



Hand Delivery

January 22, 2013

Mr. Dustin Czapla
Environmental Protection Specialist
Department of Natural Resources
Colorado Division of Reclamation, Mining and Safety
Grand Junction Field Office
101 South Third St., Suite 301
Grand Junction, CO 81501

RECEIVED
JAN 22 2013
GRAND JUNCTION FIELD OFFICE
DIVISION OF
RECLAMATION MINING & SAFETY

Re: SR-13A Mine, Permit No. M-1977-311, Response to Comments from Information Network for Responsible Mining ("INFORM")

Dear Mr. Czapla:

I am writing in response to your letter dated November 28, 2012, which requests that Cotter Corporation (N.S.L.) ("Cotter") respond to the jurisdictional issues presented by INFORM in its letter, dated November 26, 2012, to the Division of Reclamation, Mining and Safety ("Division"), regarding Cotter's 110d Amendment Application ("Amendment") for the SR-13A Mine. Subsequent to writing its letter, the Division expanded its request to also include the non-jurisdictional issues presented by INFORM. This letter is written to comply with the Division's original and expanded requests, and will respond first to INFORM's concerns on jurisdiction, and second to the non-jurisdictional concerns raised by INFORM.

I. Jurisdictional Issues

INFORM asserts several positions in its November 26, 2012 letter that misstate the authority of the Division and the Mined Land Reclamation Board ("Board") under the Mined Land Reclamation Act ("MLRA"), C.R.S. §§ 34-32-101 to -127, and its implementing regulations, particularly as to the Division's and Board's authority to approve intermittent status for the SR-13A Mine and to place the mine into temporary cessation. While Cotter will address those positions below, it also wishes to make clear that INFORM's assertions on jurisdiction should not be considered in this proceeding.

The purpose of the Environmental Protection Plan ("EPP") for the SR-13A Mine is to meet the requirements of Hard Rock/Metal Mining Rule 6.4.21 and to update portions of Cotter's permit, not to question the Division's prior approval of intermittent status. The EPP process is neither the time nor proper procedure to criticize Division decisions made more than two decades ago or to present legal arguments regarding how the Division should be implementing its intermittent status and temporary cessation rules. Cotter applied for intermittent status for the SR-13A Mine on July 26, 1990. In that application, Cotter described the activities undertaken since 1980 which constituted mining operations and which qualified the mine to be in intermittent status.

By letter dated December 5, 1990, the Mined Land Reclamation Division informed Cotter that its application was deemed approved as a matter of law. The Division has consistently confirmed the SR-13A Mine's intermittent status since that approval. Moreover, in a letter dated September 30, 2011, the Division requested that Cotter update its permits by submitting EPPs, which Cotter has now done. INFORM should not be allowed to question these decisions or the SR-13A Mine's future status in this proceeding where such decisions and status are not being adjudicated, and Cotter is merely attempting to comply with the Division's requests to update its permit and submit an EPP. INFORM's assertions on temporary cessation are especially inappropriate in this proceeding, because Cotter submitted a Notice of Temporary Cessation for the SR-13A Mine in mid-December 2012. The filing of such notice initiates a separate administrative process specifically addressing temporary cessation.

Notwithstanding the above, Cotter responds below to the specific jurisdictional issues raised by INFORM.

- A. *INFORM Comment: This raises the serious issue of compliance and the longterm idleness of the SR-13A. Again, we are discussing a mine that has been inactive for over 32 years. That is specifically prohibited under the MLRA, 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).]*

The SR-13A Mine has not been idle or inactive for over 32 years. In its July 26, 1990 application for intermittent status, Cotter expressly told the Division that "Since 1980, many activities have been undertaken at the SR-13A Mine which constitute mining operations according to the current definition in the Mineral Rules and Regulations." As explained in Cotter's application, those activities included "determining ore reserves, surface drilling, mine mapping, radiometric scanning, ground control in preparation for mining, resurfacing the portal area for better drainage in preparation for mining, and haulage road repair work in preparation for mining." Cotter also informed the Division that in the "most recent nine year period, \$85,400 were spent at the mine (an average of \$9,500 per year) on activities of this nature, as well as mine maintenance," and "the ability to produce ore from the [SR-13A] Mine and process it through a milling facility has been actively maintained" Further, Cotter informed the Division that "Since 1980, Cotter has operated the SR-13A Mine as an intermittent operation." Subsequent to 1990, there was a variety of activity at the site. Underground drilling occurred in 1991, 1992, and 1994. Ground support work occurred in 1993, and surface drilling occurred in 1997 and 2010. The waste rock dump was re-pocked in 2010.

