UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:

Uintah Mining District Site
Summit County, Utah

VR CPC Holdings, Inc.

Respondent

Proceeding Under Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act

CERCLA Docket No.
CERCLA-08-2025-0002

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR REMOVAL ACTION

TABLE OF CONTENTS

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Settlement") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and VR CPC Holdings, Inc. ("Respondent"). This Settlement provides for the performance of a removal action by Respondent and the payment by Respondent of certain response costs incurred by the United States at or in connection with certain portions of the "Uintah Mining District Site" (the "Site") generally located in Summit County, Utah.

2. This Settlement is issued under the authority vested in the President of the United States by sections 104, 106(a), 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2923 (Jan. 29, 1987), and further delegated to Regional Administrators by EPA Delegation Nos. 14-14C (Administrative Actions through Consent Orders, Jan. 18, 2017) and 14-14D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders, Jan. 18, 2017). This authority was further redelegated by the Regional Administrator of EPA Region 8 to the below-signed officials.

3. EPA has notified the State of Utah (the "State") of this action pursuant to section 106(a) of CERCLA.

4. EPA and the Respondent recognize that this Settlement has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Settlement do not constitute an admission of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement, the validity of the findings of facts, and conclusions of law and determinations in Sections IV and V of this Settlement. Respondent agrees to comply with and be bound by the terms of this Settlement and agrees not to contest the basis or validity of this Settlement or its terms.

II. PARTIES BOUND

5. This Settlement is binding upon EPA and upon Respondent and its successors. Unless EPA otherwise consents, (a) any change in ownership or corporate or other legal status of Respondent, including any transfer of assets, or (b) any Transfer of the Site or any portion thereof, does not alter Respondent's obligations under this Settlement.

6. Respondent shall provide notice of this Settlement to officers, directors, employees, agents, contractors, subcontractors, or any person representing Respondent with respect to the Work. Respondent is responsible for ensuring that such parties act in accordance with the terms of this Settlement.

III. DEFINITIONS

7. Terms not otherwise defined in this Settlement have the meanings assigned in CERCLA or in regulations promulgated under CERCLA. Whenever the terms set forth below are used in this Settlement, the following definitions apply:

"Action Memorandum" means the EPA Action Memorandum relating to the Site signed on September 10 2015, by the Regional Administrator, EPA Region 8, or their delegatee, and all attachments thereto. The Action Memorandum is attached as Appendix A.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

"Day" or "day" means a calendar day. In computing any period under this Settlement, the day of the event that triggers the period is not counted and, where the last day is not a working day, the period runs until the close of business of the next working day. "Working Day" means any day other than a Saturday, Sunday, or federal or State holiday.

"Effective Date" means the effective date of this Settlement as provided in Section XXVII.

"EPA" means the United States Environmental Protection Agency.

"Fund" means the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code, 26 I.R.C. § 9507.

"Future Response Costs " means all costs including direct, indirect, payroll, contractor, travel, and laboratory costs that the United States pays after the Effective Date in implementing, overseeing, or enforcing this Settlement, including: (i) in developing, reviewing and approving deliverables generated under this Settlement; (ii) in overseeing Respondent's performance of the Work; (iii) in implementing community involvement activities under ¶ 27; (iv) in assisting or taking action to obtain access or use restrictions under ¶ 42; (v) in taking response action described in ¶ 68 because of Respondent's failure to take emergency action under ¶ 32; (vi) in implementing a Work Takeover under ¶ 39; (vii) In taking action under ¶ 48; and (viii) in enforcing this Settlement, including all costs paid under Section XIV (Dispute Resolution) and all litigation costs.

"Including" or "including" means including but not limited to.

"Interest" means interest at the rate specified for interest on investments of the Fund, as provided under section 107(a) of CERCLA, compounded annually on October 1 of each year. The applicable rate of interest will be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. As of the date EPA signs this Settlement, rates are available online at https://www.epa.gov/superfund/superfund-interest-rates.

"National Contingency Plan" or "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to section 105 of CERCLA, codified at 40 C.F.R. part 300, and any amendments thereto.

"Paragraph" or "¶" means a portion of this Settlement identified by an Arabic numeral or an upper- or lower-case letter.

"Parties" means EPA and Respondent.

"Past Response Costs" means all costs (including direct, indirect, payroll, contractor, travel, and laboratory costs), that the United States paid in connection with the Site through March 31, 2022.

"Post-Removal Site Control" means actions necessary to ensure the effectiveness and integrity of the Removal Action in those areas leased by Respondent, consistent with sections 300.415(*l*) and 300.5 of the NCP and "Policy on Management of Post-Removal Site Control" (OSWER 9360.2-02, Dec. 3, 1990).

"Post-Removal Site Control Plan" means the document attached as Appendix B which describes the activities Respondent shall perform to maintain the effectiveness of the Removal Action within the area of its lease, and any modifications made thereto in accordance with this Settlement.

"RCRA" means the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992k (also known as the Resource Conservation and Recovery Act).

"Removal Action" means the removal action selected in the Action Memorandum.

"Removal Work Plan" means the document attached as Appendix C which describes the activities Respondent shall perform to implement and maintain the effectiveness of the Removal Action, and any modifications made thereto in accordance with this Settlement.

"Respondent" means VR CPC Holdings, Inc.

"Section" means a portion of this Settlement identified by a Roman numeral.

"Settlement" means this Administrative Settlement Agreement and Order on Consent, all appendixes attached hereto (listed in Section XXI), and all deliverables approved under and incorporated into this Settlement. If there is a conflict between a provision in Sections I through XXVII and a provision in any appendix or deliverable, the provision in Sections I through XXVII controls.

"Special Account" means the Uintah Mining District special account, within the Fund, established for the Site by EPA under section 122(b)(3) of CERCLA.

"State" means the State of Utah.

"Transfer" means to sell, assign, convey, lease, mortgage, or grant a security interest in, or where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

"Uintah Mining District Site" or "Site" shall mean those certain areas in Ontario Canyon, Lower Empire Canyon, Upper Woodside Gulch, Treasure Hollow and Upper Thaynes Canyon as defined in Exhibit A to the Action Memorandum attached hereto as Appendix A.

"United States" means the United States of America and each department, agency, and instrumentality of the United States, including EPA.

"Waste Material" means (a) any "hazardous substance" under section 101(14) of CERCLA; (b) any pollutant or contaminant under section 101(33) of CERCLA; (c) any "solid waste" under section 1004(27) of RCRA; and (d) any "hazardous material" under Utah law.

"Work" means all obligations of Respondent under Sections VII (Coordination and Supervision) through XI (Indemnification and Insurance).

"Work Takeover" means EPA's assumption of the performance of any of the Work in accordance with ¶ 39.

IV. FINDINGS OF FACT

8. Mining operations undertaken by various entities within the Park City Mining District, including the Site, produced substantial quantities of ore between 1875 and 1982.

9. In 2014, EPA conducted an assessment of areas where former mining activities once occurred and that could be considered sources of contaminated material. Soil samples collected at the Site indicated elevated concentrations of lead, arsenic, and other heavy metals.

10. On September 10, 2015, EPA issued an Action Memorandum to address releases of hazardous substances at the Site. The Action Memorandum is attached as Appendix A.

11. On September 11, 2015, EPA entered administrative order on consent with United Park City Mines Company, CERCLA docket number CERCLA-08-2015-0008, whereby United Park City Mines Company agreed to implement the Action Memorandum, which required, among other actions, installation of erosion control features at the Site.

12. United Park City Mines Company failed to fully implement the Action Memorandum and EPA took over the work on September 5, 2019.

13. EPA regraded the Treasure Hollow area of the Site and installed additional erosion control features.

14. The road bisecting Treasure Hollow remains uncapped and contains erosion rills.

15. Other erosion control features were installed in the Silver King Mill area, as well as Upper Thaynes Canyon.

16. Without ongoing maintenance to existing erosion control features, mine waste containing lead, arsenic, and other heavy metals may continuously mobilize and erode.

17. Respondent leases and operates the Treasure Hollow and Thaynes Canyon portion of the Site as a ski resort.

18. UPCM and EPA also did removal work within an area called Upper Woodside Gulch, which is part of the Site. Upper Woodside Gulch is not within Respondent's lease boundaries. Respondent's access to this area is limited to a prescriptive easement to use the road that runs through the area. Respondent does not otherwise own land or operate within Upper Woodside Gulch.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

19. Based on the Findings of Fact in Section IV, EPA has determined that:

a. The Site is a "facility" as defined by section 101(9) of CERCLA.

b. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined by section 101(14) of CERCLA.

c. Respondent is a "person" as defined by section 101(21) of CERCLA.

d. Respondent is a responsible party under section 107(a) of CERCLA.

(1) Respondent is the "owner" and/or "operator" of the facility, as defined by section 101(20) of CERCLA and within the meaning of section 107(a)(1) of CERCLA.

e. The conditions described in the Findings of Fact constitute an actual or threatened "release" of a hazardous substance from the facility as defined by section 101(22) of CERCLA.

f. EPA determined in an Action Memorandum dated September 10, 2015, that the conditions at the Site may constitute an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance within the meaning of section 106(a) of CERCLA.

g. The Removal Action is necessary to protect the public health, welfare, or the environment.

VI. ORDER AND AGREEMENT

20. Based upon the Findings of Fact, Conclusions of Law, and Determinations set forth above, it is hereby Ordered and Agreed that Respondent shall comply with all provisions of this Settlement as follows:

VII. COORDINATION AND SUPERVISION

21. **Respondent's Project Coordinator**

a. Respondent designates, and EPA approves, Mike Lewis, Vice President of Base Operations, at Park City Ski Resort, as Respondent's Project Coordinator. Respondent's Project Coordinator will be responsible for administration of all actions by Respondent required by this Settlement.

b. Respondent's Project Coordinator must have sufficient technical expertise to coordinate the Work. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work.

c. Notice or communication relating to this Settlement from EPA to Respondent's Project Coordinator constitutes notice or communication to Respondent.

d. Respondent may change its Project Coordinator by following the procedures under ¶ 22.

22. **Procedures for Notice and Disapproval**

a. Respondent shall notify EPA of the names, titles, contact information, and qualifications of any contractors or subcontractors retained to perform the Work at least 30 days prior to commencement of such Work.

b. EPA may issue notices of disapproval regarding any proposed Project Coordinator, contractor, or subcontractor, as applicable. If EPA issues a notice of disapproval, Respondent shall, within 7 days, submit to EPA a list of supplemental proposed Project Coordinators, contractors, or subcontractors, as applicable, including a description of the qualifications of each.

c. EPA may disapprove the proposed Project Coordinator, contractor, or subcontractor, based on objective assessment criteria (*e.g.*, experience, capacity, technical expertise), if they have a conflict of interest regarding the project, or any combination of these factors.

23. **EPA On-Scene Coordinator**. EPA designates Martin McComb of the Emergency Preparedness and Response Branch, Region 8, as its On-Scene Coordinator ("OSC"). The OSC has the authorities described in the NCP, including oversight of Respondent's implementation of the Work, authority to halt, conduct, or direct any Work, or to direct any other removal action undertaken at the Site. The OSC's absence from the Site is not a cause for stoppage of work. EPA may change its OSC and will notify Respondent of any such change.

VIII. PERFORMANCE OF THE WORK

24. Respondent shall perform the Work in accordance with this Settlement, including all EPA-approved, conditionally approved, or modified deliverables as required by this Settlement. The Work includes all actions necessary to complete implementation of the Removal

Action, which is described in the Removal Work Plan. For any regulation or guidance referenced in the Settlement, the reference will be read to include any subsequent modification, amendment, or replacement of such regulation or guidance. Such modifications, amendments, or replacements apply to the Work only after Respondent receives notification from EPA of the modification, amendment, or replacement.

25. **Removal Work Plan.** Respondent has submitted, and EPA has approved, the Removal Work Plan. The Removal Work Plan is attached hereto as Appendix C.

26. **Health and Safety Plan.** Respondent has submitted for EPA review and comment a Health and Safety Plan ("HASP") that meets the requirements of 29 C.F.R. § 910.120 for developing the HASP, that describes all activities to be performed to protect on-site personnel and area residents from physical, chemical, biological and all other hazards related to performance of Work under this Settlement. This HASP shall be prepared in accordance with *EPA's Emergency Responder Health and Safety Manual*, OSWER 9285.3-12 (July 2005 and updates), available on the Agency's website at https://www.epaosc.org/_HealthSafetyManual/manual-index.htm. In addition, the Respondent shall ensure that the HASP complies with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. part 1910. If EPA determines that it is appropriate, the HASP shall also include contingency planning. Respondent shall incorporate all changes to the HASP recommended by EPA and shall implement the HASP during the pendency of the Work.

27. Respondent has submitted, and EPA has approved, the Post-Removal Site Control Plan. The Post-Removal Site Control Plan is attached hereto as Appendix B. If at any point Respondent's lease is discontinued, Respondent shall still conduct Post-Removal Site Controls, or, upon EPA approval, transfer Post-Removal Site Controls to another entity.

28. **Community Involvement**. EPA has the lead responsibility for implementing community involvement activities at the Site, including the preparation of a community involvement plan, in accordance with the NCP and EPA guidance. As requested by EPA, Respondent shall participate in community involvement activities, including participation in (a) the preparation of information regarding the Work for dissemination to the public (including compliance schedules and progress reports), with consideration given to the specific needs of the community, including translated materials and mass media and/or Internet notification and (b) public meetings that may be held or sponsored by EPA to explain activities at or relating to the Site.

29. **Deliverables: Specifications and Approval**

a. **General Requirements for Deliverables.** Respondent shall submit all deliverables to EPA in electronic form, unless otherwise specified by the OSC.

b. **Approval of Deliverables**. After review of any deliverable required to be submitted for EPA approval under the Settlement, EPA shall: (1) approve, in whole or in part, the deliverable; (2) approve the submission upon specified conditions or required revisions to the deliverable; (3) disapprove, in whole or in part, the deliverable; or (4) any combination of the

foregoing. If EPA requires revisions, EPA will provide a deadline for the resubmission, and Respondent shall submit the revised deliverable by the required deadline. Once approved or approved with conditions or required revisions, Respondent shall implement the deliverable in accordance with the EPA-approved schedule. Upon approval, or subsequent modification, by EPA of any deliverable, or any portion thereof: (1) such deliverable, or portion thereof, and any subsequent modifications, will be incorporated into and enforceable under the Settlement; and (2) Respondent shall take any action required by such deliverable, or portion thereof. Respondent shall not commence or perform any Work except in conformance with the terms of this Settlement.

30. **Off-Site Shipments**

a. Respondent may ship hazardous substances, pollutants and contaminants from the Site to an off-site facility only if it complies with section 121(d)(3) of CERCLA and 40 C.F.R. § 300.440. Respondent will be deemed to be in compliance with section 121(d)(3) of CERCLA and 40 C.F.R. § 300.440 regarding a shipment if Respondent obtains a prior determination from EPA that the proposed receiving facility for such shipment is acceptable under the criteria of 40 C.F.R. § 300.440(b).

b. Respondent may ship Waste Material from the Site to an out-of-state waste management facility only if, prior to any shipment, it provides written notice to the appropriate state environmental official in the receiving facility's state and to the OSC. This written notice requirement will not apply to any off-site shipments when the total quantity of all such shipments does not exceed 10 cubic yards. The written notice must include the following information, if available: (1) the name and location of the receiving facility; (2) the type and quantity of Waste Material to be shipped; (3) the schedule for the shipment; and (4) the method of transportation. Respondent also shall notify the state environmental official referenced above and the OSC of any major changes in the shipment plan, such as a decision to ship the Waste Material to a different out-of-state facility. Respondent shall provide the written notice after the award of the contract for the Removal Action and before the Waste Material is shipped.

c. Respondent may ship Investigation Derived Waste ("IDW") from the Site to an off-site facility only if it complies with section 121(d)(3) of CERCLA, 40 C.F.R. § 300.440, EPA's *Guide to Management of Investigation Derived Waste*, OSWER 9345.3-03FS (Jan. 1992) (https://semspub.epa.gov/work/03/136166.pdf), and any IDW-specific requirements contained in the Action Memorandum. Wastes shipped off-site to a laboratory for characterization, and RCRA hazardous wastes that meet the requirements for an exemption from RCRA under 40 C.F.R. § 261.4(e) shipped off-site for treatability studies, are not subject to 40 C.F.R. § 300.440.

31. **Permits**

a. As provided in CERCLA § 121(e), and section 300.400(e) of the NCP, no permit is required for any portion of the Work conducted entirely on-site (*i.e.*, within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). Where any portion of the Work that is not on-site requires a

federal or state permit or approval, Respondent shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

b. Respondent may seek relief under the provisions of Section XIII (Force Majeure) of the Settlement for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval referenced in ¶ 31.a and required for the Work, provided that it has submitted timely and complete applications and taken all other actions necessary to obtain all such permits or approvals.

c. Nothing in the Settlement constitutes a permit issued under any federal or state statute or regulation.

