

# 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

4300 Cherry Creek Dr. S.      Laboratory Services Division  
Denver, Colorado 80246-1530      8100 Lowry Blvd.  
Phone (303) 692-2000      Denver, Colorado 80230-6928  
Located in Glendale, Colorado      (303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

## Covenant Information:

**Covenant ID**      HMCOV00083

**Covenant Date**      12/28/2011

**Self Reporting**     

### **Media of Concern:**

**Surface Water:**     

**Ground Water:**     

**Air:**     

**Soil:**     

**Other:**     

## Site Contact Information:

**Owner Corp:**

**Contact Name:**      George L. Gomez / Patsy A. Gomez

**Contact Address:**      6300 CR 271

**Contact City:**      Westcliffe

**Contact State:**      CO

**Contact Zip:**      81252

**Contact Phone:**      719-783-3583

## **Contaminants of Concern:**

Lead

## **Property Restrictions:**

- 1: No tilling, excavation, grading, construction or any other activity that disturbs the ground surface within the site boundary area of the property
- 2:
- 3:
- 4:
- 5:

## Site Information:

**ID:**      Site ID # 08MV  
**Name:**      027 Terrible Mine  
**Address:**      6300 CR 271  
**City:**      Westcliffe  
**State:**      CO  
**Zip:**      81252  
**Legal Description:**

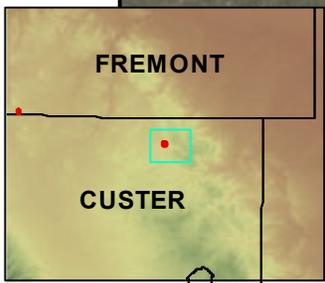
# TERRIBLE MINE

Featured Institutional Control



38°13'0"N

38°13'0"N



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## HMCOV00083



**This property is subject to an Environmental Covenant held by the Colorado Department of Public Health and Environment pursuant to section 25-15-321, C.R.S.**

**ENVIRONMENTAL COVENANT**

George L. Gomez and Patricia A. Gomez ("Grantors") grant an Environmental Covenant ("Covenant") this 28 day of December, 2011 to the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("the Department") pursuant to § 25-15-321 of the Colorado Hazardous Waste Act, § 25-15-101, *et seq.* The Department's address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

WHEREAS, Grantors are the owners of certain property commonly referred to as the Terrible Mine Site, Ilse Mining District, Custer County, Colorado ("Site"), located at 6300 CR 271, Westcliff, Colorado 81252, more particularly described in the Warranty Deed labeled **Attachment A**, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property"); and

WHEREAS, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601, *et seq.* (CERCLA), the Property is the subject of enforcement and removal action pursuant to an Administrative Settlement Agreement executed concurrent with this Environmental Covenant, an Action Memorandum dated August 19, 2010 and an Action Memorandum Amendment dated October 26, 2010, which can be found on record at the United States Environmental Protection Agency (EPA); and

WHEREAS, the removal action conducted on the Property entailed excavating and consolidating contaminated soils, replacing with clean soil, rock and gravel and revegetating specific areas on the Property, construction of an engineered repository for the consolidated soils with a combination of rip-rap, a soil cap and vegetated cover, and improved drainage feature on the Property. The location of the excavated areas and engineered repository and the location of the improved drainage feature within the Property are more particularly described in **Attachment B** listing the Longitude and Latitude, Decimal Degrees North American Datum 83 and generally shown with identified Global Positioning System points on **Attachment C** (hereinafter referred to as the "Site Boundary Area") and

WHEREAS, EPA and the Department have determined that activity and use restrictions on the Site Boundary Area are necessary to assure the long-term integrity of the CERCLA removal action; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by restricting future uses of and activity on the Site Boundary Area that can affect the CERCLA removal action; and

WHEREAS, Grantors desire to subject the Property to certain covenants and restrictions as provided in Article 15 of Title 25, Colorado Revised Statutes, which covenants and restrictions shall burden the Property and bind Grantors and all parties now or subsequently having any right, title or interest in the Property, or any part thereof, and any persons using the land, as described herein, for the benefit of the Department, Grantors, and EPA as a third party beneficiary.

