

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



November 9, 2012

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

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta Piñeda
Director

Re: Cotter Corporation, Temporary Cessation (TC) Response, SM-18 Mine, File No. M-1977-116, Division Review and Position

Dear Mr. Williams:

On October 1, 2012 the Division of Reclamation, Mining, and Safety (Division) received Cotter Corporation's (Cotter) response regarding the permit status for the above referenced permitted site. The Division sent letters out to all hard rock mines with an "intermittent operation" (IS) permit designation requesting information on mining activities to assess whether operations met the definition of IS as set forth in the Act and Rule. If a site did not meet the definition of IS, then the Division requested that the operator voluntarily place the site into Temporary Cessation (TC) or resume active mining operations.

In order to maintain IS active mining activities must occur each year: The Act provides that intermittent operations must "resume operating within one year." C.R.S. § 34-32-103(6)(a)(II). In order to fulfill this requirement, operators must demonstrate that some active mining occurs **every** year that they remain in IS. Active mining includes the development or extraction of a mineral from its natural occurrence, and/or, the following other activities on affected land: transportation, concentrating, milling, evaporation, and other processing. *See* C.R.S. § 34-32-103(8); Rule 1.1(31). Active mining ***does not*** include general site maintenance, or off-site smelting, refining, cleaning, preparation, transportation, and other operations not conducted on affected land.

Cotter notes that the operation was placed into IS as approved through a Technical Revision on December 5, 1990. The 1990 IS designation was not a perpetual designation. A permit status is subject to ongoing review by the Division and Board to ensure continued compliance with the law. Annual reports and inspections note that the SM-18 Mine does not currently meet the definition of an intermittent operation. The Division has the authority by law to review permits to ensure they meet current standards and, where applicable, require changes to ensure compliance. The Division has determined that an IS classification is not appropriate for this site and must be corrected to remain in compliance with the Act and Rules.

Cotter notes activity at the SM-18 Mine is planned upon approval of the Environmental Protection Plan (EPP) including construction of Environmental Protection Facilities. The construction of the facilities is part of the infrastructure required to further develop the site towards extraction of a mineral, not general site maintenance, and therefore considered a mining activity. Cotter indicates it will review the status of the mine permit after completion of work and within the 180 day time frame outlined within the Act. If Cotter does not resume approved mining activities on or before the 180 day time frame it must submit a request to place the mine into TC. Failure to do so may result in enforcement action which may include civil penalties, forced status change to TC, possible permit revocation, and reclamation bond forfeiture.

Mr. Williams
November 9, 2012
Page 2

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

Cc: Loretta Pineda, Division of Reclamation, Mining, and Safety Director
Tony Waldron, Mineral Program Supervisor
Jeff Fugate, Division, AGO Consul
Ed Cotter, DOE / Stoller