




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: Apache Tailings, OU-7 Project	MINE/PROSPECTING ID#: M-2012-028	MINERAL: Gold / silver	COUNTY: Lake
INSPECTION TYPE: Monitoring	INSPECTOR(S): G. Russell Means	INSP. DATE: August 23, 2012	INSP. TIME: 10:00
OPERATOR: MTAA LTD	OPERATOR REPRESENTATIVE: Michael Layne, Ed Duncan	TYPE OF OPERATION: IM - Is it Mining	

REASON FOR INSPECTION: High Priority	BOND CALCULATION TYPE: None	BOND AMOUNT: N/A
DATE OF COMPLAINT: NA	POST INSP. CONTACTS: None	JOINT INSP. AGENCY: None
WEATHER: Clear	INSPECTOR'S SIGNATURE: 	SIGNATURE DATE: September 4, 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>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>	(SB) COMPLETE INSP---- <u>N</u>
(ES) OVERBURDEN/DEV. WASTE----- <u>N</u>	(SC) EROSION/SEDIMENTATION--- <u>N</u>	(RS) RECL PLAN/COMP-- <u>N</u>
(AT) ACID OR TOXIC MATERIALS----- <u>N</u>	(OD) OFF-SITE DAMAGE----- <u>N</u>	(ST) STIPULATIONS----- <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

This inspection was conducted as part of the normal preparatory work by the Division of Reclamation, Mining, and Safety (Division) for issues scheduled before the Mined Land Reclamation Board (Board). MTAA LTD had requested a Declaratory Order (DO) from the Board that no mining reclamation permit be required in reference to a proposed project utilizing mill tailings from the Apache Mill Tailings Repository in Leadville, Colorado. The request for a DO was in response to the Division's determination that a Designated Mining Operation (DMO) permit would be required based on the information provided in an "Is it Mining" questionnaire submitted by MTAA.

The inspector met with MTAA representatives Michael Layne and Ed Duncan on site. The Apache Mill Tailings Repository is located on the south end of the Leadville city limits on the southeast corner of Monroe Street and State Highway 24. The weather was clear.

Field observations note the site is approximately 15 +/- acres with a pronounced mound of material that has been reclaimed. The site is a completed EPA Superfund Project. Vegetation consists of native and non-native grasses with some vetch throughout the area. The overall cover is approximately 85 % with very good density and diversity of species.

Constructed stormwater diversions encircle the site. The channels are well armored with stone and show no signs of being compromised. The inspector noted rust discoloration on the west and southwest structures indicating mineralized water passage. Some ponding of water was observed to be discolored and of poor quality.

The inspector counted nine monitor wells on site. Wells are positioned at up gradient and down gradient property lines as well as randomly on the reclaimed pile itself. Evidence suggested other wells may have been planned but not constructed. MTAA representatives indicated other entities have trespassed to install additional wells and materials were left behind.

The inspector and MTAA representatives discussed the propose project and work that has been done to date to move it forward. The project originally was for the excavation of the tailings material to be used for construction bricks after trace metals were removed. The original plan called for construction of a brick manufacture building as well as a possible water treatment facility. Based on some other agency permitting issues the brick factory idea has been scrapped. MTAA now proposes to truck and rail the materials to an unidentified facility out of state.

Work on site by MTAA includes the drilling of eleven test holes. The inspector asked whether a Notice of Intent for prospecting was filed with the Division. MTAA stated that the EPA had given permission and made no mention of any other required permits. The inspector advised MTAA that a violation could be issued for prospecting without a permit. However site observations note no visible signs of disturbance that could be directly attributed to these activities. MTAA is advised that a prospecting notice is required for the activities noted. MTAA shall file a notice with the Division should additional drilling be required or face a possible hearing before the Board. If a violation is found MTAA would face civil penalties and a cease and desist order. MTAA representatives noted the holes were all sealed with bentonite. When asked about drill data MTAA

noted that tailings had traces of gold, silver, and other metals. At the bottom of the holes a slurry was encountered. MTAA described it as "a cake batter consistency". "Analysis showed that this had a 75% sulfides and pyrite content."

