

# STATE OF COLORADO

## DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

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December 6, 2012

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

John W. Hickenlooper  
Governor

Mike King  
Executive Director

Loretta Piñeda  
Director

***RE: SM-18 Mine, Permit No. M-1978-116, Submittal of an Environmental Protection Plan (EPP), Amendment AM-01, INFORM Comment Letter.***

Dear Mr. Williams,

On December 5, 2012 the Division of Reclamation, Mining and Safety (Division) received comments regarding the above referenced application from INFORM.

Please inform the Division of how the Applicant will respond to the jurisdictional issues presented by INFORM.

If you require additional information, have questions or concerns; please contact me at the DRMS Grand Junction Field Office at Phone No. (970) 241-2042.

Sincerely,

A handwritten signature in black ink, appearing to read "Travis Marshall".

Travis Marshall  
Environmental Protection Specialist

Enc. – INFORM Comment Letter



INFORM  
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RESPONSIBLE MINING

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Dec. 5, 2012

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

Via email to [dustin.czapla@state.co.us](mailto:dustin.czapla@state.co.us)

Re: Cotter Corporation 112(d) SM-18 amendment application, Permit No. M-1978-116 and  
112(d) Wright Group release request, Permit No. M-1979-118-HR

Dear Mr. Czapla,

Thank you for the opportunity to comment on the Environmental Protection Plan submitted by Cotter Corporation for the SM-18 Mine, Permit No. M-1978-116, located on slopes above the San Miguel River in western Montrose County. Wright Group, Permit No. M-1979-118-HR, is being reviewed for release and because the two permitted areas are essentially a single mine, we feel it is appropriate to comment on them together. 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 comments and concerns related to these permit reviews.

According to correspondence in the permit file, Cotter Corporation requested final release of the Wright Group permit. It is our understanding that the relevant features of the Wright Group permitted area have already been incorporated into the SM-18 permit area and is addressed in the amendment application. This results in a less confusing process. However, the problem of the historic waste dump that descends down steep slopes below the main Wright portal is not addressed in reclamation plans in either permit. This waste dump should be reclaimed, as it

clearly poses risks to the environment and creates a pathway for the movement of radionuclides and other toxic materials toward the San Miguel River in the canyon below. Although this waste dump is referenced in the permit files as a “pre-law mining feature” and thus appears to escape any regulatory concern, its condition and danger are such that it should finally be addressed and included in reclamation requirements. Because of the high visibility of the waste dump from the state highway, its proximity to notable historic points and a nature preserve, the site’s historic ore bin and the short trip up the hill on the county road, the SM-18/Wright Group mine is an easily accessible attractor to curious members of the public. All the more reason to clean it up.

According to the Division’s Oct. 4, 2011, inspection report, the remainder of the Wright Group permitted area that was not incorporated into the SM-18 permit has not seen any disturbance for 33 years and the existing permit and documentation are out of date. These remarks adequately characterize the overdue nature of Cotter Corporation’s request for final release, which has clearly arrived after many years of delay.

Understanding Cotter’s historic pattern of delay is also relevant to the review of the SM-18 amendment application. First and foremost is the unjustified nature of SM-18’s status as an intermittent operation. SM-18 was first permitted on Oct. 31, 1979, and entered Temporary Cessation a year later, on Oct. 31, 1980. Cotter renewed that status for a second five-year period on Aug. 22, 1985. At that point, following a technical revision to the permit, SM-18 was inexplicably granted Intermittent Status, even though it remained idle and inactive for another 24 years. That is specifically prohibited under the Mined Land Reclamation Act, which clearly states 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.” [See C.R.S. § 34-32-103(6)(a)(III).] In any case, there is no reference to Intermittent Status in the MLRA but it is explicitly stated that in no instance may a mine remain in a non-producing status for longer than 10 years before it must be closed. The SM-18 Mine should have been fully closed and the permit released in 1990.

After another 14 years of inactivity under Intermittent Status, Cotter Corporation began short-lived mine development activities in November 2004 that did not last beyond April 2006, according to inspection reports. During this period and throughout the history of the permit, Cotter provided insufficient information in its annual reports to fully document mining activities and never reported ore or actual production figures. The MLRA makes unambiguous reference to the cessation of production of ore and not simply mining activities as defined in the Rules. [See C.R.S. § 34-32-103(6)(a)(III).] Regardless of how we count up all the prior years, since April 2006, the SM-18 has unlawfully retained Intermittent Status and remained in a non-producing state. The SM-18 Mine should be fully reclaimed and the permit terminated as time has run out on idleness and leniency.