NOW, THEREFORE, Grantors hereby grant this Covenant to the Department, with EPA as a third party beneficiary, and declare that the Site Boundary Area of the Property as described in **Attachment B** shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 10, below, which shall run with the Property in perpetuity and be binding on Grantors and all parties now or subsequently having any right, title or interest in the Property, or any part thereof, and any persons using the land, as described herein. As used in this Covenant, the term OWNERS means the then current record owners of the Property and, if any, any other person or entity otherwise legally authorized to make decisions regarding the transfer of the Property or placement of encumbrances on the Property, other than by the exercise of eminent domain.

- 1) Activity and Use Restrictions In accordance with the removal action described in the Administrative Record for the Site:
  - a) The Site Boundary Area shall not be used in any manner that would interfere with or adversely affect the implementation, integrity, or protectiveness of the removal action performed at the Site, as set forth in the Action Memorandum including, but not limited to, any use of the Erosion Control Drainage Ditch shown on **Attachment C** that potentially impacts the proper functioning of the drainage feature.
  - b) Restrictions on activities in the Site Boundary Area of the Property, as shown on **Attachment C** and more particularly described in **Attachment B**, shall include no tilling, excavation, grading, construction, or any other activity that disturbs the ground surface without modification of this Covenant pursuant to Paragraph 2 below.
- 2) Modifications This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. OWNERS may request that the Department approve a modification or termination of the Covenant. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information, and may request additional information. If the Department determines that the proposal to modify or terminate the Covenant will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this

Covenant shall be effective unless the Department has approved such modification or termination in writing. Information to support a request for modification or termination may include one or more of the following:

- a) a proposal to perform additional response action and/or remedial work;
  - b) new information regarding the risks posed by the residual contamination;
  - c) information demonstrating that residual contamination has diminished;
  - d) information demonstrating that an engineered feature or structure is no longer necessary;
  - e) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and
  - f) other appropriate supporting information.
- 3) Conveyances OWNERS shall notify the Department at least fifteen (15) days in advance of the closing on any proposed sale or other conveyance of any interest in any or all of the Property.
  - 4) Notice to Lessees OWNERS agree to incorporate either in full or by reference the restrictions of this Covenant in any leases, licenses, or other instruments granting a right to use the Property.
  - 5) Notification for proposed construction and land use OWNERS shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use for the Site Boundary Area of the Property.
  - 6) Inspections The Department and EPA shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Covenant as provided in § 25-15-322, C.R.S and for conducting environmental sampling, inspecting the removal action and assessing its continued protectiveness pursuant to CERCLA.
  - 7) Third Party Beneficiary OWNERS of the Property and EPA are third party beneficiaries with the right to enforce the provisions of this Covenant as provided in § 25-15-322, C.R.S.
  - 8) No Liability The Department does not acquire any liability under State law by virtue of accepting this Covenant nor does any other named beneficiary of this Covenant acquire any liability under State law by virtue of being such a beneficiary.
  - 9) Enforcement The Department may enforce the terms of this Covenant pursuant to §25-15-322, C.R.S. Grantors and any named beneficiaries may file suit in district court to enjoin actual or threatened violations of this Covenant.
  - 10) Owners' Compliance Certification OWNERS shall execute and return a certification form provided by the Department, on an annual basis, detailing OWNERS' compliance, and any lack of compliance, with the terms of this Covenant.

11) Notices Any document or communication required under this Covenant shall be sent or directed to:

With reference to the Terrible Mine Site, Ilse Mining District (EPA Site No. 08MV)

**State of Colorado:**

Remediation Program Manager Hazardous Materials and Waste Management Division  
HMWMD-RP-B2  
Colorado Department of Public Health and the Environment  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530

Assistant Attorney General  
Natural Resources and Environment Section  
Hazardous and Solid Waste and CERCLA Litigation Unit  
Colorado Department of Law  
1525 Sherman Street, 7th Floor  
Denver, CO 80203

And:

**EPA:**

On-Scene Coordinator (8EPR-ER)  
U.S. Environmental Protection Agency  
1595 Wynkoop Street  
Denver, CO 80202-1129

Regional Institutional Control Coordinator, EPR-SR  
U.S. EPA  
1595 Wynkoop Street  
Denver, CO 80202-1129

**OWNERS/GRANTORS:**

George L. Gomez and Patricia A. Gomez  
6300 CR 271  
Westcliff, Colorado 81252





## Attachment A

Warranty Deed, George L. Gomez and Patsy A. Gomez, Book 441, Page 345, Recorded October 29, 2002, Custer County, Colorado.



