

**SAN JUAN COUNTY, COLORADO BOARD OF COMMISSIONERS  
TOWN OF SILVERTON BOARD OF TRUSTEES  
MEETING AGENDA**

February 23, 2022

Due to the continuing COVID-19 concerns, San Juan County meetings will be conducted in a hybrid virtual/in-person format. All persons including Board Members, Staff and those with appointments scheduled on the agenda may meet in person or via zoom. At risk participants are strongly encouraged to wear a mask. We encourage community members to participate via zoom. The information necessary to connect to the public meeting is listed below.

**CALL TO ORDER:** 6:30 P.M.

**APPOINTMENTS**

6:35 P.M. Bonita Peak Mining District Superfund Site Consent Decree  
7:00 P.M. San Miguel Power Association-Proposed Road Closures  
7:20 P.M. Willa Williford - S.H.I.P. Pre-Development Assistance Anvil Mountain Subdivision  
7:40 P.M. Gilbert Archuleta – Fire Authority Update  
8:00 P.M. Marcel Gaztambide – Outstanding Waters  
8:20 P.M. Cemetery Fencing Update  
8:40 P.M. OHV Discussion

Other

Adjourn

**Times listed above are approximate.**

**Discussion of an agenda item may occur before or after the assigned time.**

**Next Regular Meeting – March 9, 2022 8:30 A.M.**

Join Zoom Meeting

<https://zoom.us/j/92136473203>

Meeting ID: 921 3647 3203

One tap mobile

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+12532158782,,92136473203# US (Tacoma)

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+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

Meeting ID: 921 3647 3203



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**SAN JUAN COUNTY**

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In re: Gold King Mine Release in San Juan County, Colorado on August 5, 2015,  
D.J. Ref. No. 90-11-3-11676 and No. 90-11-6-20816

The purpose of this correspondence is to comment on the Consent Decree lodged in *In re: Gold King Mine Release in San Juan County, Colorado on August 5, 2015*, MDL no. 1:18-md-02824-WJ and published on 01/28/2022 in the Federal Register, 87 FR 429, Document No. 2022-01584. While the Town of Silverton and San Juan County, Colorado support the Consent Decree generally, this support comes with reservation. In light of the complexity of the geology, the near impossibility of separating anthropogenic impacts from natural loading with precision and the circumstances surrounding the Gold King Spill, we recognize the settlement amount between the parties is appropriate. Our reservation is related to the amount provided by the United States on behalf of the EPA and the allocation of funds, which we believe should be modified based upon the assurances the EPA made to the community in return for San Juan County and the Town of Silverton requesting the NPL and Superfund which is the subject matter of Consent Decree.

## I. BACKGROUND AND SUPPORTING FACTS

The Gold King Incident caused a severe impact upon the Town of Silverton and San Juan County as well as other downstream users. To determine to what extent Sunnyside Gold contributed to the Gold King Spill, millions of dollars and years of litigation could be expended on experts and lawyers. Therefore, we strongly support the consent decree to the point that Sunnyside Gold/Kinross has agreed to commit \$45,000,000 to help mitigate the environmental impacts the Gold King Incident and their tailings impoundments have on the watershed.

However, there should be no argument that the EPA and their contractor were directly responsible for the Gold King Incident and as such should be directly responsible for the adverse impacts that they have inflicted on downstream communities as a result of that incident.<sup>1</sup> The proposed consent agreement provides EPA with the opportunity to acknowledge the adverse

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<sup>1</sup> See House Committee on Natural Resources: EPA, the Department of the Interior, and the Gold King Disaster Report, February 11, 2016. [https://republicans-naturalresources.house.gov/uploadedfiles/animas\\_report\\_with\\_branding\\_searchable.pdf](https://republicans-naturalresources.house.gov/uploadedfiles/animas_report_with_branding_searchable.pdf)

manages this incident has had on the Animas and San Juan River Basins and earmark a portion of the settlement money to better compensate those communities for the adverse impact they created.

Shortly after the Gold King Incident ("GKI") representatives from EPA made assurances that everyone impacted by the spill would be compensated and made whole. Many of those assurances were not honored. The EPA assurances included providing financial support to San Juan County and the Town of Silverton to address community needs for the health, safety and welfare of the community. The negotiation resulted in a negotiated Cooperative Agreement (EX. 1) for a sum certain of \$8,749,135.00

More specifically, in a meeting held in Silverton, Colorado on December 18, 2015, EPA representatives assured TOS/SJC representatives the Cooperative Agreement would be honored but could not be executed until the NPL was established. Establishing the NPL Superfund, required San Juan County and the Town of Silverton submit the request to the Governor. Relying on the financial support promised and acting in good faith, on February 22, 2016, the TOS/SJC submitted the request, which resulted in the NPL listing and the Superfund which is the subject matter of the Consent Decree. In December of 2016, one year after San Juan County/Town of Silverton's NPL request was provided and the Superfund was established, EPA representatives informed the community they would be unable to honor the agreement but would find a way to assist the community. The EPA referred to regulations, funding authority encumbrances and concerns of future litigation in their explanations. The Consent Decree now, for the first time, provides an avenue for the EPA to honor the promises they made to those impacted in the watershed.

The EPA's decision to breach the Gold King portal created serious political damage to San Juan County. Downstream communities accused the county of neglecting their responsibility to address the environmental issues created by the mining industry. There was a public relations campaign accusing the County as being more at fault for the occurrence of the Gold King spill than the EPA because we had failed to ask for superfund designation prior to the incident, in reality, the County for decades supported the remediation work of the Animas River Stakeholders Group<sup>2</sup> and of Sunnyside Gold. More than sixty mine remediation projects were completed prior to the Superfund Designation. If measured, more improvement in the Animas River Watershed was accomplished by the Animas River Stakeholders Group in the twenty years prior to the superfund designation than in the years following designation for a fraction of what has been spent by the EPA since the GKI. The divisive campaign resulted in downstream users threatening to use their political clout to urge the Governor to request superfund designation regardless of our concerns and issues. If that outside pressure had not been directed at us, we would not have been rushed into requesting the superfund listing and would have been able to address and negotiate the concerns and issues that the listing would create.

The National and International press presented an orange toxic river to the world. The picture of the three kayakers in the orange Animas provided a lasting impression.<sup>3</sup> That same picture gets presented every time the issue of the Gold King or Bonita Peak Mining District makes the news. The Washington Post even reviewed a spicy chicken sandwich comparing the color of the

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<sup>2</sup> Jonathan Romero, *Animas River Stakeholders disband after 25 years of cleanup efforts*, Durango Herald, August 29, 2019. <https://www.durangoherald.com/articles/animas-river-stakeholders-disband-after-25-years-of-cleanup-efforts/>

<sup>3</sup> Shane Benjamin, *Durango kayaker reacts to Animas River photo that went viral*, Durango Herald, August 9, 2015. <https://www.durangoherald.com/article/20150809/NEWS01/150809571/Durango-kayaker-reacts-to-Animas-River-photo-that-went-viral/>

sandwich to the color of the Animas River. It has had an adverse impact upon our tourist-based economy. The Animas River is located in a designated scenic corridor and the Durango and Silverton Narrow Gauge Railroad is parallel to the river. The orange stained banks of the river detract from the magnificent scenery of the canyon.

Downstream commercial business and agriculture were impacted by the spill, fishing and rafting guides were unable to operate in the orange waters of the Animas. Farmers of the Navajo Nation struggled to sell their crops that were watered from the Animas. The EPA needs to be responsible for those financial losses.

## II. LEGAL AGREEMENT

On August 5, 2015, the Gold King Spill occurred. In response to the GKI, the Town of Silverton and San Juan County, Colorado (“TOS/SJC”) began meeting with downstream communities and with representatives of the Environmental Protection Agency (“EPA”). Over the months which followed, TOS/SJC representatives, including legal counsel, negotiated a Cooperative Agreement with EPA representatives. The Cooperative Agreement provided assurances to San Juan County and the Town of Silverton concerning the health, safety and well being of the community. These assurances were offered and negotiated in consideration for the TOS/SJC requesting the State of Colorado submit a request to the EPA to place specific sites in the mining district on the National Priority List.

In December of 2015, the Cooperative Agreement was finalized between the parties and discussions were related to whether the TOS/SJC NPL request needed to precede the Cooperative Agreement. (**See Exhibit 1**). In a meeting held in Silverton, Colorado on December 18, 2015, EPA representatives assured TOS/SJC representatives the agreement would be honored, but could not be executed until the NPL was established. Establishing the NPL Superfund, required San Juan County and the Town of Silverton submit the request the Governor. Acting in good faith, on February 22, 2016, the TOS/SJC submitted their NPL request (EX. “2”) which incorporated the following:

The purpose of this letter is to request that the State of Colorado make a request to the EPA that the Bonita Peak Mining District Site as defined by the EPA’s attached list of specific properties from which, according to data already gathered, discharges may be adversely affecting water quality on the Animas River, be added to the National Priority List thereby making it eligible for funding under Superfund. As part of this request, we ask that you work closely with us to ensure the EPA addresses the points in Exhibit A. We understand that some of the points cannot be addressed until after a listing is obtained but we are depending on you to continue to stand with us throughout this process.

Of significance, Ex. A included reference to the Cooperative Agreement,

6. EPA will authorize and fund, via a Cooperative Agreement, Community Assistance (CAG) Grants or otherwise, financial assistance to the Town and County to enable them to meaningfully participate in all activities related to

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<sup>4</sup> Maura Judkis, *KFC’s Cheetos chicken sandwich looks toxic and tastes like a missed opportunity*. Washington Post, July 17, 2019. <https://www.washingtonpost.com/news/voraciously/wp/2019/07/17/kfcs-cheetos-chicken-sandwich-looks-toxic-and-tastes-like-a-missed-opportunity/>

the site and to address all impacts caused by the Gold King incident, the Superfund listing and cleanup including reimbursement to Town and County for expenses incurred from and after August 5, 2015. Because, unlike the usual Superfund site, the Gold King spill was caused by the EPA's contractor and thus the EPA bears financial responsibility for all consequences of that spill, the scope of this assistance is intended to be considerably broader than typical for Superfund listings and to cover all expenses reasonably stemming from the Gold King incident, the listing process and all post-listing costs including housing, legal assistance, additional manpower needs, etc. (Exhibit "TOS/SJCLTR", Ex A, ¶6).

On February 29, 2016, then Governor Hickenlooper, submitted the State of Colorado's request to the EPA Region 8 Administrator Shaun McGrath. (EX. 3). The State of Colorado's letter stressed "...the importance that the EPA do all that it can to address the concerns raised by the Silverton and San Juan County officials in their February 22, 2016 letter (attached). I share many of their concerns"

The TOS/SJC representative negotiated the agreement in order to protect the community from both direct and indirect impacts the NPL would have on the community and economic activity. The following mutual interests are included in the agreement: improved levels of services and operations; ensure future adequate planning and preparedness; provide improvement to public safety; monitor and mitigate public health and environmental concerns; promote local economic health; and provide accurate documentation and record keeping of events and manage cost recovery and compliance records. The community has carried the burden of these activities, remained without the capacity to apply for and obtain critical resources, and missed out on the opportunities due to the Superfund Designation and the lack of support promised. In sum, the community has experienced real costs and missed opportunities for maintaining the local infrastructure and health and safety services, which would have been mitigated if EPA would have fulfilled their promise.

### III. PURPOSE OF THE SETTLEMENT

By entering into this Consent Decree, the mutual objective of the Parties is for Settling Defendants and Settling Federal Agencies each to make a cash payment to resolve finally their alleged civil liability, and the liability of Settling Defendants' Related Parties, with regard to the Site under CERCLA, CWA, and RCRA as provided in the Covenants by Plaintiffs in Section VIII, subject to the Reservations of Rights by United States and the State in Section X, and as provided in the Covenants by Settling Defendants in Section IX and the Effect of Settlement/Contribution Protection in Section X. (Consent Decree).

According to the Proposed Consent Decree;

"Site" will mean the Bonita Peak Mining District Superfund Site in San Juan County, Colorado, EPA Docket ID No. EPA-HQ-OLEM-2016-0152, as published in the Federal Register on September 9, 2016, 81 Fed. Reg. 62397. The definition for this Site will be construed to include all areas of the Site ever defined or described by EPA for purposes of or in relation to the National Priorities List, 40 C.F.R. Part 300, including any further expansion of such Site as may in the future be determined by EPA. *Id.*

The provision providing the definition, including any further expansion of such Site as may in the future be determined by EPA, in essence, allows the agency to identify any property owner within San Juan County as a Potential Responsible Party. Moreover, the EPA has declared "the boundaries of the BPMD site have not been determined, may "potentially [extend] to wherever contamination from these sources comes to be located," and "will be determined based on investigation regarding the extent of the release and the risks posed by the release."<sup>5</sup>

#### IV. AUTHORITY SUPPORTING MODIFICATION AND RIGHT OF INTERVENTION

Concerning consent decrees, the Supreme Court explained that a court cannot lend its imprimatur to a settlement unless:

(1) it "spring[s] from and serve[s] to resolve a dispute within the court's subject matter jurisdiction"; (2) it "come[s] within the general scope of the case made by the pleadings"; and (3) furthers the objectives upon which the complaint was based. *Local No. 93, Int'l Ass'n of Firefighters v. Cleveland*, 478 U.S. 501, 525-26, 106 S.Ct. 3063, 3077, 92 L.Ed.2d 405 (1986) (citations omitted).

The United States Supreme Court has made clear that there is no prohibition against consent decrees that exceed the possible bounds of a decision issued directly by the trial court. A consent decree consists of the parties' legal claims in conjunction with the parties' consent, a court is "not necessarily barred from entering a consent decree merely because the decree provides broader relief than the court could have awarded after trial." *Firefighters*, 478 U.S. at 525, 106 S.Ct. at 3077. Non-Settling PRPs have interests sufficient to support intervention as of right. *See United States v. Albert Inv. Co., Inc.*, 585 F.3d 1386 (10th Cir.2009).

San Juan County and the Town of Silverton, to date, have forgone their right to sue and intervene in the interest of moving forward with addressing the cleanup those in the watershed have been anxiously awaiting. However, the community has a significant protectable interest which will be impaired if the modification requested is not incorporated into the Consent Decree, because San Juan County and the Town of Silverton were not adequately represented in this matter.

##### a. Significant Protectable Interest

San Juan County and the Town of Silverton have a "significantly protectable interest," meaning that "(1) it asserts an interest that is protected under the law, and (2) there is a 'relationship' between its legally protected interest and the plaintiffs' claims."

*Lockyer*, 450 F.3d at 440-41 (citation and internal quotation marks omitted). An applicant seeks to intervene to protect their rights to contribution under CERCLA, and to ensure that the consent decree embodies a fair and reasonable allocation of liability. By its plain language, CERCLA provides to a non-settling PRP a statutory right to contribution from other PRPs. Section 113(f)(1) provides that "[a]ny person may seek contribution from any other person who is liable

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<sup>5</sup> See U.S. District Court of New Mexico, Case No. No. 1:18-md-02824-WJ, IN RE: GOLD KING MINE RELEASE IN SAN JUAN COUNTY, COLORADO, ON AUGUST 5, 2015 Doc. 46-3 at 2, ¶ 6.

or potentially liable under section 9607(a) of this title, during or following any civil action under section 9606 of this title or under section 9607(a) of this title." 42 U.S.C. § 9613(f)(1). Courts are instructed to resolve contribution claims by allocating "response costs among liable parties using such equitable factors as the court determines are appropriate." *Id.* Section 113(f)(2), however, makes the right of contribution unavailable against any PRP that enters into an approved settlement with "the United States or a State":

A person who has resolved its liability to the United States or a State in an administrative or judicially approved settlement shall not be liable for claims for contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement. 42 u.s.c. § 9613(f)(2).

The Tenth Circuit has held PRPs have interests sufficient to support intervention as of right. See *United States v. Albert Inv. Co., Inc.*, 585 F.3d 1386 (10th Cir.2009).

#### b. Impairment of Interests

Under Rule 24(a)(2) and § 113(i), an applicant must be situated such that the disposition of the action may, as a practical matter, impair or impede its ability to protect its interests. It is undisputed that "[d]isposition of the present litigation could bar or reduce the monetary value of the contribution claims of the prospective intervenors against the settling PRPs." *Union Elec.*, 64 F.3d at 1167. Non-settling PRPs may be held jointly and severally liable for the entire amount of response costs minus the amount of the settlement. CERCLA §§ 107(a) & 122(h)(4).

#### c. Adequacy of Representation

As prospective intervenors, San Juan County and the Town of Silverton are seeking to protect a financial interest not shared by other citizens in not losing a right to seek contribution from the settling PRPs and in not being subjected to excessive liability for the clean-up. Accord, *Dimond v. District of Columbia*, 792 F.2d 179, 192-93 (D.C. Cir. 1986) As in *Dimond*, the EPA would be shirking its duty were it to advance this narrower interest at the expense of its representation of the general public interest. *Id.* There is no existing party to this litigation who can adequately represent the identified interests of the community.

## V. REQUEST AND CONCLUSION

First, the Town of Silverton and San Juan County, Colorado ("TOS/SJC") requests the Department of Justice increase the Consent Decree funding on behalf of the EPA for \$8,749,135.00 to be provided to San Juan County and the Town of Silverton.<sup>6</sup> If the U.S. and the EPA are unwilling to support this request, the community requests the DOJ support and the District Court of New Mexico Order the

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<sup>6</sup> The Judgment Fund pays court judgments and compromise settlements of lawsuits against the government. Federal agencies may ask the Bureau of the Fiscal Service to pay from the Judgment Fund for court judgments and Justice Department settlements of actual or imminent litigation against the government. <https://fiscal.treasury.gov/judgment-fund/>

transfer of \$8,749,137 of the funds allocated to the EPA into an unencumbered account for the purpose of fulfilling the agreement negotiated between the TOS/SJC and Environmental Protection Agency ("EPA") in December of 2015 the EPA assured the community a negotiated Cooperative Agreement (Ex. 1) in return for the TOS/SJC requesting the State of Colorado request the mining district, subsequently named the Bonita Peak Mining District ("BPMD"), be placed on the National Priority List. The TOS/SJC accepted the EPA's Cooperative Agreement offer and fulfilled their promise to provide the National Priority Listing request in the letter they submitted to the State of Colorado dated February 22, 2016. (Ex. 2).

Second, the TOS/SJC requests the community receive priority in all land transfers. More specifically, approximately 85 percent of San Juan County consists of federally owned lands and land transfers to other governmental entities or non-profits would negatively impact the property tax income. For example, Sunnyside Gold and Kinross provide San Juan County with approximately \$17,583.00 in annual property tax revenue. San Juan County taxpayers are financially responsible for maintaining the roads, providing safety and other services needed on federal public lands where the multi-decadal remedial actions will take place. As it relates to direct private land transfers, we request San Juan County be allowed to place conditions on such transfers to protect access and right of way needs as well as assure all institutional controls and requirements are incorporated into the transfer documentation when applicable to the property.

