

STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH
Executive Director and Chief Medical Officer

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

April 21, 2011

Mr. Sipriano Ledezma, Registered Agent
Jalisco International, Inc.
6663 Colorado Blvd.
Commerce City, Colorado 80022

Certified Mail Number: 7005 1820 0000 3213 7498

**RE: Expedited Settlement Agreement, Number: ES-110421-1
CDPS Permit No: COR-03F395**

Dear Mr. Ledezma:

Enclosed for your records you will find Jalisco International, Inc.'s copy of the recently executed Expedited Settlement Agreement ("ESA"). Please be advised that the first page of the ESA was changed in order to place the correct ESA Number on the final document. The ESA is now fully enforceable and constitutes a final agency action.

As specified in the enclosed ESA, Jalisco International, Inc. must, within fifteen (15) calendar days, submit a certified or cashier's check for the amount specified in the ESA to the Water Quality Control Division in order for this matter to be resolved.

If you have any questions, please don't hesitate to contact Joe Campbell at (303) 692-2356 or by electronic mail at joseph.campbell@state.co.us.

Sincerely,

Russell Zigler, Legal Assistant
Water Quality Protection Section
WATER QUALITY CONTROL DIVISION

cc: Boulder County Public Health

ec: Natasha Davis, EPA Region VIII
Gary Beers, Permits Unit, CDPHE

Enclosure(s)



Colorado Department of Public Health & Environment
Water Quality Control Division

EXPEDITED SETTLEMENT AGREEMENT

Number: ES-110421-1

The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Expedited Settlement Agreement ("ESA"), pursuant to the Division's authority under §§25-8-602, 25-8-605 and 25-8-608, C.R.S. of the Colorado Water Quality Control Act (the "Act") §§25-8-101 to 703, C.R.S., and its implementing regulations, with the express consent of Jalisco International, Inc. ("Jalisco"). The Division and Jalisco may be referred to collectively as "the Parties."

1. Jalisco is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
2. Jalisco initiated road construction activities with a planned disturbance of 8.9 acres of land located at or near Martin Street and Ken Pratt Boulevard in Longmont, Boulder County, Colorado (the "Project").
3. Jalisco failed to comply with the provisions of its Colorado Discharge Permit System General Permit for Stormwater Discharges Associated with Construction Activity (the "Permit"), Certification Number COR-03F395, as described in the attached inspection report.
4. The parties enter into this ESA in order to resolve the matter of civil penalties associated with the violation(s) alleged herein and in the attached inspection report for a penalty of \$6,000.00.
5. By accepting this ESA, Jalisco neither admits nor denies the violations or deficiencies specified herein and in the attached inspection report.
6. Jalisco certifies that all deficiencies identified in the attached inspection report have been corrected and that the Project is currently in full compliance with the terms and provisions of the Permit.
7. Jalisco agrees to the terms and conditions of this ESA. Jalisco agrees that this ESA constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602, 25-8-605 and 25-8-608, C.R.S., and is an enforceable requirement of the Act. By signing the ESA, Jalisco waives: (1) the right to contest the finding(s) specified herein and in the attached inspection report; and (2) the opportunity for a public hearing pursuant to §25-8-603, C.R.S.
8. This ESA is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy," which includes a thirty-day public comment period. The Division and Jalisco each reserve the right to withdraw consent to this ESA if comments received during the thirty-day period result in any proposed modification to the ESA.
9. This ESA constitutes a final agency order or action upon the date when the Executive Director or his designee signs the ESA and effectively imposes the civil penalty.

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10. Jalisco agrees that within fifteen (15) calendar days of receiving the signed and final ESA from the Division, Jalisco shall submit a certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," for the amount specified in paragraph 4 above, to:

Joe Campbell
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CAS-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

11. Notwithstanding paragraph 5 above, the violations described in this ESA will constitute part of Jalisco's compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against Jalisco. Jalisco agrees not to challenge the use of the cited violations for any such purpose.

