

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



December 17, 2012

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

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta Piñeda
Director

RE: SR-11 Mine, Permit No. M- 1977-451, Comments Regarding 110d- Amendment Application (AM1)

Dear Mr. Williams,

On December 7, 2012 the Division of Reclamation, Mining and Safety (Division) received comments regarding the above referenced application from the Information Network For Responsible Mining (INFORM).

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Steph Reigh".

Stephanie Reigh

Environmental Protection Specialist
Department of Natural Resources
Division of Reclamation, Mining and Safety
101 South 3rd, Suite 301
Grand Junction, CO 81501
Phone: (970) 242-5025
Fax: (970) 241-1516

Enc. INFORM comments dated December 6, 2012

Cc: Ed Cotter, DOE

INFORM

Information Network for
Responsible Mining

PO Box 746
TELLURIDE, CO
81435-0746

(212) 473-7717
jennifer@informcolorado.org



Dec. 6, 2012

Ms. Stephanie Reigh
Colorado Division of Reclamation, Mining and Safety
Grand Junction Field Office
101 South 3rd St., Ste 301
Grand Junction CO 81501

Via email to stephanie.reigh@state.co.us

Re: Cotter Corporation 112(d) SR-11 amendment application, Permit No. M-1977-451

Dear Ms. Reigh,

Thank you for the opportunity to comment on the Environmental Protection Plan submitted by Cotter Corporation for the SR-11 Mine, Permit No. M-1977-451, located near the Dolores River in western San Miguel County. 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 this amendment application.

The SR-11 is associated with the Ike No. 1 Mine, located adjacent to Summit Canyon in the Slick Rock area and the Dolores River. While the Ike Mine portal has been reclaimed, all activity in recent years appears to have been focused on the short-lived development of the new SR-11 portal. According to Division records, this activity was brief, with construction of the mine staging area and development of an incline occurring between July and November 2005. The entire SR-11 lease tract has been idle since, and has been idle for most of its permitted history.

The inactive status of this mine is of concern and the most appropriate action the Division can take is to terminate the permit. Most recently, the Division has imposed a deadline of Dec. 15, 2012, on Cotter to place the mine into Temporary Cessation and reiterated that it is not in compliance with the Mined Land Reclamation Act. The SR-11 was first placed into Temporary Cessation in 1980, a status that was renewed in 1985. In 1990, the mine should have been closed

and reclaimed and the permit terminated. The MLRA 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).] Instead of reclaiming the mine, however, Cotter filed a technical revision to its permit and was granted status as an intermittent operation, which it has retained ever since.

INFORM is in complete agreement with the Division's recent determination that the SR-11 is not an intermittent operation and cannot retain that status. Cotter has a lengthy history of resisting attempts by the Division to bring all of its permitted mining operations into compliance with the law. On Oct. 9, 2012, for example, Cotter claimed in correspondence with the Division that it is entitled to retain its Intermittent Status because it spent some time in 2011 seeding the topsoil pile and repairing a berm. These are not active mining activities as defined in the Act and Rules. In fact, the MLRA specifically requires that ore be produced when determining the status of a mine. Intermittent operations are not on "standby mode," waiting for the day when the commodity will be back in demand; an intermittent operation must undertake active mining activities every year, and general maintenance is specifically excluded from this definition. Cotter is also wrongfully clinging to a court injunction against the Department of Energy in a legal case that prohibits any exploration or mining activity at the SR-11 as another reason to retain Intermittent Status, when in fact that injunction makes it impossible to retain Intermittent Status. Perhaps white is also black! In fact, because Cotter has leased the mine from the Department of Energy, it is strictly obligated to comply with the Division's Rules and the MLRA. Instead, Cotter says that it will wait for the EPP to be approved, then construct the storm water management controls, and then consider applying for Temporary Cessation. This is simply not acceptable.

