

UNITED STATES DEPARTMENT OF JUSTICE,
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
REGION 8
AND
COLORADO DEPARTMENT
OF PUBLIC HEALTH AND ENVIRONMENT

FILED

Sep 13, 2024

1:53 pm

U.S. EPA REGION 8
HEARING CLERK

IN THE MATTER OF:

Eagle Mine Superfund Site
Eagle County, Colorado

Battle North, LLC, and
Battle South, LLC

Owners.

Proceeding Under the Comprehensive
Environmental Response, Compensation and
Liability Act, 42 U.S.C. §§ 9601-9675

Docket No. CERCLA-08-2018-0009

**ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON
CONSENT FOR RESPONSE ACTION
AND RELEASE AND WAIVER OF
CERCLA § 107(r) LIEN**

**ADDENDUM: CERTIFICATION FOR TRANSFER OF ADMINISTRATIVE
SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR RESPONSE ACTION
AND RELEASE AND WAIVER OF CERCLA §107(R) LIEN**

**Certification for Transfer of Administrative Settlement Agreement and Order on Consent
for Response Action and Release and Waiver of CERCLA §107(r) Lien**

The Town of Minturn, Colorado (Minturn) certifies that the following information is true and accurate:

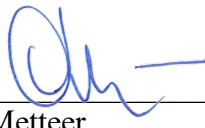
1. In accordance with Section II, Paragraph 9 of the Administrative Settlement Agreement and Order on Consent (EPA Docket No. CERCLA-08-2018-009) (the “ASAOC”) between the United States Environmental Protection Agency (“EPA”), the Colorado Department of Public Health and the Environment (“CDPHE”), Battle North, LLC, and Battle South, LLC, Battle North, LLC intends to transfer to Minturn all of the rights, benefits, and obligations held by Battle North, LLC under the ASAOC as they relate to the property specifically described in Attachment A (the “Property”) as identified in Attachment A, upon transfer of title to all or a portion of the Property to Minturn.
2. Pursuant to a separate agreement, Minturn may acquire all or a portion of the Property from Battle North, LLC. The Property is located within the Eagle Mine Superfund Site (“Site”). Minturn acknowledges that the Property is part of the Site.
3. Minturn has reviewed the ASAOC. Pursuant to Section II, Paragraph 9 of the ASAOC, Minturn hereby agrees and certifies that, solely with respect to the Property, it shall be bound by and subject to the terms of the ASAOC and will act consistent with the terms of the ASAOC; provided that such agreement and certification by Minturn shall become effective only upon transfer of title from Battle North, LLC to Minturn, and only with respect to such portions of the Property to which Minturn takes title.
4. Minturn further represents, as of the time it acquires a property interest, as set forth below, to all or any portion of the Property:
 - a) To the best of its knowledge, Minturn has not caused or contributed to the release or threat of release of any Existing Contamination, as that term is defined in the ASAOC, at the Site or at any such portion of the Property to which it takes title.
 - b) Minturn shall take reasonable steps, as that term is defined in 42 U.S.C. § 9601(40)(d) and further described in a certain letter from EPA to Minturn dated Summer 2024, with respect to any such portion of the Property to which it takes title.
 - c) Minturn will permit EPA and CDPHE to access any such portion of the Property to which it acquires a property interest, as set forth in Paragraph 48 of the ASAOC.
 - d) Minturn will not interfere with response actions taken on or around any such portion of the Property to which it takes title.
5. Minturn acknowledges the benefits and rights provided by the ASAOC to Minturn for the Property are limited to the Existing Contamination on the Property as of the date of this Agreement. With respect to liability for any new hazardous substance, pollutants, or

contaminants that first became present at the Property after September 25, 2018, Minturn has taken steps to avail itself of protections afforded a “bona fide prospective purchaser” and will continue to maintain its status as a “bona fide prospective purchaser” for the duration of its interest in the Property, including taking reasonable steps in accordance with 42 U.S.C. § 9601(40).

6. Through this certification, Minturn is requesting that EPA and the State of Colorado (“State”) provide written consent to the transfer of the rights, benefits and obligations under the ASOC, solely with respect to the Property to which it takes title, held by Battle North, LLC, which provides the rights and benefits set forth in Section XX (Covenants by United States and State) and Section XXIV (Effect of Settlement/Contribution). By signing this Certification, EPA and the State hereby provide such written consent.
7. Minturn acknowledges that at any time EPA or the State determine that Minturn’s Certification is materially inaccurate or incomplete, the Covenant Not to Sue and Contribution Protection set forth in Sections XX and XXIV of the ASOC shall be null and void, and the United States, EPA, and the State reserve any and all rights they may have.
8. Minturn acknowledges that in cases of future transfer of ownership of the Property, EPA and CDPHE will direct purchasers to the self-implementing statutory liability protections for certain landowners who are not responsible for a property’s contamination, included in the 2002 Brownfields Amendments to the Superfund law, intended to enable private parties to save time and costs, in part by avoiding EPA involvement in the majority of private property transactions. EPA’s August 21, 2019, Policy on Issuance of Superfund Comfort/Status Letters may also be of interest to future purchasers of the Property.
9. For further reference, upon the transfer or assignment set forth in Paragraph 25 of the ASOC, all notices and submissions required under the ASOC and relating to the Property to which Minturn has taken title shall be sent to the following contact person: Michelle Metteer, Town Manager, at the following address: 301 Boulder St. #309, Minturn, CO 81645.

Certified by:

TOWN OF MINTURN, COLORADO

Signature: 
Michelle Metteer
Town Manager
Town of Minturn

Date: September 3, 2024

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

The Colorado Department of Public Health and Environment hereby gives written consent to the transfer of the ASAOC.

Signature: _____

Tracie M. White, P.E.

Division Director

Hazardous Materials and Waste Management Division

Colorado Department of Public Health and Environment

Date: _____

Signature: _____

Jason E. King

Senior Assistant Attorney General

Colorado Attorney General's Office

Date: _____

U.S. ENVIRONMENTAL PROTECTION AGENCY

The U.S. Environmental Protection Agency hereby gives written consent to the transfer of the ASAOC.

Signature: _____

Aaron Urdiales

Division Director, Region 8

Superfund & Emergency Management Division

U.S. Environmental Protection Agency

Date: _____

Signature: _____

Kenneth "KC" Schefski

Regional Counsel, Region 8

Office of Regional Counsel

U.S. Environmental Protection Agency

Date: _____