.us>

Thu, Apr 14, 2022 at 3:02 PM

To: Peter Hays - DNR <peter.hays@state.co.us>, Jared Ebert - DNR <jared.ebert@state.co.us>

Cc: Jeff Graves - DNR <jeff.graves@state.co.us>, Camille Mojar - DNR <camille.mojar@state.co.us>

Good afternoon everyone:

I'm forwarding the following communication from Connor Taz.

Connor's contact information is:

Phone: **303-590-4738**

Email: TheTazzMan235@yahoo.com

Thank you

Eleni



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources

P 303.866.3567 | F 303.832.8106

[1313 Sherman Street, Room 215, Denver, CO 80203](https://www.colorado.gov/dnrm)

drms_info@state.co.us | <https://drms.colorado.gov>

----- Forwarded message -----

From: **Connor Tazz** <thetazzman235@yahoo.com>

Date: Thu, Apr 14, 2022 at 2:40 PM

Subject: Illegal Transport of Mine Tailings Without Permits.

To: drms_info@state.co.us <drms_info@state.co.us>

Hi, My name is Connor B. Tazz. I am writing to you today after being referred to your agency by Clear Creek County Environmental Health as well as the Colorado Department of Public Health and Environment.

While being employed by either Prospectors Gold and Gems or Rocky Flats Environmental Solutions LLC, I overheard conversation between my bosses, David (unknown last name) and Paul Danio, about how they were moving the Tailings from their property in Virginia Canyon near Idaho Springs, CO. to their Metal / Non-Metal Mill located in Arvada, CO. I heard Paul state "As far as they (The City of Idaho Springs / Clear Creek County / The State of Colorado) know, we are just clearing trash for a cabin."

This Tailings Pile was apart of The Foxhall Tunnel Mine that shut down in the 1920's or 1930's. Since then, it has gone untouched aside from the occasional prospector or explorer. Now about half of the pile has been removed (about 75+ tons of tailings) and transported down to the Mill located in Arvada, Colorado. The pile at the mill is currently waiting to be processed but a portion of it already has been processed. I know this as I helped process it before being fired. I didn't speak up at the time it was occurring out of fear of retaliation. Based on things said by Paul, I presume that they did not have the permits nor proper licensing to move said tailings.

Below are the coordinates for the Mine and the Mill. These coordinates have been placed directly where the piles are located.

Foxhall Portal / Mining Property: 39.756393, -105.518421

Rocky Flats Environmental Solutions LLC (Mill): 39.859011, -105.196642

The Tailings was transported during the Month of March. You can see on Google Maps Street View at the Mill, my jeep is parked there next to a SUV that is parked next to a big yellow loader. Where the loader sits in that picture is where the pile of tailings is sitting waiting to be processed currently.

David is the owner of Prospectors Gold and Gems located in Fort Collins, Co.

I am unsure if he owns Rocky Flats Environmental Solutions LLC or if Paul owns it.

Any help that you could offer would be much appreciated. Looking forward to your response. Thank you!

Connor B. Tazz

303-590-4738

TheTazzMan235@yahoo.com



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources

June 23, 2022

David B. Emslie
Rocky Flats Environmental Solutions, LLC
309 S. Summit View Dr., Unit 16
Fort Collins, CO 80524

RE: Hwy 72 Site; File No. M-2020-044; Inspection of Lands to Determine Compliance

Mr. David B. Emslie,

The Colorado Division of Reclamation, Mining and Safety (“Division” or “Office”) has reason to believe that David B. Emslie, Paul Danio, and/or Rocky Flats Environmental Solutions, LLC are conducting mining operations at the Hwy 72 Site located at 17200 State Highway 72, Arvada, CO 80007. The Colorado Secretary of State’s website lists you as the registered agent of Rocky Flats Environmental Solutions, LLC.

The Division will be inspecting the Hwy 72 Site, operated by Rocky Flats Environmental Solutions, LLC located in Jefferson County, Colorado, pursuant to the Colorado Mined Land Reclamation Act, §§ 34-32-102, et seq., C.R.S. (“Mining Act”) and its implementing regulations, 2 C.C.R. 407-1 (“Mining Rules”) to determine compliance with the Mining Act and Mining Rules. Pursuant to § 34-32-121, C.R.S., the Office, or their authorized representatives may enter upon the lands of an operator at all reasonable times for the purpose of inspection to determine whether the provisions of this article have been complied with.

The Division requests you respond to this letter as soon as possible so that we can coordinate an inspection of the site. Please feel free to contact me at Michaela.Cunningham@state.co.us or at (303) 866-3567 ext. 8116.

Sincerely,

Michael Cunningham
Senior Environmental Protection Specialist

CERTIFIED MAIL NO. 7019 2280 0001 8255 0114
Return Receipt Requested

EC: Russ Means, DRMS
Jared Ebert, DRMS
David Emslie dave@prospectorsgoldandgems.com





COLORADO
**Division of Reclamation,
Mining and Safety**
Department of Natural Resources
1313 Sherman Street, Room 215
Denver, CO 80203

COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY

CEASE AND DESIST ORDER

Operator/Company Name:
**Rocky Flats Environmental Solutions, LLC, David
B. Emslie, Paul Danio and/or their associates**

Location (Section, Township, Range):
Section 23, T2S, R70W

Address:
**David Emslie/Paul Danio
309 S. Summit View Dr., Unit 16
Fort Collins, CO 80524**

Distance and direction from nearest city:
Approximately eleven miles north of Golden, CO

Phone: **(720)909-5988**

File Number: **M-2020-044**

County: **Jefferson**

Operation Type: **Unpermitted**

Commodity **Mill**
Mined/Prospected:

Authority for the issuance of a Cease and Desist Order by the Division of Reclamation, Mining and Safety ("Division") is set forth in Sections § 34-32-121.5, 34-32-122, 34-32-123, 34-32-124 and 34-32-124.5, C.R.S., of the Colorado Mined Land Reclamation Act ("Act") and Rule 8 of the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal and Designated Mining Operations (2 C.C.R. 407-1; "Rules"). As outlined in Sections § 34-32-122, 34-32-123, 34-32-142, C.R.S. and Rule 8.4, the Division has authority to issue a Cease and Desist Order for an activity suspected of causing an emergency situation and/or whenever an operator fails to obtain a valid permit before engaging in a mining operation.

