

# STATE OF COLORADO

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DIVISION OF RECLAMATION, MINING AND SAFETY  
Department of Natural Resources

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## MEMORANDUM

**To:** Interested Parties

**From:** Dustin Czapla

**Date:** February 3, 2014

**RE:** *Clarification of JD-7 Pit Mine, M-1979-094-HR, Drainage Design Plan Implementation Construction Schedule, Pursuant to submittals within the Environmental Protection Plan under consideration*

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Cotter Corporation (N.S.L.)'s ("Cotter") JD-7 Pit Mine ("JD-7") is currently in temporary cessation. Cotter cannot presently resume active mining operations at JD-7 due to an injunction ordered by the United States District Court for the District of Colorado in *Colorado Environmental Coalition vs. Office of Legacy Management*, 819 F. Supp. 2d 1193, 1224-225 (D. Colo. 2011). The injunction generally does not allow mining operations to occur at the JD-7; although, as amended, the injunction allows certain maintenance and reclamation activities to occur. Until lifted or further modified, the injunction prevents construction of any Division-approved structures, including construction of stormwater control structures approved as part of the Drainage Design Plan in the JD-7 Environmental Protection Plan ("AM-1 EPP").

Under these circumstances, the Division submits the following clarifying language regarding the construction schedule for constructing stormwater control structures required by the AM-1 EPP: So long as consistent with the injunction, the existing stormwater management controls are to be inspected and maintained, as necessary, to provide control of stormwater run-off. When the injunction is lifted or modified to allow implementation of AM-1 EPP, Cotter shall commence implementation of those stormwater control structures in the Drainage Design Plan that address JD-7's existing mining disturbances within 90 days following any other approvals required to do the work. AM-1 EPP's stormwater control structures that are designed to address future mining operations must be constructed per the mining plans as the structures become essential and necessary based on future mining disturbances. In no case, however, shall Cotter be allowed to resume mining operations prior to implementing the portion of the Drainage Design Plan, as reviewed and approved by the Division, for those operations, nor prior to the implementation of the EPP's requirements for those operations.

Cotter has informed us that, within 60 days of the Mined Land Reclamation Board's Order or the Division's decision approving the implementation of AM-1 EPP, Cotter will seek any necessary approvals from the Department of Energy to implement those stormwater control structures in the Drainage Design Plan that address JD-7's existing mining disturbances.