Further discussions between the inspector and MTAA representatives in regard to permitting and issues around the DMO finding were undertaken on site. MTAA representatives contend the tailings are an inert material and a construction materials permit should be required rather than a DMO. The inspector notes the determination of DMO was facilitated by the information submitted within the "Is It Mining" questionnaire. The information noted precious metals would be removed from the tailings first. Then the material processed into bricks. The removal of the metals makes this a minerals operation covered under CRS 34-32-103(7). The activity of excavating the minerals falls under CRS 34-32-103 (8). Based on the information supplied and the site history the Division feels that a DMO designation is prudent per CRS 34-32-103 (3.5) (II) as there is a potential to expose or disturb acid or toxic forming materials.

The inspector notes that MTAA can submit additional information to support a non-DMO stance. The Division has no empirical data to substantiate the inert qualities of the tailings. Additionally there is no water quality analysis to show that the prevailing hydrological balance, primarily groundwater quality, will not be impacted by the project. It is incumbent upon MTAA to submit sufficient analytical data to support its position. Without sufficient data to support the inert materials position the Division must oppose any request for a DO or lesser permit. Per the Act and Rules it is incumbent upon MTAA to demonstrate how it should not be classified as a DMO. After the permitting discussions MTAA representatives indicated they had some data and would gather more for Division review. MTAA elected to withdrawal the DO request currently before the Board with the understanding that should the Division not be swayed by the submission of additional data they could at a later date resubmit the request.

Inspection Contact Address

Michael Layne, Ed Duncan
MTAA LTD Field Office
2819 Highway 50, Suite E-9
Grand Junction, CO 81503

CC: Jess Minium
205 Oak Street
Kelso, Washington 98626

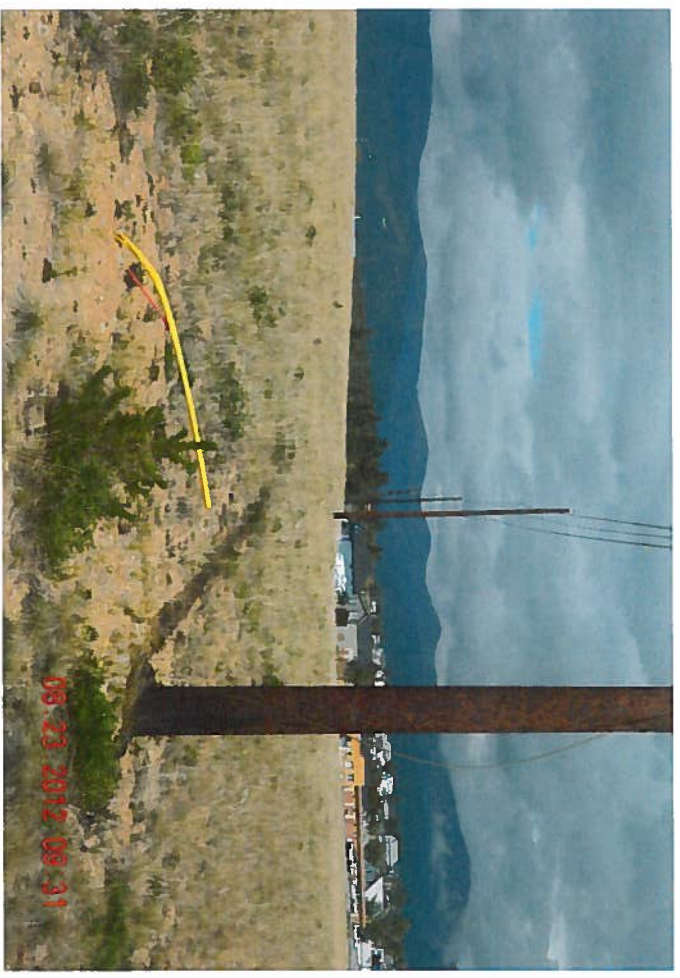
Mayor Jaime Stuever
129 West 8th Street
Leadville, Colorado 80461