12. This ESA, when final, is binding upon Jalisco and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this ESA.

ACCEPTED BY JALISCO INTERNATIONAL, INC.:

 2-1-2011
Signature Date

Sipriano Ledezma President/CEO
Name (printed) Title

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH & ENVIRONMENT:

 Date: 4/30/11
Lori M. Gerzina, Section Manager
Compliance Assurance Section
WATER QUALITY CONTROL DIVISION

Stormwater Inspection Report

Permittee: Jalisco International Inc.	Cert. No.: COR03 F395	Date: 05/18/2010
Facility: Martin Street Extension	Industrial Type: Construction	Receiving Water: Spring Gulch, St. Vrain River
Facility Address: Martin St & Ken Pratt Blvd, Longmont, Boulder County, Colorado 80501		
Persons present: Grant S. Grover (City of Longmont); Kathy Rosow (CDPHE – Water Quality Control Division)		
Legally Responsible Person(s)/Title(s): Onesimo Ledezma (Erosion Control Supervisor) – not present at inspection.	Inspector(s): Kathy Rosow (Water Quality Control Division)	

Inspection Findings

Pursuant to all provisions of the Colorado Discharge Permit System (CDPS) General Permit for Stormwater Discharges Associated with Construction Activity (the stormwater discharge permit), the findings listed below must be corrected.

Note: An unannounced stormwater construction inspection of the Martin Street Extension project was conducted by the Water Quality Control Division (the Division) during a stormwater compliance inspection of the Dickens Mine facility (permit certification COR34 1133). The Division inspector documented field conditions with respect to the Martin Street Expansion construction project (permit certification COR03 F395), which is located within the City of Longmont municipal boundary, and is operated by Jalisco International, Inc. (the permittee). Due to the unannounced nature of the stormwater construction inspection, the permittee was not present during the inspection.

The land disturbing activities associated with this construction project were located both adjacent to and within the Dickens Mine permit area. The Dickens Mine Stormwater Management Plan (SWMP) indicated that the Martin Street Expansion project will include a new entry road to the City of Longmont's WWTP (east side of the Dickens Mine facility) that passes through the Dickens Mine facility.

Records Review

Note: The Martin Street Extension project SWMP was not reviewed by the Division inspector during the May 18, 2010 field inspection of the facility. As required by the stormwater discharge permit, the SWMP developed for the Martin Street Extension project must be retained on the facility, must contain all items required by the permit, and must be prepared in accordance with good engineering, hydrologic and pollution control practices.

Note: Site inspection reports were not reviewed by the Division inspector during the May 18, 2010 field inspection of the facility. As required by the stormwater discharge permit, inspections must be conducted at least once every 14 days and within 24 hours after the end of any precipitation or snowmelt event that causes surface erosion, except during winter snow pack conditions where melting does not exist, or when all construction activities are completed. During winter snow pack conditions where melting does not exist, inspections do not need to be conducted; however, the dates when snow cover occurred, date when construction activities ceased, and date when melting conditions began must be documented for this exception. When all construction activities are completed but final stabilization has not been achieved due to a vegetative cover that has not become established, inspections must be conducted at least once a month and the SWMP must be amended to indicate those areas that will be inspected in accordance with this reduced schedule.

Site Inspection

Note: All Best Management Practices (BMPs) mentioned in the following findings must be selected, installed, implemented and maintained according to good engineering, hydrologic and pollution control practices. These BMPs must be adequately designed to provide control for all potential pollutant sources associated with the construction activity to prevent pollution or degradation of State waters.

1. It was noted during the inspection that inadequate BMPs were implemented to manage stormwater runoff from the disturbed area located along the west portion of the Dickens Mine; the disturbed area was located parallel to and on both sides of Spring Gulch (State waters). Straw wattle BMPs were implemented near the toe of the disturbed slope,

approximately two to four feet from Spring Gulch (see attached photographs 1 and 2).

Publically available installation and implementation specifications for straw wattle (fiber roll) BMPs, that reflect good engineering practices, indicate that straw wattle BMPs must be entrenched a minimum of 2 inches, and spaced with respect to the slope inclination of the project or used in conjunction with other sediment control methods. The straw wattles installed in this disturbed area were not entrenched; in some cases, the inspector could see under the wattle. In addition, the straw wattle BMP was the sole BMP implemented for the disturbed area.