32. **Emergency Response.** If any event occurs during performance of the Work that causes or threatens to cause a release of Waste Material on, at, or from the Site and that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the environment, Respondent shall: (a) immediately take all appropriate action to prevent, abate, or minimize such release or threat of release; (b) immediately notify the OSC or, in the event of his unavailability, the Regional Duty Officer at 303-293-1788 of the incident or Site conditions; and (c) take such actions in consultation with the OSC or authorized EPA officer and in accordance with all applicable provisions of this Settlement, including, the Health and Safety Plan, and any other applicable deliverable approved by EPA.

33. **Release Reporting**. Upon the occurrence of any event during performance of the Work that Respondent is required to report under CERCLA § 103 of or section 304 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11004, Respondent shall immediately orally notify the OSC or, in the event of his unavailability, the Regional Duty Officer at 303-293-1788, and the National Response Center at (800) 424-8802. Respondent shall also submit a written report to EPA within seven days after the onset of such event, (a) describing the event, and (b) all measures taken and to be taken: (1) to mitigate any release or threat of release, (2) to mitigate any endangerment caused or threatened by the release; and (3) to prevent the reoccurrence of any such a release or threat of release. The reporting requirements under this Paragraph are in addition to the reporting required by CERCLA §§ 103 and 111(g) or EPCRA § 304.

34. **Progress Reports**. Commencing upon the Effective Date and until issuance of Notice of Completion of Work under ¶ 37, Respondent shall submit written progress reports to EPA on a monthly basis, or as otherwise directed in writing by the OSC. These reports must describe all significant developments during the preceding reporting period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

35. **Additional Activities**. If EPA determines that additional actions not included in the Removal Work Plan or other approved plan(s) are necessary to protect public health or welfare or the environment, EPA will notify Respondent of that determination. Respondent also may request modification of the approved Removal Work Plan or other deliverables. EPA may

notify Respondent of any modification needed under the foregoing two sentences. Respondent shall, within 30 days thereafter, submit a revised work plan and other deliverables as necessary to EPA for approval. Respondent shall implement the revised Removal Work Plan and any other deliverables upon EPA's approval in accordance with the procedures of ¶ 29 in accordance with the approved provisions and schedule. This Paragraph does not limit the OSC's authority to make oral modifications to any plan or schedule pursuant to Section XXII.

36. **Final Report**

a. Within 30 days after completion of all Work required by this Settlement other than the continuing obligations listed in ¶ 37.a, Respondent shall submit for EPA review and approval a final report regarding the Work. The final report must

(1) summarize the actions taken to comply with this Settlement;

(2) conform to the requirements of section 300.165 of the NCP ("OSC Reports");

(3) list the quantities and types of materials removed off-site or handled on-site;

(4) describe the removal and disposal options considered for those materials;

(5) identify the ultimate destination(s) of those materials;

(6) include the analytical results of all sampling and analyses performed; and

(7) include all relevant documentation generated during the Work (e.g., manifests, invoices, bills, contracts, and permits) and an estimate of the total costs incurred to complete the Work.

b. The final report must also include the following certification signed by a responsible corporate official of Respondent or Respondent's Project Coordinator: "I certify under penalty of perjury that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

37. **Notice of Completion of Work**

a. If after reviewing the Final Report under ¶ 36, EPA determines that all Work, other than the continuing obligations, has been fully performed in accordance with this Settlement, EPA will provide notice to Respondent. A notice of completion of work is not a protectiveness determination and does not affect the following continuing obligations:

(1) implementing and maintaining the requirements of the Post-Removal Site Control Plan;

(2) obligations under Section IX (Property Requirements);

(3) payment of Future Response Costs; and

(4) obligations under Section XIX (Records).

b. If EPA determines that any Work other than the continuing obligations has not been completed in accordance with this Settlement, EPA will so notify Respondent and provide a list of deficiencies to be corrected and a schedule for correcting them. Respondent shall promptly correct all identified deficiencies in accordance with the schedule provided and shall submit a modified Final Report following completion of such work. Subsequent determinations by EPA regarding completion of Work shall be handled in accordance with this Paragraph.

38. **Compliance with Applicable Law**. Nothing in this Settlement affects Respondent's obligations to comply with all applicable state and federal laws and regulations, except as provided in section 121(e) of CERCLA, and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-site actions required pursuant to this Settlement shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental or state environmental or facility siting laws. The activities conducted in accordance with this Settlement, if approved by EPA, will be deemed to be consistent with the NCP as provided under section 300.700(c)(3)(ii).

39. **Work Takeover**

a. If EPA determines that Respondent: (1) has ceased implementation of any portion of the Work required under this Section; (2) is seriously or repeatedly deficient or late in performing the Work required under this Section; or (3) is implementing the Work required under this Section in a manner that may cause an endangerment to public health or welfare or the environment, EPA may issue a notice of Work Takeover to Respondent, including a description of the grounds for the notice and a period of time ("Remedy Period") within which Respondent shall remedy the circumstances giving rise to the notice. The Remedy Period will be 20 days, unless EPA determines in its unreviewable discretion that there may be an endangerment, in which case the Remedy Period will be 10 days.

b. If, by the end of the Remedy Period, Respondent does not remedy to EPA's satisfaction the circumstances giving rise to the notice of Work Takeover, EPA may notify Respondent and, as it deems necessary, commence a Work Takeover.

c. EPA may conduct the Work Takeover during the pendency of any dispute under Section XIV but shall terminate the Work Takeover if and when: (1) Respondent remedies, to EPA's satisfaction, the circumstances giving rise to the notice of Work Takeover; or (2) upon the issuance of a final determination under Section XIV that EPA is required to terminate the Work Takeover.

IX. PROPERTY REQUIREMENTS

40. If the Site, or any other property where access is needed to implement this Settlement, is owned or controlled by the Respondent, Respondent shall, commencing on the Effective Date, provide EPA, the State, and their representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement. Where any action under this Settlement is to be performed in areas owned or controlled by someone other than Respondent, Respondent shall use best efforts to obtain all necessary agreements for access, enforceable by Respondent and EPA, within 30 days after the Effective Date, or as otherwise specified in writing by the OSC.

a. **Land, Water, or Other Resource Use Restrictions.** As used in this subparagraph, "Affected Property" means any real property, including the Site, where EPA determines at any time that access; land, water or other resource restrictions, institutional controls; or any combination thereof, are needed to implement the Removal Action. Respondent shall refrain from using the Affected Property in any manner that EPA determines will pose an unacceptable risk to human health or to the environment as a result of exposure to Waste Material, or will interfere with or adversely affect the implementation, integrity, or protectiveness of the Removal Action. Notwithstanding the foregoing, EPA acknowledges that Respondent uses the Site as a ski resort and will make reasonable efforts to ensure that any requested institutional controls will not unreasonably interfere with Respondent's operation of the Site as a ski resort.

41. Respondent shall, prior to entering into a contract to Transfer any of its property that is part of the Site, or 60 days prior to a Transfer of such property, whichever is earlier, (a) give written notice to the proposed transferee that the property is subject to this Settlement; and (b) give written notice to EPA and the State of the proposed Transfer, including the name and address of the transferee. Respondent also agrees to require that its successors comply with this Section IX and Section XIX (Records).

42. Notwithstanding any provision of the Settlement, EPA and the State retain all of their access authorities and rights, as well as all of their rights to require land, water, or other resource use restrictions, including related enforcement authorities under CERCLA, RCRA, and any other applicable statute or regulations.

X. FINANCIAL ASSURANCE

43. To ensure completion of the Work required under Section VIII (Performance of Work), Respondent shall secure financial assurance, initially in the amount of $200,000 ("Estimated Cost of the Work"), for the benefit of EPA. The financial assurance must: (a) be one or more of the mechanisms listed below, in a form substantially identical to the relevant sample documents available from EPA; and (b) be satisfactory to EPA. As of the date of signing this Settlement, the sample documents can be found under the "Financial Assurance - Settlements" category on the Cleanup Enforcement Model Language and Sample Documents Database at https://cfpub.epa.gov/compliance/models/. Respondent may use multiple mechanisms if they are limited to surety bonds guaranteeing payment, letters of credit, trust funds, insurance policies, or some combination thereof. The following are acceptable mechanisms:

a. a surety bond guaranteeing payment, performance of the Work, or both, that is issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury;

b. an irrevocable letter of credit, payable to EPA or at the direction of EPA, that is issued by an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency;

c. a trust fund established for the benefit of EPA that is administered by a trustee that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency;

d. a policy of insurance that provides EPA with acceptable rights as a beneficiary thereof and that is issued by an insurance carrier that has the authority to issue insurance policies in the applicable jurisdiction(s) and whose insurance operations are regulated and examined by a federal or state agency;

e. a demonstration by Respondent that it meets the relevant financial test criteria of ¶ 44, accompanied by a standby funding commitment, that requires the affected Respondent to pay funds to or at the direction of EPA, up to the amount financially assured through the use of this demonstration in the event of a Work Takeover; or

f. a guarantee to fund or perform the Work executed in favor of EPA by a company: (1) that is a direct or indirect parent company of Respondent or has a "substantial business relationship" (as defined in 40 C.F.R. § 264.141(h)) with Respondent; and (2) demonstrates to EPA's satisfaction that it meets the financial test criteria of ¶ 44.

44. Respondent seeking to provide financial assurance by means of a demonstration or guarantee under ¶ 43.e or 43.f shall, within 30 days after the Effective Date:

a. Demonstrate that:

(1) Respondent or guarantor has:

i. two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

ii. net working capital and tangible net worth each at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and

iii. tangible net worth of at least $10 million; and

iv. assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; or

(2) Respondent or guarantor has:

i. a current rating for its senior unsecured debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; and

ii. tangible net worth at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and

iii. tangible net worth of at least $10 million; and

iv. assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and

b. Submit to EPA for Respondent or guarantor: (1) a copy of an independent certified public accountant's report of the entity's financial statements for the latest completed fiscal year, which must not express an adverse opinion or disclaimer of opinion; and (2) a letter from its chief financial officer and a report from an independent certified public accountant substantially identical to the sample letter and reports available from EPA. As of the date of signature of this Settlement, a sample letter and report are available under the "Financial Assurance - Settlements" subject list category on the Cleanup Enforcement Model Language and Sample Documents Database at https://cfpub.epa.gov/compliance/models/.

45. Respondent providing financial assurance by means of a demonstration or guarantee under ¶ 43.e or 43.f shall also:

a. annually resubmit the documents described in ¶ 44.b within 90 days after the close of Respondent's or guarantor's fiscal year;

b. notify EPA within 30 days after Respondent or guarantor determines that it no longer satisfies the relevant financial test criteria and requirements set forth in this Section; and

c. provide to EPA, within 30 days of EPA's request, reports of the financial condition of Respondent or guarantor in addition to those specified in ¶ 44.b; EPA may make such a request at any time based on a belief that Respondent or guarantor may no longer meet the financial test requirements of this Section.

46. Respondent shall, within 30 days after the Effective Date, seek EPA's approval of the form of Respondent's financial assurance. Within 30 days after the Effective Date, Respondent shall secure all executed or otherwise finalized mechanisms or other documents consistent with the EPA-approved form of financial assurance and shall submit such mechanisms and documents to EPA in accordance with ¶ 87.

47. Respondent shall diligently monitor the adequacy of the financial assurance. If Respondent becomes aware of any information indicating that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, Respondent shall notify EPA of such information within seven days. If EPA determines that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, EPA will notify Respondent of such determination. Respondent shall, within 30 days after notifying EPA or receiving notice from EPA under this Paragraph, secure and submit to EPA for approval a proposal for a revised or alternative financial assurance mechanism that satisfies the requirements of this Section. EPA may extend this deadline for such time as is reasonably necessary for Respondent, in the exercise of due diligence, to secure and submit to EPA a proposal for a revised or alternative financial assurance mechanism, not to exceed 60 days. Respondent shall follow the procedures of ¶ 49 (Modification of Amount, Form, or Terms of Financial Assurance) in seeking approval of, and submitting documentation for, the revised or alternative financial assurance mechanism. Respondent's inability to secure financial assurance in accordance with this Section does not excuse performance of any other requirement of this Settlement.

48. **Access to Financial Assurance**

a. If EPA issues a notice of a Work Takeover under ¶ 39.b, then, in accordance with any applicable financial assurance mechanism, EPA may require: (1) the performance of the Work; and/or (2) that any funds guaranteed be paid in accordance with ¶ 48.d.

b. If EPA is notified that the issuer of a financial assurance mechanism intends to cancel the mechanism, and Respondent fails to provide an alternative financial assurance mechanism in accordance with this Section at least 30 days prior to the cancellation date, the funds guaranteed under such mechanism must be paid prior to cancellation in accordance with ¶ 48.d.

c. If, upon issuance of a notice of a Work Takeover under ¶ 39, either: (1) EPA is unable for any reason to promptly secure the resources guaranteed under any applicable financial assurance mechanism, whether in cash or in kind, to continue and complete the Work; or (2) the financial assurance is a demonstration or guarantee under ¶ 43.e or 43.f, then EPA is entitled to demand an amount, as determined by EPA, sufficient to cover the cost of the remaining Work to be performed. Respondent shall, within 30 days after such demand, pay the amount demanded as directed by EPA.

d. Any amounts required to be paid under this ¶ 48 must be, as directed by EPA: (i) paid to EPA in order to facilitate the completion of the Work by EPA, the State, or by another person; or (ii) deposited into an interest-bearing account, established at a duly chartered

bank or trust company that is insured by the FDIC, in order to facilitate the completion of the Work by another person. If payment is made to EPA, EPA may deposit the payment into the Fund or into the Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the Fund.

49. **Modification of Amount, Form, or Terms of Financial Assurance**. On any anniversary of the Effective Date, or at any other time agreed to by the Parties, Respondent may request to change the form, terms, or amount of the financial assurance mechanism. Respondent shall submit any such request to EPA in accordance with ¶ 46, and shall include an estimate of the cost of the remaining Work, an explanation of the bases for the cost calculation, and a description of the proposed changes, if any, to the form or terms of the financial assurance. EPA will notify Respondent of its decision regarding the request. Respondent may modify the form, terms, or the amount of the financial assurance mechanism only in accordance with: (a) EPA's approval; or (b) any resolution of a dispute on the appropriate amount of financial assurance under Section XIV. Any decision made by EPA on a request submitted under this Paragraph to change the form or terms of a financial assurance mechanism shall not be subject to challenge by Respondent pursuant to the dispute resolution provisions of this Settlement or in any other forum. Respondent shall submit to EPA, within 30 days after receipt of EPA's approval, or consistent with the terms of the resolution of the dispute, documentation of the change to the form, terms, or amount of the financial assurance instrument.

50. **Release, Cancellation, or Discontinuation of Financial Assurance**. Respondent may release, cancel, or discontinue any financial assurance provided under this Section only: (a) if EPA issues a Notice of Completion of Work under ¶ 37; (b) in accordance with EPA's approval of such release, cancellation, or discontinuation; or (c) if there is a dispute regarding the release, cancellation, or discontinuance of any financial assurance, in accordance with the agreement or final decision resolving such dispute under Section XIV.

XI. INDEMNIFICATION AND INSURANCE

51. **Indemnification**

a. The United States does not assume any liability by entering into this Settlement or by virtue of any designation of Respondent as EPA's authorized representative under section 104(e)(1) of CERCLA. Respondent shall indemnify and save and hold harmless the United States, its officials, agents, employees, contractors, subcontractors, and representatives for or from any claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on Respondent's behalf or under its control, in carrying out activities under this Settlement, including any claims arising from any designation of Respondent as EPA's authorized representatives under section 104(e)(1) of CERCLA. Further, Respondent agrees to pay EPA all costs it incurs including attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States based on negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on its behalf or under its control in carrying out activities under with this Settlement. EPA may not be held out as a party to any contract entered into by or on behalf of Respondent in carrying out

activities under this Settlement. Respondent and any such contractor may not be considered an agent of EPA.

b. EPA shall give Respondent notice of any claim for which EPA plans to seek indemnification in accordance with this ¶ 51, and shall consult with Respondent prior to settling such claim.

52. Respondent covenants not to sue and shall not assert any claim or cause of action against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work or other activities on or relating to the Site, including claims on account of construction delays. In addition, Respondent shall indemnify and save and hold harmless the United States with respect to any claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of work at or relating to the Site, including claims on account of construction delays.

53. **Insurance**. Respondent shall secure, by no later than 15 days before commencing any on-site Work, the following insurance: (a) commercial general liability insurance with limits of liability of $1 million per occurrence; (b) automobile liability insurance with limits of liability of $1 million per accident; and (c) umbrella liability insurance with limits of liability of $5 million in excess of the required commercial general liability and automobile liability limits. The insurance policy must name EPA as an additional insured with respect to all liability arising out of the activities performed by or on behalf of Respondent under this Settlement. Respondent shall maintain this insurance until the first anniversary after EPA's issuance of the Notice of Completion of Work under ¶ 37. In addition, for the duration of this Settlement, Respondent shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondent in furtherance of this Settlement. Prior to commencement of the Work, Respondent shall provide to EPA certificates of such insurance and a copy of each insurance policy. Respondent shall resubmit such certificates and copies of policies each year on the anniversary of the Effective Date. If Respondent demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then, with respect to that contractor or subcontractor, Respondent need provide only that portion of the insurance described above that is not maintained by the contractor or subcontractor. Respondent shall ensure that all submittals to EPA under this Paragraph identify the Uintah Mining District Site, Summit County, Utah and the EPA docket number of this case.

