



Lennberg - DNR, Patrick <patrick.lennberg@state.co.us>

Grand Island Resources Compliance Order on Consent

1 message

Jacob Dyste - CDPHE <jacob.dyste@state.co.us>

Tue, Nov 14, 2023 at 1:53 PM

To: Michael Cunningham - DNR <michaela.cunningham@state.co.us>, "Lennberg - DNR, Patrick" <patrick.lennberg@state.co.us>

Attached is a Compliance Order on Consent between the Water Quality Control Division and Grand Island Resources, which resolves the Notice of Violation / Cease and Desist Order issued on November 30, 2021. There have not been any permit violations since March 2022.

As a result of the Compliance Order on Consent, Grand Island Resources will pay a \$50,000 civil penalty to the State of Colorado's Water Quality Improvement Fund.

Please let me know if you have any questions.

Jacob

--
Jacob Dyste
Enforcement Specialist**COLORADO****Water Quality Control Division**

Department of Public Health & Environment

Phone: 303.692.3290

4300 Cherry Creek Drive South, Denver, CO 80246

jacob.dyste@state.co.us | www.colorado.gov/cdphe/wqcd24-hr Environmental Release/Incident Report Line: [1.877.518.5608](tel:18775185608)**WQ_Grand-Island-Resources_COC_11-14-2023.pdf**

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COLORADO
Department of Public
Health & Environment

November 14, 2023

Daniel Takami
Grand Island Resources LLC
12567 West Cedar Road
Suite 250
Lakewood, CO 80228

Certified Mail Number: 7020 0640 0001 0179 4100

**RE: Compliance Order on Consent, Number: IC-231114-1
CDPS Permit Certification Number: CO0032751**

Mr. Takami:

Enclosed for your records is the Entity's recently executed Compliance Order on Consent (Order). Please remember that this Order is subject to a 30-day public comment period (Order, Paragraph 29). The Division will contact your office to discuss any comments received during this period. Please be advised that the header on the first page of the Order was revised to reflect the assigned Order Number: IC-231114-1.

If you have questions regarding the Compliance Order on Consent, please do not hesitate to contact me at (303) 692-3290 or jacob.dyste@state.co.us.

Sincerely,

Jacob Dyste, Enforcement Specialist
Clean Water Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

cc: Enforcement File

ec: Daniel Takami, Grand Island Resources
Stephanie Meyers, EPA Region 8
Erin Dodge, Boulder County Public Health
Kate Dunlap, City of Boulder Utilities
Michael Cunningham, CDRMS
Patrick Lennberg, CDRMS
Aimee Konowal, Watershed Section, CDPHE
Kelly Morgan, Compliance & Enforcement Section, CDPHE
Mark Henderson, Grants and Loans Unit, CDPHE
Doug Camrud, Engineering Section, CDPHE
Clayton Moores, Field Services Section, CDPHE
Eric Scott, Permits Section, CDPHE
Eric Mink, Clean Water Enforcement Unit, CDPHE
Veronica Kenkel, Data Management Workgroup, CDPHE





COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

COMPLIANCE ORDER ON CONSENT

NUMBER: IC-231114-1

IN THE MATTER OF: **GRAND ISLAND RESOURCES LLC**
 CDPS PERMIT NO. CO0032751
 BOULDER COUNTY, COLORADO

The Colorado Department of Public Health and Environment (“Department”), through the Water Quality Control Division (“Division”), issues this Compliance Order on Consent (“Consent Order”), pursuant to the Division’s authority under §§25-8-602 and 605, C.R.S. of the Colorado Water Quality Control Act (“Act”) §§25-8-101 to 803, C.R.S., and its implementing regulations, with the express consent of Grand Island Resources, LLC (“Grand Island Resources”). The Division and Grand Island Resources may be referred to collectively as the “Parties.”

STATEMENT OF PURPOSE

1. The mutual objective of the Parties in entering into this Consent Order are to resolve, without litigation, the civil penalties associated with alleged violations cited herein and in the Notice of Violation / Cease and Desist Order, Number: IO-211130-1 (“NOV/CDO”), that the Division issued to Grand Island Resources on November 30, 2021.

DIVISION’S FINDINGS OF FACT AND DETERMINATION OF VIOLATION

2. Based upon the Division’s investigation into and review of the compliance issues identified herein, and in accordance with §§25-8-602 and 605, C.R.S., the Division has made the following determinations regarding Grand Island Resources’ compliance with the Act and its permit issued pursuant to the Act.
3. At all times relevant to the violations cited herein, Grand Island Resources was a Wyoming limited liability company and registered to do business in Colorado.
4. Grand Island Resources is a “person” as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
5. Grand Island Resources owns and/or operates two mines, the Cross and Caribou Mines, separated by Coon Track Creek and located at 4415 Caribou Road, near the Town of Nederland, Boulder County, Colorado (“Facility”).

