

November 30, 2012

Gail Schwartz
Colorado State Senator
Chair, Agriculture, Natural Resources & Energy Committee
200 E. Colfax Ave.
Denver, CO 80203

Dear Senator Schwartz,

Pursuant to § 23-41-201(6) C.R.S., I respectfully submit this update concerning the transfer of the Geological Survey and the Office of the State Geologist to Colorado School of Mines.

MOU Status

The memorandum of understanding is near completion but has not yet been officially executed. Based on the progress to date, and the lack of any significant unresolved issues, both the Department of Natural Resources and Colorado School of Mines fully anticipate signing the agreement by the December 31st deadline.

MOU Contents

The current draft of the MOU (with schedules) is attached. A brief summary of the contents of the MOU related to transferring functions and employees follows below. The MOU also contains schedules that detail the transfer of property, contracts, appropriations, and the geological survey cash fund.

1) Regarding the functions and objectives of the geological survey transferring to Mines.

House Bill 12-1355 anticipated that only a portion of the existing severance tax fund appropriation for the geological survey would transfer to Mines. As a result, the bill changed statute to reflect that Mines would only be responsible for continuing those functions that would be supported by ongoing severance tax or other ongoing cash funds as identified in an MOU. All statutory functions of the geological survey were transferred to Mines, however, to allow the Survey to fulfill those functions in the future should new funding be allocated or earned.

A detailed listing of the functions transferring to Mines with funding and those transferring without funding is listed in Schedule 1.1 on page 19 of the MOU. In summary, only functions and positions related to land use review and geologic hazards will remain funded and thus will continue without interruption upon transfer to Mines. The other functions and associated positions will cease until new funding sources can be secured.

Two exceptions are positions related in geothermal energy and carbon sequestration. These two positions will be transferred to Mines in order to fulfill existing grant contracts. However these positions will not be funded through ongoing severance tax in the MOU and will be discontinued

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upon completion of the existing grants unless additional grants can be secured. Although nothing is certain we are optimistic that such grants can be secured given current research projects and interests in this area by Mines faculty. Meetings between these position holders and Mines faculty are being arranged to begin seeking such funding.

It was anticipated at the time of HB 12-1355 that the Colorado Avalanche Information Center would transfer to Mines. However after further analysis and discussion during the development of the MOU, both parties agreed to keep this function fully intact with funding and staff in the Department of Natural Resources. The main reason for this decision was Mines' determination that the operational nature of avalanche forecasting functions, as well as the emergency response activities of the CAIC, did not fit the role and mission of a research university.

2) Regarding the transfer of employees of the geological survey and the office of the state geologist in conformance with the laws applicable to employees.

Schedule 1.3 (page 22 of the draft MOU) and Schedule 1.7 (page 26) list the positions that are transferring to Mines and the positions that are not transferring to Mines, respectively. In total, we anticipate 13 staff positions will transfer to Mines. In section 2.1 of the MOU (page 6), both parties acknowledge compliance with all laws relating to the employment of all transferred employees. We have engaged the assistance of the Attorney General's office throughout the process to further ensure compliance with all applicable state law and state personnel employment rules.

In conclusion, while we are working hard to make this transition go as smoothly as possible for the impacted employees and stakeholders, we know that there will be many unsettling moments and issues ahead. That said, the transfer of the geological survey should be – and is – an exciting moment for both organizations. Many state geological surveys have been integrated into research universities throughout the nation. Such collaborations have yielded tremendous value and growth for their states through scientific advancements and economic development, while at the same time providing students with unique opportunities for hands-on educational experiences. We see the same potential in this merger. In a recent meeting with our newly formed earth resources college, one department head noted that despite the uncertainties of the new college organization the potential was remarkable. In his opinion, very few, if any, earth colleges in the world could match the breadth and depth of our expertise. The Colorado Geological Survey adds another unique dimension to this expertise that when combined should yield great opportunities to grow our respective research reputations.

We look forward to continuously updating you and the people of Colorado on the success of the Colorado Geological Survey and Colorado School of Mines

Sincerely,



Peter S. Han
Chief of Staff, President's Office

DRAFT

MEMORANDUM OF UNDERSTANDING

By and Between

THE COLORADO DEPARTMENT OF NATURAL RESOURCES,

And

**THE BOARD OF TRUSTEES OF THE
COLORADO SCHOOL OF MINES**

Dated as of December ____, 2012

DRAFT

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (hereinafter called "MOU") is entered into by and between the Colorado Department of Natural Resources ("DNR"), and the Board of Trustees of the Colorado School of Mines (hereinafter called "CSM"), who may collectively be called the "Parties" and individually a "Party". DNR is an agency, and CSM is an institution of higher education of the State of Colorado, hereinafter called the "State".

RECITALS

WHEREAS, DNR operates and manages the Colorado Geological Survey ("SGS"), Office of the State Geologist ("State Geologist") and Colorado Avalanche Information Center ("CAIC"), (hereinafter collectively the "Colorado Geological Survey" or "CGS"), as a division within DNR; and

WHEREAS, pursuant to Colorado House Bill 12-1355 ("HB12-1335"), codified in part at C.R.S. § 23-41-201, et seq., the Parties are required to negotiate a Memorandum of Understanding to transfer certain powers, duties, and functions of CGS to CSM; and

WHEREAS, DNR desires to assign, transfer and deliver to CSM, and CSM desires to acquire, accept assignment of, and accept delivery of the Transferred Functions, Transferred Assets, Transferred Contracts and Transferred Employees of the CGS (as defined herein).

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants, agreement, representations, and warranties contained herein, and for other good and valuable consideration, DNR and CSM hereby agree as follows:

Article I

Transfer of Functions, Assets, Employees and Contracts

At the Closing Date, on the terms and conditions set forth in this MOU, DNR shall transfer, convey, assign and deliver without recourse to CSM, and CSM shall accept and acquire from DNR the following Transferred Functions, Transferred Assets, Transferred Employees and Transferred Contracts of CGS.

1.1 Transferred Functions. Except as expressly provided herein, DNR shall transfer to CSM the Transferred Functions identified in Schedule 1.1. DNR shall provide CSM with all policies, procedures and materials relating to the Transferred Functions.

