

INFORM

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The Colorado Mined Land Reclamation Board
Colorado Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

Via email to: russ.means@state.co.us, loretta.pineda@state.co.us, julie.murphy@state.co.us

Re: Objections to Gold Eagle Mining, Inc., Notices of Temporary Cessation: Burros Mine, Permit No. M-1977-297; Ellison Mine, Permit No. M-1978-342; Hawkeye Mine, Permit No. M-1978-311 (the "Slick Rock mines")

Dear Members of the Mined Land Reclamation Board,

Thank you for the opportunity to comment on the Notices of Temporary Cessation for the Burros, Ellison and Hawkeye mines filed by Gold Eagle Mining, Inc., in a letter dated Jan. 24, 2013, and received by the Division of Reclamation, Mining & Safety on March 1, 2013. The Burros, Ellison and Hawkeye mines are in close proximity to each other and are located together on one Department of Energy lease tract, C-SR-13. Because of their connections, they are known locally as the Slick Rock mines, and for the purposes of keeping our comments concise, are discussed here together. Please consider these comments as objections for each of these permitted mines and their respective temporary cessation notices.

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. Our members and staff have an interest in the environmental health and conditions of mined lands in Colorado and are directly and adversely affected by the Slick Rock mines located along the Dolores River in western San Miguel County. INFORM has

longstanding concerns about the permitting status of these mines, the general environmental impacts associated with the mines and the specific harms posed to the Dolores River, as well as the inoperative status and deplorable condition of these mines, which have not produced ore since they were shuttered over three decades ago.

We will not mince words in criticizing the condition of the Slick Rock mines: They are dangerous to public health, to the Dolores River, to wildlife, and to the ecosystem they actively pollute. These mines represent egregious examples of neglect and mismanagement and have been allowed, for many years, to erode their toxic and radioactive contaminants directly into the Dolores. These mines are leased and operated by Gold Eagle Mining, Inc., and provide a stellar example of what's wrong with the system. Considering the environmental and public health concerns these mines represent, the Division should not consider giving the operator another five years to stand by and do nothing.

INFORM objects to granting temporary cessation to the Burros, Ellison and Hawkeye mines because the Colorado Mined Land Reclamation Act specifically prohibits idled mines from languishing in permit oblivion. As our state law unequivocally 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." [Please see C.R.S. § 34-32-103(6)(a)(III).] Another period of temporary cessation for these mines will only allow Gold Eagle Mining to further delay the necessary and important jobs of mitigation and reclamation that must be performed.

Further, each of these mines is ineligible for temporary cessation, as the notice does not meet the requirements of the Mined Land Reclamation Board Rules. In particular, Board Rule 1.13.5(2) requires the operator to demonstrate: (c) a plan for resumption of mining; and (d) the measures to be taken to comply with reclamation requirements and/or other activities related to the performance standards of Section 3.1 while the mine is in temporary cessation. In each of these cases, the operator has failed to show compliance with Section 3.1 or demonstrate compliance with reclamation requirements associated with an Environmental Protection Plan.

The Slick Rock mines have been idle since the uranium bust of the early 1980s and have never awakened from their slumber. Please allow us to review the permitting history of each as relevant information that forms the basis of our objections.

The Burros Mine

The Burros Mine hasn't produced a pound of uranium since the market bust of 1980. The Burros was a historically significant producer of uranium, but its significance now is limited only to the size of its multiple waste piles left behind on the lease tract. The portals were closed long ago and little has stirred since except surface water.

On the most recent annual report filing, filed on Dec. 28, 2012, no annual report was actually included, no activity was reported, no production was documented.¹ Annual reports filed by Gold Eagle Mining in prior years are remarkably similar.

Because the Burros is on a Department of Energy lease tract, its operating history is succinctly outlined in the March 2013 Draft Programmatic Environmental Impact Statement, released in order to comply with a court order related to the legal case *Colorado Environmental Coalition et al v. Office of Legacy Management*, in which INFORM is a co-plaintiff. The Draft PEIS presents this history of the Burros, indicating that the history of operations in its present configuration began in 1975 but did not last, and the mine has been shut down and inactive for over three decades. The Draft PEIS concludes: “The initial shipment of ore was made in June 1975 and production continued through 1981, at which time the mine was placed on standby status.” [Please see Att. A.]