The Division has determined Rocky Flats Environmental Solutions, LLC, David B. Emslie, Paul Danio and/or their associated are conducting unpermitted mining operations including the operation of a mill at the above-referenced site resulting in violations of Section § 34-32-121.5, 34-32-122, 34-32-123, 34-32-124 and 34-32-124.5, C.R.S., and an emergency health and safety situation could occur. The Division orders Rocky Flats Environmental Solutions, LLC, David B. Emslie, Paul Danio and its associates, to immediately cease and desist the operation of the mill at the above-referenced site and at any off-site areas. Until this cease and desist is lifted by the Division or the Mined Land Reclamation Board, no one associated with the operator, including Rocky Flats Environmental Solutions, LLC, David B. Emslie, Paul Danio or their associates, is permitted to enter the site to operate the mill or to conduct unpermitted mining operations or related activities.



Russ Means
Minerals Program Director on behalf of :
Virginia Brannon
Division Director

Date

CERTIFICATE OF SERVICE

STATE OF COLORADO, COUNTY OF JEFFERSON

I declare under oath that I served a copy of the

 X Cease and Desist Order
 Notice of Violation

to **Rock Flats Environmental Solutions, LLC, David B.** in Jefferson County, Colorado
Emslie, Paul Danio and/or their associates

Land Owner / Operator

On July 1, 2022

at _____

At the following location:

 X By Posting at Main Entrance to Structures.
 By leaving it with the operator who refused service
 By electronic service (e-mail)
 By Certified Mail to the land owner / operator
 Designated to receive for the operator

Signature

Date

 X Division personnel
 Private Process server
 Sheriff _____ County
 Service \$ _____
 Mileage \$ _____


Certified Mail Number:

**COLORADO**Division of Reclamation,
Mining and Safety

Department of Natural Resources

MINERALS PROGRAM INSPECTION REPORT**PHONE: (303) 866-3567**

The Division of Reclamation, Mining and Safety has conducted an inspection of the mining operation noted below. This report documents observations concerning compliance with the terms of the permit and applicable rules and regulations of the Mined Land Reclamation Board.

MINE NAME: Highway 72 Mill Site	MINE/PROSPECTING ID#: M-2022-044	MINERAL: Gold	COUNTY: Jefferson
INSPECTION TYPE: Illegal (Unpermitted Operation)	INSPECTOR(S): Russ Means, Jared Ebert, Jason Musick and Michael Cunningham	INSP. DATE: July 1, 2022	INSP. TIME: 07:10 a.m.
OPERATOR: Rocky Flats Environmental Solutions, LLC, Dave Emslie, Paul Danio	OPERATOR REPRESENTATIVE: Paul Danio	TYPE OF OPERATION: ILL - Illegal	
REASON FOR INSPECTION: Citizen Complaint	BOND CALCULATION TYPE: None	BOND AMOUNT: No Bond Held	
DATE OF COMPLAINT: April, 14, 2022	POST INSP. CONTACTS: CDPHE, EPA, MSHA, Jefferson County	JOINT INSP. AGENCY: None	
WEATHER: Clear	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: July 14, 2022	

The following inspection topics were identified as having Problems or Possible Violations. OPERATORS SHOULD READ THE FOLLOWING PAGES CAREFULLY IN ORDER TO ASSURE COMPLIANCE WITH THE TERMS OF THE PERMIT AND APPLICABLE RULES AND REGULATIONS. If a Possible Violation is indicated, you will be notified under separate cover as to when the Mined Land Reclamation Board will consider possible enforcement action.

INSPECTION TOPIC: Availability Of Records, Acid or Toxic Materials, Hydrologic Balance, Processing Waste/Tailing, Processing Facilities, Storm Water Management Plan

PROBLEM/POSSIBLE VIOLATION: Possible Violation: Failure to first obtain a reclamation permit from the Mined Land Reclamation Board before engaging in a new mining operation as required by 34-32-109(2) C.R.S.

CORRECTIVE ACTIONS: This possible violation will require a hearing before the Mined Land Reclamation Board. The schedule and other details for the MLRB hearing will be provided under a separate document to be sent via certified mail to the operator.

CORRECTIVE ACTION DUE DATE: 8/17/22

OBSERVATIONS

The July 1, 2022, inspection of the Highway 72 Mill Site ("Mill Site") was conducted by Michael Cunningham, Russ Means, Jared Ebert and Jason Musick of the Division of Reclamation, Mining and Safety ("Division") in response to a citizen complaint received on April 14, 2022. The citizen complaint stated that an unpermitted mill facility was being operated at 17200 Highway 72 in Jefferson County, approximately 2.4 miles east of Highway 93 at the end of Umber Ct. The Mill site is located on a 1.9 acre parcel owned by Rocky Flats Environmental Solutions, LLC. According to the Colorado Secretary of State, Mr. Dave Emslie is the registered agent for Rocky Flats Environmental Solutions, LLC.