1.2 Transferred Assets. Except as expressly provided herein, DNR shall transfer and convey to CSM the Transferred Assets identified in Schedule 1.2. Except for Permitted Encumbrances as disclosed in Schedule 2.7, Transferred Assets shall be free and clear of all liens. "Transferred Assets" shall mean certain assets, equipment, motor vehicles, databases, software, properties and rights, including a proportional interest in the fiscal year 2012-2013

appropriation, used or usable in the operation of the CGS Transferred Functions and listed in Schedule 1.2, whether real, personal or mixed, tangible or intangible, (other than the those Excluded Transferred Assets pursuant to Section 1.6 hereof).

1.3 Transferred Employees. Except as expressly provided herein, DNR shall transfer to CSM the Transferred Employees identified in Schedule 1.3. DNR shall provide CSM with a position description, the existing personnel file, payroll records, current salary, accrued vacation and sick leave for each Transferred Employee.

1.4 Transferred Contracts. Except as expressly provided herein, DNR shall transfer to CSM the Transferred Contracts identified in Schedule 1.4.

DNR may retain copies of any or all of the Transferred Contracts and books and records as may be required by applicable law, rule, regulation or court order. CSM acknowledges and agrees that to the extent that a Transferred Contract of DNR cannot be assigned to CSM, CSM may negotiate new contracts or agreements with the counterparties to such contracts and, upon such contracts being finalized, DNR shall be deemed to have satisfied its obligations under this Section.

1.5 Excluded Functions. Any provision of this MOU to the contrary notwithstanding, CSM shall not assume and there shall be excluded from the Transferred Functions those “Excluded Functions” listed in Schedule 1.5. DNR shall retain complete responsibility for the Excluded Functions identified in Schedule 1.5.

1.6 Excluded Assets. Any provision of this MOU to the contrary notwithstanding, CSM shall not acquire and there shall be excluded from the Transferred Assets those “Excluded Assets” listed in Schedule 1.6.

1.7 Excluded Employees. Any provision of this MOU to the contrary notwithstanding, the CSM shall not acquire or retain and there shall be excluded from the Transferred Employees, the “Excluded Employees” listed in Schedule 1.7. DNR shall remain responsible for the Excluded Employees.

1.9 Excluded Contracts. Any provision of this MOU to the contrary notwithstanding, CSM shall not assume and there shall be excluded from the Transferred Contracts those “Excluded Contracts” listed in Schedule 1.9.

1.10 The Closing. Subject to the fulfillment (or waiver, as applicable) of all conditions of this MOU, the closing of the transaction as contemplated hereunder (the “Closing”) shall take place on January 31, 2013, or such other date as agreed upon by the Parties (the “Closing Date”). If the Closing does not occur by January 31, 2013, then this MOU may be terminated in accordance with Section 7.4. The Closing shall take place at the offices of Colorado Attorney General, or such other location as agreed upon by the Parties. Upon consummation, the effective time of the Closing shall be deemed to have taken place at 11:59 p.m. on the Closing Date.

1.11 Instruments of Conveyance and Transfer. At the Closing or prior to Closing, the following deliveries shall be made:

(a) DNR will assign and transfer to CSM good and valid marketable title in and to all of the Transferred Assets, free and clear of all Liens, by delivery of (i) the Bill of Sale (ii) the Assignment and Assumption Agreement for the Transferred Contracts, and (iii) such other endorsements and other instruments of transfer, conveyance and assignment (in form and substance reasonably satisfactory to DNR and CSM as shall be necessary in the reasonable judgment of CSM to transfer, convey and assign the Transferred Assets and Transferred Contracts to CSM;

(b) CSM and DNR shall deliver to the other a copy of the resolution(s) or certificates, certified as true and of full force and effect as of the Closing Date, duly executed by the President of CSM, or in the case of the DNR the Executive Director of DNR, duly authorizing and approving: (1) the transactions contemplated herein; and (ii) the execution, performance and delivery of this MOU, and of all of the documents to be executed and performed by such Party in connection with the transactions contemplated herein.

ARTICLE II REPRESENTATIONS AND WARRANTIES OF DNR

In order to induce CSM to enter into this MOU and close the transactions contemplated hereunder, the DNR represents and warrants to CSM that, except as specifically noted in a Schedule hereto:

2.1 Organization, Standing and Power. DNR is an agency of the State of Colorado duly organized, validly existing, and in good standing under the laws of the State of Colorado, has the requisite power and authority to own the Transferred Assets, and to carry on the operations of CGS.

2.2 Authority; No Conflicts.

(a) The DNR has all requisite power and authority to enter into this MOU and to consummate the transactions contemplated hereby. The execution and delivery of this MOU and the consummation of the transactions contemplated hereby have been duly authorized by all necessary governmental action on the part of the DNR. This MOU has been duly executed and delivered by the DNR and constitutes a valid and binding MOU of the DNR, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, and similar laws relating to or affecting creditors generally or by general equity principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(b) The execution and delivery of this MOU by DNR does not or will not, as the case may be, and the consummation by DNR of the transactions contemplated hereby, and the performance of its obligations hereunder will not, conflict with or result in any violation of, or constitute a default under: (A) any provision of its charter, or state or local laws, ordinances, codes, rules or regulations of DNR, or (B) any loan or credit agreement, security agreement, note, mortgage, bond, indenture, lease, benefit contract or other agreement, obligation, instrument, permit, concession, franchise, license, judgment, order, decree, statute, law,

ordinance, rule or regulation applicable to DNR, or its properties or assets. DNR has not entered into any other agreement concerning the sale or transfer of any of the Transferred Assets.

2.3 No Violation of Licenses, Permits, and Registrations. Except as disclosed on Schedule 2.3, CGS has all permits, licenses, approvals, and authorizations of, and registrations with and under all federal, state and local laws, and from all applicable governmental authorities, required thereby to operate the CGS Transferred Functions.

2.4 Approvals and Consents. Except as disclosed on Schedule 2.4, no permit, consent, approval, or authorization of, or declaration or notice to, or report of filing with, any governmental authority is required in connection with the execution, delivery, or performance by the DNR of this MOU and the consummation of the transactions contemplated hereby.

2.5 Litigation. Except as disclosed on Schedule 2.5, there are no actions pending or against or affecting the CGS Transferred Functions or the Transferred Assets, nor is there any judgment, decree, injunction, rule, or order of any governmental authority outstanding against the DNR related to the operation of the CGS Transferred Functions.

2.6 Compliance with Laws. Except as disclosed on Schedule 2.6, the CGS Transferred Functions (i) are, and at all times during the last twelve months have been in substantial compliance in all material respects with all applicable laws or orders, and not in violation of any, and has not received any claim or notice that it is not in compliance with any, or that it is in violation of any laws or orders to which CGS or any of its business, operations, assets or properties are subject, and (ii) CGS has not failed at any time to obtain or to adhere to the requirements of any governmental permit, license, registration and other governmental consent or authorization necessary in connection with the operation of the CGS Transferred Functions.