XII. PAYMENTS FOR RESPONSE COSTS

54. **Payment by Respondent for Past Response Costs**. Within 30 days after the Effective Date, Respondent shall pay EPA, in reimbursement of Past Response Costs in connection with the Site, $230,000. Respondent shall make payment at https://www.pay.gov using the "EPA Miscellaneous Payments Cincinnati Finance Center" link, and including references to the Site Name, Docket Number, and Site/Spill ID number listed in ¶ 91 and the purpose of the payment. Respondent shall send notices of this payment to EPA in accordance

with ¶ 91. If the payment required under this Paragraph is late, Respondent shall pay, in addition to any stipulated penalties owed under Section XV, an additional amount for Interest accrued from the Effective Date until the date of payment.

55. **Payments by Respondent for Future Response Costs**

a. **Periodic Bills**. On a periodic basis, EPA will send Respondent a bill for Future Response Costs, including a Regionally-prepared cost summary, listing direct and indirect costs paid by EPA, its contractors, and subcontractors. Respondent may initiate a dispute under Section XIV regarding a Future Response Cost billing, but only if the dispute relates to one or more of the following issues: (1) whether EPA has made an arithmetical error; (2) whether EPA has included a cost item that is not within the definition of Future Response Costs; or (3) whether EPA has paid excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. Respondent shall specify in the Notice of Dispute the contested costs and the basis for the objection.

b. **Payment of Bill**. Respondent shall pay the bill, or if it initiates dispute resolution under Section XIV, the uncontested portion of the bill, if any, within 30 days after receipt of the bill. Respondent shall pay the contested portion of the bill determined to be owed, if any, within 30 days after the determination regarding the dispute. Each payment for: (i) the uncontested bill or portion of bill, if late, and; (ii) the contested portion of the bill determined to be owed, if any, must include an additional amount for Interest accrued from the date of receipt of the bill through the date of payment. Respondent shall make all payments at https://www.pay.gov using the "EPA Miscellaneous Payments Cincinnati Finance Center" link, and including references to the Site Name, Docket Number, and Site/Spill ID number and the purpose of the payment. Respondent shall send notices of this payment to EPA and include these references.

56. **Deposit of Payments**. EPA may, in its unreviewable discretion, deposit the amounts paid under ¶¶ 54 and 55 in the Fund, in the Special Account, or both. EPA may, in its unreviewable discretion, retain and use any amounts deposited in the Special Account to conduct or finance response actions at or in connection with the Site, or transfer those amounts to the Fund.

XIII. FORCE MAJEURE

57. "Force majeure," for purposes of this Settlement, means any event arising from causes beyond the control of Respondent, of any entity controlled by Respondent, or of Respondent's contractors that delays or prevents the performance of any obligation under this Settlement despite Respondent's best efforts to fulfill the obligation. Given the need to protect public health and welfare and the environment, the requirement that Respondent exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (a) as it is occurring and (b) following the potential force majeure such that the delay and any adverse effects of the delay are minimized to the greatest extent possible. "Force majeure" does not include financial inability to complete the Work or increased cost of performance.

58. If any event occurs for which Respondent will or may claim a force majeure, Respondent shall notify EPA's OSC by email. The deadline for the initial notice is 3 days after the date Respondent first knew or should have known that the event would likely delay performance. Respondent shall be deemed to know of any circumstance of which any contractor of, subcontractor of, or entity controlled by Respondent knew or should have known. Within 7 days thereafter, Respondent shall send a further notice to EPA that includes: (a) a description of the event and its effect on Respondent's completion of the requirements of the Settlement; (b) a description of all actions taken or to be taken to prevent or minimize the adverse effects or delay; (c) the proposed extension of time for Respondent to complete the requirements of the Settlement; (d) a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health or welfare, or the environment; and (e) all available proof supporting their claim of force majeure. Failure to comply with the notice requirements herein regarding an event precludes Respondent from asserting any claim of force majeure regarding that event, provided, however, that if EPA, despite the late or incomplete notice, is able to assess to its satisfaction whether the event is a force majeure under ¶ 57 and whether Respondent has exercised best efforts under ¶ 52, EPA may, in its unreviewable discretion, excuse in writing Respondent's failure to submit timely or complete notices under this Paragraph.

59. EPA will notify Respondent of its determination whether Respondent is entitled to relief under ¶ 57, and, if so, the duration of the extension of time for performance of the obligations affected by the force majeure. An extension of the time for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation. Respondent may initiate dispute resolution under Section XIV regarding EPA's determination within 15 days after receipt of the determination. In any such proceeding, Respondent has the burden of proving that it is entitled to relief under ¶ 57 and that its proposed extension was or will be warranted under the circumstances.

60. The failure by EPA to timely complete any activity under the Settlement is not a violation of the Settlement, provided, however, that if such failure prevents Respondent from timely completing a requirement of the Settlement, Respondent may seek relief under this Section.

XIV. DISPUTE RESOLUTION

61. Unless otherwise provided in this Settlement, Respondent shall use the dispute resolution procedures of this Section to resolve any dispute arising under this Settlement.

62. A dispute will be considered to have arisen when Respondent sends a written notice of dispute ("Notice of Dispute") to EPA. Disputes arising under this Settlement must in the first instance be the subject of informal negotiations between the parties to the dispute. If Respondent objects to any EPA action taken pursuant to this Settlement, it shall send EPA a Notice of Dispute describing the objection(s) within 7 days after such action. The period for informal negotiations may not exceed 30 days after the dispute arises, unless EPA otherwise agrees. If the parties cannot resolve the dispute by informal negotiations, the position advanced by EPA is binding unless Respondent initiates formal dispute resolution under ¶ 63.

63. **Formal Dispute Resolution**

a. **Statements of Position**. Respondent may initiate formal dispute resolution by submitting, within 7 days after the conclusion of informal dispute resolution under ¶ 62, an initial Statement of Position regarding the matter in dispute. The EPA's responsive Statement of Position is due within 20 days after receipt of the initial Statement of Position. All Statements of Position must include supporting factual data, analysis, opinion, and other documentation. If appropriate, EPA may extend the deadlines for filing statements of position for up to 15 days and may allow the submission of supplemental statements of position.

b. **Formal Decision**. The Director of the Superfund & Emergency Management Division, EPA Region 8, will issue a formal decision resolving the dispute ("Formal Decision") based on the statements of position and any replies and supplemental statements of position. The Formal Decision is binding on Respondent, and shall be incorporated into and become an enforceable part of this Settlement.

64. **Escrow Account**. For disputes regarding a Future Response Cost billing, Respondent shall: (a) establish, in a duly chartered bank or trust company, an interest-bearing escrow account that is insured by the Federal Deposit Insurance Corporation ("FDIC"); (b) remit to that escrow account funds equal to the amount of the contested Future Response Costs; and (c) send to EPA a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that established and funded the escrow account, including the name of the bank, the bank account number, and a bank statement showing the initial balance in the account. EPA may, in its unreviewable discretion, waive the requirement to establish the escrow account. Respondent shall cause the escrow agent to pay the amounts due to EPA under ¶ 55, if any, by the deadline for such payment in ¶ 55. Respondent is responsible for any balance due under ¶ 55 after the payment by the escrow agent.

65. The initiation of dispute resolution procedures under this Section does not extend, postpone, or affect in any way any requirement of this Settlement, except as EPA agrees. Stipulated penalties with respect to the disputed matter will continue to accrue, but payment is stayed pending resolution of the dispute, as provided in ¶ 68.

XV. STIPULATED PENALTIES

66. Unless the noncompliance is excused under Section XIII (Force Majeure), Respondent is liable to EPA for the following stipulated penalties for any failure: (1) to pay any amount due under Section XII; (2) to establish any escrow account required under ¶ 64; and (3) to submit timely or adequate deliverables:

Period of Noncompliance	Penalty Per Noncompliance Per Day
1st through 14th day	$800
15th through 30th day	$1,000
31st day and beyond	$2,000

67. **Work Takeover Penalty**. If EPA commences a Work Takeover under ¶ 39, Respondent is liable for a stipulated penalty in the amount of $50,000.00.

68. **Accrual of Penalties**. Stipulated penalties accrue from the date performance is due, or the day a noncompliance occurs, whichever is applicable, until the date the requirement is completed or the final day of the correction of the noncompliance. Nothing in this Settlement prevents the simultaneous accrual of separate penalties for separate noncompliances with this Settlement. Stipulated penalties accrue regardless of whether Respondent has been notified of its noncompliance, and regardless of whether Respondent has initiated dispute resolution under Section XIV, provided, however, that no penalties will accrue as follows:

a. with respect to a submission that EPA subsequently determines is deficient, during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondent of any deficiency; or

b. with respect to a matter that is the subject of dispute resolution under Section XIV, during the period, if any, beginning on the 21st day after EPA's Statement of Position is received until the date of the Formal Decision under ¶ 63.b.

69. **Demand and Payment of Stipulated Penalties**. EPA may send Respondent a demand for stipulated penalties. The demand will include a description of the noncompliance and will specify the amount of the stipulated penalties owed. Respondent may initiate dispute resolution under Section XIV within 30 days after receipt of the demand. Respondent shall pay the amount demanded or, if it initiates dispute resolution, the uncontested portion of the amount demanded, within 30 days after receipt of the demand. Respondent shall pay the contested portion of the penalties determined to be owed, if any, within 30 days after the resolution of the dispute. Each payment for: (a) the uncontested penalty demand or uncontested portion, if late, and; (b) the contested portion of the penalty demand determined to be owed, if any, must include an additional amount for Interest accrued from the date of receipt of the demand through the date of payment. Respondent shall make payment at https://www.pay.gov using the link for "EPA Miscellaneous Payments Cincinnati Finance Center," including references to the Site Name, Docket Number, and Site/Spill ID number and the purpose of the payment. Respondent shall send notices of this payment to EPA. The payment of stipulated penalties and Interest, if any, does not alter any obligation by Respondent under the Settlement.

70. Nothing in this Settlement limits the authority of the EPA to seek any other remedies or sanctions available by virtue of Respondent's noncompliances with this Settlement or of the statutes and regulations upon which it is based, including penalties under sections 106(b) and 122(l) of CERCLA, and punitive damages pursuant to section 107(c)(3), provided, however, that the EPA may not seek civil penalties under section 122(l) of CERCLA for any noncompliance for which a stipulated penalty is provided for in this Settlement, except in the case of a willful noncompliance with this Settlement or in the event that EPA assumes performance of a portion or all of the Work pursuant to ¶ 39 (Work Takeover).

71. Notwithstanding any other provision of this Section, the EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued under this Settlement.

XVI. COVENANTS BY EPA

72. **Covenants for Respondent**. Subject to ¶ 74, EPA covenants not to sue or to take administrative action against Respondent under sections 106 and 107(a) of CERCLA regarding the Work**,** Past Response Costs, and Future Response Costs.

73. The covenants under ¶ 72: (a) take effect upon the Effective Date; (b) are conditioned on the complete and satisfactory performance by Respondent of the requirements of this Settlement; (c) extend to the successors of Respondent but only to the extent that the alleged liability of the successor of Respondent is based solely on its status as a successor of the Respondent; and (d) do not extend to any other person.

74. **General Reservations**. Notwithstanding any other provision of this Settlement, EPA reserves, and this Settlement is without prejudice to, all rights against Respondent regarding:

a. liability for failure by Respondent to meet a requirement of this Settlement;

b. liability for performance of response action other than the Work;

c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

d. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and

e. criminal liability.

75. Subject to ¶ 72, nothing in this Settlement limits any authority of EPA to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, or to request a Court to order such action.

XVII. COVENANTS BY RESPONDENT

76. **Covenants by Respondent**

a. Subject to ¶ 77, Respondent covenants not to sue and shall not assert any claim or cause of action against the United States under CERCLA, section 7002(a) of RCRA, the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, the State Constitution, State law, or at common law regarding the Work, Past Response Costs, Future Response Costs, and this Settlement.

b. Subject to ¶ 77, Respondent covenants not to seek reimbursement from the Fund through CERCLA or any other law for costs of the Work, Past Response Costs, Future Response Costs, or any claim arising out of response actions at or in connection with the Site.

77. **Respondent's Reservation**. The covenants in ¶ 76 do not apply to any claim or cause of action brought, or order issued, after the Effective Date by the United States to the extent such claim, cause of action, or order is within the scope of a reservation under ¶¶ 74.a through 74.e.

78. **De Minimis/Ability to Pay Waiver.** Respondent shall not assert any claims and waives all claims or causes of action (including claims or causes of action under sections 107(a) and 113 of CERCLA) that it may have against any third party who enters or has entered into a *de minimis* or "ability to pay" settlement with EPA to the extent Respondent's claims and causes of action are within the scope of the matters addressed in the third party's settlement with EPA, provided, however, that this waiver does not apply if the third party asserts a claim or cause of action regarding the Site against Respondent. Nothing in this Settlement limits Respondent's rights under section 122(d)(2) of CERLCA to comment on any *de minimis* or ability-to-pay settlement proposed by EPA.

79. Respondent agrees not to seek judicial review of the final rule listing the Site on the NPL based on a claim that changed site conditions that resulted from the performance of the Work in any way affected the basis for listing the Site.

XVIII. EFFECT OF SETTLEMENT; CONTRIBUTION

80. The Parties agree that: (a) this Settlement constitutes an administrative settlement under which Respondent has, as of the Effective Date, resolved its liability to EPA within the meaning of sections 113(f)(2), 113(f)(3)(B), and 122(h)(4) of CERCLA; and (b) Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the "matters addressed" in this Settlement. The "matters addressed" in this Settlement are the Work, Past Response Costs, and Future Response Costs, provided, however, that if EPA exercises rights against Respondent under the reservations in ¶¶ 74.a through 74.e, the "matters addressed" in this Settlement do not include those response costs or response actions that are within the scope of the exercised reservation.

81. Respondent shall, with respect to any suit or claim brought by it for matters related to this Settlement, notify EPA prior to the initiation of such suit or claim. Respondent shall, with respect to any suit or claim brought against it for matters related to this Settlement, notify EPA within 10 days after service of the complaint on Respondent. In addition, Respondent shall notify EPA within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial.

82. **Res Judicata and Other Defenses**. In any subsequent administrative or judicial proceeding initiated against Respondent by EPA or by the United States on behalf of EPA for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, claim preclusion (res judicata), issue preclusion (collateral estoppel), claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case.

83. Nothing in this Settlement creates any rights in, or grants any defense or cause of action to, any person not a Party to this Settlement. Except as provided in Section XVII (Covenants by Respondent), each of the Parties expressly reserves any and all rights (including pursuant to section 113 of CERCLA), defenses, claims, demands, and causes of action that each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement diminishes the right of the United States under section 113(f)(2) and (3) of CERCLA to pursue any person not a party to this Settlement to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to section 113(f)(2).

84. Effective upon signature of this Settlement by Respondent, Respondent agrees that the time period commencing on the date of its signature and ending when EPA receives from such Respondent the payment(s) required by ¶ 54 (Payment for Past Response Costs) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the "matters addressed" as defined in ¶ 80 and that, in any action brought by the United States related to the "matters addressed," Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA notifies Respondent that it will not make this Settlement effective, as authorized in ¶ 99, the tolling period ends 90 days after the date of such notice.

XIX. RECORDS

85. **Respondent's Certification**. Respondent certifies that: (a) it has implemented a litigation hold on documents and electronically stored information relating to the Site, including information relating to its potential liability under CERCLA regarding the Site, since the notification of potential liability by the United States or the State; and (b) it has fully complied with any and all EPA requests for information under sections 104(e) and 122(e) of CERCLA, and section 3007 of RCRA.

86. **Retention of Records and Information**

a. Respondent shall retain, and instruct its contractors and agents to retain, the following documents and electronically stored data ("Records") until 10 years after the Notice of Completion of the Work under ¶ 37.a ("Record Retention Period"):

(1) All records regarding Respondent's liability and the liability of any other person under CERCLA regarding the Site;

(2) All reports, plans, permits, and documents submitted to EPA in accordance with this Settlement, including all underlying research and data; and

(3) All data developed by, or on behalf of, Respondent in the course of performing the Work.

b. At the end of the Record Retention Period, Respondent shall notify EPA and the State that they have 90 days to request the Respondent's Records subject to this Section.

Respondent shall retain and preserve its Records subject to this Section until 90 days after EPA's and the State's receipt of the notice. These record retention requirements apply regardless of any corporate record retention policy.