Stormwater runoff from this disturbed area directly enters Spring Gulch (State waters), a tributary to the St. Vrain River (State waters). As a result of the inadequate BMPs implemented in the disturbed area, there was a potential for sediment transport from the disturbed area to the Spring Gulch (State waters). **All BMPs must be selected and installed following good engineering, hydrologic and pollution control practices, to prevent the erosion and discharge of sediment from these disturbed areas to Spring Gulch.**

2. It was noted during the inspection that inadequate BMPS were implemented to manage stormwater runoff from the disturbed area located along the Martin Street Extension project, as it crossed Spring Gulch. Gully erosion from upgradient flow was observed adjacent to the concrete bridge abutments; the gully erosion continued under the straw wattle BMP implemented in this area (see attached photographs 3 and 4). As described in the previous finding (Finding 1), straw wattle BMPs were implemented near the toe of the disturbed area adjacent to Spring Gulch, approximately two to four feet from the water edge. No BMPs were implemented for the disturbed area associated with the new road construction, located upgradient of Spring Gulch.

Publically available installation and implementation specifications for straw wattle (fiber roll) BMPs, that reflect good engineering practices, indicate that straw wattle BMPs must be entrenched a minimum of 2 inches, and spaced with respect to the slope inclination of the project or used in conjunction with other sediment control methods. The straw wattles installed in this disturbed area were not entrenched and were the sole BMP implemented for the disturbed area.

Stormwater runoff from this disturbed area directly enters Spring Gulch (State waters), a tributary to the St. Vrain River (State waters). As a result of the inadequate BMPs implemented in the disturbed area, sediment was discharged beyond the straw wattle BMPs and into Spring Gulch (State waters) (see attached photograph 5). **All BMPs must be selected and installed following good engineering, hydrologic and pollution control practices, to prevent the erosion and discharge of sediment from the disturbed areas to Spring Gulch.**

3. It was noted during the inspection that BMPs were not implemented to manage stormwater runoff from stockpiled construction materials located NW of the Dickens Mine pond (see attached photograph 6). Specifically, BMPs were not implemented to control run-off from the stockpiled material, which was located upgradient of the Dickens Mine pond.

Stormwater runoff from the stockpiled material flows downgradient, toward the Dickens Mine pond. The proximity of the pond to the St. Vrain River (hydraulic connection) and the outfall located in the south-east portion of the pond results in the potential for the discharge of pollutants to the St. Vrain River (State waters). **Adequate BMPs must be implemented to prevent the discharge of pollutants from these disturbed areas to the Dickens Mine pond.**

4. It was noted during the inspection that inadequate BMPS were implemented to manage stormwater runoff from the designated concrete washout (CWO) area located NW of the Dickens Mine pond. Specifically, concrete waste material was visible outside of the CWO area (see attached photograph 7). Additionally, concrete waste and washout material was observed at locations not associated with the CWO BMP. Specifically, waste materials were observed east and downgradient of the designated CWO area (see attached photograph 8) and in the north portion of the Dickens Mine facility (see attached photograph 9).

Stormwater from the CWO area and other waste locations flows downgradient, toward the Dickens Mine pond. The proximity of the pond to the St. Vrain River (hydraulic connection) and the outfall located in the south-east portion of the pond results in the potential for the discharge of pollutants to the St. Vrain River (State waters). **Adequate BMPs must be implemented and used by the permittee to prevent the discharge of pollutants from these areas to the Dickens Mine pond.**

