

M-2012-028

City of Leadville

800 Harrison Avenue, Leadville, CO 80461

Clerk - (719) 486-0349, Administrative Services Office - (719) 486-2092

Fax (719) 486-1040

December 17, 2012

Michael Layne
MTAA, Inc.
1280 Ute Ave., Suite 10
Aspen CO 81611-2259

RECEIVED

DEC 17 2012

GRAND JUNCTION FIELD OFFICE
DIVISION OF
RECLAMATION MINING & SAFETY

Dear Mr. Layne:

As the Director of Administrative Services and the City of Leadville's designated Zoning Official, I write to inform you of the status of your use of the Apache Mill Tailings Repository ("Property") for mineral extraction.

Please be advised that mining is not a specified use within any of the zoning districts in the City and therefore requires approval of a conditional use permit ("CUP") in accordance with Section 17.48.010 of the Municipal Code. According to the Colorado Division of Reclamation, Mining and Safety (Division of Reclamation) Minerals Program Inspection Report dated August 23, 2012, your proposed project to remove mine tailings at the EPA Apache Superfund Site (OU7) has been determined to be a mining operation pursuant to Section 34-32-103(8). The removal of minerals, such as gold, silver and other metals, is considered mining under the state's definition. Similarly, the City considers any extraction of minerals as mining activity subject to the City's zoning regulations. Accordingly, the City of Leadville will require you to file a Conditional Use Permit (CUP) application in order continue any mining operations, including the removal of mine tailings, on the Property.

In conjunction with the City's CUP process, your operation must be approved as a mining operation with all the appropriate permits from the Division of Reclamation, any necessary approvals from Colorado Department of Public Health and Environment (CDPHE) as well as from the Colorado Department of Transportation (CDOT). At that time, the City will analyze traffic impacts and may require an updated traffic impact study and other documents and information through the CUP process.

Should you decide to petition for, and be successful in obtaining, a Declaratory Order stating that your operation is not a mining operation, the City would still require a CUP for the removal of the tailings from the Property, as well as all the same approvals and requirements of CDPHE and CDOT for the improvements to Monroe Street and Highway 24.

Thank you,



Padraic D. Smith
Director of Administrative Services
City of Leadville
719-486-2092

CC: Doug Jamison (CDPHE)
Linda Kiefer (EPA)
Craig Gander (CDPHE)
Russ Means (CDRMS)
Kari Schroeder