The Division had also previously received an anonymous citizen complaint in regards to unpermitted milling activity at the Mill Site on September 6, 2020. Upon receipt of the anonymous citizen complaint, the Division attempted to conduct an inspection of the facility on September 21, 2020. Upon arriving at the Mill Site the Division made immediate contact with Mr. Paul Danio, who directed Division staff to leave the property and denied the Division access to inspect the Mill Site.

On June 23, 2022, the Division requested permission from the operators to access the Mill site to conduct an inspection to determine compliance with the Colorado Mined Land Reclamation Act § 34-32-101 *et seq.* On June 24, 2022, Mr. Danio responded to the Division and again denied the Division access to the Mill site. Pursuant to C.R.S. 34-32-121, the Division may enter upon the lands of the Operator at all reasonable times for the purpose of inspection to determine compliance with the Act. As a result of receiving multiple citizen complaints alleging unpermitted milling activity at the site and the potential for the mill to be handling acid or toxic producing materials and utilizing designated chemicals, the Division executed an Administrative Search Warrant to enter and inspect the Hwy 72 Site on July 1, 2022. The Administrative Search Warrant (copy enclosed) was Ordered by the Jefferson County District Court on June 27, 2022.

On July 1, 2022, Division staff arrived at the Mill facility at approximately 7:10 am. The Division was accompanied by the Jefferson County Sheriff's Department, who served a copy of the Administrative Search Warrant to the Operator. Upon arriving at the site, Division staff made contact with Mr. Lane Nolan who identified himself as an employee of the mill facility. Shortly thereafter, Mr. Ted Butterfield arrived at the site and also identified himself as an employee of the mill facility. Mr. Danio arrived to the site approximately 15 minutes after the start of the Division's inspection.

Stockpiled Ore

Upon arrival at the property, the Division observed a stockpile of ore along the Hwy Site driveway. The stockpile of ore was placed on the ground without any secondary containment. According to Mr. Nolan, the ore had been imported from the Cross Gold Mine, File No. M-1977-410, which is located in Boulder County. The operator of the Cross Gold mine has verified to the Division that it shipped approximately 20 tons to the Hwy 72 Mill Site in August/September of 2021.

Large Metal Tanks

Immediately to the east of the ore stockpile, the Division observed three large metal tanks. The metal tanks may possibly be associated with former industrial activities that previously occurred at the site. The Division was able to confirm that one of the tanks was empty; however, the other metal tanks were inaccessible and it could not be determined by the Division at the time of the inspection if the metal tanks were currently being

utilized.

Two 5,000 Gallon Plastic Tanks of Cyanide Solution Without Secondary Containment

In addition, the Division observed two large plastic tanks immediately adjacent to the metal tanks. The plastic tanks have a capacity of approximately 5,000 gallons each and had labels indicating they contained cyanide solution (see Figures 2 and 3). Mr. Nolan verified that the tanks were used to hold cyanide solution that was being utilized in the mill facility. The Division observed solution in the tanks; one tank was nearly at full capacity and the other tank was approximately 30% full. The metal and plastic tanks were located on a concrete pad (see Figure 2), which contained a concrete berm along the south side of the tanks. The concrete berm would not function as secondary containment as it did not fully enclose the tanks. A loss of solution from the tanks has the potential to flow off-site. The facility is located immediately to the north and upgradient of Barbara Gulch, an ephemeral drainage that flows eastwards into Leyden Lake. Leyden Lake is a City of Arvada storm water detention facility that is located between Highway 72 and W. 82nd Ave. Leyden Lake flows into Leyden Creek, which is a tributary of Ralston Creek.

Primary Mill Facility

The Division next proceeded to enter the main building located to the east of the tanks described above. Within the main building the Division observed standard milling equipment including a ball mill, numerous flotation tanks, shaker tables, filter presses, and agitator tanks. Although the mill was not operating at the time of the inspection, the Division's observations during the inspection indicated that the mill had been running. Clean-up of spillage from the loader bin was observed. The drain in this area reports to an unknown discharge. The mill drum gear was well greased, indicating operation. Other general observations by the Division include no safety guards on the gear and the electrical connections were not up to code. It was clear to the Division that the conventional mill circuit had been previously operated as evidenced by solution and concentrates within the flotation cells. Froth and foam concentrates were observed and photographed in the cells that are being used. Sedimentation on the shaker tables indicated recent use as well.

In addition to the equipment described above, the Division observed numerous 55-gallon plastic drums and 275-gallon plastic totes (see Figure 9). The Division observed labels on some of the 55-gallon drums which indicated they contained Circutek EC-807, which is an electroless copper designed for high performance metallization in the printed circuit board industry. It is unclear how this chemical was being utilized in the milling process, but the hazard label indicated that the chemical is highly toxic to aquatic life. The Division also observed open bags of copper sulfate and numerous 5-gallon buckets with unidentified fluids (see Figure 16).

Cyanide Agitator Tanks Running During Inspection

A secondary room within the main building contained the aforementioned cyanide circuit and agitator tanks as well as filter presses (see Figure 13). Based on the Division's observations the secondary room was also being utilized as a laboratory. The Mill Site was clearly operational as the cyanide agitator tanks were running at the time of the inspection (see Figure 11). There was no secondary containment for any of the equipment or chemicals stored within this area of the building. DRMS asked Mr. Butterfield about spill protocols. Mr. Butterfield indicated he was not aware of any neutralization protocols for the cyanide solution.

The Division did not observe spill containment equipment or products, ventilation hoods, first aid stations, eye wash stations, or emergency showers at the Hwy 72 Mill site which would be standard safety measures in a permitted and regulated mill facility of this sort. Additionally, there was no secondary containment for any of

the equipment or chemicals stored within the main building. A loss of process solution within the main building had the potential to flow out of the building and/or possibly into existing floor drains.

