

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 **HMCOV00114**

Covenant Date 10/15/2013

Self Reporting

Media of Concern:

Surface Water:

Ground Water:

Air:

Soil:

Other:

Site Contact Information:

Owner Corp: David Wolf

Contact Name: David Wolf

Contact Address: P.O. Box 664

Contact City: Ophir

Contact State: CO

Contact Zip: 81426

Contact Phone:

Contaminants of Concern:

Metals associated with mining tailings

Property Restrictions:

- 1:** No activities damaging repository cap - including digging, drilling, tilling, excavation, construction, vehicular traffic.
- 2:** No access within repository boundary area except for monitoring and maintenance.
- 3:** No irrigation unless CDPHE approved.
- 4:** No enclosed structures built or placed within repository boundary area.
- 5:**

Site Information:

ID: CO0001916360

Name: North Star Mill Site

Address: n/a

City: Ophir

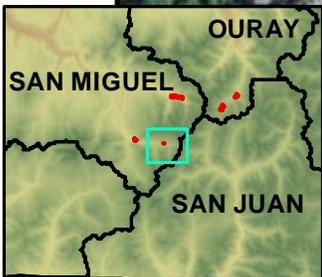
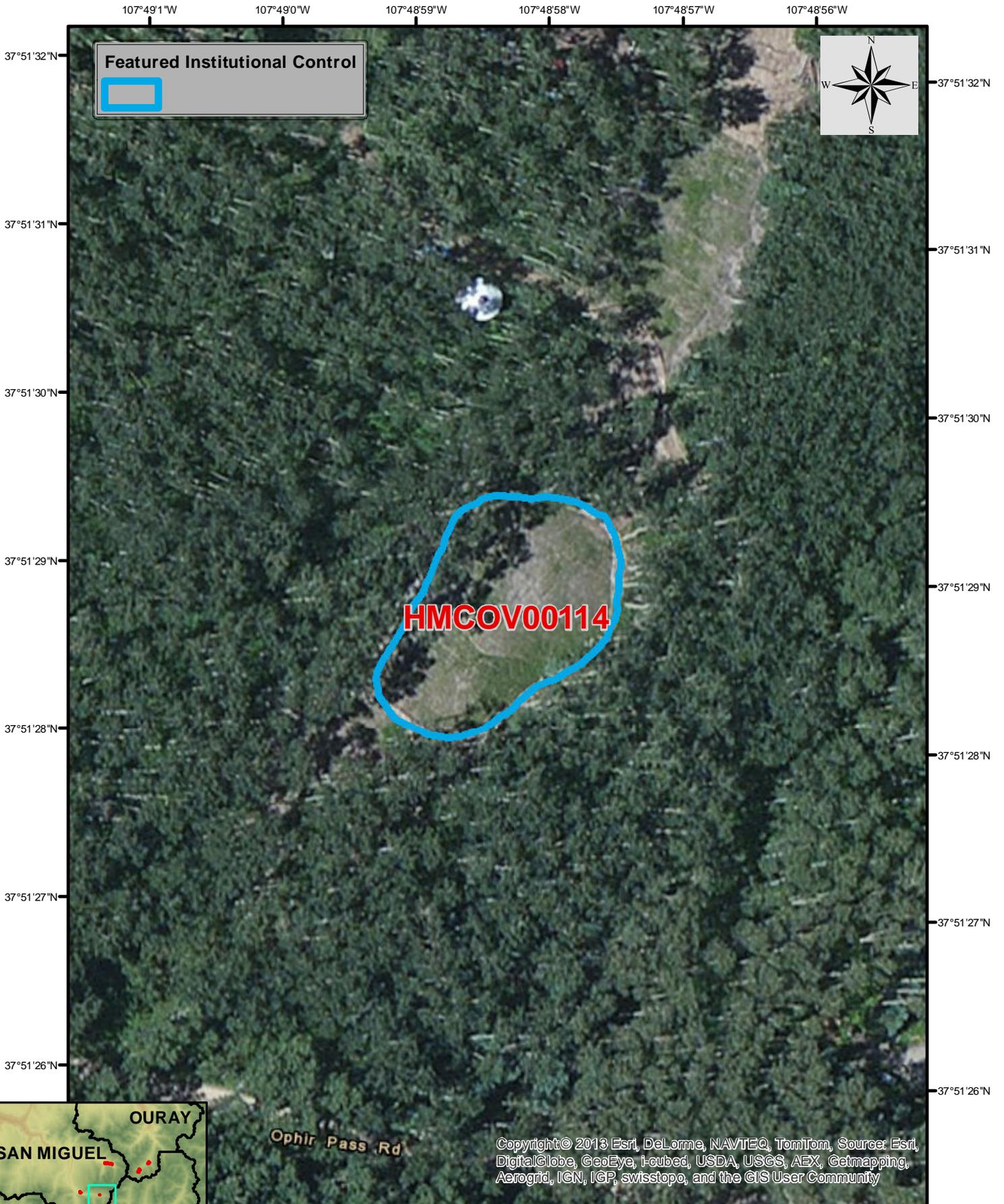
State: CO

