COLORADO
Department of Public Health & Environment

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

Institutional Control ID: HMCOV00106

Covenant Information:

Covenant Date 7/24/2013
Last Modified 5/1/2016

Self Reporting ☑

Media of Concern:

Surface Water: ☐
Ground Water: ☐
Air: ☐
Soil: ☑
Other: ☐

Contaminants of Concern:

Lead

Site Contact Information:

Owner Corp: Hinsdale County
Contact Name: Hinsdale County Building Inspector
Contact Address: 311 N Henson St.
Contact City: Lake City
Contact State: CO
Contact Zip: 81235
Contact Phone: 907-944-2225

Property Restrictions:

1: No grazing, digging, drilling, tilling, excavation or construction on the repositories.

2: No irrigation on the repositories.

3: No residential use.

4:

5:

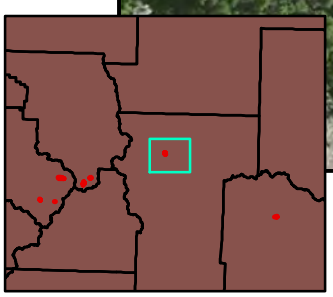
Site Information:

ID: N/A
Name: Ute Ulay Townsite
Address: -107.377145 38.020760
City: Lake City
State: CO
Zip: 81235

Legal Description:

See Institutional Control

UTE ULAY TOWN SITE



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COLORADO
Hazardous Materials & Waste Management Division
Department of Public Health & Environment

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1 of 11 R$60 D$0 N$0 S$1 M$0 E$0
Linda Pavich
Hinsdale Co.

RECEIVED
JUN 8 2016
HAZARDOUS MATERIALS
AND WASTE MANAGEMENT

This property is subject to an Environmental Covenant held by the Colorado Department of Public Health and Environment pursuant to section 25-15-321, Colorado Revised Statutes

AMENDED AND RESTATED ENVIRONMENTAL COVENANT

Hinsdale County, a political subdivision of the State of Colorado, grants an Environmental Covenant ("Covenant") this 1st day of June, 2016 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.*, C.R.S. The Department's address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

WHEREAS, Hinsdale County is the owner of certain property commonly referred to as Lots 1 and 2 of the Ute Ulé Site, located on Hinsdale County Road 20 a/k/a Engineer Pass Road, approximately four (4) miles west of the town of Lake City, County of Hinsdale, State of Colorado. Lot 1 consists of approximately 6.627 acres of land Lot 2 consists of approximately 2.944 acres of land, as more particularly described as follows:

> Lots 1 and 2, UTE ULÉ SUBDIVISION (also known as the Ute Ulay subdivision), according to the plat thereof dated September 25, 2012 and recorded September 28, 2012 at Reception No. 99718 in the office of the Hinsdale County Clerk and Recorder, Attachment A – Property Map and Survey Legal description, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property").

WHEREAS, pursuant to the approved Voluntary Cleanup and Redevelopment Act Application for Ute Ulé Town Site, Hinsdale County, Colorado, July 13, 2012, Lot 2 was the subject of a cleanup action (the "VCUP Remedial Action") pursuant to Part 3 in Article 16 of Title 25 Colorado Revised Statutes (§ 25-16-301, *et seq.*, C.R.S.), the State of Colorado Voluntary Cleanup and Redevelopment Program.

WHEREAS, the U.S. Environmental Protection Agency ("EPA") undertook a time-critical removal action in 2013 in Lot 1 to address potentially unstable waste rock and mill tailing impoundments by regrading and amending an estimated 30,600 cubic yards of waste rock and mill tailing materials.

WHEREAS, the 2012 VCUP Remedial Action and the 2013 time-critical removal action (collectively, the "Response Actions") left residual contaminant levels that have been determined to be safe for one or more specific uses, but not all uses.