Third, the TOS/SJC request the Consent Decree foreclose expansion of the Site into the Town of Silverton or within the radius that would impact the availability of financial resources in the boundaries of the Town. Otherwise, the residents of San Juan County are left with the uncertainty the Superfund can consume the remaining private property within the Town of Silverton.

Fourth, the TOS/SJC requests appropriate funds be sought and allocated to an account which can compensate the unsettled tort claims for businesses who suffered damages and would have qualified if not for the EPA claiming their actions were discretionary.

Finally, pursuant to 7003(d) of RCRA, the community requests an opportunity for a public meeting in the Town of Silverton San Juan County, Colorado to present the Consent Decree and respond to questions concerning the allocation of funds.

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Scott Fetchenhier, Chairman  
San Juan County Commissioners

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Shane Fuhrman, Mayor  
Town of Silverton



**TOWN OF SILVERTON AND SAN JUAN COUNTY, COLORADO**  
**U.S. ENVIRONMENTAL PROTECTION AGENCY**  
**COOPERATIVE AGREEMENT FOR GOLD KING MINE SPILL RESPONSE AND**  
**RECOVERY**

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**PROJECT PERIOD: DECEMBER 1, 2015-NOVEMBER 30, 2020**

This Cooperative Agreement is prepared to address community sustainability measures to prepare for current and future impacts to the Town of Silverton and San Juan County, Colorado as caused and anticipated by the U.S. Environmental Protection Agency activities in the wake of the Gold King Mine Release.

## **I. INTRODUCTION**

On August 5, 2015, approximately 3,000,000 gallons of contaminated water was discharged from the Gold King Mine in San Juan County, Colorado, into Cement Creek, a tributary of the Animas River in the San Juan Mountains of southwest Colorado when contractors of the U.S. Environmental Protection Agency (EPA) were conducting an investigation of the mine for further remediation.

The Gold King Mine is located approximately nine miles north of the Town of Silverton. The mine is one of over 400 abandoned and/or inactive mines in the San Juan Mining District of the Upper Animas River Watershed.

The EPA is currently working on remediation activities to mitigate the Gold King Mine Release and to address water quality treatment measures. Future long term activities for the site and the region have not been determined to date.

The Town of Silverton and San Juan County have been adversely impacted as a result of these actions and the attention of this widely publicized national environmental disaster. Now the poster child for cleaning up the nation's legacy of abandoned and inactive mines and acid mine water drainage, the Town of Silverton and San Juan County have real and present concerns with the current impacts of this event and ensuing activities as it relates to planning for a sustainable future for the community.

## **II. HISTORICAL MINING BACKGROUND**

*A proud and robust mining history has woven the fabric of this community.*

Hardrock metals mining (primarily gold and silver) was the economic mainstay in San Juan County between the 1870's up to the early 1990's. The Town of Silverton was incorporated in 1876 and serves as the County seat for San Juan County, Colorado. It was the center of Hardrock mining commerce with both wagon and railroad transportation hubs serving remote mining camps and company mining towns of the mountainous region. Thousands of mining claims have been staked throughout San Juan County resulting in historic small and large mining operations with milling/smelting activities.

Several boom-bust cycles typical of the industry played out over the century-long history of the mining era. These cycles brought influxes of prospectors, miners, families, bankers, assayers, surveyors, engineers, and business entrepreneurs. The bust eras produced ghost towns and are the depleted legacies of mining. Sunnyside Mine, the last large scale operation with more than 200 employees, closed in 1991, devastating the local economy.

In the ensuing years, the mining history of Silverton and San Juan County has been proudly revived and preserved by the San Juan Historical Society. Most of the Town of Silverton is included in the Silverton Historic District, a federally designated National Historic Landmark District. Our mining and railway heritage contribute substantially to the local tourism economy today.

### III. SETTING AND DEMOGRAPHICS

*The Rooftop of the Rockies, the San Juan Mountains are formidable and demanding.*

Located in the San Juan Mountains of southwest Colorado, San Juan County has the highest mean elevation of any county in the United States at 11,240 feet above sea level. The Town of Silverton resides at 9,318 feet above sea level. More than 85% of San Juan County is federal land (United States Forest Service or U.S. Bureau of Land Management).

With an official population of 718 residents, San Juan County is the 12<sup>th</sup> least populated county in the nation. More than 90% of the County's population resides within the Town of Silverton, which is the only municipality in the County. Silverton is characterized as a rural, isolated frontier community with a population that fluctuates from approximately 450 residents in the winter to more than 1500 in the summer.

The alpine, subarctic climate produces cold, snowy winters and cool-warm summers with year-round precipitation. The region receives early and late snowfall in a long winter season (October-May) with well over 200 inches annually. The average annual high temperature is 52.2 degrees F and the average annual low temperature is 18.4 degrees F.

The Town of Silverton is connected to the rest of Colorado by U.S. Highway 550 to Durango to the south via two 10,000 foot mountain passes (50 miles and one hour travel time in fair weather) and Ouray to the north via one 11,000 foot mountain pass (23 miles-45 minutes travel in fair weather). With over 200 inches of snowfall, U.S. 550 is notably the most avalanche-prone highway in the lower 48 states crossing high mountain passes and cutting through deep gorge canyons of the San Juans. Road closures for avalanche control during the winter months often leave the Town without supplies and mail services for several days. Electrical service interruptions also occur during heavy storm periods.

### IV. RESILIENT COMMUNITY

*A remote, frontier community making and remaking its destiny with drive and durability.*

Since the closure of the Sunnyside Mine in 1991 and the end of the mining economy, the community has struggled to reconfigure its economic base. A distinct and separate winter economy and a summer economy are evident today after many years of bleak but steady determinedness to evolve and grow a varied economy not dependent on a single-source industry.

Hundreds of thousands of visitors descend on the Town and County in the summer. As the terminus of the Silverton Durango Narrow Gauge Train, the Town benefits from train ridership, which runs from May through October. The train makes several runs each day to and from Durango, Colorado, through the heart of the Weminuche Wilderness and dropping off its passengers in the Town's historic central business district.

Silverton is the gateway to the San Juan National Forest and is the jumping off point to the widely acclaimed Alpine Loop of the San Juan Skyway which provides 4-wheel drive back road connections to the neighboring towns of the San Juans including Ouray, Telluride, Ophir, and

Lake City and the ghost towns along the routes. A vast and spectacular alpine trail system throughout the region provides access for backcountry hiking, fishing and hunting.

In addition, the community holds special summer events with significant draws, including a world renowned bicycle race, several mountain ultra-endurance running events, an old fashioned Fourth of July, and a historic band festival, among others. Destination historic tourism is a vital mainstay with a state of the art museum, mine tours, walking tours, and turn of the century celebrations.

Winter recreational tourism was firmly established in the area with the opening of Silverton Mountain Ski Area in the Cement Creek Drainage in 2002. The ski area is recognized for un-groomed, expert skiing terrain with the earliest snowfalls in the nation. Kendall Mountain is a small local ski area in the heart of Silverton which provides family fun with beginner ski terrain, sledding, and ice skating. Backcountry skiing, ice climbing, and snowmobiling are also major draws during the winter. However, the total winter visitor count is only a small percentage of the summer visitations.

The central business district (retail, restaurant, and lodging) fares well during the summer months but most establishments generally close after the last train in October. However, businesses remaining open during the winter often struggle just to break even. Winter recreation is heavily subsidized by the Town of Silverton to promote a winter economy necessary to provide key essential services to the winter population.

Major employers in the community are Silverton Mountain Ski Area, Town of Silverton, San Juan County, and San Juan County School District #1 (Silverton Public School). A single, large historic hotel and several small manufacturing enterprises also provide some seasonal employment.

The workers of San Juan County are continually ranked number one for the lowest wages of any Colorado county. In reality, Silverton and San Juan county residents hold several jobs at any one time during any particular season and are not employed year-round. Generally, summer workers arrive for the summer season only and depart at the end of that season with the small number of winter workers following a similar pattern.

Community members struggle with the financial pressures and instabilities of this seasonal employment. As of November of 2015, 67% of school children qualify for the free or reduced lunch program. According to the 2010 Census, the average median household income is 77% of the State median household income and 12.2% of persons county-wide live below poverty level.

Most critically, the community cannot meet the housing needs of the existing local workforce (seasonal or year-round). An acute shortage exists for quality affordable housing (either rentals and ownership). Approximately 65% of the existing housing stock are second/vacation homes (owned by persons whose primary mailing address is outside San Juan County). Town, County and School administrations fear the loss of essential workers serving the community if this condition is not mitigated in the near future.

On a positive note, the Town boasts key institutions supporting a healthy year-round

community including a renowned and dynamic K-12 School (65 students) in a state-of-the-art building, a pre-school, a social-gathering community center, a health care delivery network, an award-winning newspaper, numerous churches, and many non-profit agencies supporting enrichment and activities. These entities depend upon widespread community involvement and financial support.

#### **V. ECONOMIC HEALTH AND GOVERNANCE**

With the closure of the Sunnyside mine in 1991, San Juan County endured major reductions in tax revenues. With the loss of production taxes from the mine, the County's property tax revenues decreased by 50%. More recently San Juan County's tax revenues have continued to decrease. The last five years have been extremely difficult as the County's assessed valuation decreased from \$58,975,390 in 2010 to an estimated \$42,713,181 in 2016, a decrease of more than 26%. This has caused the county to reduce its operating budget and to eliminate positions. In addition to the decrease in valuation the federal budget reductions have caused a decrease in federal assistance. As BLM and Forest Service cut their budgets, a greater burden has been put upon the County to continue vital services. Additionally, those declining revenues have made it difficult to maintain or improve current facilities. While grant monies are often available, generating enough resources to satisfy the local match requirement is often impossible.

The Town of Silverton's finances are heavily dependent upon sales tax. The sales tax revenues have remained steady over the last several years through the economic recession but were showing a substantial increase for 2015. The vast majority of sales tax dollars come from the tourism related industry. A decrease in tourism would prove to be devastating to the Town's economic health. Additionally, the lodging tax collected is a primary revenue for the marketing of the community and the loss of those marketing dollars could result in an ever decreasing cycle of our tourist based economy.

#### **VI. COMMUNITY RESPONSE TO GOLD KING INCIDENT**

*Year after year, volunteerism and responsiveness are mainstays in emergencies and adversity.*

The Town of Silverton and San Juan County rapidly assembled a volunteer Response Team of seasoned professionals to assess and respond to the immediate safety, environmental, and public information needs associated with the Gold King Mine Release Incident. On August 5th, the day of the spill, county emergency resources were mobilized to respond to the incident. There was enormous uncertainty as to the cause of the accident, the toxicity of the water and the potential for another accident. By noon on the 5th, the Sheriff's Office, Emergency Management department, and Public Health department convened to determine the severity of the accident. At that point only 3 local agencies comprised the Incident Management Team. Based on initial reports, the public health and environmental impacts were going to be significant. The only official communication at that time was a report from the Colorado Department of Public Health and Environment (CDPHE). A local Incident Management Team was established on Thursday, August 6<sup>th</sup>. Initial road damage was assessed and documented by

Friday, August 7<sup>th</sup>. Public Health alerts were released on August 7<sup>th</sup>. On the advice of the Emergency Manager, both the Town and County officials made an Emergency Declaration on Sunday August 8<sup>th</sup>. The Silverton Emergency Response Team was expanded on Monday August 9<sup>th</sup> to include Town support and business community support. The Local Incident team maintained representation and contact with the regional Incident Command established in Durango. The Silverton Emergency Response Team has maintained information throughout the incident.

## **VII. PRE-AWARD COSTS**

The Town of Silverton and San Juan County have included in their Cooperative Agreement budget pre-award response costs from the date of the Incident through the date the Cooperative Agreement is executed. The Town and County have also submitted a Purchase Order (PO) to the EPA and CDPHE for reimbursement of these costs and, if said costs are reimbursed through the PO, then the costs can be removed from the Cooperative Agreement. Pre-award costs total \$220,666.91 through October 31, 2015.

## **VIII. COMMUNITY SUSTAINABILITY**

*The future must be crafted with comprehensive measures focused on a viable, sustainable community.*

In order to plan for a stable community in the wake of the Gold King Mine Release and the undetermined future actions that result from this incident, the Town of Silverton and San Juan County propose the following actions take place to:

- a. foster communication, coordination and collaborative actions in the community and with regional governments, stakeholders, Federal, State and Congressional representatives, and water user groups;
- b. coordinate education and outreach measures to foster public confidence;
- c. build continued resiliency in our local governments by building capacity and providing improved levels of services and operations;
- d. ensure future adequate planning and preparedness;
- e. provide improved public safety;
- f. monitor and mitigate public health and environmental concerns;
- g. promote local economic health; and
- h. provide accurate documentation and record keeping of events and manage cost recovery and compliance records/ projects.

The Town and County propose a three-pronged approach with specific requests from the Town of Silverton and from San Juan County, combined with the formation of a Joint Community Impact Services Team focused on impact mitigation and planning.

**IX. Work Plan-Town of Silverton**

The Town of Silverton has historically functioned with a small administrative staff. The Gold King Incident has primarily impacted administrative duties and roadway maintenance. In order to address these impacts on Town Staff and services, the following assistance is requested.

**A. Town Administration- 1 additional assistant administrator (plus 5 hours)**

The Gold King Incident has placed a heavy burden upon the Town Administrator. As the central coordinator of the Emergency Response Team, the Town Administrator has become the de facto point of contact and central command in all areas. In addition to his normal duties, the Town Administrator has been point person to meet the demands of inquiries, interviews, roundtable discussions from State, Federal, and Congressional entities and regional meetings. It is anticipated that the burden on the Town Administrator will continue. A Deputy Town Administrator plus 5 hours/week of the Administrator's time will be required to recover from the impact of the Incident and to absorb the anticipated burdens associated with the Gold King Mine spill response and recovery.

Budget: 1 FTE Deputy Administrator-\$65,000/yr.

Town Administrator 5 hours/Week-\$8746/yr.

Indirect at 10% of Personnel Costs

Office Equipment and Travel Expenses -\$5,000

**B. Public Works/Road Maintenance- Chip/Seal Maintenance by Contract**

High volume truck/trailer and heavy equipment moving through Town to CR 110 and the Gold King Mine Area will continue to damage Greene Street, the main street of the Town. Chip seal overlay on Greene Street will be required every other year beginning in 2016 to preserve the road bed.

Budget: \$100,000 every other year beginning 2016

**C. Housing-**

Prior to the 2015 summer season, Town and County administrations identified an acute housing shortage for seasonal employees (summer and winter). EPA employees and contractors (approximately 30-50 persons) working at the Gold King Mine on remediation measures during the fall of 2015 placed a significant demand on available housing, which exacerbated this critical housing need. The Town in conjunction with the County proposes they receive funds to construct a 12-unit apartment building on a parcel planned and approved for workforce housing to help meet the needs for workforce housing which will be necessitated by the future activities at the Gold King and other mines. The parcel, Anvil Mountain Subdivision, is graded, served by utilities and ready for vertical construction. The Town and County would be unable to construct these necessary units without this funding.

Budget: \$500,000 in 2016

**X. Work Plan-San Juan County**

San Juan County has faced budget cuts over the last several years causing a reduction in staff that has resulted in remaining staff working at or above capacity. The Gold King Incident created additional workload and demand on County Services and the capacity was not there to both address the additional workload and maintain the current level of services required of San Juan County administration. In order to adequately address this additional burden on County Staff, the following assistance is requested:

**A. Law Enforcement- 1 additional law enforcement officer with patrol vehicle.**

An increased presence of law enforcement is necessary on CR 110 to insure minimal conflict between the current users, particularly OHVs, and the additional traffic caused by the Gold King Incident that includes federal and state employees, government contractors and truck traffic hauling equipment and supplies into and out of Gladstone.

Budget: 1 FTE officer \$69,314/yr.  
Indirect at 10% of Personnel Costs  
1 vehicle \$35,000

**B. Administration- County Administrator (5 hours)/ 1 administrative assistant.**

This position would be shared between the County Administrator, County Assessor and County Treasurer. All offices have seen a major increase in workload related to the Gold King Incident that has created a situation where regular and sometimes critical work tasks are not getting done on time or at all.

Budget: 1 FTE Assistant \$50,222/yr.  
County Administrator 5 hours/Week-\$11,708  
Indirect at 10% of Personnel Costs  
Office Equipment and Travel Expenses \$5000

**C. Public Health- 1/4 Coordinator**

The Public Health Department has been and will continue to be severely impacted by the Gold King Incident. A substantial amount of time and effort is necessary to identify and understand potential health risks to the general public that may have been created by the Gold King Incident. The budget would augment current positions at the Public Health Department.

The Gold King Mine Incident highlighted the potential negative health impacts that may result from the historic mining in our community. San Juan County will offer free blood lead testing one time to all children 18 and under within San Juan County with voluntary consent from parents/caregivers due to the highly mineralized content of our area, large population of low-socioeconomic status families (with children) and multiple homes built before 1978.

Budget: ¼ FTE \$15,482/yr.  
Indirect at 10% at Personnel Costs  
Travel Expenses \$2500



\$10,000 for 2 years of community education, personnel for testing (total of 1 year) and follow-up referral and coordination (2nd year).

**D. Road Department- 1 Road Crew Employee/Road Maintenance/Dust Control/Gravel**

The substantial traffic on CR 110 to the Gold King Mine area has greatly increased the burden for keeping the road maintained and safe. The three person County Road Department does not have the capacity to increase the maintenance level for CR 110. Additional personnel, road grading, gravel and dust control will be necessary.

Budget: 1 FTE \$58,567/yr.

Indirect at 10% of Personnel Costs

Road Maintenance - \$25,000/yr.

Dust Control Treatment - \$41,300/yr.

Gravel -\$100,000/2016 \$25,000/year every year after

**E. County Surveyor- Professional Services**

The Gold King Incident potentially impacted numerous properties along Cement Creek and the Animas River. San Juan County does not currently have the survey information necessary to determine which properties may have been impacted. It is critical for the County to identify the locations of all properties from the Gold King portal to the County Line that were potentially impacted by the Gold King Incident.

Budget: Est. \$83,000

**F. County Clerk and County Assessor- Professional Services**

The Gold King Incident has greatly increased the demand to look at records and maps located within the vaults of the County Clerk and County Assessor. The majority of the records are only available on paper. Many of these records are more than 100 years old and are in fragile condition. The County anticipates that the demand to view these documents will continue to increase. It is important that these records and maps be digitized to allow for easier access to all parties wishing to view them and to preserve the original integrity of the historic documents.

Budget: Unknown Estimate at this time

**G. Emergency Services- Communications Equipment and Emergency Access**

With the substantial increase in activities in the Gladstone area there becomes the potential for an increased need in Emergency Services. Communications between Silverton and the Gladstone vicinity is extremely difficult. Getting Emergency Service Personnel from the Gladstone location to the Gold King, Red and Bonita or other locations on the mountain also could be extremely difficult.

Communications Equipment-1 800 Megahertz Radio Repeater or Cell Tower.

