

STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY
Department of Natural Resources

1313 Sherman St., Room 215
Denver, Colorado 80203
Phone: (303) 866-3567
FAX: (303) 832-8106



DATE: July 23, 2012

TO: Steven Renner, Pre-hearing Conference Officer
John Roberts, AGO, MLRB
Jeff Fugate, AGO, DRMS

FROM: Russ Means

RE: JD-8 Mine, File M-1984-014, Pre-hearing Conference Documents

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta Piñeda
Director

The Pre-hearing Conference for the JD-8 Mine amendment application is scheduled to occur on July 25, 2012, at 1:00 P.M., at the Reams Construction Building, 28490 Highway 141, Naturita Colorado. Mr. Steven Renner will preside as the Pre-hearing Conference Officer. Please find below the chronology of the Environmental Protection Plan, (EPP) Amendment AM-01 Application Process from the JD-8 Mine application file.

06/02/2011 Cotter hand delivers EPP amendment application to Division.

06/03/2011 Division finds application incomplete for review

06/07/2011 Cotter submits fee and County Clerk file receipt.

06/08/2011 Division calls application complete for review and classifies it as a complex permit per Rule 1.4.1(7) and sets Decision Date for November 7, 2011.

06/16/2011 Public Notice published June, 16, June 23rd, June 30th, and July 7, 2011 in San Miguel Basin Forum.

06/17/2011 Division receives comments from Division of Water Resources. No issues noted.

06/20/2011 Division receives comments from Colorado Historical Society (SHPO) recommending resurvey of sites identified due to age of past survey (ten years or longer).

7/26/2011 Division receives timely comments of objection from Sheep Mountain Alliance through the Western Mining Action Project.

7/26/2011 Public Comment closes.

8/03/2011 Division receives correspondence from Department of Energy (DOE) indicating they have no comments regarding EPP submittal.

10/23/2011 Division issues Preliminary Adequacy Review (PAR).

10/26/2011 Cotter submits and Division accepts radiometric survey plan.

10/26/2011 Cotter request 6 month extension to decision date to address technical issues outlined in PAR. Decision date rest to May 7, 2012.

04/18/2012 Division receives Cotter response to PAR of 10/26/2011. Along with technical issues any reference to mining activities on upper mesa are removed from consideration except three vent holes and monitor well.

05/04/2012 Cotter request extension of decision date to May 21, 2012. Division agrees.

Addressee Name

Date

Page 2

05/04/2012 Division receives Cultural Resource Report from ERO Resources. The report identifies one site eligible for listing Nation Register of Historical Places. Division requests confirmation from Cotter that site is outside any proposed disturbances for vents or well. ERO is directed to send report to SHPO.

05/21/2012 Division issues second adequacy issue review.

05/21/2012 Cotter requests extension date to July 16, 2012. The date is beyond the 365 days limit of June 8, 2012 per Rule 1.4.1(9). Request is set for hearing before Mined Land Reclamation Board (MLRB) during June 13, 2012 meeting.

06/11/2012 Division receives acceptance of Cultural Report from SHPO.

06/13/2012 MLRB extends decision date to July 16, 2012 and scheduling of hearing for August 8~9, 2012 MLRB hearing.

06/26/2012 Notice of Pre-hearing Conference on July 25, 2012 and MLRB hearing on August 8~9, 2012 sent out to all parties.

07/03/2012 Cotter submits 2nd Adequacy Response.

07/16/2012 Cotter requests 3 day extension to finalize maps and submit Threatened and Endangered species report. Division agrees extended to 7/19/2012.

07/19/2012 Cotter submits T&E report, final maps to address all outstanding issues.

07/19/2012 Division issues Letter of Decision and Recommendation for Approval Rationale Letter. Letters sent via e-mail and hard copies deposited in mail.

If you need additional information please contact me at the Division of Reclamation, Mining and Safety, Grand Junction Field Office, 101 S. 3rd St., Suite 301, Grand Junction, Colorado 81501, by telephone at 970.241.1117, or by e-mail at russ.means@state.co.us.

Sincerely,



G. Russell Means
Senior Environmental Protection Specialist
West Slope Field Office Supervisor

Attachments:

Proof of Public Notice 5/4/12 for June 16, 23, 30th, and July 7, 2011
Objection Letter from Sheep Mountain Alliance C/O Western Mining Action Project 7/26/11
Letter of Decision Recommendation 7/19/12
Letter of Rationale for recommendation of approval over objections 7/19/12

Public Notice

JD-8 Mine

RECEIVED

MAY 04 2012

GRAND JUNCTION FIELD OFFICE
DIVISION OF
RECLAMATION MINING & SAFETY

Cotter Corporation; 7800 E. Dorado Place, Suite 210, Englewood, CO 80111, has filed an amendment application for a Regular (112d) designated Mining Operation reclamation permit from the Colorado Mined Land Reclamation Board under provisions of the Colorado Mined Land Reclamation Act. The proposed mine is known as the JD-8 Mine, and is located at or near Section 20, Township 46, North, Range 17 west, New Mexico Principal Meridian, Montrose County, Colorado.

This is an existing permitted mine with no changes to the original application, and the proposed date of completion is March 2026. This amendment application is to incorporate an Environmental Protection Plan in to the permit. The proposed future use of the land is rangeland.

Additional information and tentative decision date may be obtained from the Division of Reclamation, Mining, and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, (303) 866-9567, or at the Montrose County Court Annex, 300 Main Street, Nucla, Colorado 81424, or the above named application.

Comments must be in writing and must be received by the Division of Reclamation, Mining, and Safety by 4:00 p.m. on July 26, 2011.

Published in the San Miguel Basin Forum on June 16th, 23rd, 30th and July 7th, 2011.

**Community
Dinner
New Hope
Pentecostal
Church
Naturita -
Thursday , June
16, 2011
Dinner from 4 to 7
P.M.**

GAM

WESTERN MINING ACTION PROJECT

Roger Flynn, Esq.,
Jeffrey C. Parsons, Esq.
P.O. Box 349
440 Main Street, Suite 2
Lyons, CO 80540
(303) 823-5738
Fax (303) 823-5732
wmap@igc.org

July 26, 2011

Via email and hardcopy

G. Russell Means
Environmental Protection Specialist
Colorado Division of Reclamation Mining and Safety
Grand Junction Field Office
101 South 3rd, Suite 301
Grand Junction, CO 81501

RECEIVED

JUL 26 2011

GRAND JUNCTION FIELD OFFICE
DIVISION OF
RECLAMATION MINING & SAFETY

RECEIVED

AUG 04 2011

Division of Reclamation,
Mining and Safety

Re: JD-8 Mine Environmental Protection Plan (EPP), AM-01, Permit No. M-1984-014

OBSection

Dear Mr. Means:

Please accept these comments submitted on behalf of Sheep Mountain Alliance regarding Amendment AM-01 for the C-JD-8 Uranium Mine (JD-8), Permit No. M-1984-014. owned by the Cotter Corporation and situated in Montrose County, Colorado. AM-01 encompasses the Cotter Corporation's submittal of an Environmental Protection Plan (EPP) as required under the Colorado Mined Land Reclamation Act (MLRA).