6. The Facility discharges treated wastewater associated with the Cross and Caribou Mines, which have produced gold, silver, copper, zinc, and lead. Prior to January 2022, wastewater from the Cross and Caribou Mines was directed to a series of lined ponds. Discharge from the Cross Mine reported directly to Pond 1 where it was treated with lime addition, allowed to settle in Pond 1, and then directed to Pond 2, where it was mixed with outflow from the Caribou Mine. During the time period relevant to this Consent Order, the combined treated mine water in Pond 2 was then discharged via pipeline to Coon Track Creek. Now, wastewater is pumped from Pond 1 to four filtration bags to remove suspended particles. After filtration, wastewater is fed through MetSorb media that removes additional metals prior to discharge.
7. The Facility is the subject of the Colorado Discharge Permit System, Permit Number CO0032751 ("Permit"). The current version of the Permit became effective on April 1, 2014, and is currently administratively continued.
8. In January 2020, operational control of the Facility changed after the death of the longtime operator. On January 29, 2020, Calais Resources, Inc. submitted a change of contact to the Division. On October 30, 2020, Grand Island Resources submitted a change of contact to the Division. On November 12, 2020, the Division transferred ownership of the Permit to Grand Island Resources. Based on Division and Colorado Division of Reclamation, Mining, and Safety records, Grand Island Resources has conducted significant rehabilitation efforts at both mines and intends to conduct additional prospecting and drilling in support of mine operations.
9. The Permit authorizes Grand Island Resources to discharge treated wastewater from the Facility through Outfall 001A, located at 39.978056°, -105.572194°, into Coon Track Creek. This is the only outfall permitted to Grand Island Resources.
10. Pursuant to 5 CCR 1002-61, §61.8, Grand Island Resources must comply with all the terms and conditions of the Permit, and violations of such terms and conditions as specified in the Permit may make Grand Island Resources subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.

Failure to Comply with Permit Effluent Limitations

11. Pursuant to Part I.A.1. and I.A.2. of the Permit, Grand Island Resources' effluent at Outfall 001A shall not exceed, among others not subject to this action, the effluent discharge limitations specified in the table below:

| GRAND ISLAND RESOURCES - CROSS & CARIBOU MINES EFFLUENT DISCHARGE LIMITATIONS FOR OUTFALL 001A | | | | |
|---|-------------|-----------|--------------|------|
| Parameter | Limitation | | Sampling | |
| | 30-day Avg. | Daily Max | Frequency | Type |
| Lead, potentially dissolved (µg/L), January | 3.8 | 85 | 2 Days/Month | Grab |
| Lead, potentially dissolved (µg/L), April | 3.6 | 94 | 2 Days/Month | Grab |
| Lead, potentially dissolved (µg/L), June | 5.4 | 140 | 2 Days/Month | Grab |
| Lead, potentially dissolved (µg/L), July | 4.6 | 118 | 2 Days/Month | Grab |
| Lead, potentially dissolved (µg/L), October | 5.4 | 135 | 2 Days/Month | Grab |
| Lead, potentially dissolved (µg/L), December | 3.8 | 85 | 2 Days/Month | Grab |

| | | | | |
|---|--|-----------|--------------------------|--------------------------------------|
| Copper, potentially dissolved (µg/L), January | 13 | 18 | 2 Days/Month | Grab |
| Copper, potentially dissolved (µg/L), March | 13 | 19 | 2 Days/Month | Grab |
| Copper, potentially dissolved (µg/L), April | 13 | 20 | 2 Days/Month | Grab |
| Silver, potentially dissolved (µg/L), January | 0.12 | 2.9 | 2 Days/Month | Grab |
| Cadmium, potentially dissolved (µg/L), October | 0.89 | 3.6 | 2 Days/Month | Grab |
| Zinc, potentially dissolved (µg/L), October | 262 | 291 | 2 Days/Month | Grab |
| Total Suspended Solids (mg/L) | 30 | 45 | Monthly | Grab |
| pH | -- | 6.5 - 9.0 | 2 Days/Month | Grab |
| Whole Effluent Toxicity ("WET"), Chronic (%), January - March | 7-Day chronic <i>Ceriodaphnia dubia</i> | -- | NOEC or IC25 ≥ IWC (73%) | Quarterly 3 Composites / Test |
| | 7-Day chronic <i>Pimephales promelas</i> | -- | NOEC or IC25 ≥ IWC (73%) | |