Budget: Unknown

Emergency Access-1 OHV outfitted for patient care

Budget: \$25,000

**H. Emergency Medical Services- 1/4 Paramedic 3.5 Fulltime EMT-Basic or EMT-Intermediate (or equivalent) positions for expansion in large part due to isolation of community and inability to join forces with other communities) Silverton, San Juan County already at overcapacity)**

Silverton, San Juan County is located high in the San Juan Mountain Range of the Rocky Mountains. Our remote location (state deems it "frontier") is very isolated and far from definitive care. The Silverton San Juan County Emergency Medical Services is a very small, combination of paid and volunteer operation, with one paid paramedic "on duty" and one volunteer EMT-Basic or Intermediate "on call". Any emergency call in town which involves a transport to a hospital leaves our county without EMS coverage for a minimum of 4 hours. Our closest mutual aid is a minimum of 45 minutes away, if they are available. Our closest hospitals are at minimum an hour and a half from town and can be much longer depending on weather and the location of an emergency scene. For instance, a call in the Gladstone area would add two hours to a call which would result in our county not having EMS coverage for a minimum of six hours. The concern is having increased mining mitigation activity that can result in an EMS emergency that will have a significant impact on our already limited ability to provide Emergency Medical Services to our community at large. We have already seen an increase in EMS needs since the Gold King incident with at least two calls involving patients affiliated with the EPA efforts. With this expansion of activity in our backcountry we would like to shore up our staffing to two "on duty" paid staff which will be accomplished by hiring 3.5 FTE EMT-B/Is. Increasing our staffing to two paid employees teamed up with one volunteer will improve our ability to respond to calls more efficiently, provide better care, and will improve our ability to maintain coverage when the ambulance transports. Most transports (95%) only require two personnel. Having a three person crew would give us the ability to leave one in town to first respond if another emergency call comes in. This staffing level will greatly enhance the care given to both the citizens and visitors of our county as well as the workers affiliated with the EPA projects.

Budget: 3.5 FTE EMT-B/I \$130,963.  
Training and Supplies \$11,500  
Indirect Costs @ 10% of Personnel Costs

**I. Branding/Marketing**

The Gold King Mine Incident created bad press on a national and international level. In an attempt to nullify the negative image of the toxic orange water that was seen in online, in print and on the nightly news additional resources must be committed to repairing our brand.

Budget: \$200,000 the first year and decreased by 10% annually for 5 years

**J. Travel/Transportation**

San Juan County has a general government fleet of 1, a 2004 Ford Explorer. The Town of Silverton has a general government fleet of 0. With an increase in staff, a greatly increased need to travel and participate in regional and statewide meetings, and increased travel to Denver, an additional general government use vehicle is necessary. Currently, the burden is put on staff and elected officials to use their personal vehicles for County business. Additionally, it is anticipated that there will be a significant demand upon elected officials to travel and attend additional meetings.

Budget: Vehicle \$30,000

Travel for elected officials \$7500

#### **XI. Work Plan-Joint Community Impact Services**

The Town and the County propose to form a joint team of professional services focused on community impacts of the Gold King Incident and future EPA remediation activities. The team will work cooperatively under the direction of a central manager to guide the Town and the County. It is anticipated that the possibility of a Superfund Designation with National Priority Listing will be evaluated and the Town and County will need professional assistance to be able to assess any such evaluation. This team will consist of:

##### **A. Cooperative Agreement Manager- 1 FTE managerial position**

This new position provides, directs, and manages the Joint Community Impact Services Team of professionals in conducting short-term, mid-term, and long-term planning regarding impacts, mitigation, and future planning issues and initiatives. The position interfaces with EPA, Town and County administrations and officials, region, state and federal entities as well as other organizations involved with all aspects of potential remediation and water quality clean-up of the Gold King, the upper Animas Basin, and the Animas River.

Budget: \$82,000/yr.

Indirect Cost at 10% of Personnel Costs

Office Equipment and Travel Expenses: \$5,000

- B. Communications/Public Affairs- 1 FTE public relations position** This position currently functions under the Emergency Response Team and serves as the primary information officer/press contact, community education, liaison with regional governments, federal, state, and Congressional entities, regional water agencies, non-profits, and serves both the Town and the County to assess and report on activities, events, compliance, and EPA coordination. These same functions will carry over to this position with expanded responsibilities as needed to address the evolution of increased EPA presence and activities. Education and public outreach will be critical in the near future for community and regional confidence building.

Budget: 1 FTE PR Professional \$78,000/yr.

Indirect Cost at 10% of Personnel Costs

Office Equipment and Travel Expenses: \$5,000

**C. Project Planning and Administration - 1 FTE projects and administrative related position**

This new position is created to assist in the planning and administration of strategic projects and coordination activities as determined by the San Juan County Commissioners and Silverton Board of Trustees and as directed by the Cooperative Agreement Manager. It is anticipated that any long term response to the Gold King Incident and those impacts to the community will require additional Town and County planning activities. This position will be responsible for community development, grant writing, grant administration and project management

Budget: 1 FTE Project Administrator/Manager \$75,000/yr.

Indirect Costs at 10% of Personnel Costs

Office Equipment and Travel Expenses: \$5,000

**D. Health/Environmental/Emergency Planner- Emergency Management and Planning 3/4 FTE multi-disciplined planner position**

This position augments the Office of Emergency Management position at the County. The Gold King Incident placed considerable burden on the role of emergency management/preparedness. The Emergency Manager functioned as the Agency Representative in the Unified Command and functioned as the Incident Commander for the local San Juan Incident Management Team. This position consists of a cycle of planning, preparedness and coordination with local, state and federal partners. Mine blowouts have been determined as a significant future threat for San Juan County and the region. The emergency manager will build a mine blowout emergency response plan and participate in improving the notification plan developed to alert downstream partners. This position ensures that emergency response agencies are trained in the implementation of the National Incident Management System.

Budget: 3/4 FTE Professional Services Manager \$47,961/yr.

Indirect Costs at 10% Personnel Costs

Equipment and Travel Expenses: \$5,000

**E. Science Officer – 1 FTE**

This position will provide scientific expertise to the community. Silverton and San Juan County have very limited resources and do not currently have anyone on staff with the necessary science based education capable of fully understanding and interpreting all of the data that has been collected and will be collected to determine appropriate remediation actions. The remediation of acid mine drainage is very scientific based and in order for Silverton and San Juan County to be able to fully included in the remediation dialogue we critically need this staff position. This position would be responsible for:

1. The collection and review of all science based documents associated with proposed remediation within San Juan County.
2. The interpretation of that data.
3. Communicating to CDPHE and EPA any concerns or questions that might arise from those documents.
4. Report the information from those documents to Elected Officials, Town/County Staff and the General Public in a manner that can easily be understood by non-scientific persons.
5. Provide recommendations to Elected Officials and Town/County Staff

Budget: 1FTE Science Officer \$80,000  
 Indirect costs at 10% of Personnel Costs  
 Office Equipment and Travel Expenses \$5000

**F. Professional Services- as deemed necessary**

Silverton and San Juan County have limited resources and staff and do not have in house professional services. In order to mitigate the impact of the Gold King Incident and its anticipated impacts upon the community and to protect the interest of the Town and County we will need the professional expertise to: provide trusted information to the general public; keep elected officials informed; respond to requests from the media; communicate with downstream partners; respond to and analyze scientific data; respond to and analyze proposed remediation; and remain in compliance with this Cooperative Agreement. These professional services will include but not be limited to scientific, engineering, public relations, communication, community development, planning, economic, accounting, auditing, information technology, GIS, and legal.

Budget: unknown

GIS professional services. A consultant will be hired to work with the team in order to provide expertise in GIS development, data management, and training. The Town and San Juan County do not have an accessible centralized GIS department and have little GIS expertise. Geographic data is key for planning, emergency response and knowing land ownership. There is a large amount of geographic data that has been generated by this incident alone. A GIS consultant would aid in gathering the available datasets and making the data accessible to the team and the public. The consultant would have the following technical expertise:

- Create maps and graphs, using GIS software and related equipment.
- Meet with users to define data needs, project requirements, required outputs, or to develop applications.
- Conduct Research to locate and obtain existing databases from local, state and federal partners.
- Gather, analyze, and integrate spatial data from staff and determine how best the information can be displayed using GIS.

- Compile geographic data from a variety of sources including censuses, field observation, satellite imagery, aerial photographs, and existing maps.
- Analyze spatial data for geographic statistics to incorporate into documents and reports.
- Design and update database, applying additional knowledge of spatial feature representations.
- Enter new map data through use of a digitizer or by direct input of coordinate information using the principles of cartography including coordinate systems, longitude, latitude, elevation, topography, and map scales.
- Analyze geographic relationships among varying types of data.
- Prepare metadata and other documentation.
- Operate and maintain GIS system hardware, software, plotter, digitizer, color printer.
- Move, copy, delete, and add files, drawings, and maps to output reports in hard copy or electronic transfer.
- Present information to users and answer questions.

Budget: Contract Services: \$40,000 per year (@\$100 an hour)

Equipment: Large format printer \$5000, Computer equipment \$3000,  
Software licenses \$2000.

#### G. Information Technology Professional Services (\$10,000)

A consultant will be hired to work with the team in order to provide expertise in computer services, data management and training.

- Perform a technology needs assessment
- Determine the best cloud based information platform (e.g. Dropbox, Google For Work)
- Provide IT support for printers, copiers, computers.
- Provide consultation on mobile platforms

#### H. Technical Studies

##### H.1 Mine Blowout Hazard Study

Silverton and San Juan County request that the EPA provide funding assistance to the Colorado Division of Reclamation, Mining and Safety, and the United States Bureau of Land Management and other appropriate state and federal agencies to complete a thorough assessment of the blowout risks posed by underground mine pools in San Juan County. Prior to the Gold King spill, there have been other blowouts in the district. The project goal is to develop attributes and criteria useful for grouping discharging abandoned mines into "High", "Moderate", and "Low" risk

categories for potential blowouts. A systematic, logical, geo-technically based methodology will be developed to assess and categorize the potential risk associated with draining mines. The report will also include recommendations for additional investigations such as drilling or underground reconnaissance and include all digital and GIS data. Silverton and San Juan County request the EPA contribute funding for the Mine Blowout Hazard Study.

## H.2 Community-Based Action Plan to address Environmental Justice and Community Empowerment in San Juan County

Presidential Executive Order 12898 calls for the federal government to make environmental justice (EJ) part of its mission by identifying and addressing disproportionately high and adverse impacts of its policies, programs, and activities on minority and low-income populations. As part of the EPA's Plan EJ 2014, supporting community-based action programs is outlined as a priority area. San Juan County's population demonstrates a higher proportion of individuals that fall below the poverty line than the state of Colorado and the United States; and a higher proportion of individual of Latino and Hispanic ethnicity than the United States. The project goals are: (1) to engage San Juan County residents in a community-based action program that addresses disparity and empowers low-income and ethnic minority opportunity to participate in shaping the future of the county's economy; and (2) to provide a forum for all residents to be informed and to respond to the science, laws, and resources relating to the both the Gold King Mine event, and to broader environmental issues related to historic economic activities and future economic growth and development.

Methodologies for achieving these goals would include both qualitative and quantitative studies. All project activities would be aimed at engaging San Juan County residents, especially low-income and minority race and ethnicity residents, in the conversation. The action program would be aimed at empowering residents to voice their concerns and collaborate with local, state, and Federal institutions for the economic and environmental health of the County. The ultimate goal of the project is the creation of a community-based action program that addresses environmental justice and provides all residents meaningful ways to participate in the economic and environmental planning in San Juan County. The community-based action plan will also include recommendations for additional investigations such as community priorities for inclusive economic growth and development. Silverton and San Juan County request the EPA contribute funding for the community-based action program.

MSI proposes to provide expert oversight for the community-based action plan through our partnership with Emily Thorn, Environmental Justice/Economic Specialist, and Dr. Tara Shelley, Sociologist and Environmental Justice Expert.

Tasks include:

1. Conduct public outreach and participation activities- engage community members and solicit input from low-income and ethnic minority residents
2. Collect in-depth community input- Lead inclusive community forums, focus groups, and in-depth interviews aimed at defining relevant economic, social, and environmental issues; and goals and visions for the County's economic future
3. Develop Community Action Plan- Integrate community input into a Community Action Plan for Economic Development Public documents and forums that convey accurate and understandable environmental and economic information. This includes guidance for all community members on how to meaningfully participate in Federal environmental policies and processes that include public involvement, such as National Environmental Policy Act (NEPA) compliance

Budget:

Consultants:

Task 1- Public Participation- \$33,300 (consultants- \$55-100/hour)

Task 2- Community Forums- \$27,800

Task 3- Community Action Plan- \$32,400

### H.3 Environmental Technical Assistance

San Juan County and Silverton lack an Environmental Department to provide technical expertise to their elected officials and staff to conduct independent analysis and support their capacity to participate in decision making about the GKM response and recovery. Silverton and San Juan County will contract Mountain Studies Institute (MSI) to providing expertise and infrastructure to support understanding of their environmental conditions and participation in decision making about their resources. In particular, MSI will assist County/Town with efforts to (1) understand the current environmental and public health concerns related to the GKM recovery/remedial action and the hazards of living in mining district, (2) plan for potential future threats from blowouts or other hazards, (3) evaluate options for response, cleanup, and reclamation, and (4) support environmental monitoring and information for the County and Town.

Tasks include:

1. Environmental Monitoring for Response and Recovery:



- a. Review sampling programs, quality assurance plans, and scientific studies; council elected officials and staff, and prepare comments on behalf of staff and officials.
  - b. Review, interpret, report, and present on sampling results and documented findings by EPA, CDHPE, contractors and others to elected officials and staff
  - c. Provide a trained, environmental monitoring response team with monitoring resources to deploy during emergencies through Incident Command.
  - d. Complete environmental monitoring as necessary to inform the County/Town
2. Anvil Mountain Housing Environmental Certification:
- a. Complete documentation of the Anvil Mountain Voluntary Cleanup Program (VCUP) action plan to facilitate County/Town housing needs.
3. San Juan County Public Health Service Assistance:
- a. Provide environmental data and analyses of water quality and environmental health
  - b. Support communication with the public through providing science content, education, outreach, and interpretation for public information campaigns.

Budget:

Salary:

Environmental Monitoring Project Manager- \$78,000

Environmental Scientist- \$55,000

Communications/Education Manager- \$40,500

Total Personnel- \$ 173,500

Travel: \$12,250 for collecting samples, delivering samples, attending trainings and meetings at local and regional conferences

Supplies (Field monitoring, data management): \$9,500

Equipment: \$5,000, update and maintenance of 1 one sensor annually

Laboratory Analysis- 36,000

CAPITAL INVESTMENT: Monitoring Equipment: \$86,300 (one time, initial investment)

## **XI. OTHER**

### **A. Local Contractor Preference**

For remediation projects within San Juan County the EPA shall adopt a local bidder's preference policy for those contractors whose businesses are located within San Juan County. The EPA shall work with local contractors to remove or mitigate any burdensome regulations that would prohibit local qualified contractors from bidding on remediation projects.

The EPA shall adopt a policy that provides a preference to contractors that bid on remediation projects within San Juan County who award subcontracts to business located within San Juan County.

The EPA shall adopt a policy that provides a preference that encourages contractors that bid on remediation projects to employ local residents.

The EPA shall adopt a policy that provides a preference that encourages contractors that bid on remediation projects to purchase products from local businesses.

The EPA shall provide job training to residents of San Juan County to qualify them to work on remediation projects.

The EPA shall provide that for any such local preference contracts that payments be made Net 30 days.

B At this point in time, the EPA and the impacted communities are just beginning the analysis concerning the appropriate long term actions that should be taken to address the Gold King Incident and to address acid mine leakage into the headwaters within San Juan County. These measures and assessments include consideration of whether and to what extent certain areas of San Juan County should receive superfund designation and a National Priorities listing. The long term activities will undoubtedly have as yet unidentified impacts on Silverton and San Juan County. Silverton and San Juan County thus request that the terms of this Cooperative Agreement remain flexible so that they can be amended to address any and all reasonable impacts that result from the long term activities, including, but not limited to, national priority listing under Superfund.

C. Duty of Cooperation/Collaborative Process: The EPA and CDPHE agree to work collaboratively with San Juan County/Town of Silverton in any remediation actions taken within San Juan County. This collaboration will consist of all aspects of the remediation process including but not limited to the remedial investigation and feasibility study, record of decision, remedial design, and remedial action/ implementation.

**X. Term:** This agreement will be in effect for a minimum of five years and shall continue as long as the EPA and/or CDPHE is conducting response, recovery, or remediation work in San Juan County. Salaries are subject to Cost of Living Adjustments and direct costs are subject to reimbursement if such costs exceed 5% of the budgeted allocation.



Application for Federal Assistance SF-424		Version 02
<b>*1. Type of Submission:</b> <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application		<b>*2. Type of Application</b> * If Revision, select appropriate letter(s) <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision  *Other (Specify) _____
<b>3. Date Received:</b>		<b>4. Applicant Identifier:</b>
<b>5a. Federal Entity Identifier:</b>		<b>*5b. Federal Award Identifier:</b>
<b>State Use Only:</b>		
<b>6. Date Received by State:</b>		<b>7. State Application Identifier:</b>
<b>8. APPLICANT INFORMATION:</b>		
<b>*a. Legal Name:</b> San Juan County, Colorado		
<b>*b. Employer/Taxpayer Identification Number (EIN/TIN):</b> 846000804		<b>*c. Organizational DUNS:</b> 182859199
<b>d. Address:</b>		
<b>*Street 1:</b>	PO Box 466 _____	
<b>Street 2:</b>	1557 Greene Street _____	
<b>*City:</b>	Silverton _____	
<b>County:</b>	San Juan _____	
<b>*State:</b>	CO _____	
<b>Province:</b>	_____	
<b>*Country:</b>	U.S. _____	
<b>*Zip / Postal Code</b>	81433 _____	
<b>e. Organizational Unit:</b>		
<b>Department Name:</b>		<b>Division Name:</b>
<b>f. Name and contact information of person to be contacted on matters involving this application:</b>		
<b>Prefix:</b>	_____	<b>*First Name:</b> Jeffrey _____
<b>Middle Name:</b>	_____	
<b>*Last Name:</b>	Robbins _____	
<b>Suffix:</b>	_____	
<b>Title:</b>	County/Town Attorney	
<b>Organizational Affiliation:</b> Goldman, Robbins, and Nicholson, P.C.		
<b>*Telephone Number:</b> (970) 259-8747		<b>Fax Number:</b> (970) 259 8790
<b>*Email:</b> robbins@gm-law.com		

**Application for Federal Assistance SF-424**

Version 02

**\*9. Type of Applicant 1: Select Applicant Type:**

B. County Government

Type of Applicant 2: Select Applicant Type:

C. City or Township Government

Type of Applicant 3: Select Applicant Type:

M. Nonprofit w/501C3 IRS Status(Oth Than Higher Edu

\*Other (Specify)

**\*10 Name of Federal Agency:**

Environmental Protection Agency

**11. Catalog of Federal Domestic Assistance Number:**

\_\_\_\_\_

CFDA Title:

\_\_\_\_\_

**\*12 Funding Opportunity Number:**

\_\_\_\_\_

\*Title:

\_\_\_\_\_

**13. Competition Identification Number:**

\_\_\_\_\_

Title:

\_\_\_\_\_

**14. Areas Affected by Project (Cities, Counties, States, etc.):**

San Juan County and the Town of Silverton, CO

**\*15. Descriptive Title of Applicant's Project:**

Gold King Spill Recovery Project

<b>Application for Federal Assistance SF-424</b>		Version 02
<b>16. Congressional Districts Of:</b>		
*a. Applicant: 3 <sup>rd</sup> Distirct of Colorado Recovery	*b. Program/Project: Gold King Spill	
<b>17. Proposed Project:</b>		
*a. Start Date: November 1, 2016	*b. End Date: December 31, 2021	
<b>18. Estimated Funding (\$):</b>		
*a. Federal	\$8,749,135	
*b. Applicant	_____	
*c. State	_____	
*d. Local	_____	
*e. Other	_____	
*f. Program Income	_____	
*g. TOTAL	\$8,749,135	
<b>*19. Is Application Subject to Review By State Under Executive Order 12372 Process?</b>		
<input type="checkbox"/> a. This application was made available to the State under the Executive Order 12372 Process for review on _____ <input type="checkbox"/> b. Program is subject to E.O. 12372 but has not been selected by the State for review. <input checked="" type="checkbox"/> c. Program is not covered by E. O. 12372		
<b>*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)</b>		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U. S. Code, Title 218, Section 1001)  <input type="checkbox"/> ** I AGREE  ** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions		
<b>Authorized Representative:</b>		
Prefix: _____	*First Name: <u>William</u>	
Middle Name: _____		
*Last Name: <u>Tookey</u>		
Suffix: _____		
*Title: San Juan County Commissioner		
*Telephone Number: 970 387-5766	Fax Number: 970 387-5761	
* Email: sanjuancounty@frontier.net		
*Signature of Authorized Representative:		*Date Signed:

**Application for Federal Assistance SF-424**

Version 02

**\*Applicant Federal Debt Delinquency Explanation**

The following should contain an explanation if the Applicant organization is delinquent of any Federal Debt.