As detailed herein, the submittal of this EPP raises substantial issues regarding the Cotter Corporation's compliance with the MLRA. First, AM-01 brings into question the propriety of any so-called "intermittent status" designation for JD-8, given the length of time the mine has taken advantage of the temporary cessation allowance in the MLRA. Further, through AM-01, Cotter appears to propose that admittedly necessary environmental protection activities be delayed in implementation until mine production begins at some unidentified future time. Lastly, the data presented in the EPP is incomplete and in some places contradictory, particularly with respect to groundwater impacts arising from the site.

Intermittent Status is Not Allowable for the C-JD-8 Mine

The application for AM-01 repeatedly represents that the JD-8 Mine is in "intermittent status" and therefore somehow not subject to the full application of the MLRA. However, there is no reference to any "intermittent status" in the MLRA, and the references to this status in the MLRB Rules place strict requirements on any operation seeking such status – that notably have not been complied with by the Cotter Corporation – and in any case, the MLRA specifically mandates that in no case may a mine be left in a nonproducing state for longer than 10 years. Rather, it appears that

“intermittent status” is being used as a tool by Cotter (acceded to by DRMS) to escape the clear requirements in the MLRA for permit termination and full reclamation to occur after 10 years of non-production. This is evident in the first page of the EPP where Cotter asserts without any statutory or regulatory support that “[b]ecause the JD-8 Mine is currently in ‘intermittent status’ rather than ‘active status’, many of the EPP requirements do not apply.” This scenario is unacceptable.

In this case, the record demonstrates that JD-8 has already been granted the maximum amount of temporary cessation time. In 1987, Cotter first applied for temporary cessation status, and in 1992 sought a 5-year extension of that status, which expired in 1997. As per the MLRA, the mine permit should have been terminated at that point. *See* C.R.S. § 34-32-103(6)(a)(III) (“in no case shall temporary cessation of production be continued for more than ten years without terminating the operation and fully complying with the reclamation standards of this article.”). Instead, DRMS (at that time the Division of Mining and Geology) allowed Cotter to switch in 1997 to “intermittent status” despite the lack of any production. That status has persisted until today, some additional 14 years beyond the original 10 years of non-production allowed by the MLRA, and already consumed by Cotter at JD-8. In short, the JD-8 permit amendment to provide for any additional non-production (as clearly contemplated by AM-01) is not allowable under any plain reading of the MLRA, and as a result the mine permit must be terminated and full reclamation commenced.

Cotter may contend that “intermittent status” is appropriate based on a reading of the MLRB’s Hard Rock/Metal Mining Rules at Rule 6.3.3(a), Rule 6.4.4(e), and Rule 1.13.7, each of which provide some support for an “intermittent status” classification. However, each of these Rules expressly rely on C.R.S. § 32-34-103(6)(a)(II) as the statutory basis for allowing “intermittent status.” That section of the statute refers to operators that wish to “temporarily cease production for one hundred and eighty days or more.” However, because this section deals expressly with operations that wish to “temporarily cease production,” any operator taking advantage of this section is still subject to the MLRA’s unambiguous requirement in that same section of the statute that “**In no case shall temporary cessation of production be continued for more than ten years without terminating the operation and fully complying with the reclamation requirements of this article.**” C.R.S. § 34-32-103(6)(a)(III) (emphasis added). Thus, while the concept of “intermittent status” itself may not necessarily run afoul of the MLRA, the use Cotter is making of that designation flies directly in the face of the MLRA’s strict 10-year cessation restriction.

In any case, even if JD-8 was eligible for “intermittent status” given its long history on non-production, Cotter has not performed the necessary reporting and activities required to maintain that status. In order to maintain any intermittent status, the MLRB rules (Rule 1.13) specifically require that an operator must report to the Board through the annual report: “(i) the condition of the operation at the time of cessation; (ii) what specific measures have been and will be implemented to comply with reclamation, performance standards and Environmental Protection Plan requirements; and (iii) plans for resumption of mining.” Rule 1.13.7(a). In this case, a review of the record demonstrates that for the last several years at least, Cotter has provided a template annual report that contains none of this required information.

In this case, at no point in the last several years has Cotter provided in its annual report any description of any plans whatsoever to resume mining, and even through AM-01, Cotter proposes to make compliance with substantive EPP requirements contingent on resumption of mining. *See* EPP at 50 (Section 10. Construction Schedule)(indicating that implementation of stormwater controls and reconstruction of temporary ore storage pile are “contingent on resumption of active mining status.”). This lack of compliance is unacceptable under the MLRA and Board Rules.

Indeed, there is evidence in the record that Cotter has no concrete or discernable plans to reinitiate mining at the JD-8. A good indication of this fact is that the company recently moved a pile of mined ore back into the mine, demonstrating the lack of any ability, either economically or practically, to process any ore from JD-8. Also, recent activities at Cotter's Cañon City, Colorado, uranium mill demonstrate that the milling facility is in decommissioning, including dismantling of all surface facilities and closure of the tailings impoundments at the site. Regarding future use of the site, Cotter sent a letter dated June 17, 2011, to the Colorado Department of Public Health and Environment expressly confirming that the only purpose for which Cotter intends to keep its Cañon City Mill license active is to process ore from the Mount Taylor Mine in New Mexico (letter attached). While even this contemplated activity is dubious given the market and condition of the Mount Taylor Mine, there simply appears to be no plan to mine and process any ore from JD-8.

Lastly, the conditions that gave rise to the Division's approval of "intermittent status" to the JD-8 in the first place (which, as described, is suspect in the first place given the expiration of the ten-year maximum temporary cessation period in 1997), demonstrates that such status is no longer appropriate. For instance, in a January 15, 1997, letter from Glen Williams, Cotter Corporation, to Mr. James Stevens, Colorado Division of Minerals & Geology, Cotter states that "intermittent status" is appropriate because "many of the activities undertaken at the site fall within the current definition of mining operations." (Letter attached). Cotter details these activities that provide a basis for "intermittent status" as including "surface and underground drilling, determining ore reserves, radiometric scanning, ore sampling, mine mapping, mine feasibility studies, geological report preparation, mine surveying, timber installation, repair and ground control in preparation for mining, ventilation fan installation for geologic and survey projects." Based on the annual reports filed in the last several years, no such activities have occurred in any recent years. If it has occurred, Cotter has violated the MLRA by failing to notify the Division about the activities and failing to seek authorization to do so. Further justifying its proposal for "intermittent status" Cotter cites "the ability to produce ore from the Mine and process it through a milling facility has been actively maintained, thus allowing the Mine to remain as an intermittent operation. As such, the operation is maintained in a ready state with an ability to come on-line quickly and produce as the market dictates." However, as demonstrated, the company has now dismantled its milling facility and thus circumstances have dramatically changed with respect to Cotter's ability to bring the Mine back into production and process the ore through a milling facility.

Based on the foregoing, Sheep Mountain Alliance asserts that the Division is without authority to process this Amendment to a mining operation permit, as Cotter is not eligible to extend its period of cessation of production activities. Even if eligible, Cotter has failed to provide the required information necessary to maintain any "intermittent status" designation. Thus, Sheep Mountain Alliance requests that the Division begin the process of terminating the permit and requiring reclamation, as expressly required by the MLRA.