Zip:

Legal Description:

See Institutional Control

NORTH STAR MILL



HMC OV00114

0 30 60 Meters

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

David Wolf ("Grantor") grants an Environmental Covenant ("Covenant") this 15 day of OCTOBER, 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.

WHEREAS, Grantor is the owner of certain property commonly referred to as the North Star Mill Tailings Site, located near Ophir, San Miguel 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, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601, *et seq.* (CERCLA), the Property is the subject of removal action pursuant to an Action Memorandum dated August 13, 2009; and

WHEREAS, the Action Memorandum set forth a removal action resulting in residual contamination at levels determined to be safe for one or more specific uses, but not all uses, and incorporating an engineered feature or structure requiring monitoring, maintenance, or operation or that will not function as intended if it is disturbed; and

WHEREAS, the engineered feature specified in the Action Memorandum is a repository holding contaminated tailings and waste rock excavated from throughout the Site, constructed on the Property by the United States Environmental Protection Agency (EPA). The repository boundary is more particularly described in **Attachment B** listing the Decimal Degrees North American Datum 83. Latitude and Longitude and generally shown with identified Global Positioning System points on **Attachment C** (hereinafter referred to as the "Repository Boundary Area"); and

WHEREAS, EPA and the Department have determined that activity and use restrictions within the Repository Boundary Area are necessary to assure the long-term integrity of the repository and that it operates as intended in the future; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by restricting future uses of and activity within the Repository Boundary Area; and

WHEREAS, Grantor 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 Grantor 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, and EPA as a third party beneficiary.

NOW, THEREFORE, Grantor hereby grants this Environmental Covenant to the Department, with 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 following requirements set forth in paragraphs 1 through 11 below, which shall run with the Property in perpetuity and be binding on Grantor 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 In accordance with the removal action described in the Administrative Record for the Site, OWNER hereby imposes the following activity and use limitations:
 - a) Any action that may damage or interfere with the proper operation or maintenance of any engineered component of the remedy on the Property, including the repository, is prohibited;
 - b) Activities that may damage the repository cap are prohibited within the Repository Boundary Area. Such activities include, but are not limited to, digging, drilling, tilling, grading, excavation, construction of any sort, placing of any objects on the cap not related to the response action, and vehicular traffic;
 - c) Access within the Repository Boundary Area is prohibited, except for authorized monitoring, maintenance and remedial activities;
 - d) Irrigation within the Repository Boundary Area is prohibited, except as approved by the Department in a closure plan, post-closure plan, or remedial decision document to establish and maintain vegetation; and
 - e) No enclosed structures may be built or placed within the Repository Boundary 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 response action 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 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 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 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. 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 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. Grantor and EPA 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:

FOR 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

And to:

Assistant Attorney General
Natural Resources and Environment Section
Hazardous and Solid Waste and CERCLA Litigation Unit
Colorado Department of Law
1300 Broadway, 7th Floor
Denver, CO 80203

FOR EPA:

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

And to:

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

FOR OWNER/GRANTOR:

David Wolf
P.O. Box 664
Ophir, CO 81426

Attachment A Property Description

San Miguel County Assessor Data Site

Peggy Kanter, P.O. Box 506, Telluride, CO, 81435
(P) 970 728-3174 | (F) 970 369-1007 | (E) assessor@sanmiguelcounty.org