Not Applicable

**INSTRUCTIONS FOR THE SF-424**

Public reporting burden for this collection of information is estimated to average 80 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

This is a standard form (including the continuation sheet) required for use as a cover sheet for submission of preapplications and applications and related information under discretionary programs. Some of the items are required and some are optional at the discretion of the applicant or the Federal agency (agency). Required items are identified with an asterisk on the form and are specified in the instructions below. In addition to the instructions provided below, applicants must consult agency instructions to determine specific requirements.

Item	Entry	Item	Entry
1.	<b>Type of Submission:</b> (Required): Select one type of submission in accordance with agency instructions. <ul style="list-style-type: none"> <li>• Preapplication</li> <li>• Application</li> <li>• Changed/Corrected Application – If requested by the agency, check if this submission is to change or correct a previously submitted application. Unless requested by the agency, applicants may not use this to submit changes after the closing date.</li> </ul>	10	<b>Name Of Federal Agency:</b> (Required): Enter the name of the Federal agency from which assistance is being requested with this application.
		11	<b>Catalog Of Federal Domestic Assistance Number/Title:</b> Enter the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested, as found in the program announcement, if applicable.
2.	<b>Type of Application:</b> (Required) Select one type of application in accordance with agency instructions. <ul style="list-style-type: none"> <li>• New – An application that is being submitted to an agency for the first time.</li> <li>• Continuation - An extension for an additional funding/budget period for a project with a projected completion date. This can include renewals.</li> <li>• Revision - Any change in the Federal Government's financial obligation or contingent liability from an existing obligation. If a revision, enter the appropriate letter(s). More than one may be selected. If "Other" is selected, please specify in text box provided.                             <ul style="list-style-type: none"> <li>A. Increase Award    B. Decrease Award</li> <li>C. Increase Duration    D. Decrease Duration</li> <li>E. Other (specify):</li> </ul> </li> </ul>	12	<b>Funding Opportunity Number/Title:</b> (Required) Enter the Funding Opportunity Number and title of the opportunity under which assistance is requested, as found in the program announcement.
		13	<b>Competition Identification Number/Title:</b> Enter the Competition Identification Number and title of the competition under which assistance is requested, if applicable.
		14	<b>Areas Affected By Project:</b> List the areas or entities using the categories (e.g., cities, counties, states, etc.) specified in agency instructions. Use the continuation sheet to enter additional areas, if needed.
3.	<b>Date Received:</b> Leave this field blank. This date will be assigned by the Federal agency.	15	<b>Descriptive Title of Applicant's Project:</b> (Required) Enter a brief descriptive title of the project. If appropriate, attach a map showing project location (e.g., construction or real property projects). For preapplications, attach a summary description of the project.
4.	<b>Applicant Identifier:</b> Enter the entity identifier assigned by the Federal agency, if any, or applicant's control number, if applicable.	16	<b>Congressional Districts Of:</b> (Required) 16a. Enter the applicant's Congressional District and 16b. Enter all District(s) affected by the program or project. Enter in the format: 2 characters State Abbreviation – 3 characters District Number, e.g., CA-005 for California 5 <sup>th</sup> district, CA-012 for California 12 <sup>th</sup> district, NC-103 for North Carolina's 103 <sup>rd</sup> district. <ul style="list-style-type: none"> <li>• If all congressional districts in a state are affected, enter "all" for the district number, e.g., MD-all for all congressional districts in Maryland.</li> <li>• If nationwide, i.e. all districts within all states are affected, enter US-all</li> <li>• If the program/projects outside the US, enter 00-000</li> </ul>
5a.	<b>Federal Entity Identifier:</b> Enter the number assigned to your organization by the Federal Agency, if any.		
5b.	<b>Federal Award Identifier:</b> For new applications leave blank. For a continuation or revision to an existing award, enter the previously assigned Federal award identifier number. If a changed/corrected application, enter the Federal Identifier in accordance with agency instructions.		
6.	<b>Date Received by State:</b> Leave this field blank. This date will be assigned by the State, if applicable.		
7.	<b>State Application Identifier:</b> Leave this field blank. This identifier will be assigned by the State, if applicable.		
8.	<b>Applicant Information:</b> Enter the following in accordance with agency instructions.	17	<b>Proposed Project Start and End Dates:</b> (Required) Enter the proposed start date and end date of the project.
a.	<b>Legal Name:</b> (Required): Enter the legal name of applicant that will undertake the assistance activity. This is the name that the organization has registered with the Central Contractor Registry. Information on registering with CCR may be obtained by visiting the Grants.gov website.		
b.	<b>Employer/Taxpayer Number (EIN/TIN):</b> (Required): Enter the Employer or Taxpayer Identification Number (EIN or TIN) as assigned by the Internal Revenue Service. If your organization is not in the US, enter 44-4444444.		
c.	<b>Organizational DUNS:</b> (Required): Enter the organization's DUNS or DUNS+4 number received from Dun and Bradstreet. Information on obtaining a DUNS number may be obtained by visiting the Grants.gov website.		
d.	<b>Address:</b> Enter the complete address as follows: Street address (Line 1 required), City (Required), County, State (Required, if country is US), Province, Country (Required), Zip/Postal Code (Required, if country is US).		
e.	<b>Organizational Unit:</b> Enter the name of the primary organizational unit (and department or division, if applicable) that will undertake the	18	<b>Estimated Funding:</b> (Required) Enter the amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines, as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses.
		19	<b>Is Application Subject to Review by State Under Executive Order 12372 Process?</b> Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the



	<p>assistance activity, if applicable.</p> <p>f. Name and contact information of person to be contacted on matters involving this application. Enter the name (First and last name required), organizational affiliation (if affiliated with an organization other than the applicant organization), telephone number (Required), fax number, and email address (Required) of the person to contact on matters related to this application.</p>	<p>State intergovernmental review process. Select the appropriate box. If "a" is selected, enter the date the application was submitted to the State.</p>																								
20.		<p>Is the Applicant Delinquent on any Federal Debt? (Required) Select the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.</p> <p>If yes, include an explanation on the continuation sheet.</p>																								
21.	<p>D. Type of Applicant: (Required) Select up to three applicant type(s) in accordance with agency instructions.</p> <table border="0" data-bbox="227 493 860 1008"> <tr> <td data-bbox="227 493 544 514">A. State Government</td> <td data-bbox="552 493 860 556">M. Nonprofit with 501C3 IRS Status (Other than Institution of Higher Education)</td> </tr> <tr> <td data-bbox="227 514 544 535">B. County Government</td> <td data-bbox="552 556 860 619">N. Nonprofit without 501C3 IRS Status (Other than Institution of Higher Education)</td> </tr> <tr> <td data-bbox="227 535 544 556">C. City or Township Government</td> <td data-bbox="552 619 860 661">O. Private Institution of Higher Education</td> </tr> <tr> <td data-bbox="227 556 544 577">D. Special District Government</td> <td data-bbox="552 661 860 682">P. Individual</td> </tr> <tr> <td data-bbox="227 577 544 598">E. Regional Organization</td> <td data-bbox="552 682 860 703">Q. For-Profit Organization (Other than Small Business)</td> </tr> <tr> <td data-bbox="227 598 544 619">F. U.S. Territory or Possession</td> <td data-bbox="552 703 860 724">R. Small Business</td> </tr> <tr> <td data-bbox="227 619 544 640">G. Independent School District</td> <td data-bbox="552 724 860 745">S. Hispanic-serving Institution</td> </tr> <tr> <td data-bbox="227 640 544 661">H. Public/State Controlled Institution of Higher Education</td> <td data-bbox="552 745 860 766">T. Historically Black Colleges and Universities (HBCUs)</td> </tr> <tr> <td data-bbox="227 661 544 682">I. Indian/Native American Tribal Government (Federally Recognized)</td> <td data-bbox="552 766 860 787">U. Tribally Controlled Colleges and Universities (TCCUs)</td> </tr> <tr> <td data-bbox="227 682 544 703">J. Indian/Native American Tribal Government (Other than Federally Recognized)</td> <td data-bbox="552 787 860 808">V. Alaska Native and Native Hawaiian Serving Institutions</td> </tr> <tr> <td data-bbox="227 703 544 724">K. Indian/Native American Tribally Designated Organization</td> <td data-bbox="552 808 860 829">W. Non-domestic (non-US) Entity</td> </tr> <tr> <td data-bbox="227 724 544 745">L. Public/Indian Housing Authority</td> <td data-bbox="552 829 860 850">X. Other (specify)</td> </tr> </table>	A. State Government	M. Nonprofit with 501C3 IRS Status (Other than Institution of Higher Education)	B. County Government	N. Nonprofit without 501C3 IRS Status (Other than Institution of Higher Education)	C. City or Township Government	O. Private Institution of Higher Education	D. Special District Government	P. Individual	E. Regional Organization	Q. For-Profit Organization (Other than Small Business)	F. U.S. Territory or Possession	R. Small Business	G. Independent School District	S. Hispanic-serving Institution	H. Public/State Controlled Institution of Higher Education	T. Historically Black Colleges and Universities (HBCUs)	I. Indian/Native American Tribal Government (Federally Recognized)	U. Tribally Controlled Colleges and Universities (TCCUs)	J. Indian/Native American Tribal Government (Other than Federally Recognized)	V. Alaska Native and Native Hawaiian Serving Institutions	K. Indian/Native American Tribally Designated Organization	W. Non-domestic (non-US) Entity	L. Public/Indian Housing Authority	X. Other (specify)	<p>Authorized Representative (Required) To be signed and dated by the authorized representative of the applicant organization. Enter the name (First and last name required) title (Required), telephone number (Required), fax number and email address (Required) of the person authorized to sign for the applicant.</p> <p>A copy of the governing body's authorization for you to sign this application as the official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)</p>
A. State Government	M. Nonprofit with 501C3 IRS Status (Other than Institution of Higher Education)																									
B. County Government	N. Nonprofit without 501C3 IRS Status (Other than Institution of Higher Education)																									
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Town of Silverton and San Juan County, Colorado Cooperative Agreement Budget Proposal

		Year 1	Year 2	Year 3	Year 4	Year 5	Total	
<b>PRE-AWARD COST</b>		All costs incurred between August 5, 2015 and the execution of the Cooperative Agreement					TBD	
<b>Town of Silverton</b>								
IX.A	Assistant Town Administrator	FTE	\$65,000	\$65,000	\$65,000	\$65,000	\$65,000	\$325,000
	Impact Town Admin		\$8,746	\$8,746	\$8,746	\$8,746	\$8,746	\$43,730
	Equipment/Travel	Office	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$25,000
	Indirect Costs		\$7,374.60	\$5,000	\$5,000	\$5,000	\$5,000	\$27,375
IX.B	Road Maintenance	Repairs	\$100,000		\$100,000		\$100,000	\$300,000
IX.C	Housing Grant Match	Match	\$500,000					\$500,000
<b>Sub-Total</b>			<b>\$886,121</b>	<b>783,746</b>	<b>\$183,746</b>	<b>\$83,746</b>	<b>\$183,746</b>	<b>\$1,221,105</b>

<b>San Juan County</b>								
IX.A	Law Enforcement Officer	FTE	\$69,314	\$69,314	\$69,314	\$69,314	\$69,314	\$346,570
	Law Enforcement Vehicle	FTE	\$35,000					\$35,000
	Indirect Costs		\$6,931.40	\$6,931.40	\$6,931.40	\$6,931.40	\$6,931.40	\$34,657
IX.B	Administrative Assistant	FTE	\$50,222	\$50,222	\$50,222	\$50,222	\$50,222	\$251,110
	County Administrator		\$11,708	\$11,708	\$11,708	\$11,708	\$11,708	\$58,540
	Office Equipment/Travel	Office	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$25,000
	Indirect Costs		\$6,193	\$5,022	\$5,022	\$5,022	\$5,022	\$25,382
IX.C	Public Health Coordinator	1/4 FTE	\$15,482	\$15,482	\$15,482	\$15,482	\$15,482	\$77,410
	Travel Expenses		\$2,300	\$2,300	\$2,300	\$2,300	\$2,300	\$11,500
	Community Education		\$10,000	\$10,000				\$20,000
	Indirect Costs		\$1,548	\$1,548	\$1,548	\$1,548	\$1,548	\$7,741
IX.D	Road Department	FTE	\$58,567	\$58,567	\$58,567	\$58,567	\$58,567	\$292,835
	Road Maintenance	Repairs	\$100,000	\$25,000	\$25,000	\$25,000	\$25,000	\$200,000
	Dust Control Treatment	Mitigation	\$41,300	\$41,300	\$41,300	\$41,300	\$41,300	\$206,500
	Gravel	Materials	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$500,000
	Indirect Costs		\$5,857	\$5,857	\$5,857	\$5,857	\$5,857	\$29,284
IX.E	County Surveyor	Services	\$83,000					\$83,000
IX.F	Clerk and Assessor	Services	TBD					
<b>Emergency Services Communications and Emergency Access</b>								
IX.G	Communication Equipment	Equipment	TBD					
	Emergency Access OHV	Vehicle	\$25,000					\$25,000
IX.H	Emergency Medical - Personnel	3.5 FTE	\$130,963	\$130,963	\$130,963	\$130,963	\$130,963	\$654,815
	Training and Equipment/Uniforms		\$11,500	\$11,500	\$11,500	\$11,500	\$11,500	\$57,500
	Indirect Costs		\$13,096	\$13,096	\$13,096	\$13,096	\$13,096	\$65,482
IX.I	Branding/Marketing		\$100,000	\$180,000	\$160,000	\$145,800	\$131,220	\$619,020
IX.J	Travel/Transportation	Travel	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$37,500
	Vehicle		\$30,000					\$30,000
<b>Sub-Total</b>			<b>\$1,020,882</b>	<b>793,513</b>	<b>723,513</b>	<b>707,313</b>	<b>682,731</b>	<b>\$3,895,743</b>

Personnel	\$3,967,815
Indirect Costs	\$372,300
OE/Travel	\$87,500 OE 87500
Travel	\$50,000
Equipment	\$0
Training and Equipment	\$28,750 Training \$28,750
Supplies	\$500,000
Construction	\$706,500
Contractual	\$1,511,000
Other	\$1,319,020

<b>Community Impact Services</b>								
IX.A	Cooperative Agreement Mgr	FTE	\$82,000	\$82,000	\$82,000	\$82,000	\$82,000	\$410,000
	Office Equipment/Travel	Office	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$25,000
	Indirect Costs		\$8,200	\$8,200	\$8,200	\$8,200	\$8,200	\$41,000
IX.B	Communications/Public Aff	FTE	\$78,000	\$78,000	\$78,000	\$78,000	\$78,000	\$390,000
	Office Equipment/Travel	Office	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$25,000
	Indirect Costs		\$7,800	\$7,800	\$7,800	\$7,800	\$7,800	\$39,000
IX.C	Project Planner	FTE	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$375,000
	Office Equipment/Travel	Office	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$25,000
	Indirect Costs		\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$37,500
IX.D	Health/Environment/ Emergency Planner	3/4 FTE	\$47,961	\$47,961	\$47,961	\$47,961	\$47,961	\$239,805
	Office Equipment/Travel	Office	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$25,000
	Indirect Costs		\$4,796	\$4,796	\$4,796	\$4,796	\$4,796	\$23,981
IX.E	Science Officer		\$80,000	\$80,000	\$80,000	\$80,000	\$80,000	\$400,000
	Office Equipment/Travel	Office	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$25,000
	Indirect Costs		\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$40,000
IX.F	Professional Services- General		\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$200,000
	Equipment		\$8,000					\$8,000
	Software		\$2,000					\$2,000
IX.G	IT Professional Services		\$10,000					\$10,000
IX.H.1	Mine Blowout Study							\$5,000
IX.H.2	Community Action Plan - Mtn		\$89,500					\$447,500
<b>IX.H.3 Mountain Studies Institute Professional Services</b>								
	Environmental Monitoring Project Mgr.		\$78,000	\$78,000	\$78,000	\$78,000	\$78,000	\$390,000
	Environmental Scientist		\$55,000	\$50,000	\$50,000	\$50,000	\$50,000	\$255,000
	Communications/Education Mgr		\$40,500	\$40,500	\$40,500	\$40,500	\$40,500	\$202,500
	Travel		\$12,250	\$12,250	\$12,250	\$12,250	\$12,250	\$61,250
	Supplies		\$8,500	\$8,500	\$8,500	\$8,500	\$8,500	\$42,500
	Equipment		\$12,250	\$12,250	\$12,250	\$12,250	\$12,250	\$61,250
	Laboratory Analysis		\$36,000	\$36,000	\$36,000	\$36,000	\$36,000	\$180,000
<b>Sub-Total</b>			<b>\$831,297</b>	<b>702,757</b>	<b>702,757</b>	<b>702,757</b>	<b>702,757</b>	<b>\$3,432,284</b>
<b>TOTAL</b>			<b>\$1,328,958</b>	<b>\$1,538,914</b>	<b>\$1,610,914</b>	<b>\$1,492,814</b>	<b>\$1,378,234</b>	<b>\$8,749,135</b>

424A	3967815
	137500
	206250
	500000
	1511000
	706500
	1347770
	372300



Town of  
**Silverton**

PO Box 250  
Silverton, CO 81433  
970-387-5522  
February 22, 2016



**SAN JUAN COUNTY**

PO Box 466  
Silverton, CO 81433  
970-387-5766

The Hon. John W. Hickenlooper  
Governor  
State of Colorado  
136 State Capitol  
Denver, Colorado 80203-1792

Re: Proposed listing of the Gold King mine and other legacy mines in San Juan County on the EPA's Superfund National Priorities List

Dear Governor Hickenlooper:

San Juan County and its only town, Silverton, are genuine Colorado treasures. San Juan County is not only Colorado's most spectacularly beautiful county, it is Colorado's most remote and least populated. Unfortunately, it also has one of the smallest and lowest-paid<sup>1</sup> workforces in the state and, because 87 percent of the county's land is owned by the federal government, its local governments are among the smallest and most poorly funded in the state. San Juan County is a uniquely fragile place; not only its ecosystems but, despite its hardy and resourceful people, its economy and its very existence.