A reference to “Temporary Cessation No. 4” and its approval can be found in the permit file in a Feb. 20, 1997, letter to Umetco Minerals Corporation, then the operator of the Burros. This fourth period of temporary cessation was granted. Shortly after Gold Eagle Mining, Inc.’s acquisition of the Burros Mine the following year, it submitted a request for intermittent status.² This technical revision was approved despite the fact that the Burros did not operate, did not undertake the necessary activities to retain intermittent status, and did not meet the definition of an intermittent operation. The Burros has continued to languish under this status until now.

Notably, the Nov. 12, 2012, inspection report for the Burros documented ongoing surface water management problems and the same, inactive state of the mine. “The permit area is located on a rocky south-facing slope, from which stormwater runoff from precipitation events can be severe. The pads and roads contain berms, the roads used to contain water bars, and there used to be effective ditches routing runoff to sediment ponds. These structures were required to control and direct runoff, but the structures are not maintained adequately to control runoff and sediment transport. The dump faces and road surfaces are becoming deeply gullied, and drainage conveyances to the sediment ponds and pond outlets are breached, and the deposited sediment compromises the ponds’ capacity at catching eroded material. A significant amount of material washed down the site with the runoff, but all of it appears to report to the lowest sediment and runoff pond (at the portal). Although this condition is not in conformance with the operator’s CDPHE stormwater management plan, with the BLM Plan of Operations, or with the DRMS permit, this is not being noted as a problem in this report, since the condition probably developed while the operator mistakenly thought that the DOE’s current analysis prevented him from entering the permitted area and performing maintenance activities. [Emphasis added.] However,

¹ Burros Mine, 2012 annual report. Dated Oct. 1, 2012. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/973463/Page1.aspx?searchid=980cd32a-940d-4007-a3ef-53255338e06f>

² Gold Eagle Mining, Inc., letter to Division of Minerals & Geology, dated Jan. 18, 1999. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/482238/Page1.aspx?searchid=fa355f5c-4d3f-4120-8b71-aa1eff7dfc6>

such activities are allowed by the DOE, and are required to be performed to stay in compliance with the various permits, including this DRMS permit.”³

The photograph below, taken in March, depicts the metal shop building located above one of the waste piles at the Burros Mine. The dump is heavily gullied from water flows and lacks containment structures at the bottom of the pile, allowing eroded materials to move directly into the wash and descend into the Dolores River, located about 500 feet downslope, and passing over additional waste rock piles.



³ Burros Mine, Nov. 12, 2012, inspection report. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/969839/Electronic.aspx?searchid=980cd32a-940d-4007-a3ef-53255338e06f>

The photograph below was taken in March and shows the Burros Mine ore bin and culvert that drains material from the mine's waste rock piles, under the county road, and into the Dolores River, which is about thirty feet from the culvert's outlet. Materials are routinely washed through. Immediately out of frame to the bottom and receiving this material is the Dolores River and its adjacent willow wetlands.



The Ellison Mine

The Ellison Mine was permitted in 1978 and, to date, has never produced ore.

The mine was first placed on standby status by former operator Pioneer Uravan on Sept. 22, 1981, and this status has been passed on between operators since.⁴ Just over 15 years ago, the Division sent a letter to Ryan Ltd. -- at that time the operator of the Ellison Mine -- denying a request to extend temporary cessation. This Dec. 24, 1996, letter is worth noting; it provides as the reason for denial: "The maximum ten (10) year temporary cessation period has long been expired."⁵

The Department of Energy's Draft PEIS summarizes the Ellison's history this way: "A second mining plan (the New Ellison Mine) was submitted in November 1978 proposing entry through a new decline into the area northeast of the existing Ellison [historic] mine, with which it would connect for ventilation. The plan was approved and development began in May 1979. The incline was bottomed in August 1980 and development continued through December of that year. Although ore is showing in several headings, the operation was limited to development and no ore was produced. In March 1982, the mine was expanded to connect with the existing Ellison mine, establishing a ventilation pathway and secondary escapeway. Shortly afterward, operations ceased and this mine was also placed on standby status." Where it has remained since. [Please see Att. A.]

