

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 **HMCOV00087**

Covenant Date 6/20/2012

Self Reporting

Media of Concern:

Surface Water:

Ground Water:

Air:

Soil:

Other:

Site Contact Information:

Owner Corp: Resurrection Mining Company

Contact Name: Director of Reclamation and Closure

Contact Address: Resurrection Mining Company

Contact City: Greenwood Village

Contact State: CO

Contact Zip: 80111

Contact Phone:

Contaminants of Concern:

lead, arsenic, cadmium, zinc

Property Restrictions:

- 1: No uses/activities adversely affecting implementation, integrity, or protectiveness of reclamation or closure actions that have been/will be performed
- 2:
- 3:
- 4:
- 5:

Site Information:

ID: CAL OU 0

Name: Black Cloud Tailings 065

Address: ~4 Miles SE of Leadville, CO

City:

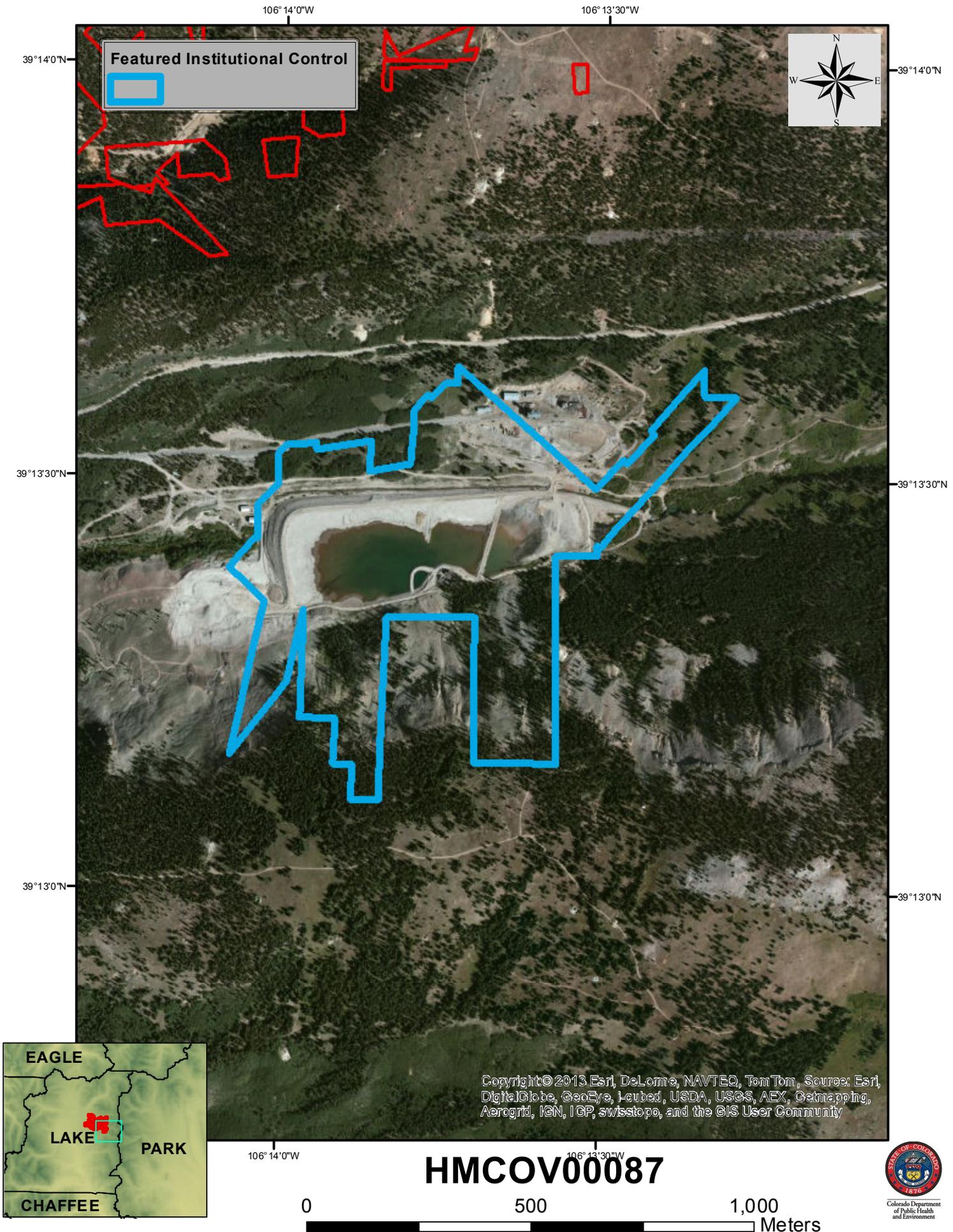
State: CO

Zip:

Legal Description:

See covenant

BLACK CLOUD TAILINGS 065



Featured Institutional Control



Copyright© 2013 Esri, DeLorme, NAVTEQ, TomTom, Source: Esri, DigitalGlobe, GeoEye, I-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

HMCOV00087

0 500 1,000 Meters





Environmental Covenant for Black Cloud Mine Tailings Property

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

Resurrection Mining Company ("Resurrection") grants an Environmental Covenant ("Covenant") this 5th day of April, 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, Resurrection is the owner of certain property situated in Lake County, Colorado, more particularly described in Attachment 1, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property"); and

WHEREAS, pursuant to that Consent Decree among Resurrection, Newmont USA Limited ("Newmont"), the State of Colorado and the United States, which was entered by the U.S. District Court for the District of Colorado on August 29, 2008 in *State of Colorado v. Asarco Incorporated, et al.* ("Consent Decree"), Resurrection has agreed to grant an Environmental Covenant in accordance with the terms thereof.