While local and state officials have worked for years to improve our local economy, we remain heavily dependent upon tourism for our survival. Because of its position astride the source of the Animas and Rio Grande Rivers, San Juan County is at the heart of a significant portion of the west's water supply. Unfortunately, that water supply and the county's survival have been, and continue to be, gravely threatened by acid mine drainage from century-old legacy mines, a threat dramatically illustrated by last year's Gold King mine disaster.

San Juan County has been working for over two decades to correct the environmental damage caused by legacy mines. Our community and local governments have been instrumental in the Animas River Stakeholders Group, which pioneered a nationally recognized and applauded cooperative effort by government, the environmental community, mining companies and the public to identify and clean up sources of contamination affecting the Animas and its tributaries. While these efforts have been extraordinarily successful in identifying and actually cleaning up sources of contamination<sup>2</sup> instead of supporting legions of lawyers pursuing endless litigation, they have been limited both by lack of funds and the absence of any Good Samaritan legislation protecting cleanup efforts from potential liability.

In the immediate aftermath of its Gold King spill, EPA Director Gina McCarthy came to Colorado and rightly promised the people of the state and the nation that the EPA would hold itself to the highest standard in correcting the damage that resulted from the spill. Since then, the EPA has proposed that the Gold King and

<sup>1</sup> Labor Market Information, Quarterly Census of Employment and Wages Program, Second Quarter 2015

<sup>2</sup> Abandoned Mine Lands: A Decade of Progress Reclaiming Hardrock Mines, September 2007, United States Department of Agriculture Forest Service Publication No. FS-891, United States Department of the Interior, Bureau of Land Management Publication No. BLM-WO-07-013-3720

other leaking mines in the area be listed on the Superfund National Priorities List so a comprehensive cleanup can be designed, funded and completed to dramatically improve water quality in the Animas River basin. In connection with that proposal, EPA officials at the national and regional levels have repeated and expanded upon Director McCarthy's promises, committing in extensive discussions with San Juan County and the Town of Silverton to make sure the local community has a real seat at the decision-making table and to work with local officials to reduce the negative impacts of a Superfund listing.

Silverton and San Juan County want the mines and rivers cleaned up and we want to ensure that our downstream neighbors and our communities are protected. Building upon the commitments from numerous people at all levels of the EPA, and despite the crushing financial strain placed on our very limited town and county budgets, a committee of local representatives appointed by our town and county governments, has spent hundreds hours working with the EPA. We have worked to clarify the agency's processes and plans, and to ensure that any action taken to remediate acid mine drainage actually improves water quality, doesn't further damage the environment or our community and our downstream neighbors, and doesn't create another spill like the Gold King.

In our discussions, we have pressed strongly for the EPA to commit to a number of reasonable assurances regarding the proposed NPL listing, assurances we believe are essential to protect the environment, improve water quality in the Animas River and minimize the risk of future spills while protecting the local community and its tourist economy.

These points (detailed in Exhibit A) seek reasonable assurances from the EPA that negative impacts to our community will be mitigated; that we have a real seat at the table where decisions are made; that the best available science be used in determining the cleanup; that the Superfund site should include only the mines and areas listed on the attached Exhibit B; and that, because of our small budget and the fact that EPA caused the situation in the first place, EPA reimburse Silverton and San Juan County for all expenses incurred in seeking Superfund listing. Unfortunately, while members of the EPA staff have indicated that some important requests can and will be accommodated, the EPA's letter of February 12, 2016 (attached hereto as Exhibit C) in which the agency outlines its commitments to both the local community and the nation fails to incorporate some items we believe to be essential to any NPL listing related to the Gold King spill.

The purpose of this letter is to request that the State of Colorado make a request to the EPA that the Bonita Peak Mining District Site (as defined by the EPA's attached list of specific properties from which, according to data already gathered, discharges may be adversely affecting water quality on the Animas River) be added to the National Priority List thereby making it eligible for funding under Superfund. As part of this request, we ask that you work closely with us to ensure the EPA addresses the points in Exhibit A. We understand that some of the points cannot be addressed until after a listing is obtained but we are depending on you to continue to stand with us throughout this process.

Our goal is to ensure that the EPA's actions actually improve water quality in the Animas River and its tributaries and that remediation efforts don't risk causing future disasters like the Gold King spill. To that end, we further request that:

A. The State of Colorado insist that the existing water treatment plant built by the EPA in response to the Gold King spill continue to operate and that no other bulkheads on mine tunnels (including the bulkhead on the Red and Bonita, which is presently scheduled to be closed by the EPA in June, 2016 despite the EPA's lack of information or understanding as to the consequences of such a closure) be built or closed until the consequences of any such action are fully studied and understood;

B. Because each of the investigative reports on the Gold King spill specifically notes (and the EPA itself has admitted) that the Gold King spill occurred because those involved did not adequately understand the unique hydrologic, geologic and other issues with which they were dealing and did not adequately appreciate the consequences of their actions, the State of Colorado prohibit further actions by EPA or anyone else that might have adverse consequences until the unique geology and underground hydrology of the area are fully understood. We have offered the EPA access to a team of nationally known academic and government scientists in the relevant areas who have offered to assist in this effort. If for any reason the EPA is unable or unwilling to take advantage of this scientific expertise, we request that the State of Colorado form and lead a consortium of affected states, native American nations and interested stakeholders to study existing conditions and develop the necessary information for the EPA so that we do not again have to suffer the consequences of actions taken in ignorance;

C. To the extent that EPA cannot legally reimburse the local community for all expenses incurred as a result of the Gold King spill, we request that the State of Colorado bear those costs where appropriate and applicable because the local governments and the community they represent simply lack the resources to pay them.

We believe that it is critical that the State of Colorado take the lead in ensuring that, whatever the outcome of this request for NPL listing, no action is ever taken in the name of environmental protection that will damage hundreds of miles of rivers and their surrounding ecosystems and the millions of people who rely on those rivers.

We would welcome the opportunity to meet with you and your staff to provide any assistance we can in formulating the State of Colorado's request to the EPA for NPL listing relating to the Gold King spill.

Respectfully,

Board of County Commissioners  
San Juan County, Colorado

  
Ernest F. Kuhlman, Chairman

Board of Trustees  
Town of Silverton, Colorado

  
Christine M. Tookey, Mayor

Exhibit A

The assurances we have sought include:

1. The Superfund site should include only the mines and areas listed on the attached Exhibit B.
2. The Superfund site will be named the Bonita Peak Mining District Site so as to minimize any negative association with either Silverton or San Juan County and the damage which such association necessarily would cause to our community and its fragile tourism based economy.
3. Because of the vast amount of local knowledge, information and expertise relating to the mines of our area, while the EPA will retain the ultimate decision-making authority with regard to activities within the Superfund site, the EPA will actively involve the Town and County governments and representatives of relevant state agencies in all phases of work in connection with the site including but not limited to the listing process, the determination of the nature, scope and extent of the studies to be performed and of the data to be gathered, the remedial investigation and feasibility study, as well as the formulation, selection, design and implementation of potential remedies. The scope of this involvement will not be limited to the typical review and comment on EPA proposals but instead will include active and meaningful involvement throughout this process and particularly in the formulation and evaluation of the EPA's proposals.
4. When requested, the EPA will authorize and fund Technical Assistance (TAG) Grants or other scientific and research grants to fund such technical assistance as the Town and County may require in order to meaningfully participate in all aspects of the Bonita Peak Mining District Site project and also cause the EPA's Office of Research and Development to authorize and fund whatever Science Technical Research (STAR) or other grants to develop a complete understanding of the geology and underground hydrology of the area so that any actions taken can be based on adequate information as to their potential consequences.
5. EPA will use its best efforts to utilize the Bonita Peak Mining District project to develop and study new or alternative technologies, approaches and remedies for use in connection with mine drainage generally. This will include utilization of expertise in academia and industry regarding hydrology and other areas which properly should be considered in formulating any remediation plan for the site.
6. EPA will authorize and fund, via a Cooperative Agreement, Community Assistance (CAG) Grants or otherwise, financial assistance to the Town and County to enable them to meaningfully participate in all activities related to the site and to address all impacts caused by the Gold King incident, the Superfund listing and cleanup including reimbursing the Town and County for expenses incurred from and after August 5, 2015. Because, unlike the usual Superfund site, the Gold King spill was caused by the EPA's contractor and thus the EPA bears financial responsibility for all consequences of that spill, the scope of this assistance is intended to be considerably broader than typical for Superfund listings and to cover all expenses reasonably stemming from the Gold King

incident, the listing process and all post-listing costs including housing, legal assistance, additional manpower needs, etc.

7. In order to avoid unintended consequences which may be caused by ignorance of the geology and underground hydrology of the San Juan Mountains, before developing or implementing any alternative remedies, acting in conjunction with academic and government experts in all relevant areas and with the State of Colorado, EPA will work closely with both the local and state governments to assemble a team of scientific consultants with the necessary expertise in all areas where study may be required (particularly in the area of geology and underground hydrology) to develop such data, knowledge and information as may be necessary to understand the underground hydrology of the area and the potential consequences of remedial actions which may eventually be taken.

8. In order to prevent worsening water quality and further degradation of local streams, EPA will continue to operate the existing water treatment plant to treat discharges from the Gold King, Red and Bonita, and other area mines until final remedies are selected and implemented.

9. In order to prevent worsening water quality and to avoid the potential for another catastrophic release of acid mine drainage, the EPA will delay closure of the bulkhead installed on the Red and Bonita adit until the potential effects of such closure have been thoroughly studied and it has been determined that such closure can be effectuated without risk of causing a future blowout or release of contamination from other discharges.

10. Declaration of a Superfund site without adequately funding it will be a meaningless gesture. Because the Gold King incident is unique in that it was caused by an EPA contractor, EPA will give the Bonita Peak Mining District site adequate funding.

11. EPA will not seek to recover cleanup costs nor will it otherwise seek contribution from either a) innocent property owners who have not commercially operated any listed mine property or otherwise caused or contributed to any contaminated mine discharge or drainage or b) local governments.

12. Because the boundaries of the site are being defined so as to permit study of as wide an area as possible in order to determine which sites actually discharge significant contamination into the Animas and its tributaries, if data gathered during the preliminary stages of the project demonstrate that any property initially listed is not a significant contributor to contamination of the Animas River or its tributaries, EPA will de-list the non-contributing property and provide a letter confirming that the property is not a significant contributor to contamination of local waters and thus is not subject to action under Superfund.

13. If requested by owners of property outside of the Superfund site boundaries, the EPA will at its own expense conduct tests of the property as requested and provide either written confirmation to such property owners that contamination located within the Bonita Peak Mining District Site does not have any meaningful effect on their properties



or such other documentation as may be required in order to satisfy funding conditions, limitations or requirements of any state or federal agency or program such as HUD, FHA, Fannie Mae or Freddie Mac.

## STATE OF COLORADO

## OFFICE OF THE GOVERNOR

136 State Capitol  
Denver, Colorado 80203  
Phone (303) 866-2471  
Fax (303) 866-2003



John W. Hickenlooper  
Governor

February 29, 2016

Mr. Shaun L. McGrath  
Regional Administrator  
United States Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

Re: Proposed Listing of the "Bonita Peak Mining District" site on EPA's Superfund National Priorities List

Dear Mr. McGrath:

I write to express my support for the proposed listing of the "Bonita Peak Mining District" site located in San Juan County, Colorado on the Comprehensive Environmental Response, Compensation and Liability Act, ("CERCLA" or "Superfund") National Priorities List ("NPL") making it eligible for cleanup and assistance.

The Bonita Peak Mining District site consists of historic and on-going releases from 48 mine or mine related sources in three drainages - Cement Creek, Mineral Creek and the Upper Animas - which converge into the Animas River near Silverton, Colorado. These sources are contributing to the on-going releases of arsenic, aluminum, cadmium, copper, lead, manganese and zinc present in the surface water and sediment and are adversely impacting the environment. Based on the complexity and anticipated costs of remediating the Bonita Peak Mining District site, it appears that the best program to undertake a comprehensive cleanup is the CERCLA program.

The Town of Silverton, San Juan County, Durango, La Plata County, local tribes, and many other interested stakeholders have requested that this site be added to the Superfund NPL. I support this listing, so long as certain protections are put in place to address the concerns of the local communities that would be affected by designating this site as a Superfund National Priority. Accordingly, I want to stress the importance that the EPA do all that it can to address the concerns raised by the Silverton and San Juan County officials in their February 22, 2016 letter (attached). I share many of their concerns.

I am concerned about water quality conditions worsening before Superfund remedy decisions are finalized and implemented. Accordingly, before moving forward with any plans to stop operating the existing temporary water treatment facility in Gladstone, Colorado or closing the bulkhead at the Red & Bonita mine site, I urge EPA to consider all interim measures and options available and work

closely with the State and local stakeholders to ensure that water quality conditions do not deteriorate further.

I urge EPA to ensure that adequate funding for this site is provided during each stage of the CERCLA process, including listing, investigation, design and remediation so as to avoid any delays or interruptions; to continue to work collaboratively with the state and local officials and health departments to ensure that they have active and meaningful involvement in decision making through all phases of the project; to ensure that there is robust and significant community involvement and outreach; to form and fund a community advisory group as soon as practical; to ensure that the best available technologies and technical expertise are utilized during all phases of the Superfund process; and to ensure that the community be given technical assistance funding and support to the maximum extent possible.

In addition, the community is also concerned about associated costs to local governments, local businesses and residents. EPA should continue to make its best efforts to mitigate the negative impacts on the local economy and strive to ensure that the Superfund cleanup supports the economy of the Town of Silverton and San Juan County. Every effort should be made to alert local businesses to contracting opportunities related to the Superfund investigation, design and remediation. I encourage EPA to use contracting methods and offer job training grants that maximize the potential for local employment in the Superfund cleanup process.

I support listing the Bonita Peak Mining District site on the NPL List, and urge the EPA to use its best efforts to address the concerns identified above and conduct the cleanup in a timely, effective and collaborative fashion. With close coordination and careful consideration and response to local concerns, cleanup of the Bonita Peak Mining site should be accomplished efficiently with minimal disruption of the local community. Thank you in advance for your consideration of the concerns and needs of the people of Colorado. Should you have any questions, please do not hesitate to contact me.

Sincerely,



John W. Hickenlooper  
Governor

cc: Gary Herbert, Governor of Utah  
Susan Martinez, Governor of New Mexico  
Russell Begaye, President Navajo Nation  
Clement Frost, Chairman Southern Ute Indian Tribe  
Manuel Heart, Chairman Ute Mountain Ute Tribe  
U.S. Senator Michael Bennet  
U.S. Senator Cory Gardner  
U.S. Representative Scott Tipton

Christine Tookey, Mayor of Silverton

Ernest Kuhlman, San Juan County Commissioner

Dean Brookie, Mayor of Durango

Joe Kerby, La Plata County Manager

Larry Wolk, MD, MSPH, Executive Director and Chief Medical Officer, CDPHE

Robert Randall, Department of Natural Resources

Martha Rudolph, Director of Environmental Programs, CDPHE

Gary Baughman, HMWMD Director, CDPHE

Monica Sheets, Remediation Program Manager, HMWMD, CDPHE



Town of  
**Silverton**

PO Box 250  
Silverton, CO 81433  
970-387-5522  
February 22, 2016



**SAN JUAN COUNTY**

PO Box 466  
Silverton, CO 81433  
970-387-5766

The Hon. John W. Hickenlooper  
Governor  
State of Colorado  
136 State Capitol  
Denver, Colorado 80203-1792

Re: Proposed listing of the Gold King mine and other legacy mines in San Juan County on the EPA's Superfund National Priorities List

Dear Governor Hickenlooper:

San Juan County and its only town, Silverton, are genuine Colorado treasures. San Juan County is not only Colorado's most spectacularly beautiful county, it is Colorado's most remote and least populated. Unfortunately, it also has one of the smallest and lowest-paid<sup>1</sup> workforces in the state and, because 87 percent of the county's land is owned by the federal government, its local governments are among the smallest and most poorly funded in the state. San Juan County is a uniquely fragile place; not only its ecosystems but, despite its hardy and resourceful people, its economy and its very existence.

While local and state officials have worked for years to improve our local economy, we remain heavily dependent upon tourism for our survival. Because of its position astride the source of the Animas and Rio Grande Rivers, San Juan County is at the heart of a significant portion of the west's water supply. Unfortunately, that water supply and the county's survival have been, and continue to be, gravely threatened by acid mine drainage from century-old legacy mines, a threat dramatically illustrated by last year's Gold King mine disaster.

San Juan County has been working for over two decades to correct the environmental damage caused by legacy mines. Our community and local governments have been instrumental in the Animas River Stakeholders Group, which pioneered a nationally recognized and applauded cooperative effort by government, the environmental community, mining companies and the public to identify and clean up sources of contamination affecting the Animas and its tributaries. While these efforts have been extraordinarily successful in identifying and actually cleaning up sources of contamination<sup>2</sup> instead of supporting legions of lawyers pursuing endless litigation, they have been limited both by lack of funds and the absence of any Good Samaritan legislation protecting cleanup efforts from potential liability.

In the immediate aftermath of its Gold King spill, EPA Director Gina McCarthy came to Colorado and rightly promised the people of the state and the nation that the EPA would hold itself to the highest standard in correcting the damage that resulted from the spill. Since then, the EPA has proposed that the Gold King and

<sup>1</sup> Labor Market Information, Quarterly Census of Employment and Wages Program, Second Quarter 2015

<sup>2</sup> Abandoned Mine Lands: A Decade of Progress Reclaiming Hardrock Mines, September 2007, United States Department of Agriculture Forest Service Publication No. FS-891, United States Department of the Interior, Bureau of Land Management Publication No. BLM-WO-07-013-3720

other leaking mines in the area be listed on the Superfund National Priorities List so a comprehensive cleanup can be designed, funded and completed to dramatically improve water quality in the Animas River basin. In connection with that proposal, EPA officials at the national and regional levels have repeated and expanded upon Director McCarthy's promises, committing in extensive discussions with San Juan County and the Town of Silverton to make sure the local community has a real seat at the decision-making table and to work with local officials to reduce the negative impacts of a Superfund listing.