The level of activity at the SR-13A Mine has not violated C.R.S. § 34-32-103(6)(a)(III), which does not apply to all non-producing mines, but instead is directed to mines placed in "temporary cessation." For those mines, the "temporary cessation" of production may not "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); *see* 2 Code Colo. Regs. 407-1, Rule 1.13.9 (“In no case shall Temporary Cessation be continued for more than ten (10) years . . .”). Here, the SR-13A Mine was granted intermittent status in 1990, and continuously held that status until mid-December 2012, when Cotter submitted a Notice of Temporary Cessation. During that approximately 22-year period, the ten-year limit in section 34-32-103(6)(a)(III) did not apply to the SR-13A Mine and, accordingly, did not prohibit the alleged “inactivity” or require the release of Cotter’s permit. Moreover, the SR-13A Mine was not inactive, as shown above.

- B. *INFORM Comment: Production at the SR-13A ceased in 1982 or earlier; following two periods of five-year cessation, Cotter should have entered reclamation in 1992 and the permit should have been released once the work was completed.*

The underlying premise of this comment is that the Division erred when it authorized intermittent status for the SR-13A Mine in 1990. This position fails for several reasons.

First, INFORM’s position fails because it is time barred by Hard Rock/Metal Mining Rule 1.4.11, which requires that persons adversely affected or aggrieved by a Division decision file an appeal within certain prescribed time periods. 2 Code Colo. Regs. 407-1, Rule 1.4.11(1)(b) (2010). Here, INFORM makes no claim that it filed any such timely appeal. Its current claim that the Division erred when it authorized intermittent status for the SR-13A Mine is therefore time barred.

Second, INFORM’s position fails because it misapprehends the two separate regulatory categories in which a non-producing mine may be placed under the MLRA. The first category is “temporary cessation,” which applies when the “operator plans to, or does, temporarily cease production for one hundred eighty days or more . . .” C.R.S. § 34-32-103(6)(a)(II). The second category is “intermittent status,” which applies when operators “resume operating within one year and have included, in their permit applications, a statement that the affected lands are to be used for less than one hundred eighty days per year.” *Id.* INFORM contends that Cotter “should have entered reclamation in 1992” because the SR-13A Mine had existed in temporary cessation for two five-year periods. This contention ignores the independent category of “intermittent status,” and the fact that the ten-year period contained in section 34-32-103(6)(a)(III) solely applies to mines continuing in “temporary cessation” and does not apply to mines changing to “intermittent status,” which was the case for the SR-13A Mine in 1990.

Third, INFORM’s position fails because, in 1990, the SR-13A Mine had not been “idle” or “inactive” for a ten-year period, as discussed above. Based on the activities described in Cotter’s July 26, 1990 application, “temporary cessation” did not appropriately characterize the SR-13A Mine in the 1980s, as mine operations were intermittently occurring. The ten-year period in C.R.S. § 34-32-103(6)(a)(III) therefore did not even apply to the SR-13A Mine, as the mine was operated as an intermittent operation.

- C. *INFORM Comment: That release did not happen and neither did timely reclamation. According to the current amendment application, Cotter finished reclamation work at the site in 2003, 21 years after the mine stopped producing. Yet it has continued to assert that the mine is entitled to intermittent operation and retained the permit, a violation of the MLRA and the Division's rules.*