Despite the limited construction activity that took place in 2005, the SR-11 is not a mine in operating condition. In the amendment application, Cotter states that it did not finish the development work and that the drift must still advance another 1,000 feet before the ore will be intercepted, an effort that will take approximately six months. The proposed Environmental Protection Plan and amendment application fails to provide evidence of Cotter's actual intent to mine at the SR-11 rather than simply delay final reclamation and closure. 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 one. In fact, all of the circumstances that led Cotter to halt development of the SR-11 in 2005 remain firmly in place. There is nowhere to deliver the ore and no one to buy it. 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 regional uranium market becomes viable in the future, Cotter should have the opportunity to apply for a reclamation permit under current laws and regulations that meet contemporary standards.

If the Division approves the EPP, Cotter should be held to a strict timetable to construct the Environmental Protection Facilities and to commence mining operations. Adequate and timely

progress toward final completion of mine development should be documented and demonstrated. Cotter should not be allowed to continually delay meaningful activities that are protective of the environment or that are required under the terms of its permit.

Current stormwater management features at the SR-11 appear to be inadequate and problems with erosion and rilling have been noted in multiple inspection reports. Regardless of the outcome of the EPP approval or the status of the permit, Cotter should be required to implement the new stormwater management features immediately in order to prevent additional migration of radionuclides and other toxic contaminants from the permitted areas offsite and into the Dolores River. There is no groundwater monitoring plan or water quality data available. A monitoring well should be installed prior to the start of any mining and five quarters of data should be collected in order to establish an adequate baseline. The overall hydrology of the site needs to be understood much better in order to plan and mitigate any impacts from mining and prevent the migration of radionuclides offsite. And Cotter should not be allowed to wait to implement a groundwater monitoring plan if and only if it produces water during active mining and uranium is verified through chemical analysis; rather, this should be occurring now.

Cotter should also be required to demonstrate that it has adequate water available for mining. In the application, Cotter says it plans to purchase water from the Town of Naturita and a commercial hauler will deliver it to the mine. The mine will consume 10,000 gallons per year. In a recent CDPHE hearing, Energy Fuels Resources testified that during portions of dry years the region's rivers cannot provide an adequate water supply for Energy Fuels to saturate and cover the mill tailings in its proposed waste disposal cells at the Piñon Ridge site. Like Cotter, Energy Fuels also plans to rely on a letter-agreement to purchase San Miguel River water from the Town of Naturita. Where multiple companies are relying Town of Naturita's seemingly unlimited willingness to promise water to the uranium industry, the Division should require Cotter to provide proof regarding the Town of Naturita's right and ability to provide water to multiple operations and companies.

Cotter proposes building a new access road to the SR-11 portal. This does not appear necessary at all, considering the existing access road is located nearby. New roads should be prohibited and surface activities and features limited to places where they are accessed by existing road. Magnesium chloride should not be used for dust control of the access and mine roads, but rather a more environmentally friendly alternative. Further road development will result in loss of habitat for wildlife and will contribute to a degradation of the surrounding ecosystem.

The SR-11 is located in a sensitive area that is both winter range and severe winter range habitat for mule deer and elk, and mining impacts these species. Operations should not be allowed between December and March. The mine may be used by hibernating bats, as there are ten bat species in the region, including Thompson's Big Eared Bat, which is a BLM sensitive species and a species of concern in Colorado. Cotter should develop a protocol for how to protect potential bat habitat and prevent disturbances to hibernating and roosting bats. In addition, the Dolores River herd of bighorn sheep heavily depend on and utilize the adjacent Summit Canyon

area at all times of the year. The desert bighorn were transplanted to the Slick Rock area in 2010 and 2011 and are a species of concern in Colorado. The mine's operating plan should be carefully scrutinized to make sure that the bighorn will not be adversely affected.

Cotter's assertion that the ore will have no acid-leaching effects because of the area's limited precipitation is not realistic. Geochemical analysis of the waste rock from SR-11 indicates that aluminum, arsenic, uranium, selenium and radium are all present and the rock has potential to cause acid or toxic leaching. SPLP tests should not only be conducted on the waste rock, but also on the ore, and not just once but on regular intervals. Ore should be removed within 30 days of being brought to the surface, rather than within 30 days of the end of mining, as Cotter proposes. The ore pad should be constructed with a clay liner, not simply a compacted clay pad.

It does not seem that Cotter has put together an amendment application with the thorough updating, analysis and planning that an Environmental Protection Plan requires. 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".

Jennifer Thurston
Director
INFORM