

Memo

Exhibit 4



To: Town of Minturn, Mike Sawyer
From: Tim McGuire
Date: June 25, 2024
Re: Battle North LLC Consent Decree

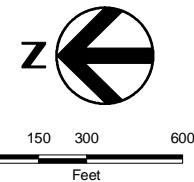
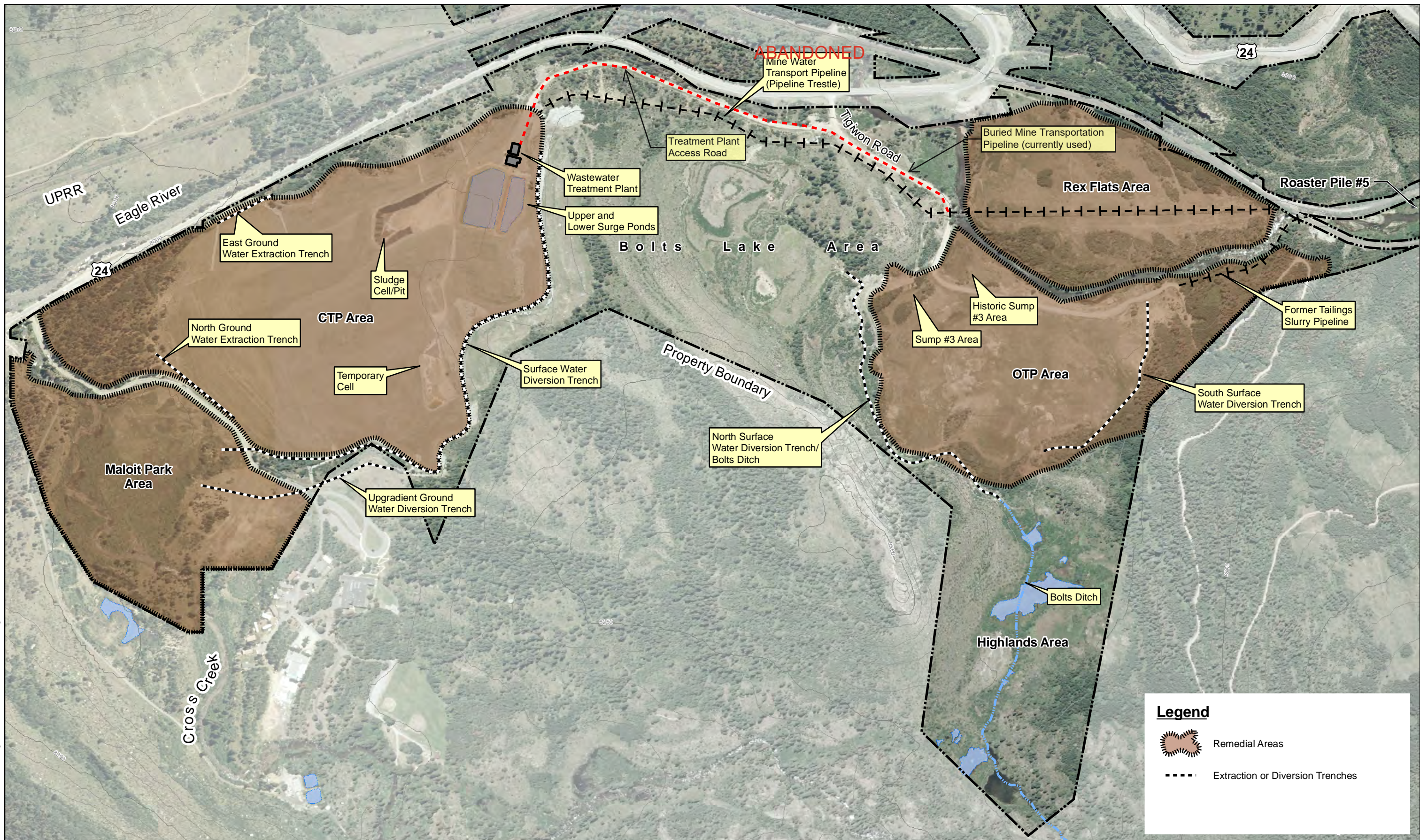
The following is provided to clarify how the features of land owned by Battle North LLC, (the "Property") are covered by the consent decrees recorded against the property as outlined in both the Exemption Plat (note 12) as well as the Title Commitment (note 12). The Consent Decrees are recorded in the Eagle County Land Records at Book 445 Pages 683 and 684. Per the terms of the Settlement Agreement, the following is provided without representation or warranty and the Town must rely on its own investigation of the Town Parcels, including the evaluations of its environmental consultants and legal counsel.