All Areas Covered by the Mine Permit Should be Covered by the EPP

Cotter concedes on page 1 on the EPP that its "permit includes a proposed upper affected area on the DOE JD-8 lease tract," Cotter nevertheless failed in any way to include the upper affected area in the EPP. *See e.g.*, EPP page 33 (Cotter declining to provide any surface water detail for the upper area). This is not allowable under the MLRA and implementing regulations. For example, Rule 6.4.21 specifically requires that the EPP include discussion of "all areas ... that will be or have the potential to be affected by uranium mining." Here, because the upper site is included in the permit, it must be

detailed in the EPP. This is especially true, where, as here, the operator admits that the area has the potential to be affected in the future. EPP at 2 (“However, future exploration drilling may locate sufficient resources to require use of the upper mine waste area and ore storage pad.”). Cotter cannot have it both ways. The company cannot maintain the upper mine area in its permit, and keep open the ability to conduct ground disturbing activities on those lands, yet refuse to provide the EPP information required under the MLRA and Board Rules. The DRMS should require Cotter to provide a complete EPP and not one that unilaterally selects only certain portions of the site at Cotter’s convenience.

Other portions of the regulations specifically call for detailed information for all areas within a specified distance (i.e. 2 miles) of the operation. *See* Rule 6.4.21 (throughout). The Division should require that Cotter submit all information required under the regulations, and not just the data Cotter chooses to provide.

All Contemplated Storm Water Mitigation Measures Should be Implemented Immediately

As briefly mentioned above, Cotter appears to propose in its Construction Schedule (EPP section 10, page 50) that the additional proposed stormwater management would only be contingent on resumption of mining. This proposal should not be accepted by the Division. Notably, even the (inapplicable) “intermittent status” designation requires the operator to comply with all “reclamation, performance standards and Environmental Protection Plan requirements.” Rule 1.13.7(a).

The proposal to hold off on activities such as improved stormwater management is contradicted by Cotter’s own statements that “[s]tormwater management and the prevention of water-rock interaction are the particular focus of environmental protection measures for the JD-8 mine.” EPP page 1. Later in the EPP document, Cotter asserts that “[a]ny potential chemical loading to surface water will be controlled and minimized by the implementation of best management practices (BMPs) described in the Stormwater Management Plan (Attachment 4 of the EPP).” EPP at 23. This statement simply does not square with the construction schedule proposing to implement the new stormwater BMPs only at some indeterminate date in the future upon resumption of mining. The Division should reject Cotter’s attempt to push off any meaningful work. At minimum, the Division should require additional detail to confirm any activities that will be required immediately.

Hydrologic (Surface and Groundwater) and Geologic Information is Lacking

The EPP lacks a complete analysis of the hydrologic (surface and groundwater) and geologic setting of the JD-8 mine. For instance, the EPP appears to assert that leachate from waste rock would take 1,000 years to travel 400 feet. EPP at 23. However, Cotter concedes elsewhere that the mine area is “extensively faulted” with “many lesser faults further dissect the area,” and that the waste rock pile and other mine features are placed on a fault. EPP at 38. It is not clear from the materials that Cotter has appropriately factored in the faulting to its predictions of potential ground water contamination.

Further, Cotter has not adequately dealt with the proximity and relationship of the proposed Pifion Ridge Uranium Mill to JD-8. For instance, Cotter relies on the reports (e.g., Golder 2009) submitted by the mill proponent, but does not account for the potential contribution of contamination to the groundwater at the mill site from JD-8. This is despite recognizing in the EPP that the regional flow of groundwater is to the northwest (towards the mill site from JD-8), discharging into the Dolores River. EPP at 40-41. In fact, information from the mill proponents submitted to the CDPHE demonstrates the interconnectedness of ground water regimes within the JD-8 area to the valley floor. (*See* attached groundwater recharge and discharge map). Cotter does not address the fact that the mill

site wells have indicated exceedences of groundwater standards. The connections between the JD-8 site and the mill site groundwater contamination should be much more rigorously explored to satisfy the MLRA and Rules. In addition, Cotter's Drainage Plan admits that some portions of the stormwater management system are not designed to meet DRMS standards with regard to a 100yr/24hour event. All such components should be upgraded to meet all standards.

Given these inconsistencies and questions, more detail is necessary for Cotter to provide the required detailed information on groundwater pathways that may contribute to the groundwater contamination evident at the mill site, located just below to the northwest from JD-8. This additional information is consistent with the Rules, which require 5 quarters of data showing water quality and quantity among other detailed information. *See e.g.* Rule 6.4.21(8), (9), (11), (12) and (14).

Cultural Resource Assessments Are Not Complete

Given the reported high number of historic and prehistoric cultural, archaeological, and paleontological resources in the area, the Division should coordinate with the Colorado SHPO to ensure that Cotter has appropriately inventoried, identified, and mitigated impacts to, all historic resources at the site.

Abandoned Mine Features in the Area Should be Considered for Reclamation

Cotter notes that the abandoned Black Diamond Mine is in the vicinity of JD-8. Area maps indicate other historic mines in the area as well. As part of any EPP, the Division should explore with Cotter the potential for reclamation work to be accomplished on these abandoned mines to improve and mitigate the wildlife, water quality, and other impacts in the area.

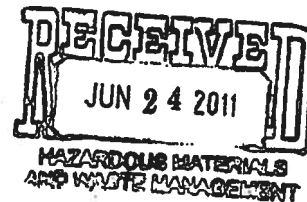
Sheep Mountain Alliance looks forward to working with you on this EPP application.

Sincerely,

/s/ Jeffrey C. Parsons

Jeffrey C. Parsons
Western Mining Action Project
on behalf of Sheep Mountain Alliance

cc: Jeff Fugate, AGO, via email
Tony Waldron, DRMS, via email
Loretta Piñeda, DRMS, via email



Via Email and U.S. Mail

June 17, 2011

Mr. Steve Tarlton
Manager
Radiation Management Unit
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Subject: Comprehensive Reclamation Plan and Strategy Summary

Dear Mr. Tarlton:

The requested update to Cotter Corporation (N.S.L.)'s ("Cotter") actions and strategies to achieve deletion of the Cañon City Milling Facility ("CCMF") from the National Priority List, followed by license termination, is summarized below.

Near-Term Actions

1. Buildings and structures currently being demolished at the CCMF include:

- Secondary crusher foundation;
- Grind/leach building foundation;
- SX building and foundation; and
- Fine ore building.

Please note that Cotter previously provided CDPHE with a demolition schedule for all the above.

2. Cotter will demolish the following buildings and structures immediately after its current demolition activity is completed:

- Old metallurgical laboratory;
- Water tanks;
- Warehouse;
- Yellowcake storage;
- Barrel storage;
- Underground utilities; and
- Administrative offices and trailers.

Mr. Steve Tarlton
July 17, 2011
Page two

Please note: (a) density gages currently stored in the yellowcake storage building will be sent offsite for disposal at an appropriate facility; and (b) Cotter will relocate administrative offices outside the restricted area.

3. Cotter will excavate contaminated soils to the interim ALARA goal of 60 μ R/hour at a height of one meter for the following:
 - Footprint of the 1979 Mill;
 - Soils in the drainage area of the Old Pond Area ("OPA") to the Soil Conservation Survey (SCS) dam;
 - Boiler/zirconium kiln/demonstration plant area;
 - Area east of the railroad tracks to OPA;
 - Ore pads;
 - OPA area;
 - Any soils outside of the restricted area, but within Cotter's property boundary, where risk assessment is not an option.

