

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 RSNOT00006

Covenant Date 10/14/2013

Self Reporting

Media of Concern:

Surface Water:

Ground Water:

Air:

Soil:

Other:

Site Contact Information:

Owner Corp: Boulder County Parks and Open Space

Contact Name: Director of BCPO

Contact Address: 5201 St Vrain Rd

Contact City: Longmont

Contact State: CO

Contact Zip: 80503

Contact Phone: 303-678-6263

Contaminants of Concern:

Lead, Arsenic, Thallium, Antimony, Cadmium, more

Property Restrictions:

1: No disturbance of mine waste containment cell

2: No domestic use of water

3:

4:

5:

Site Information:

ID: COD981551427

Name: Captain Jack Mill

Address: California Gulch Road

City: Ward

State: CO

Zip: 80481

Legal Description:

See Covenant

CAPTAIN JACK MILL

105°30'30"W

Featured Institutional Control



40°3'45"N

40°3'45"N

RSNOT00006



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105°30'30"W

RSNOT00006

0

75

150

Meters





10/14/2013 09:01 AM
Boulder County Clerk, CO

RF: \$61.00

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DF: \$0.00

**This property is subject to a
Notice of Environmental Use Restrictions
imposed by the Colorado Department of Public Health and Environment
pursuant to section 25-15-321.5, C.R.S.**

Notice of Environmental Use Restrictions

WHEREAS, Boulder County is the owner of certain property located on California Gulch Road, South of Ward, 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") which property is within the Captain Jack Superfund Site ("Site"); and

WHEREAS, for purposes of indexing in the County Clerk and Recorder's office Grantor-Grantee index only, Boulder County shall be considered the **Grantor**, and the Colorado Department of Public Health and Environment (the "Department") shall be considered the **Grantee**; nothing in the preceding clause shall be construed to create or transfer any right, title or interest in the Property; and

WHEREAS, the use restrictions set forth below in Paragraphs 1 through 11 in this Notice of Environmental Use Restrictions (hereinafter "Restrictive Notice") apply to that portion of the Property within the containment cell and related structures constructed by the United States Environmental Protection Agency ("EPA") and the Department. The portion of the containment cell and related structures within the Property (hereinafter referred to as "the Property Subset"), which will be subject to the use restrictions set forth in Paragraphs 1 through 11, below, is more particularly described and illustrated in Attachment B, attached hereto and incorporated herein by reference as though fully set forth herein; and

WHEREAS, the restrictions and requirements set forth in Paragraphs 2 through 11, below, apply to the Property, generally; and

WHEREAS, pursuant to a Record of Decision dated September 29, 2008 and an Explanation of Significant Differences dated October 11, 2011 signed by the EPA and the Department, the Property is the subject of remedial action pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, et seq. ("CERCLA"); and

WHEREAS, the purpose of this Restrictive Notice is to ensure protection of human health and the environment by restricting future use of, and activities on, the Property and Property Subset; and

WHEREAS, Boulder County has consented to the Department's issuance of this Restrictive Notice as provided in Article 15 of Title 25, Colorado Revised Statutes,

NOW, THEREFORE, the Department issues this Restrictive Notice pursuant to section 25-15-321.5. The Property Subset shall hereinafter be subject to the following requirements set

This document is being re-recorded to correct County's address on page 4

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forth in paragraphs 1 through 11, below and the Property shall hereinafter be subject to the following requirements set forth in paragraphs 2 through 11, below, which shall be binding on Boulder County and all parties now or subsequently having any right, title or interest in the Property, Property Subset, or any part thereof, and any persons using the land, as described herein. As used in this Restrictive Notice, the term OWNER means the then current record owner of the Property or Property Subset and, if any, any other person or entity otherwise legally authorized to make decisions regarding the transfer of the Property or Property Subset or placement of encumbrances on the Property or Property Subset, other than by the exercise of eminent domain.

1) Specific Use restrictions for the Property Subset:

No tilling, digging, excavation, grading, construction, or any other activity that disturbs the ground surface or subsurface or that would in any manner interfere with or adversely affect the implementation, integrity, or protectiveness of the remedial action is permitted at the Property Subset, including, but not limited to, activities that directly or indirectly:

- Disturb re-vegetated areas;
- Disturb the mine waste containment cell;
- Expose buried tailings or waste rock;
- Disturb the recontoured hillside covering the mine waste containment cell; or
- Interfere with or disturb drainage ditches or other surface water diversions.

The mine waste containment cell, as designed, will cover the existing portal of the Black Jack Mine and the design includes the construction of an extension of the portal to the southern edge of the containment cell. Subject to the restrictions above, OWNER may access the new portal.