Silverton and San Juan County want the mines and rivers cleaned up and we want to ensure that our downstream neighbors and our communities are protected. Building upon the commitments from numerous people at all levels of the EPA, and despite the crushing financial strain placed on our very limited town and county budgets, a committee of local representatives appointed by our town and county governments, has spent hundreds hours working with the EPA. We have worked to clarify the agency's processes and plans, and to ensure that any action taken to remediate acid mine drainage actually improves water quality, doesn't further damage the environment or our community and our downstream neighbors, and doesn't create another spill like the Gold King.

In our discussions, we have pressed strongly for the EPA to commit to a number of reasonable assurances regarding the proposed NPL listing, assurances we believe are essential to protect the environment, improve water quality in the Animas River and minimize the risk of future spills while protecting the local community and its tourist economy.

These points (detailed in Exhibit A) seek reasonable assurances from the EPA that negative impacts to our community will be mitigated; that we have a real seat at the table where decisions are made; that the best available science be used in determining the cleanup; that the Superfund site should include only the mines and areas listed on the attached Exhibit B; and that, because of our small budget and the fact that EPA caused the situation in the first place, EPA reimburse Silverton and San Juan County for all expenses incurred in seeking Superfund listing. Unfortunately, while members of the EPA staff have indicated that some important requests can and will be accommodated, the EPA's letter of February 12, 2016 (attached hereto as Exhibit C) in which the agency outlines its commitments to both the local community and the nation fails to incorporate some items we believe to be essential to any NPL listing related to the Gold King spill.

The purpose of this letter is to request that the State of Colorado make a request to the EPA that the Bonita Peak Mining District Site (as defined by the EPA's attached list of specific properties from which, according to data already gathered, discharges may be adversely affecting water quality on the Animas River) be added to the National Priority List thereby making it eligible for funding under Superfund. As part of this request, we ask that you work closely with us to ensure the EPA addresses the points in Exhibit A. We understand that some of the points cannot be addressed until after a listing is obtained but we are depending on you to continue to stand with us throughout this process.

Our goal is to ensure that the EPA's actions actually improve water quality in the Animas River and its tributaries and that remediation efforts don't risk causing future disasters like the Gold King spill. To that end, we further request that:

A. The State of Colorado insist that the existing water treatment plant built by the EPA in response to the Gold King spill continue to operate and that no other bulkheads on mine tunnels (including the bulkhead on the Red and Bonita, which is presently scheduled to be closed by the EPA in June, 2016 despite the EPA's lack of information or understanding as to the consequences of such a closure) be built or closed until the consequences of any such action are fully studied and understood;

B. Because each of the investigative reports on the Gold King spill specifically notes (and the EPA itself has admitted) that the Gold King spill occurred because those involved did not adequately understand the unique hydrologic, geologic and other issues with which they were dealing and did not adequately appreciate the consequences of their actions, the State of Colorado prohibit further actions by EPA or anyone else that might have adverse consequences until the unique geology and underground hydrology of the area are fully understood. We have offered the EPA access to a team of nationally known academic and government scientists in the relevant areas who have offered to assist in this effort. If for any reason the EPA is unable or unwilling to take advantage of this scientific expertise, we request that the State of Colorado form and lead a consortium of affected states, native American nations and interested stakeholders to study existing conditions and develop the necessary information for the EPA so that we do not again have to suffer the consequences of actions taken in ignorance;

C. To the extent that EPA cannot legally reimburse the local community for all expenses incurred as a result of the Gold King spill, we request that the State of Colorado bear those costs where appropriate and applicable because the local governments and the community they represent simply lack the resources to pay them.

We believe that it is critical that the State of Colorado take the lead in ensuring that, whatever the outcome of this request for NPL listing, no action is ever taken in the name of environmental protection that will damage hundreds of miles of rivers and their surrounding ecosystems and the millions of people who rely on those rivers.

We would welcome the opportunity to meet with you and your staff to provide any assistance we can in formulating the State of Colorado's request to the EPA for NPL listing relating to the Gold King spill.

Respectfully,

**Board of County Commissioners  
San Juan County, Colorado**

  
Ernest F. Kuhlman, Chairman

**Board of Trustees  
Town of Silverton, Colorado**

  
Christine M. Tookey, Mayor



Exhibit A

The assurances we have sought include:

1. The Superfund site should include only the mines and areas listed on the attached Exhibit B.
2. The Superfund site will be named the Bonita Peak Mining District Site so as to minimize any negative association with either Silverton or San Juan County and the damage which such association necessarily would cause to our community and its fragile tourism based economy.
3. Because of the vast amount of local knowledge, information and expertise relating to the mines of our area, while the EPA will retain the ultimate decision-making authority with regard to activities within the Superfund site, the EPA will actively involve the Town and County governments and representatives of relevant state agencies in all phases of work in connection with the site including but not limited to the listing process, the determination of the nature, scope and extent of the studies to be performed and of the data to be gathered, the remedial investigation and feasibility study, as well as the formulation, selection, design and implementation of potential remedies. The scope of this involvement will not be limited to the typical review and comment on EPA proposals but instead will include active and meaningful involvement throughout this process and particularly in the formulation and evaluation of the EPA's proposals.
4. When requested, the EPA will authorize and fund Technical Assistance (TAG) Grants or other scientific and research grants to fund such technical assistance as the Town and County may require in order to meaningfully participate in all aspects of the Bonita Peak Mining District Site project and also cause the EPA's Office of Research and Development to authorize and fund whatever Science Technical Research (STAR) or other grants to develop a complete understanding of the geology and underground hydrology of the area so that any actions taken can be based on adequate information as to their potential consequences.
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incident, the listing process and all post-listing costs including housing, legal assistance, additional manpower needs, etc.

7. In order to avoid unintended consequences which may be caused by ignorance of the geology and underground hydrology of the San Juan Mountains, before developing or implementing any alternative remedies, acting in conjunction with academic and government experts in all relevant areas and with the State of Colorado, EPA will work closely with both the local and state governments to assemble a team of scientific consultants with the necessary expertise in all areas where study may be required (particularly in the area of geology and underground hydrology) to develop such data, knowledge and information as may be necessary to understand the underground hydrology of the area and the potential consequences of remedial actions which may eventually be taken.
8. In order to prevent worsening water quality and further degradation of local streams, EPA will continue to operate the existing water treatment plant to treat discharges from the Gold King, Red and Bonita, and other area mines until final remedies are selected and implemented.
9. In order to prevent worsening water quality and to avoid the potential for another catastrophic release of acid mine drainage, the EPA will delay closure of the bulkhead installed on the Red and Bonita adit until the potential effects of such closure have been thoroughly studied and it has been determined that such closure can be effectuated without risk of causing a future blowout or release of contamination from other discharges.
10. Declaration of a Superfund site without adequately funding it will be a meaningless gesture. Because the Gold King incident is unique in that it was caused by an EPA contractor, EPA will give the Bonita Peak Mining District site adequate funding.
11. EPA will not seek to recover cleanup costs nor will it otherwise seek contribution from either a) innocent property owners who have not commercially operated any listed mine property or otherwise caused or contributed to any contaminated mine discharge or drainage or b) local governments.
12. Because the boundaries of the site are being defined so as to permit study of as wide an area as possible in order to determine which sites actually discharge significant contamination into the Animas and its tributaries, if data gathered during the preliminary stages of the project demonstrate that any property initially listed is not a significant contributor to contamination of the Animas River or its tributaries, EPA will de-list the non-contributing property and provide a letter confirming that the property is not a significant contributor to contamination of local waters and thus is not subject to action under Superfund.
13. If requested by owners of property outside of the Superfund site boundaries, the EPA will at its own expense conduct tests of the property as requested and provide either written confirmation to such property owners that contamination located within the Bonita Peak Mining District Site does not have any meaningful effect on their properties

or such other documentation as may be required in order to satisfy funding conditions, limitations or requirements of any state or federal agency or program such as HUD, FHA, Fannie Mae or Freddie Mac.



Willy Tookey &lt;admin@sanjuancolorado.us&gt;

## Spring Highway 550 Road Closures

Alex Shelley <alex@smpa.com>

Mon, Feb 14, 2022 at 9:06 AM

To: Silas Clarke <clarkes@cityofouray.com>, "funke@cityofouray.com" <funke@cityofouray.com>, "smithj@cityofouray.com" <smithj@cityofouray.com>, "guldet@cityofouray.com" <guldet@cityofouray.com>, "lindseyp@cityofouray.com" <lindseyp@cityofouray.com>, Glen Boyd <gboyd@ouraycountyco.gov>, "boydg@cityofouray.com" <boydg@cityofouray.com>, "martensenb@cityofouray.com" <martensenb@cityofouray.com>, "woodj@cityofouray.com" <woodj@cityofouray.com>, "woodkj@cityofouray.com" <woodkj@cityofouray.com>, "colemanj@cityofouray.com" <colemanj@cityofouray.com>, "fire@cityofouray.com" <fire@cityofouray.com>, Mike Wiggins <mike@ouraynews.com>, Lynn Padgett <lpadgett@ouraycountyco.gov>, "jniece@ouraycountyco.gov" <jniece@ouraycountyco.gov>, "btisdel@ouraycountyco.gov" <btisdel@ouraycountyco.gov>, Connie Hunt <chunt@ouraycountyco.gov>, Willy Tookey <admin@sanjuancolorado.us>, Jim Donovan <oem@sanjuancolorado.us>, Deanne Gallegos <pio@sanjuancolorado.us>, "jclark@town.ridgway.co.us" <jclark@town.ridgway.co.us>, "Ruth.Stewart.Mail@gmail.com" <Ruth.Stewart.Mail@gmail.com>, Jennifer Peterson <jpeterson@ouraycountyco.gov>, "jperry@ouraycountyco.gov" <jperry@ouraycountyco.gov>, William Tookey <administrator@sanjuancountycolorado.us>, "sjcsheriff@frontier.net" <sjcsheriff@frontier.net>, "sjclj@yahoo.com" <sjclj@yahoo.com>, Preston Neill <pneill@town.ridgway.co.us>, DeAnne Gallegos <chamber@silvertoncolorado.com>, "sfuhrman@silverton.co.us" <sfuhrman@silverton.co.us>, Gloria Kaasch-Buerger <gkaasch-buerger@silverton.co.us>, "ladair@silverton.co.us" <ladair@silverton.co.us>, "editor@silvertonstandard.com" <editor@silvertonstandard.com>, "chris@fontier.net" <chris@fontier.net>, Terry Rhoades <terry@smpa.com>, "kimpag@gmail.com" <kimpag@gmail.com>, "kimmethd@yahoo.com" <kimmethd@yahoo.com>, "heidi@visitglenwood.com" <heidi@visitglenwood.com>, "randee.reider@state.co.us" <randee.reider@state.co.us>, "shawkins@montrosecounty.net" <shawkins@montrosecounty.net>, "pdamke@me.com" <pdamke@me.com>, "colin.mitchell@state.co.us" <colin.mitchell@state.co.us>, "telluridemountainclub@gmail.com" <telluridemountainclub@gmail.com>, "onsight1@me.com" <onsight1@me.com>, "adventure@ryderwalker.com" <adventure@ryderwalker.com>, "info@redmountainalpinelodge.com" <info@redmountainalpinelodge.com>

### Dear Community Stakeholder:

As we are getting closer to springtime, San Miguel Power Association (SMPA), our contract vegetation removal company, VM West, and the Colorado Department of Transportation (CDOT) are discussing the continuation of vegetation removal operations along the Red Mountain Electrical Right-of-Way (ROW) for fire mitigation purposes and clearing for a possible power line re-build project.

Last year, we completed vegetation removal above US highway 550 in the Mother Cline slide area, South of CR 18. The area North of this point still needs to be cleared. Some of this work can be done without the need for road closures on Highway 550, and some of it can be done with only short, single-lane closures. **However--as was the case last year--tree felling near the highway, and operations involving a helicopter will necessitate full closure of the highway.**

Our tentative work schedule calls for five to **six weeks'** worth of closures on **weekdays only**, during the morning and afternoon, with a **one-hour break at noon** to clear the traffic queue. Traffic stops will be placed in areas that will allow room for motorists to turn around, and information on alternate routes will be well-communicated ahead of time. The Bear Creek Trailhead parking area and trail will also be closed during these times.

One of our foremost considerations is the timing. Safety dictates that we avoid snow and bad weather. Although it's impossible to be sure, we are guessing that the snow

may be gone in late-April and are building plans based on that precept.

We are also holding in strong regard your request that we conclude operations requiring road closures **before Memorial Day (May 30<sup>th</sup>)** to facilitate economic activity in the summer. At this point, that goal looks achievable. Please stay engaged with our communications, as we endeavor to keep you informed.

With this in mind, we do have an additional request. CDOT has stated that they will require notification that the community stakeholders (i.e. You) are in support of the project and understand the necessity of the road and trail closures. Without documentation of this support, a permit to conduct the closures may be delayed.

Therefore, I must ask that you reply with a **statement of your support**. A simple email will do. To facilitate, I am attaching this message template. Feel free to use as much or as little of it as you wish. This quick action will go a long way toward the goal of producing a schedule that maximizes benefit for all while mitigating inconvenience.

Thank you for your past support, and for your continued engagement.

Alex Shelley  
Communications Executive



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It is the Mission of the San Miguel Power Association, Inc. to provide our members with safe, reliable, cost-effective, and environmentally responsible electrical service, while demonstrating both cooperative responsibility and support for the communities we serve.

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(866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email [program.intake@usda.gov](mailto:program.intake@usda.gov).

USDA is an equal opportunity provider, employer, and lender.



Willy Tookey &lt;admin@sanjuancolorado.us&gt;

## Updated Info. - Hwy. 550 Closures for Fire Mitigation

1 message

Alex Shelley &lt;alex@smpa.com&gt;

Mon, Feb 21, 2022 at 10:48 AM

To: Silas Clarke <clarkes@cityofouray.com>, "funke@cityofouray.com" <funke@cityofouray.com>, "smithj@cityofouray.com" <smithj@cityofouray.com>, "guldet@cityofouray.com" <guldet@cityofouray.com>, "lindseyp@cityofouray.com" <lindseyp@cityofouray.com>, Glen Boyd <gboyd@ouraycountycogov>, "martensenb@cityofouray.com" <martensenb@cityofouray.com>, "woodj@cityofouray.com" <woodj@cityofouray.com>, "woodkj@cityofouray.com" <woodkj@cityofouray.com>, "colemanj@cityofouray.com" <colemanj@cityofouray.com>, "fire@cityofouray.com" <fire@cityofouray.com>, Mike Wiggins <mike@ouraynews.com>, Lynn Padgett <lpadgett@ouraycountycogov>, "jniece@ouraycountycogov" <jniece@ouraycountycogov>, "btisdel@ouraycountycogov" <btisdel@ouraycountycogov>, Connie Hunt <chunt@ouraycountycogov>, Willy Tookey <admin@sanjuancolorado.us>, Jim Donovan <oem@sanjuancolorado.us>, Deanne Gallegos <pio@sanjuancolorado.us>, "jclark@town.ridgway.co.us" <jclark@town.ridgway.co.us>, "Ruth@ouraymountainrescue.com" <Ruth@ouraymountainrescue.com>, Jennifer Peterson <jpeterson@ouraycountycogov>, "jperry@ouraycountycogov" <jperry@ouraycountycogov>, William Tookey <administrator@sanjuancolorado.us>, "sjcsheriff@frontier.net" <sjcsheriff@frontier.net>, Preston Neill <pneill@town.ridgway.co.us>, DeAnne Gallegos <chamber@silvertoncolorado.com>, "sfuhrman@silverton.co.us" <sfuhrman@silverton.co.us>, Gloria Kaasch-Buerger <gkaasch-buerger@silverton.co.us>, "ladair@silverton.co.us" <ladair@silverton.co.us>, "editor@silvertonstandard.com" <editor@silvertonstandard.com>, "chris@fontier.net" <chris@fontier.net>, Terry Rhoades <terryr@smpa.com>, "kimpaq@gmail.com" <kimpaq@gmail.com>, "kimmetdh@yahoo.com" <kimmetdh@yahoo.com>, "heidi@visitglenwood.com" <heidi@visitglenwood.com>, "Nicholas.Szuch@usda.gov" <Nicholas.Szuch@usda.gov>, "Kimberlee.Phillips@usda.gov" <Kimberlee.Phillips@usda.gov>, Lisa Schwantes <lisa.schwantes@state.co.us>, "Allison - Cdot, Jennifer" <jennifer.allison@state.co.us>, "randee.reider@state.co.us" <randee.reider@state.co.us>, "shawkins@montrosecounty.net" <shawkins@montrosecounty.net>, "Constan - CDOT, Julie" <julie.constan@state.co.us>, "pdamke@me.com" <pdamke@me.com>, "colin.mitchell@state.co.us" <colin.mitchell@state.co.us>, "telluridemountainclub@gmail.com" <telluridemountainclub@gmail.com>, "onsight1@me.com" <onsight1@me.com>, Ryder Walker Adventure <adventure@ryderwalker.com>, "info@redmountainalpinelodge.com" <info@redmountainalpinelodge.com>, "director@ironhorsebicycleclassic.com" <director@ironhorsebicycleclassic.com>

### Dear Community Stakeholder:

I have some updated information that may help answer some of the questions we have received from several of you concerning our planned vegetation removal operations along the Red Mountain Electrical Right-of-Way (ROW).

While the proposed operations window is five to six weeks in length, the time during which we would require FULL road closures would be closer to only two weeks. This would be for tree felling near the highway and helicopter work.

To facilitate our CDOT permit, we are requesting written support from stakeholders in the communities closely affected by road closures on Highway 550 between Silverton and Ouray. Although we appreciate any and all support, we believe that CDOT is primarily wanting to hear from representatives in these two communities.

Again, please find the attached form letter which can be used in full, or in part, for the purposes of providing written support, at your discretion.

Thanks again, for your continued engagement.

Dear Regional Transportation Director:

My name is \_\_\_\_\_ and I represent \_\_\_\_\_. In this capacity, I have been in communications with San Miguel Power Association (SMPA), their contractor, VM West, and representatives of our neighboring communities about the vegetation clearing operations along the Red Mountain electrical transmission right-of-way.

My colleagues and I are aware of the importance of this project and we fully support the work that is planned to occur this year. SMPA has reached out to us and heard our input in meetings and through other means.

We have expressed our desire that SMPA partner with us regarding planning and communications. We have also expressed our desire that the work necessitating full road closures on Highway 550 be completed by Memorial Day (May 30, 2022), which is the unofficial launch of our summer economic season.

We understand that SMPA has heard our concerns and desires, and we believe that they will do everything within their power to comply. Please take this as our written expression of support for SMPA and their contractor to complete the vegetation clearing project, including the temporary and intermittent full closure of Highway 550 as necessary in the coming months, with our preference that this work be completed before May 30<sup>th</sup>.

