



**cotter**

**Via E-mail and U.S. Mail**

January 25, 2013

Ms. Stephanie Reigh  
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 28 2013  
GRAND JUNCTION FIELD OFFICE  
DIVISION OF  
RECLAMATION MINING & SAFETY

Re: JD-6 Mine, Permit No. M-1977-310, Response to Comments from Information Network for Responsible Mining ("INFORM")

Dear Ms. Reigh:

I am writing in response to your letter dated November 28, 2012, which requests that Cotter Corporation (N.S.L.) ("Cotter") respond to the concerns presented by INFORM in its letter, dated November 25, 2012, to the Division of Reclamation, Mining and Safety ("Division"), regarding Cotter's 110d Amendment Application for the JD-6 Mine ("JD-6 Amendment").

In its letter, INFORM includes comments on both the JD-6 Amendment and Cotter's 110d Amendment Application for the Mineral Joe Mine ("Mineral Joe Amendment"). This response will solely address INFORM's concerns regarding the JD-6 Amendment, as the JD-6 Mine and Mineral Joe Mine are permitted separately, and Cotter is responding to INFORM's concerns regarding the Mineral Joe Amendment in a separate letter.

As to the JD-6 Amendment, INFORM's concerns divide into two categories: (1) jurisdictional concerns related to intermittent status, temporary cessation, and permit consolidation; and (2) non-jurisdictional concerns. This letter responds first to INFORM's concerns on jurisdiction, and second to the non-jurisdictional concerns raised by INFORM.

#### **I. Jurisdictional Concerns**

INFORM asserts several positions in its November 25, 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 JD-6 Mine and to place the JD-6 Mine into temporary cessation. While Cotter will address those positions below, it also wishes to make clear that INFORM's assertions on intermittent status and temporary cessation should not be considered in this proceeding.

The purpose of the Environmental Protection Plan ("EPP") for the JD-6 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 JD-6 Mine on May 10, 1990. In its 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 June 26, 1990, the Mined Land Reclamation Division informed Cotter that the Board had approved Cotter's application. The Division has consistently confirmed the JD-6 Mine's intermittent status since that approval, including in inspection reports signed April 22, 1997 and March 31, 1999. 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 JD-6 Mine's future status in this proceeding where these decisions and status are not now 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 JD-6 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 concerns raised by INFORM.

- A. *INFORM Comment: Because the mines are essentially the same facility under two permits, we feel it is appropriate to comment on them together and encourage the Division to consider them as a cohesive mining facility that should be regulated under a single 112(d) reclamation permit.*

The Mineral Joe Mine and the JD-6 Mine were originally permitted by two separate companies operating on contiguous lands. After Cotter acquired the Mineral Joe claims and associated mine permit, the Division continued to regulate the two mines under separate permits. Consistent with this practice, Cotter has submitted to the Division separate reclamation permit amendments for the JD-6 Mine and Mineral Joe Mine. Both permit amendments contain updated information in compliance with the Board's Hard Rock/Metal Mining Rules, and should be considered for approval as submitted.

- B. *INFORM Comment: Because the JD-6 uses the Mineral Joe portals for access and emergency exits and the features of the Mineral Joe are exclusively used for supporting mining activities on the JD-6 such as ore storage, the two permits should be consolidated and considered as a single mining operation. Having two separate applications results in a duplicative and confusing presentation that is a burden to the public. Having a single permit file for the entire mining site would foster a more cohesive review of the environmental impacts and allow a more comprehensive reclamation plan to be developed. In addition, the existing reclamation permit for the Mineral Joe is out of date and, if it is not discontinued, should be reviewed entirely rather than just approving the Environmental Protection Plan alone.*

Cotter incorporates its response to comment I.A., above. INFORM does not identify facts to substantiate its concerns on permit consolidation. It does not explain why having two separate permit applications results in a duplicative and confusing presentation that is a burden to the public. Further, it does not explain why having a single permit file for the entire mining site would foster a more cohesive review of the environmental impacts and allow a more comprehensive reclamation plan to be developed. Given the lack of supporting facts in INFORM's letter, and the Division's consistent, historical practice of regulating the Mineral Joe Mine and JD-6 Mine under separate permits, the Division should not adopt INFORM's recommendations on permit consolidation.

