

**Western Region
Noncoal/Hardrock Minerals
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**FINANCIAL ASSURANCE
CHALLENGES**



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The good old days.....



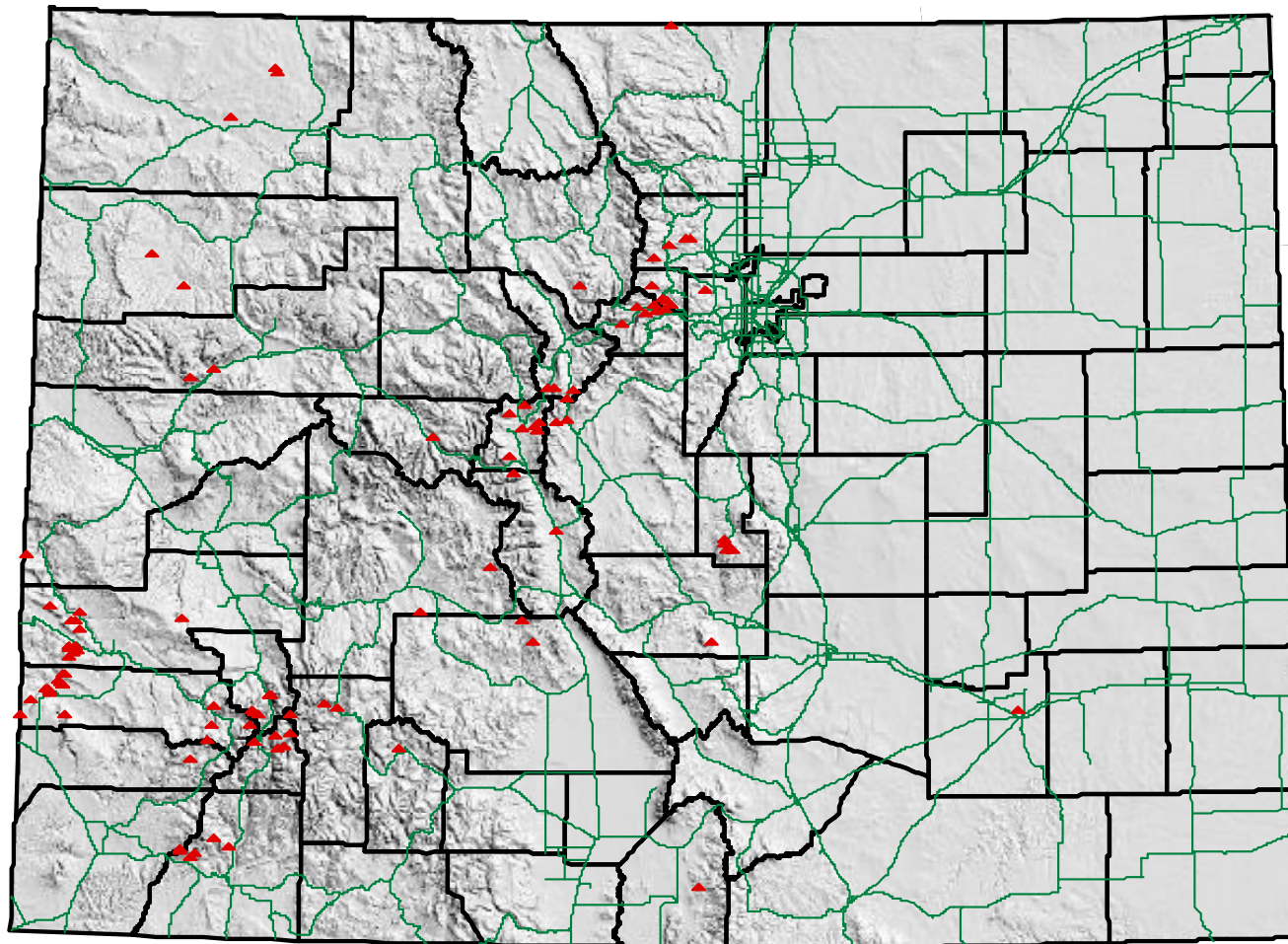
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Minerals Stats FY 11-12