4. The following buildings and structures will not be demolished until remedial circumstances warrant their removal:
 - Guard shack;
 - Laboratory and change house (incl. leach fields);
 - Main substation;
 - All railroad structures (tracks, trestle and foundations); and
 - Maintenance shop.

Radioactive Materials License

Subject to CDPHE review and approval, Cotter intends to maintain its Radioactive Materials License for the purpose of processing Mount Taylor ore. The use of this license will be maintained via the Timeliness in Decommissioning process specified by 6 CCR 1007-1 3.16.

Impoundments

Cotter intends to retain the use of the surface of the Secondary Impoundment ("SI") for heap leaching in the future. The approximate five-acre area will be closed with the first layer of random fill placed on top. Settlement monitoring stations will be placed in accordance with the Reclamation Plan. The SI dewatering sump will continue to be pumped into the Primary Impoundment ("PI").

The PI will continue as a repository for demolition debris and contaminated soils. An area will be left open to receive the remaining buildings and structures detailed above. The liner in the southern portion of the PI will remain in place until final closure at which time it will be placed in the configuration as shown in the Reclamation Plan. The PI dewatering sump will continue pumping into the PI pool until a new evaporation cell is constructed.

Mr. Steve Tarlton
July 17, 2011
Page two

Surface water and corrective action groundwater, e.g., pump-back from the SCS dam and Monitor Well 333, will be pumped into the PI until CDPHE approves a new evaporation pond designed to receive new contaminated liquids generated in the future.

Groundwater

Strategies and actions are currently under review by CDPHE, EPA and Cotter. Cotter expects to participate in the process with CDPHE and EPA while groundwater remedial strategies are developed to meet site remedial objectives. Cotter will continue implementing currently approved remedial actions and plans to implement those established by the foregoing process. Cotter intends to seek an amendment to the Remedial Action Plan to allow storage of surface runoff water behind the SCS Dam once contaminated soils have been removed from the area.

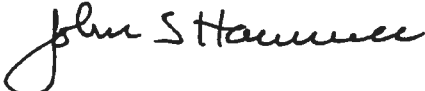
License Renewal

During the renewal process, Cotter plans to remove obsolete license conditions, such as, but not limited to, the following:

- 24-hour security requirements;
- Dose calculation requirements; and
- Site Solids and Liquids Management Plan.

If you have any questions, please contact me at 719-275-7413 (ext. 202).

Sincerely yours,



John S. Hamrick
Vice President, Mill Operations



COTTER CORPORATION

Western Slope Operations



999

8 6 6 7 3 4 7

AIRPORT ROAD

COLORADO 81424

January 15, 1997

Division of Minerals & Geology
Attn: James C. Stevens
1313 Sherman Street, Room 215
Denver, CO 80203-2273

RECEIVED

JAN 21 1997

Subject: JD-8 Mine
File No. M-84-014

Division of Minerals & Geology

Dear Mr. Stevens,

Pursuant to the Division's recommendation in a meeting with Cotter representatives on December 19, 1989; and the Division's correspondence dated April 12, 1990, regarding permit M-77-310, Cotter has assembled for the Division's review, and provides herein, pertinent information regarding the operating status of the JD-8 Mine, which supports a request for technical revision of the above captioned permit allowing for periods of inactivity greater than 180 days.

Specifically, the JD-8 operation was placed into a "temporary cessation" status on January 4, 1987, under the authority of the Mineral Rules and Regulations that were in effect at that time. Subsequent revisions of the Mineral Rules and Regulations; however, render the temporary cessation category inappropriate for the JD-8 Mine. Temporary cessation does not appropriately characterize the JD-8 Mine since many of the activities undertaken at the site fall within the current definition of mining operations. For this reason, Cotter requests that the temporary cessation determination for the JD-8 Mine be withdrawn and the mine be re-characterized as an intermittent operation. Information supporting this request is provided below.

Introduction

The JD-8 Mine ("the Mine"), located in Montrose County near Nucla, Colorado is owned and operated by Cotter Corporation, a wholly-owned subsidiary of Commonwealth Edison Company. The Mine operates under a Section 112 permit No. M-84-014 as approved by the Colorado Mined Land Reclamation Board. The permit was issued to allow for the extraction of 70,000 tons of mineral and waste rock or more annually. The minerals of interest at the Mine are uranium and vanadium. Reserve and mine life estimates at the time of permit application were premised on maintaining production rates and uninterrupted production schedules for the life of the Mine, which were consistent with the economics of the day. The reclamation plan and its timetable also were based upon an optimistic forecast for uranium and vanadium mining. Reclamation at the Mine is guaranteed for the permitted 20.06 acres by a financial warranty.

Division of Minerals & Geology
Permit No. M-84-014, JD-8 Mine
January 15, 1997 - Page 2

Beginning in approximately 1980, the world market for uranium and vanadium, as well as many other metals, went into a rapid decline. In response to the conditions, large world inventories glutted the market, and greatly decreased demand sent metal prices into a steep downward spiral. Widespread and large scale layoffs occurred as metals producers, including Cotter, radically cut or curtailed production and downsized their operations. The uranium and vanadium mining industry went into a true depression. During this period of decline in the metal mining industry, the JD-8 Mine was forced to lay off employees and cease development activities.

The Mines development activities were suspended in 1986, but Cotter has continued to conduct activities which are now defined in the Mineral Rules and Regulations as mining operations. Accordingly, the ability to produce ore from the Mine and process it through a milling facility has been actively maintained, thus allowing the Mine to remain as an intermittent operation. As such, the operation is maintained in a ready state with an ability to come on-line quickly and produce as the market dictates.

While there is a definite future for the uranium/vanadium mining industry as reflected in recent price increases, and specifically the JD-8 Mine, that future will be subject to the world economy and the world market for the product. In addition, the ability to operate competitively on a highly efficient smaller scale will influence the future of the industry and the Mine. With the recent change in import laws and the recent price increases, a turnaround could occur rapidly, as evidenced by the changes within the primary copper industry during late 1987 and 1988. Thus, Cotter must be prepared to alter the extent and short-term duration of operations at the Mine on a very short notice in order to efficiently meet changes in market demand for uranium or vanadium. With this change of events, it is evident that the Mining Plan section of the permit no longer accurately reflects present realities at the Mine site. Therefore, the decision was made by Cotter to revise the existing permit through the technical revision process in order to update and to more accurately characterize the present Mine operation and its synchronization with present and future mining activities and, accordingly, terminate its temporary cessation status.

Mining Operations Since 1987

Since 1987, many activities have been undertaken at the JD-8 Mine which constitute mining operations according to the current definition in the Mineral Rules and Regulations. Over the most recent ten year period \$578,764 were spent at the mine (an average of \$57,876 per year) on activities of this nature as well as mine maintenance. The activities which constituted mining operations included: surface and underground drilling, determining ore reserves, radiometric scanning, ore sampling, mine mapping, mine feasibility studies, geological report preparation, mine surveying, timber installation, repair and ground control in preparation for mining, ventilation fan installation for geologic and survey projects.