87. Respondent shall provide to EPA and the State, upon request, copies of all Records and information required to be retained under this Section. Respondent shall also make available to EPA, for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

88. **Privileged and Protected Claims**

a. Respondent may assert that all or part of a record requested by EPA is privileged or protected as provided under federal law, in lieu of providing the record, provided that Respondent complies with ¶ 88.b, and except as provided in ¶ 88.c.

b. If Respondent asserts a claim of privilege or protection, it shall provide EPA with the following information regarding such record: its title; its date; the name, title, affiliation (e.g., company or firm), and address of the author, of each addressee, and of each recipient; a description of the record's contents; and the privilege or protection asserted. If a claim of privilege or protection applies only to a portion of a record, Respondent shall provide the record to EPA in redacted form to mask the privileged or protected portion only. Respondent shall retain all records that it claims to be privileged or protected until EPA has had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in Respondent's favor.

c. Respondent shall not make any claim of privilege or protection regarding: (1) any data regarding the Site, including all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological or engineering data, or the portion of any other record that evidences conditions at or around the Site; or (2) the portion of any record that Respondent is required to create or generate in accordance with this Settlement.

89. **Confidential Business Information Claims**. Respondent is entitled to claim that all or part of a record submitted to EPA under this Section is Confidential Business Information ("CBI") that is covered by section 104(e)(7) of CERCLA and 40 C.F.R. § 2.203(b). Respondent shall segregate all records or parts thereof submitted under this Settlement which it claims is CBI and label them as "claimed as confidential business information" or "claimed as CBI." Records that a submitter properly labels in accordance with the preceding sentence will be afforded the protections specified in 40 C.F.R. part 2, subpart B. If the records are not properly labeled when they are submitted to EPA, or if EPA notifies the submitter that the records are not entitled to confidential treatment under the standards of section 104(e)(7) of CERCLA or 40 C.F.R. part 2, subpart B, the public may be given access to such records without further notice to the submitter.

90. Notwithstanding any provision of this Settlement, EPA retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XX. NOTICES AND SUBMISSIONS

91. All agreements, approvals, consents, deliverables, modifications, notices, notifications, objections, proposals, reports, waivers, and requests specified in this Settlement must be in writing unless otherwise specified. Whenever a notice is required to be given or a report or other document is required to be sent by one Party to another under this Settlement, it must be sent as specified below. All notices under this Section are effective upon receipt, unless otherwise specified. In the case of emailed notices, there is a rebuttable presumption that such notices are received on the same day that they are sent. Any Party may change the method, person, or address applicable to it by providing notice of such change to all Parties.

As to EPA: *via email to*: mccomb.martin@epa.gov Re: Site/Spill ID # A8K3

and

piggott.amelia@epa.gov

As to the State: *via email to:* mpetit@utah.gov

As to Respondent: *via email to:* mwlewis@vailresorts.com
legalnotices@vailresorts.com

XXI. APPENDIXES

92. The following appendixes are attached to and incorporated into this Settlement:

"Appendix A" is the Action Memorandum.

"Appendix B" is the Post-Removal Site Control Plan.

"Appendix C" is the Removal Action Work Plan.

XXII. MODIFICATIONS

93. The OSC may modify any plan or schedule in writing or by oral direction. EPA will promptly memorialize in writing any oral modification, which will be effective on the date of the OSC's oral direction. Any other requirements of this Settlement may be modified in writing by mutual agreement of the parties.

94. If Respondent seeks permission to deviate from any approved Removal Work Plan or schedule, Respondent's Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondent may not proceed with a requested deviation until receiving oral or written approval from the OSC pursuant to ¶ 93.

95. No informal advice, guidance, suggestion, or comment by the OSC or other EPA representatives regarding any deliverable submitted by Respondent relieves Respondent of its obligation to obtain any formal approval required by this Settlement, or to comply with all requirements of this Settlement, unless it is formally modified.

XXIII. ATTORNEY GENERAL APPROVAL

96. The Attorney General or their designee has approved the response cost settlement embodied in this Settlement in accordance with section 122(h)(1) of CERCLA.

XXIV. SIGNATORIES

97. The undersigned representatives of EPA and Respondent certify that they are fully authorized to enter into the terms and conditions of this Settlement and to execute and legally bind such party to this Settlement.

XXV. INTEGRATION

98. This Settlement constitutes the entire agreement among the Parties regarding the subject matter of the Settlement and supersedes all prior representations, agreements and understandings, whether oral or written, regarding the subject matter of the Settlement.

XXVI. PUBLIC COMMENT

99. Final consent by EPA of its covenant regarding Past Response Costs and Future Response Costs is subject to a 30 day public comment period under section 122(i) of CERCLA. EPA may withhold consent regarding, or seek to modify, all or part of Section XII (Payments for Response Costs) and the covenant regarding Past Response Costs and Future Response Costs if comments received disclose facts or considerations that indicate that the Settlement is inappropriate, improper, or inadequate.

XXVII. EFFECTIVE DATE

100. Subject to the next sentence, this Settlement is effective when EPA issues notice to Respondent that the Regional Administrator or her delegatee has signed the Settlement. EPA's covenant as to Past Response Costs and Future Response Costs is effective when EPA issues notice to Respondent that public comments received, if any, do not require EPA to modify or withdraw from such covenant.

IT IS SO AGREED AND ORDERED:

BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Thompson, Christopher

Digitally signed by Thompson, Christopher
Date: 2024.10.10 13:50:57 -06'00'

Dated

Christopher Thompson
Associate Regional Counsel for Enforcement
U.S. Environmental Protection Agency
Region 8

AARON URDIALES

Digitally signed by AARON URDIALES
Date: 2024.10.11 11:53:14 -06'00'

Dated

Aaron Urdiales
Director
Superfund and Emergency Management Division
U.S. Environmental Protection Agency
Region 8

Signature Page for Settlement Regarding Uintah Mining District Site

FOR: VR CPC, Inc.

Oct-04-2024

DocuSigned by:
Julie DeCecco
F67230720A1C407...

Dated

Name: Julie DeCecco
Title: Executive Vice President and General Counsel

FOR THE U.S. DEPARTMENT OF JUSTICE:

JEFFREY SANDS
Deputy Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division

VANESSA MOORE Digitally signed by VANESSA MOORE Date: 2024.10.18 17:25:46 -04'00'

October 18, 2024
Dated

VANESSA M. MOORE
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division

APPENDIX A

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop STREET
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

Ref: 8EPR-ER

ACTION MEMORANDUM

SUBJECT: Request for a Removal Action at the Uintah Mining District Site in Summit County, Utah

FROM: Martin McComb
Federal On-Scene Coordinator

THRU: Laura Williams, Unit Leader
Emergency Response

TO: David A. Ostrander, Program Director
Emergency Response & Preparedness

Site ID# A8K3

I. PURPOSE

The purpose of this Action Memorandum is to request and document approval of the removal action described herein at the Uintah Mining District Site (Site) (as generally defined in Attachment A) located in Park City, Summit County, Utah. Lead and other heavy metals are the hazardous substances of concern.

This time-critical removal action involves the creation or construction and subsequent protection of erosion control features at the Site to address migration of hazardous substances in areas where historic mining operations have occurred.

Conditions existing at the Site present a threat to public health and the environment and meet the criteria for initiating a removal action under 40 CFR 300.415(b)(2) of the National Contingency Plan (NCP).

In an August 12, 2015 email, EPA regional Superfund programs were instructed to immediately cease any field work at mines. Subsequent memorandums on August 14, 2015 and September 4, 2015 provided additional details for determining if work should be discontinued at sites subject to the work stoppage. Because there is no substantial hydraulic component (e.g., water-containing mining features such as mine workings, tailings dams, open pits and heap leach piles) related to the Site and the Site has no known water in the mines which present a hazard with the potential to create an emergency, the Site is considered a category 1 Site as defined in the

September 4 memo and work is appropriate to proceed with implementation of this TCRA as documented by approval of this Action Memorandum.

This time-critical removal action involves no nationally-significant nor precedent-setting issues. This removal action will not establish any precedent for how future response actions will be taken and will not commit the EPA to a course of action that could have a significant impact on future responses or resources.

II. SITE CONDITIONS AND BACKGROUND

Site Name:	Uintah Mining District
Site ID (SSID):	A8K3
NRC Case Number:	Not Applicable
CERCLIS Number:	UTN000801643
Site Location:	Summit County, Utah
Lat/Long:	40.6461/-111.4980
Potentially Responsible Party:	United Park City Mines (UPCM)
NPL Status:	non-NPL
Removal Start Date:	10/01/2015

A. Site Description

1. Removal Site Evaluation

Mining began in the Uintah Mining District around 1869 and the area produced substantial quantities of ore between 1875 and 1982. Mining operations involved tunnels to extract the ore, tramways and railroads to transport ore, and milling facilities to process the ore. As a result of these mining operations, tailings and other mine waste containing heavy metals were deposited throughout the mining district.

In 2014, EPA's Remedial Program requested an assessment of areas where mining activities once occurred and that could be sources of contaminated material. EPA's Response Unit subsequently utilized existing sampling data and information on the location of former mining activities, visual inspections and in-situ x-ray fluorescence (XRF) analysis to evaluate soil conditions in the following drainages:

- Ontario Canyon
- Empire Canyon
- Woodside Gulch
- Treasure Hollow
- Thaynes Canyon

Ontario Canyon

Historic mining features in Ontario Canyon included the Judge Loading Station as well as the Ontario Mine, Mill and Tunnel. The surface concentrations of lead in the waste piles at the Ontario Mine exceed 1,000 mg/kg and the piles display obvious signs of erosion. The historic Ontario Mill was effectively capped and re-vegetated during the construction of a runaway truck

ramp. The concentrations of lead in exposed soil at the Judge Loading Station and Ontario Tunnel area exceed 10,000 mg/kg in several locations and the soil displays obvious signs of erosion.

Empire Canyon

Historic mining features in Empire Canyon included the Judge and Alliance waste pile. The surface concentrations of lead at the Judge and Alliance waste pile exceed 1,000 mg/kg of lead and some locations exceed 10,000 mg/kg. The pile displays obvious signs of erosion and contaminated soil was identified down gradient of this waste pile. The area is located on the outskirts of town just up gradient of the residential properties along Daly Avenue and is regularly used by hikers and bikers.

Woodside Gulch

Historic mining features in Woodside Gulch include the Silver King Mine and Mill. The Silver King Mine and Mill area contains approximately 56,000 cubic yards of mine waste and the surface concentrations of lead exceed 10,000 mg/kg in several locations. The waste piles display obvious signs of erosion. The main drainage comes into direct contact with this mine waste and contaminated soil was identified downstream of the waste piles in the middle reaches of Woodside Gulch.

Treasure Hollow

Historic mining features in Treasure Hollow include the Treasure Hollow waste pile. The waste pile at Treasure Hollow contains approximately 102,000 cubic yards of mine waste. The pile is relatively homogeneous and surface concentrations of lead exceed 1,000 mg/kg. The pile is poorly vegetated and displays obvious signs of erosion. A summer trail crosses the pile.

Thaynes Canyon

Historic mining features in Thaynes Canyon include the California Mine, Comstock Mine, Apex Mine and Thaynes Shaft. These features together contain approximately 263,000 cubic yards of waste material and the surface concentrations of lead exceed 10,000 mg/kg in several locations. The waste piles display obvious signs of erosion including use of an excavator to maintain an access road on the ski resort. The main Thaynes drainage channel comes into direct contact with the waste piles and mine waste was identified in the drainage downstream of the piles.

2. Physical Location

The Site is located in the upper Silver Creek watershed of the Wasatch Mountains in central Utah and includes areas containing remnant mine waste associated with the historic Ontario Mine, Ontario Tunnel and Judge Loading Station in Ontario Canyon, the Judge and Alliance waste pile in Empire Canyon, the Silver King Mine and Mill in Woodside Gulch, the waste pile at Treasure Hollow and the California Mine, Comstock Mine, Apex Mine and Thaynes Shaft in Thaynes Canyon. These areas are generally depicted in Attachment 2.

3. Site Characteristics

The general area is home to several ski resorts and, depending on the time of year, the tourist population exceeds the number of permanent residents (which were estimated to be 7,558 in 2010). The areas are used primarily for recreational purposes, mainly hiking or skiing.

Woodside Gulch, Treasure Hollow and Thaynes Canyon are located at or proximate to the Park City Ski Resort. Ontario Canyon and Empire Canyon are located just upstream of residential properties in Park City, Utah.

4. Release or Threatened Release into the Environment of a Hazardous Substance, Pollutant, or Contaminant

The presence of lead in the soils presents a release of hazardous substances to the environment. Lead is a listed hazardous substances in 40 CFR §302.4. This contaminant is found at the ground surface and is being released due to erosion.

According to the Agency for Toxic Substances and Disease Registry (ATSDR), "The effects of lead are the same whether it enters the body through breathing or swallowing. Lead can affect almost every organ and system in your body. The main target for lead toxicity is the nervous system, both in adults and children. Long-term exposure of adults can result in decreased performance in some tests that measure functions of the nervous system. It may also cause weakness in fingers, wrists, or ankles. Lead exposure also causes small increases in blood pressure, particularly in middle-aged and older people and can cause anemia. Exposure to high lead levels can severely damage the brain and kidneys in adults or children and ultimately cause death. In pregnant women, high levels of exposure to lead may cause miscarriage. High level exposure in men can damage the organs responsible for sperm production.

Children are more vulnerable to lead poisoning than adults. A child who swallows large amounts of lead may develop blood anemia, severe stomachache, muscle weakness, and brain damage. If a child swallows smaller amounts of lead, much less severe effects on blood and brain function may occur. Even at much lower levels of exposure, lead can affect a child's mental and physical growth.

Exposure to lead is more dangerous for young and unborn children. Unborn children can be exposed to lead through their mothers. Harmful effects include premature births, smaller babies, decreased mental ability in the infant, learning difficulties, and reduced growth in young children. These effects are more common if the mother or baby was exposed to high levels of lead. Some of these effects may persist beyond childhood."[1]

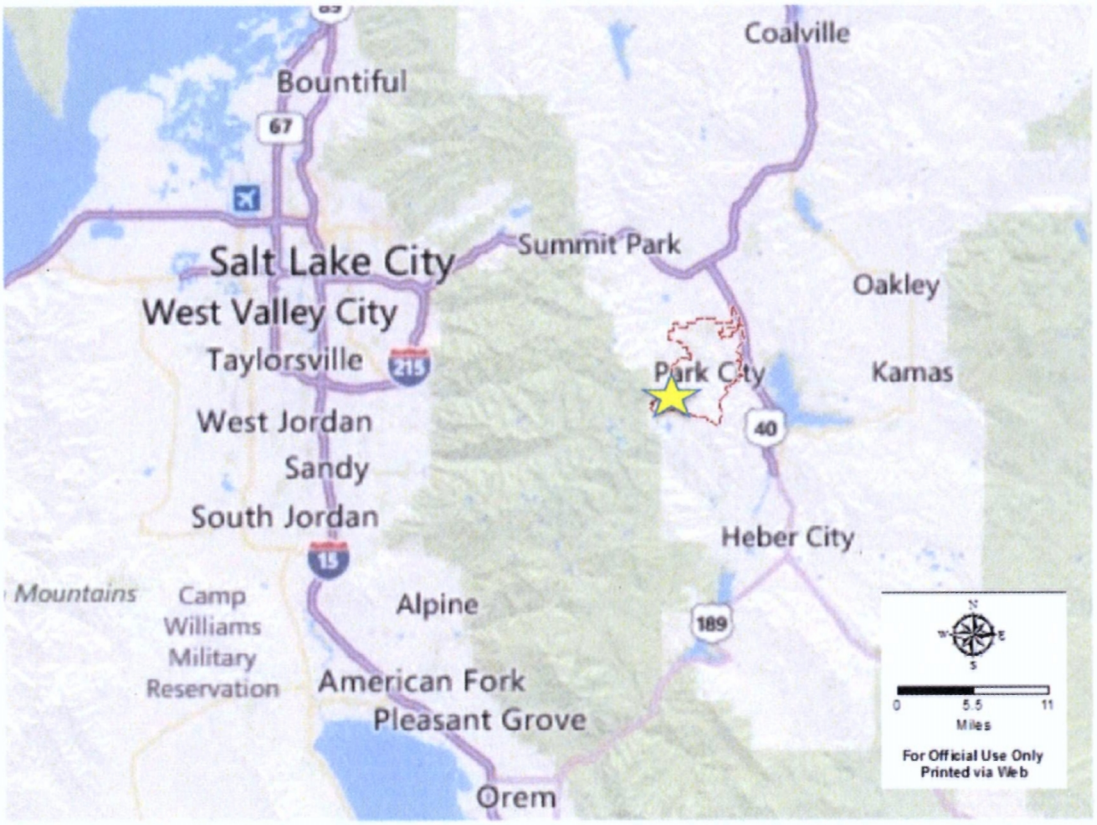
5. NPL Status

The Uintah Mining District Site is not on EPA's National Priorities List (NPL).