Ancillary Buildings

Following the inspection of the main building, the Division proceeded to inspect the outside building. The Division observed diesel tanks, generators, scrap metal and various pieces of dysfunctional equipment. Oil and fuel spills were observed staining the soils and no secondary containment or spill prevention was being employed. In addition, there were two shipping containers located on the south side of the building which contained additional equipment as well as bags of soda ash and a 55-gallon drum containing propylene glycol.

A second building located to the east of the main building contained ore stockpiles, an ore sorter and a conveyor line that connected to the main building. Remnants of super sacks were observed indicating shipments from outside sources.

A third building was located on the east end of the property which contained a kiln, foundry crucibles and bags of soda ash. Based on the equipment present in this building, the Division believes the Operator has been smelting metals recovered from the milling process.

DRMS staff also observed two travel trailers on site. One was hooked up to electrical and appeared to be the residence of one of the workers or Mr. Danio.

Enforcement Actions

Milling is defined as a "Mining Operation." Under 34-32-103(8), C.R.S. Based on the observations made during the inspection, the Division has reason to believe Rocky Flats Environmental Solutions, LLC, Dave Emslie, and Paul Danio are engaged in a mining operation and are in violation of C.R.S. 34-32-109(2) for failing to obtain a reclamation permit prior to engaging in a mining operation. The possible violation will be scheduled for consideration by the Mined Land Reclamation Board, during the August 17-18, 2022 Board meeting. Formal notice of the possible violation and Board hearing will be sent under separate cover.

Due to the use of designated chemicals in the mill, specifically cyanide, which pose a significant threat to human health and the environment, the Division issued a Cease-and-Desist Order (copy enclosed) during the inspection. The Cease-and-Desist Order prohibits the continued operation of the mill facility by Rocky Flats Environmental Solutions, LLC, Dave Emslie, Paul Danio and its associates.

This concludes the inspection report.

Any questions or comments concerning this inspection report should be forwarded to Michael Cunningham at the Division of Reclamation, Mining and Safety, Room 215, 1001 E 62nd Ave, Denver, CO 80216, via telephone at (303)866-3567, ext. 8116, via email at Michaela.cunningham@state.co.us.

PHOTOGRAPHS



Figure 1. Ore stockpiles adjacent to site access road.



Figure 2. Tanks with cyanide solution, outside of main building entrance.



Figure 3. Cyanide solution label/hazardous materials placard.



Figure 4. Ball mill inside of main building.



Figure 5. Fluid around base of ball mill, note the drain.

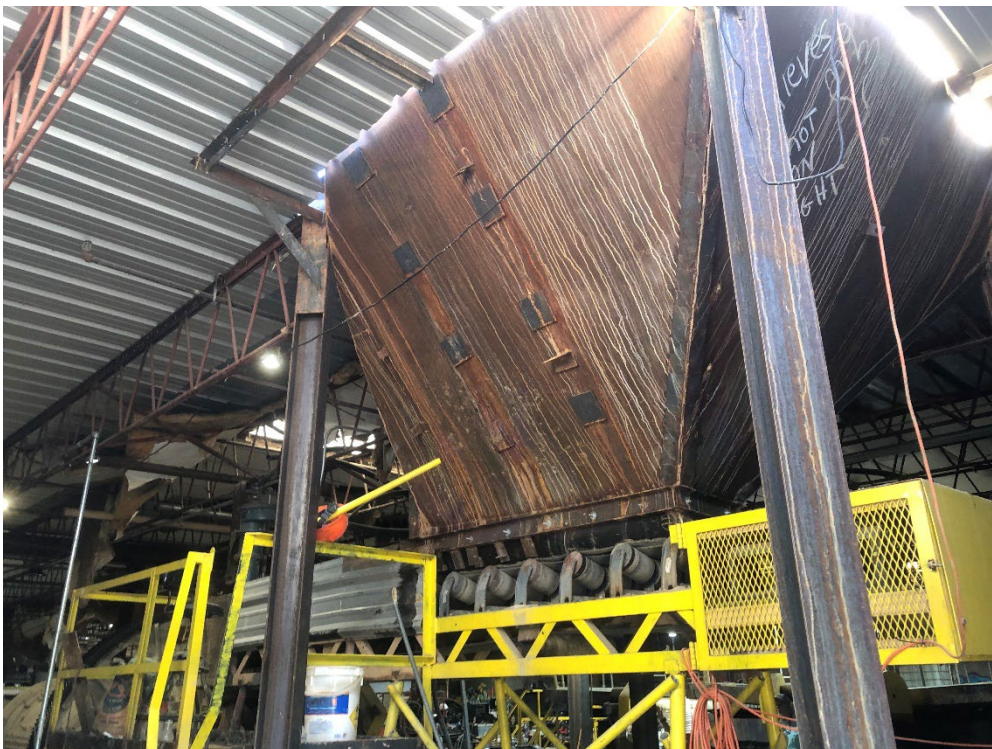


Figure 6. Ball mill ore feeder.



Figure 7. Shaker tables.



Figure 8. Flotation cells with concentrate foam.



Figure 9. Unidentified fluids in plastic totes.



Figure 10. Cyanide Leach tanks.



Figure 11. Cyanide agitator tanks running at the time of inspection.



Figure 12. Laboratory Equipment located over floor drain.



Figure 13. Filter press.



Figure 14. Copper sulfate.



Figure 15. Unlabeled 55 gallon drums.



Figure 16. Unidentified fluid in 5-gallon buckets.



Figure 17. Ore conveyor into main building.



Figure 18. Secondary building - ore/waste rock storage.