The permit file reflects that, over the years, Cotter Corporation has made every attempt it could to resist complying with updated regulations and policies from the Division. Cotter has also neglected the SM-18 site and Division inspections have raised issues of stormwater management,

erosion, runoff control, public access and other indicators of absentee maintenance. Cotter stiffly fought the Division's classification of the SM-18 as a Designated Mining Operation and has taken more than four years since the passage of HB 08-1161 to file the required amendment for the Environmental Protection Plan. INFORM couldn't agree more with the Division's own comments when it stated in a May 12, 2005, letter to Cotter Corporation: "By Rule, the Division can and will require Cotter to meet current standards not 1977 ones."

The proposed Environmental Protection Plan and amendment application fails to provide evidence of Cotter's actual intent to mine the SM-18 rather than simply delay final reclamation and closure and continue its strategy of delay. Many years are likely to pass before the viability of the uranium market makes mining in the Uravan district viable and Cotter no longer has an operating mill to process its ore and no plans to reopen. Again, we are talking about a mine that has been largely inactive -- and hasn't provided evidence to the contrary -- since 1980. Considering the flaws of the proposed EPP, it is more appropriate to terminate the permit.

If the EPP is approved, Cotter should be held to a strict timetable to construct the Environmental Protection Features and to commence mining operations. Adequate and timely progress toward final completion of mine development should be documented and demonstrated. If Cotter does not immediately begin mining activities, they should under no circumstances be allowed to retain Intermittent Status, as the SM-18 does not meet the definition of an intermittent operation in the Rules.

If the EPP is approved, INFORM hopes that strong restrictions are placed on the permit to protect wildlife and habitat. Cotter has proposed building new roads over short distances, but should be prohibited from doing so. The SM-18 is located in a sensitive habitat area that provides access for elk and deer from the severe winter range and winter range of the mesa slopes above to the San Miguel River below. Any road construction will increase habitat fragmentation in this area and have a detrimental impact on deer and elk as well as other species. Winter operations and haulage at the mine should be prohibited entirely between December and April. Water features and the run-off catch basins should be fenced to prevent wildlife and grazing cattle from drinking. The mine is already possibly used by bats, including the BLM sensitive species Thompson's Big Eared Bat, and drainage and runoff from the mining site could impact sensitive fish species in the Dolores River basin. Magnesium chloride should not be used for dust control of the access and mine roads, but rather a more environmentally friendly alternative.

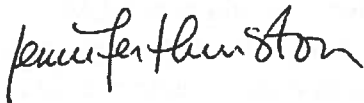
Water concerns abound with the SM-18. The southern portion of the permit area has a documented history of problems with stormwater management and with historic heavy rains that have damaged stormwater control features. The proposed stormwater plan should be reviewed to make sure the controls withstand the particular nature of the storm that damaged the site in 2005 and the variation of weather in the area, not just the standard 100-year event. The haul ramp to the lower portal is in poor condition and should be improved to reduce erosion and uncontrolled drainage.

Cotter's assertion that the ore will have no acid-leaching effects because of the area's limited precipitation does not realistically reflect this history. Previous geochemical analysis of samples from the SM-18 have identified aluminum, selenium, lead and uranium as constituents of concern. Cotter should be required to remove all ore from the pad within 30 days of its placement, rather than 30 days of the end of mining, and the ore pad should have a synthetic liner to prevent ground penetration of contaminants. SPLP testing should be conducted on both the ore and waste rock on an annual basis to continually monitor the potential for acid generation from these piles. Even though water was produced from a Wright Group drift and abandoned because of it, Cotter incredulously uses this as a basis for asserting that water will not be encountered during SM-18 mining operations. Because selenium, arsenic and radionuclide contaminants are all a concern at the SM-18, a groundwater monitoring regime should be established and five quarters of baseline data obtained before future mining activities are approved. Cotter also plans to supply its mining operations at the SM-18 with purchase of 1,000 gallons of water per day hauled from the Town of Naturita. Cotter should be required to demonstrate that there is a formal agreement in place for this supply or demonstrate that it has other adequate water rights to mine. Numerous mining proposals, including Cotter's, appear to be reliant on the same municipal water supply from Naturita without consideration for availability of future supplies or legal agreement to guarantee it.

It does not seem that Cotter has put together an amendment application with the thorough updating, analysis and planning that the Environmental Protection Plan requires. Supporting documents, such as the groundwater contamination study, have been submitted to the Division by Cotter in previous years and became subject to later scrutiny and disputes. As the technical review proceeds and Cotter responds to the Division's requests, INFORM reserves the right to supplement these comments as appropriate.

Thank you again for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Thurston", written in a cursive style.

Jennifer Thurston  
Director  
INFORM