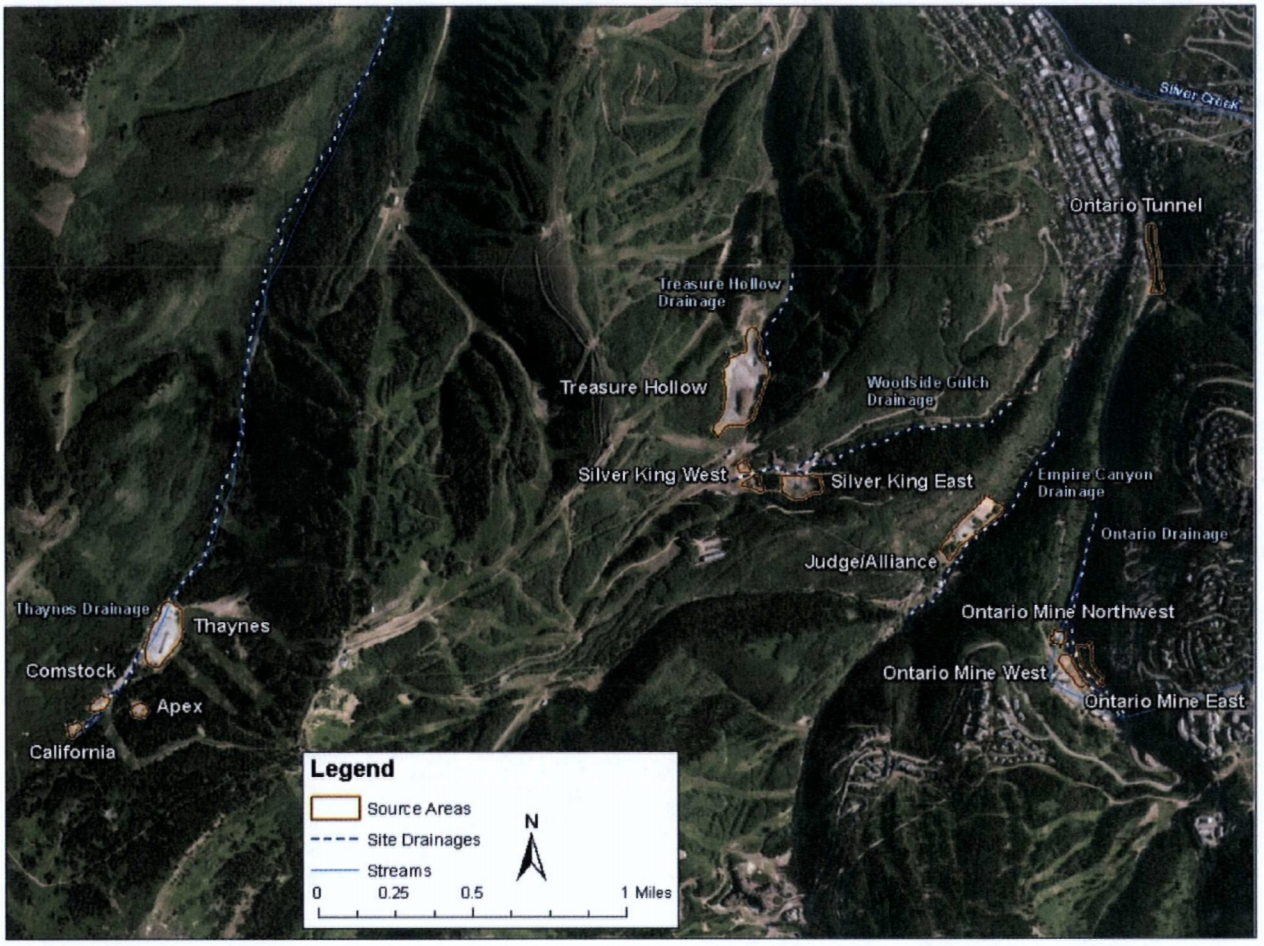
[1] Website, http://www.atsdr.cdc.gov/toxfaqs/tf.asp?id=93&tid=22.

6. Maps, Pictures, Other Geographic Representations

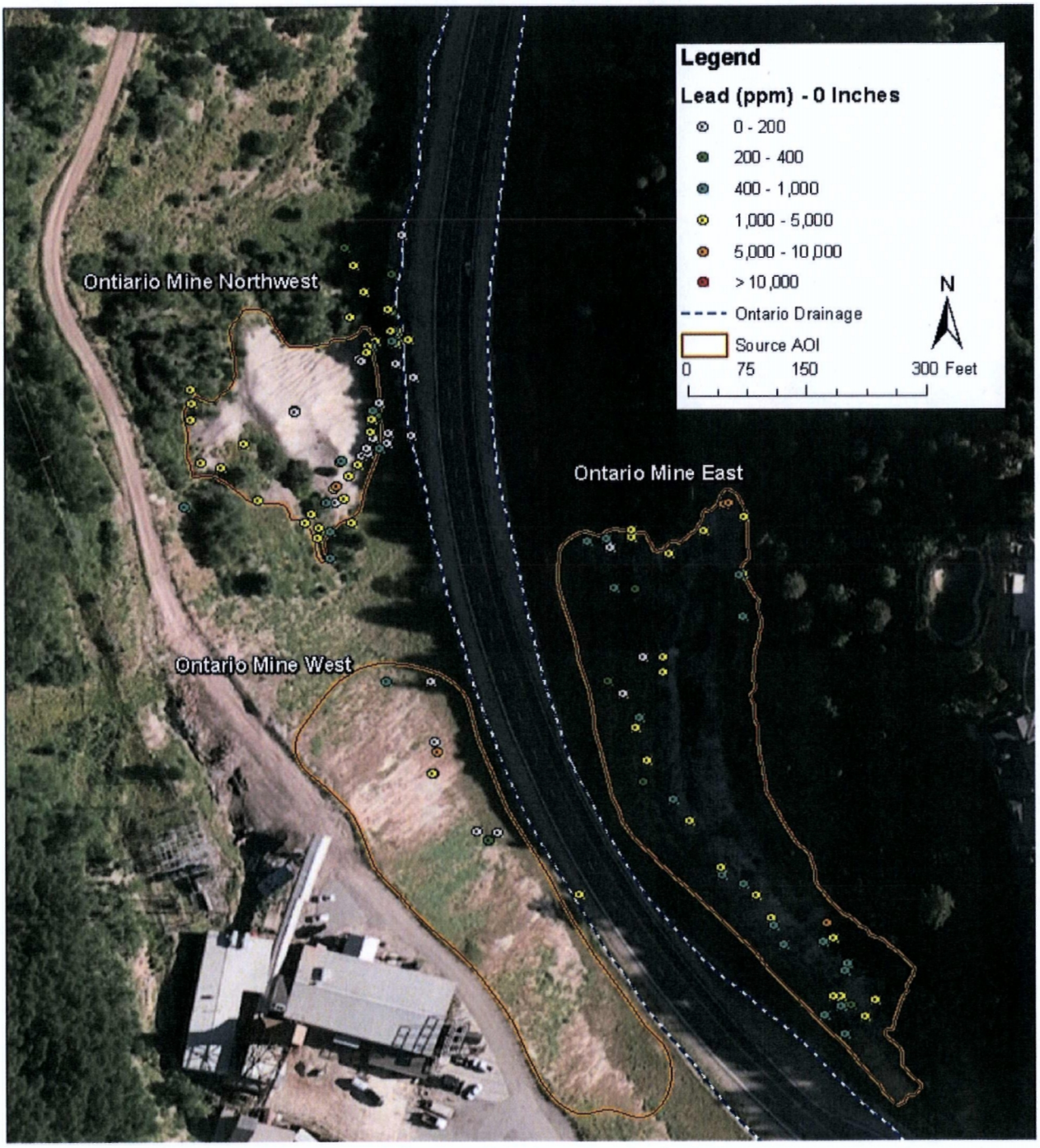
Location of the Uintah Mining District Site in Park City, Utah



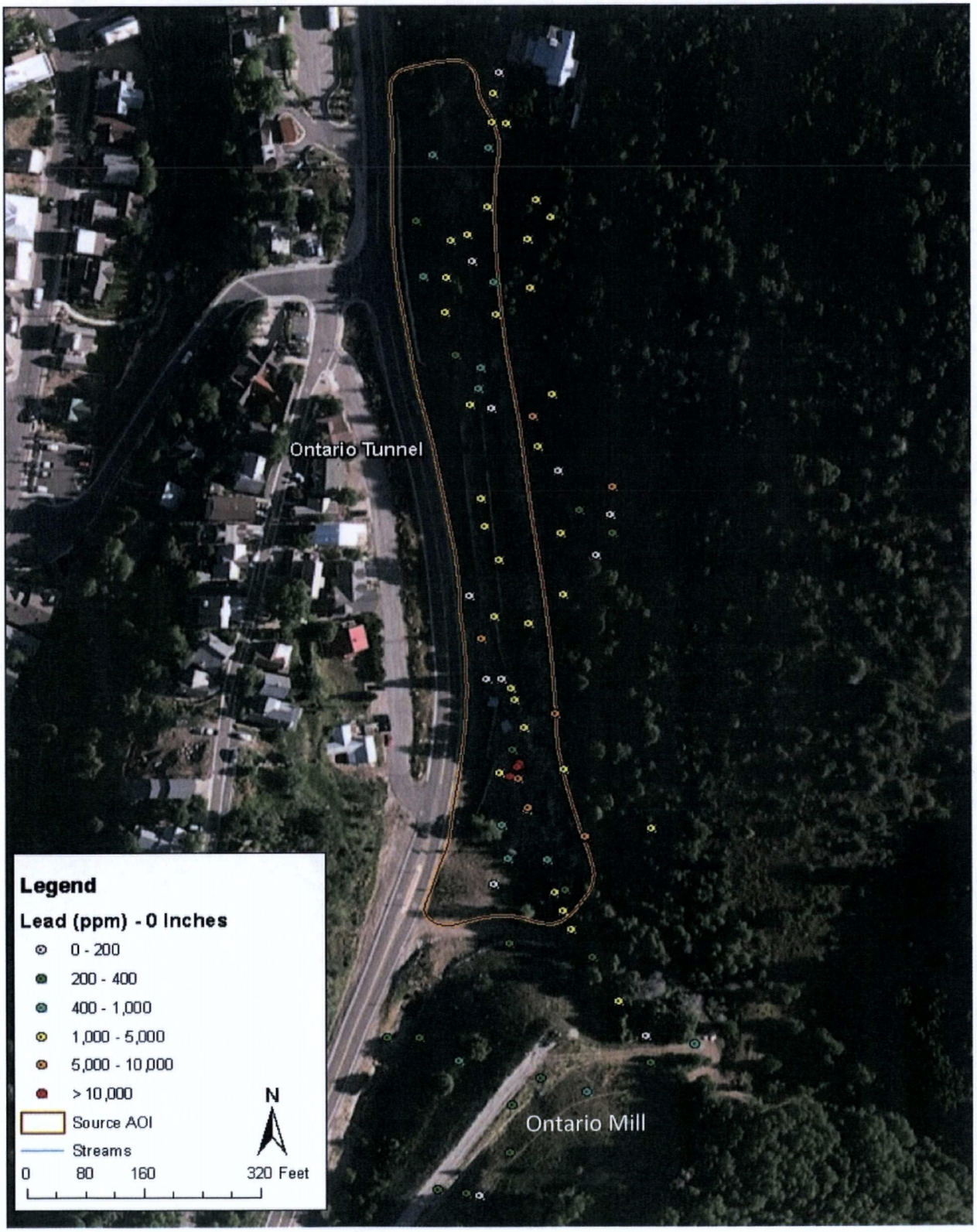
Areas of Interest at the Site (detailed)



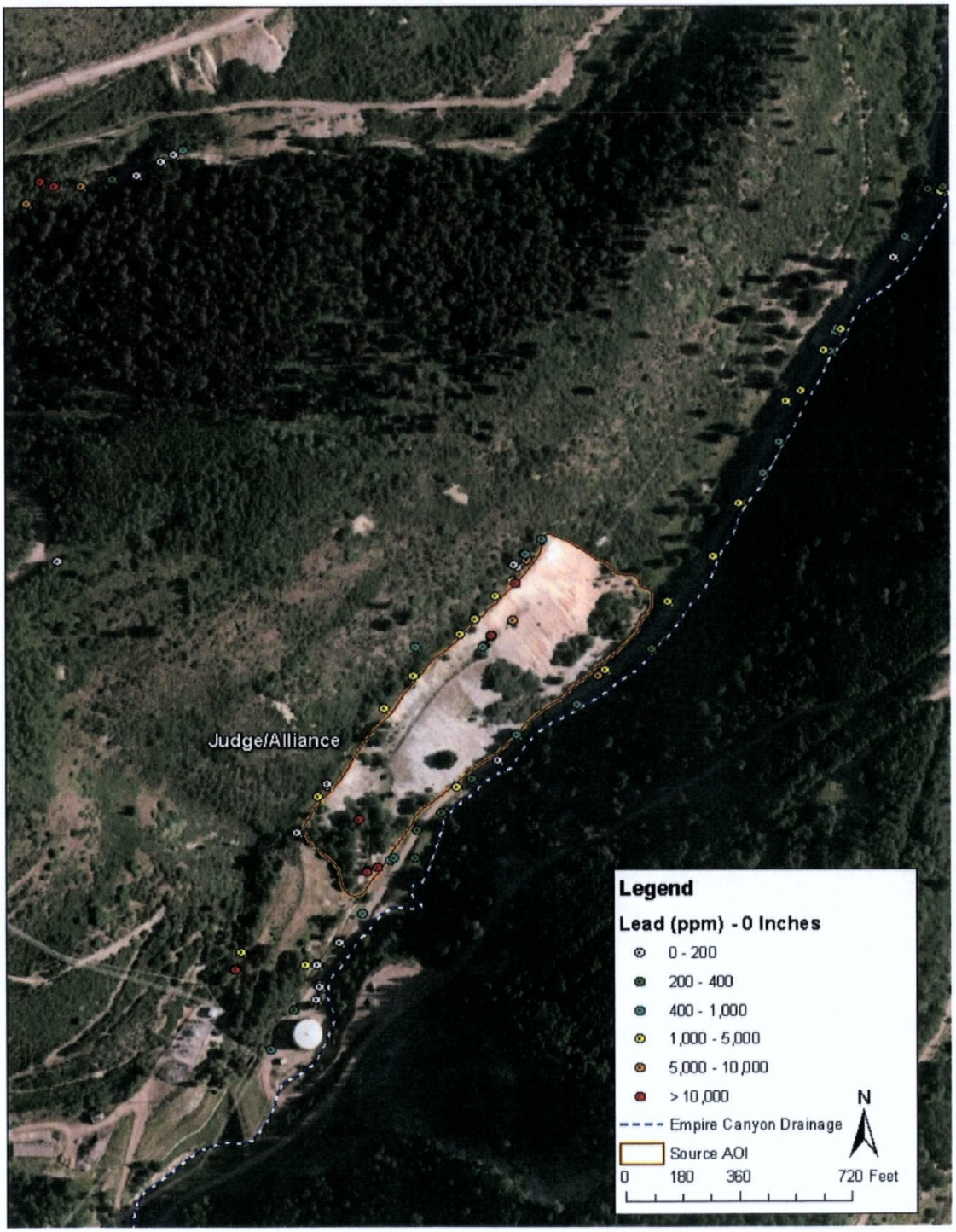
Soil lead concentrations at the surface in the Ontario Mine Area of Interest (Ontario Canyon)