Figure 19. Waste rock in secondary building.



Figure 20. Ore sorter and conveyor line in secondary building.



Figure 21. Waste rock/tailings stockpile on east on of property.



Figure 22. Kiln in ancillary building.



Figure 23. Foundry crucible for smelting.

A photograph of a printed "CEASE AND DESIST ORDER" from the Colorado Division of Reclamation, Mining and Safety. The document is posted on a wall. It contains the following information:

COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources
1513 Sherman Street, Room 215
Denver, CO 80203

COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY
CEASE AND DESIST ORDER

Operator/Company Name: Rocky Flats Environmental Solutions, LLC, David B. Emslie, Paul Danio and/or their associates
Address: David Emslie/Paul Danio, 309 S. Summit View Dr., Unit 16, Fort Collins, CO 80524
Phone: (720)909-5988
Operation Type: Unpermitted

Location (Section, Township, Range): Section 29, T25, R70W
Distance and direction from nearest city: Approximately eleven miles north of Golden, CO
File Number: M-2020-044
County: Jefferson
Commodity: Mill
Mined/Prospected:

Authority for the issuance of a Cease and Desist Order by the Division of Reclamation, Mining and Safety ("Division") is set forth in Sections § 34-32-121.5, 34-32-122, 34-32-123, 34-32-124 and 34-32-124.5, C.R.S., of the Colorado Mined Land Reclamation Act ("Act") and Rule 8 of the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal and Designated Mining Operations (2 C.C.R. 407-1, "Rules"). As outlined in Sections § 34-32-122, 34-32-123, 34-32-142, C.R.S., and Rule 8.4, the Division has authority to issue a Cease and Desist Order for an activity suspected of causing an emergency situation and/or whenever an operator fails to obtain a valid permit before engaging in a mining operation.

The Division has determined Rocky Flats Environmental Solutions, LLC, David B. Emslie, Paul Danio and/or their associates are conducting unpermitted mining operations including the operation of a mill at the above-referenced site resulting in violations of Section § 34-32-121.5, 34-32-122, 34-32-123, 34-32-124 and 34-32-124.5, C.R.S., and an emergency health and safety situation could occur. The Division orders Rocky Flats Environmental Solutions, LLC, David B. Emslie, Paul Danio and its associates, to immediately cease and desist the operation of the mill at the above-referenced site and at any off-site area. Until this cease and desist is lifted by the Division or the Mined Land Reclamation Board, no one associated with the operator, including Rocky Flats Environmental Solutions, LLC, David B. Emslie, Paul Danio or their associates, is permitted to enter the site to operate the mill or to conduct unpermitted mining operations or related activities.

1513 Sherman Street, Room 215, Denver, CO 80203 P 303.866.2567 F 303.832.8106 <https://colorado.gov/8023>

Figure 24. Cease and Desist Order posted at site entrance.