By retaining its permit for the SR-13A Mine, Cotter has not violated the MLRA and the Division's rules. Since 1990, when the SR-13A Mine entered intermittent status, Cotter has regularly submitted annual reports to the Division. The Division has also regularly inspected the SR-13A Mine, as documented by its written reports. None of these reports found that, by holding its permit, Cotter was violating the MLRA or the Division's rules. Cotter is aware that, in November 2012, the Division found that the SR-13A Mine did "**not meet the definition of an intermittent operation as defined by the Act and Rules and [is], therefore, not in compliance with the law.**" Letter dated November 9, 2012, from Division to Cotter, at 2 (bolding and underscoring in original). However, the basis of that finding was the injunction entered by the United States District Court in *Colorado Environmental Coalition v. Office of Legacy Management*, 819 F. Supp. 2d 1193, 1224-225 (D. Colo. 2011), and the fact that such injunction still did not authorize "exploration, drilling, [and] mining" on Uranium Lease Management Program lands. *Colorado Environmental Coalition v. Office of Legacy Management*, 2012 WL 628547 (D. Colo. Feb. 27, 2012). Because of this federal court prohibition on mining and exploration and the "significant delay related to the DOE PEIS process," the Division concluded "TC is the only status that would allow these sites to remain [compliant] with State law." Under these circumstances, INFORM's claim that Cotter violated the MLRA and the Division's rules mischaracterizes the facts.

- D. *INFORM Comment: This unjustified status has been routinely and unlawfully asserted by Cotter for years as the company has resisted all attempts to bring all of its mines into universal compliance with the MLRA and the terms of HB 08-1161, the 2008 legislation that requires the Environmental Protection Plan. Already it has taken nearly five years for Cotter to submit the Environmental Protection Plan to the Division for review, despite numerous notices and requests.*

INFORM's comment is based on its claim that Cotter wrongfully procrastinated almost five years before submitting its EPPs for uranium mines in Colorado. This claim misstates the history of the Division's implementation of HB 08-1161. As explained in the Division's letter to Cotter, dated September 30, 2011, the Board conducted a rule making process for purposes of implementing HB 08-1161 from January 26, 2010 until August 2010, and the Board's rules first became effective on September 30, 2010. However, during the "interim period" between 2008 and September 2010, the Division's policy was not to require an EPP from a non-producing mine such as SR-13A. Letter, dated September 30, 2011, from the Division, to Cotter, at 1. Thus, no wrongful delay on Cotter's part could occur in this period. On September 30, 2011, the Division wrote to Cotter and explained that "With promulgation of the Rules, the Division is now

requiring all uranium mine permit holders to gain compliance with the Act and Rules,” and requested that operators submit their amendment applications by October 1, 2012. *Id.* (emphasis added). Cotter complied with this deadline. No wrongful delay therefore occurred.

- E. *INFORM Comment: Most recently, the Division informed Cotter on November 9, 2012, that the SR-13A was in violation of the MLRA and does not meet the requirements of Intermittent Status. Cotter was informed that it must re-commence mining activities at the SR-13A (impossible without an approved Environmental Protection Plan, a lifting of the DOE injunction, or the conclusion of a NEPA review) or enter Temporary Cessation status before Dec. 15, 2012.*

INFORM’s claim that the Division informed Cotter that the SR-13A Mine was in violation of the MLRA and does not meet the requirements of intermittent status mischaracterizes the facts, as discussed in section I.C. of this letter. Moreover, in its November 9, 2012 letter, the Division requested that Cotter place the SR-13A Mine into temporary cessation by December 15, 2012, not before such date, as INFORM asserts. Cotter complied with the Division’s request by submitting a Notice of Temporary Cessation for the SR-13A Mine on December 13, 2012.

- F. *INFORM Comment: Allowing Cotter to enter Temporary Cessation again, however, ignores the requirements of the MLRA that in no instance nor under any circumstances may a mine remain inactive for longer than 10 years.*

To support this contention, INFORM again relies on the MLRA’s definition of “Life of the mine,” which states “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). The MLRA does not support INFORM’s position.

INFORM’s position fails because it disregards the plain language of C.R.S. § 34-32-103(6)(a)(III). The word “continue” means “keep up or maintain esp. without interruption a particular condition, course, or series of actions.” Merriam-Webster Inc., *Webster’s Third New International Dictionary* 493 (2002). Based on the plain meaning of those words, section 34-32-103(6)(a)(III) fails to impose any limit on the maximum period in which a mine may exist in “temporary cessation” over its life but, at most, indicates an intent to limit periods of “temporary cessation” to ten continuous years. Here, the SR-13A Mine was placed in “temporary cessation” over 30 years ago, and such status ended in 1990 when the Division approved Cotter’s technical amendment as a matter of law and revised the mine’s status to “intermittent.” This intermittent status remained in effect from 1990 until mid-December 2012 when Cotter submitted its Notice of Temporary Cessation for the SR-13A Mine. A change in the SR-13A Mine’s status to “temporary cessation” does not, therefore, cause such status to be “continued” for more than ten years, and is fully authorized under the MLRA.

