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**DIVISION OF RECLAMATION
MINING AND SAFETY**

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Sent Via U.S. Mail and Email

December 4, 2017

Mr. Michael A. Cunningham
Environmental Protection Specialist
Division of Reclamation, Mining and Safety
Colorado Department of Natural Resources
1313 Sherman Street, Room 215
Denver, CO 80203

Re: Succession of Operators – Schwartzwalder Mine (M-1977-300), Jefferson
County, Colorado

Dear Mr. Cunningham:

On behalf of Denver Water, I am sending you this letter concerning Cotter Corporations (“Cotter”) October 11, 2017 request for transfer and succession of Permit M-1977-300 to newly formed Colorado Legacy Land, LLC.

Denver Water encourages the Division of Reclamation, Mining and Safety (“DRMS”) to deny Cotter’s application for transfer of Permit M-1977-300 to Colorado Legacy Land without additional information. DRMS should also consider increasing the financial warranty for the permit sufficient to provide for the reclamation and long-term treatment of the Schwartzwalder mine pool and adjacent alluvial aquifer.

Uranium in the Schwartzwalder mine pool and the alluvial aquifer contributes to the uranium concentrations in Ralston Creek via the Illinois fault zone and other tributary connections. The U.S. Geological Survey has determined the Illinois fault to be “highly complex” with the potential “to be conduits for mine pool water to enter Ralston Creek.” USGS Open File Report 2011-1092. Water quality data from the alluvial aquifer also demonstrate a connection between uranium concentrations in Ralston Creek and in the alluvial aquifer. (Attachment A, Figure 2.) In addition, it is worth noting the numerous recent exceedances of the Maximum Contaminate Level (“MCL”) for surface water samples as shown by the recent data trends. (Attachment A, Figure 1 & 2.)

Denver Water currently serves drinking water to 1.4 million customers in the City and County of Denver and surrounding suburbs. Denver Water owns and operates Ralston Reservoir, an on-

channel drinking water reservoir located a few miles downstream of Cotter's Schwartzwalder Mine. Ralston Creek is a source of water for Ralston Reservoir, which Denver Water, as well as the City of Arvada and North Table Mountain Water and Sanitation District, rely on as drinking water supply for their respective customers.

To date, Denver Water's Moffat Treatment Plant, which is a conventional potable water treatment facility, has been able to remove uranium concentrations from source water, but not without cost to Denver Water and its ratepayers. Much of the uranium that is removed from the water at the plant, is eventually concentrated in solids, which becomes more costly and difficult to dispose of as uranium concentrations in Ralston Creek increase. In addition, uranium can also manifest itself in treated drinking water. Samples show that uranium concentrations at the Moffat Treatment Plant reached a maximum levels of approximately 2 parts per billion ($\mu\text{g/L}$) in 2016. This exceeds the EPA's maximum contaminant level goal of zero for uranium but is below the EPA's maximum contaminate level of 30 $\mu\text{g/L}$. If uranium concentrations in Ralston Creek were to increase above current levels, Denver Water would not be able to remove uranium from its drinking water without costly upgrades, the cost of which would be borne by Denver Water's ratepayers.

Denver Water has reviewed the information submitted by Cotter to DRMS with its October 11, 2017 transfer request, and it is unclear whether Colorado Legacy Land is capable of assuming the responsibility for the conditions included under Permit No. M-1977-300. *See* Hard Rock/Metal Mining Rules, Rule 1.12(2) (providing that a request for transfer shall be given if the Mined Land Reclamation Office "finds that the successor Operator is capable of assuming all responsibility for the conditions included under the original permit. . . .")

Colorado Legacy Land ("CLL") was formed as a foreign limited liability company registered in Colorado on or about July 19, 2017, and formed and incorporated in Delaware as recently as July 17, 2017. CLL is apparently jointly owned by Alexco Environmental Group, Inc. ("Alexco") and Legacy Land Stewardship ("LLS"), a Private Benefit Corporation.

Given the brief tenure of CLL, there is almost no track record that would allow one to conclude that the company is capable of assuming the responsibility of managing and operating under the permit for Schwartzwalder Mine. It is also unclear why there is a need for Cotter to transfer the Schwartzwalder Mine to a company owned by Alexco when Alexco is already contracting with Cotter to perform treatment work at Schwartzwalder.

Before approving the transfer, DRMS should require that Cotter provide the following additional information, at a minimum, to facilitate the evaluation of whether CLL is able to assume responsibility of Permit No. M-1977-300:

- the future source of operating revenue for CLL;

- the structure of CLL, including documentation demonstrating Alexco's and LLS's ownership and any operating agreements with CLL;
- CLL's current operating agreement;
- an operational and financial analysis of what it will take to comply with the Mine Land Reclamation Board's amended August 2010 Order to keep the mine pool at a level of 150 feet below Steve Level;
- an operational plan to comply with the amended August 2010 Order for the foreseeable future.