Account Information

Account:	R1040093801
Parcel:	477936300008
Owner Name:	WOLF DAVID A
Owner Address:	PO BOX 664, OPHIR, CO, 81426
Property Address:	
Legal:	NORTH STAR MILL SITE SURVEY NO. 20302 ISMD EXCLUDING ANY GROUND EMBRACED IN SURVEY NO 13613
Tax Area:	104
Subdivision:	TOWNSHIP AND RANGE

Attachment B
Repository Boundary Description

The Repository Boundary Area is particularly described by the follow Latitude and Longitude coordinates, Decimal Degrees North American Datum 83:

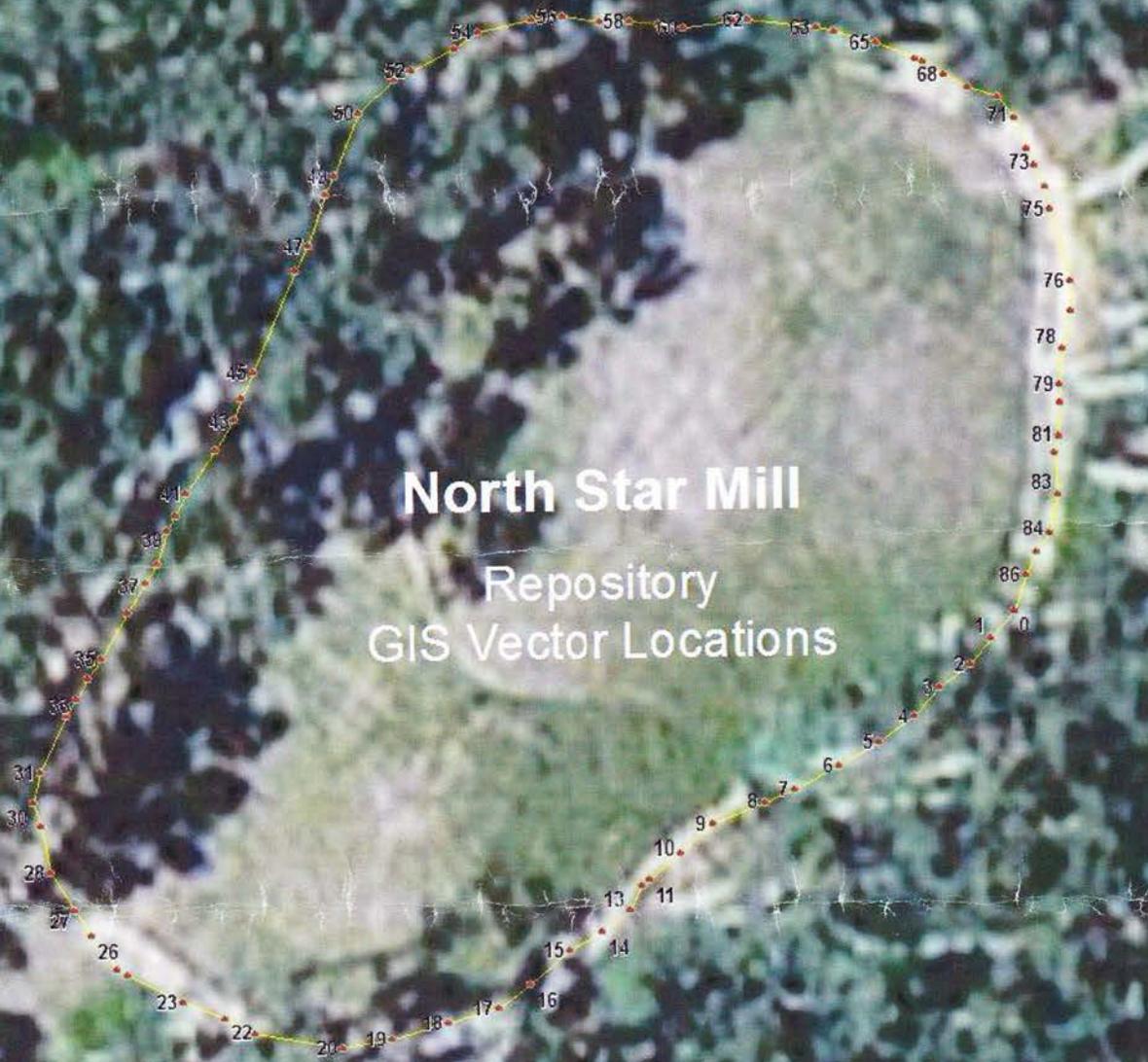
NAD 83

FID	Lat	Lon			
0	37.8580017	-107.8160019	61	37.8582001	-107.8160019
1	37.8578987	-107.8160019	62	37.8582001	-107.8160019
2	37.8578987	-107.8160019	63	37.8582001	-107.8160019
3	37.8578987	-107.8160019	64	37.8582001	-107.8160019
4	37.8578987	-107.8160019	65	37.8582001	-107.8160019
5	37.8578987	-107.8160019	66	37.8582001	-107.8160019
6	37.8578987	-107.8160019	67	37.8582001	-107.8160019
7	37.8578987	-107.8160019	68	37.8582001	-107.8160019
8	37.8578987	-107.8160019	69	37.8582001	-107.8160019
9	37.8578987	-107.8160019	70	37.8582001	-107.8160019
10	37.8578987	-107.8160019	71	37.8581009	-107.8160019
11	37.8577995	-107.8160019	72	37.8581009	-107.8160019
12	37.8577995	-107.8160019	73	37.8581009	-107.8160019
13	37.8577995	-107.8160019	74	37.8581009	-107.8160019
14	37.8577995	-107.8160019	75	37.8581009	-107.8160019
15	37.8577995	-107.8160019	76	37.8581009	-107.8160019
16	37.8577995	-107.8160019	77	37.8581009	-107.8160019
17	37.8577995	-107.8160019	78	37.8581009	-107.8160019
18	37.8577995	-107.8160019	79	37.8580017	-107.8160019
19	37.8577995	-107.8160019	80	37.8580017	-107.8160019