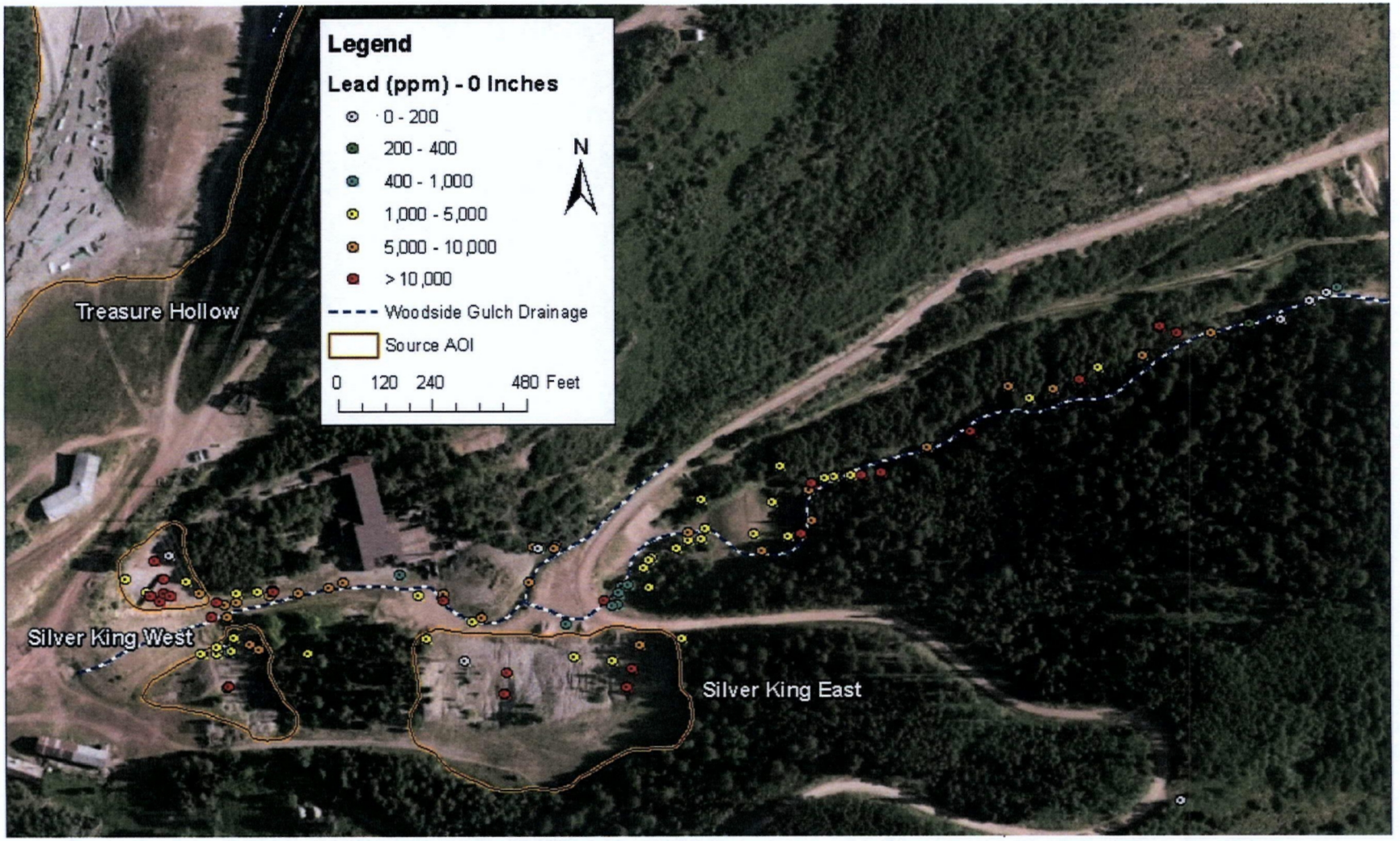
Soil lead concentrations at the surface in the Judge Loading Station, Ontario Tunnel and Ontario Mill Areas of Interest (Ontario Canyon)



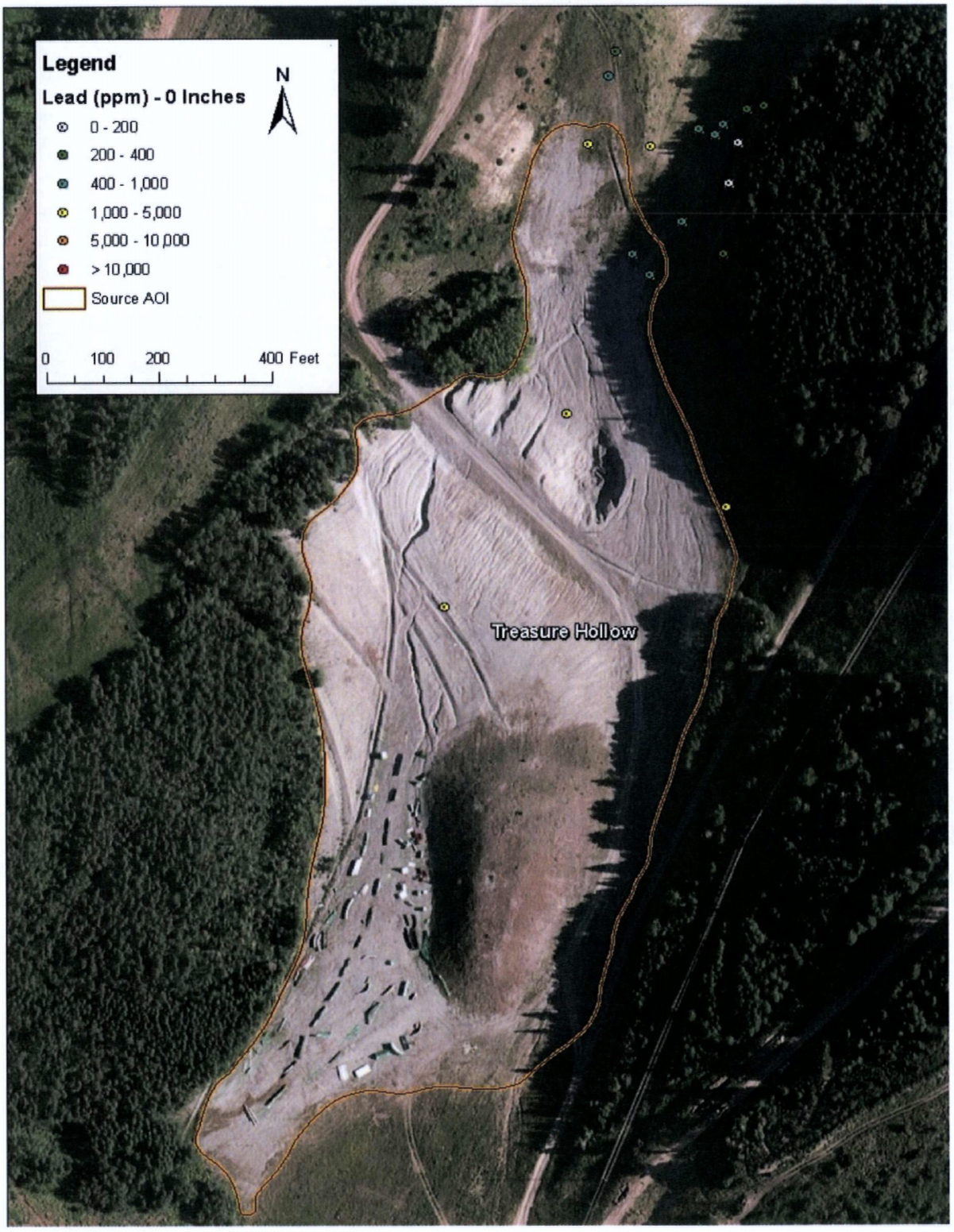
Soil lead concentrations at the surface in the Judge / Alliance waste pile Area of Interest (Empire Canyon)



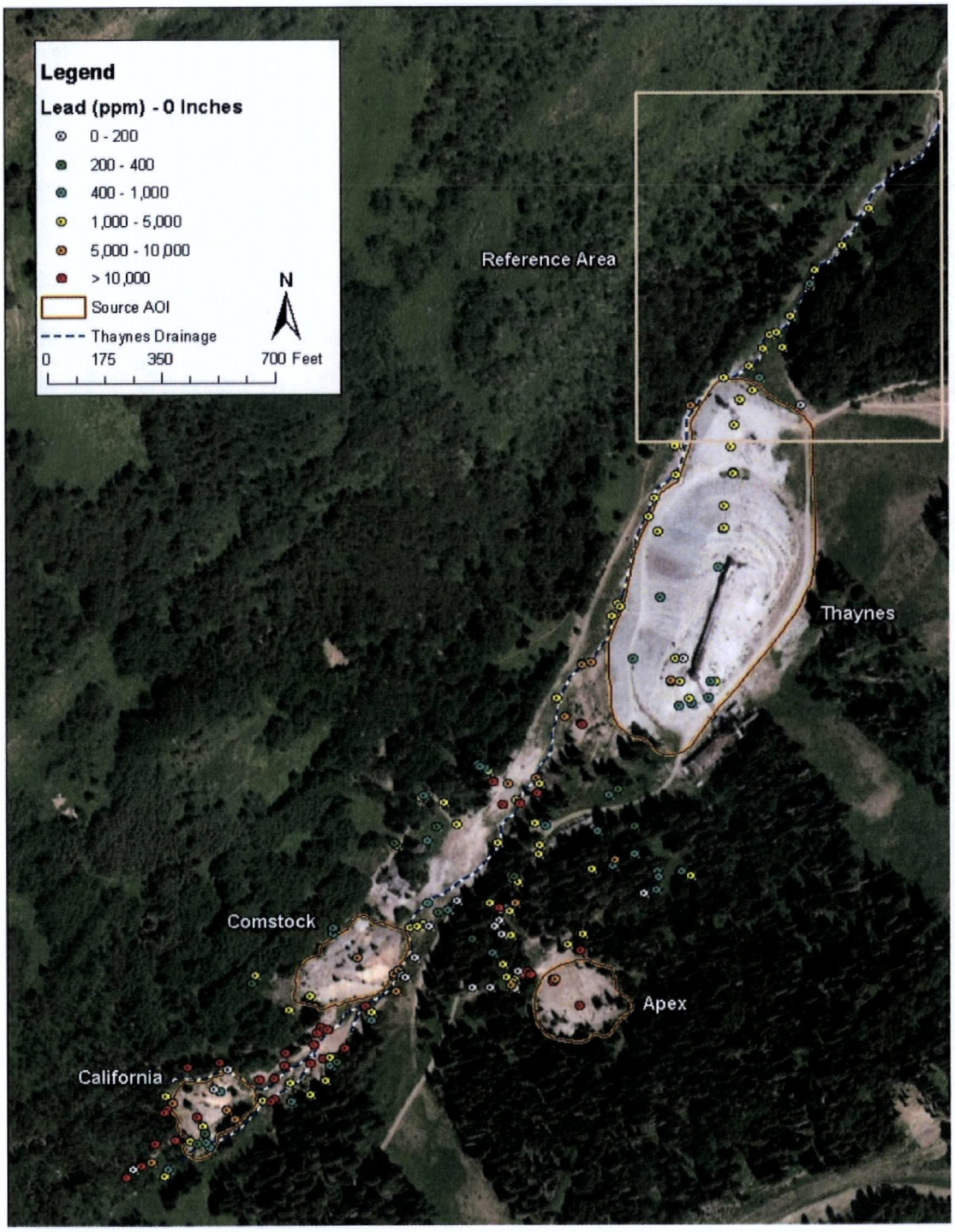
Soil lead concentrations at the surface in the Silver King Mine and Mill Areas of Interest (Woodside Gulch)



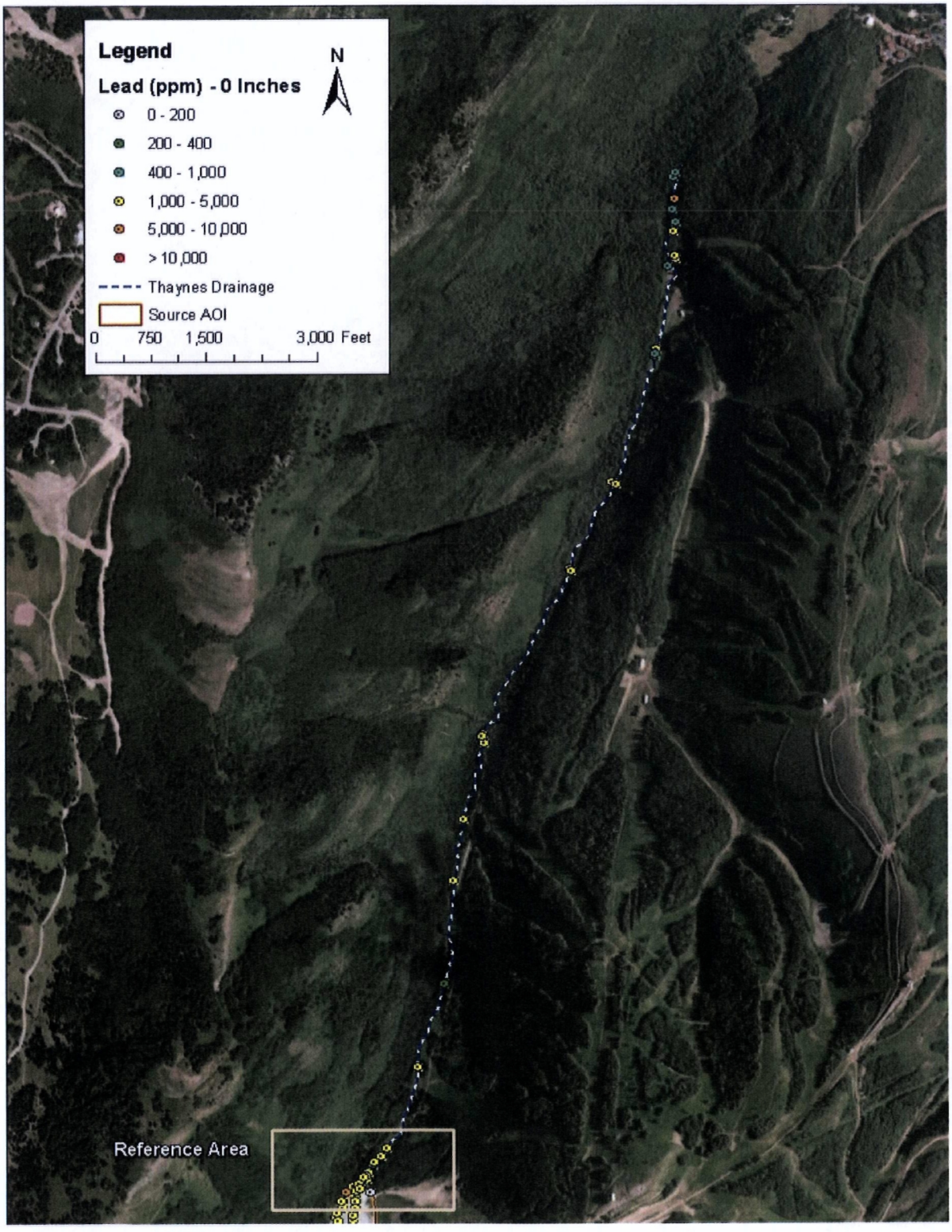
Soil lead concentrations at the surface in the Treasure Hollow waste pile Area of Interest



Soil lead concentrations at the surface in the California Mine, Comstock Mine, Apex Mine and Thaynes Shaft Areas of Interest (Thaynes Canyon)



Soil contamination downstream of mining features in Thaynes Canyon



Erosion and disturbance of contaminated soil at the Thaynes Shaft waste pile

B. Other Actions to Date

1. Previous Actions

In 2014 at the request of EPA's Site Assessment Program, EPA's Response Unit evaluated residential properties near the location of the historic Marsac Mill where sampling data collected during a volunteer cleanup of the mill indicated that the soil in the area may be contaminated. EPA found that the soil in this neighborhood has likely been impacted by historic mining activities but that a traditional yard-by-yard removal of this material is not practical due to the general steepness and small size of the properties in the area.

After consultation with the Utah Department of Environmental Quality (UDEQ) and the Municipality of Park City (Park City) regarding the scarcity of information and lack of existing remedial efforts in other locations, EPA's Response Unit also evaluated soil conditions at the Treasure Mountain Junior High School and associated recreation areas. EPA found that the surface cover at the school was protective and intact but that contamination exists below this cover.

2. Current Actions

The Park City School District is currently planning major renovations to the Treasure Mountain Junior High School property. EPA will evaluate the need for response action once these plans have been finalized.

C. State and Local Authorities' Role

1. State and Local Actions to Date

State and local authorities have reviewed existing information, helped identify residential areas of interest and otherwise provided assistance wherever possible. Park City, Summit County, and the Utah Department of Environmental Quality are consulting with EPA to determine how best to address the elevated soils in the Marsac neighborhood as well as other residential areas. Options include providing educational and/or disposal assistance to property owners.

2. Potential for Continued State/Local Response

State and Local entities do not have the resources nor the authority to conduct this removal action.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

Conditions at the Site present a threat to public health and the environment, and meet the criteria for initiating a removal action under 40 CFR 300.415(b)(2) of the NCP.

EPA has considered all the factors described in 40 CFR 300.415(b)(2) of the NCP and determined that the following factors apply at the Site.

(i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, or pollutants or contaminants.

Contaminated soils exist at the Site in areas that are regularly accessed by hikers and bikers.

(iv) High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface that may migrate.

The results of EPA's removal assessment show that high levels of contamination exist at or near the surface and that this contamination has and will continue to migrate if it is not addressed.

(v) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released.

Park City experiences substantial snowmelt runoff during the annual spring thaw. This runoff as well as rain on snow events and intense summer thunderstorms have the potential of increasing the rate of migration of contaminated material.

(vii) The availability of other appropriate federal or state mechanisms to respond to the release.

Local and state governments do not have the capability to conduct the action in a timely manner.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances from this Site, if not addressed by implementing the response action described in this Action Memorandum, may present an imminent and substantial endangerment to public health, or welfare, or the environment.

V. EXEMPTION FROM STATUTORY LIMITS

Not applicable.

VI. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed Action Description

United Park City Mines (UPCM), consistent with an Administrative Order on Consent (AOC) with EPA, will create or construct erosion control features at the Site to address the downstream migration of contaminated sediments at the Site.

Primary and secondary runoff channels will be directed around waste piles, stabilized and/or otherwise improved. Waste piles will be re-contoured and berms and terraces will be constructed to control erosion. The majority of excess soil generated during the construction of these erosion control features will be consolidated and capped in-situ. Some material (approximately 1000 cubic yards from Ontario Canyon and Empire Canyon) may be transported to the existing repository at Richardson Flat. Special consideration will be given to protecting existing vegetation and bare areas will be re-vegetated to the extent practicable.