- C. *INFORM Comment: Neither the Mineral Joe nor the JD-6 are compliant with the Colorado Mined Land Reclamation Act. Cotter Corporation has been able to escape the reclamation requirements of MLRA by placing both permits on Intermittent Status for lengthy periods despite the lack of any mineral production - - in the case of the Mineral Joe, since 1994; and in the case of JD-6, since 1990 - - and clearly, both permits have been out of compliance with the law for two decades. In fact, Cotter Corporation's noncompliance reaches back even further, since there has been no serious, consistent and documented active mineral production at the mines prior to 1985. Although Cotter claims to have produced some ore at the JD-6 in late 2005 through February 2006, this brief output does not represent a return to active mining, since the ore was never delivered to a mill for processing.*

INFORM's assertion that the JD-6 Mine does not comply with the MLRA is incorrect. On November 9, 2012, the Division requested that Cotter place the JD-6 Mine into temporary cessation by December 15, 2012. On December 13, 2012, Cotter complied with the Division's request by submitting to the Division a Notice of Temporary Cessation for the JD-6 Mine. Cotter's notice requested a change in the JD-6 Mine's permit status from intermittent activity to temporary cessation, requested that such change be made effective December 15, 2012, and explained 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 JD-6 Amendment. Cotter's notice satisfies the requirements of Hard Rock/Metal Mining Rule 1.13.5. The JD-6 Mine therefore complies with the MLRA.

INFORM is also incorrect that Cotter has been able to escape the MLRA's reclamation requirements by placing the JD-6 Mine permit on intermittent status for lengthy periods without mineral production, and that the JD-6 Mine permit has been out of compliance with the law for two decades or more. This assertion fails on multiple bases.

First, Cotter has already undertaken some reclamation measures at the JD-6 Mine, as documented in the Division's Minerals Program Inspection Reports. For example, the Division's inspection report, signed July 30, 2010, states: "The dump and waste load out area are graded to push stormwater to a large retention pond . . . All sediment materials cleaned out of the pond are being stockpiled for use as a form of topsoil for reclamation. That stockpile is noted as having clover and other vegetation coming in to help prevent wind and rain erosion as required," and

“No issues or problems are noted at this time.” Likewise, the Division’s inspection report, signed October 5, 2011, states: “The topsoil pile is vegetated to prevent erosional losses. Natural vegetation is coming in. Sagebrush, rabbit brush, and some four-winged saltbrush were observed as well as native grasses,” and “No issues or problems are cited at this time.” Cotter has therefore not sought to escape the MLRA’s reclamation requirements.

Second, INFORM’s assertion fails because its underlying premise - that mineral production is required to keep a mine in intermittent status – is inaccurate. As explained by the Division in a letter to Cotter, dated January 24, 2012, regarding the JD-6 Mine, intermittent status requires some “active mining,” and “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).” The Division has also found that the construction of Environmental Protection Facilities is a mining activity, because “[t]he construction of the facilities is part of the infrastructure required to further develop the site towards extraction of a mineral . . . and therefore considered a mining activity.” Letters, dated November 9, 2012, from the Division, to Cotter, regarding the Mineral Joe Mine and the CM-25 Mine. Based on the above, active mining does not require mineral production, and includes other mining activity. Accordingly, mineral production is not required to keep the JD-6 Mine and other uranium mines in intermittent status.