WHEREAS, the Response Actions incorporate engineered features and structures that require monitoring, maintenance, or operation or that will not function as intended if disturbed, particularly:

a) Three (3) waste rock repositories. Repository A has a surface area of 2,000 square feet and contains approximately 450 cubic yards of waste rock. Repository B has a surface area of 1,200 square feet and contains approximately 200 cubic yards of waste rock. Repository C has a surface area of 136,648 square feet and contains approximately 14,800 cubic yards of tailings and 15,800 cubic yards of waste rock.

b) Surface water run on and run off control features.

WHEREAS, the Response Action's engineered features are depicted in Attachments B, C and D attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Subject Property").

WHEREAS, the engineered features are described in a Site Management Plan ("SMP") on file with the Department, and should be monitored and maintained per the SMP.

WHEREAS, it is the intent of Hinsdale County and the Department that this Amended and Restated Environmental Covenant shall restate and replace the Environmental Covenant entered into between Hinsdale County and the Department dated July 24, 2013 and recorded in the real property records of Hinsdale County on March 25, 2014 at Reception No. 100695.

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by ensuring the Response Actions at the Property are not disturbed or destabilized, that closed waste rock at the site are not re-exposed to stormwater and snow melt runoff, that the remedial features, engineering controls and structures are maintained, and that the Property is not otherwise disturbed so as to reduce the effectiveness of the Response Actions completed at the site.

WHEREAS, Hinsdale County 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 Hinsdale County and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land, as described herein, for the benefit of the Department.

NOW, THEREFORE, Hinsdale County 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 Hinsdale County and all parties having any right, title or interest in the Property, or any part thereof, their 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, 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.

   a) Activities on the Subject Property that may damage the repository caps are prohibited. Such activities include, but are not limited to, grazing, digging, drilling, tilling, grading, excavation, construction of any sort, placing of any objects or structures on the cover, and vehicular traffic.

   b) Zoning and Use. Residential use is prohibited on the Property. The term "residential use" means use of a building or part of a building as a dwelling (i.e., as a place to sleep, eat and bathe). Dwellings including single family homes, apartments, condominiums, manufactured housing, assisted living facilities and nursing homes, but do not include motels, hospitals and other buildings used only for short-term lodging.

   c) Irrigation of the repository caps on the Subject Property is prohibited.

   d) OWNER shall comply with all provisions of the approved SMP, on file with the Department at - Ute Ulay – BRN/30.4 Site Management Plan.

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 terms of this 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;

f) other appropriate supporting information; and
g) is conducted as per the approved SMP.

3) Conveyances. OWNER shall notify the Department at least fifteen (15) days in advance of any proposed grant, transfer or conveyance of any interest in any or all of the Property. Within thirty (30) days after any such conveyance, OWNER shall provide the Department with the name, mailing address and telephone number of the new OWNER.

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 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.

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) No Liability. The Department does not acquire any liability under State law by virtue of accepting this Covenant.

8) Enforcement. The Department may enforce the terms of this Covenant pursuant to § 25-15-322, C.R.S. Hinsdale County may file suit in district court to enjoin actual or threatened violations of this Covenant.

9) Owner's Compliance Certification. OWNER shall execute and return a certification form provided by the Department, on an annual basis, detailing OWNER's compliance, or any lack of compliance, with the terms of this Covenant.

10) Recordation. This Covenant shall be recorded with the County Clerk and Recorder for Hinsdale County. This Covenant shall modify and supersede the covenant recorded in the County at reception number 100695.

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

If to the Department:

Hazardous Materials and Waste Management Division
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South

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Linda Pavich
Hinsdale Co.

Denver, Colorado 80246-1530

If to Owner:

Hinsdale County
311 North Henson Street
P.O. Box 277
Lake City, Colorado 81235

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Linda Pavich
Hinsdale Co.

Hinsdale County, has caused this instrument to be executed this 1ST day of JUNE, 2016.