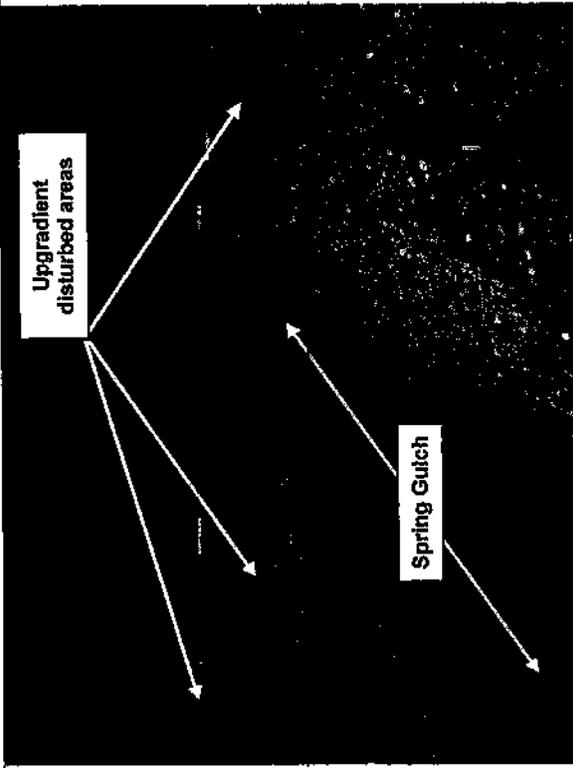
5. It was noted during the inspection that inadequate BMPS were implemented to manage stormwater runoff from the disturbed area and materials storage area located east of the designated CWO area. Specifically, the silt fence BMP was not maintained in functioning condition (not attached to its posts, and was lying on the ground—see attached photograph 10).

Stormwater from disturbed area and materials storage area flows downgradient, toward the Dickens Mine pond. The proximity of the pond to the St. Vrain River (hydraulic connection) and the outfall located in the south-east portion of the pond results in the potential for the discharge of pollutants to the St. Vrain River (State waters). **Adequate BMPs must be implemented and used by the permittee to prevent the discharge of pollutants from these areas to the Dickens Mine pond.**

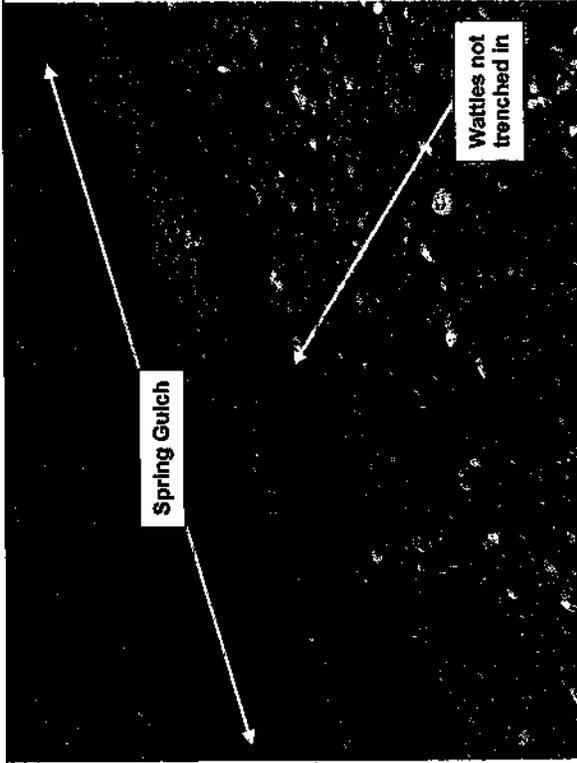
Site Photographs

Jalisco International Inc—Martin Street Extension
Martin St & Ken Pratt Blvd, Longmont
Boulder County, Colorado