12. Pursuant to Part I.D.5 of the Permit, Grand Island Resources' monitoring results shall be summarized for each calendar month and reported on Division approved discharge monitoring reports ("DMRs"). The DMR forms shall be filled out accurately and completely in accordance with requirements of the Permit.
13. Grand Island Resources' DMRs include, among other information and data, the following effluent data, which exceeded the effluent limitations outlined in Part I.A.2. of the Permit:

| GRAND ISLAND RESOURCES - CROSS & CARIBOU MINES EFFLUENT SELF-MONITORING DATA | | |
|---|--------------------------------------|---------------------|
| DISCHARGE MONITORING REPORTING PERIOD | SAMPLE MEASUREMENTS FOR OUTFALL 001A | |
| Lead, PD (µg/L), January | 30-DAY AVG. LIMIT = 3.8 | DAILY MAXIMUM = 85 |
| 1/1/2021 - 1/31/2021 | 10.0 | -- |
| Lead, PD (µg/L), March | 30-DAY AVG. LIMIT = 3.6 | DAILY MAXIMUM = 90 |
| 3/1/2022 - 3/31/2022 | 7.5 | -- |
| Lead, PD (µg/L), April | 30-DAY AVG. LIMIT = 3.6 | DAILY MAXIMUM = 94 |
| 4/1/2021 - 4/31/2021 | 6.2 | -- |
| Lead, PD (µg/L), June | 30-DAY AVG. LIMIT = 5.4 | DAILY MAXIMUM = 140 |
| 6/1/2021 - 6/30/2021 | 12.0 | -- |
| Lead, PD (µg/L), July | 30-DAY AVG. LIMIT = 4.6 | DAILY MAXIMUM = 118 |
| 7/1/2021 - 7/31/2021 | 8.0 | -- |
| Lead, PD (µg/L), October | 30-DAY AVG. LIMIT = 5.4 | DAILY MAXIMUM = 135 |
| 10/1/2021 - 10/31/2021 | 12.0 | -- |
| Lead, PD (µg/L), November | 30-DAY AVG. LIMIT = 4.2 | DAILY MAXIMUM = 108 |
| 11/1/2021 - 11/30/2021 | 4.66 | -- |
| Lead, PD (µg/L), December | 30-DAY AVG. LIMIT = 3.8 | DAILY MAXIMUM = 85 |
| 12/1/2020 - 12/31/2020 | 4.4 | -- |
| 12/1/2021 - 12/31/2021 | 4.0 | -- |
| Cadmium, PD (µg/L), August | 30-DAY AVG. LIMIT = 0.82 | DAILY MAXIMUM = 3.2 |
| 8/1/2021 - 8/31/2021 | 1.5 | -- |
| Zinc, PD (µg/L), August | 30-DAY AVG. LIMIT = 241 | DAILY MAXIMUM = 263 |

| GRAND ISLAND RESOURCES - CROSS & CARIBOU MINES EFFLUENT SELF-MONITORING DATA | | |
|---|--------------------------|---|
| 8/1/2021 - 8/31/2021 | -- | 282 |
| Silver, PD (µg/L), January | 30-DAY AVG. LIMIT = 0.12 | DAILY MAXIMUM = 2.9 |
| 1/1/2021 - 1/31/2021 | 0.4 | -- |
| Copper, PD (µg/L), January | 30-DAY AVG. LIMIT = 13 | DAILY MAXIMUM = 18 |
| 1/1/2021 - 1/31/2021 | 34.5 | 37.0 |
| Copper, PD (µg/L), March | 30-DAY AVG. LIMIT = 13 | DAILY MAXIMUM = 19 |
| 3/1/2021 - 3/31/2021 | 46.75 | 85.0 |
| Copper, PD (µg/L), April | 30-DAY AVG. LIMIT = 13 | DAILY MAXIMUM = 20 |
| 4/1/2021 - 4/30/2021 | -- | 50.0 |
| Cadmium, PD (µg/L), October | 30-DAY AVG. LIMIT = 0.89 | DAILY MAXIMUM = 3.6 |
| 10/1/2021 - 10/31/2021 | 2.0 | -- |
| Zinc, PD (µg/L), October | 30-DAY AVG. LIMIT = 262 | DAILY MAXIMUM = 291 |
| 10/1/2021 - 10/31/2021 | -- | 294 |
| Total Suspended Solids (mg/L) | 30-DAY AVG. LIMIT = 30 | DAILY MAXIMUM = 45 |
| 10/1/2021 - 10/31/2021 | 39.0 | -- |
| pH | 30-DAY AVG. LIMIT = NA | DAILY MAXIMUM = 6.5 - 9.0 |
| 11/1/2021 - 11/30/2021 | -- | 5.2 |
| WET, Chronic (%), <i>Ceriodaphnia dubia</i> | 30-DAY AVG. LIMIT = NA | DAILY MAXIMUM = NOEC or IC25 ≥ IWC (73%) |
| 1/1/2021 - 3/31/2021 | -- | NOEC = 37.0 IC25 = 39.3 |