UPCM will establish appropriate post-removal site control measures to maintain the erosion control features including vegetation at the Site.

2. Contribution to Remedial Performance

This effort will, to the extent practical, contribute to any future remedial effort at the Site. However, no further federal action is anticipated at this time.

3. Engineering Evaluation/Cost Analysis

An EE/CA is not required for a time-critical removal action.

4. Applicable or Relevant and Appropriate Requirements (ARARs)

This Action Memorandum addresses the proposed time-critical removal action at the Uintah Mining District Site. Lead is the principal contaminant of concern. Removal actions conducted under CERCLA are required, to the extent practicable considering the exigencies of the situation, to attain ARARs. In determining whether compliance with an ARAR is practicable, EPA may consider appropriate factors, including the urgency of the situation and the scope of the removal action to be conducted. A table containing potential Site-specific ARARs is provided as Exhibit B.

5. Project Schedule

Due to characteristically cold and snowy winters and a limited summer construction season at the Site, the erosion control features will be constructed over two construction seasons. The erosion control features in Ontario Canyon and Empire Canyon will be completed by the fall of 2015. The erosion control features in Thaynes Canyon, Woodside Gulch and Treasure Hollow will be completed by the fall of 2016.

B. Estimated Costs

EPA's costs for this PRP-led removal action, estimated to be $48,000, will be limited to project oversight. EPA direct and indirect costs, although cost recoverable, do not count toward the Removal Ceiling for this removal action. Liable parties may be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA.

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

A delay in action or no action at this Site would increase the actual or potential threats to the public health and/or the environment.

VII. OUTSTANDING POLICY ISSUES

None.

VIII. ENFORCEMENT

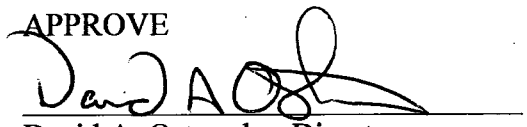
A separate Enforcement Addendum has been prepared providing a confidential summary of current and potential future enforcement activities.

IX. RECOMMENDATIONS

This decision document represents the selected removal action for the Uintah Mining District Site in Summit County, Utah, developed in accordance with CERCLA as amended, and is not inconsistent with the NCP. This decision is based on the administrative record for the Site.

Conditions at the Site meet the NCP section 300.415(b) criteria for a removal action and I recommend your approval of the proposed removal action. EPA's costs for this PRP-led removal action, estimated to be $48,000, will be limited to project oversight which is subject to reimbursement.

APPROVE



David A. Ostrander, Director
Emergency Response and Preparedness Program

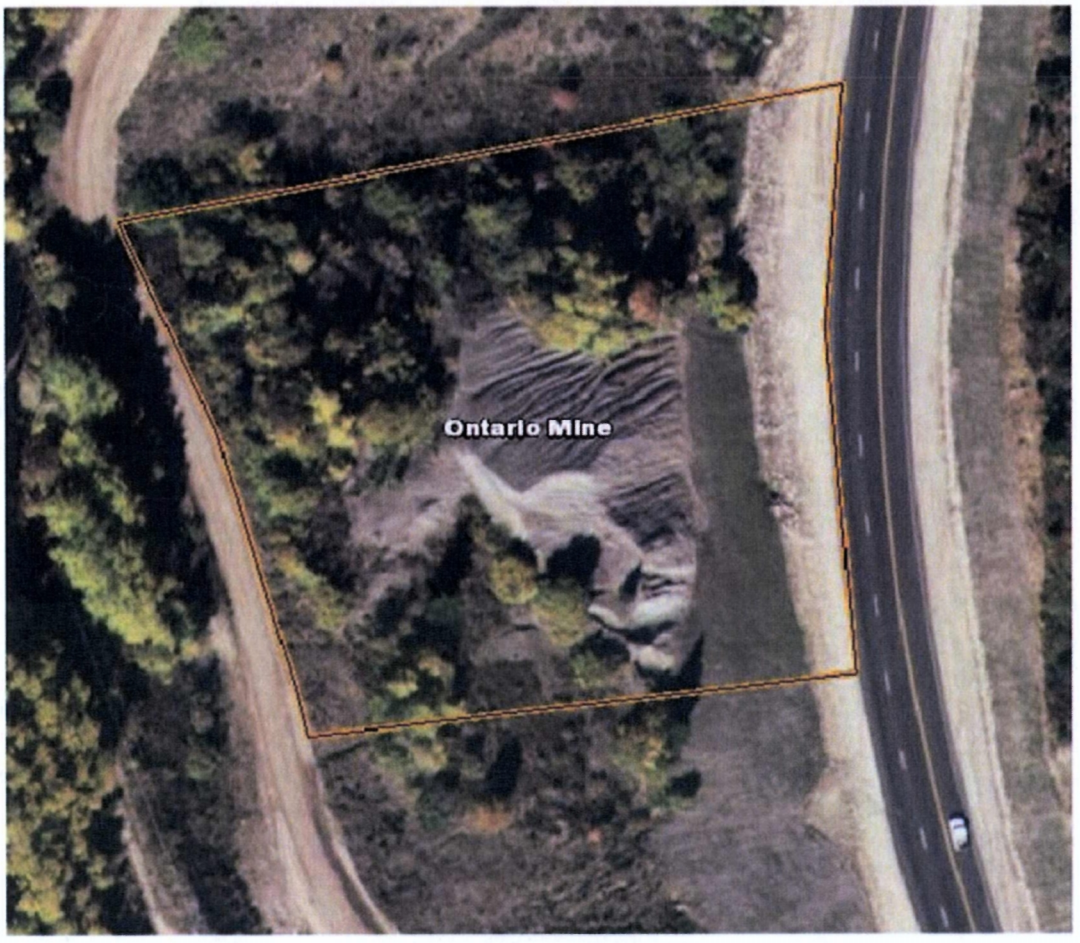
9/10/2015
Date

DISAPPROVE

_____
David A. Ostrander, Director
Emergency Response and Preparedness Program

_____
Date

Exhibit A: General Site Boundaries



Site Boundary

Exhibit A
Page 1 of 6

Site Boundary

Exhibit A
Page 2 of 6

Site Boundary

Exhibit A
Page 3 of 6

Exhibit A
Page 4 of 6

Site Boundary

Site Boundary

Exhibit A
Page 5 of 6

Site Boundary

Exhibit A
Page 6 of 6

Attachment 1: Applicable or Relevant and Appropriate Requirements (ARARs)

Standard, Requirement, Criteria, or Limitation	Citation	Description	Applicable or Relevant and Appropriate	Comments
FEDERAL				
National Historic Preservation Act	16 USC § 470 et seq., 30 CFR Part 63, Part 65, Part 800	Regulates impacts to historic places and structures	Applicable	This removal action is limited in scope. Applicable if impacts to historic structures occur. Will be complied with to the extent practicable.
The Historic and Archaeological Data Preservation Act of 1974	16 USC 469	Protects sites with archeological significance	Applicable	This removal action is limited in scope. Applicable if impacts to places of archeological significance occur. Will be complied with to the extent practicable.
Historic Sites Act of 1935, Executive Order 11593	16 USC §§ 461 et seq.	Regulates designation and protection of historic places	Applicable	This removal action is limited in scope. Applicable if impacts to historic places occur. Will be complied with to the extent practicable.

STATE				
Utah Air Quality Rules	UAC R307-205-5	Addresses fugitive dusts from construction activities greater than a quarter-acre in size.	Relevant and Appropriate	To be complied with to the extent practical considering the exigencies of the removal action.
Utah Air Quality Rules	UAC R307-205-8	Specifically describes the proper management of fugitive dusts, construction activities, and roadways associated with tailings piles and ponds.	Applicable	To be complied with to the extent practical considering the exigencies of the removal action.
Utah Water Quality Rules	UAC R317-8-7	Defines UPDES permit requirements for Storm Water Discharges associated with a small construction activity and insures stormwater discharges from the site do not pollute waters of the state.	Relevant and Appropriate	To be complied with to the extent practical considering the exigencies of the removal action.
Archeological and Historical Preservation	Utah Code Section 9-8-307 (notification), and Section 9-8-309 (procedures) UAC R455-4	Addresses disturbance of human remains, including ancient remains, on lands under State jurisdiction.	Applicable	Applicable if human remains, scientific, historic, and archaeological artifacts are identified. To be complied with considering the exigencies of the removal action to the extent practical.

APPENDIX B

PARK CITY MOUNTAIN RESORT

UINTAH MINING DISTRICT SITE

POST-REMOVAL SITE CONTROL PLAN

Prepared by:

VR CPC Holdings, Inc.

Doing Business As

Park City Mountain Resort

September 2024

TABLE OF CONTENTS

LIST OF FIGURES

LIST OF TABLES

I. Purpose

VR CPC Holdings, Inc., doing business as Park City Mountain Resort ("PCMR") has voluntarily prepared this Post-Removal Site Plan ("PRSP") as part of a Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") liability dispute resolution with the Environmental Protection Agency ("EPA"). The PRSP is intended to specify the site management obligations PCMR will implement to maintain or protect the Uintah Mining District Site ("UMDS") areas United Park City Mines ("UPCM") and EPA remediated between 2018 and 2023 that are within PCMR's leased operations.[1]

II. Scope

The scope of this PRSP defines the areas PCMR will maintain and protect from erosion to prevent further releases of hazardous substances:

1) Thaynes Canyon: The approximately 4.5-acre area improved by UPCM and EPA including revegetation, construction of berms (x4), installation of water bars (x14), redefined drainage ditches (x1), excavated stream channels (x1), and excavated sediment basins (x3).
2) Treasure Hollow: The approximately 14-acre area improved by UPCM and EPA, including revegetation, construction of berms (x1), and installation of water bars (x17).

These areas are shown on Figures 1 through 4.

III. Maintenance Requirements

PCMR will monitor the erosion control features constructed or installed, and repair or rebuild features, as needed, if they are not functioning in accordance with commercially reasonable control practices. Snowmelt at the Bonanza Chairlift is controlled to direct runoff into established channels and minimize impact to the drainage features in Woodside Gulch.

PCMR will begin inspections after the winter operating season when sufficient snow cover has melted, mountain access roads are dry, and it is safe to access the site, but no later than July 1. PCMR will perform inspections every two weeks through October 31 and after each rain event producing 0.5 inches of rainfall (the 2-year, 1-hour rainfall event per National Oceanic and Atmospheric Administration Precipitation Frequency tables for Utah). Inspections will be documented using the form in Table 1. Necessary repairs or maintenance will be tracked by the Environmental Compliance Team via Vail Resorts' internal compliance management software.

If erosion control or drainage management features require repairs, PCMR will attempt to address within 6-months of observation. Rilling or erosion will be hand raked, or a mini excavator or skid steer will be used to repair the impacted area. If additional soil or rock

[1] Areas outside the boundaries of the lease and not included in this Work Plan include Woodside Gulch, Daly, Ontario 3, and the Judge Loading Station.

material is necessary, PCMR will import clean materials to apply to the impacted area. Once repaired, PCMR will revegetate, if necessary, using an approved weed-free and invasive-free seed mix. Additional stormwater management and erosion control measures will be installed, as needed, to prevent further impacts.

PCMR will also install signage in the following areas to prevent inadvertent disturbance of the remediated areas.

A. Thaynes Canyon: PCMR will install signage at reasonable intervals adjacent to the remediated area indicating the area is a remediated site undergoing revegetation and must not be disturbed (depicted in Figure 5; signage location will be determined in the field). Signage will remain in-place during the winter unless it is a hazard for skiers. Signage will be inspected after the winter operating season when sufficient snow cover has melted and mountain access roads are dry to access the site.

IV. Treasure Hollow Home Run Access Road

PCMR will also install T-posts connected with high-visibility rope on both sides of Home Run Road from the intersection with Drift Road until it exits the remediated area. Signage will also be installed at approximately 100-foot intervals along Home Run Road on the eastern edge of the remediated area (as shown in Figures 6 and 7). Signage will indicate the area is a remediated site undergoing revegetation and must not be disturbed. Signage will likely be removed prior to the winter due to skier hazard. Removed signage will be re-installed after the winter operating season when sufficient snow cover has melted and mountain access roads are dry to access the site.

EPA identified that Home Run access road was only designed for light-weight vehicle traffic. PCMR will improve Home Run access road to enable heavy equipment and frequent vehicle traffic. Improvements will include adding road base sufficient for heavy-equipment and frequent vehicle traffic. This work will commence in Fall 2024. Prior to large capital projects (e.g., lift replacement or construction or snowmaking line replacement), PCMR will install an additional 1 to 2 inches of road base due to the likely higher frequency of heavy vehicle traffic.

V. Treasure Hollow Snowmaking Line Maintenance

Prior to the winter season, Snowmaking must access hydrant locations inside the revegetated area using trucks or other all-terrain vehicles. PCMR will only access the hydrant locations with vehicles when soil moisture is below the plastic limit, or protected by at least 1 foot of packed snow or 2 inches of frozen soil. Soil moisture exceeds the plastic limit if the soil can be rolled into 3mm threads without breaking or crumbling.

In the event snowmaking pipe must be repaired or replaced, Snowmaking teams will minimize excavation to the maximum extent practicable to the required trench width to perform the repairs. If contaminated soil is encountered, PCMR will temporarily stockpile the soil on 10-millimeter-thick plastic sheets, cover the soil overnight to prevent releases from stormwater,

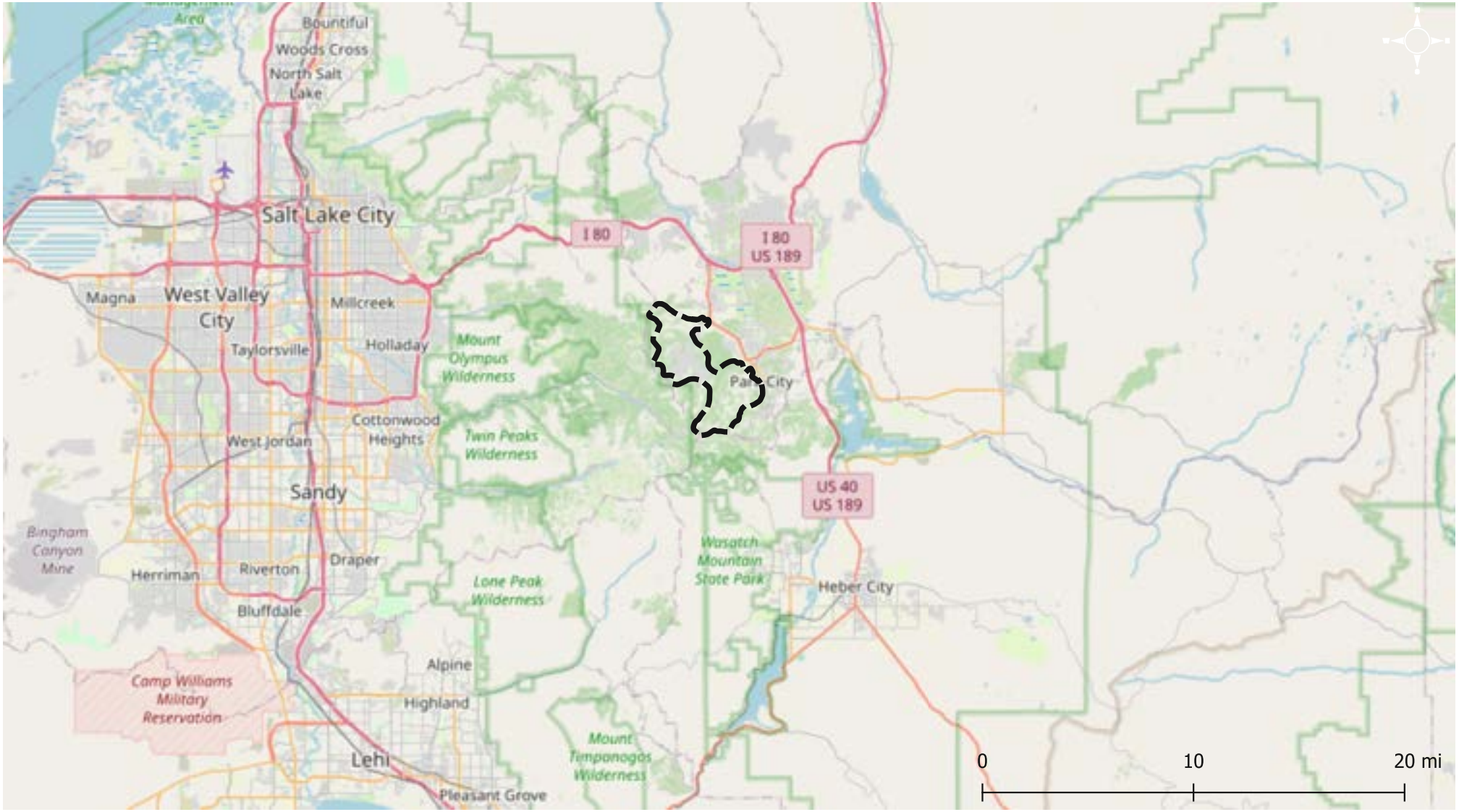
and install control measures on the downhill side of the stockpile. After snowmaking pipe repairs/replacements are complete, PCMR will place orange or yellow marking tape designating the boundary of the capped contaminated soil and clean fill surrounding the snowmaking pipe. This tape will be georeferenced to avoid impacting the cap in the future. Once complete, PCMR will backfill with recovered clean fill from original trenching and import any additional clean fill required to return to original grade. PCMR will revegetate the trenched area using an approved weed-free and invasive-free seed mix. Stormwater management and erosion control measures will be installed, as needed, to prevent further impacts.