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Permit No. M-84-014, JD-8 Mine
January 15, 1997 - Page 3

Mining Plan

The Mine will be operated as an intermittent operation until such time as mine operations are terminated. Activities similar to those which have occurred since the acquisition will continue to take place until full production resumes. As the market for uranium and/or vanadium dictates, the Mine may operate continuously at full or partial capacity under the permitted mining plan as proposed in this technical revision request for unknown lengths of time, or it may be maintained in a "ready" state for periods in excess of 180 days. Likewise, the Mine may operate at some degree between these two extremes. As an active intermittent operation, the Mine and its facilities will be continuously managed in preparation for operation. Nineteen ninety-seven activities could potentially include drift development in March to prepare for production in July.


Known economic reserves remaining in the Mine are approximately 245,000 tons based on current economic design parameters. In addition, 61,200 tons of reserves are expected to be encountered. Production from the reserves will be dependent on the market and the timing of unknown factors associated with utilizing the Mine as an intermittent operation. The anticipated mine production life is; however, expected to be eight years (i.e., six years production from current reserves plus two years production from expected additional reserves).

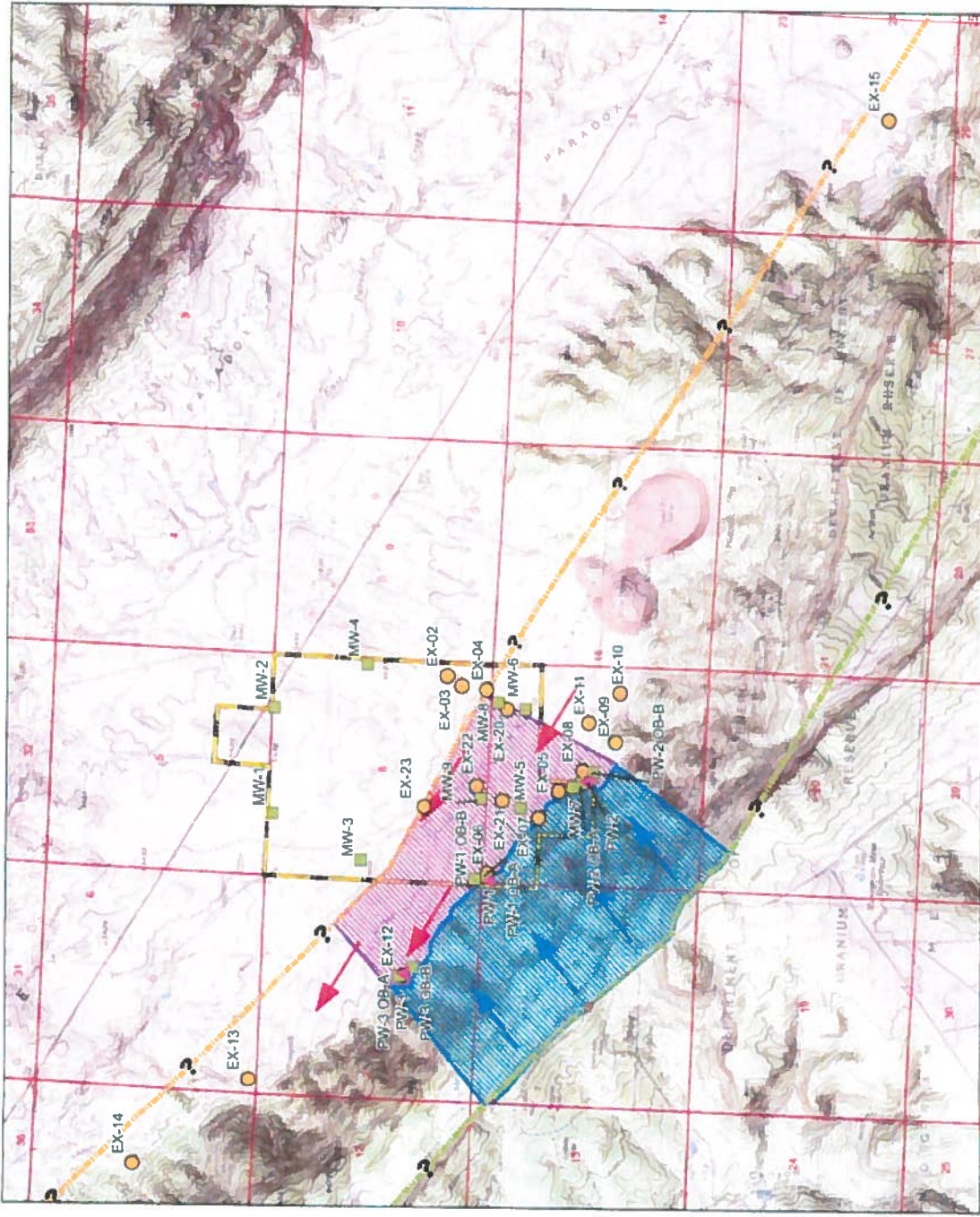
Conclusion

Since February, 1987, Cotter has operated the JD-8 Mine as an intermittent operation. The activities which ensued since then constituted mining operations under the current definition in the Mineral Rules and Regulations. As such, the temporary cessation designation for the Mine should be withdrawn. Alternatively, Cotter proposes to continue its operation of the JD-8 Mine as an intermittent operation until mining is terminated, at which time the permitted reclamation plan will be implemented. Accordingly, a technical revision to permit M-84-014 is requested to allow for intermittent mine operations with periods of inactivity in excess of 180 days.

If there are any questions regarding this information, please call me at (970) 864-7347.

Sincerely,
COTTER CORPORATION


Glen Williams, Manager
Western Slope Operations



LEGEND

- ▲ Production Well PW1-PW3 9 (Installed)
- Monitoring and Observation Well
- Exploratory Boring
- Approximate Northern Boundary of Aquifer
- Assumed Southern Boundary of Aquifer
- ➔ Recharge From Mesa
- ➔ Groundwater Flow
- Area of Direct Infiltration Recharge
- Area of Recharge From Mesa
- Site Boundary

REFERENCES
 USGS, various data, Topo Quad (7.5) drawn from National Geographic
 1:250,000 4.0 (October) 2005
 Projection: Sphermerc Colorado Central NA833 1 feet



PROJECT **ENERGY FUELS RESOURCES CORPORATION**
 PINON RIDGE
 MONTROSE COUNTY, COLORADO

SCHEMATIC OF GROUNDWATER RECHARGE AND DISCHARGE

REV	DATE	DESCRIPTION
01	08/15/2008	Initial Design
02	08/27/2008	Final Design

FIGURE 4.3



STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

1313 Sherman St., Room 215
Denver, Colorado 80203
Phone: (303) 866-3567
FAX: (303) 832-8106



June 26, 2012

Notice to Parties and Interested Persons for AM-03

RE: Notice of Formal Board Hearing, Pre-hearing Conference, and Recommendation Date for an Application to Amend a 112d-1 Operation (AM-01), to Include an Environmental Protection Plan, Cotter Corporation, JD-8 Mine, Permit No. M-1984-014.

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Piñeda
Director

Dear Party and/or Interested Person:

The Division of Reclamation, Mining and Safety (Division) appreciates all parties taking time to participate in the review process of the above referenced application. The submittal of an Environmental Protection Plan (EPP) amendment was filed with the Division on June 8, 2011, by Cotter Corporation (Applicant).