INFORM’s position that the MLRA establishes a maximum ten-year period in which a mine may exist in “temporary cessation” also disregards the Board’s and Division’s interpretation of the

MLRA. The Board's Hard Rock/Metal Mining Rules impose no such maximum allowable period for "temporary cessation," but instead provide that "In no case shall Temporary Cessation be continued for more than ten (10) years" 2 Code Colo. Regs. 407-1, Rule 1.13.9 (emphasis added). Likewise, the Division has not interpreted section 34-32-103(6)(a)(III) to impose such a maximum ten-year limit. In its letter dated November 9, 2012 for the SR-13A Mine and other sites, the Division requested that Cotter "**place the above referenced sites into TC by December 15, 2012**" Letter dated November 9, 2012, from the Division, to Cotter (bolding and underscoring in original). In November 2012, the Division knew that it had approved temporary cessation for the SR-13A Mine from 1980 to 1990. Under these circumstances, the Division's statements in its November 9, 2012 letter reflect its position that the MLRA does not impose a ten-year maximum limit on the period in which a mine may exist in temporary cessation.

- G. *INFORM Comment: Allowing Cotter to enter a new period of Temporary Cessation virtually guarantees that the SR-13A will be idle for more than four decades by the time it is done and finally forced into compliance. Cotter has not demonstrated adequately in the amendment application that it has any real intent to actually mine and produce ore at the SR-13A. Cotter lacks authorization, it lacks the final development of facilities, it lacks a viable economic market, and it lacks the ability to process ore or access to a toll mill that will purchase it. This prolonged time frame of maintaining an idle status at the SR-13A is simply unacceptable. Given Cotter Corporation's record of noncompliance and outright resistance through legal means to come into compliance with Division requests and Colorado law, any other scenario other than permit termination would only provide more opportunity for Cotter to continue its established tactics.*

On December 13, 2012, Cotter submitted to the Division its Notice of Temporary Cessation for the SR-13A Mine. In that notice, Cotter requested a change in the permit status for the mine from intermittent activity to temporary cessation, and requested that such change be effective December 15, 2012. The notice explains that Cotter plans to resume production at the mine after the price of uranium returns to a profitable point. The plan for such resumption of mining is attached as Exhibit C to Cotter's Amendment. Cotter's notice satisfies the requirements of Rule 1.13.5, and should therefore be approved. Since the MLRA and Rule 1.13.5 impose no requirement that an applicant for temporary cessation demonstrate that it has any "real intent" to actually mine and produce ore, INFORM's contention to that effect is irrelevant to this proceeding and should be disregarded. To the extent a showing of "real intent" to mine and produce ore is required, Cotter has made such showing by filing its Amendment, EPP, mine plan, Response to Adequacy Review #1, and Notice of Temporary Cessation.

There is also no basis to INFORM's claim that Cotter may not enter temporary cessation because "Cotter lacks authorization, it lacks the final development of facilities, it lacks a viable economic market, and it lacks the ability to process ore or access to a toll mill that will purchase it." The authorization to enter temporary cessation is found in C.R.S. § 34-32-103(6)(a)(II) and the Division's specific request that Cotter place the SR-13A Mine into temporary cessation by

December 15, 2012. The existence or not of facilities, an economic market, and a mill are not relevant to entering temporary cessation because C.R.S. § 34-32-103(6)(a)(II) does not impose any such requirements. In any event, Cotter can send its ore to the White Mesa Mill south of Blanding, Utah for processing. Moreover, Cotter recently sold ore to another company for processing at their mill processing facility.

INFORM's assertions regarding Cotter's "record of noncompliance and outright resistance through legal means to come into compliance with Division requests and Colorado law" is addressed in subsection I.D., above.