Thank you,

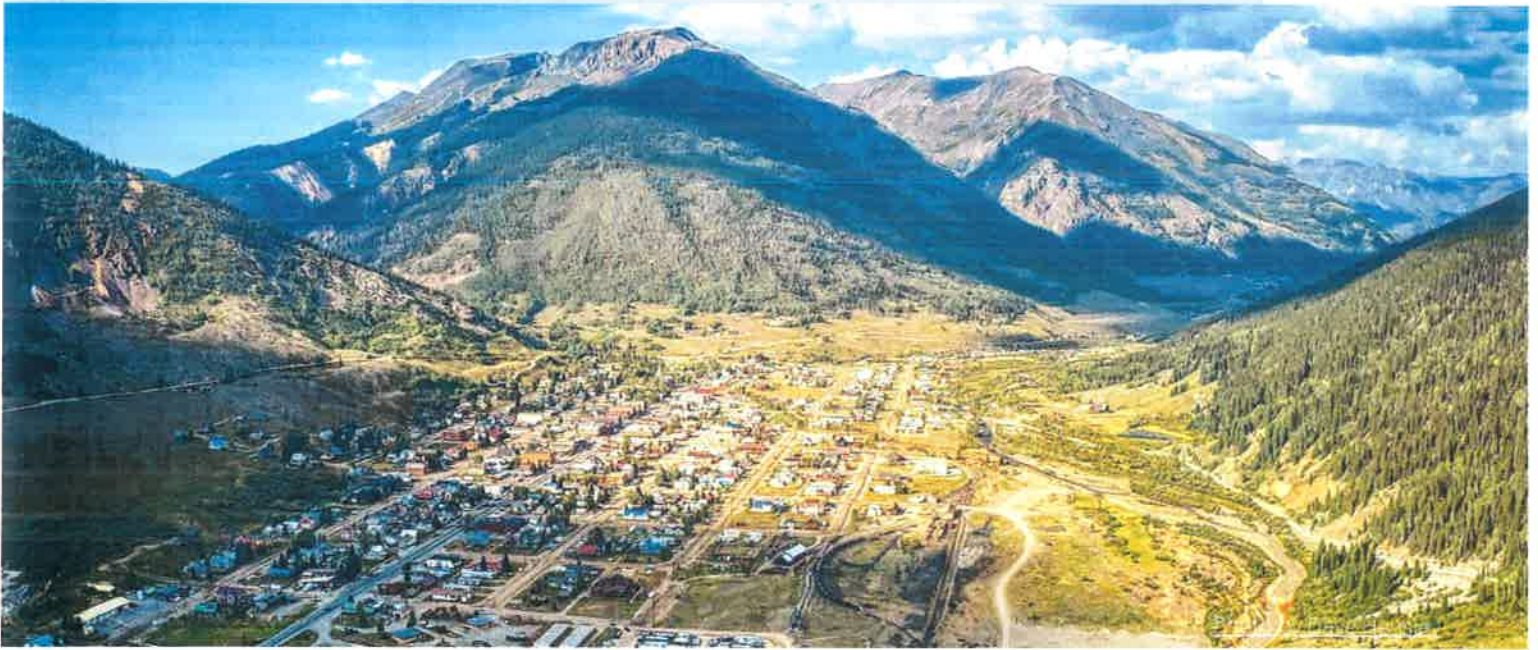
\_\_\_\_\_  
\_\_\_\_\_

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S.H.I.P. PRE-DEVELOPMENT ASSISTANCE

# ANVIL MOUNTAIN

FEBRUARY 2022



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# SILVERTON, CO



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# INTRODUCTION

## PROJECT BACKGROUND

The land at Anvil Mountain was purchased in 2003 by San Juan County. Since then, there has been significant work to create a local resident and employee neighborhood. The county led a voluntary environmental clean-up, built streets and extended utilities, and completed an initial phase of rental housing in 2018-2019. Homes for sale are now under construction on the site. This report seeks to create a plan for the remaining lots within the site, with the goal of providing an additional 10 townhomes for sale and 14 apartments for rent.



## CONSTRAINTS/PROBLEM STATEMENT - WHY IS TA NEEDED?

The existing planning approvals and grant contracts for the Anvil Mountain set expectations for what will happen in this phase of the project, including general guidance on housing types and what level of household income they must serve. This document seeks to navigate the constraints in place, outlining a path forward for conceptual design, financing, process, and roles.

## CURRENT HOUSING MARKET

The proposed unit mix and pricing seeks to be responsive to the Housing Needs Assessment - Town of Silverton & San Juan County August 2021, conducted by Root Policy Research. That document identified the following housing needs (bold items are addressed by this plan):



“At a minimum, to accommodate job growth projected by Region 9 Economic Development, in the next three years, the county will need:

- 22 new units for permanent residents, and
- 14 beds for seasonal surge capacity.
- Ideally, 13 units would be affordable for sale, priced under \$525,000;
- 4 units would be deeply affordable rentals, with rents of \$625/month and less; and
- 5 units would be shared 2-3 bedroom market rate rentals, with rents less than \$1,750/month
- 14 are temporary units/beds for seasonal workforce.

To accommodate the current and future needs identified by local employers, the county would need to more than double this production, building at least 50 units in the next three to five years, or between 10 and 15 units per year, in addition to 14 beds for seasonal surge capacity. Reductions in in-commuting would require development of even more units.” (page 10)

## Median Incomes and Affordability for San Juan County 2021

Household	Annual Income	Affordable Purchase	Affordable Rent
Two people 125% AMI	\$73,500	\$324,100	\$1,838
Two people 60% AMI	\$35,280	\$155,600	\$882

## PROJECT GOALS

- Provide housing for sale and for rent to local residents, employees, and retirees of San Juan County
- Make the most of the infrastructure investments and scarce land, while balancing neighborhood character and enough space for parking, storage, and snow removal.
- Provide a mix of housing units at affordable prices (rent payments less than 30% of household income), with an emphasis on two bedroom units.
- Plan and build for solar access, energy efficiency, and good indoor air quality
- Meet or exceed the affordability targets set in current funding agreements (125% AMI and 80% AMI, see “regulatory agreements” below)
- Attempt to be shovel ready in 2022

## REGULATORY AGREEMENTS

The site has a deed restriction with Colorado Division of Housing which requires that 60% of units are under 125% AMI and one-third of those under 80% AMI. Based on what has been built to date.

Target AMI	Deed Restriction Target	Required Units <sup>1</sup>	Built/Committed AMIs	Remaining to be Built
Unrestricted	40%	22	18	5
<125%	40%	24	10	14
<80%	20%	13	8	5
<b>Total</b>	<b>100%</b>	<b>60</b>	<b>36</b>	<b>24</b>

# PROCESS

## SCOPE



- Kickoff meeting/ Site visit
- Roles and Process discussions
- Concept design
- Design Feasibility
- Financial Feasibility
- Client Next Steps for Success

<sup>1</sup> The required units for the 125% and 80% AMI ranges were rounded up to the nearest whole unit.

# SITE VISIT

The CHFA SHIP team and project stakeholders conducted a site visit and design workshop on November 16, 2021. The discussion covered site constraints, planning and zoning, desired outcomes, an initial conversation on proposed roles and process, and discussion of a series of preliminary design ideas. Participants included:

- Gloria Kaasch-Buerger, Town Manager, Silverton
- Willey Tookey, County Administrator
- Austin Lashley, County Commissioner
- Beth Kramer, Executive Director, San Juan Economic Development
- Lisa Adair, Senior Planner for Silverton and San Juan County
- Chris Lopez, Community Relationship Manager, Colorado Housing and Finance Authority
- Tim Reinen, Principal, Reinen Consulting
- Willa Williford, Principal, Williford LLC

## Zoning

The current site assemblage consists of lots that are appropriately sized for townhome units and multifamily units. The final approved subdivision plans for Anvil Mountain dated March 2012 are used as the basis for design, which requires a PUD approval of the Planning Commission

## Survey

The consultant team is utilizing the approved Final Plat drawing dated March 2012, for property and lot lines consisting of 6 designated lots.

## Infrastructure

Water and sanitary sewer are available within the right of way adjacent to the three parcels. There are overhead power lines that may need to be addressed in development of the rental housing.

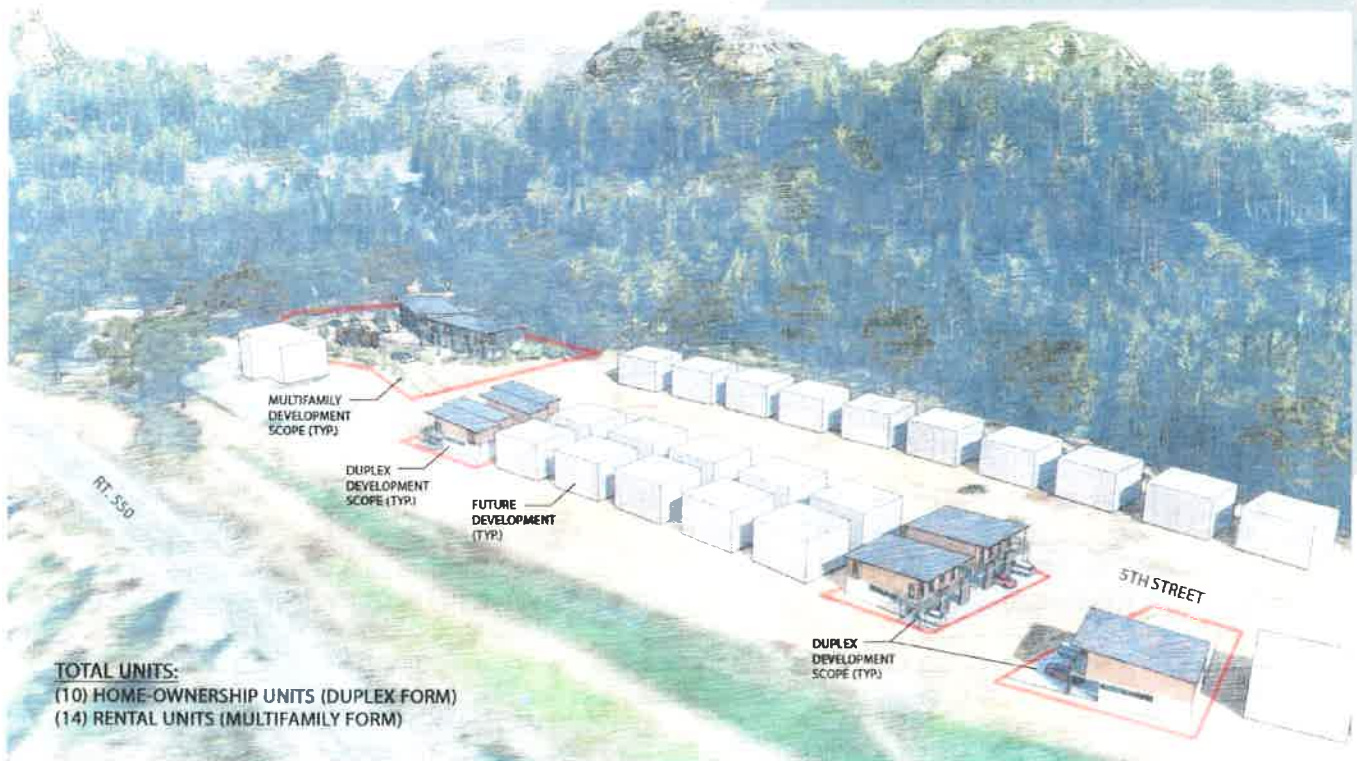
## Other constraints

Infrastructure was funded through the Colorado Department of Local Affairs. The funds came with requirements to serve households at specific income levels, including 60% of units for households under 125% AMI and one-third of those for households under 80% AMI, as noted above.



# CONCEPT DESIGN

*\*Note: These images are for conceptual design only, and should not be used for construction purposes*





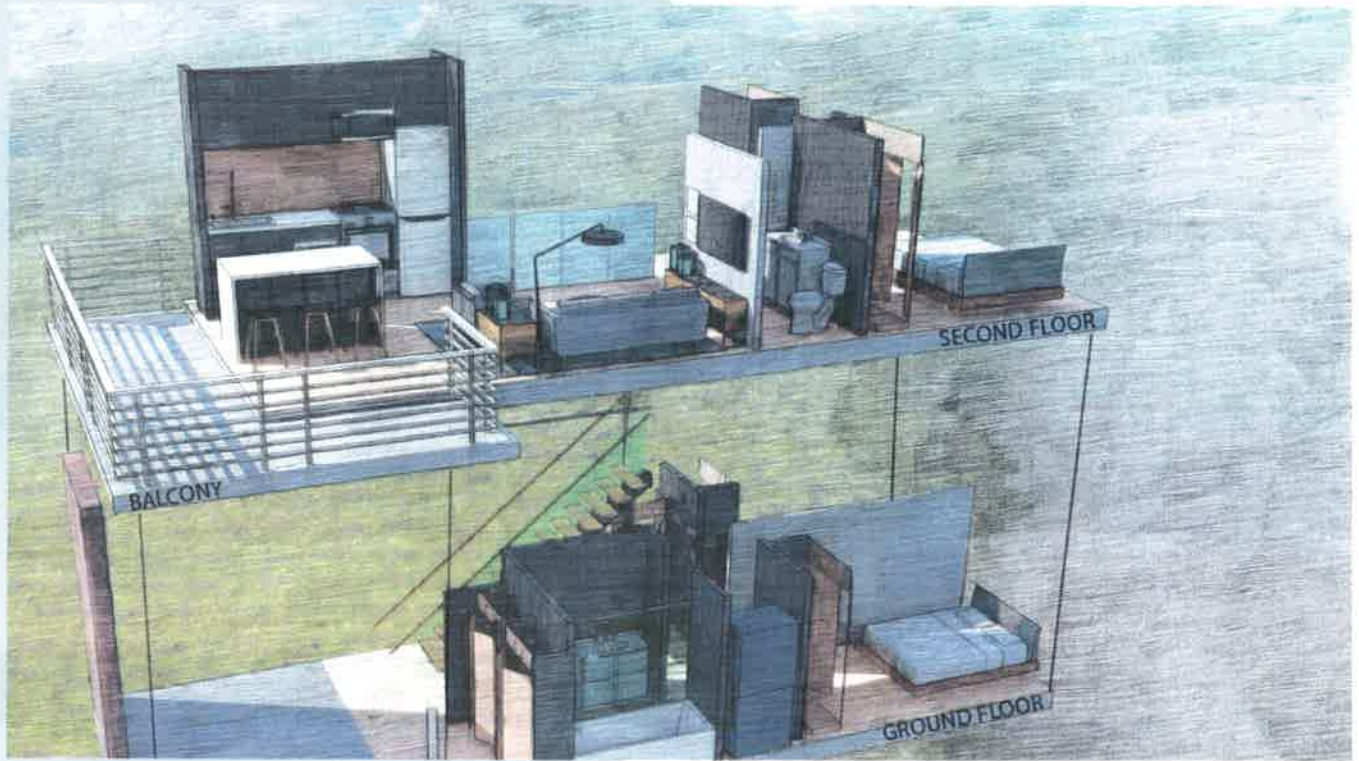


*\*Note: These images are for conceptual design only, and should not be used for construction purposes*





*\*Note: These images are for conceptual design only, and should not be used for construction purposes*



# PROJECT FINANCING

## PROFORMA

A proforma is an analysis used to determine the financial feasibility of a development project.

The first component of this analysis is an estimation of development costs. This is done by researching the current costs for development including 'hard costs' that include the physical materials that go into the building and the construction labor, and 'soft costs' which include permitting costs and the fees of professionals such as architects and engineers who are needed to ensure a structurally sound project.

The second component of the proforma varies depending on whether the model is used for for-sale or rental. When modeling for-sale, the estimated purchase price of the units should cover the development costs, otherwise subsidy for the project will need to be identified.

When modeling rental, the second component is a forecast of the revenue that can be generated by the development and the operating expenses that will be incurred annually once the project is up and running. There are several ways to approach this, but knowing the goal of this development is to create housing that is affordable to local residents, the anticipated rent amounts for the residential units are set based on the Colorado Housing and Finance Authority's 2021 Maximum Rent Tables which are based on the area median income for San Juan County. Operating expenses are forecasted based on other projects with similar characteristics. Together, these inputs illustrate how much of the project can be financed through a conventional loan and how much of a gap remains between the development costs and the identified sources of funding. Once it is clear how much additional money is needed, the project developer can begin looking for other funding sources in the form of grants, loans, or tax credits.

### Silverton Assumptions - For Sale

Development		
Land	\$0	In-kind from San Juan County
Site Improvements	\$0	Site Improvements are already complete
Hard Costs	\$2,260,000	\$200/sf
Soft Costs	\$565,000	\$50/sf
Professional Fees	\$113,000	5% of hard costs
Construction Finance	\$65,930	4% @ 60% accrual over 1 year; 65% LTV
Developer Fee	\$127,125	Modeled low at 5% of hard and soft costs
Brokerage Fee	\$74,635	2.5% of sales price
<b>Total</b>	<b>\$3,204,690</b>	<b>\$321,053 per unit</b>

Home Size	AMI Level	Square Feet	Sale Price
3 bedroom/1.5 bath	Unrestricted	1,130	\$500,00
3 bedroom/1.5 bath	124%	1,130	\$321,900
3 bedroom/1.5 bath	79%	1,130	\$205,100

Sales prices were modeled in several different combinations that would all meet the requirements set forth by the Department

of Local Affairs discussed above. Depending on how prices are set, the project may generate a profit (4 units at market rate, 5 units at 125% AMI, and 1 unit at 80% AMI), or there may be a gap of approximately \$11,000 per unit (8 units at 125% and 2 units at 80%). Even at these price points, the townhomes may be priced higher than what is affordable for the households the Town aims to support.

### Silverton Assumptions - Rental

Development		
Land	\$0	In-kind from San Juan County
Site Improvemnts	\$300,000	Grading and powerline
Hard Costs	\$1,865,000	\$250/sf
Soft Costs	\$373,000	\$50/sf
Professional Fees	\$93,250	5% of Hard costs
Construction Finance	\$36,731	4% @ 60% Accrual over 1 year; 65% LTV; 1% orig
Permanent Finance	\$17,800	1% Origination
Developer Fee	\$111,900	Modeled low at 5% of hard and soft costs
Operating/DSC Reserves <sup>2</sup>	\$80,210	6 mo. of operating expenses and debt service
Replacement Reserves	\$4,900	\$350/unit
Operating Expenses	\$56,000	Est. \$4,000 per unit per annum; may be lower with in-kind work
<b>Total</b>	<b>\$2,882,791</b>	<b>\$205,914 per unit</b>

If rents are modeled at the 80% AMI range, this development can drive \$1,780,000 in conventional financing, leaving a \$1,102,791 gap (\$78,771/unit). The 80% AMI rental rates may still be too high for the residents the Town is hoping to support; to make the units affordable at lower price points, more gap financing will need to be sourced.

### POTENTIAL SOURCES

- Options to fill the gap between the development costs and the available financing include:
- Colorado Division of Housing grants
- The development site is in an area eligible for USDA Multi-Family Housing Direct Loans which can be used as an alternative to conventional financing
- Colorado Housing and Finance Authority also provides competitive loans for housing in small rural communities
- HB 21-1271 is a new funding source through Colorado Division of Housing that might have potential for this site
- Philanthropic funds through local, regional or state fundraising
- Local general funds or passthrough sources such as American Rescue Plan
- In-kind work by San Juan Economic Development Council, Town of Silverton, and San Juan County has already supported this project development, and may continue to do so.