Third, INFORM’s assertion fails because mineral production has occurred at the JD-6 Mine since 1990, and such production was “serious, consistent and documented.” This production occurred in 2004 and 2005, and is documented in the Division’s records. For example, in a letter dated February 24, 2005, regarding the JD-6 Mine and other Cotter mines, the Division wrote “Cotter has resumed mining operations.” *See* letter, dated February 24, 2005, from the Division, to Cotter. On April 5, 2005, the Division wrote a memorandum titled “Cotter Corporation, Active Uranium Mine Permit Review and Preliminary Report,” reporting “Ore from the JD-6 is being brought out to the Load Out structure at the Mineral Joe . . . Staff observed a loader and truck preparing a shipment of ore. Approximately 50 tons of material was observed stockpiled.” Memorandum, dated April 5, 2005, from Russ Means, to Carl Mount. In an inspection report memorializing an October 5, 2005 inspection of the JD-6 Mine, the Division wrote “[t]he JD-6 Mine is in full production currently,” “a new waste load out is under construction,” and “[t]here is approximately 75 tons of ore stockpiled on site at this time.” Minerals Program Inspection Report for inspection conducted October 5, 2005, at 2. In an inspection report memorializing an April 5, 2006 inspection of the JD-6 Mine, the Division wrote “[t]he mine has been active in the past 6 months . . . ,” and the “new load-out structure is now complete.” Minerals Program Inspection Report for inspection conducted April 5, 2006, at 2. INFORM’s comment is also contradicted by the assertion on page 2 of its November 25, 2012 letter that Cotter “was actively extracting ore” in 2006.

Fourth, there is no basis to INFORM’s assertion that active mining did not occur at the JD-6 Mine in 2006, because “the ore was never delivered to a mill for processing.” Active mining does not require the delivery of ore to a mill, as explained above. But even if such delivery was required, the record shows that Cotter shipped ore from the JD-6 Mine. *See, e.g.,* Minerals

Program Inspection Report for inspection of the JD-6 Mine conducted September 15, 2011, at 2 (“The [JD-6] mine actively produced uranium ore that was shipped out.”).

Fifth, no “escape” of the MLRA’s reclamation requirements has occurred, as Cotter has submitted to the Division a “Reclamation Plan” for the JD-6 Mine to be implemented after existing ore reserves at that mine are extracted. This Reclamation Plan is attached as Exhibit D to the JD-6 Amendment.

Sixth, INFORM’s assertion that the JD-6 Mine’s permit has “been out of compliance with the law for two decades” is incorrect. Since 1990, when the JD-6 Mine entered intermittent status, Cotter has regularly submitted annual reports to the Division in compliance with the MLRA and the Division’s rules. The Division has also regularly inspected the JD-6 Mine, as documented by its written reports. None of these reports found that, by maintaining intermittent status for the JD-6 Mine, Cotter was violating the MLRA or the Division’s rules. To the contrary, many of those reports noted no issues or no problems. See Minerals Program Inspection Reports for inspections of the JD-6 Mine conducted September 21, 1995, March 26, 1997, February 24, 1999, October 10, 2002, March 24, 2005, October 5, 2005, June 16, 2006, October 23, 2006, February 7, 2007, April 2, 2008, July 28, 2010, September 15, 2011, and October 2, 2012. While the Division informed Cotter late last year that the JD-6 Mine did not meet the definition of an intermittent operation, it also identified the steps that Cotter could take to correct that situation. Letter, dated November 9, 2012, from the Division to Cotter, regarding the JD-6 Mine. As discussed above, Cotter has taken those steps.

Finally, INFORM’s claim that “Cotter Corporation’s noncompliance reaches back even further” is also wrong, as development and mining operations were occurring at the JD-6 Mine in the 1980s. In its letter to the Division dated May 10, 1990, Cotter listed the “Development/Mining Operations” that had occurred at the JD-6 Mine since 1980. These operations were surface drilling, mine dewatering in preparation for mining, reconstruction of air and water lines (including electrical wiring) in preparation for mining, ground control in preparation for underground drilling which is designed to define the ore deposit, timber repair in preparation for mining, mine feasibility studies, radiometric mine surveys to define the ore deposit, and access road regraveling and regrading in preparation for mining. Based on these operations, the Board approved Cotter’s technical revision application “addressing the reactivation (removal from temporary cessation) of the JD-6 Mine.” Letter, dated June 26, 1990, from the Mined Land Reclamation Division, to Cotter. INFORM’s claims of noncompliance are therefore without basis.