The Consent Decrees were entered into in 1985 between the then current landowner of the property, Glenn T. Miller and the State of Colorado. The Decrees allow for continued access to the property by the State (and its designee's) to preform work required by or related to the Remedial Action Plan. In the late 1980's this work was extensive with the cleanup of the Property by CDPHE and EPA, but today this work and access is limited to the ongoing operation and maintenance of the remedial features located within the Property.

These features located on the property include the following: Wastewater Treatment plant located on the CTP, the CTP itself and any disposal areas and sludge ponds within the CTP, the Mine Water transportation pipelines (formerly located on the trestle structure but since buried on Property roadways), Water Diversion Trenches, and Groundwater Extraction trenches located adjacent to the CTP. Access also includes the road access from Tigiwon Road to the wastewater treatment plant. We have provided a map that shows the location of these remedial features with this memo.

Notes shown on pages 6, 7, and 9 of the Exemption Plat reference the Consent Decree in relation to both the Wastewater Treatment Plan Access road (which is located on Parcel 9, which Battle North will retain) as well as the Trestle Structure which is located on portions of Parcel 5, (which the Town of Minturn will acquire). It should be noted that the Trestle Structure formerly carried the Mine Water Transportation Pipeline and was a remedial feature. Several years ago, CBS/Viacom removed the Mine Water Transportation Pipeline from the Trestle Structure and buried it within portions of both Tigiwon Road and the Wastewater Treatment plant access road (as shown on the attached map). Therefore, the Trestle Structure is no longer considered a remedial feature and not subject to the Consent Decrees.

Any current or future landowner of the Property will be subject to these consent decrees until the State has completed the implementation of the Remedial Action Plan. It is not anticipated that the consent decrees will have any significant impact on land to be acquired by the Town of Minturn as part of the proposed settlement. Access to the wastewater treatment plant by CBS/Viacom will be required indefinitely. The water diversion trenches that cross any land to be acquired by the Town of Minturn may be relocated as long as they continue to serve their functions of diverting surface water from remedial areas of the site.



Project
Battle Mountain Project

Title:
North Property Existing Site Features

Prepared By:
8140 Partners, LLC

Date:
12/15/2011

Figure:
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241927

445

683

JOHN W. THE PHILLIPS
EAGLE CITY RECORDS

JUL 23 11 22 AM '86

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 83-C-2387

STATE OF COLORADO,

Plaintiff,

vs.

GULF & WESTERN INDUSTRIES, INC., et al.,

Defendants.

REVISED CONSENT DECREE

THIS MATTER having come before the court upon the stipulation for entry of decree entered into between the State of Colorado, plaintiff, and Glenn T. Miller, defendant, and the court being fully advised in the premises,

The court, upon consent of all the parties hereto, enters the following findings of fact, conclusions of law, and order:

I. JURISDICTION

The court has jurisdiction over the subject matter herein and the parties to this Consent Decree.

II. PARTIES BOUND

A. This Consent Decree shall apply to and be binding upon the State of Colorado, Glenn T. Miller, and his successors and assigns only. The undersigned representative of each party to this Consent Decree certifies that he or she is fully author-

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

APR 28 1985

JAMES R. MANSPECKER
CLERK

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4/22/86

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ized by the party whom he or she represents to enter into the terms and conditions of the Consent Decree and to execute and legally bind that party to it.

B. This Consent Decree is not intended to, and shall not, alter the general principles of law which define and govern the force, effect and priority, if any, to be given the rights conveyed to the State herein as against any rights conferred upon Gulf + Western Industries, Inc. by any mortgages, indentures, deeds of trust or other written agreements entered into between Gulf + Western Industries, Inc. and Miller prior to the entry of this Consent Decree.

III. DEFINITIONS

Whenever the following terms are used in this Consent Decree, the definitions specified hereinafter shall apply:

A. "State" means the State of Colorado.

B. "Miller" means Glenn T. Miller, a defendant in the above-captioned action, his successors, assigns and their agents.

C. "Miller property" means those properties identified in Exhibit A to this Consent Decree, and all other property, usufructuary rights, and real property interests owned or controlled by Miller, if any, located in whole or in part in Eagle County, Colorado whether or not identified in Exhibit A.

D. "Remedial Action Plan" or "RAP" means the plan for implementation of Response Action selected by the State in its Record of Decision ("ROD") or a plan approved by this court in this action, as the same may be properly amended at any time.

E. "Response Action" means any removal or remedial action as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as the same may be properly amended from time to time.