Schwartzwalder Mine has a complex hydrology. As an underground mine, Schwartzwalder presents significant groundwater reclamation and remediation issues. The future treatment, reclamation and remediation of the mine pool will take a great deal of resources and expertise, which will likely extend over many years if not decades. This is demonstrated by the fact that Cotter has just recently complied with the amended August 2010 Order to dewater the mine pool at Schwartzwalder to 150 feet below the Steve Level.

If you have any questions regarding the contents of this letter, please do not hesitate to contact me.

Sincerely,



Tom Roode
Chief Ops. & Maintenance Officer
Denver Water

Enclosures: (1) Attachment A – 2 graphs of sampling data trends

ATTACHMENT A

Graphs of Schwartzwalder Mine Sampling Data

Figure 1

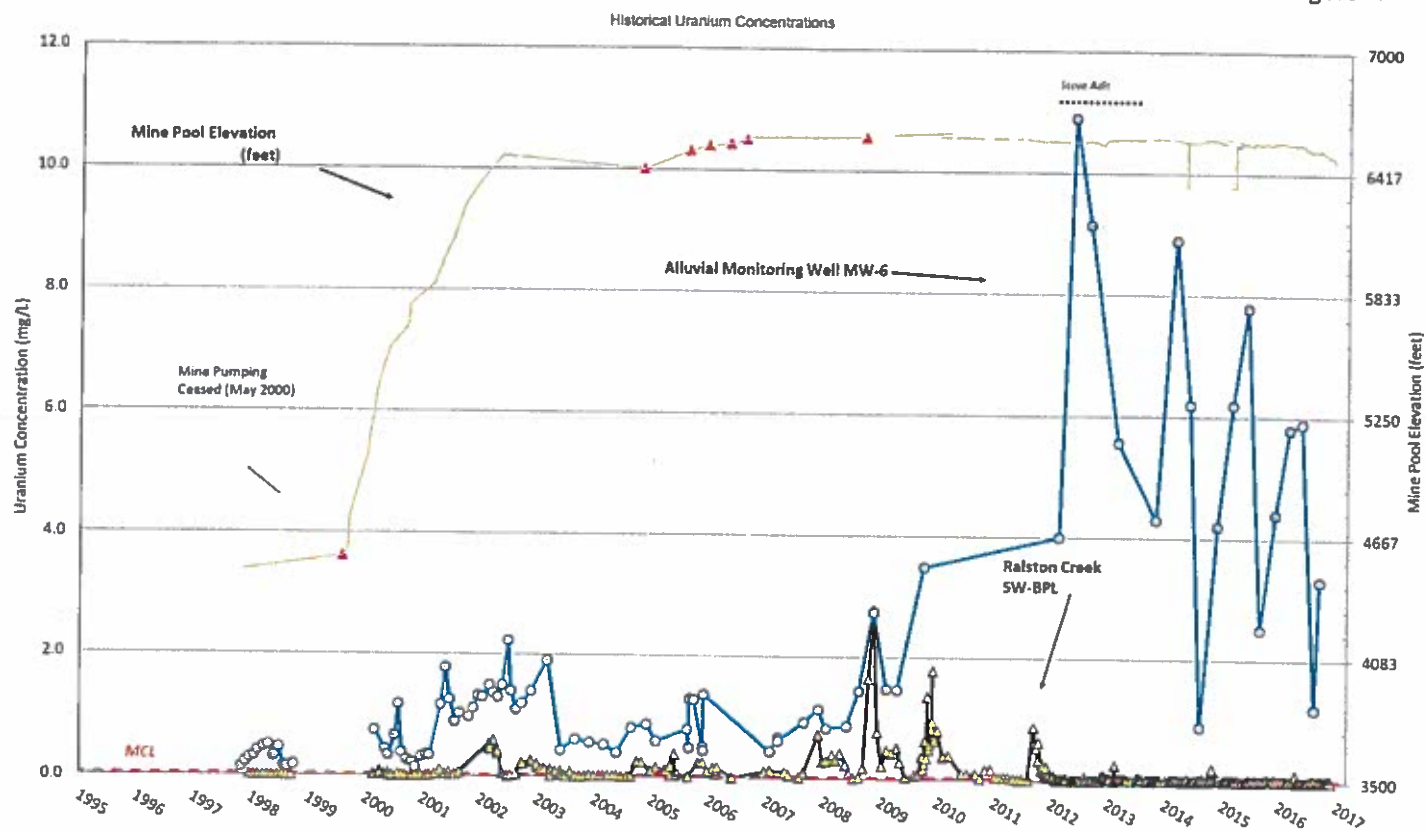


Figure 2