- D. *INFORM Comment: In any case, Cotter failed in 2006 to maintain its earlier approved Intermittent Status by notifying the Division; by actively extracting ore that year, Cotter implicitly ended the Intermittent Status and once operations ceased again, should have been fully reclaimed pursuant to the Mined Land Reclamation Act at that time. In any case, the clock had run out on Temporary Cessation status for both these permits many years before that. Actual ore production numbers for the Mineral Joe or the JD-6 have not been reported, presumably because there has been no real production.*

Cotter did not end the JD-6 Mine's intermittent status by "actively extracting ore" from that mine in 2006. To the contrary, as explained by the Division in a January 24, 2012 letter to Cotter, the extraction of ore constitutes "active mining," which qualifies a mine to remain in intermittent status. In 2006, the Division was fully aware that Cotter was actively mining the JD-6 Mine, as set forth in the Division's records discussed in section I.C. of this letter.

There is no basis to INFORM's claim that the JD-6 Mine "should have been fully reclaimed" once "operations ceased" at that mine in 2006. Substantial ore reserves then existed at the JD-6 Mine, and those reserves could be mined in the future. Cotter also intended to mine those reserves once market conditions recovered. Under these circumstances, fully reclaiming the JD-6 Mine in 2006 made no sense, and no provision of the MLRA required it. Nor does INFORM cite any authority to support its position. INFORM's assertion that the "clock had run out on Temporary Cessation status" for the JD-6 Mine is irrelevant, as the mine held intermittent status in 2006 and it could lawfully continue in that status. But even if intermittent status for the JD-6 Mine was no longer an option in 2006, the "clock" had not "run out" on temporary cessation.

INFORM's assertions on ore production numbers are also incorrect. As explained above, the Division's records report that approximately 50 tons of material were observed stockpiled at the Load Out Area for the Mineral Joe Mine in the Spring 2005. In October 2005, 75 tons of ore were observed stockpiled at the site. INFORM's presumption that "no real production" occurred from the JD-6 Mine is therefore without basis.

- E. *INFORM Comment: 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; after 10 years of non-production, in all cases, a mine must be closed and reclaimed. [See C.R.S. § 34-32-103(6)(a)(III) where it 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."]* Thus, regardless of whether the Division considers some of the activities occurring at a permitted mine site as "operations" under the Board's regulations, the MLRA instead speaks unambiguously in terms of "production" or ore.

The MLRA authorizes intermittent status in its definition of "Life of the mine," which provides, in pertinent part: "The requirement of a notice of temporary cessation shall not apply to operators who 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." C.R.S. § 34-32-103(6)(a)(II). The MLRA's authorization of intermittent status has also been recognized by the Division. See letter, dated January 24, 2012, from the Division, to Cotter, regarding the JD-6 Mine.

Contrary to INFORM's assertions, the MLRA fails to state either explicitly, or implicitly, that "in no instance may a mine remain in a non-producing status for longer than 10 years; after 10 years of non-production, in all cases, a mine must be closed and reclaimed." No such language appears in the MLRA. Further, INFORM's statement is flawed 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," referenced above. 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 regulated in "intermittent status."

INFORM's comments on "production" are irrelevant to the current proceeding, which is focused on approval of an EPP. Moreover, the ten-year period in C.R.S. § 34-32-103(6)(a)(III) does not apply to mines in intermittent status, which was the case for the JD-6 Mine from 1990 through mid-December 2012. Further, the JD-6 Mine produced ore in the period 2004 – 2005, and continued to ship ore in 2006. Thus, even under INFORM's interpretation of the MLRA, the ten-year period in section 34-32-103(6)(a)(III) would not apply to the JD-6 Mine as ore production has occurred at that mine within the last ten years.

- F. *INFORM Comment: In the case of the Mineral Joe, there has been no documented mining activities other than to support access to JD-6, and the last activity reported on Cotter's most recent annual report occurred in November 2005. These activities cannot be considered "production" under any reasonable interpretation of the MLRA. The Mineral Joe portal that is used for escape from the JD-6 has been collapsed since at least 2010, underscoring the inability of Cotter Corp. to mine at the site safely and necessarily limiting the types of activities they can undertake there. But the Mineral Joe's dormancy dates back far longer; original mining operations ceased in March 1984, during the previous ownership of Kelmene Corp. [Please see Division's March 22, 1999 inspection report of the Mineral Joe and Aug. 1, 1985 Notice of Temporary Cessation from Kelmene Corp in the file record.] In all, the record demonstrates an astounding 28 years of non-production at this mine through multiple ownerships, far longer than the explicitly defined maximum limit of 10 years of non-production under the MLRA.*

Cotter responds to this comment in its letter addressing INFORM's concerns on the Mineral Joe Amendment.