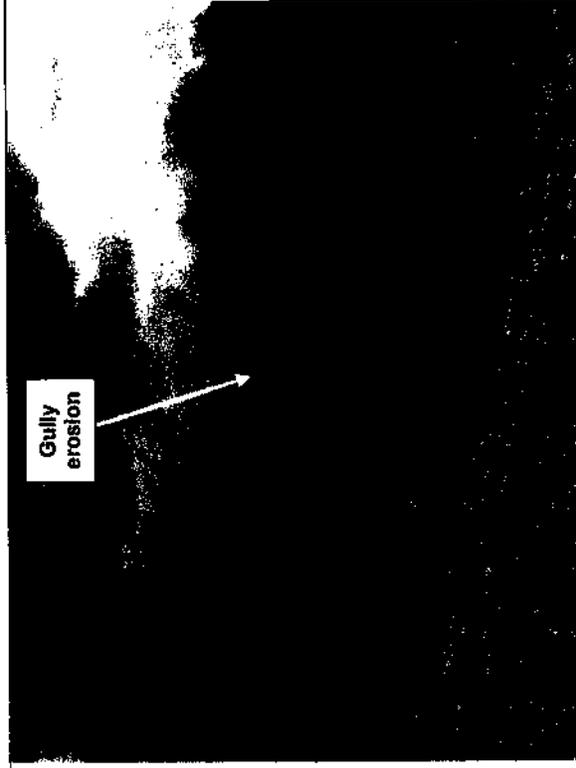
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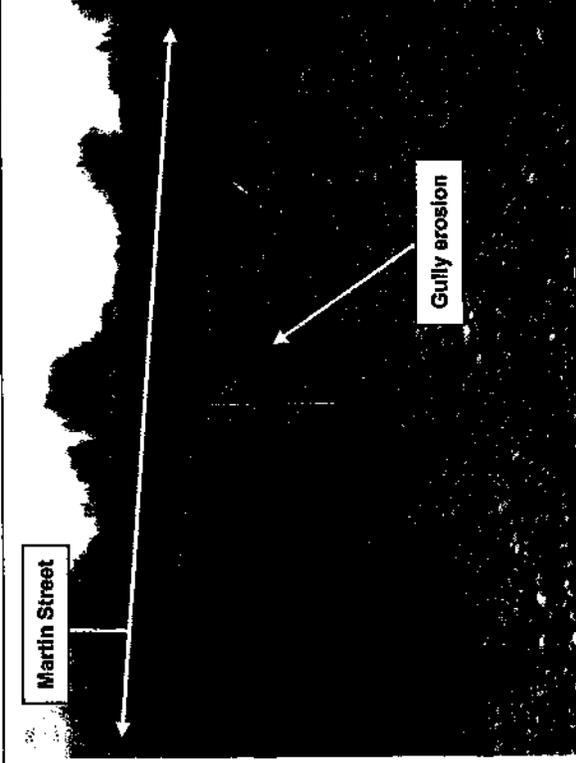
Photograph 1—W edge of Dickens Mine, looking N along Spring Gulch