- H. *INFORM Comment: A foundational tenet of HB 08-1161 was the need to address through legislation the noncompliant status of uranium mines that sit unworked and untended through the years without entering final release and reclamation; persisting as a relentless public risk and environmental problem for decades, with no final resolution. The SR-13A is a stellar example. Consider that this mine was permitted in 1977, during an era when the Division was rapidly ushering through the permitting of historic uranium mines across the state under the first programmatic implementation of the State's fledgling regulation; that was a vastly different regulatory climate than exists today. It is certainly a vastly different political and cultural atmosphere than exists today across Colorado, in which the mines are required to operate under standards that are highly protective of the environment and the ecological health of watersheds and water ways. A uranium mine whose active status exists only on paper, yet remains physically untended in its highly problematic location on slopes above the Dolores River, is not acceptable under these contemporary standards.*

The portion of HB 08-1161 relevant to this proceeding required uranium mines to submit EPPs. Cotter complied with this requirement by timely submitting an EPP for the SR-13A Mine. The EPP and accompanying Amendment and Response to Adequacy Review #1 include measures, such as weekly inspections, to protect against off-site impacts during periods of mine inactivity. Cotter's submittals therefore respond to INFORM's concerns, and shows that the SR-13A Mine will not be "untended."

- I. *INFORM Comment: The only reasonable alternative for the SR-13A to come into compliance with the law is to complete a full release and reclamation and terminate the permit. In the future, should the uranium market ever return to viability, should there ever be the ability to process, and should Cotter actually intend to exploit the ore resource at SR-13A, then it should have every right to apply for a new permit and be reviewed under contemporary Colorado, federal and county regulations and standards. At that time, Cotter should be provided the opportunity to withstand the tests of environmental protection and community benefit and receive a fresh permit.*

The purpose of this proceeding is not to deliberate “reasonable alternatives,” but instead to determine whether Cotter’s Amendment complies with the law and should be approved. Pursuant to the Division’s instructions, Cotter has submitted an EPP and Amendment for the SR-13A Mine that comply with the MLRA and the Board’s implementing regulations. INFORM has not produced facts or argument showing noncompliance with those laws. Under these circumstances, the Amendment and EPP should be approved.

- J. *INFORM Comment: INFORM believes that time is not coming soon and no truthful market indicators exist to convince us otherwise. If Cotter’s proposal is accepted, then the SR-13A will sit around unlawfully through two more periods of Temporary Cessation under an outdated permit without being fully reclaimed and while posing direct risks of contamination to the Dolores River. The distant memory of mining at that location will grow older by another decade. This simply should not, and cannot, be allowed.*

The existence or not of “truthful market indicators” is not relevant to entering temporary cessation, because C.R.S. § 34-32-103(6)(a)(II) does not impose any such requirements. Whether the SR-13A Mine will remain in temporary cessation for “two more periods of Temporary Cessation” will depend on economic conditions, and is not an inevitable event, as INFORM contends. If the SR-13A Mine does remain in temporary cessation for ten additional years, such status will be lawful, as Cotter has complied with the MLRA and the Board’s implementing regulations. Cotter’s EPP and Drainage Design Plan for the SR-13A Mine will ensure that the SR-13A Mine does not “pos[e] direct risks of contamination to the Dolores River.” Cotter’s permit for the SR-13A Mine is not “outdated,” as it is being revised and updated in accordance with the Amendment and EPP.

II. Non-Jurisdictional Issues

- A. *INFORM Comment: The SR-13A has not produced ore since at least Aug. 27, 1980, when Cotter Corporation requested that the Division approve the mine for Temporary Cessation status. That was 32 years ago.*

The date when the SR-13A Mine last produced ore is irrelevant to this proceeding. Notwithstanding this fact, the SR-13A Mine has not been idle or inactive since 1980, as set forth in section I.A. of this letter.