20	37.8577995	-107.8160019	81	37.8580017	-107.8160019
21	37.8577995	-107.8160019	82	37.8580017	-107.8160019
22	37.8577995	-107.8160019	83	37.8580017	-107.8160019
23	37.8577995	-107.8160019	84	37.8580017	-107.8160019
24	37.8577995	-107.8160019	85	37.8580017	-107.8160019
25	37.8577995	-107.8160019	86	37.8580017	-107.8160019
26	37.8577995	-107.8160019	87	37.8580017	-107.8160019
27	37.8577995	-107.8160019			
28	37.8577995	-107.8160019			
29	37.8578987	-107.8160019			
30	37.8578987	-107.8160019			
31	37.8578987	-107.8160019			
32	37.8578987	-107.8160019			
33	37.8578987	-107.8160019			
34	37.8578987	-107.8160019			
35	37.8578987	-107.8160019			
36	37.8578987	-107.8160019			
37	37.8580017	-107.8160019			
38	37.8580017	-107.8160019			
39	37.8580017	-107.8160019			
40	37.8580017	-107.8160019			
41	37.8580017	-107.8160019			
42	37.8580017	-107.8160019			
43	37.8580017	-107.8160019			
44	37.8580017	-107.8160019			
45	37.8580017	-107.8160019			
46	37.8581009	-107.8160019			
47	37.8581009	-107.8160019			
48	37.8581009	-107.8160019			
49	37.8581009	-107.8160019			
50	37.8581009	-107.8160019			
51	37.8582001	-107.8160019			
52	37.8582001	-107.8160019			
53	37.8582001	-107.8160019			
54	37.8582001	-107.8160019			
55	37.8582001	-107.8160019			
56	37.8582001	-107.8160019			
57	37.8582001	-107.8160019			
58	37.8582001	-107.8160019			
59	37.8582001	-107.8160019			
60	37.8582001	-107.8160019			

Attachment C Repository Boundary Area Map GPS Points



North Star Mill
Repository
GIS Vector Locations



Points 0, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87