## Attachment B

### Site Boundary Area located in the Terrible Mine Site, Ilse Mining District

The Site Boundary Area is particularly described by the following Latitude and Longitude Coordinates, Decimal Degrees North American Datum 83:

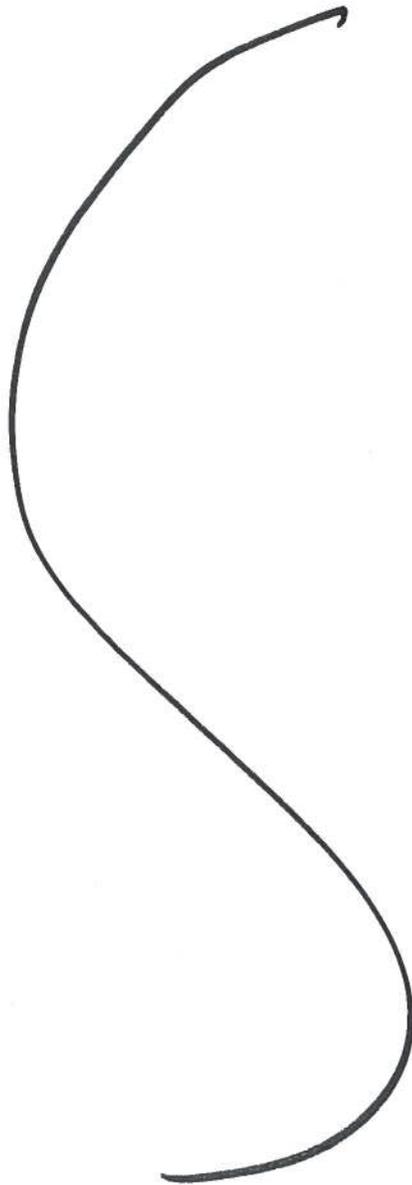
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2	-105.248001	38.217498	
3	-105.248001	38.217601	
4	-105.248001	38.217700	
5	-105.248001	38.217800	
6	-105.247001	38.217700	
7	-105.247001	38.217601	
8	-105.247001	38.217498	
9	-105.247001	38.217399	
10	-105.247001	38.217300	
11	-105.247001	38.217201	
12	-105.247001	38.217098	
13	-105.247001	38.216999	
14	-105.247001	38.216899	
15	-105.247001	38.216800	
16	-105.246002	38.216701	
17	-105.246002	38.216598	
18	-105.246002	38.216499	
19	-105.246002	38.216400	
20	-105.246002	38.216300	

