

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 HMCOV00101

Covenant Date 11/15/2013

Self Reporting

Media of Concern:

Surface Water:

Ground Water:

Air:

Soil:

Other:

Site Contact Information:

Owner Corp:

Contact Name: Philip R. and Gale D. Inglee

Contact Address: 13357 Braun Road

Contact City: Golden

Contact State: CO

Contact Zip: 80401-1644

Contact Phone:

Contaminants of Concern:

Metals

Property Restrictions:

1: No excavating, grading or construction that disturbs the remedy cover or water management systems.

2:

3:

4:

5:

Site Information:

ID: COD980717557

Name: Clear Creek Mineral 047

Address: n/a

City: n/a

State: CO

Zip:

Legal Description:

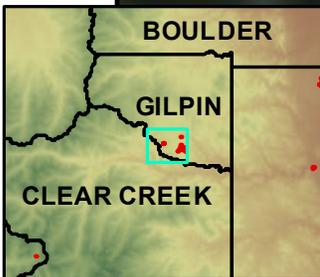
See Covenant

CLEAR CREEK MINERAL 047

Featured Institutional Control



HMC0V00101



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HMC0V00101





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

Philip R. and Gale D. Inglee, grants an Environmental Covenant ("Covenant") this 15TH day of November, 2013 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.

Philip R. and Gale D. Inglee is the owners of certain property commonly referred to as the **Mineral Lode Claim (M.S. # 162)**, located in Gilpin County, Colorado, more particularly described in Attachment A, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property"); and

WHEREAS, the Property is located within the Central City/Clear Creek Superfund Site Study Area ("Site"), which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register in 1983; and

WHEREAS, in the Central City/Clear Creek Superfund Site Operable Unit 4 Record of Decision dated September 29, 2004 (the "ROD"), the EPA Region VIII Regional Administrator selected a "remedial action" for the Site, which provides, in part, for the following actions:

- a. Mine waste pile remediation including erosion control measures and/or in-place closure of certain mine waste rock piles;
- b. Stream restoration/stabilization actions;
- c. Sedimentation controls such as construction of drop control structures, catchment basins and sediment dams;
- d. Maintenance related to all construction components;
- e. Institutional controls (e.g., an environmental covenant) to ensure the long-term integrity of the remedial action; and

WHEREAS, pursuant to the ROD and The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601. *et seq.* ("CERCLA"), a remedial action was taken on the Property. The area affected by these remedial actions is defined in Attachment B (hereinafter referred to as the "Subject Property"), incorporated herein by reference;

WHEREAS, the Subject Property as described includes the remedial action or a portion of the remedial action for:



the **Mineral Lode Claim** which overlies a portion of the **Keystone Mine** waste rock pile where erosion control measures were constructed on or around a mine waste pile, which included construction elements such as regrading, construction of run-on/run-off control structures, placement of rock covers over mine waste or riprap along the base of mine waste piles and revegetation of disturbed areas; and,

WHEREAS, the Central City/Clear Creek Superfund Site – OU4, Phase II/III Construction Completion Documentation, dated June 2011, provides the as-built construction drawings for the remedial action at the Property; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by ensuring that constructed portions of the remedy remain intact and functioning as designed, and

WHEREAS, Philip R. and Gale D. Inglee desires 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 Philip R. and Gale D. Inglee 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 and OWNER.

NOW, THEREFORE, Philip R. and Gale D. Inglee hereby grants this Environmental Covenant to the Department, and declares that the Property as described in Attachment A shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 11, below, which shall run with the Property in perpetuity and be binding on Philip R. and Gale D. Inglee 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 Environmental Covenant, the term OWNER means the then current record owner 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) Use restrictions - These use restrictions apply to the Subject Property, as described in Attachment B.
 - a) No tilling, excavation, grading, construction, or any other activity that disturbs the ground surface or sub-surface, including the cover and erosion control structures, is permitted, allowed, or shall be taken on the Subject Property without modification of this Covenant;
 - b) No uses or activities shall occur that would in any manner interfere with or adversely affect the implementation, integrity, or protectiveness of the remedial actions performed at the Subject Property.
 - c) There shall be no action that impairs or interferes with the growth of vegetation in the re-vegetated area.