Photograph 2—W edge of Dickens Mine, looking NW at straw wattle



Photograph 3—W edge of Dickens Mine, looking SW across Spring Gulch

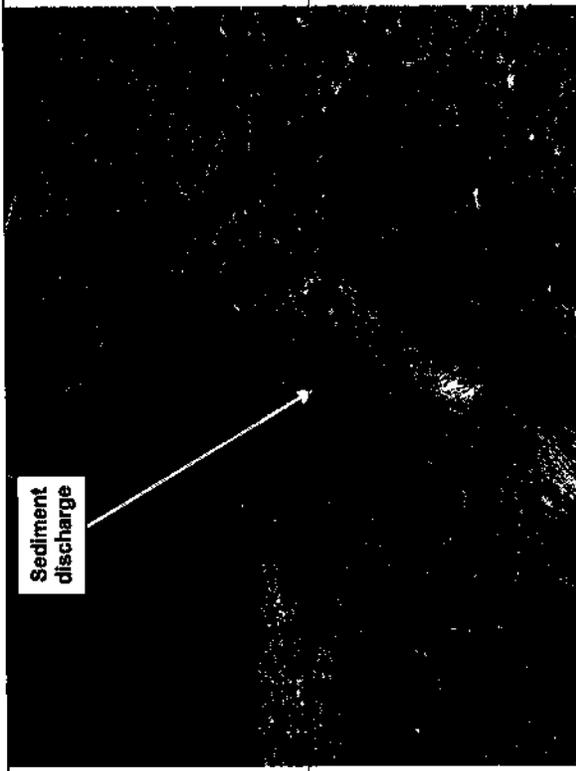


Photograph 4—W edge of Dickens Mine, looking SW at gully erosion

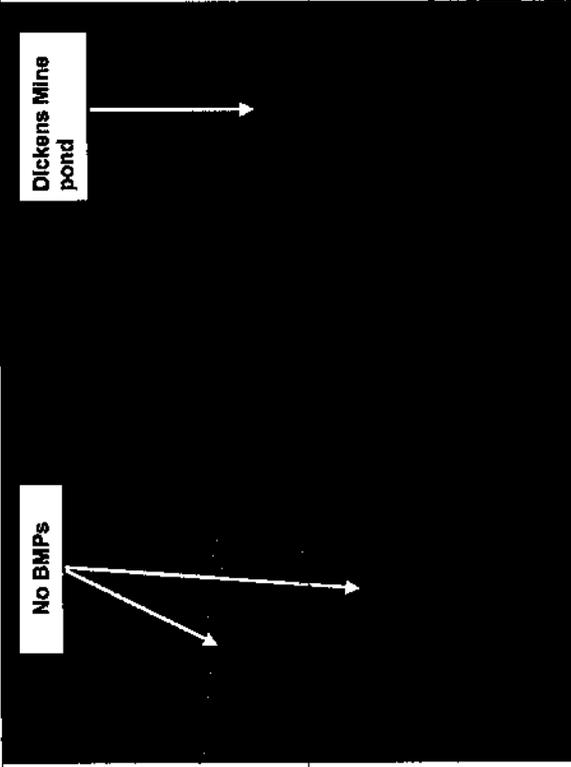
Site Photographs

Jalisco International Inc—Martin Street Extension
Martin St & Ken Pratt Blvd, Longmont
Boulder County, Colorado

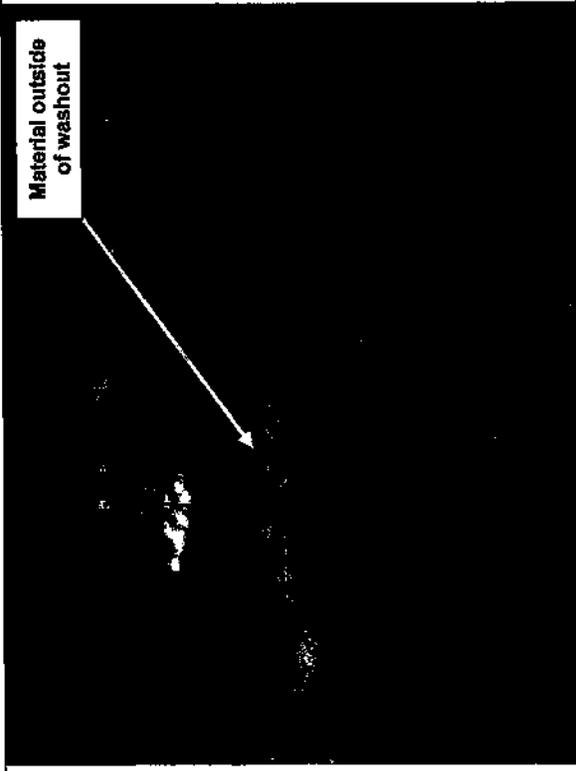
Photograph date: May 18, 2010



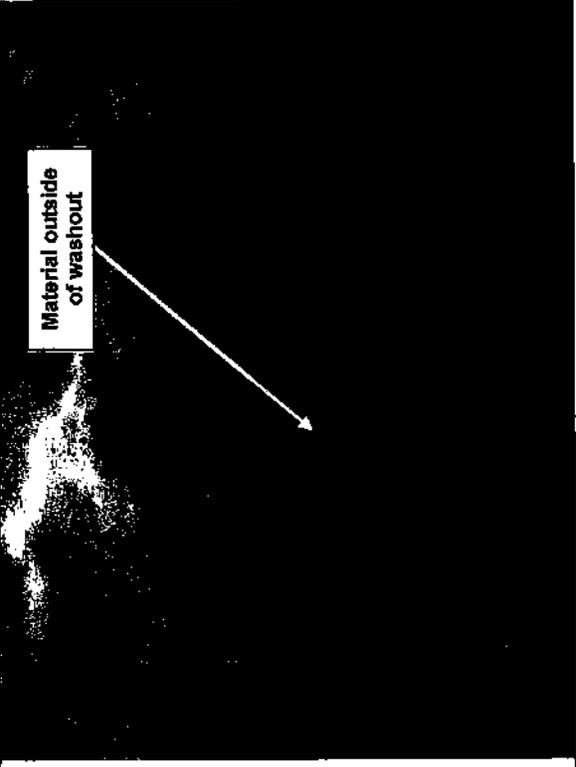
Photograph 5—W edge of Dickens Mine, looking at discharge beyond straw wattie