2.7 Good Title to Transferred Assets.

(a) DNR has good and marketable title to the Transferred Assets. As of the date of Closing, the Transferred Assets shall be free and clear of all Liens, except for the "Permitted Encumbrances" set forth in Schedule 2.7;

(b) Except as disclosed on Schedule 2.7, the Transferred Assets are being utilized by CGS in substantial compliance with all applicable federal, local, and state rules, regulations, laws, statutes, and permits applicable to the Transferred Assets.

2.8 Transferred Contracts and Other Agreements. Schedule 1.4 contains a complete list of all Transferred Contracts and other MOUs entered into by DNR related to the CGS Transferred Functions; (the "Transferred Contracts"). True and complete copies of the Transferred Contracts have been provided to CSM. All of the Transferred Contracts are valid, subsisting in full force and effect, and CGS has satisfied or provided for all of its liabilities and obligations thereunder requiring performance prior to the date hereof, is not in default in any material respect under any of them, nor, to DNR's knowledge, does any condition exist that with the giving of notice or the lapse of time or both would constitute such a default. To DNR's

knowledge, no other party to any such Transferred Contract is in default thereunder, nor does any condition exist that, with notice or the lapse of time or both, would constitute such a default.

2.9 Absence of Certain Changes or Events. Except as disclosed on Schedule 2.9, since December 1, 2012, DNR has not:

(a) made any material change in the CGS Transferred Functions or operations or in the manner of conducting the business of CGS;

(b) suffered any material casualty loss (whether or not insured) or condemnation or other taking adversely affecting the CGS Transferred Assets;

(c) incurred any liability or indebtedness (whether absolute, accrued, contingent or otherwise, and whether due to or to become due directly related to the operation of the CGS Transferred Functions) that will obligate CSM or CGS following the Closing;

(d) terminated or amended or suffered the termination or amendment of any Transferred Contract related to the operation of CGS;

(e) sold, transferred, or leased any property or assets (real, personal or mixed, tangible or intangible) used or useful in connection with the operation of the CGS Transferred Functions other than the sale of inventory in the ordinary course of operations;

(f) created, granted or suffered to exist any Liens or encumbrances of any kind or description on any of the Transferred Assets that will survive the Closing; or

(g) entered into any transaction involving, or suffered any development affecting, the CGS Transferred Functions or the Transferred Assets other than in the ordinary course of business.

2.10 Employees.

(a) DNR has complied with all laws relating to the employment of all Transferred Employees at CGS (the “Transferred Employees”), including, but not limited to, provisions relating to wages, hours, benefits, equal opportunity, and the payment of withholding, unemployment insurance and other taxes, to the extent such laws apply to the CGS. Except as disclosed on Schedule 2.10(a), there are no written or oral employment agreements between DNR and any of the Transferred Employees. CSM acknowledges that the Transferred Employees at CGS are State classified employees and are not employees-at-will, and will retain their pay, state personnel tenure and status up to the Closing Date. However, after the Closing Date, CSM may, in its discretion, make changes in the organizational structure of CGS in accordance with Colorado law, including State Personnel Board Rules and State Personnel Director’s Administrative Procedures. CSM also retains the right to make changes in the duties, hours, and job location within the discretion of CSM, in accordance with State Personnel Board Rules and State Personnel Director’s Administrative Procedures. DNR shall remain responsible for those CGS employees whose employment will not be transferred to CSM at Closing (“Excluded Employees”), and DNR shall assume responsibility for the Excluded Employees who

remain State classified employees with DNR. CSM shall not assume any obligations with respect to any such Excluded Employees at Closing.

(b) There are no controversies pending or, to the knowledge of DNR, threatened between DNR and any of the Transferred Employees which might reasonably be expected to have a material adverse effect with respect to the CGS Transferred Employees, or any unresolved personnel grievances or unfair labor practice or State Personnel Board or State Personnel Director proceedings pending or, to the knowledge of DNR, threatened relating to the CGS Transferred Employees. Except as set forth on Schedule 2.10(b), DNR has not received notice of any claim that DNR has not complied with any laws relating to the employment of any Transferred Employee or that DNR is liable for any arrears of wages, benefits or any taxes or penalties for failure to comply with any of the foregoing.

2.11 Insurance. Schedule 2.11 sets forth a true and complete list of all current policies or binders of fire, liability, product liability, umbrella liability, real and personal property, workers' compensation, vehicular, fiduciary liability and other casualty and property insurance maintained by DNR and relating to the Transferred Assets (the "Insurance Policies"). For purposes of this MOU, DNR satisfies the requirements for "Insurance Policies" in this MOU under the self-insured risk management program established pursuant to C.R.S. 24-30-1501, et seq. Except as set forth on Schedule 2.11, there are no claims related to the Transferred Assets, Transferred Functions, Transferred Contracts or Transferred Employees of CGS pending under any such Insurance Policies as to which coverage has been questioned, denied or disputed, or in respect of which there is an outstanding reservation of rights. DNR has not received any written notice of cancellation of, premium increase with respect to, or alteration of coverage under, any of such Insurance Policies. The Insurance Policies are sufficient for compliance with all applicable laws and Transferred Contracts to which DNR is a party or by which it is bound. True and complete copies of the Insurance Policies have been made available to CSM.

CSM shall have no liability for any property, gross receipts, franchise, ad valorem, capital gains, income, transfer, excise or other tax (collectively "Taxes") imposed upon DNR, and none of the Transferred Assets shall be subject to any liens with respect to any Taxes.

2.12 Databases, Software and Intellectual Property. As reflected in Schedule 1.2(d), attached, DNR hereby transfers and assigns to CSM all of its right, title, and interest in and to its databases, software and intellectual property rights, including copyrights and trademarks, whether registered or unregistered, (the "Intellectual Property") necessary for the performance of the Transferred Functions, and acknowledges and agrees that after the Closing Date, CSM shall possess all ownership rights with regard to, and have the right to use, distribute, and modify such Intellectual Property. Any inquiries received by DNR after the Closing Date for use of such data shall be forwarded to CSM for response.