- 2) Modifications This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. OWNER 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 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 OWNER 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 Subject Property.
- 4) 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 Subject Property.
- 5) Notification for proposed construction and land use OWNER shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use affecting the Subject Property.
- 6) Inspections The Department 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.
- 7) Third Party Beneficiary The OWNER of the Property is a third party beneficiary 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.
- 9) Enforcement The Department may enforce the terms of this Covenant pursuant to §25-15-322, C.R.S. Philip R. and Gale D. Inglee may file suit in district court to enjoin actual or threatened violations of this Covenant.



10) Owner's Compliance Certification OWNER shall execute and return a certification form provided by the Department, on an annual basis, detailing OWNER's 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:

If to the Department:

Remediation Project Manager
Central City/Clear Creek Superfund Site
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Philip R. and Gale D. Inglee, has caused this instrument to be executed this 15TH day of NOVEMBER, 2013.

Philip R. and Gale D. Inglee

By: Philip R. Inglee Gale D. Inglee

Title: _____

STATE OF COLORADO)
) ss:
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this 15TH day of November, 2013 by PHILIP R. AND GALE D. INGLEE on behalf of Philip R. and Gale D. Inglee



Stephen E. Miller
Notary Public

STEPHEN E. MILLER
Address

14675 CRABAPPLE ROAD, GOLDEN, CO 80401

My commission expires: 2/28/2017



**ATTACHMENT A
 TO COVENANT**

TAX OWNERSHIP CONFIRMATION

Account: N000567

<u>Location</u>	<u>Owner Information</u>	<u>Assessment History</u>	
Parcel Number	Owner Name	Actual (2012)	\$6,450
Tax Area 010 - TAX AREA 10 - 010	INGLEE PHILIP R & GALE D	Assessed	\$1,870
Situs Address	Owner Address	Tax Area: 010 Mill Levy: 22.706	
Legal Summary S: 15 T: 3S R: 73W MINE: MINERAL - 162 100% 0.97 ACRES NEVADA	13375 BRAUN RD GOLDEN, CO 80401- 1644	Type Actual Assessed Acres SQFT Units	
Business Name		Land \$6,450	\$1,870 0.970 0.000 0.000

