MEMORANDUM OF UNDERSTANDING
BETWEEN THE
THE COLORADO DEPARTMENT OF HEALTH
AND
THE DIVISION OF MINERALS
CONCERNING SOLID WASTE ISSUES

This memorandum of understanding is written by the Colorado Department of Health, Hazardous Materials and Waste Management Division and the Division of Minerals and Geology (DMG) to clarify selected solid waste issues at mine sites. This memorandum is intended as policy guidance, and does not create any legal rights, set any legal standards, or function in any form as "law".

The MOU reflects the following requirements of the Solid Waste Disposal Facilities Act (SWDFA) and the Mined Land Reclamation Act (MLRA):

a. Persons who dispose of their own waste on their own property do not need a Certificate of Designation (CD). Such persons must, however, comply with the substantive standards of the SWDFA and its regulations. Section 30-20-102 (3), C.R.S. (1986).

b. "(A)ny person who is engaged in mining operations pursuant to a permit issued by the Mined Land Reclamation Board or Division which contains an approved plan of reclamation may dispose of solid waste generated by such operations within the permitted area for such operations...(S)uch waste disposal site and facility shall be an approved site for which obtaining a Certificate of Designation under the provisions of section 30-20-105 shall be unnecessary." Section 30-20-102(4), C.R.S. (1986).

c. "Any site and facility operated for the purpose of processing, reclaiming, or recycling recyclable wastes shall not be considered a solid waste disposal site and facility and shall not require a Certificate of Designation as a solid waste disposal site and facility." Section 30-20-102(5), C.R.S. (1992 supp.).

1. IMPORTED WASTE. Except as noted below in item (3), any facility which imports waste from off-site requires a CD under the SWDFA. For example, if a gravel pit which has a Mined Land Reclamation Board permit wishes to put fly ash from off-site into the pit, the facility must first obtain a CD under the SWDFA prior to placement of fly ash as a mine site. The DMG may condition a new permit or modification to an existing permit that requires an operator obtain an appropriate CD prior to placement of off-site wastes at the mine site (Except as noted in item (3), below).

2. CUSTOM MILLS. A mill is not a custom mill if the mill site and sources of material for processing in the mill are under MLRB permit(s). Such MLRB permits must be held by the same person(s), company, or partnership. Custom mills require a CD under the SWDFA, and do not need a Mined Land Reclamation Board permit. Even if

the mill takes waste or ore from only a single off-site source, the mill still requires a CD. If a mill ceases taking off-site wastes or ore, the mill may continue operations under the CD, or may, at its option, apply for a Mined Land Reclamation Board permit and abandon the CD. It will be up to DMG to notify Health of such action by an operator. Notification to Health will be via the notice process required for all new applications and modifications to permits.

3. HEAP LEACHING OPERATIONS. Facilities conducting heap leaching do not require a CD, but simply a Mined Land Reclamation Board permit. The DMG will incorporate SWDFA requirements into the MLRB permit based on comments received from Health during the normal public comment period. Comments received from Health will be handled according to established DMG policies and procedures. Those requirements will be part of the MLRB permit and will be enforceable by DMG.

If a heap leach mining operation imports metallic waste materials from off-site, and the facility is "processing, reclaiming, or recycling metallic...wastes.", such activities do not trigger a CD requirement. If however, the heap leach mining operation also operates a landfill, then a CD is required.

4. MINE SITES USED AS LANDFILLS AS A POST MINING LAND USE. If the mine site landfill accepts off-site waste during the period of active operation and prior to bond release, a CD is necessary. DMG will condition any new permit application or modification to an existing permit such that landfill operations may not begin until a CD has been obtained. Also, where a mine site is to be used as a landfill as a post mining land use, DMG will contact Health prior to bond release for comment. DMG will not release the reclamation bond on such a site until an approved CD has been issued by the appropriate authority. The condition for bond release will be made a part of the permit approval document.

David C. Shelton Date 11/2/92 Date 11/4/92

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