EC: Doug Jamison
CDPHE
4300 Cherry Creek Dr. S.
Denver, Colorado 80246-1530

Linda Kiefer
EPA Region 8



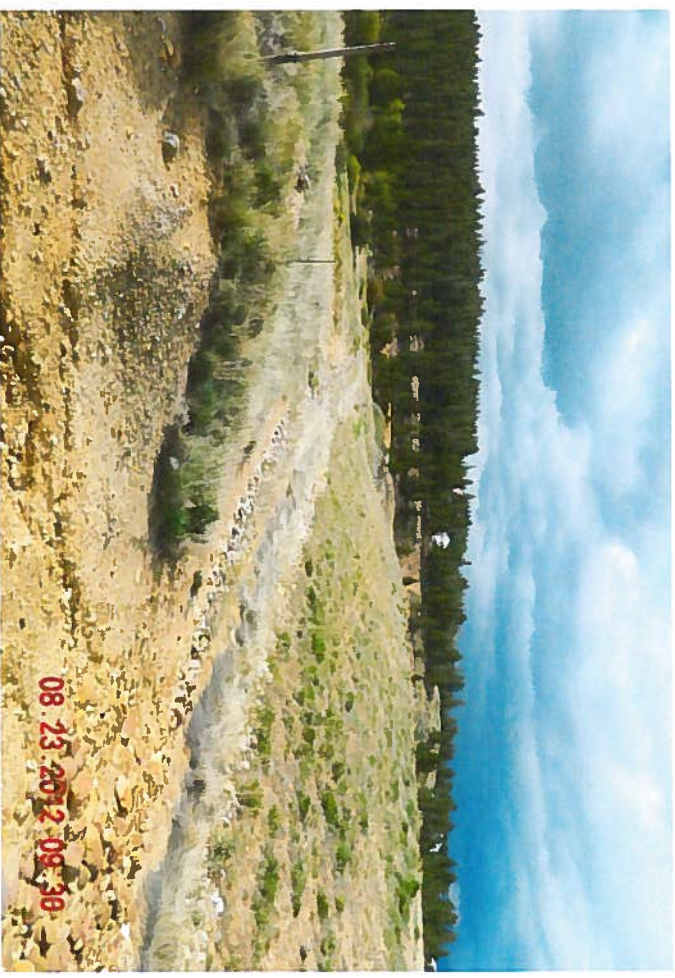
08.23.2012 09:30



08.23.2012 09:31



08.23.2012 10:24



08.23.2012 09:30



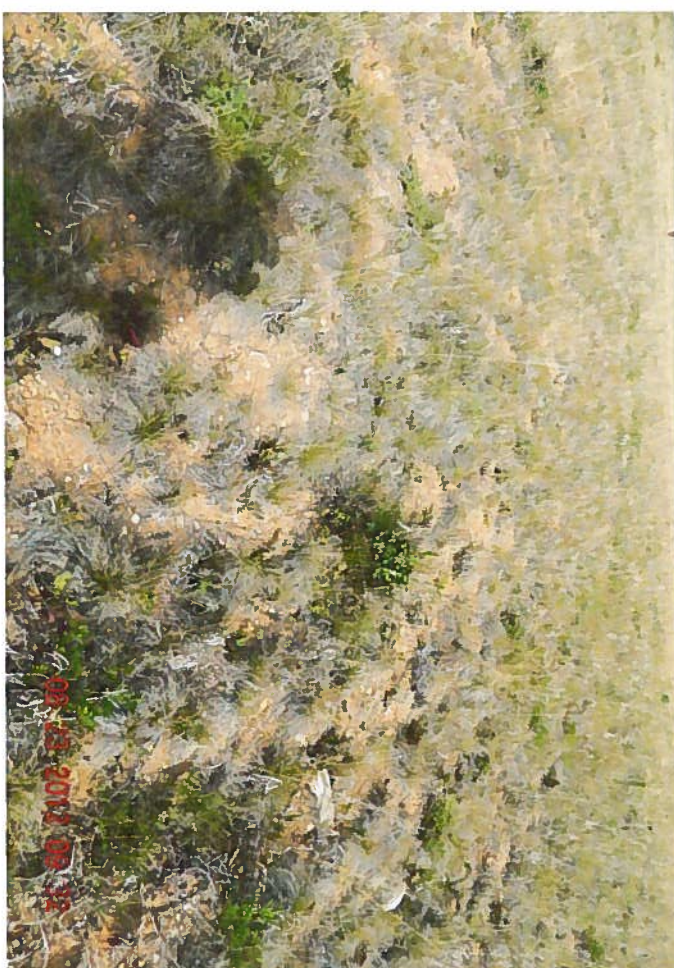