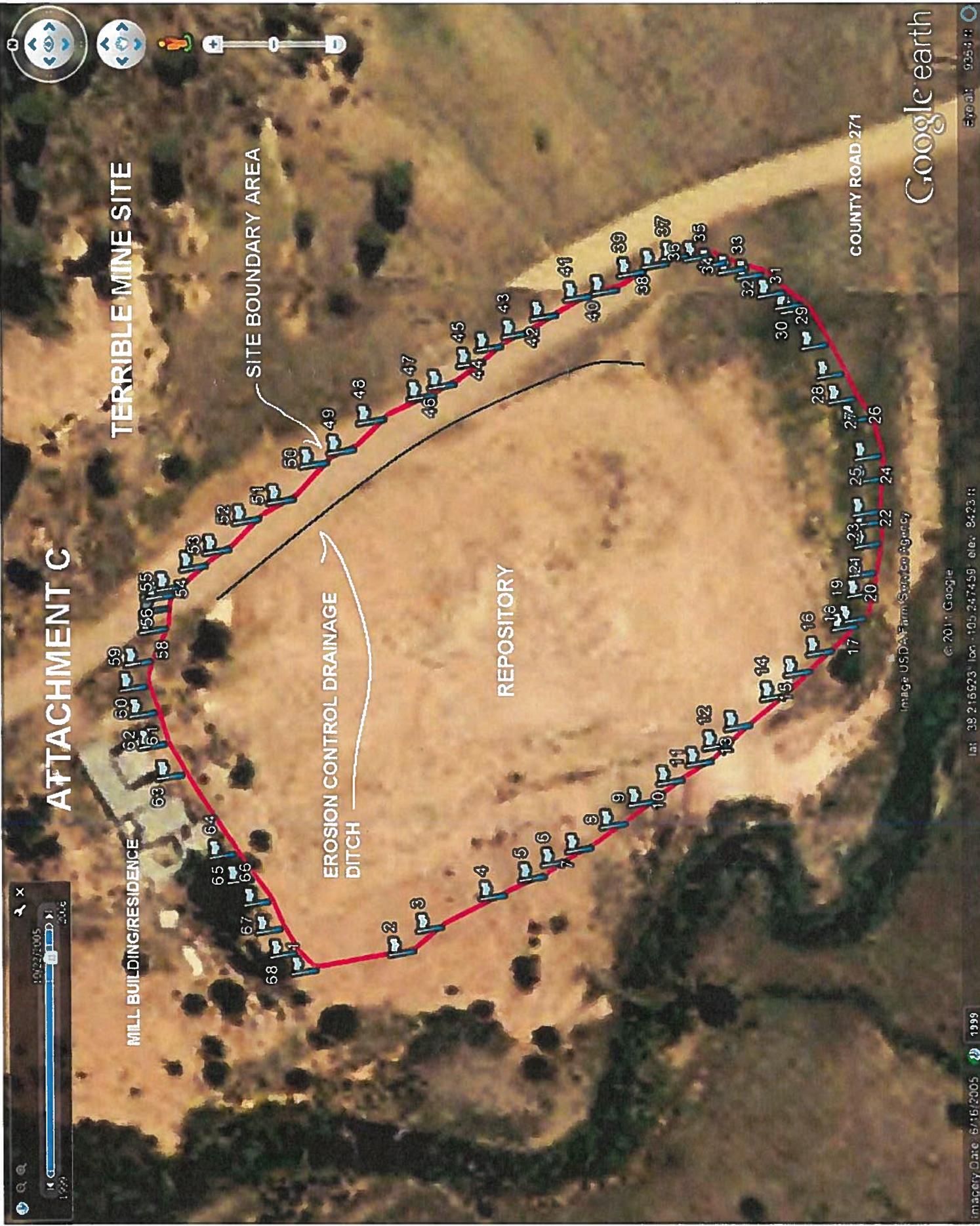
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24	-105.247001	38.215999
25	-105.247001	38.215900
26	-105.248001	38.216098
27	-105.248001	38.216201
28	-105.248001	38.216300
29	-105.248001	38.216400
30	-105.248001	38.216499
31	-105.248001	38.216598
32	-105.248001	38.216701
33	-105.248001	38.216800
34	-105.248001	38.216899
35	-105.248001	38.216999
36	-105.249000	38.217098
37	-105.247001	38.215999
38	-105.247001	38.215999
39	-105.247001	38.215999
40	-105.247001	38.215900
41	-105.247001	38.215999
42	-105.247001	38.215999
43	-105.247001	38.215999
44	-105.247001	38.215999
45	-105.247001	38.215999
46	-105.246002	38.216201

47	-105.246002	38.216499
48	-105.247001	38.216800
49	-105.247001	38.216899
50	-105.246002	38.216300
51	-105.247001	38.217201
52	-105.247001	38.217498
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54	-105.247001	38.217700
55	-105.247001	38.217700
56	-105.248001	38.217800
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58	-105.248001	38.217700
59	-105.248001	38.217498
60	-105.248001	38.217498
61	-105.249000	38.217399
62	-105.248001	38.216701
63	-105.248001	38.216400
64	-105.248001	38.216300
65	-105.248001	38.216098
66	-105.247001	38.215999
67	-105.246002	38.216098
68	-105.246002	38.216400

## Attachment C

Site Boundary Area Map (Repository)





# ATTACHMENT C

TERRIBLE MINE SITE

MILL BUILDING/RESIDENCE

SITE BOUNDARY AREA

EROSION CONTROL DRAINAGE DITCH

REPOSITORY

COUNTY ROAD 271

Google earth

9353 ft

Image: USDA Farm Service Agency  
© 2011 Google  
lat: 38.216923 lon: -105.247459 elev: 9423 ft

imagery Date: 6/15/2005 1999