Following the initial period of temporary cessation, and the Division's notice of its overdue termination in 1996, the operator notified the Division that the mine would be re-activated by the summer of 1997. Instead, that spring, a deal was made to transfer operations to the Telluride Mining Company, which requested an active status in order to begin rehabilitating the mine.⁶ However, that work never occurred, as the transaction apparently fell apart, and the succession of operators was eventually denied.⁷ After an enforcement proceeding, another deal was eventually struck in 1998, transferring ownership to Gold Eagle Mining. Although the permit file is murky and it appears there was no formal technical revision filed or approved, the Ellison was at some point granted intermittent status. In the following years, no activity was reported on Gold Eagle

⁴ Pioneer Uravan Inc. letter to Mined Land Reclamation Board, dated Sept. 22, 1981. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/591865/Page1.aspx?searchid=98ae3bb1-879b-43b6-bfed-9168fb6a75e6>

⁵ Division of Mining & Geology letter to Ryan Ltd., dated Dec. 24, 1996. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/567499/Page1.aspx?searchid=98ae3bb1-879b-43b6-bfed-9168fb6a75e6>

⁶ Telluride Mining Co. letter to DMG, June 10, 1997. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/648536/Page1.aspx?searchid=98ae3bb1-879b-43b6-bfed-9168fb6a75e6>

⁷ DMG, Denial of Succession of Operator, Dec. 1, 1997. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/636713/Page1.aspx?searchid=98ae3bb1-879b-43b6-bfed-9168fb6a75e6>

Mining's annual reports and a detailed permit review for the years 2001 to 2007 conducted for consultation with the Department of Energy found that no activity had occurred on the leasing tract at all.⁸

More recently, the Division noted the inactive status of the Ellison Mine in a June 3, 2009, inspection report.⁹ The next inspection, conducted on Oct. 16, 2012, noted again, "The site has not been active in several years." This inspection report also documents the neglected condition of the mine and its noncompliance with the DRMS permit and the Colorado Division of Public Health and Environment stormwater permit.¹⁰

Today, that state of neglect persists. The photo to the right, taken in March, 2013, shows the Ellison portal and staging area, with a cow lick deposited on the ore pad. As the photograph depicts, the mine site slopes gently down, allowing surface waters to flow across the ore pad area, over the waste rock pad, and into a canyon that drains into the Dolores River. The perimeter berms were noted as incomplete and unable to contain the stormwater drainage in the Oct. 16, 2012, inspection report.



⁸ DRMS memo to Department of Energy, dated May 16, 2007. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/730963/Page1.aspx?searchid=cea5a1a9-38f0-468a-a255-8f91d27b1fbf>

⁹ Ellison Mine, DRMS inspection report, June 3, 2009. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/888544/Page1.aspx?searchid=98ae3bb1-879b-43b6-bfed-9168fb6a75e6>

¹⁰ Ellison Mine, inspection report, Oct. 16, 2012. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/969350/Electronic.aspx?searchid=98ae3bb1-879b-43b6-bfed-9168fb6a75e6>

The Hawkeye Mine

The Hawkeye Mine has not produced ore since it was issued a permit in 1978, and is a historic mine that, despite being re-permitted in the modern era, has never been redeveloped or returned to an operating condition.