Additional information on potential funding sources is attached in the funding map appendix.

<sup>2</sup>Debt Service Coverage

# ROLES

Anvil Mountain Housing	Rental	For-Sale
<b>Lenders</b>	TBD, CHFA	
<b>Grant Funders</b>	CO Division of Housing, And? And?	
<b>Land Use Approvals</b>	Town of Silverton	
<b>Developers/ Owner's Rep/ Contractor</b>	San Juan Economic Development Corp	
<b>Builder Developer</b>	TBD through RFP	
<b>Compliance</b>	<i>Property Manager</i> Town or Housing Authority?	<i>Deed Restriction</i> Town or Housing Authority?
<b>Land Owner/Applicant</b>	San Juan County transfer to town of Silverton	
<b>Long Term Owner</b>	Town or Housing Authority?	Resident occupants

# ACTION ITEMS/NEXT STEPS

The stakeholder team has determined that proceeding with the for-sale townhome portion of this proposal is the immediate next step. The rental development is proposed to proceed within three years.

## ANVIL MOUNTAIN - TOWNHOUSE - DEVELOPMENT PROCESS

Action Steps	2022				2023				2024			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
<b>Predevelopment</b>												
Define structure, roles, duties												
Establish funding and development plan												
Select and refine design concept												
Submit/Process Annexation Application												
RFP for development partner												
Complete design												
Complete financing												
<b>Development</b>												
Building permits												
Construction												
Sales												

**Other recommendations include:**

- Further refining project roles.
  - » Who will lead tenant/buyer eligibility, selection, and contacting?
  - » Assign a project manager/owner's representative to coordinate the project and keep momentum.
  - » Who will coordinate the predevelopment of the future rentals project, so that it is ready for development in 2023 or 2024.
- Host a community meeting to gather feedback on the preliminary design concept and proposed process.
- Proceed with annexation of the site into the Town of Silverton, if possible.
- Finalize and issue a request for proposals for a developer/builder to participate in a public/private partnership.
- In coordination with the selected developer, apply to grant funders and lenders. Further explore and confirm funding sources, including CHFA, Colorado Division of Housing, Colorado Health Foundation, ARPA, Colorado Trust, and Rural Philanthropy.
- Create a tenant/homebuyer selection plan in coordination with local government entities and the Colorado Division of Housing. Examples from the processes used to date at Anvil Mountain and peer communities such as Gunnison and Basalt can help to inform this process.
- Research prefabrication, in-kind donations of labor and materials, and other cost-saving measures to address high construction costs.
- Continue to refine the financial projections.
- Develop marketing materials, provide regular updates to the community on project progress and keep an interest list of potential buyers.
- Consider options for unit layouts. Townhomes can be 2 or 3 bedrooms w/ additional bathroom fixtures as the developer sees fit. Final design for multifamily should have exterior stairs covered from elements.

# ACKNOWLEDGMENTS

Austin Lashley, County Commissioner

Chris Lopez, Community Relationship Manager, Colorado Housing and Finance Authority

Gloria Kaasch-Buerger, Town Manager, Silverton

Beth Kramer, Executive Director, San Juan Economic Development

Lisa Adair, Senior Planner for Silverton and San Juan County

Bill MacDougall, Building & Code Official, Fire Inspector, Town of Silverton

Brian Anderson, Residential and Commercial Contractor, 9318 Contracting

Nico Foster, Construction and Design LLC

Tim Reinen, Principal, Reinen Consulting

Willa Williford, Principal, Williford LLC

Mary Coddington, Program Manager, Cappelli Consulting

James Roy II, Principal, Urbanity Advisors

Briana Roy, Office Manager, Urbanity Advisors

# COLORADO'S OUTSTANDING WATERS DESIGNATIONS HELP SAFEGUARD WATER QUALITY

## Outstanding Waters

Outstanding Waters (OW) is a designation awarded to reaches of streams, rivers or other bodies of water with high water quality and exceptional recreational or ecological significance that are deemed worthy of increased protections by the State of Colorado. The intent of the designation is to preserve the high quality of the designated reaches for future generations. For a stream or part of a stream to qualify, it must meet specific water-quality criteria gathered across a wide range of measures.

Protection of Colorado's highest quality streams is vital to our state and our way of life. Clean water is not only critical for drinking water for our communities, but also for habitat for fish and other wildlife, farming and ranching, recreation and the long-term economic development of Colorado's towns.

A river or water body that is designated as an OW receives special water quality protections within and upstream of the reach, protecting it from long-term degradation, that is, from deterioration of existing water quality conditions.

An OW designation is awarded through the Water Quality Control Commission (WQCC) of the Colorado Department of Public Health and Environment (CDPHE). Designation occurs through a three-year rulemaking hearing process that includes three public hearings.<sup>1</sup>

[1] <https://cdphe.colorado.gov/wqcc-public-participation>



## How are Outstanding Waters designated?

Any person may nominate any state water for designation as an OW.

OW nominations are evaluated by basin on a rotating triennial (every-three-years) review schedule by the CDPHE's WQCC. The process to propose an OW nomination takes multiple years and includes substantial water sampling across all seasons, rigorous data analysis and evaluation, extensive public outreach, and three public hearings where public comment is encouraged.

*Pictured Right: Hermosa Creek – designated OW in 2009*



# The FAQs

## What does an Outstanding Waters designation do?

An OW designation protects a defined reach of a stream, river or lake that has a very high level of existing water quality from future degradation of that water quality. Waters designated as OW have to be maintained and protected at their existing quality. Only short-term degradation of existing quality is allowed and only for activities that result in long-term ecological or water quality benefit or clear public interest.

## Does Outstanding Waters Designation Affect Water Rights?

No. OW is about water quality; it does not affect water rights, which are about flow. OWs offer a unique, state-level designation (within the legal framework of the federal Clean Water Act) to protect existing water quality, while allowing for the exercise of valid water rights.

## Are Preexisting Activities Such As Grazing Affected?

OW protections only prevent new or increased sources of pollution in designated streams. Preexisting uses, such as grazing and recreation, as well as Water Quality Control Division (WQCD) permitted activities can continue at the levels and intensities in place at the time of designation. In other words, as long as a preexisting use does not increase pollution in a stream, OW would not limit that use. If a use (such as grazing or recreation) does not currently require a permit from WQCD, that would not change under an OW designation – no new permit would be required.

## Are New, Long-Term Activities Allowed Near Or Along Outstanding Waters Reaches?

New activities may also take place so long as they do not result in any degradation of the high levels of water quality of the given reach (relative to the quality at the time of OW designation).

## Are Short-Term, Temporary Activities Allowed?

Short-term water quality degradation of a waterbody designated as an OW may be allowed to occur for activities that result in long-term ecological or water quality benefit or clear public interest– for example, for restoration of a campground– so long as that degradation is minimized and water quality returns to its prior high-quality condition after the activity is completed.



## Can an Outstanding Waters designation go through private land?

Yes. OW designations can go through private land as long as the designation criteria for OW are met. An OW designation prohibits any new activity or any expanded activity that could degrade water quality below designated levels for a given reach, ensuring clean water for rivers flowing through private property.

## How are downstream water users affected by an Outstanding Waters designation?

Downstream water users are not impacted by an OW designation other than benefiting from the protection and delivery of high-quality water downstream.



# OUTSTANDING WATERS – HOW ARE THEY DESIGNATED?

Outstanding Waters (OW) is a designation awarded to reaches of streams, rivers, or other bodies of water with high water quality and exceptional recreational or ecological significance that are deemed worthy of increased protections by the State of Colorado. The intent of the designation is to prevent degradation, thus preserving existing high water quality for future generations.

An OW designation is made through the Water Quality Control Commission (Commission) in the Colorado Department of Public Health and Environment (CDPHE). Designations are made as part of the Commission's triennial rulemakings held on a rotating basis for basins around the state; each basin rulemaking process is spread over three calendar years from scoping, through issues formulation, to final action.

To qualify as an OW, a waterbody must meet three key criteria:

1

Waters must constitute an outstanding natural resource, with "exceptional recreational or ecological significance" and not modified by human activities in ways that substantially detract from their natural resource values. Examples include Gold Medal trout fisheries, native cutthroat trout recovery waters, waters with outstanding opportunities for recreation such as boating, swimming, and fishing, as well as waters within national parks, monuments, wildlife refuges, and wilderness areas.

2

Waters must require protection in addition to that provided by water quality classifications, standards, and protections from the CDPHE. For example, the Commission has recognized the need for native trout to have water quality maintained at existing high levels in light of those species' sensitivity to water pollution. Similarly, wilderness areas require protection at their existing high-quality levels to maintain that "untrammelled by man" wilderness quality.



### 3

Waters must be equal to or better than the water quality standard for 12 key parameters to support aquatic life. The reason for this is domestic water supply uses. These parameters are:

**pH** affects many chemical and biological processes in surface water. For example, at low pH metals are typically more soluble and more toxic to aquatic life.

**E. coli** is a group of bacteria that have the potential to cause sickness and disease; excessive E. coli in surface water could harm humans that inadvertently swallow water while recreating.

**Dissolved oxygen (DO)** is a measure of oxygen available to aquatic organisms; some aquatic organisms require abundant DO while others are adapted to survive with less.

**Nutrients** are essential for living organisms and exist in different forms that naturally cycle through the atmosphere, terrestrial and aquatic ecosystems. Excess nutrients, however, can adversely affect aquatic habitat and become toxic to sensitive aquatic species. Nutrients used in evaluating potential OWs are:

- chronic ammonia
- nitrate

**Metals and other trace elements** are found in surface water from natural sources such as the weathering of rock, but can also be elevated due to disturbances such as wildfire or historic mining, causing harmful impacts on aquatic life. Metals measured in evaluating potential OWs are:

- chronic cadmium
- chronic copper
- chronic lead
- chronic manganese
- chronic selenium
- chronic silver
- chronic zinc

Representative data across multiple seasons should be sampled to demonstrate that water quality is indeed equal to or better than these water quality requirements.

Source: 5 CCR 1002-31.8 (2)(a)



## Water quality parameters required for Outstanding Waters consideration

Target Analyte	Fraction Evaluated	Use classified by Water Quality Control Division	Water quality standard	Assessment statistic
pH	N/A	Aquatic Life	6.5 - 9.0	15 <sup>th</sup> - 85 <sup>th</sup> percentile
Dissolved Oxygen	N/A	Aquatic Life	6.0 / 7.0 mg/l	15 <sup>th</sup> percentile
E. coli	N/A	Recreation	126 / 100ml	Geometric mean
Ammonia	Total	Aquatic Life - Chronic	pH and temperature dependent standard	85 <sup>th</sup> percentile
Nitrate or Nitrate Nitrite	Total	Domestic Water Supply Use	10 mg/l	85 <sup>th</sup> percentile
Cadmium	Dissolved	Aquatic Life - Chronic	Hardness-based standard	85 <sup>th</sup> percentile or exceedances in less than 15% of samples
Copper	Dissolved	Aquatic Life - Chronic	Hardness-based standard	
Lead	Dissolved	Aquatic Life - Chronic	Hardness-based standard	
Manganese	Dissolved	Aquatic Life - Chronic	Hardness-based standard	
Selenium	Dissolved	Aquatic Life - Chronic	4.6 ug/l	85 <sup>th</sup> percentile
Silver	Dissolved	Aquatic Life - Chronic	Hardness-based standard	85 <sup>th</sup> percentile or exceedances in less than 15% of samples
Zinc	Dissolved	Aquatic Life - Chronic	Hardness-based standard	
<i>Additional parameters</i>				
Water temperature	N/A	N/A	N/A	N/A
Calcium	Dissolved	N/A	N/A	N/A
Magnesium	Dissolved	N/A	N/A	N/A
Arsenic	Total	Domestic Water Supply Use	0.02 ug/l	50 <sup>th</sup> percentile



Town of  
**Silverton**

SUBJECT: Hillside Cemetery Fence

STAFF CONTACT: Todd Bove

**Overview:** After years of discussions with various stakeholders in the Hillside Cemetery, the removal of the fence surrounding the property was identified as the top priority related to deferred maintenance due to its dilapidated condition and its perceived negative effect of wildlife migration. In collaboration with these various stakeholders, the Town of Silverton agreed to take this project on as limited capacity allowed. In effort to expedite the initiation of this project, a local volunteer group offered to devote resources to the removal of the fence. Volunteers have now removed a significant portion of the fencing. The Town has received multiple complaints from concerned citizens as to the fence removal in recent weeks.

**Staff Recommendations:** The Town of Silverton Staff understands both the need for a fence surrounding the cemetery and the limitations it places on wildlife migration. The Town of Silverton plans to begin construction on a replacement fence in the summer of 2022 and has set aside funding to initiate this project. Additional funding for completion will be requested to the Board of Trustees in the 2023 budget. The new construction will include wildlife migration gates that may be opened seasonally when appropriate. The new fence materials and aesthetic will be selected in the coming weeks through collaboration of the Town of Silverton, Silverton Historic Society and Hillside Cemetery stakeholders.





**ORDINANCE NO. 2021-09**

**AN ORDINANCE OF THE TOWN OF SILVERTON, COLORADO, AMENDING SECTIONS 8-3-30 THROUGH 8-3-80 OF THE SILVERTON TOWN CODE IN ORDER TO PROHIBIT OFF-HIGHWAY VEHICLES ON ALL STREETS, ALLEYS, AND RIGHTS-OF-WAY WITHIN THE TOWN OF SILVERTON**

**WHEREAS**, the Town of Silverton (the “Town”) is a Colorado statutory municipality governed by its elected Board of Trustees (the “Board”);

**WHEREAS**, sections 8-3-30 and 8-3-80 of the Town’s municipal code (the “code”) authorized public use of off-highway vehicles (“OHVs”) on designated vehicle routes within the Town pursuant to the OHV Routes Map; and

**WHEREAS**, on April 26<sup>th</sup>, 2021, at a regular, public meeting, the Board considered and approved the first reading of Ordinance 2021-05, which amended sections 8-3-30 through 8-3-80 of the Town’s code in order to prohibit OHVs on all streets, alleys, and rights-of-way within the Town; and

**WHEREAS**, the Town adopted Ordinance 2021-05 on May 18<sup>th</sup>, 2021 prohibiting OHVs on the streets, alleys, and rights-of-way within the Town starting on June 20<sup>th</sup>, 2021; and

**WHEREAS**, on June 7<sup>th</sup>, 2021, a referendum for Ordinance 2021-05 (the “referendum”) was filed with the Town’s Municipal Clerk; and

**WHEREAS**, the Municipal Clerk made a final determination of sufficiency of the referendum on July 20<sup>th</sup>, 2021 as no protest was filed to delay the finding of sufficiency; and

**WHEREAS**, pursuant to C.R.S. § 31-11-104(1), the Board referred Ordinance 2021-05 and the referendum to the registered electors of the Town at a special election held that was held on October 12<sup>th</sup>, 2021; and

**WHEREAS**, as a result of the special election held on October 12<sup>th</sup>, 2021, a majority of those registered electors that cast their vote in the election, voted to approve the amendment of sections 8-3-30 and 8-3-80 of the code and prohibit the use of OHVs on all streets, alleys, and rights-of-way within the Town; and

**WHEREAS**, the Board hereby finds and declares it necessary to amend the Town’s code to prohibit OHVs throughout the Town of Silverton.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SILVERTON, COLORADO:**

1. Section 8-3-30 is hereby amended as follows:

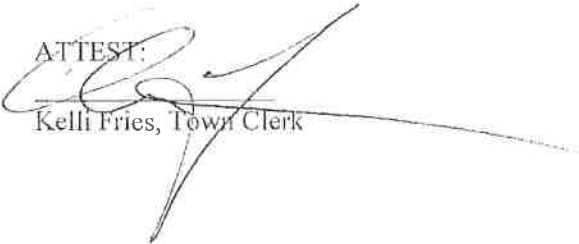
Off-highway vehicles are prohibited on all streets, alleys, and rights-of-way within the Town of Silverton.

2. Sections 8-3-40 through 8-3-80 are hereby deleted in their entirety.

**Effective Date and Time.** The amendments to the Town of Silverton municipal code shall take effect immediately.

**TOWN OF SILVERTON, COLORADO:**

ATTEST:

  
Kelli Fries, Town Clerk

  
Shane Fuhrman, Mayor

RESOLUTION 2012-04

A RESOLUTION ALLOWING THE USE OF OFF-HIGHWAY VEHICLES  
ON CERTAIN ROADS WITHIN THE BOUNDARIES OF SAN JUAN COUNTY

WHEREAS, Colorado Revised Statutes 33-14.5-108(1)(f) allows the Board of Commissioners the right to declare which County roads may be used by off-highway vehicles (OHVs); and

WHEREAS, there is an increasing demand by OHV users for San Juan County to allow the use of OHVs on roads within the County; and

WHEREAS, the Board of Commissioners has determined that the citizens of San Juan County may benefit both socially and economically by the Board allowing the use of off-highway vehicles on certain County roads; and

WHEREAS, it is the desire of the Board of Commissioners to designate certain roads in the County as allowable for OHV use.

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of San Juan County that all County roads may be used by off-highway vehicles, with the following exception:

1. County Road 6, also known as the Shrine Road, shall not be open to off-highway vehicles.
2. County Road 34 and 34A also known as the Cemetery Road and the Water Line Road.
3. OHVs shall be allowed to operate on County Road 110A provided that the Town of Silverton also allows for OHV use on the portion of CR 110A that travels through their jurisdiction.

BE IT FURTHER RESOLVED that for the purpose of this resolution the definition of "off-highway vehicle" shall be the definition found in Colorado Revised Statutes 33-14.5-101, a copy of which is attached to this resolution.

BE IT FURTHER RESOLVED that Resolutions 04-7 is hereby repealed.

READ, PASSED AND ADOPTED this 28<sup>th</sup> day of March, 2012 by the Board of Commissioners of San Juan County, Colorado.

\_\_\_\_\_  
Ernest F. Kuhlman

Attest:

\_\_\_\_\_  
Terry S. Rhoades

\_\_\_\_\_  
Ladonna Jaramillo  
Clerk and Recorder

\_\_\_\_\_  
Peter C. McKay

**Colorado Revised Statutes 33-14.5-101 (3)**

"Off-highway vehicle" means any self-propelled vehicle which is designed to travel on wheels or tracks in contact with the ground, which is designed primarily for use off of the public highways, and which is generally and commonly used to transport persons for recreational purposes. "Off-highway vehicle" does not include the following:

- (a) Vehicles designed and used primarily for travel on, over, or in the water;
- (b) Snowmobiles;
- (c) Military vehicles;
- (d) Golf carts;
- (e) Vehicles designed and used to carry disabled persons;
- (f) Vehicles designed and used specifically for agricultural, logging, or mining purposes; or
- (g) Vehicles registered pursuant to article 3 of title 42, C.R.S.