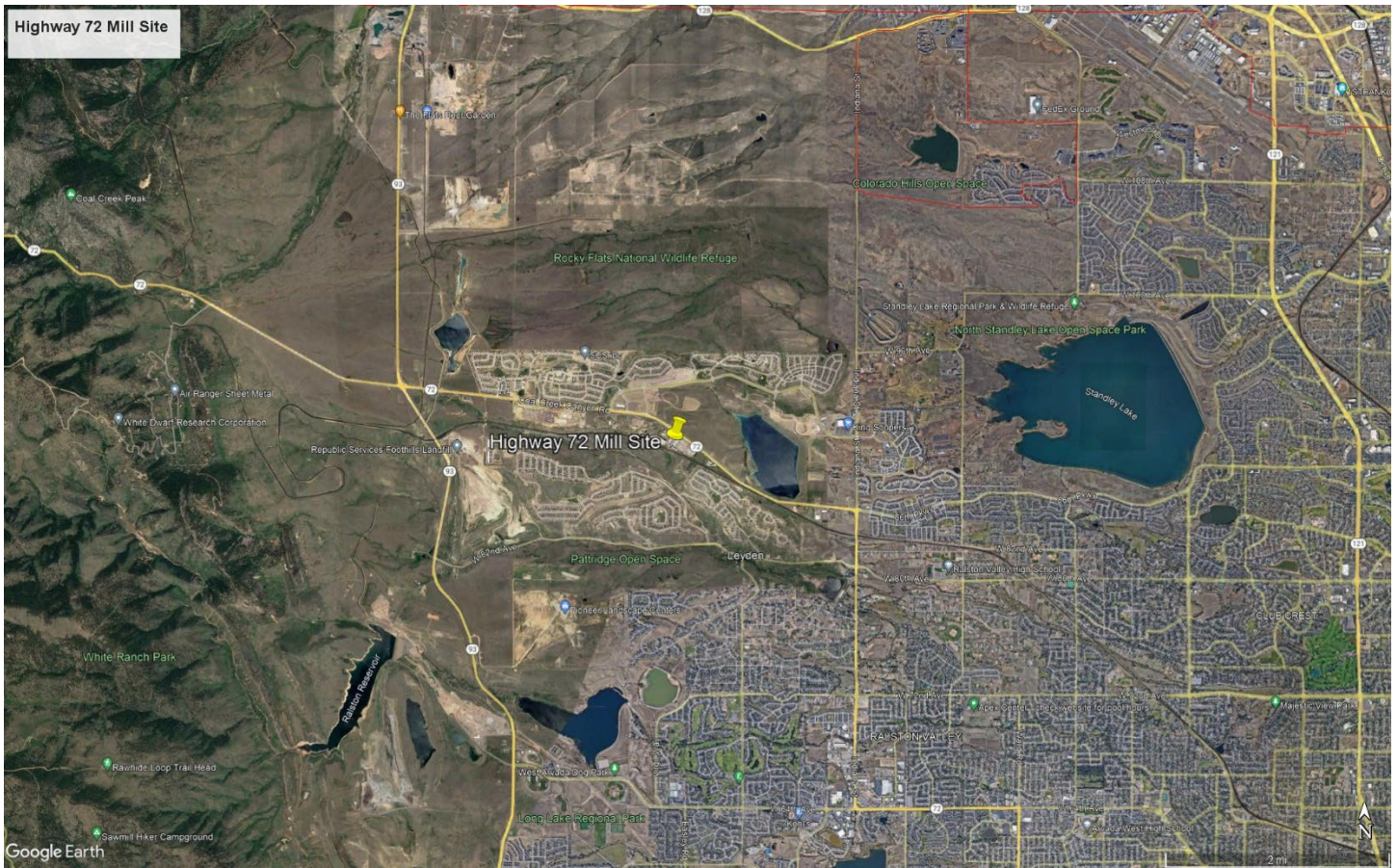


Figure 25. Location Map

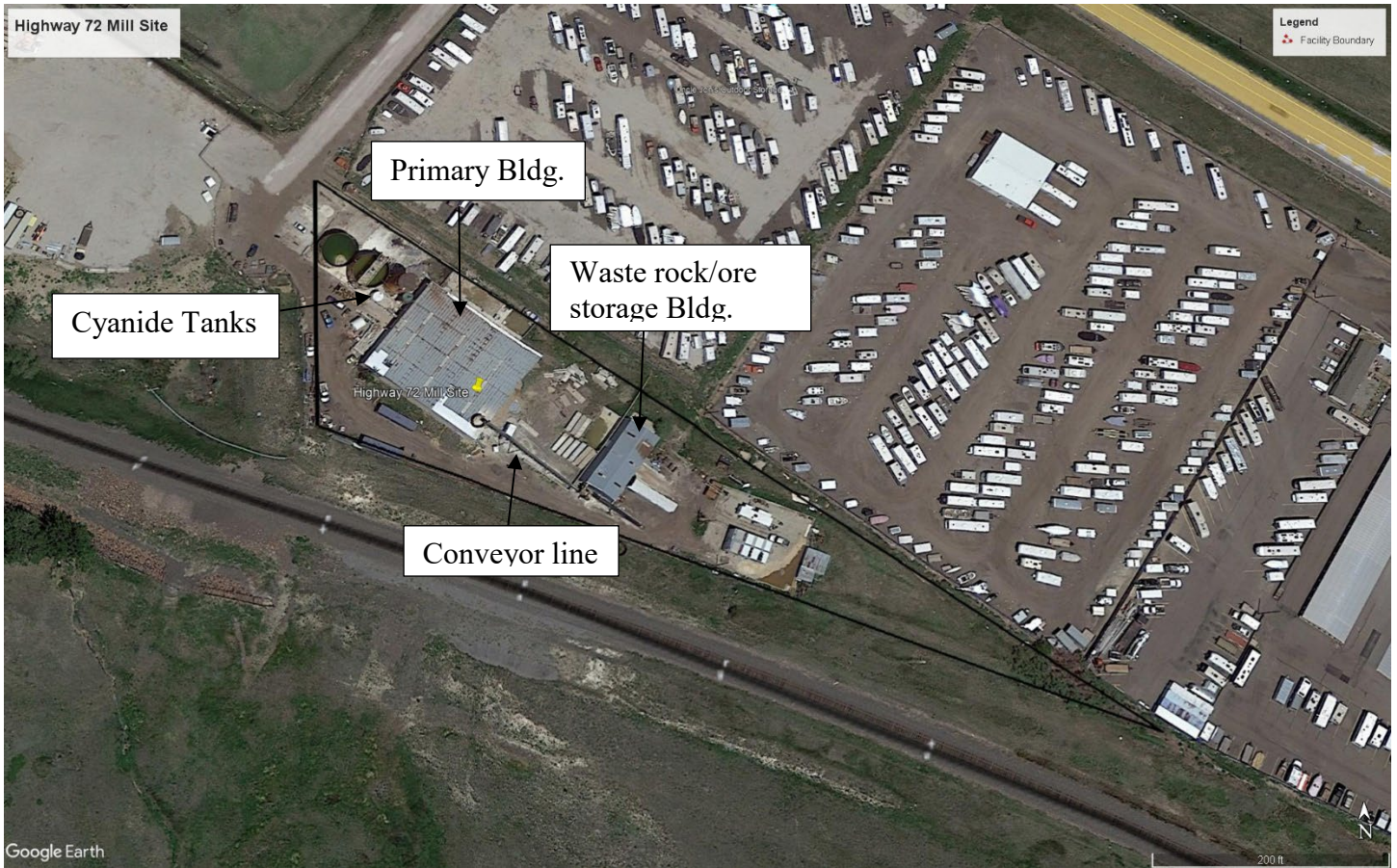


Figure 26. Mill Facility boundary and key features.