2.13 Disclosure. No representation or warranty by DNR in this MOU and no statement contained in the Schedules to this MOU or any certificate or other document furnished or to be furnished to CSM pursuant to this MOU contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

2.14 Limitation. Except as explicitly provided in this Article II, CSM's assumption of the Transferred Assets is on an "as is, where is" basis, and DNR has not made and shall not be deemed to have made any representation or warranty regarding the Transferred Assets.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF CSM

CSM represents and warrants to DNR that, except as specifically noted in a Schedule hereto, as of the date of execution of this MOU:

3.1 Organization, Standing, and Power. CSM is an institution of higher education of the State of Colorado, is duly organized, validly existing, and in good standing under the laws of the State of Colorado, and has the requisite power and authority to carry on the operations of CSM.

3.2 Authority; Conflicts.

(a) CSM has all requisite power and authority to enter into this MOU and to consummate the transactions contemplated hereby. The execution and delivery of this MOU and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action on the part of CSM. This MOU has been duly executed and delivered by CSM and constitutes a valid and binding agreement of CSM, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws relating to or affecting creditors generally or by general equity principles (regardless of whether such enforceability is considered in a proceeding in equity or at law) or by an implied covenant of good faith and fair dealing.

(b) The execution and delivery of this MOU by CSM does not or will not, as the case may be, and the consummation by CSM of the Transfer and the other transactions contemplated hereby will not, conflict with or result in any violation pursuant to, or constitute a default under any statutes, rules, policies or procedures of CSM.

3.3 Consent and Approvals. Except as disclosed on Schedule 3.3 hereto, no permit, consent, approval, or authorization of, or declaration or notice to, or report or filing with, any governmental authority is required to be obtained by CSM in connection with the execution, delivery or performance by CSM of this MOU and the consummation of the transactions contemplated hereby.

3.4 Litigation; Compliance with Laws. There is no suit, action, investigation, or proceeding pending or, to the CSM's knowledge, threatened against CSM that would prevent CSM from executing this MOU and the transaction contemplated hereunder.

3.5 Understanding Regarding Disclaimer of Warranties. CSM understands and agrees that neither DNR, nor any of its officers or representatives has made any representation or warranty, express or implied, of any nature whatsoever with respect to the Transferred Assets, except for the representations and warranties expressly set forth in Article II, and except as set forth expressly herein, the condition of the Transferred Assets shall be "as is"

and “where is.” EXCEPT AS SET FORTH IN ARTICLE II HEREOF, THE DNR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE TRANSFERRED ASSETS OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE TRANSFERRED ASSETS.

ARTICLE IV COVENANTS OF THE PARTIES PENDING CLOSING

4.1 DNR’s Conduct of CGS. From and after the date of this MOU and until the date of the Closing, or until this MOU has been terminated, except as otherwise consented to by CSM in writing, DNR shall operate CGS only in the ordinary course, in a businesslike manner and in substantially the same manner as it has heretofore, in material compliance with applicable Federal and State laws, regulations and rules.

4.2 Expenses. Except as provided elsewhere in this MOU, each Party hereto shall bear its own fees and expenses incurred in connection with this MOU and the consummation of the transaction contemplated hereunder. This provision shall survive the Closing.

4.3 Notice of Events. Each Party shall promptly notify the other of any event, circumstance or condition which would cause any representation or warranty made by such Party to be untrue or incorrect in any material respect as of the Closing Date. To the extent that any event or condition occurs following execution and delivery of this MOU that causes a representation or warranty of a Party to be untrue, such Party shall modify its disclosure schedules or to add additional disclosure schedules to the extent necessary to permit it to make its representations and warranties hereunder at Closing.

4.4 Reasonable Efforts. Upon the terms and subject to the conditions set forth in this MOU, each of the Parties agree to use its reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other Party hereto in doing, all things necessary, proper or advisable to consummate and make effective in the most expeditious manner practicable, the transactions contemplated by this MOU, by January 31, 2013, including using reasonable best efforts to accomplish the following: (a) the taking of all acts necessary on its part to cause the conditions to Closing to be satisfied as promptly as practicable; (b) the obtaining of all necessary consents, approvals or waivers from third parties, including the governmental consents and approvals required to on Schedules 2.4 and 3.3 and (c) the execution and delivery of any additional instruments consistent with the terms hereof that are necessary to consummate the transactions contemplated by, and to fully carry out the purposes of this MOU. If the Parties have used reasonable efforts to close the transactions contemplated hereby but have been unable to effect a closing on or before January 31, 2013, such failure shall not relieve the Parties of the obligations to proceed hereunder.

4.5 Risk of Loss. DNR shall bear all loss or damage to the Transferred Assets of CGS occurring prior to the Closing Date. In the event of any such loss or damage, DNR shall give prompt notice thereof to CSM. In the event repairs or replacement are required to be made promptly in the reasonable judgment of DNR, DNR shall proceed with the required repairs or replacements at its cost or expense. Notwithstanding the foregoing, in the event that the loss or damage to CGS is significant and materially interferes with the operation of CGS, the DNR may elect not to proceed with such repair or replacement.

ARTICLE V CONDITIONS PRECEDENT TO THE CLOSING

5.1 Conditions to Obligation of DNR to Close. The obligation of DNR to close the transactions contemplated under this MOU shall be further subject to the satisfaction and fulfillment, at or prior to the Closing, of each of the following conditions, any of which may be waived in writing by DNR:

(a) Compliance With MOUs and Covenants. CSM shall have performed and complied in all material respects with all of its covenants, obligations, and agreements contained in this MOU that are required to be performed and complied with on or prior to the Closing Date;

(b) Representations and Warranties. The representations and warranties of CSM contained herein (i) shall be true and correct in all material respects on and as of the date of this MOU, and (ii) shall also be true and correct on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date;

(c) Other Closing Documents. Each of the Transaction Documents shall have been executed and delivered by CSM and be in full force and effect as of the Closing Date, including:

- (i) the Assignment and Assumption MOU; and
- (ii) the Bill of Sale.

(d) No Adverse Proceedings. There shall not be in effect any Order or Law restraining, enjoining or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by this MOU.