Photograph 6—W portion of Dickens Mine; looking NE at stockpiled material



Photograph 7—W portion of Dickens Mine; looking E at concrete washout BMP

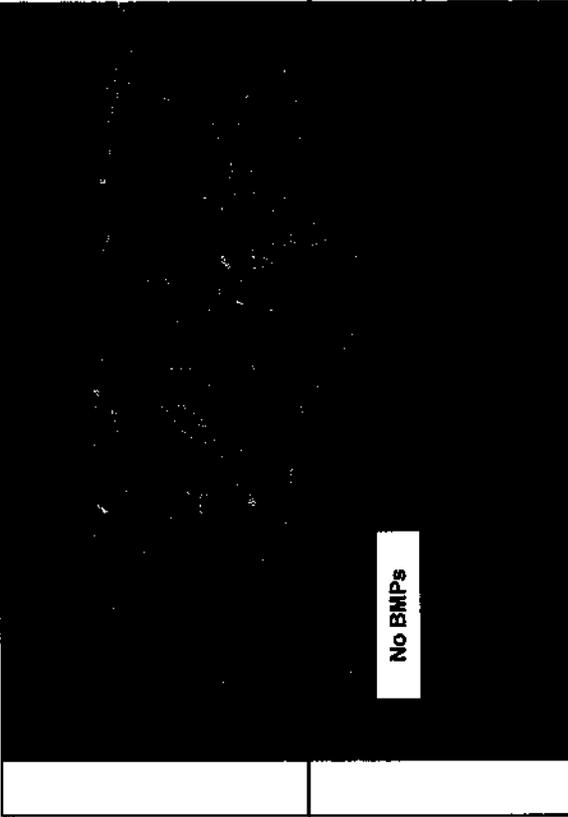


Photograph 8—W portion of Dickens Mine; looking W at washout material

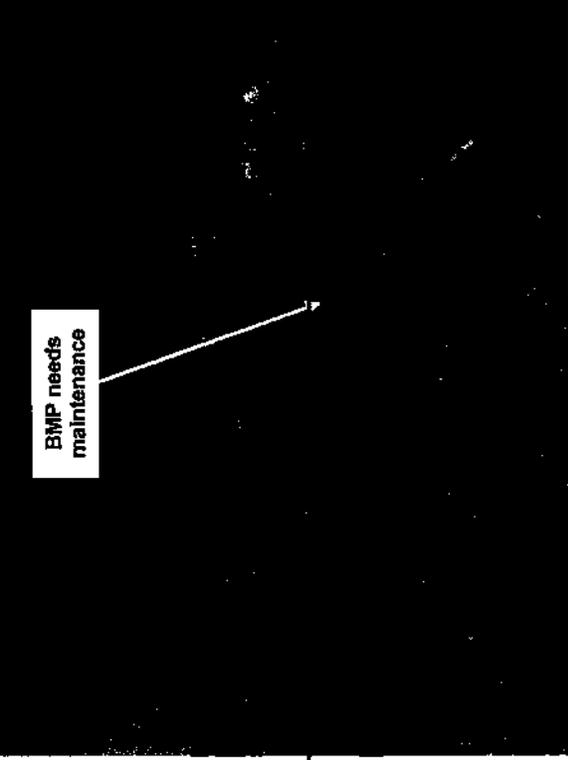
Site Photographs

Jalisco International Inc—Martin Street Extension
Martin St & Ken Pratt Blvd, Longmont
Boulder County, Colorado

Photograph date: May 18, 2010



Photograph 9—N portion of Dickens Mine; looking N at waste and washout material



Photograph 10—Midsite, looking NW at material storage area and silt fence BMP