Transfers

Sale Price
\$0

Sale Date

Book Page
B: 0261 P: 0108

Tax History

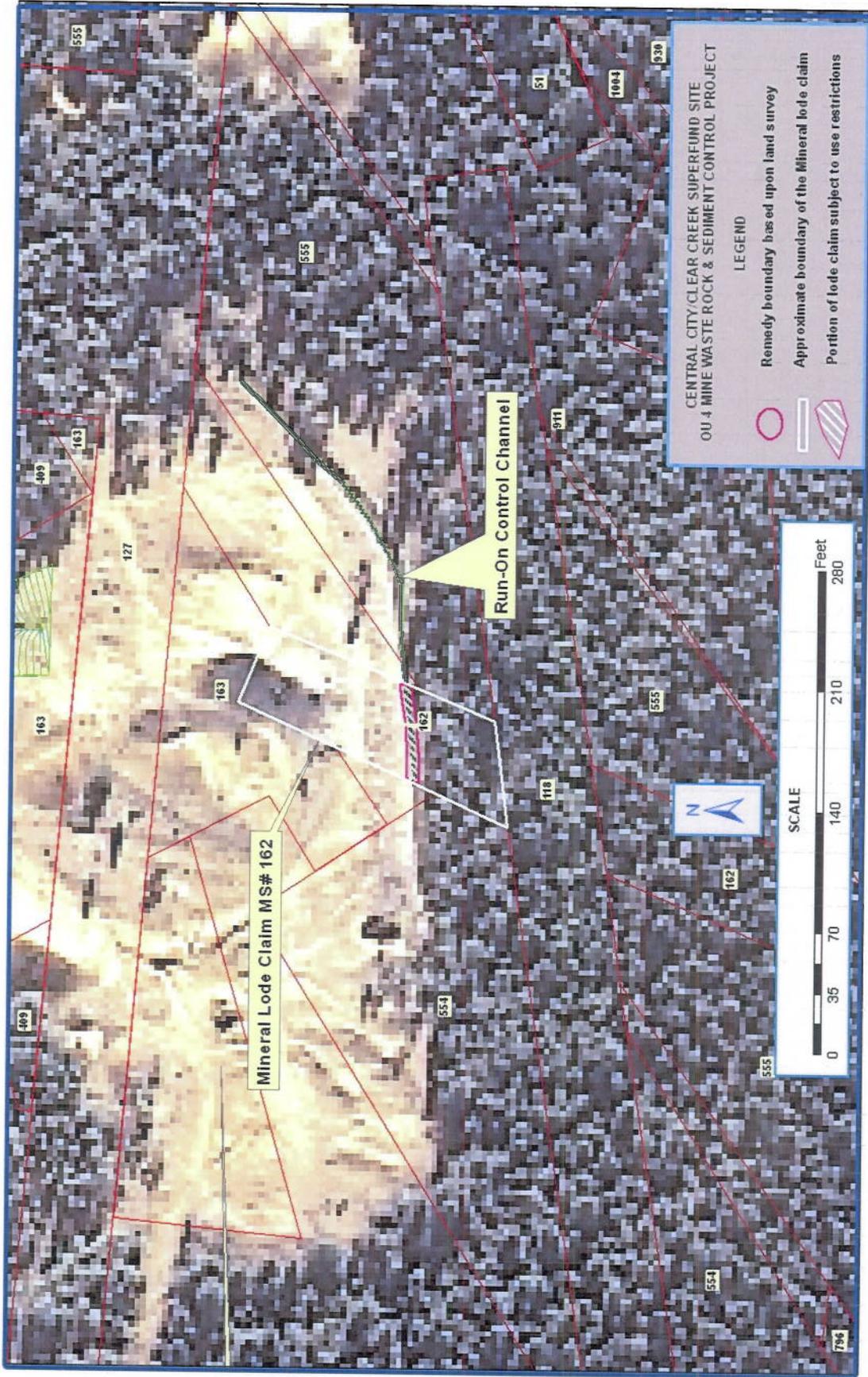
Images

Tax Year	Taxes
*2013	\$42.48
2012	\$42.48

* Estimated

**ATTACHMENT B
TO COVENANT**

This map depicts the portion of the Mineral Lode Claim (cross-hatched area) subject to use restrictions.



12/20/2013 11:32 AM 150631
COLLEEN STEWART GILPIN COUNTY, CO
Receipt #24618 Page 8 of 9
129 COVENANTS TotalFee:51.00 DocFee:0.00



**ATTACHMENT C
SIGNED EPA ACCESS AGREEMENT**



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

CONSENT FOR ACCESS TO PROPERTY
Remedial Design/Remediation Phase
CENTRAL CITY/CLEAR CREEK SUPERFUND SITE
CENTRAL CITY, COLORADO

Name of Owner: Philip R. and Gale D. Inglee

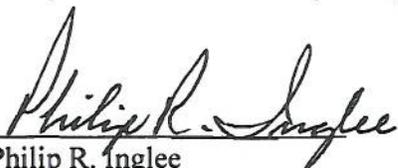
Address of Owner: 13375 Braun Road
Golden, Colorado 80427

Property Description: Mining claims located near the North Fork of Clear Creek in Gilpin County, Colorado, on or near any of the mine waste piles identified on the map attached hereto as Exhibit A.

We consent to officers, employees, contractors, subcontractors, and other authorized representatives of the United States Environmental Protection Agency ("EPA") and the Colorado Department of Public Health and Environment ("CDPHE") entering and having access to the property described above to the extent of our ownership interest in such property for the following purposes:

The taking of response actions to address mine waste, which may include the removal of mine waste, the construction of run-on/run-off control structures, re-grading, placement of rock covers over mine waste or riprap along the base of mine waste piles, and revegetation of disturbed areas, sedimentation controls, stream restoration or stabilization actions, and any other actions deemed necessary by EPA and CDPHE to implement and maintain the remedy set forth in the Record of Decision issued in September 2004 for Operable Unit 4 of the Clear Creek/Central City Superfund Site as amended in September 2006

We understand that these actions by EPA and CDPHE are undertaken pursuant to their response and enforcement responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 42 U.S.C. § 9601, et seq.


Philip R. Inglee
Date

5/28/08


Gale D. Inglee
Date 5/28/08