NOW, THEREFORE, Resurrection hereby grants this Environmental Covenant to the Department and EPA as a third party beneficiary, and declares that the Property as described in Attachment A shall hereinafter be bound by, held, sold, and conveyed subject to the requirements set forth below, which shall run with the Property in perpetuity and be binding on Resurrection, its heirs, successors and assigns, and any persons using the land, as described herein. As used in this Environmental Covenant, the term "Owner" means the record owner of the Property and 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) Use Restrictions.

No uses or activities that would in any manner interfere with or adversely affect the implementation, integrity, or protectiveness of the reclamation and closure actions that have been or will be performed or instituted on the property including, without limitation, revegetated areas, retaining ponds, adits, roads, ditches, pipelines, utility corridors, waste disposal facilities, tailings ponds, monitoring wells, signs and governmental use



restrictions and controls, shall be allowed. These restrictions will not apply to any future mineral prospecting, exploration or mining activities conducted on the property in accordance with the Colorado Mined Land Reclamation Act and implementing regulations.

2) Inspections.

The Department and EPA as the named third party beneficiary 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. Nothing in this Covenant shall impair any other authority the Department may otherwise have to enter and inspect the Property.

3) Termination.

This Covenant runs with the land and is perpetual, unless terminated or modified pursuant to this Section or Section 4. Owner may request that the Department approve a termination or modification of this Covenant. Consistent with C.R.S. 25-15-319(1)(h), the Department shall terminate this Environmental Covenant in whole or in part when, in addition to satisfying the requirements of C.R.S. 25-15-321(3) and (5), Owner provides the following applicable showings to the Department:

- a. Restrictions on uses or activities that would disturb or have the potential to disturb caps, covers or revegetated areas, or interfere or have the potential to interfere with or adversely affect the implementation, integrity, or protectiveness of the reclamation actions that have been or will be performed or instituted on the property shall be terminated if the waste in place within the area proposed for disturbance is removed or response facilities on the property are dismantled with the approval of EPA and the State.
- b. In addition to the grounds for termination set forth in Section 3.a, the Environmental Covenants shall also be terminated as to all or part of the Property if it is demonstrated to the Department that the proposed termination will ensure protection of human health and the environment, in accordance with C.R.S. 25-15-319(1)(h).

Consistent with C.R.S. 25-15-321(6), the Department shall provide to Owner a written determination on all applications to terminate this Environmental Covenant within 60 days after receipt of such application.

4) Modification.

The Department shall modify this Environmental Covenant in whole or in part when, in addition to satisfying the requirements of C.R.S. 25-15-321(3) and (5), Owner demonstrates to the Department that the proposed modification will ensure protection of human health and the environment, in accordance with C.R.S. 25-15-319(1)(h).



Consistent with C.R.S. 25-15-321(6), the Department shall provide Owner a written determination on all applications to modify this Environmental Covenant within 60 days after receipt of such application.

- 5) Conveyances. Within thirty days (30) after any grant, transfer or conveyance of any interest in any or all of the Property, the transferring Owner shall notify the Department and EPA as the named third party beneficiary of such grant, transfer or conveyance.
- 6) Notice to Lessees. Owner agrees 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.
- 7) Notification for proposed construction and land use. Owner shall notify the Department and EPA as the named third party beneficiary simultaneously when submitting any application to a local government for a building permit or change in land use that would authorize a land use prohibited under Section 1.
- 8) No Liability. The Department does not acquire any liability under State law by virtue of accepting this Covenant.
- 9) Enforcement. The Department and EPA as the named third party beneficiary may enforce the terms of this Covenant pursuant to §25-15-322. C.R.S., and may file suit in district court to enjoin actual or threatened violations of this Covenant.
- 10) Notices. Any document or communication required under this Covenant shall be sent or directed to:

Notices to the Department shall be provided to:

[appropriate Program Manager or Unit leader]
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Notices to EPA shall be provided to:

EPA Remedial Project Manager
California Gulch Superfund Site
United States Environmental Protection Agency, Region 8
(8EPR-SR)
1595 Wynkoop Street
Denver, CO 80202-1129



359264
6 of 7

7/31/2012 10:50 AM
COV R\$45.25 D\$0.00

Patricia Berger
Lake County Recorder

**ATTACHMENT 1
TO ENVIRONMENTAL COVENANT
THE PROPERTY**

Mineral Survey Number

1536
1778
2249
2619
3160
3398
3391
3604
3605
4033
4724
4727
4728
4728
5740
9304
15908

Claim Name

Clear Grit
Ella Beeler
Montreal
Slide
American Liberty
Constance
Jane Eugene
Almeda
Josie
Helena
Bank
Little Fred
Eagle
Iowa
Harry Steele
Tyrant Lode
Lady Alice



359264
7 of 7

COV 7/31/2012 10:50 AM
RS45.25 DS0.00

Patricia Berger
Lake County Recorder



Black Cloud Zone

