



1096539

CHAFFEE COUNTY, SALIDA CO REC \$26.00
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/13/2004 RECPT-346240
08:56:00AM 1 OF 5

**ADDENDUM TO DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FILED ON NOVEMBER 21, 2001 (RECE#: 322102)**

Pursuant to a Declaration of Covenants, Conditions and Restrictions (the "Declaration") filed on November 21, 2001, Duane D. Zabka, Inc. doing business as E & R Trucking Company ("E & R Trucking") hereby files this Addendum to the Declaration and states:

WHEREAS, E & R Trucking is the owner of a ten (10) acre tract of real property in the SE ¼ of Sec. 25, T 58 N, R 8 E of Chaffee County, Colorado; and

WHEREAS, E&R Trucking filed the Declaration on November 21, 2001. The Chaffee County Recorder's identification number for the Declaration is RECE#: 322102; and

WHEREAS, the Declaration required Cyprus Amax Minerals Company ("Cyprus Amax") to survey an "affected area" defined in the Declaration and file a legal description for the "affected area" with the Chaffee County Clerk and Recorder; and

WHEREAS, Cyprus Amax, Phelps Dodge Corporation, and E & R Trucking entered into the Smelertown Superfund Site Agreement (the "Agreement") on August 18, 2000; and

WHEREAS, the Agreement requires E & R Trucking to file this Addendum to the Declaration; and

NOW, THEREFORE, Cyprus Amax has completed a survey of the "affected area" and E & R Trucking hereby files a legal description of the "affected area." In doing so, E & R Trucking hereby declares:

1. The "affected area" was surveyed by Cyprus Amax as part of the removal action described in the Declaration.
2. A true and accurate copy of the legal description of the surveyed "affected area" is attached hereto as Exhibit A.

3. Pursuant to Paragraph 2 of the Declaration, the legal description of the "affected area" in Exhibit A now is considered an addendum incorporated by reference into the Declaration.

4. This Addendum does not affect or alter the Declaration in any other manner.

IN WITNESS WHEREOF, E & R Trucking has caused this Addendum to be signed in its name on this 7th day of September, 2004.

Duane D. Zabka, Inc. doing business as
E & R Trucking Company

By: Duane D. Zabka

Its: Pres.

STATE OF Colorado)
) ss.
COUNTY OF Weld)

On this 7th day of September, 2004, before me, the undersigned, a Notary Public in and for the State of Colo. duly commissioned and sworn, personally appeared Duane D. Zabka the President of Duane D. Zabka, Inc. doing business as E & R Trucking Company, the corporation that executed this Addendum, and acknowledged the said document to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

Cheryl L. Fogg
Notary Public

My Commission Expires: My Commission Expires May 17, 2006



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THENCE SOUTH 89° 13' 34" EAST, A DISTANCE OF 211.06 FEET;

THENCE NORTH 86° 06' 51" EAST, A DISTANCE OF 63.22 FEET,

THENCE NORTH 78° 02' 59" EAST, A DISTANCE OF 88.12 FEET TO THE POINT
OF BEGINNING.

CLERK'S NOTE:
ORIGINAL IS POOR QUALITY



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**LEGAL DESCRIPTION
OF THE
CONSOLIDATION AREA + REMOVAL AREAS**

ALL THAT TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 50 NORTH, RANGE 8 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN, CHAFFEE COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 25, BEING MARKED BY A U.S.G.L.O. BRASS CAP, FROM WHENCE THE EAST QUARTER CORNER OF SAID SECTION 25 BEARS NORTH 00° 06' 47" EAST, A DISTANCE OF 2,652.45 FEET AND IS ALSO MARKED BY A U.S.G.L.O. BRASS CAP;

THENCE NORTH 16° 35' 00" WEST, A DISTANCE OF 814.84 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 36° 37' 45" WEST, A DISTANCE OF 56.05 FEET;

THENCE NORTH 02° 51' 38" EAST, A DISTANCE OF 21.30 FEET;

THENCE NORTH 90° 00' 00" EAST, A DISTANCE OF 92.55 FEET;

THENCE NORTH 00° 00' 00" EAST, A DISTANCE OF 195.20 FEET;

THENCE NORTH 90° 00' 00" WEST, A DISTANCE OF 102.30 FEET;

THENCE NORTH 02° 51' 38" WEST, A DISTANCE OF 58.51 FEET;

THENCE NORTH 22° 07' 09" WEST, A DISTANCE OF 104.10 FEET;

THENCE SOUTH 83° 35' 01" WEST, A DISTANCE OF 52.22 FEET;

THENCE SOUTH 77° 28' 02" WEST, A DISTANCE OF 411.86 FEET;

THENCE SOUTH 47° 44' 18" WEST, A DISTANCE OF 50.56 FEET;

THENCE SOUTH 03° 32' 06" WEST, A DISTANCE OF 214.96 FEET;

THENCE SOUTH 22° 51' 24" EAST, A DISTANCE OF 63.38 FEET;

THENCE SOUTH 69° 01' 07" EAST, A DISTANCE OF 67.26 FEET;

THENCE SOUTH 82° 42' 10" EAST, A DISTANCE OF 76.98 FEET;