14. Lead, cadmium, zinc, silver, copper, TSS, pH, and WET are “pollutants,” or indicators thereof, as defined by §25-8-103, C.R.S. and its implementing permit regulation 5 CCR 1002-61, §61.2(76).
15. The Permit does not authorize the pollutant levels identified in Paragraph 13 above. Division records establish that during the reporting periods identified above, Grand Island Resources did not have any other permit authorizing such discharge into State Waters.
16. Grand Island Resources’ failure to comply with the Permit limitations constitutes violations of Part I.A.1. and I.A.2. of the Permit.

Failure to Properly Monitor and Report

17. Pursuant to Part I.A.2. of the Permit, in order to obtain an indication of probable compliance or noncompliance with the specified effluent limitations, Grand Island Resources shall monitor all effluent parameters at specified frequencies. Such monitoring is required for the life of the Permit unless otherwise specified. The results of such monitoring shall be reported on the DMR form.
18. Pursuant to Part I.D.5. of the Permit, Grand Island Resources’ monitoring results shall be summarized for each calendar month and reported on Division approved DMRs. The DMR forms shall be filled out accurately and completely in accordance with requirements of the Permit.
19. Division records establish that Grand Island Resources failed to monitor and report the results of its monitoring to the Division for the reporting periods and associated effluent parameters and outfalls listed below:

| GRAND ISLAND RESOURCES DEFICIENT DMRS FOR OUTFALL 001A | |
|---|---|
| DISCHARGE MONITORING REPORTING PERIOD | DEFICIENT PARAMETERS |
| 3/1/2021 - 3/31/2021 | Chromium (PD), 30-Day Average and Daily Maximum |
| GRAND ISLAND RESOURCES DEFICIENT DMRS FOR OUTFALL 001A | |
| DISCHARGE MONITORING REPORTING PERIOD | DEFICIENT PARAMETERS |
| 4/1/2021 - 4/30/2021 | Chromium (PD), 30-Day Average and Daily Maximum |

20. Grand Island Resources' failure to monitor and report all effluent parameters, as identified in Paragraph 19, constitutes a violation of Part I.A.2. of the Permit.
21. The Division acknowledges that Grand Island Resources satisfactorily performed all obligations and actions required under the NOV/CDO.

ORDER AND AGREEMENT

22. Based on the foregoing factual and legal determinations, pursuant to its authority under §§25-8-602 and 605, C.R.S., and in satisfaction of the alleged violations cited herein and in the NOV/CDO, the Division orders Grand Island Resources to comply with all provisions of this Consent Order, including all requirements set forth below.
23. Grand Island Resources agrees to the terms and conditions of this Consent Order. Grand Island Resources agrees that this Consent Order constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602 and 605, C.R.S., and is an enforceable requirement of the Act. Grand Island Resources also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Grand Island Resources against the Division:
 - a. The issuance of this Consent Order;
 - b. The factual and legal determinations made by the Division herein; and
 - c. The Division's authority to bring, or the court's jurisdiction to hear, any action to enforce the terms of this Consent Order under the Act.
24. Notwithstanding the above, Grand Island Resources does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Grand Island Resources pursuant to this Consent Order shall not constitute evidence of fault and liability by Grand Island Resources with respect to the conditions of the Project. Grand Island Resources expressly reserves its rights to deny any of the Division's factual or legal determinations or defend itself in any other third party proceeding relating to the information identified in this Consent Order.