GENERAL INSPECTION TOPICS

The following list identifies the environmental and permit parameters inspected and gives a categorical evaluation of each

(AR) RECORDS----- <u>PV</u>	(FN) FINANCIAL WARRANTY----- <u>N</u>	(RD) ROADS----- <u>N</u>
(HB) HYDROLOGIC BALANCE----- <u>PV</u>	(BG) BACKFILL & GRADING----- <u>N</u>	(EX) EXPLOSIVES----- <u>N</u>
(PW) PROCESSING WASTE/TAILING---- <u>PV</u>	(SF) PROCESSING FACILITIES----- <u>PV</u>	(TS) TOPSOIL----- <u>N</u>
(MP) GENL MINE PLAN COMPLIANCE- <u>N</u>	(FW) FISH & WILDLIFE----- <u>N</u>	(RV) REVEGETATION---- <u>N</u>
(SM) SIGNS AND MARKERS----- <u>N</u>	(SP) STORM WATER MGT PLAN---- <u>PV</u>	(RS) RECL PLAN/COMP-- <u>N</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>N</u>	(SC) EROSION/SEDIMENTATION--- <u>N</u>	(ST) STIPULATIONS----- <u>N</u>
(AT) ACID OR TOXIC MATERIALS----- <u>PV</u>	(OD) OFF-SITE DAMAGE----- <u>N</u>	

Y = Inspected / N = Not inspected / NA = Not applicable to this operation / PB = Problem cited / PV = Possible violation cited

Inspection Contact Address

Paul Danio
17200 Highway 72
Arvada, CO 80007

Enclosures: Administrative Search Warrant
Cease-and-Desist Order

EC: Paul Danio, paukydanio@gmail.com
Dave Emslie, dave@prospectorsgoldandgems.com
Jefferson County Public Health
Craig Myers (EPA), Myers.Craig@epa.gov
Kerry Guy (EPA), guy.kerry@epa.gov
Andrea Adigan (EPA), adigan.Andrea@epa.gov
Brad Breland (MSHA), Breland.Brad@dol.gov
Mitch Brown (Jefferson County Public Health), mlbrown@co.jefferson.co.us
Doug Jamison (CDPHE), doug.jamison@state.co.us
Mary Boardman (CDPHE), mary.boardman@state.co.us

22-1140

2022 JUN 27 AM 10:55

DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden, CO 80401	FILED COMBINED COURT JEFFERSON COUNTY, CO
IN THE MATTER OF THE ENTRY AND INSPECTION OF: Hwy 72 Mining Site and Milling Operation	▲ COURT USE ONLY ▲
Philip J. Weiser, Attorney General SCOTT SCHULTZ, SENIOR ASSISTANT ATTORNEY GENERAL 1300 Broadway, 7 th Floor Denver, CO 80203 Phone: 720-508-6256 Email: scott.schultz@coag.gov Registration Number: 38666 *Counsel of Record	Case No.:
ADMINISTRATIVE SEARCH WARRANT TO ENTER AND INSPECT PROPERTY PURSUANT TO C.R.S. § 34-32-121.	

TO: Division of Reclamation Mining and Safety
1313 Sherman Street, Room 215
Denver CO 80203

Application having been made, and the Court finding, that there is sufficient basis to issue an administrative search warrant authorizing the entry, inspection, and any necessary sampling of the property described as:

17200 State Highway 72,
Golden, 80403 ("Hwy 72 Site"),
Jefferson County, Colorado

for the purpose of ascertaining compliance with the Colorado Mined Land Reclamation Act, §§ 34-32-102, *et seq.*, C.R.S. ("Mining Act") and its implementing regulations, 2 C.C.R. 407-1 ("Mining Rules").

IT IS HEREBY ORDERED THAT, pursuant to C.R.S. § 34-32-121, AUTHORIZED REPRESENTATIVES of the Colorado Division of Reclamation Mining and Safety, totaling not more than 4 persons (not including peace officers), and peace officers, ARE AUTHORIZED TO ENTER, INSPECT, and CONDUCT ANY NECESSARY SAMPLING of the Hwy 72 Site, 17200 State Highway 72, Golden, 80403, to ascertain compliance with the Mining Act and the Regulations at anytime during the 10 day period the warrant is in effect.

In order to adequately inspect the Hwy 72 Site the Division is granted full access to all areas of the Site and any records kept at the Operation, that may pertain to the operator's compliance or noncompliance with the Mining Act and Rules, including but not limited to:

- a. all structures, property and equipment potentially associated with mining operations;
- b. all documentation and records, including written, electronic, and other storable formats associated with the mine management activities conducted;

The sole purpose of the entry and inspection, and sampling authorized hereunder is to ascertain compliance with the Mining Act and Rules. The entry and inspection authorized hereunder will be conducted by representatives of the Division duly authorized to conduct inspections. Except as necessary to gain access to areas of the property or records relating to compliance or noncompliance with the aforementioned state laws, the Division shall not enter other areas of the property nor shall they inspect other records not related to the mining or milling operation. The entry, inspection, and sampling shall be initiated as soon as practicable after the issuance of the administrative search warrant and shall be concluded within ten (10) business days thereafter. Re-entry of the property during that period and under the conditions expressed herein is hereby expressly permitted.

The Division's representatives shall afford an opportunity to representatives of the Facility, if present at the property when this administrative search warrant is executed, to accompany them during the course of the inspection for the purpose of observing the inspection.

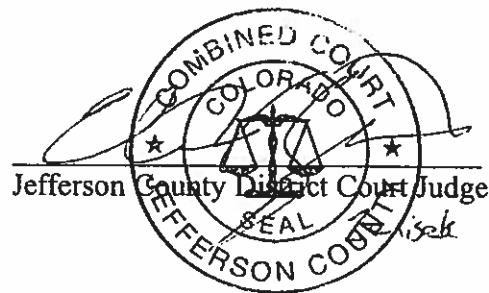
During the course of the inspection the Division is authorized to take environmental samples, photographs and other measurements of materials regulated under the Mining Act or Rules, to copy records and other documents located on or within said property, to employ other reasonable investigative techniques, and to speak privately with any owner, operator, employer, employee or other representative of the Facility or their contractors.