The permit file lacks precise documentation as to how the Hawkeye Mine transitioned from years of temporary cessation in the 1980s and 1990s to its current status as an intermittently operating mine. Regardless of its status, the mine is not operating and does not meet the definition of any status other than “inactive.” The permit file reflects that numerous notices of temporary cessation were filed with the Division and approved over the years, including on Oct. 31, 1989; on Dec. 18, 1986; on Oct. 31, 1984; and on Sept. 22, 1981. The permit file, however, does have several intriguing documents that confirm the lack of mining activity throughout the Hawkeye’s entire permitted history. This history was outlined in a Dec. 29, 1992, inspection report: “It appears that the site is in the same condition and configuration (except for some waste rock pile erosion and structural failure of the loadout bin ramp) that it was prior to permitting, i.e. an inactive uranium mine started several decades ago. None of the facilities, topsoil stockpile, or expanded waste rock disposal pile envisioned in the original permit have been constructed.”¹¹ In a note from consulting engineer W.T. Cohan on Feb. 8, 1996, previous research from the Department of Energy is summarized: “...the Hawkeye Mine sustained production for approximately two years, commencing in October 1975.”¹² Another summary is once again provided in the Dec. 6, 1996, letter from Steve Shuey of the Division to Ryan Ltd., the operator at that time. “I have reviewed the Hawkeye Mine file and verified that the record indicates the Hawkeye has not been active since permitting.”¹³

Clearly, the mine was already on standby when it was permitted by the Division in 1978, and despite the unwarranted switch to intermittent status in the 1990s and its noncompliance with the law, never came off. The inactive status of the mine in recent years has also been confirmed by the Division’s May 2007 permit review on behalf of the DOE.¹⁴

Gold Eagle Mining, Inc., was approved as the Hawkeye’s operator on May 5, 1998, and the company filed the first of many blank annual reports with the Division on Feb. 9, 1998, while the

¹¹ Hawkeye Mine, Dec. 29, 1992, inspection report. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/342777/Page1.aspx?searchid=8f44d806-b9b9-47a3-a926-076d6bb98305>

¹² Note to Division from W.T. Cohan, Feb. 8, 1996. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/544438/Page1.aspx?searchid=8f44d806-b9b9-47a3-a926-076d6bb98305>

¹³ Division letter to Ryan Ltd., dated Dec. 6, 1996. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/712524/Page1.aspx?searchid=8f44d806-b9b9-47a3-a926-076d6bb98305>

¹⁴ DRMS memo to Department of Energy, dated May 16, 2007. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/730963/Page1.aspx?searchid=cea5a1a9-38f0-468a-a255-8f91d27b1fbf>

succession was still in progress. Since that time, Gold Eagle Mining has provided nothing for the record to indicate that mining activities has occurred.

Conditions at the Hawkeye reflect the same degree of neglect that all of Gold Eagle Mining's permitted sites endure. Some reclamation work on the historic waste dump occurred in 2002, but its integrity was not maintained over time. In a June 2, 2009, inspection, the Division noted significant problems at the site. "...The control structures are now in need of repair. Upland drainage runs onto the permit, crosses the portal level bench and has deeply gullied the material along the drainage path. The recent shaping of the waste dump material resulted in erodable surfaces that are not yet stabilized by vegetation. This has caused accelerated erosion of the dump and upper road, and transported increased amounts of sediment to the sediment pond. The sediment capacity and lower berms have not been maintained, however, and runoff now either avoids the pond or flowed from the pond. It appears that most sediment remains onsite, but runoff water is not adequately controlled. This is noted as a problem in this report. The corrective action is that the operator must rebuilt the necessary stormwater control structures, including riprap, berms and the sediment pond (probably detailed in his SWMP), and provide evidence to this office of such timely action."¹⁵

The permit file does not indicate that there was ever a response to this corrective action. My own observations of the site during 2011 and 2012 indicate that site conditions remain the same. The most recent inspection, conducted on Oct. 16, 2012, concluded: "A sediment pond was formerly located on the lower level, but it appears to have been filled and breached." Perplexingly, the report does not request corrective action.¹⁶

The Hawkeye portal resembles an abandoned mine, as this photo taken in early April 2013 shows and is a popular highway stopping point for tourists to take photos.