2) General Use Restrictions for the Property:

- The Property will not be used in any way that interferes with the implementation, operation, and/or maintenance of the CERCLA remedial actions, including, but not limited to, groundwater monitoring wells, any equipment or infrastructure constructed or used in the remedial action, or any cap or covering intended to prevent contact with contaminated materials in the ground or at the surface.
- Groundwater under the Property will not be used for domestic purposes.

3) Modifications: This Restrictive Notice 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 Restrictive Notice. 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 Restrictive Notice will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Restrictive Notice shall be effective unless the Department has approved such modification or termination in

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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 the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and
 - e) other appropriate supporting information.
- 4) **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.
- 5) **Notice to Lessees**: OWNER agrees to incorporate either in full or by reference the restrictions of this Restrictive Notice in any leases, licenses, or other instruments granting a right to use the Property.
- 6) **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.
- 7) **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 Restrictive Notice. Nothing in this Restrictive Notice shall impair any other authority the Department may otherwise have to enter and inspect the Property.
- 8) **Third Party Beneficiary**: The OWNER of the Property and EPA are third party beneficiaries with the right to enforce the provisions of this Restrictive Notice as provided in § 25-15- 322, C.R.S.
- 9) **No Liability**: The Department does not acquire any liability under State law by virtue of issuing this Restrictive Notice nor does any other named beneficiary of this Restrictive Notice acquire any liability under State law by virtue of being such a beneficiary.
- 10) **Enforcement**: The Department may enforce the terms of this Restrictive Notice pursuant to §25-15-322. C.R.S. The OWNER of the Property and any named beneficiaries of this Restrictive Notice may file suit in district court to enjoin actual or threatened violations of this Restrictive Notice.
- 11) **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 Restrictive Notice.

12) Notices: Any document or communication required under this Restrictive Notice shall be sent or directed to:

State of Colorado:

Remediation Program Manager
Hazardous Materials and Waste Management Division
HMWMD-RP-B2
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

With reference to the Captain Jack Mill Site

And to:

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

With reference to the Captain Jack Mill Site

EPA:

Remedial Project Manager (8EPR-SR)
Captain Jack Mill 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

Boulder County:

Director, Boulder County Parks and Open Space
5201 St. Vrain Road
Longmont, CO 80503

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Attachment A

Property Description

1) The Cross Millsite, US Survey #10304-B, as legally described in the Treasurer's Deed recorded on May 16, 2012 at Reception Number 3223314 and having an address of 0 California Gulch Road, Ward, Colorado;

Together with

2) The Gray Bird Lode, US Survey #603A; the southeasterly 300.00 feet of the Quincy Lode, US Survey #9718A; and the Burlington, Captain Jack and Philadelphia Lodes, US Survey #11231, as conveyed by Deed recorded on December 16, 1996 at Reception Number 812653 (the "Captain Jack Deed") and having an address of 42593 Peak to Peak Highway, Ward, Colorado, excepting those portions excepted in the Captain Jack Deed; and together with a surface easement to the Cross Millsite, as said easement is further described in the Captain Jack Deed.

All in Section 12, Township 1 North, Range 73 West of the 6th P.M., Boulder County, Colorado

