

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 26, 2012

Glen Williams
Cotter Corp.
P.O. Box 700
Nucla, CO
81424

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta Piñeda
Director

RE: CM-25 Mine, Permit No. M-1977-307, Comments Regarding 110d Amendment Application

Dear Mr. Williams,

On November 23, 2012 the Division of Reclamation, Mining and Safety (Division) received an objection (copy enclosed) to the above referenced application from INFORM.

Please inform the Division of how the Applicant will respond to the jurisdictional issues presented by INFORM by Friday, December 21, 2012.

If you require additional information, or have questions or concerns, please contact me at the DRMS Grand Junction Field Office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dustin Czaplinski", written over a horizontal line.

Dustin Czaplinski
Environmental Protection Specialist
Department of Natural Resources
Division of Reclamation, Mining and Safety
101 South 3rd, Suite 301
Grand Junction, CO 81501
Phone: (970) 243-6299
Fax: (970) 241-1516

Enc: INFORM Objection letter dated November 23, 2012

Cc: Ed Cotter, U.S. Department of Energy

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GRAND JUNCTION FIELD OFFICE
DIVISION OF
RECLAMATION MINING & SAFETY

INFORM

INFORMATION NETWORK FOR
RESPONSIBLE MINING

PO Box 746
TELLURIDE, CO
81435-0746

(212) 473-7717
jennifer@informcolorado.org
www.informcolorado.org



Nov. 23, 2012

Mr. G. Russell Means
Colorado Division of Reclamation, Mining and Safety
Grand Junction Field Office
101 South 3rd St., Ste 301
Grand Junction CO 81501

Via email to Russ.Means@state.co.us

Re: Cotter Corporation 110(d) amendment application, Permit No. M-1977-307

Dear Mr. Means,

Thank you for the opportunity to comment on the Environmental Protection Plan submitted by Cotter Corporation for the CM-25 Mine, Permit No. M-1977-307, AM1. The CM-25 Mine is located on Club Mesa above the San Miguel River in western Montrose County, an area heavily impacted by historic uranium mining activities. The Information Network for Responsible Mining is a Colorado-based citizens organization that advocates for the protection of communities and the environment and actively participates in mining reviews. INFORM appreciates your consideration of the following questions and comments related to the CM-25 EPP application.

The CM-25 is a fully reclaimed mine and has been idle since at least Aug. 8, 1980. The 110(d) reclamation permit should be terminated and the CM-25 site should be inspected for final release. All reclamation work at the site was completed in 2003 and recent inspection reports have noted that vegetation is established and the site is releasable under the existing permit standards. Considering the longterm depressed conditions of the uranium market, the economic costs of redeveloping the CM-25 mine is not feasible and there is no clear reason why the operator would continue to keep a permit for a fully reclaimed mine open. Cotter Corporation still has not responded to the Division's Jan. 4, 2012, letter asking Cotter to either identify any remaining tasks related to reclamation at the CM-25 or to commence proceedings for a full

performance and warranty release. [See <http://drmsweblink.state.co.us/drmsweblink/0/doc/945308/Page1.aspx?searchid=7bbfd2ec-2455-4052-ba70-a025822d1915>.]

According to Division records, the CM-25 entered Temporary Cessation for the first time on Aug. 8, 1980. This status was renewed for the second five-year period as allowed under the Mined Land Reclamation Act on July 25, 1985. Once that second five-year period ended in 1990, under the terms of the MLRA, Cotter should have been required to fully reclaim the mine and terminate the permit. 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 requirements of this article.”) Thus, the MLRA states that under no circumstances shall a mine remain in a non-operating status for longer than 10 years, and after 10 years of inactivity, in all cases, a mine must be closed. Nevertheless, at the end of the first decade of non-production at CM-25, Cotter obtained Intermittent Status through a technicality and the permit was allowed to continue. This did not demonstrate the good-faith effort required of mining operators in Colorado to comply with the requirements of the MLRA and the Division’s Rules. Intermittent Status was granted to Cotter in 1990 because the Division was unable to complete the review of the application before the statutory time limit and not because it was merited.

In any case, even though Intermittent Status was granted, another decade of idleness passed at the CM-25 without any active mining activity from the operator. Under Intermittent Status, Cotter is required to undertake some active mining activities each and every year, and the MLRA explicitly excludes general site maintenance as a defined active mining activity. [C.R.S. § 34-32-103(8); Rule 1.1(31)] Reclamation work at the CM-25 began in 2001 and was completed in 2003. Since 1990, CM-25 has been permitted under Intermittent Status without meeting the requirements of that status. Because the CM-25 is a mine regulated by the Department of Energy under the Uranium Leasing Program, Cotter is required to comply with Colorado laws and regulations regarding status and permit compliance.