- B. *INFORM Comment: The SR-13A is in a sensitive location on slopes above the Dolores River in one of Colorado's most spectacular canyons. Historic contamination and waste areas outside the permitted area continue to impact the Dolores River and the Slick Rock area. The siting of the SR-13A make it problematic and poses serious risk that radionuclides and other mining-produced contaminants could harm the watershed, especially under the limited oversight and maintenance that occurs with an idled mine. Considering the inactivity of the mine for such an extensive amount of time, the permit should be terminated. The*

Division's Sept. 14, 2011, inspection of the SR-13A recommends the full release of the permit, notes that the site is fully releasable under existing requirements, and that the permit is out of date and must be revised in conjunction with the consideration of a new EPP amendment.

The EPP contained in the Amendment has several facilities designed to protect the on-site and immediately surrounding areas from the potential negative impacts of the proposed mining operation. Some of these facilities are the proposed stormwater runoff control pond and ditches, and the lined ore storage pad. Cotter's permit for the SR-13A Mine is being revised and updated in accordance with the Amendment and EPP.

- C. *INFORM Comment: Cotter Corporation's submitted application raises a number of environmental concerns. Should the EPP be approved, the impacts of any future mining should be evaluated in context of the presence of desert bighorn. The application's information related to wildlife appears out of date and does not take into consideration the reintroduction of 30 bighorn to Slick Rock in 2010 and 2011 and the additional in-migration of wild sheep to the group. The Dolores River herd now numbers around 60 animals. Desert bighorn are a species with a special management focus for Colorado Parks and Wildlife and the Bureau of Land Management, and they are a BLM Colorado Sensitive Species. Both agencies should be consulted so that bighorn habitat in the vicinity of the SR-13A and other Slick Rock area mines is fully protected. Regional bat species are also of concern and are likely to be present in any of the mines in the Slick Rock area, including Thompson's Big Eared Bat, another BLM sensitive species. The portals of the SR-13A are currently sealed with bat gates. The final reclamation should retain the bat gate closures and protect any potential bat habitat. The site provides critical winter habitat for mule deer and the Environmental Protection Plan should include specific provisions for how habitat and wildlife will be protected during these periods. Raptors, songbirds, pronghorn and numerous other species all find habitat in the area, and the Dolores River provides potential habitat to endangered fish.*

Colorado Parks and Wildlife ("CPW") considers the effects of the proposed SR-13A mining operation on deer, elk, and desert bighorn sheep to be minimal, as reflected in its letter to the O'Connor Design Group, dated August 12, 2012 (included in Exhibit B to Cotter's Amendment).

Further, Cotter will follow the CPW recommendations regarding avoiding initial re-entry into bat winter roosting sites during the hibernation season, and constructing exclusions to prevent use of the site by bats prior to Cotter's re-entry into winter roosting sites.

Prior to final reclamation, Cotter will contact CPW for any recommendations regarding preferred mine opening closure methods.

- D. *INFORM Comment: Because of the limited area for mine staging and the quarter-acre size of the proposed ore pad, special consideration for the potential*

of migration of contaminants into the nearby Dolores should be considered. If future mining activities are approved, the ore storage area should be lined with a synthetic liner and ore should be fully contained; the proposed compacted clay base is not sufficient to guarantee that the river will be protected. Ore storage should be strictly limited to 30 days total after ore is removed from the mine, not just 30 days after mining has ended. Cotter Corporation says in the amendment application that it will conduct a radiometric survey, but doesn't say when; the survey must be conducted as soon as possible so that it may be considered in context of the Environmental Protection Plan and address how the public, wildlife, ground water and surface waters will be impacted. The site currently has no stormwater management features; those features proposed in the Environmental Protection Plan should be implemented as soon as possible regardless of future permitting status.

The proposed clay-lined ore storage pad is designed to contain the 100-year 24-hour storm event.

The ore stockpile will be handled on a first in/first out basis to minimize the length of time that the ore will be on the ore stockpile area.

The baseline radiometric survey has been submitted to the Division in the Response to Adequacy Review #1.

A proposed Drainage Design Plan is incorporated in the EPP portion of the Amendment, and will be implemented upon re-opening of the SR-13A Mine. Previous site inspections indicate that current site conditions do not warrant installing these features at this time.