08.23.2012 09:32



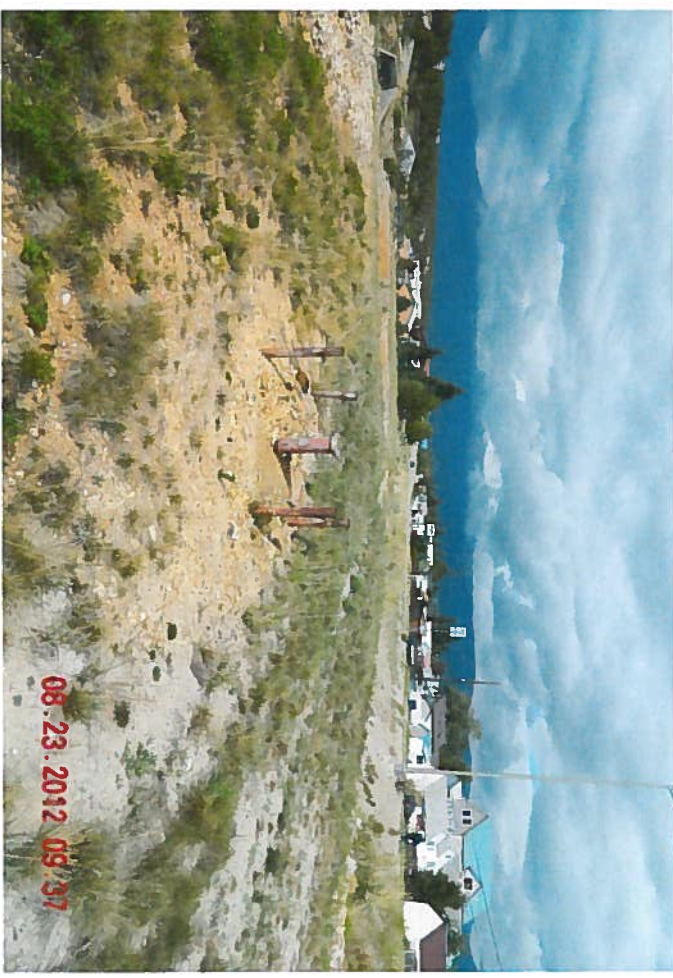
08.23.2012 09:31

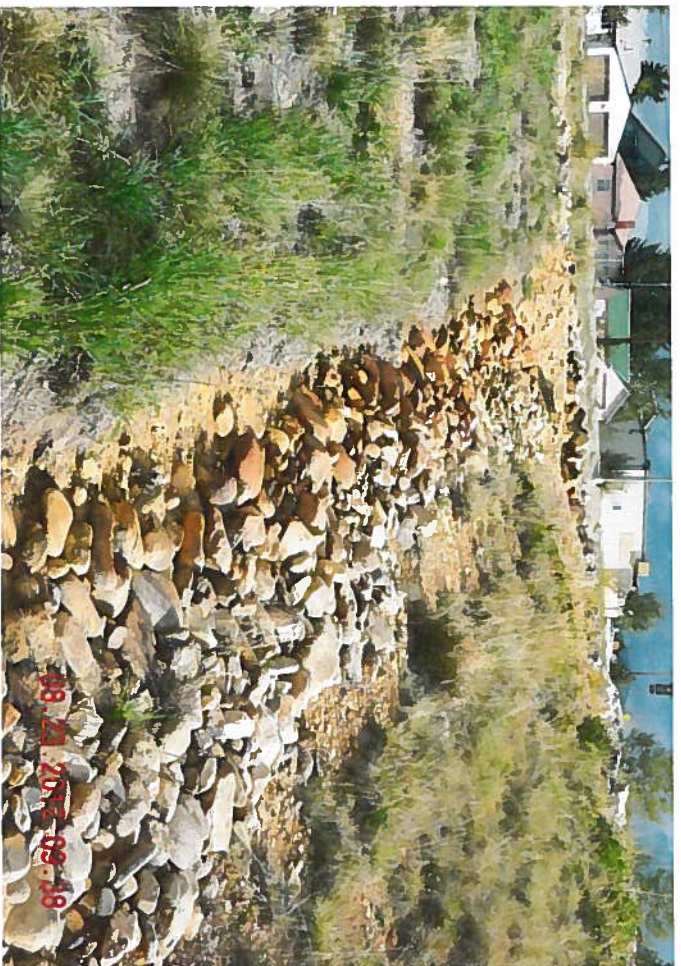


08.23.2012 09:38



08.23.2012 09:39





08.23.2012 09:38



08.23.2012 09:38



08.23.2012 09:40



08.23.2012 09:39