Should the Environmental Protection Plan be approved, Cotter proposes building the Environmental Protection Facilities and the main staging area in 6 to 12 months and completing full mine redevelopment within two to three years, and then undertaking a review of its status for another 180 days about whether to seek Active status or enter Temporary Cessation. Under this scenario, Cotter ignores the reality that the CM-25 is not eligible for another period of Temporary Cessation under the MLRA, as its allowable 10 years has passed, three times now.

Cotter’s proposed time frame for the redevelopment of the mine is simply not realistic, particularly in context of the extremely low price for uranium and the costs for rebuilding major infrastructure from scratch. It is much more likely that Cotter will persist with patterns well established in its history of delaying construction and thus compliance with any new approved plans or permit requirements; what other choice would it have, considering the impracticality of the uranium market and the lack of a mill to process any ore that may eventually be produced? Again, the CM-25 mine is a mine that is already reclaimed, with no realistic outlook for

production into the foreseeable future. The permit should be terminated. Should Cotter wish to propose mining in the future, it should be required to start a new permit application subject to all the current requirements and subject to any requirements that are forthcoming from the Department of Energy's Programmatic Environmental Impact Statement related to the leasing program, including a site-specific analysis under the National Environmental Policy Act.

Because of the unlikelihood of Cotter resuming mining activities at the CM-25 in the future, regardless of the final status the permit is granted, if the Division is to approve the Environmental Protection Plan, it should not approve the additional acreage requested by Cotter in the amendment application. This seems like an unnecessary authorization to disturb additional acreage that is not clearly justified in the application. The Division has previously noted that the entire permit application -- not just the Environmental Protection Plan -- is in need of updating. [See <http://drmsweblink.state.co.us/drmsweblink/0/doc/940015/Page1.aspx?searchid=e75e5078-12ab-4aa9-858e-25230f9769b5>.] The Division should enforce this requirement immediately.

Cotter should also be required to demonstrate that it has adequate water supplies to operate the mine should it ever reopen. Although Cotter anticipates being able to purchase water from the town of Naturita and to haul it to the mining site by truck, the application does not include any demonstrated agreement or water rights that actually authorize this activity.

The CM-25 is adjacent to the Uravan UMTRA site, which has had difficulties of its own coming into compliance with the reclamation standards in place, and includes a number of areas that still show radionuclide contamination that exceed standards. Considering the proximity of CM-25 to the tailings disposal site, Cotter should be required to conduct a baseline radiometric survey now in order to establish existing baseline conditions. Radionuclides are toxic to biota and should be considered as designated chemicals, subject to all commensurate regulatory requirements.

The proposed EPP raises a number of concerns related to stormwater management and water quality monitoring. The CM-25 site drains into Hieroglyph Canyon, a dry canyon that is frequented by visitors for its natural and archeological values. Cotter insists that mining activities at the CM-25 will have no impact on surface water at the mining site or to Hieroglyph Canyon and therefore there is no need for a monitoring plan, but this position is not acceptable. Adequate stormwater measures should be taken to protect the canyon from surface discharge and a monitoring plan should be implemented.

Likewise, Cotter's proposed groundwater monitoring is also inadequate. Cotter proposes that it will only install a monitoring well if groundwater is encountered during mining and if a subsequent analysis finds the presence of uranium. This does not establish an adequate baseline. If Cotter truly intends to proceed with mining plans, then baseline water quality monitoring -- for a minimum of five quarters -- should be established in advance so that impacts from future disturbances can be identified and mitigated. Although Cotter proposes undertaking SPLP tests for the waste rock, it does not propose the more important SPLP testing for the actual ore itself.

Considering that the proposed ore storage area is only one-quarter of an acre in size, Cotter should also be limited to the amount of material that can be stored on the ore pad as well as a limit for 30 days for actual stockpiling in order to prevent toxicdrainage, acidic or otherwise.

The application notes that Wildlife Habitat is the identified post-mining use for the CM-25 once it is fully released. But the property itself is zoned for agriculture and the presence of grazing cattle is noted in a number of places in the application. This is a conflict for the number of places where concerns over soil content and stabilization of vegetation are noted as insufficient to sustain grazing over time. The site should be managed and reclaimed in a manner that precludes grazing in the future. The site provides important winter habitat for elk and deer and any future mining operations that are contemplated should be subjected to seasonal closures that protect wildlife. Because of the suitability of the area for Thompson's Big Eared Bat and other regional bat species, any new mining and reclamation plans should take into consideration of habitat creation and protection during final closure.

Thank you again for the opportunity to submit these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Thurston". The script is cursive and fluid, with the first name "Jennifer" and last name "Thurston" clearly distinguishable.

Jennifer Thurston
Director
INFORM