By: C F Dozier

Title: CHAIR, BOCC

STATE OF Colorado)
) ss:
COUNTY OF Hinsdale)

The foregoing instrument was acknowledged before me this 1st day of June, 2016 by Cindy F. Dozier on behalf of HINSDALE COUNTY, whose address is 311 North Henson Street, P.O. Box 277, Lake City, Colorado, 81235

Joan Roberts
Notary Public

JOAN ROBERTS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19914002032
MY COMMISSION EXPIRES MARCH 9, 2019

Lake City, CO
Address

My commission expires: 3-9-2019

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Linda Pavich
Hinsdale Co.

Accepted by the Colorado Department of Public Health and Environment this 13th day of June, 2016.

By: Gary W. Baughman

Title: Director, HMWMD

STATE OF COLORADO)
) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 13 day of June, 2016 by GARY W. BAUGHMAN on behalf of the Colorado Department of Public Health and Environment.

Claudette M. Ferris
Notary Public

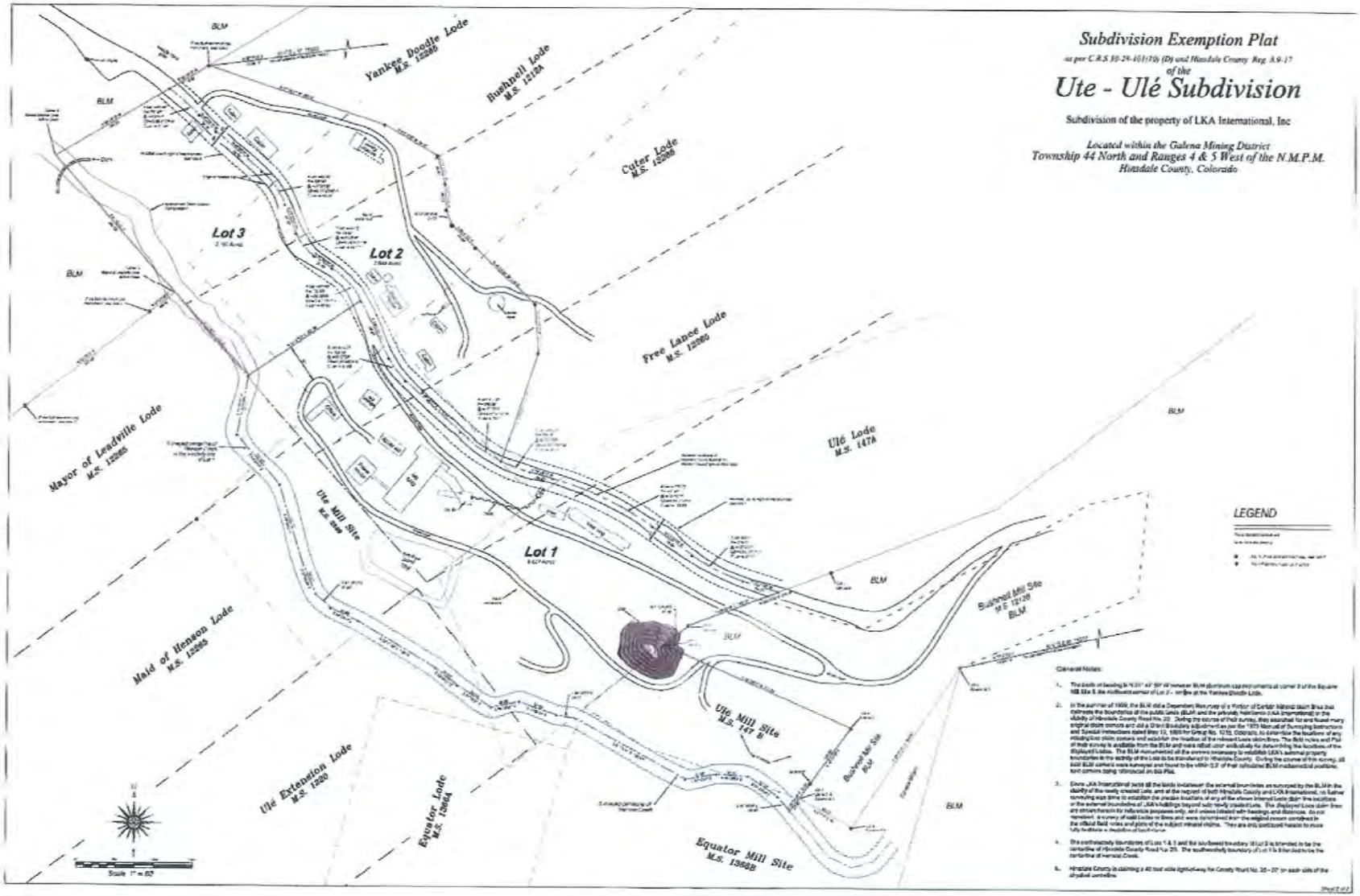
4300 Cherry Creek Dr So
Address

Denver, CO 80246

My commission expires: October 21, 2019

CLAUDETTE M FERRIS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19874061504
MY COMMISSION EXPIRES OCTOBER 21, 2019

Attachment A - Property Map



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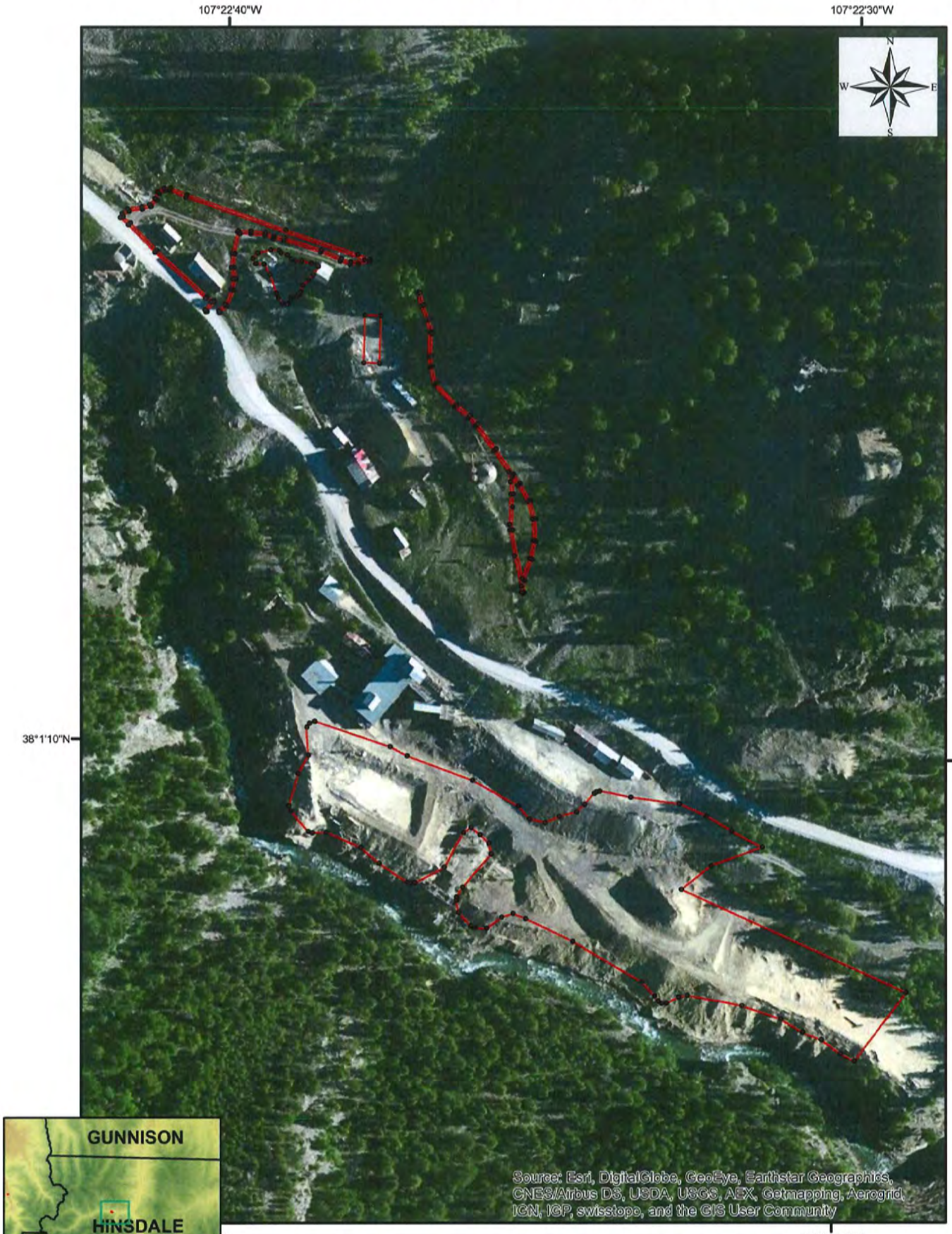
Linda Pavich
Hinsdale Co