- G. *INFORM Comment: Many parts of the Mineral Joe's permitted area have been reclaimed and as much of the remaining area that can be reclaimed should be reclaimed and released from the permit. Shaft 12 should be reclaimed since it is also collapsed and not usable for accessing the JD-6 and most of the area around it has been reclaimed already.*

Cotter responds to this comment in its letter addressing INFORM's concerns on the Mineral Joe Amendment.

- H. *INFORM Comment: In addition, because the Mineral Joe has largely been reclaimed, it appears that there is no current, updated BLM Plan of Operations for the site nor any site-specific NEPA analysis, both of which must be in place before any mining activities can recommence. Because the Mineral Joe is tied to the JD-6, it should be subject to the final recommendations and record of decision in the pending Programmatic Environmental Impact Statement for the Department of Energy's Uranium Leasing Program and the site-specific analysis that will be required and conducted in the future as part of that PEIS.*

Cotter responds to this comment in its letter addressing INFORM's concerns on the Mineral Joe Amendment.

- I. *INFORM Comment: In the case of inactivity at the JD-6, Cotter Corporation takes the untenable position in its Oct. 1, 2012, letter to the Division that it is entitled to Intermittent Status because in 2011 it removed some soil from a pond, and that meets the definition of "active mining activities" under the MLRA. However creatively Cotter interprets the law, removing soil from a pond cannot possibly be considered "production" under the MLRA. Simply put, the Division should put a permanent stop to Cotter Corporation's decades-long tactics to avoid reclamation of uranium mine sites that have not seen any serious effort at mining. In order to maintain Intermittent Status, some active mining must occur each year and the MLRA explicitly states that active mining does not include "general site maintenance, or off-site smelting, refining, cleaning, preparation, transportation, and other operations not conducted on affected land." [C.R.S. § 34-32-103(8); Rule 1.1(31)].*

INFORM is incorrect that mineral production is required to keep a mine in intermittent status. As explained by the Division, intermittent status requires "active mining," and the Division has found that construction of Environmental Protection Facilities is a mining activity, because "[t]he construction of the facilities is part of the infrastructure required to further develop the site towards extraction of a mineral . . . and therefore considered a mining activity." Letters, dated November 9, 2012, from the Division, to Cotter, regarding the Mineral Joe Mine and the CM-25 Mine. The excavation of soil to enhance storm water control potentially qualifies as such activity.

INFORM's concerns that Cotter seeks to "avoid reclamation of uranium mine sites" are refuted by the substantial reclamation measures that Cotter has implemented at many of its mines, and the reclamation plans it has submitted in its permit amendments.



- J. *INFORM Comment: Cotter Corporation is also shielding its inactivity by misinterpreting the intent of the federal court injunction currently in effect at the JD-6 and claiming that it is relieved of responsibility to undertake any exploration, drilling or mining activities. The inactive state of both the JD-6 and Mineral Joe long predate the DOE court injunction. At maximum, because of the conditions of the injunction, the only proper status for the JD-6 is Temporary Cessation; Cotter must comply with Colorado state law on this matter, and Cotter is quite late in filing the technical revision to formally obtain this status. It is inappropriate for Cotter to delay these filings, as it suggests that it will in its Oct. 1, 2012, by saying that it will not review its status until next year at the earliest. This allows Cotter to continue the same pattern it always has and exacerbates the ongoing violation of the 10-year non-production prohibition in the MLRA.*

Due to the injunction ordered by the District Court in *Colorado Environmental Coalition v. Office of Legacy Management*, 819 F. Supp. 2d 1193, 1224-225 (D. Colo. 2011), the Division requested that Cotter place the JD-6 Mine and other sites into temporary cessation by December 15, 2012. The Division made this request in a letter to Cotter, dated November 9, 2012. As explained in section I.C., above, Cotter has filed the requested Notice of Temporary Cessation, and did so by the date set forth in the Division's November 9, 2012 letter. Cotter's notice was therefore not late, as alleged by INFORM. For the reasons discussed above, INFORM's concerns regarding an "ongoing violation of the 10-year non-production prohibition in the MLRA" are without basis.