5.2 Conditions to Obligation of CSM to Close. The obligations of CSM to close the transactions contemplated under this MOU shall be further subject to the satisfaction and fulfillment, at or prior to the Closing, of each of the following conditions, any of which may be waived in writing by CSM:

(a) Compliance With MOUs and Covenants. DNR shall have performed and complied in all material respects with all of its covenants, obligations, and agreements contained in this MOU that are required to be performed and complied with on or prior to the Closing Date;

(b) Representations and Warranties. The representations and warranties of DNR contained herein (i) shall be true and correct in all material respects on and as of the date of

this MOU and (ii) shall also be true and correct on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date;

(c) Other Closing Documents. DNR shall have executed and delivered to CSM (i) the Assignment and Assumption Agreement, (ii) the Bill of Sale, and (iii) such further instruments and documents as may be reasonably requested by CSM in order to complete the transfer of the Transferred Assets to CSM;

(d) No Material Adverse Effect. No Material Adverse Effect shall have occurred with respect to the CGS or the Transferred Assets;

(e) Governmental Approvals. All governmental approvals referred to in Schedule 2.4 shall have been obtained;

(f) No Adverse Proceedings. No suit of any kind or nature shall have been commenced which would materially adversely affect the Transferred Assets or CGS, and no injunction, temporary restraining order, judgment or other order of any court or governmental agency or instrumentality shall have issued or have been entered which would be violated by the consummation of the transactions contemplated herein; and no suit, action or other proceedings brought by the United States or the State of Colorado, or any agency or instrumentality of the United States or the State of Colorado shall be pending in which it is sought to restrain or prohibit the effectuation of this MOU or the consummation of the transactions contemplated herein.

(g) Consents. With respect to the Transferred Contracts requiring consent by the other party to an assignment by DNR, CSM shall have received those consents it deems necessary to allow it to perform the Transferred Functions after the Closing Date.

(h) Missing Schedules. DNR shall have delivered to CSM all disclosure schedules of DNR marked "To be provided at Closing," in form and substance reasonably satisfactory to CSM, at least two days prior to the Closing Date.

ARTICLE VI POST CLOSING COVENANTS

The Parties covenant to take the following actions after the Closing Date (all of which shall survive the Closing):

6.1 Employee Retention.

(a) CSM shall not assume any responsibility for any of the DNR's obligations to Transferred Employees arising out of their employment prior to the Closing Date. CSM acknowledges that under the statutes and rules governing certified State classified employees, such Transferred Employees may have retention rights with respect to other available State classified employment positions.

(b) CSM acknowledges that the State Geologist is under an employment contract that terminates December 31, 2012. DNR shall provide notice of nonrenewal of the

contract to the current State Geologist prior to December 31, 2012. CSM shall not assume responsibility for the State Geologist employed by DNR up to December 31, 2012, and DNR shall not assign such contract for personnel to CSM. Pursuant to C.R.S. 23-41-204, the President of CSM will appoint a state geologist.

(c) With respect to Transferred Employees (“Transferred Employees”), CSM will be responsible for providing compensation and benefits to Transferred Employees for periods on and after the Closing Date during the respective periods of employment of such Transferred Employees with CSM. On and after the Closing Date, the Transferred Employees will accrue employment benefits in accordance with the statutes and rules applicable to State classified employees and the policies applicable to CSM’s employees.

(d) Nothing in this MOU shall limit the right of CSM to terminate the employment of any Transferred Employee following the Closing Date, provided, however, any such termination shall be in accordance with the laws and rules applicable to State classified employees.

(e) As of the first day following the Closing Date, all Transferred Employees shall be permitted to participate in the plans, programs and arrangements of CSM for State classified employees relating to compensation and employee benefits as may be available on such date.

(f) The CSM is a participating employer in the State of Colorado PERA retirement program and Transferred Employees shall retain their service and participation in PERA.

(g) If any of the arrangements described in this Section are determined to be prohibited by applicable legal requirement, DNR and CSM shall modify such arrangements to as closely as possible to reflect their expressed intent and retain the allocation of economic benefits and burdens to the Parties contemplated herein in a manner that is not prohibited by applicable legal requirement.

6.2 Further Assurances. From time to time after the Closing Date, CSM or DNR, at the request of the other and without further consideration but at the expense of the requesting Party, shall sign and deliver or cause to be signed and delivered such other instruments of transfer and take such other actions as reasonably may be requested by the other in order to further to effectuate the consummation of the Transfer. In addition, CSM and DNR acknowledge that there may be occasions in the future when a Party will need access to certain documentation of the other in order to prepare financial statements, or other reports to third parties, or in order to facilitate audits or legal proceedings, comply with laws or governmental authorizations or otherwise conduct its affairs in a proper manner. Accordingly, CSM and DNR shall exercise their respective reasonable efforts to achieve the purposes of this Section in such case at the expense of the requesting Party.

6.3 Liability for Failure to Disclose. CSM shall have no liability with respect to the Excluded Functions, Excluded Employees, Excluded Contracts and Excluded Assets of the CGS or CAIC before or after the Closing Date. If CSM incurs any liability after

the Closing Date concerning the Transferred Functions, Transferred Employees Transferred Contracts and Transferred Assets as a result of the failure of DNR to disclose liabilities, risks and areas of noncompliance pursuant to the representations and disclosures made in this MOU, that DNR knows or with the exercise of reasonable diligence should know exist on the Closing Date, DNR agrees to make a good faith effort to obtain an appropriation from the Colorado General Assembly to compensate CSM accordingly. CSM shall provide written notice to DNR of any such undisclosed liabilities and the amount of compensation due CSM and DNR shall have 60 days to respond. In the event the Parties cannot reach agreement on the source and amount of compensation due CSM, CSM reserves the right to pursue any and all legal remedies against DNR to compensate itself for such damages and liabilities.

6.4 Record Retention. Each Party agrees that for a period of not less than six (6) years following the Closing Date, it shall not destroy or otherwise dispose of any books, records, documents, data or other information relating principally to CGS, the Transferred Assets, the Assumed Liabilities or the Excluded Transferred Assets ("CGS Information") in its possession with respect to the periods prior to the Closing. Unless destruction is otherwise prohibited, each Party shall have the right to destroy all or part of such CGS Information after the sixth anniversary of the Closing Date or, at an earlier time by giving each other Party hereto thirty (30) days prior written notice of such intended disposition and by offering to deliver to the other Party, at the other Party's expense, custody of such CGS Information (other than the tax returns and related work papers and letters from the accountants of each Party) as such Party may intend to destroy.