An explanation of the Division's review process, your rights as either a party or a non-party, and the jurisdiction of the Mined Land Reclamation Board (Board), is provided in the enclosed 12-page memo, Guide to Citizen Participation. As noted in the citizen's guide memo, in these proceedings the Division's authority is limited to enforcement of the Colorado Mined Land Reclamation Act, 34-32-101 et seq., C.R.S. (Act), and the Mineral Rules and regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal and Designated Mining Operations (Rules), which can be accessed on the Division's website, www.mining.state.co.us.

Upon publication of the public notices for this amendment, the Division received timely letters of objection. Copies of these letters were forwarded to the operator. Receipt of timely objections triggers the requirement for the Division to schedule a Pre-hearing Conference. **Pursuant to Rule 2.7.1, the Division has scheduled a Pre-hearing Conference to occur on July 25, 2012**, located at the Reams Construction Business Offices, 28490 Highway 141, Naturita, Colorado, beginning at 1:00 p.m. and concluding at or before 3:00 p.m. Mr. Steve Renner will preside as the Pre-hearing Conference Officer.

The EPP amendment application will be considered by the Board during a Formal Public Hearing scheduled for August 8~9, 2012. The Board meeting will be held at the Centennial Building, 1313 Sherman Street, Room 318, Denver, Colorado, 80203, commencing at 9:00 a.m. on August 8, 2012 or as soon thereafter as the matter can be considered.

The Pre-hearing Conference will be held to describe the Division's review process, to explain the rights and responsibilities of parties, to discuss and resolve issues to the extent possible, to describe the Board Hearing processes, to propose a list of issues under the Board's jurisdiction, to simplify that list, and to identify parties. **All parties must supply fifteen (15) copies of lists of any exhibits and witnesses the parties intend to present at the Formal Board Hearing. List and exhibits must be exchanged between the parties at the Pre-hearing Conference in accordance with the requirements of Rule 2.6(2). Failure to participate in the Pre-hearing Conference will result in the loss of your party status.**

After the conference the Pre-hearing Officer shall prepare a proposed Pre-hearing Order. The proposed Pre-hearing Order will be made available to all parties prior to the Formal Board Hearing. The proposed Pre-hearing Order will contain a list of the parties, provide a recommended list of issues to be considered by the Board, and outline a schedule for the hearing with time allotments set for presentations by each party and the Office. The conditions of the Pre-hearing Order are not final until adopted or approved by the Board at the Formal Board Hearing. Any party has the right to file a motion to the Board to review any decision of the Pre-hearing Officer according to the provisions of Rule 2.6(1).

The Division's deadline for issuing a recommendation on the EPP is scheduled for July 16, 2012. On or before July 16, 2012, the Division will issue its recommendation to the Board for approval, approval with conditions, or denial of the application. Copy of the Division's recommendation will be forwarded to all parties and interested persons by no later than July 20th, 2012.

If you need additional information please contact me at the Division of Reclamation, Mining and Safety, Grand Junction Field Office, 101 S. 3rd St., Suite 301, Grand Junction, Colorado 81501, by telephone at 970.241.1117, or by e-mail at russ.means@state.co.us.

Sincerely,



G. Russell Means
Senior Environmental Protection Specialist
West Slope Field Office Supervisor
Grand Junction / Durango

Attachment: Certificate of Service

Enclosure: Guide to Citizen Participation

Ec w/enclosure: Steven Renner, Pre-hearing Officer
John Roberts, Esq., AGO for the MLRB
Steve Nagy, Esq., AGO for DRMS

CERTIFICATE OF SERVICE

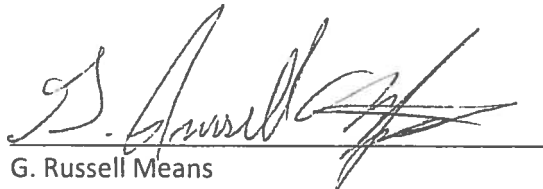
I, G. Russell Means, hereby certify that on this 26th day of June, 2012, I deposited a true copy of the foregoing document, RE: Notice of Formal Board Hearing, Pre-hearing Conference, and Recommendation Date for Submittal of an Environmental Protection Plan Application to amend a 112d-1 Operation (AM-01), Cotter Corporation, JD-8, Permit No. M-1984-14, with the enclosed Guide to Citizen Participation, in the United States Mail, postage paid, addressed to the following:

Ed Cotter
S.M. Stoller Corporation
Contractor to the U.S. Department of Energy Office of Legacy Management
2597 Legacy Way,
Grand Junction, CO 81503

Glen Williams
Cotter Corporation
P.O. Box 700
Nucla, Colorado 81424

Montrose County
Board of County Commissioners
161 S. Townsend Ave.
Montrose, CO 81401

Western Mining Action Project
On behalf of Sheep Mountain Alliance
P.O. Box 349
Lyons, Colorado 80540


G. Russell Means

STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

1313 Sherman St., Room 215
Denver, Colorado 80203
Phone: (303) 866-3567
FAX: (303) 832-8106



John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Piñeda
Director

July 19, 2012

Glenn Williams
Cotter Corporation
P.O. Box 700
Nucla, CO 81424

Re: C-JD-8 Mine, Hard Rock/Metal 112d-1 Permit No. M-1984-014, Division of Reclamation, Mining & Safety Recommendation for Approval of Amendment (AM-1), Incorporating the Environmental Protection Plan into the Permit.

Dear Mr. Williams,

The Division of Reclamation, Mining & Safety has completed technical review of the above-referenced amendment application, incorporating the Environmental Protection Plan ("EPP") into the permit. The Division believes that Cotter Corporation has complied with the applicable requirements of the Mined Land Reclamation Act, C.R.S. § 34-32-101, *et seq.* ("Act"), and Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations 2 C.C.R. 407-1 ("Rules"). Accordingly, the Division will recommend that the Mined Land Reclamation Board ("Board") approve this 112d-1 permit amendment over the objections received. The Division's rationale for approval is enclosed herewith.

Upon publication of the public notices for this amendment, the Division received a timely letter of objection from Sheep Mountain Alliance through the Western Mining Action Project (objectors). Copies of these letters were forwarded to Cotter. Receipt of timely objections triggers the requirement for the Division to schedule a Pre-hearing Conference. A Pre-hearing Conference is scheduled for Wednesday, July 25, 2012, beginning at 1:00 P.m. The conference will be held at the Reams Construction Company building, located at 28490 Highway 141, Naturita, Colorado. Enter the building's front entrance and proceed to the ground level conference room. Mr. Steven Renner will preside as the Pre-hearing Conference Officer.

The amendment application will be considered by the Board during a Formal Public Hearing scheduled for August 9~10, 2012. Please note the schedule change from the original notice of 8th and 9th to the 9th and 10th of August. The August 9~10, 2012 Board meeting will be held at the Centennial Building, 1313 Sherman Street, Room 318, Denver, Colorado, 80203, commencing at 9:00 a.m. on August 9, 2012 or as soon thereafter as the matter can be considered.

If you need additional information please contact me at the Division of Reclamation, Mining and Safety, Grand Junction Field Office, 101 S. 3rd St., Suite 301, Grand Junction, Colorado 81501, by telephone at 970.241.1117, or by e-mail at russ.means@state.co.us.