Attachment B - Ute Ule Site Features



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COLORADO
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Department of Public Health & Environment

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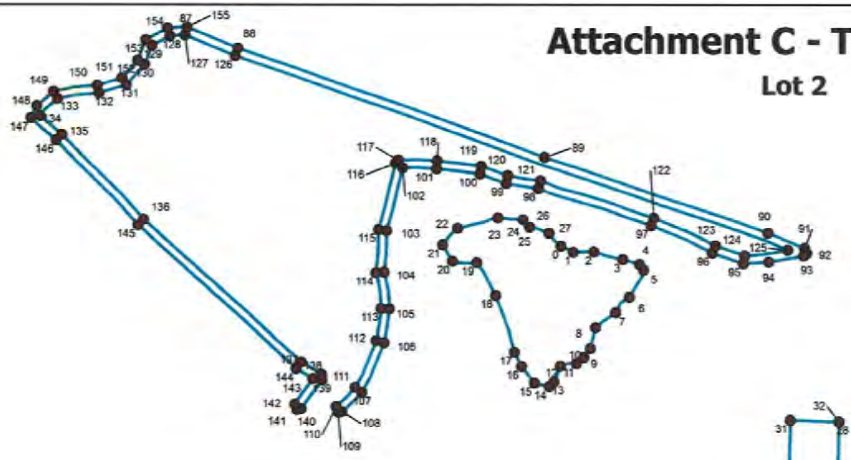
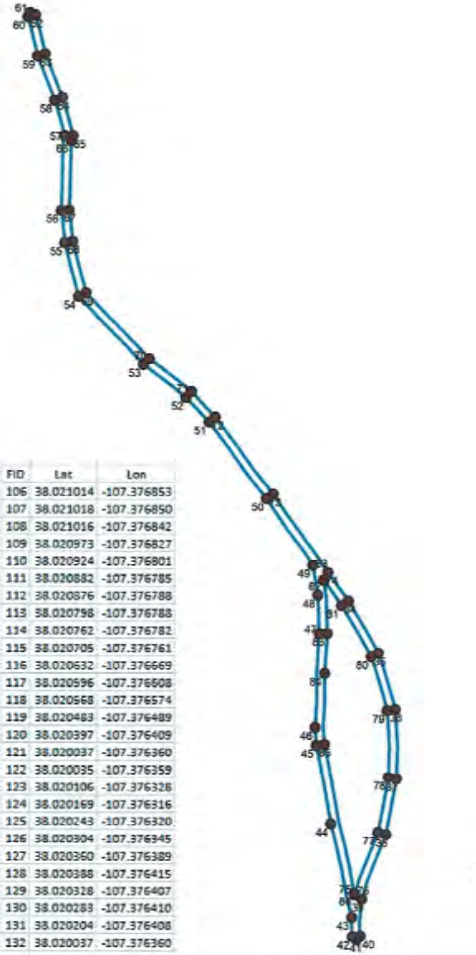
Hinsdale Co.