6.5 Colorado Avalanche Information Center.The Parties agree that the Colorado Avalanche Information Center (CAIC) is an Excluded Function under this MOU and the employees, assets, appropriation, and contracts of the CAIC are Excluded Employees, Excluded Assets and Excluded Contracts under this MOU. Pursuant to the provisions of HB 12-1355, the CAIC was statutorily transferred to CSM in C.R.S. 23-41-203(2) effective January 31, 2013. CSM hereby delegates and authorizes DNR to operate the CAIC effective January 31, 2013, until such time as the Parties can enact legislation to transfer authority and responsibility for CAIC back to DNR or another appropriate State agency. DNR agrees to be responsible for the operation of the CAIC, its assets, employees and appropriation during this period of delegation and to continue operations in compliance with C.R.S. 23-41-203(2). The Parties agree to cooperate to enact such legislation as soon as possible in the 2013 session of the Colorado General Assembly. In the event legislation is not enacted during the 2013 session, the Parties agree to amend this MOU to address the operation and responsibility for the CAIC.

6.6 Leasing Office Space at 1313 Sherman. DNR agrees to lease to CSM, certain office space at 1313 Sherman, Denver, Colorado for use by CSM to provide office space for certain Transferred Employees from the Closing Date until June 30, 2013. DNR and CSM shall provide notice to State Buildings of the sublease of the office space. CSM agrees to pay DNR \$xxxx per month for the lease of such office space [identified in Schedule 6.6]. During the period of the office lease, certain Transferred Employees and Transferred Assets shall be physically located at 1313 Sherman until such time as CSM can arrange for office space and the relocation of such Transferred Employees, furniture, fixtures and equipment.

6.7 Leasing State Fleet Vehicles. DNR shall retain ownership and State Risk Management coverage responsibility for the CGS Motor Vehicles listed on Schedule 1.6 after the Closing Date (the “Leased Vehicles”). From the Closing Date until June 30, 2013, DNR shall permit CGS Transferred Employees to use the Leased Vehicles as necessary to perform their normal employment functions during such period of time. Public safety functions of the CAIC shall have priority use of the Leased Vehicles. CSM agrees to pay DNR the Monthly Payment reflected for each Leased Vehicle on Schedule 1.6 by [an interagency monthly transfer on the first day of each month/ or deduct from closing cash].

6.8 Final Reconciliation. The Parties acknowledge that the Transferred Assets include DNR’s best estimate to divide the funds, appropriations, contract dollars, and personnel salaries and benefits for Transferred Employees and Transferred Assets as of January 31, 2013, however, delays in closing the monthly accounting records of DNR, and accounting and accrual adjustments, mean the amount of such estimates may be materially inaccurate. The Parties agree to review the associated dollar amounts in Schedules 1.2 and 1.3 as of June 30, 2013 to determine if such estimates were materially accurate as of January 31, 2013. If either Party identifies a material discrepancy, defined as either (i) a 10% or greater variance from the January 31, 2013 amount, or (ii) \$500,000, in the dollar amount of funds, appropriations, contract dollars and personnel salaries and benefits for Transferred Employees and Transferred Assets, such Party will notify the other party of the discrepancy by no later than August 31, 2013 and provide the responding Party with 30 days to respond. If the Parties agree that there is a material discrepancy, the Parties will work in good faith to agree on the amount of the discrepancy, modify this MOU accordingly, and a seek an appropriation from the Colorado General Assembly or use other available funds to compensate the other Party for the amount of the material discrepancy.

ARTICLE VII TERMINATION

7.1 Termination by Mutual Consent. This MOU may be terminated and abandoned at any time prior to December 31, 2012 by the mutual written agreement of the Parties hereto. If the Parties agree to mutually terminate the MOU, they shall provide written notice to the revisor of statutes pursuant to C.R.S. § 23-41-201(5).

7.2 Termination by Either Party.

(a) After December 31, 2012 and prior to January 31, 2013, this MOU may be terminated by either DNR or CSM by written notice to the other of a United States federal or state court of competent jurisdiction or United States federal or state governmental, regulatory, or administrative agency or commission shall have issued an order, decree, or ruling or taken any action permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this MOU and such order, decree, ruling, or other action shall become final and non-appealable.

(b) If the Closing does not occur by January 31, 2013 or such other date that the Parties have mutually agreed upon in writing, then this MOU may be terminated by either

DNR or CSM by written notice to the other. The terminating Party shall provide notice to the Colorado General Assembly.

7.3 Effect of Termination. In the event of termination of this MOU in accordance with the terms of this Article VII, this MOU shall forthwith become void and the Parties shall have no further obligations or liability hereunder, except: (i) the provisions of this Article VII, shall survive termination of this MOU, and (ii) nothing herein shall relieve any Party from liability for any willful breach of any provision hereof. In the event of Termination of this MOU, CSM shall return and destroy any copies of confidential information that are not public records.

ARTICLE VIII GENERAL PROVISIONS

8.1 Notices. All notices and other communications hereunder shall be in writing and shall be deemed provided to a Party hereto if delivered personally, mailed by registered or certified mail (return receipt requested), sent by nationally recognized overnight delivery service or sent via facsimile to such Party at the address therefore as follows (or at such other address for such Party as shall be specified by similar such notice):
If to the DNR:

Executive Director
Colorado Department of Natural Resources
1313 Sherman, Room 718
Denver CO 80203

If to the CSM, to:

President
Colorado School of Mines
1500 Illinois Street
Golden, CO 80401

with a copy to:

General Counsel
Colorado School of Mines
1500 Illinois
Golden, CO 80401

8.2 Interpretation. The headings contained in this MOU are for reference purposes only and shall not affect in any way the meaning or interpretation of this MOU.

8.3 Rules of Construction. The Parties hereto agree that they have been represented by counsel during the negotiation, preparation, and execution of this MOU, and therefore waive the application of any law, regulation, holding, or rule of construction providing that ambiguities in an MOU or other document will be construed against the Party drafting such MOU or document.

8.4 Entire MOU. This MOU, together with all Exhibits and Schedules to this MOU constitutes the entire MOU, and supersedes all other prior agreements and understandings (both written and oral), among the Parties hereto, or any of them, with respect to the subject matter hereof. This MOU shall not be assigned by operation of law or otherwise except as otherwise provided in this MOU.

8.5 Severability. Any term or provision of this MOU which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this MOU or affecting the validity or enforceability of any of the terms or provisions of this MOU in any other jurisdiction. If any provision of this MOU is deemed unenforceable, such provision shall be deemed to be reformed and modified to the minimum amount required to make such provision enforceable. Unless otherwise specifically set forth in this MOU, all provisions of this MOU shall survive the Closing.

8.6 Assignment. Neither Party may assign or delegate any rights or obligations set forth in this MOU without the prior written consent of the other Party. This MOU shall be binding upon the Parties hereto and their respective successors and permitted assigns.