IV. ACCESS

A. Access to and use of the Miller property is hereby granted and ordered to the State, its representatives and/or contractors, and/or any other person(s) or entity(ies) designated by the State for the purposes of performing or causing another to perform work required by or related to the Remedial Action Plan, and for the purposes of accomplishing any other Response Action taken by or at the direction of the State. This grant of access includes the right to oversee, perform, or cause to be performed all actions designed to accomplish the purposes of the Remedial Action Plan or other Response Action, including, without limitation and by way of example only, the following: the removal off-site or consolidation or removal to another location on-site of sources of hazardous substances such as the tailings ponds, waste rock piles, and roaster piles; the removal off-site or consolidation or removal to another location on-site of materials contaminated by hazardous substances such as soils and the tailings pipeline; the installation, operation, monitoring and closing of ground water wells; the installation and closing of trenches; the construction of pipelines and treatment facilities; the construction of roads, railroad sidings and other means of access; the construction of containment facilities; and the installation of utility lines.

B. No property of the State or of its representatives installed or left at the Miller property shall be deemed a fixture, and all such property shall remain the property of the State or its representatives.

C. Miller shall not, directly or indirectly, take any action nor authorize another to take any action which interferes with, hinders, or delays implementation of the Remedial Action Plan or other Response Action taken by, at the direction of, or under the oversight of the State or its representatives; nor shall Miller, directly or indirectly, take any action or allow another to take any action which interferes with, diminishes, or frustrates the effectiveness, purposes or integrity of any remedial or Response Action taken pursuant to the grant of access herein.

D. No grant, transfer or conveyance of title, easement, or other interest in the Miller property shall be made or effected without a provision allowing the access granted herein and permitting the continued implementation of the Remedial

Action Plan and other Response Actions; and all such conveyances of title, grants of easements or other grants, transfers or conveyances of any interest in the Miller property shall contain a covenant providing the use and access described herein. At least 90 days prior to any grant, transfer, or conveyance of any interest in any or all Miller property, the owner of such property in which an interest is to be granted, transferred or conveyed shall notify the Attorney General of the State by registered mail of the intent of the owner to grant, transfer, or convey an interest in such property, and of the provisions made permitting activities under the Remedial Action Plan or other Response Actions. The restrictions and obligations set forth in this Consent Decree shall run with the land and shall be binding upon any and all parties who acquire any interest in any or all the Miller property.

E. To the extent access to or easements over property other than the Miller property is necessary or desirable for the implementation of the Remedial Action Plan, Miller shall use his best efforts to assist the State in gaining such access to, use of, or easements over such property.

F. A copy of this Consent Decree shall be filed of record in the Office of the Clerk and Recorder of Eagle County, Colorado as a lien and encumbrance on all parcels comprising the Miller property. Miller agrees to execute such instruments and documents, if any, as may be required to permit or facilitate the terms of this Consent Decree to be recorded in the Office of the Clerk and Recorder of Eagle County, Colorado.

V. REIMBURSEMENT

A. As reimbursement for response costs incurred and to be incurred and payment of natural resource damages, Miller shall make the following payments to the State of Colorado:

1. Four thousand dollars (\$4,000) on or before May 15, 1986; and
2. Four thousand dollars (\$4,000) on or before June 15, 1986.
3. These payments, which shall be by certified

check made payable to "Treasurer, State of Colorado," shall be delivered to the Office of the Attorney General of Colorado located in Denver, CO.

B. Contemporaneously with the filing of the Stipulation regarding this consent decree, co-defendant Battle Mountain Corporation has filed a "Motion for Summary Judgment" seeking summary judgment on the cross-claim for contribution of Gulf and Western Industries, Inc. and the New Jersey Zinc Company. If the U.S. District Court for the District of Colorado, in resolving this motion for summary judgment, determines that the effect of the release contained in paragraph VI of this Consent Decree upon non-settling defendant is governed by principles not consistent with or different from those enumerated in section 4 of the Uniform Contribution Among Tort Feasors Act (1955), this paragraph and paragraph VI shall be null and void ab initio and the State shall refund to Glenn T. Miller all amounts theretofore paid by - Glenn T. Miller pursuant to this paragraph V.

VI. MUTUAL RELEASE OF ALL CLAIMS

A. The State releases all claims for relief which were asserted in this action against the defendant Glenn T. Miller; provided, however, that the release contained in this subparagraph (i.e., VI(A)) shall terminate and be of no force or effect whatsoever if Miller fails to make the payments required within the timeframes described in paragraph V, or if he materially breaches any of his obligations under this decree. This section VI shall not be construed to be a release of any person or entity not a party to this Consent Decree.