## II. Non-Jurisdictional Concerns

- A. *INFORM Comment: Because the termination of the JD-6 and Mineral Joe permits are long overdue, the Division should not approve the proposed Environmental Protection Plan without strong conditions to ensure timely resumption of mining activities, time-limited periods of 30 days for stockpiling ore on-site, and continued ground water quality monitoring on a quarterly basis. Cotter should also be required to demonstrate where it will transport and process ore, since it has closed its own mill in Cañon City, Colo., and Energy Fuels Resources has recently announced that it will reduce toll processing at the White Mesa Mill in Blanding, forgo construction at any potential new mills, and concentrate on its own production and waste reprocessing into the foreseeable future. Because of the decades-long inactivity at these mines, and Cotter's failure to seriously demonstrate that they will resume mining activities, the Division should require Cotter to enter into full reclamation at both sites and stop delaying their inevitable closure.*

The approval of the JD-6 Mine's EPP should not be linked to the resumption of mining activities at that mine. Hard Rock/Metal Mining Rule 6.4.21 imposes no such requirement for approval of an EPP. However, as explained in Cotter's Notice of Temporary Cessation for the JD-6 Mine, Cotter plans to resume production operations at the JD-6 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 JD-6 Amendment.

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

If the comment on continued groundwater quality monitoring is in regard to the quarterly sampling of the lysimeter, Cotter intends to continue the monitoring and sampling at that location.

The potential ore processing site for the ore from the JD-6 Mine is not under the Division's jurisdiction. Moreover, the existence of current ore processing facilities is not relevant to the approval of Cotter's EPP.

- B. *INFORM Comment: The Environmental Protection Plan for the JD-6 indicates there are currently no groundwater monitoring wells on site. If the site does not enter reclamation, Cotter should be required to install the proposed monitoring well as soon as weather permits and gather at least five quarters of water quality monitoring data should in order to establish current baseline conditions. Rather than sampling only once a year, Cotter should be required to continue quarterly monitoring as long as its permit remains active.*

In the EPP for the JD-6 Mine, Cotter recommends installing a new monitoring well downgradient of the mine's current and proposed underground workings. JD-6 Mine EPP § 10.1.1. The EPP explains that groundwater monitoring will be conducted quarterly for five quarters to provide sufficient data for statistical analysis of baseline conditions. JD-6 Mine EPP § 10.1.3. The EPP also explains that, following the initial five quarters, groundwater will be monitored annually during the non-production phase and semi-annually during the active mining phase of operations. *Id.* The sampling frequency is shown in Table 25 of the EPP. *Id.* Cotter considers these measures to be adequate for purposes of protecting groundwater at the JD-6 Mine.

- C. *INFORM Comment: As the technical review of the Mineral Joe and JD-6 amendments proceeds, the public should be able to consider that review and the entire permit file comprehensively and weigh in when serious issues arise, especially when the applications have been deemed complex and the review time lengthened. INFORM reserves the right to supplement these comments as appropriate as the review continues. Again, thank you for your consideration.*

The Hard Rock/Metal Mining Rules establish deadlines by which comments on an amendment application must be submitted. *See, e.g.,* Rule 1.7.1(2). Cotter requests that the Board and Division enforce the deadlines set forth in the Rules. Accordingly, comments submitted after the regulatory deadline should be considered untimely and not considered by the Division.

Ms. Stephanie Reigh  
January 25, 2013  
Page 11

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

Respectfully,

A handwritten signature in blue ink that reads "Glen Williams". The signature is written in a cursive style with a large, stylized "G" and a long, sweeping underline.

Glen Williams  
Vice President, Mining Operations