8.7 No Third Party Beneficiaries. This MOU is for the sole benefit of CSM and DNR and is not for the benefit of any third party. Nothing contained in this MOU is intended to relieve or discharge the obligations or liability of any third party to DNR or CSM, nor shall this MOU give any third party any right of subrogation or action over or against DNR or CSM.

8.8 Amendments and Waivers. No amendment of any provision of this MOU shall be valid unless the same shall be in writing signed by CSM and DNR. No waiver by any Party of any provision of this MOU or any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be valid unless the same shall be in writing and signed by the Party making such waiver nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

8.9 Captions. The titles of the Articles and Sections of this MOU are for convenience only and shall not be construed as limiting, defining or affecting the substantive terms of this MOU.

8.10 Exhibits, Schedules and Annexes. The Exhibits, Schedules and Annexes are a part of this MOU as if fully set forth herein. All references herein to Sections, subsections, clauses, Exhibits, Schedules and Annexes shall be deemed references to such parts of this MOU, unless the context shall otherwise require.

8.11 Relationship of the Parties. Nothing contained herein shall be deemed to create a joint venture or other fiduciary relationship between DNR and CSM. Neither DNR nor CSM, nor their respective officers, directors, employees, representatives or agents, shall be deemed to be agent or servant of the other Party nor have the right or authority to enter into any contract, MOU, commitment or other obligation in the name of or on behalf of the other Party or otherwise purport to bind the other Party in any manner.

8.12 Counterparts. This MOU may be executed in one or more counterparts, each of which shall, be deemed to be an original but all of which shall constitute one and the same MOU. Furthermore, the Parties agree that the signature of any Party may be delivered by facsimile, or transmission of a PDF file or any other form of electronic delivery.

8.13 Applicable Law. The laws of the State of Colorado and rules and regulations issued pursuant thereto, as the same may be amended from time to time, shall be applied in the interpretation, execution and enforcement of this MOU. Any provision of this MOU, whether or not incorporated herein by reference, that provides for arbitration by an extra judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. Nothing contained in any provision hereof or incorporated herein by reference which purports to negate this Section in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense or otherwise. Any provision rendered null and void by the operation of this Section will not invalidate the remainder of this MOU to the extent that this MOU is capable of execution. At all times during the performance of this MOU, the parties shall strictly adhere to all applicable federal and State laws, rules and regulations that have been or may hereafter be established. All suits or actions related to this MOU shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

THE PARTIES HERETO HAVE EXECUTED THIS MEMORANDUM OF UNDERSTANDING

* Persons signing for Parties hereby swear and affirm that they are authorized to act on behalf of their respective Party and acknowledge that the other Party is relying on their representations to that effect.

STATE OF COLORADO

John W. Hickenlooper, Governor

<u>STATE OF COLORADO</u>	
<u>John W. Hickenlooper, Governor</u>	
<p>Colorado Department of Natural Resources</p> <p style="text-align: center;">Mike King, Executive Director</p> <hr style="border: 0; border-top: 1px solid black; margin: 10px 0;"/>	<p>The Board of Trustees of the Colorado School of Mines</p> <hr style="border: 0; border-top: 1px solid black; margin: 10px 0;"/>
<p style="text-align: center;">Signature By: _____</p> <p>Date: _____</p>	<p style="text-align: center;">Signature By: M.W. Scoggins, President of the Colorado School of Mines</p> <p>Date: _____</p>

Schedule 1.1
Transferred Functions

a) CGS Statutory Functions Transferred to CSM With Funding and Appropriation.

i) Public Safety

- (1) Review of schools for geologic hazards.
- (2) Review of preliminary development plans for geologic hazards.
- (3) HB1041 Areas/Activities of State Interest – Geologic hazard technical assistance to state and local governments.
- (4) Create Guidelines for land use in natural hazard areas.
- (5) Designate suitable areas for hazardous waste disposal.
- (6) Define and map geological hazards for city/county master plans.
- (7) Determine areas of natural geologic hazards that could affect the safety of or economic loss to the citizens of Colorado.
- (8) Assist and advise state and local governments on geologic problems.
- (9) Collect and preserve geologic information related to geologic hazards.
- (10) Evaluate the physical features of Colorado, related to natural hazards, for human and animal use.
- (11) Prepare, public and distribute reports, maps and bulletins when necessary to meet statutory mission related to land use and geologic hazards.

b) Statutory Functions Transferred to CSM Without Funding or Appropriation.

i) Water Resources

- (1) Prepare, publish and distribute reports, maps, and bulletins when necessary to meet statutory mission related to ground water quantity.
- (2) Assist and advise state and local governments on geologic problems related to ground water quantity.
- (3) Define and map ground water resources for city/county master plans.

ii) Mineral and Energy Resources

- (1) HB 1041 Areas/Activities of State Interest – Mineral resource technical assistance to state and local governments.
- (2) Update maps of commercial mineral deposits.
- (3) Determine if development interferes with the extraction of commercial mineral deposits.
- (4) Respond to requests for assistance from the Mined Land Reclamation Board.
- (5) Inventory mineral resources potential of the State Land Board Stewardship Trust Lands.

- (6) Assist the Division of Reclamation, Mining and Safety in the creation of an annual report for the development of mineral resources.
- (7) Provide technical assistance to state and local governments on mineral and energy resources including geothermal. (Except that two grant-funded positions related to geothermal and carbon sequestration will be transferred to Mines and will continue as long as additional grant funding can be secured.)
- (8) Assist and advise state and local governments on geologic problems related to mineral and energy resources.
- (9) Inventory and analyze the State's mineral and energy resources as to quantity, chemical composition, physical properties, location and possible use.
- (10) Collect and preserve geologic information related to mineral and energy resources.
- (11) Advise and act as liaison on transactions dealing with natural resources (mineral and energy resources), between the State, other states and the federal government.
- (12) Evaluate the physical features (mineral and energy resources) of Colorado for human and animal use.
- (13) Promote economic development of mineral and energy resources.
- (14) Prepare, publish and distribute reports, maps and bulletins when necessary to meet statutory mission related to mineral and energy resources.
- (15) Provide advice and assistance to the Oil and Gas Conservation Commission on natural gas underground storage.

**Schedule 1.2
Transferred Assets**

1) Funds.

- a) The following funds attributable to appropriations for Fiscal Year 2012-2013 attributable to the CGS Transferred Functions, Transferred Contracts and Transferred Employees arising and performed on and after Closing:

i) Severance Tax	\$1,180,942
ii) Cash Fund	[\$500,000]

- b) List of all Furniture, Fixtures, and Equipment Necessary for Transferred Functions

Reference Spreadsheet dated as of the Closing Date.