Table 1. Inspection Checklist

Inspector Name:		
Inspection Date:		
Photos Taken (Y/N):		
If yes, paste photos into the photolog table on the next page.		
Maintenance Requirement	**Status (Installed, Good Condition, Repairs Required)**	**Description of Repairs Required (N/A if status is Installed or Good Condition)**
THAYNES CANYON		
Assess the condition of the water bars (e.g., are they filled with sediment or overly eroded; are the banks stable or eroding)		
Assess the condition of the berms (e.g., is the berm vegetated and stable or eroding and in need of repair)		
Assess the condition of the drainages (e.g., is the drainage showing signs of erosion or undercutting along its banks, or severe incising)		
Assess the revegetated area (e.g., are there signs of rilling/erosion; are there areas where vegetation is not growing and alternative stabilization is needed)		
Assess the sediment basin (e.g., is the sediment basin full and in need of excavation to increase capacity; are there signs of chemical or other materials accumulating in the sediment basin)		
Assess the condition of the rock lined drainage (e.g., is the rock accumulating too much sediment		

Inspector Name:		
Inspection Date:		
Photos Taken (Y/N):		
If yes, paste photos into the photolog table on the next page.		
Maintenance Requirement	**Status (Installed, Good Condition, Repairs Required)**	**Description of Repairs Required (N/A if status is Installed or Good Condition)**
TREASURE HOLLOW		
Assess the condition of the water bars (e.g., are they filled with sediment or overly eroded; are the banks stable or eroding)		
Assess the condition of the berm (e.g., is the berm vegetated and stable or eroding and in need of repair)		
Assess the revegetated area (e.g., are there signs of rilling/erosion; are there areas where vegetation is not growing and alternative stabilization is needed)		
Assess the condition of Home Run Access Road (e.g., are road repairs needed; is additional road base needed; does the road need resurfacing)		

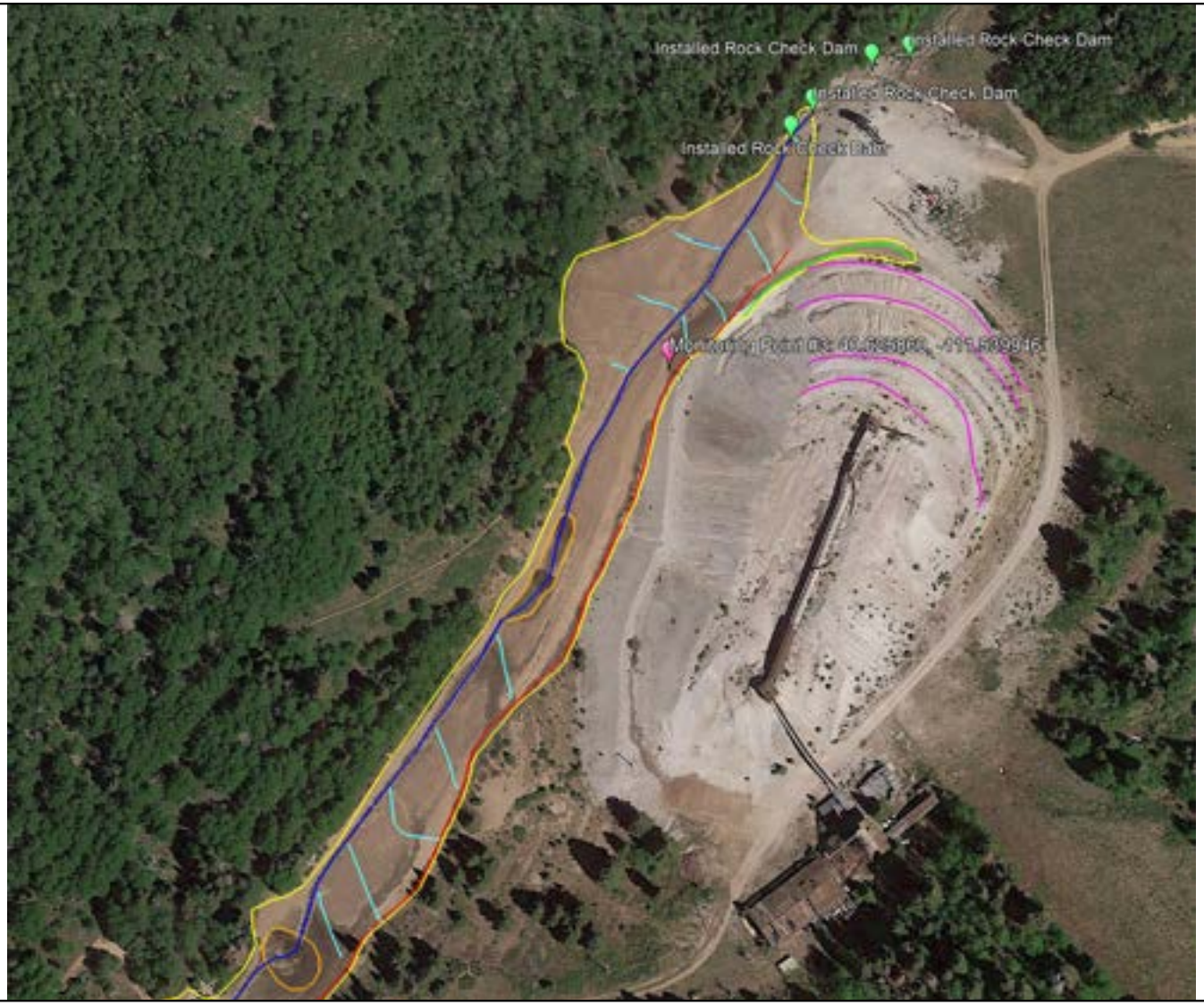
Photo (copy and paste each photo to a different line in the table)	Latitude, Longitude (insert the geolocation of the photo in decimal degrees)	Photo Caption (provide a brief explanation of what was captured in the photo)



Park City Mountain Resort Post-Removal Site Plan	Figure 1. Overview Location Map	Drafted by: Jon Kimchi Date: 09/11/2024 Version: 4

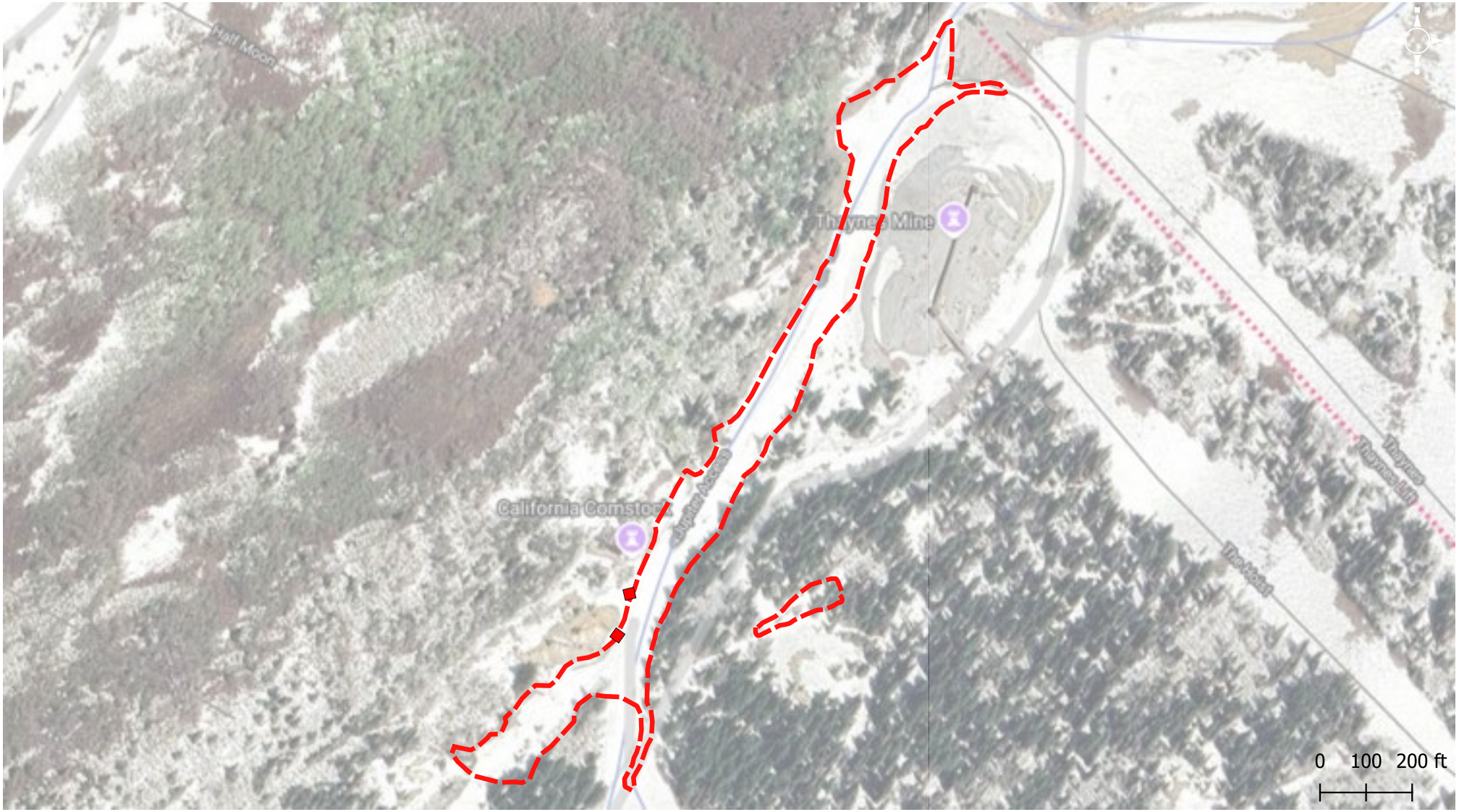
Park City Mountain Resort Post-Removal Site Plan	Figure 2. Management Areas Overview Map	Drafted by: Jon Kimchi Date: 09/11/2024 Version: 4

Park City Mountain Resort Post-Removal Site Plan	Figure 3a. Thaynes Canyon Improvements	Drafted by: United Park City Mines Company Date: 10/2018 Version: Unknown

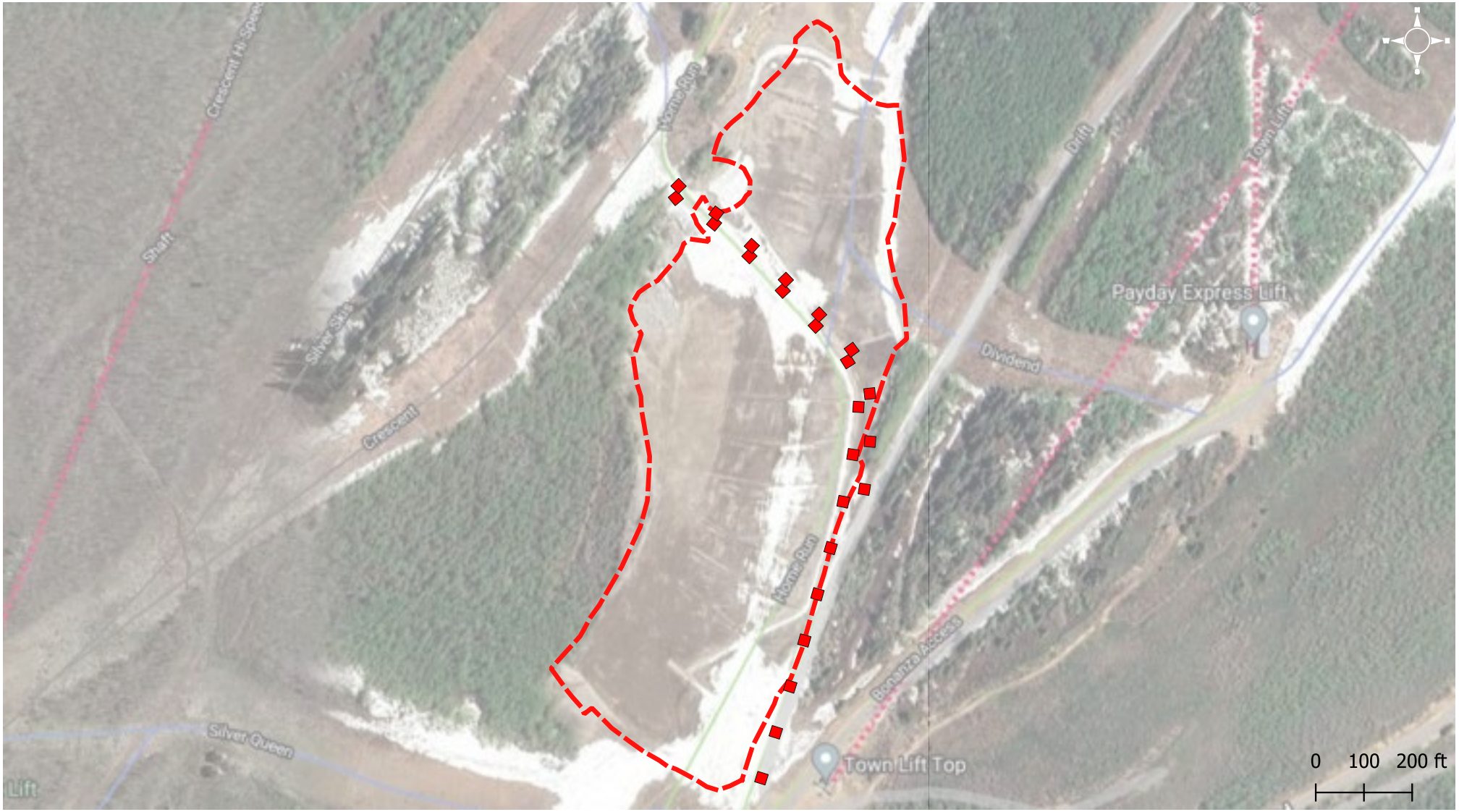


Park City Mountain Resort Post-Removal Site Plan	Figure 3b. Thaynes Canyon Improvements	Drafted by: United Park City Mines Company Date: 10/2018 Version: Unknown

Park City Mountain Resort Post-Removal Site Plan	Figure 4. Treasure Hollow Improvements	Drafted by: United Park City Mines Company Date: 10/2018 Version: Unknown



Park City Mountain Resort Post-Removal Site Plan	Figure 5. PCMR Proposed Post-Closure Management Area - Thaynes Canyon	Drafted by: Jon Kimchi Date: 09/11/2024 Version: 4



Park City Mountain Resort Post-Removal Site Plan	Figure 6. PCMR Proposed Post-Closure Management Area - Treasure Hollow	Drafted by: Jon Kimchi Date: 09/11/2024 Version: 4

Park City Mountain Resort Post-Removal Site Plan	Figure 7. Home Run Access Road Improvement	Drafted by: Jon Kimchi Date: 09/11/2024 Version: 4

APPENDIX C

Treasure Hollow Area Removal Work Plan

1 Project Overview

This work plan outlines the measures that will be implemented in the Treasure Hollow Area, specifically the stabilization of two eroded channels and the capping of a resort access road. Additionally, it includes post-removal site controls to address potential erosion issues in the Thaynes Canyon and Treasure Hollow Areas due to resort activities and natural events. All activities will be performed in compliance with the Health and Safety Plan to minimize employee, guest, and community impacts.

2 Removal Work in Treasure Hollow

2.1 Stabilization of Eroded Channels:

- Objective: Stabilize two eroded channels on the north side of the waste repository, located east of the culvert.
- Method: Use a combination of regrading, revegetation, and the installation of erosion control materials (e.g., geotextiles, riprap) to stabilize the channels and prevent further erosion.

2.2 Capping of Resort Access Road:

- Objective: Improve Home Run access road to enable heavy equipment and frequent vehicle traffic.
- Method: Install additional road base sufficient for heavy-equipment and frequent vehicle traffic and to act as a durable, low-permeability cap over the road to prevent contamination from the waste repository and transport by vehicles or stormwater. This work will commence in Fall 2024.

2.3 Community Impact Mitigation:

- Dust control measures, such as water spraying, will be implemented during earth-moving activities.
- Work will be scheduled to avoid peak resort traffic times, minimizing disruption to visitors. Traffic disruptions will be minimized further by providing clear signage for any temporary detours.
- Noise will be minimized by restricting work to resort operating hours.

2.4 Applicable or Relevant and Appropriate Requirements:

- This work plan will comply with the site-specific ARARs listed in Exhibit B of the U.S. Environmental Protection Agency’s action memorandum dated September 10, 2015 (Document Reference 8EPR-ER).