B. Nothing herein shall be construed to limit the authority of the State to undertake any action against Miller in response to, or to recover the costs of responding to or damages resulting from, conditions at or emanating from the the Miller property which may present an imminent and substantial endangerment to the public health or welfare or the environment if such condition was unknown or undetected or if a scientific fact related to the existence of such an endangerment was unknown or undiscovered at the time of this Consent Decree.

C. Miller releases all claims for relief against the State, arising under the common law or under any State or federal

constitution or statute out of or related to all matters which were raised, or could have been raised, in the above-captioned civil action; and further releases all claims, and covenants not to sue the State or its representatives for any alleged property damage or other damages arising out of or related to injury to Miller or the Miller property as the result of the implementation of the Remedial Action Plan or other Response Action taken by, at the direction or under the oversight of the State.

VII. RESPONSE AUTHORITY

Nothing in this consent decree shall be deemed to limit the response authority of the State under any federal or State statute or common law authority, or to alter the applicable legal principles governing the judicial review of any action taken by the State pursuant to any such statute or authority.

VIII. EFFECTIVE AND TERMINATION DATES

A. This consent decree shall be effective upon the date of its entry by the court.

B. Section IV of this Consent Decree shall terminate at such time as the State notifies the court that it has completed the implementation of the Remedial Action Plan.

IX. USE OF DECREE

A. This Consent Decree was negotiated at arms length and executed by the State and Miller in good faith to avoid further expensive and protracted litigation between these parties and is a settlement of all claims raised in this action by the State against Miller which were contested, denied and disputed as to validity and amount. The execution of this Consent Decree is not an admission of liability to any issue addressed by this Consent Decree.

B. By reasons of this good faith settlement, plaintiff acknowledges that the settling defendant (i.e., Miller) should not be liable in contribution to any defendant or other party for matters covered by this Consent Decree and the parties hereto agree that this Consent Decree will be dispositive of each and all of the settling defendant's duties and liabilities with respect to any other party against whom a claim is made by the plaintiff for matters covered by this Consent Decree. Accordingly, in any action brought by the United States or the State or by any settling defendant or any nonsettling defendant against any settling defendant, the parties hereto agree to assert that the principles of section 4 of the Uniform Contribution Among Tortfeasors Act (1955) should govern, and the parties agree to be bound by such principles and to assert and pursue that position in any such proceeding unless and until the court having jurisdiction over said proceeding shall decide otherwise.

C. Any findings, recitals or statements contained in this Consent Decree relating to either the Uniform Contribution Among Joint Tortfeasors Act or to the effect of this settlement upon contribution rights shall have not be binding upon Gulf + Western Industries, Inc., and Gulf + Western Industries, Inc. is free to contest, deny or otherwise controvert any such findings, recitals or statements.

D. The settling defendant agrees that with respect to any suit or claim for contribution brought against it for matters covered by this Consent Decree, it will timely notify in writing the Attorney General of the State of the institution of such suit or claim.

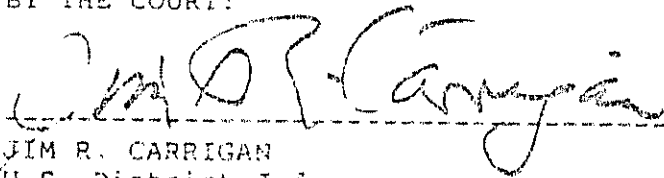
X. RETENTION OF JURISDICTION

A. This court shall retain jurisdiction over the parties and all matters set forth in the Consent Decree for purposes of insuring the State's and Miller's compliance with the terms and conditions of the Consent Decree.

B. The State and Miller each retain the right to enforce the terms of this Consent Decree and take any action authorized by federal or State law not inconsistent with the terms of this Consent Decree to achieve or maintain compliance with the terms and conditions of this Consent Decree or otherwise.

DONE this 23 day of April 1986.

BY THE COURT:



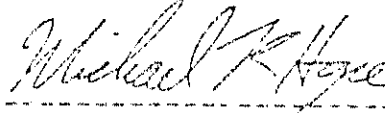
JIM R. CARRIGAN
U.S. District Judge

STIPULATION

The foregoing Consent Decree is agreed and stipulated to by the undersigned parties who agree to be bound by the terms and conditions thereof, and who consent to its entry as an order of the United States District Court.

FOR THE ATTORNEY GENERAL

HOWARD KENISON, 0477
Deputy Attorney General
CERCLA Litigation Section



MICHAEL C. DONOVAN
MICHAEL R. HOPE, 12667
Assistant Attorneys General
CERCLA Litigation Section

Attorneys for State of Colorado