- E. *INFORM Comment: The amendment application also does not address the actual or potential recreational use of the area in the immediate vicinity of the SR-13A. The Dolores River is used by boaters and anglers as well as some commercial outfitting. The Slick Rock area and adjacent canyons are frequented by many types of visitors and quiet users, including climbers, hikers, photographers, birders and wildlife enthusiasts. The Dolores River canyons are of special concern to many environmental and conservation groups in the region because of its importance as a tributary of the Colorado River; regionally, stakeholder groups have worked collaboratively to address overall environmental, ecological and economic issues in the watershed. Any future mining plans should consider the multiple uses of the public lands surrounding the SR-13A site and impacts to recreational users.*

Cotter considers the public lands surrounding the SR-13A Mine site to be for multiple use. One such multiple use is natural resource development and production, including mining. Cotter's mining plans do not in any way prevent use of the surrounding public lands for recreational opportunities.

- F. *INFORM Comment: The Division's Oct. 25, 2012, adequacy review addresses a number of issues that are also of concern to INFORM. The amendment application does little to address the Rules' requirements that the adverse impacts of uranium mining and the potential for forming toxic materials or acid mine drainage that can harm the environment, particularly from the ore storage and waste areas. Baseline water quality should be established with the immediate development of a monitoring well and the collection of five quarters of monitoring data, rather than accepting Cotter's proposal to develop a monitoring well if and only if groundwater that is encountered has uranium present. The amendment application makes a passing reference to the presence of numerous water monitoring wells in the vicinity of SR-13A, including wells at the nearby Slick Rock UMTRA site. All available data from nearby wells should be collected and considered in determining the hydrological issues of the general site vicinity and potential for contamination through renewed mining activities. The application notes that other wells in the vicinity have indicated the presence of water as high as 50 feet below the surface, yet the applicant has chosen to design its plan around the assumption that much lower water depths will be encountered. The hydrology of this important riparian zone should be fully documented and explained by the applicant, utilizing all available information.*

Cotter responded to these issues in its Response to Adequacy Review # 1, which was submitted to the Division on December 7, 2012, and is incorporated here by reference.

The SR-13A Mine has historically been a “dry mine.” In the Response to Adequacy Review #1, Cotter nonetheless committed to installing a monitoring well if groundwater is encountered during mining operations.

As Cotter explains in the EPP, the dip of the geologic units in the area of the SR-13A site is in a northeasterly direction. The groundwater flow direction in this area is also to the east-northeast. The potential for groundwater recharge around the mine area is limited due to limited recharge areas and the fact that the overlying Brushy Basin member of the Morrison Formation is made up primarily of bentonitic shales which limit surface water infiltration.

- G. *INFORM Comment: The Division's adequacy review identifies a number of places where Cotter has not provided sufficient information in the application. These include identifying adjacent property owners, fully identifying drainages and waterways, information about the amount of ore that will be stockpiled on site, the size and design of waste rock piles, and information about how offsite impacts will be addressed. Cotter should be required to address all these issues thoroughly. As the technical review proceeds and Cotter responds to the Division's requests, INFORM reserves the right to supplement these comments as appropriate.*

Cotter responded to these concerns in its Response to Adequacy Review # 1, which was submitted to the Division on December 7, 2012.

- H. *INFORM Comment: The SR-13A is also located in an area rich with cultural and archeological resources and should be properly surveyed. Because the SR-13A is on a Department of Energy leasing tract, it is subject to the forthcoming Programmatic Environmental Impact Statement and the site-specific analysis under the National Environmental Policy Act that will be required for mining to begin. These and many of the additional issues and cumulative impacts raised by the possibility of mining at the site can and should be addressed through this site-specific NEPA analysis.*

A cultural resource inventory will be done prior to initiating additional ground disturbing activities on previously undisturbed Federal public lands covered by this mine permit.

- I. *INFORM Comment: In addition, Cotter is subject to a federal court injunction in the litigation Colorado Environmental Coalition et al. v. Department of Energy and must adhere to the Colorado Mined Land Reclamation Act (MLRA) and the Division's Rules. Under the injunction, Cotter is prohibited from engaging in any exploration or mining activities and this precludes Cotter from obtaining an "Active" status for SR-13A in the near-term.*

The current injunction should have no bearing on the approval of the Permit Amendment.

If you have any questions regarding this submittal, please call me at Cotter's Nucla office, 970-864-7347.

Respectfully,



Glen Williams
Vice President, Mining Operations