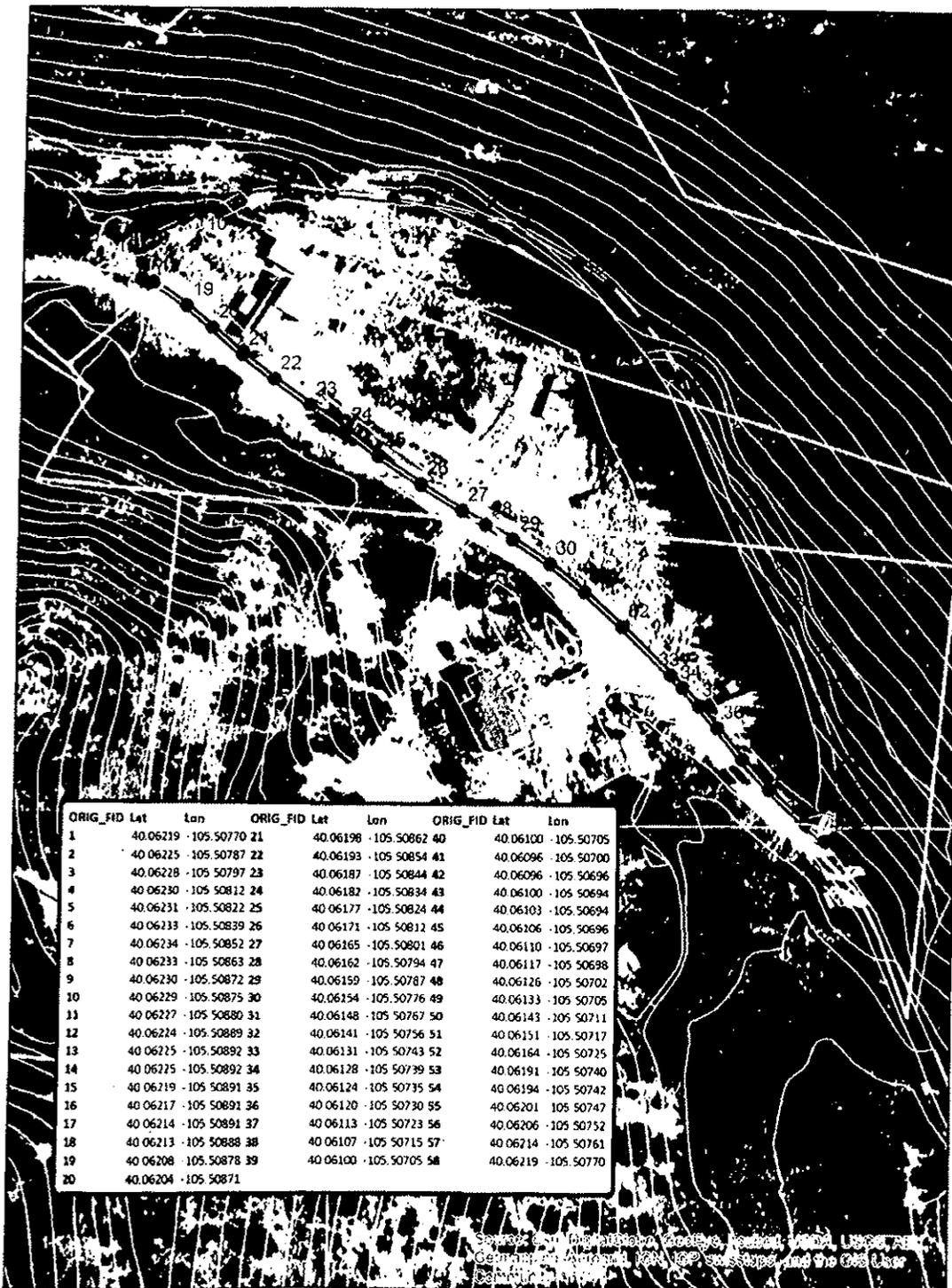
Attachment B

● Vector Coordinates Decimal Degrees GCS_North_American_1983

Property Boundary

Attachment B - Page 2

— Property Subset



ORIG_FID	Lat	Lon	ORIG_FID	Lat	Lon	ORIG_FID	Lat	Lon
1	40.06219	-105.50770	21	40.06198	-105.50862	40	40.06100	-105.50705
2	40.06225	-105.50787	22	40.06193	-105.50854	41	40.06096	-105.50700
3	40.06228	-105.50797	23	40.06187	-105.50844	42	40.06096	-105.50696
4	40.06230	-105.50812	24	40.06182	-105.50834	43	40.06100	-105.50694
5	40.06231	-105.50822	25	40.06177	-105.50824	44	40.06103	-105.50694
6	40.06233	-105.50839	26	40.06171	-105.50812	45	40.06106	-105.50696
7	40.06234	-105.50852	27	40.06165	-105.50801	46	40.06110	-105.50697
8	40.06233	-105.50863	28	40.06162	-105.50794	47	40.06117	-105.50698
9	40.06230	-105.50872	29	40.06159	-105.50787	48	40.06126	-105.50702
10	40.06229	-105.50875	30	40.06154	-105.50776	49	40.06133	-105.50705
11	40.06227	-105.50880	31	40.06148	-105.50767	50	40.06143	-105.50711
12	40.06224	-105.50889	32	40.06141	-105.50756	51	40.06151	-105.50717
13	40.06225	-105.50892	33	40.06131	-105.50743	52	40.06164	-105.50725
14	40.06225	-105.50892	34	40.06128	-105.50739	53	40.06191	-105.50740
15	40.06219	-105.50891	35	40.06124	-105.50735	54	40.06194	-105.50742
16	40.06217	-105.50891	36	40.06120	-105.50730	55	40.06201	-105.50747
17	40.06214	-105.50891	37	40.06113	-105.50723	56	40.06206	-105.50752
18	40.06213	-105.50888	38	40.06107	-105.50715	57	40.06214	-105.50761
19	40.06208	-105.50878	39	40.06100	-105.50705	58	40.06219	-105.50770
20	40.06204	-105.50871						