CIVIL PENALTY

25. Based upon factors set forth in §25-8-608(1), C.R.S., and consistent with Departmental policies for violations of the Act, Grand Island Resources shall pay \$50,000.00 in civil penalties. The Division intends to petition the Executive Director, or her designee, to impose the \$50,000.00 civil penalty

for the above alleged violation(s) and Grand Island Resources agrees to make the payment through three installment payments, as described in the table below:

| Payment | Amount | Due Date |
|---------|-------------|---|
| 1 | \$17,000.00 | Within 30 calendar days of issuance of an Order for Civil Penalty by the Executive Director or her designee |
| 2 | \$16,500.00 | January 31, 2025 |
| 3 | \$16,500.00 | January 31, 2026 |

Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment" and delivered to:

Jacob Dyste
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CWE-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

26. Failure to submit full payment of any installment by the due date described in Paragraph 25 above shall be deemed a violation of this Consent Order.
27. In the event that Grand Island Resources fails to comply with any terms or provisions of this Consent Order relating to payment of the civil penalty, Grand Island Resources shall be liable for payment of the outstanding balance of the civil penalty within 30 calendar days of receipt of written demand by the Division. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to the address specified in Paragraph 25 above.

SCOPE AND EFFECT OF CONSENT ORDER

28. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the civil penalties associated with the alleged violations cited herein and in the NOV/CDO.
29. This Consent Order is subject to the Division's "Public Notification on Administrative Enforcement Actions Policy," which includes a 30-day public comment period. The Division and Grand Island Resources each reserve the right to withdraw consent to this Consent Order if comments received during the 30-day period result in any proposed modification to the Consent Order.
30. This Consent Order constitutes a final agency order or action upon a determination by the Division following the public comment period. Any violation of the provisions of this Consent Order by Grand Island Resources, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of §25-8-608, C.R.S., and may result in the assessment of civil penalties of up to \$61,427 per day for each violation.
31. Notwithstanding Paragraph 24 above, the alleged violations described in this Consent Order will constitute part of Grand Island Resources' compliance history.

LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

32. Upon the effective date of this Consent Order, and during its term, this Consent Order shall stand in lieu of any other enforcement action by the Division with respect to the specific instances of alleged violations cited herein with respect to civil penalties for the specific instances of violations cited herein and in the NOV/CDO. The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties or the collection thereof, and/or injunctive relief.
33. This Consent Order does not grant any release of liability for any alleged violations not specifically cited herein.
34. Grand Island Resources reserves its rights and defenses regarding the Facility other than proceedings to enforce this Consent Order.
35. Nothing in this Consent Order shall preclude the Division from imposing additional requirements necessary to protect human health or the environment and to effectuate the purposes of the Consent Order. Nor shall anything in this Consent Order preclude the Division from imposing additional requirements in the event that additional information is discovered that indicates such requirements are necessary to protect human health or the environment.
36. Grand Island Resources releases and covenants not to sue the State of Colorado or its employees, agents or representatives as to all common law or statutory claims or counterclaims or for any injuries or damages to persons or property resulting from acts or omissions of Grand Island Resources, or those acting for or on behalf of Grand Island Resources, including its officers, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. Nothing in this Consent Order shall constitute an express or implied waiver of immunity otherwise applicable to the State of Colorado, its employees, agents or representatives.

NOTICES

37. Unless otherwise specified, any report, notice or other communication required under the Consent Order shall be sent to:

For the Division:

Jacob Dyste
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CWE-B2 4300
Cherry Creek Drive South Denver,
Colorado 80246-1530
Telephone: 303-692-3290
E-mail: jacob.dyste@state.co.us

For Grand Island Resources, LLC:

Daniel Takami
Grand Island Resources, LLC 12567
West Cedar Road, Suite 250
Lakewood, CO 80228-2039
Telephone: 501-256-4444
Email: danieltakami@gmail.com

MODIFICATIONS

38. This Consent Order may be modified only upon mutual written agreement of the Parties.

NOTICE OF EFFECTIVE DATE

39. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon notice from the Division following closure of the public comment period referenced in Paragraph 29. If the penalty as described in this Consent Order is not imposed, or an alternate penalty is imposed, this Consent Order becomes null and void.

BINDING EFFECT AND AUTHORIZATION TO SIGN

40. This Consent Order is binding upon Grand Island Resources and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. In the event that a party does not sign this Consent Order within 30 calendar days of the other party's signature, this Consent Order becomes null and void. This Consent Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order. The Parties agree that this Consent Order may be electronically signed. The Parties agree that the electronic signatures appearing on this Consent Order are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

FOR GRAND ISLAND RESOURCES, LLC:

Dip J. Th.

Daniel Takami, President

Date:

14 November 2023

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

Date:

Kelly Morgan
Compliance and Enforcement Section Manager
WATER QUALITY CONTROL DIVISION