Attachment C - Town Site Features

Lot 2

COLORADO
Hazardous Materials & Waste Management Division
Department of Public Health & Environment





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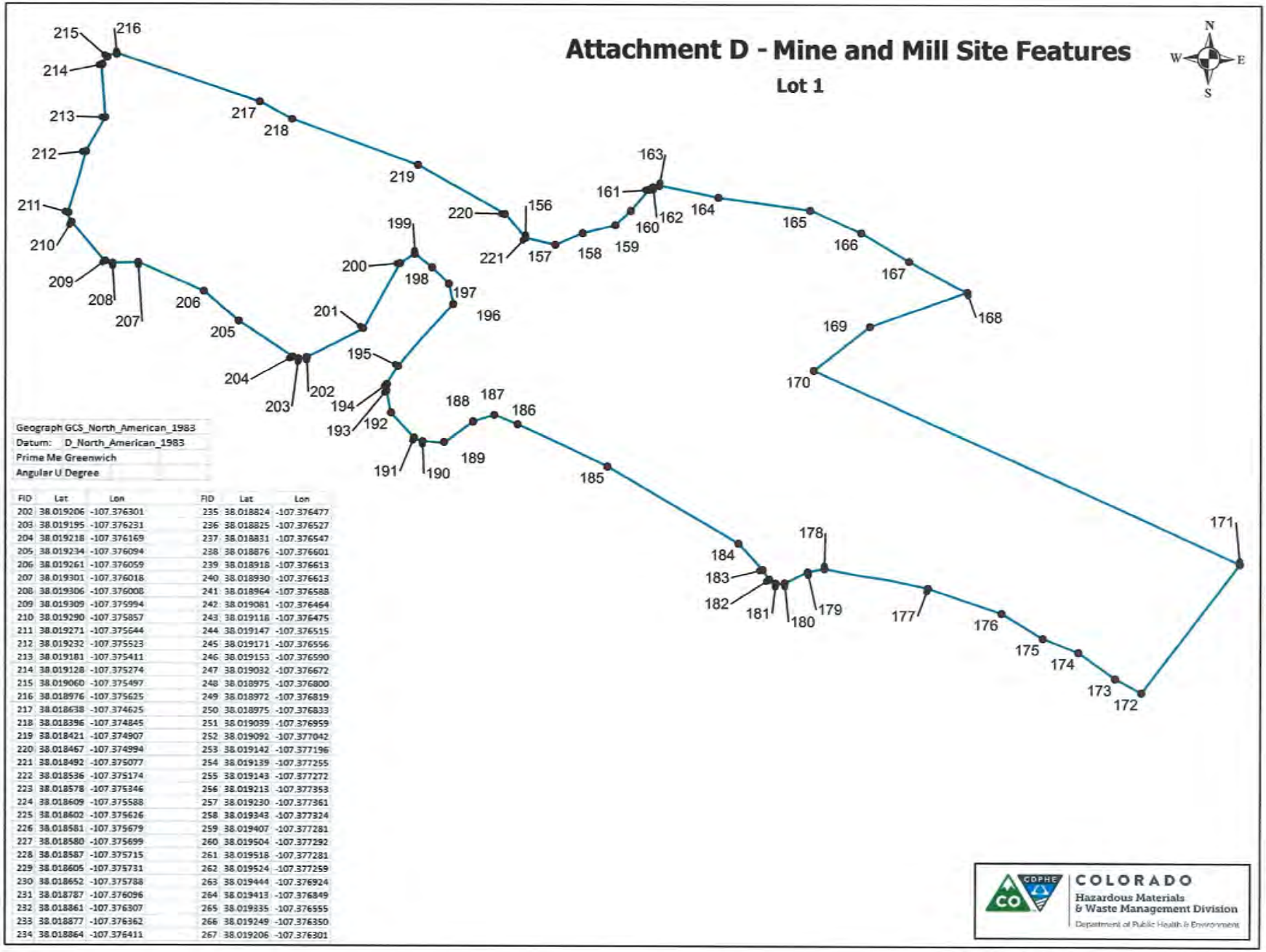
Linda Pavich
Hinsdale Co.

Attachment D - Mine and Mill Site Features

Lot 1



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COLORADO
Hazardous Materials & Waste Management Division
Department of Public Health & Environment

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