# of active mines includes prospecting	1789
# of Acres Permitted	181,854
# of New Permit Applications/ Modifications	410
# of Inspections	683
# of Citizens Complaints	21
# of NOV issued	37
# of Acres /Reclaimed/Released	1,772
# Mine Sites reclaimed to beneficial use	106
Financial Warranty	\$416 M

Active Hard Rock Sites



Long- Term protection of Water Quality at active mine sites



Requirements on Bonding

- Colorado Division of Reclamation, Mining and Safety has the authority and obligation to require sufficient financial assurance from operators to guarantee that they reclaim disturbances under their operation and reclamation plans, and minimize impact to the prevailing hydrologic balance.

Water Quality Control Division



- While DRMS protects water quality through review, monitoring and enforcement of operating and reclamation plans, the WQCD does so by standards setting and discharge permitting. These permits are written and enforced to complement reclamation activities and compliance with them is usually a requirement under an operator's DRMS permit.

DRMS Task Force 1997



- 1997 Task force -- convened to discuss water quality bonding issues.
- Position paper 1997 – discussed active and inactive mines
- Water Quality Control Division statutes do not explicitly lay out financial assurance processes and requirements.
- Administrative law judge decision holding that WQCD can compel a bond for a waste water treatment plant, although WQCD has never required one.

1997 Task Force



- Industry Position - current statutory provisions allow DRMS to review and evaluate financial security requirements annually and set each years' new requirements according to the cost of reclaiming past disturbances as well as forecasted disturbances in the upcoming year.
- Additional level of protection through punitive financial mechanisms.
- Unnecessary burden creates financial uncertainty for operators without promoting legitimate environmental protection goals.

1997 Task Force



- The environmentalist make the policy argument that someone has to be responsible and the question is whether that responsibility should be borne by the company causing the pollution or Colorado taxpayers. They content that if a mining project would cost too much to operate due to the need to protect the public over the long-term(ie after production ceases) then that mining project should not go forward.
- Long term treatment should be a condition of permit approval

Conclusion of 1997 Task force



1997 Task Force



- DRMS 1997 position --Where there are existing permits with water treatment requirements following reclamation and sources of contaminated water are permitted mine facilities, the DRMS will require sufficient bond to treat water through the period of time required to execute the reclamation plan.

Bonding Rule



- Minerals Rule 4.2.1(4) states: “In any single year during the life of the permit, the amount of required Financial Warranties shall not exceed the estimated cost of fully reclaiming all lands to be affected in said year, plus all lands affected in previous permit years and not fully reclaimed. For the purpose of Paragraph (4), reclamation costs shall be computed with reference to current reclamation costs. The amount of the FW shall be sufficient to assure the completion of reclamation of affected lands if the Office has to complete such reclamation due to forfeiture. (cont)

Bonding Rule (cont)



- Reclamation includes all measures taken to assure the protection of water resources, including costs to cover necessary water quality protection , treatment and monitoring as may be required by Permit, these rules or the Act.”

Challenges



Examples of Issues raised as result of 1997 policy

- 1. Lawsuit related to modification at an existing NOI where water treatment presently occurs;
- 2. Extensive below grade mine workings filled with very poor quality water and expressed at the surface. Operator is currently (after extensive legal battle) planning to draw down the mine pool and conduct in-situ treatment;

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Challenges (cont)



3. Sunnyside Consent Decree in San Juan County allowed a hydraulic seal to be placed in lowest draining adit, resulting in drainage to re-appear at upgradient adits after the decree was terminated



Next Steps



- Colorado's position with respect to bonding for long term water treatment is dated.
- Point of controversy is long-term cost associated with water treatment and how to bond for perpetual water treatment at reclaimed mine sites.
- Who is responsible for monitoring of these sites long term.
- Determining Closure

Active Sites



Revoked Site



Closure?????



Perpetual Treatment?

- Colorado has 29 mine sites with some form of perpetual treatment (includes active and abandoned mines)



The Argo Tunnel water treatment plant extracts heavy metals from several water sources in Clear Creek County.