Sincerely,



G. Russell Means
Senior Environmental Protection Specialist
West Slope Field Office Supervisor

Encl: DRMS Rationale for Recommendation for Approval over Objections;
Certificate of Service

Ec: Tony Waldron, DRMS, Denver
Jeff Fugate, AGO, DRMS
John Roberts, AGO, MLRB
Steve Renner, Pre-Hearing Officer, DRMS

Cc: Jeff Parsons, Sheep Mountain Alliance c/o
Western Mining Action Project

DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

1313 Sherman St., Room 215

Denver, Colorado 80203

Phone: (303) 866-3567

FAX: (303) 832-8106



July 19, 2012

Recommendation for Approval over Objections
Hard Rock/Metal 112d-1 Permit, Amendment AM-1
Cotter Corporation
C-JD-8 Mine
Permit No. M-1984-014

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Piñeda
Director

1. Introduction

The purpose of this document is to outline the basis for the Division of Reclamation Mining and Safety ("Division")'s recommendation for approval of the Hard Rock/Metal 112d-1 Permit Amendment (AM-1) ("Amendment"), submitted by Cotter Corp. (the "Operator"), for the C-JD-8 Mine, Permit No. M-1984-014, over objections raised by the Sheep Mountain Alliance and Western Mining Action Project (collectively the "Objectors").

The C-JD-8 Mine is located in the Paradox Valley. Surface disturbances are primarily on patented lands, while underground mining activities are located on Department of Energy lease Tract C-JD-8 in western Montrose County. It was permitted in 1984, and currently contains 20.96 permitted acres, of which 13.65 is proposed as affected lands. Its approved post-mining land use is Rangeland.

The C-JD-8 Mine is an underground mine that produces uranium and vanadium. Pursuant to House Bill 08-1161, all uranium mines are considered designated mining operations ("DMOs"). See C.R.S. § 34-32-103(3.5)(a)(III). The Reclamation Permit for every DMO must include an adequate Environmental Protection Plan ("EPP"). The Operator submitted the application for this Amendment in order to develop and incorporate an EPP into its Permit in accordance with Rules 6.4.21 and 7.1.4.

In the interest of clarity and administrative efficiency, the Division has scheduled Board hearings for consideration of each of the C-JD-8 Mine Complex EPP Amendments on August 9th and 10th, 2012. The Division will present recommendations for Board approval of each EPP Amendment at those hearings.

2. Objections

The Division received a timely objection letter on July 26, 2011 during the public comment period from the Western Mining Action Project on behalf of Sheep Mountain Alliance:

Issues Raised by the Objectors:

The issues raised by the Objectors are summarized below. The Division's responses are also summarized, along with citations to the applicable sections of the Mined Land Reclamation Act, C.R.S. § 34-32-101, *et. seq.* ("Act") and/or the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations, 2 C.C.R. 407-1, *et. seq.* ("Rules"). The Division has listed the issues it believes are within the jurisdiction of the Board first and the issues it believes are outside of the jurisdiction of the Board last.

A. ISSUES WITHIN THE JURISDICTION OF THE BOARD

Intermittent Status is not Allowable for the C-JD-8 (C.R.S. § 34-32-103(6)(a)(II), and Rule 1.13.7)

1. *Objection:* The C-JD-8 Mine has been in Intermittent Status since 1997, in violation of the Act's requirement that "in no case shall temporary cessation of production be continued for more than ten years without terminating the operation and fully complying with the reclamation standards of this article." C.R.S. § 34-32-103(6) (a) (III). Additionally, reporting requirements under Rule 1.13 have not been submitted properly which should include the conditions at time of cessation, specific measures to fully comply with reclamation, performance standards, and the EPP requirements and plans to resume mining...

Based on the forgoing, Sheep Mountain Alliance asserts the Division is without authority to process this amendment to the mining operation permit, as Cotter is not eligible to extend its period of cessation of production activities and failed to provide information necessary to maintain any "intermittent status" designation. Thus Sheep Mountain Alliance request the Division begin the process of terminating the permit and require reclamation, as expressly required by the MLRA.

The Division's Response: The Objectors are time-barred from raising objections to the status of the operation. The Rules provide that parties who are adversely affected or aggrieved by a Division decision must appeal that decision to the Board with certain prescribed time periods. Here, the applicable time period was thirty days. *See* Rule 1.4.11. The Objectors failed to request a Board hearing regarding the Division's approval of Revision TR-01 in February of 1997.

The Objectors are lacking correct information. The Operator is in full compliance with C.R.S. § 34-32-103(6)(a)(II), and Rule 1.13.9. The C-JD-8 Mine was in active operation from 2005-2007. Other mining activities occurred in 2010 and 2011. In fact, the requirement of submission of the current EPP amendment was precipitated by defined mining activities which required an operator to immediately comply with the law while final rules for HB1161 were promulgated and enacted. During this period of time, the operator engaged in activities consistent with the definition of active mining and inconsistent with the regulatory factors indicating that TC is appropriate. *See* C.R.S. § 34-32-103(8); Rules 1.1(31) and 1.13.2. The Operator opened a previously-closed mine portal and mobilized the site in 2005. It produced 9200 tons of ore in 2005 and 2006 that was shipped to its mill facility in Canon City. In 2010 some stockpiled ore was moved from the surface back into the underground mine and the remainder were moved in 2011 under enforcement action from the Division. (See Annual Reports and Division inspection reports for these time frames.)

As part of the normal review process the open ended construction schedule for EPP structures "when mining operations resume" has been corrected. Cotter has submitted a schedule to begin construction of critical Environmental Protection Facilities, such as stormwater controls and retention ponds will begin upon approval of this amendment. The construction of these facilities are considered development activities for mining operation infrastructure and therefore classified as a mining activity by definition. *See* C.R.S. § 34-32-103(8). Once these activities are completed the operator will have to assess whether to continue mining or comply with C.R.S. § 34-32-103(8); Rules 1.1(31) and 1.13.2. Factors that will need to be considered include the court action prohibiting mining activities while the Department of Energy completes its Programmatic Environmental Impact Study.

The Division agrees that annual reports for this site lack information. The Division identified the issue for not only at this site and operator but across the board. The Division has begun using a more comprehensive reporting system that should address the lack of information for both the Division and public review. Poor records and reporting are not a basis for termination of a permit or denial of this amendment application.

The Division is unsure as of the basis for the statement that it is without authority to process this amendment. C.R.S. § 34-32-105(1) creates the Office of Mined Land Reclamation and the Mined Land Reclamation Board. C.R.S. § 34-32-104 gives full power and authority to carry out and administer the provisions of the Article.

All Areas should be covered by the Mine Permit should be Covered by the EPP

2. *Objection:* Cotter concedes on Page 1 of the EPP that it's "permit includes a proposed upper affected area on the DOE JD-8 Lease Tract," Cotter never the less failed in any way to include the upper area in the EPP.

The Division's Response: The Division as part of its normal review process agrees with objectors. Cotter opted to remove all plans for mining disturbance on top of the mesa within the DOE lease tract from consideration at this time except three possible vent hole locations and a monitor well. The disturbances and access are not considered to have negative environmental impacts that are required to be addressed within the EPP and the monitor well is part of the EPP itself. Should Cotter at a future date decide to include any additional areas in its mining activities, an amendment with public notice requirements would be required.