The above activities shall be limited to those necessary for the purpose of entry and inspection authorized hereunder and shall be conducted in such a manner so as to avoid all unreasonable disruption of the operation of, and activities conducted by, the Facility or their contractors on the property.

Any confidential information, including trade secrets, privileged information, and confidential commercial, financial, geological, or geophysical information obtained during the entry and inspection shall be preserved in accordance with C.R.S. § 24-72-204(3)(a) of state open records law and all other applicable laws.

If environmental samples are taken by Division representatives during the course of the inspection, representatives of the Facility will be entitled to observe any testing that the Division may perform, and may receive splits of the samples.

DONE this 27th day of June, 2022.



PHILIP J. WEISER
Attorney General

/s/ Scott Schultz

SCOTT SCHULTZ, 38666*
Senior Assistant Attorney General
Resource Conservation Unit
Natural Resources & Environment Section
Attorneys for State of Colorado
*Counsel of Record



July 13, 2022

Rocky Flats Environmental Solutions, LLC,
David Emslie/Paul Danio
309 S. Summit View Dr., Unit 16
Fort Collins, CO 80524

**RE: Reason to Believe a Violation Exists and Notice of Board Hearing
Rocky Flats Environmental Solutions Mill, Reference # M-2020-044**

Mr. Emslie and Mr. Danio,

On July 1, 2022 The Division of Reclamation, Mining and Safety (Division) executed an Administrative Search Warrant with the assistance of the Jefferson County Sheriff's Department at 17200 Highway 72, Arvada, Colorado. Based on that search and inspection, The Division has determined Rocky Flats Environmental Solutions, LLC, David B. Emslie, Paul Danio and/or their associated are conducting unpermitted mining operations, specifically the operation of a mill, at the above-referenced site. Based on these findings, we believe this is a violation of:

- C.R.S. 34-32-109 for failure to obtain a reclamation permit prior to engaging in a new operation.
- C.R.S 34-32-124.5 (1)(a) Engaging in any activity not sanctioned by, or which constitutes a material violation of, a permit for a mining operation, if such activity constitutes an immediate, undue, and unwarranted risk of serious harm to persons or property or to the environment;

Therefore, the Division has reason to believe that a violation exists to the Colorado Land Reclamation Act for the Extraction of Hard Rock Metals, C.R.S. § 34-32-101 *et seq.*, and has scheduled this matter to appear before the Mined Land Reclamation Board (Board).

A Formal Public Hearing will be held during the August 17-18, 2022 Board meeting for consideration of the possible violation and corrective actions. Notice is hereby given that this Board hearing will be held by a virtual ZOOM hearing. All exhibits and materials you wish for the Board to consider related to this alleged violation must be submitted via email to the Board administrator, Camie Mojar at Camille.Mojar@state.co.us no later than 5:00 p.m. on August 5, 2022. Additionally, in order to receive an authorization code to attend the hearing, please contact Camie Mojar via telephone at 303-866-3567, ext. 8136 or by email at the addresses above. Please note, only Parties and those who will be testifying may attend the meeting via ZOOM. All other interested persons may view the hearing via the Board's YouTube Channel at: <https://www.youtube.com/channel/UCDrrAO8bIPFIOWce-yH1fWA>.



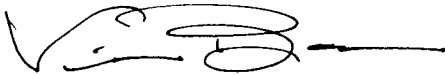
If the Board finds a violation at this hearing, it may issue a Cease and Desist Order and/or assess a Civil Penalty in the amount of \$50.00 to \$200.00 for each day of violation pursuant to C.R.S .34-32-123(3).

Pursuant to C.R.S 34-32-124(3): In the event any operator fails to comply with a cease-and-desist order issued by the board, the board or the office may request the attorney general to bring suit for a temporary restraining order, a preliminary injunction, or a permanent injunction to prevent any further or continued violation of such order.

The Board's agenda may not be finalized until the week of the Board meeting. Therefore, we recommend you contact the Board administrator, Camie Mojar by telephone at 303-866-3567, ext. 8136 or by email at Camille.Mojar@state.co.us, on the Monday prior to the Board Hearing to confirm exactly which day your item will appear before the Board.

If you have any questions about this letter or the hearing, you may contact Russ Means by telephone at 303-866-3567, Ext 8150, or by email at russ.means@state.co.us

Sincerely,



Virginia Brannon
Division Director

CERTIFIED MAIL NO. 7019 2280 0001 8254 5134
Return Receipt Requested

cc: Scott Schultz, AGO
Russ Means, DRMS
Jason Musick, DRMS
Jared Ebert, DRMS
Michael Cunningham, DRMS

Doug Jamison, CDPHE
Mary Boardman, CDPHE
Mitch Brown, Jeff CO Public Health
Jeff CO County Commissioners
Craig Myers, USEPA
Kerry Guy, USEPA
Andrea Adigan, USEPA
Brad Breland, USDOL, MSHA

Mine Information

Mine Information		Operator History		
Mine ID	: 0505139	<u>Operator</u>	<u>Begin Date</u>	<u>End Date</u>
Mine Name	: Rocky Flats Facility			
Mine Status	: Intermittent	Rocky Flats Environmental Solutions LLC	07/29/2021	--Current--
Status Date	: 8/5/2021	Rocky Flats Environmental Solutions LLC	07/04/1776	08/10/2021
Operator	: Rocky Flats Environmental Solutions LLC			
Opr. Begin Date	: 7/29/2021			
Current Controller	: Paul Danio etal; David Emslie etal			
Controller Start Date	: 44,406			
Mined Material	: Gold Ore			
Type of Mine	: Facility			
Location	: Jefferson, COLORADO			
Address of Record	: 17200 Hwy 72 Arvada CO 80007			