- c) List of all Motor Vehicles Necessary for Transferred Functions.

2005 Chevy Silverado Pickup Truck 1GCEK19B85Z295992

Note, the remaining CGS Motor Vehicles listed on Schedule 1.6 Excluded Assets are retained by DNR, but leased to CSM from the Closing Date to June 30, 2012 pursuant to section 6.7 of the MOU.

- d) Databases, Software and Intellectual Property

- i) [StateMap database, online bookstore and any software]

**Schedule 1.3
Transferred Employees**

Position #	Status at Closing
1 – Management (State Geologist)	Vacant
3 – Physical Science Researcher/Scientist IV	Occupied
8 - Physical Science Researcher/Scientist IV	Occupied
15 - Physical Science Researcher/Scientist I	Occupied
67 – Program Assistant I	Vacant
78 - Physical Science Researcher/Scientist II	Occupied
95 - Physical Science Researcher/Scientist III	Occupied
97 - Physical Science Researcher/Scientist III	Occupied
108 - Physical Science Researcher/Scientist II	Occupied
110 - Physical Science Researcher/Scientist I	Occupied
114 - Physical Science Researcher/Scientist III	Occupied
86 – Physical Science Researcher/Scientist III	Occupied
130 – Physical Science Researcher/Scientist III	Occupied

* The official MOU will list the names of the position holders. In order to protect the sensitivity of personnel information, however, the names have been replaced in this draft by a simple notation of “occupied” or “vacant”.

**Schedule 1.4
Transferred Contracts**

Party/Description	Term and Assignment
USGS – State Geological Mapping [produce report on state geologic data]	Funded 7/1/12 – 6/30/13 Silent on Assignment
Colorado Water Conservation Board [County geologic & Groundwater Resources – Douglas County]	Funded 8/6/12 – 6/30/13 45 days prior written notice, consent required to assign
CDOT Rocky Mtn Metro Airport Groundwater Assessment Phase I	8/13/12 - ? 60 days written notice, consent required
CDOT – Statewide rock fall mitigation	6/2/09 – 6/1/14 Consent required to assign
CDOT [Chemical contamination site assessment]	7/23/08-6/23/13 60 days written notice, consent required
Arizona Geological Survey – Geothermal Data Base	5/24/12 – 5/23/13 30 days written notice, silent on consent
University of Utah – CO2 sequestration	Funded 7/1/11 – 6/30/13 30 days written notice and consent to assignment
State Land Board storage space	8/1/09- 6/30/14 Consent required to assign or sublet
USGS National Coal Data System]	Funded 7/1/12 – 6/30/13

Schedule 1.5
Excluded Functions

- a) Colorado Avalanche Information Center. Pursuant to section 6.6 of the MOU the Parties have authorized DNR to operate the CAIC, subject to the statutory authority of CSM, until the earlier of the end of the 2013 Colorado General Assembly, or the enactment of legislation transferring statutory authority to DNR or another State agency.

Schedule 1.6
Excluded Assets

Refer to the spreadsheet of Motor Vehicles dated as of the Closing Date that will be retained by DNR, but leased to CSM from the Closing Date to June 30, 2012 pursuant to section 6.7 of the MOU.

**Schedule 1.7
Excluded Employees**

Colorado Geological Survey:

Position #	Status at Closing
2 – Budget/Policy Analyst IV	Vacant
13 - Physical Science Researcher/Scientist III	Vacant
64 - Physical Science Researcher/Scientist I	Occupied
81 - Physical Science Researcher/Scientist III	Vacant
87 - Physical Science Researcher/Scientist III	Occupied
94 - Physical Science Researcher/Scientist V	Vacant
98 – Engineering/Physical Sciences Tech III	Occupied
99 – Administrative Assistant II	Vacant
109 - Physical Science Researcher/Scientist III	Vacant
111 - Physical Science Researcher/Scientist II	Vacant
112 - Physical Science Researcher/Scientist II	Vacant
113 – Program Assistant I	Vacant

Colorado Avalanche Information Center:

Position #	Status at Closing
8 - Physical Science Researcher/Scientist V	Occupied
89 - Physical Science Researcher/Scientist II	Occupied
90 - Physical Science Researcher/Scientist I	Occupied
100 - Physical Science Researcher/Scientist I	Occupied
101 - Physical Science Researcher/Scientist I	Occupied
102 - Physical Science Researcher/Scientist I	Occupied
103 - Physical Science Researcher/Scientist I	Occupied
104 - Physical Science Researcher/Scientist I	Occupied
106 - Physical Science Researcher/Scientist I	Occupied
107 - Physical Science Researcher/Scientist I	Occupied
131 - Physical Science Researcher/Scientist III	Occupied
132 - Physical Science Researcher/Scientist I	Occupied
Various – Temporary Aide	Various

* The official MOU will list the names of the position holders. In order to protect the sensitivity of personnel information, however, the names have been replaced in this draft by a simple notation of “occupied” or “vacant”.

**Schedule 1.8
Excluded Contracts**

Party/Description	Funds Excluded
US Forest Service – Provide [avalanche information and education to travelers and recreationist]	
CDOT CAIC Forecasting, [Training Technical advice, data management and mitigation]	
GW Highlander [Silverton CAIC office]	
State Land board [CAIC station in Jackson county CO]	
Colorado Division of Reclamation, Mining and Safety [Federal pass through from Office of Surface Mining] – Mine Subsidence Information Center [run center, answer inquiries, issue permits]	
CDPHE [use of lab bench space	
El Paso County [data use for geospatial data in Black Squirrel district, provide water qualify report]	
USGS [data sharing and collection for mineral production]	
Employment Contract with State Geologist	

**Schedule 2.3
Notice of Violations of Licenses, Permits and Regulations**

None

**Schedule 2.4
Approvals and Consents**

None

**Schedule 2.5
Litigation**

None

**Schedule 2.6
Compliance with Laws**

None

**Schedule 2.7
Good Title to Transferred Assets**

None

**Schedule 2.9
Absence of Certain Changes or Events**

None

**Schedule 2.10
Employees**

2.10(a) Employment Agreements

- a) Employment contract with State Geologist

2.10(b) Employment Controversies

None

**Schedule 2.11
Insurance**

None

**Schedule 6.6
Leased Office Space**

Insert simple drawing or description of Leased Space.