All Contemplated Stormwater Mitigation Measures should be implemented immediately.

3. *Objection:* As briefly mention, Cotter appears to propose in its Construction Schedule (EPP, Section 10, Page 50) that additional proposed storm water management would only be contingent on resumption of mining. The proposal should not be accepted by the Division.

The Division's Response: The Division as part of its normal review process agrees with objectors. The open ended construction schedule for EPP structures "when mining operations resume" has been corrected. Cotter has submitted a new schedule to begin construction of critical Environmental Protection Facilities (EPF), such as stormwater controls and retention ponds. Construction will begin upon approval of this amendment. Construction of the EPF's is allowed as the surface area in question is private, patented and not on DOE lease tracts lands where activity is prohibited per a court order.

Hydrological (Surface and Groundwater) and Geological information is lacking (C.R.S. § 34-32-116(7)(g); Rules 3.1.5(11), 3.1.6, and 6.4.21)

4. *Objection:* Hydrological (Surface and Groundwater) and Geological Information is Lacking. The EPP lacks a complete analysis of the hydrological and geological setting of the mine. It is not clear that Cotter has appropriately factored in faulting to its predictions of potential groundwater contamination.

The Division's Response: The Division through its normal review has had the operator fully address its concerns over the lack of data which addresses the Objectors' concerns. The EPP now includes a thorough groundwater, surface water, geology, and geochemical characterization.

The Division believes that geochemical testing of the development rock and ore stockpiles produced very conservative results that do not directly correlate to potential negative impacts to the prevailing hydrologic balance.

The operator will be required to establish ambient water quality levels if present based on five to ten quarters of groundwater quality samples taken from a well located down-gradient from the mine workings per this amendment. The ambient water quality data will allow the Division to establish a baseline characterization of the groundwater regime. A monitoring protocol that ensures disturbances to the prevailing hydrologic balance are minimized may then be further defined "if" necessary.

As part of the response to adequacy issues brought forth by the Division, Cotter submitted 559 drill log reports and data to define the hydrological regime. Analysis of the data notes that while 29% of the holes had some kind of water interception they were random in nature in depth, quantity, and location. The randomness exhibited in the data shows no clear connectivity between these encounters that meet the definition of an aquifer. Rather it appears these are perched lenses of trapped water with no true recharge capabilities. Several holes have actually been mined through under present activities and Cotter has pointed out no groundwater was produced within the mine in these areas. While the data supports a dry mine the Division recognizes the potential for unanticipated groundwater interceptions. A standard stipulation for approval notes that if unanticipated groundwater is encountered that produces a flow of over a gallon per minute, the operator shall report the incident to the Division with 10 working days. The operator and Division will then consult on the level of characterization of the groundwater that will be required and timetables for meeting the requirements.

A more detailed geological description was submitted per the adequacy review. The Division notes the current waste pile straddles a slip fault created when the Paradox Salt Dome collapsed many centuries ago. The primary waste pile will however be south of the fault. As noted in the amendment a historic mine, the Black Diamond sits 200 feet below the dumps and current mine workings and transects this fault under the waste piles. This mine in affect acts as a monitor well. Reconnaissance done within the mine in the past seven years notes no groundwater observed up to and just past the fault in question. The Black Diamond Mine has been in existence for over 70 years and the waste pile in place for nearly as long if not longer. This data clearly shows no groundwater, leachate formation, or water migration in that lengthy time span under the waste pile or instability issues of the ground itself. A lizometer located at the toe of the current mine dumps at a lesser depth also continues to run dry. The Division believes this information thoroughly addresses the issue.

A question regarding the ephemeral stream adjacent to the mine has been addressed. Reconnaissance of the drainage found no surface springs. Arial photographs show the drainage was covered up at least 30 years ago in the valley floor with no visible impacts. No other surface water concerns were identified. While the US Geological Society map indicates the drainage as ephemeral current evidence suggests this may be an error of original classification. The EPP has EPF's in place to ensure potential negative impacts to the prevailing hydrologic balance once constructed will minimize any off-site impacts to surface waters.

Cultural Resource Assessments are not complete

- 5 *Objection:* Given the high number of historic and prehistoric cultural, archeological, and paleontological resources in the area, the Division should coordinate with Colorado SHPO to ensure that Cotter has appropriately inventoried, identified, and mitigated impacts to all historic resources at the site.

The Division's Response: As part of the normal review process for any amendment or application the Division provides SHPO with a copy of the submitted application for comments. SHPO responded on June 20, 2011 with "recommendations" for a new survey since the last one was over ten years old. Cotter followed the recommendations and hired a consultant to do a new survey of the current and potential areas of disturbance. A cultural resource report was submitted to the Division by Cotter on May 4th, 2012 identifying one site as being eligible for listing on the National Register of Historic Places. SHPO responded on June 11, 2012 with acceptance of the inventory report. Based on that listing the Division had the operator commit to and verify that no proposed activities were near the site, thus mitigating any impacts to the historical resource as the objectors requested.

B. ISSUES NOT WITHIN THE JURISDICTION OF THE DIVISION AND BOARD

Abandoned Mine Features in the Area should be considered for reclamation

1. *Objection:* Cotter notes the abandoned Black Diamond Mine is in the vicinity of the JD-8 Mine. Area maps indicate other historic mines in the area as well. As part of an EPP, the Division should explore with Cotter the potential for reclamation work to be accomplished on these mines to improve and mitigate the wildlife, water quality, and other impacts to the area.

The Division's Response: The Act and Rules provide no mechanism for the Division to force an operator to reclaim areas outside the proposed affected area and undisturbed by proposed activities. The area has numerous legal mining claims filed by others and DOE. The issue of reclamation of these other sites is more complicated than just work by one individual entity and outside the scope of this amendment and the EPP. The Division would like to note to the objectors and public however that Cotter in the past 10 years has worked with BLM and DOE to reclaim numerous abandoned pre-law mines in Western Colorado to protect human life, provide critical bat habitat, and mitigate impacts to drainages and the hydrological balance.

C. Division's Conclusion and Recommendation

The foregoing discussion supports the Division's findings that the Hard Rock/Metal 112d-1 Amendment submitted by Cotter Corporation for the JD-8 Mine, Permit No. M-1984-014 has met the requirements of the Act and Rules and should be approved. It is therefore the Division's recommendation that, pursuant to § 34-32-115(4) of the Act, the Board approves this Amendment AM-1 for the JD-8 Mine.

CERTIFICATE OF SERVICE

I, G. Russell Means, certify that I mailed a true and complete copy of the foregoing document ("Recommendation for Approval of Amendment") and its enclosures, to the addressee and to all other parties designated therein to receive copies, by depositing them with the US Postal Service, postage paid, and via electronic mail on the signature date shown below.

Parties to whom the documents were mailed and / or e-mailed are:

Glenn Williams
Cotter Corporation
P.O. Box 700
Nucla, CO 81424

Loretta Pineda
Director
Division of Reclamation, Mining, and Safety
Inter-office E-mail

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Western Mining Action Project
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Inter-office E-mail



(signature)

7-17-2012

(date)