¹⁵ Hawkeye Mine, June 2, 2009, inspection report. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/888319/Page1.aspx?searchid=8f44d806-b9b9-47a3-a926-076d6bb98305>

¹⁶ Hawkeye Mine, Oct. 16, 2012 inspection report. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/969838/Electronic.aspx?searchid=8f44d806-b9b9-47a3-a926-076d6bb98305>

Reasons for Denial of Temporary Cessation

1. Gold Eagle Mining, Inc.'s Notices of Temporary Cessation do not meet the requirements of Rule 1.13.5, which provide five separate criteria the operator must meet in order to enter temporary cessation. In the Notices for each of the Slick Rock mines, Gold Eagle misidentified the date of cessation as Jan. 4, 2013, rather than the appropriate date in 1981. Gold Eagle also did not adequately state the reason for non-production or cessation of activities as required, by stating that the Department of Energy legal injunction in effect prohibited active mining and prevented the operator from complying with permit requirements. Although the injunction does prohibit active mining, it does not prohibit the operator from complying with state law and, in fact, requires that compliance. Moreover, the injunction has been in place since October, 2011, and does not provide an excuse for the operator to overlook the previous 30 years of inactivity at these mines when compelled to provide a truthful reason to the state. Gold Eagle Mining also fails to meet the third requirement of the Notice of Temporary Cessation, which is to provide a plan for the resumption of mining. The Notice states, "Resumption of mining is not anticipated at this time..."¹⁷

2. Gold Eagle Mining, Inc., has not been approved for temporary cessation status, at least not yet. However, the operator filed an apparently erroneous 2013 annual report for the Ellison Mine on March 28, 2013, that stated the mine is approved for temporary cessation status. The Notice cannot be effective, if at all, until the Board takes action to determine whether or not the applicant's Notice satisfies the applicable requirements. We would also like to note that the annual report was due on Feb. 15, 2013, and was subject to potential enforcement for being five weeks overdue.¹⁸

3. The Colorado Mined Land Reclamation Act speaks unambiguously of the production of ore as a requirement for retaining a reclamation permit by specifically requiring that an operator "engage in the extraction of minerals" in order for a reclamation permit to remain in effect. [Please see C.R.S. § 34-32-103(6)(a)(I).] The only exceptions to this requirement are for a mine to either be in full reclamation or to be in an approved period of temporary cessation, limited to two five-year periods. Neither exception applies to these mines. Gold Eagle Mining, Inc., has already stated that it won't undertake reclamation activities at the Slick Rock mines while the Department of Energy's PEIS process is still ongoing. And because the Burros, Ellison and Hawkeye mines have not "produced" as required by the law, Gold Eagle Mining, Inc., is ineligible for any additional five-year periods of temporary cessation.

¹⁷ Notices of Temporary Cessation for Burros, Ellison, Hawkeye mines. Dated Jan. 24, 2013, and received by the Division on March 5, 2013. In permit files. Burros: <http://drmsweblink.state.co.us/drmsweblink/0/doc/977809/Page1.aspx?searchid=fa355f5c-4d3f-4120-8b71-aa1eff7dfc6> Ellison: <http://drmsweblink.state.co.us/drmsweblink/0/doc/977810/Page1.aspx?searchid=d486857f-a6d5-4e4c-965c-23bf4fd90a3d> Hawkeye: <http://drmsweblink.state.co.us/drmsweblink/0/doc/977812/Page1.aspx?searchid=6113735f-927e-44e8-a382-bd3b63b0ddac>

¹⁸ Ellison Mine, annual report, dated March 28, 2013. In permit file: <http://drmsweblink.state.co.us/drmsweblink/0/doc/980111/Page1.aspx?searchid=3e72f51e-66d3-470f-a8e2-033df7d59466>

4. The Colorado Mined Land Reclamation Act states unequivocally that a mine must be reclaimed after a decade of inactivity. The law says: “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.” [Please see C.R.S. § 34-32-103(6)(a)(III).] The Slick Rock mines have already enjoyed at least 30 years of inactivity, in contradiction of the law.

5. Denial of the Notice of Temporary Cessation status is consistent with Colorado law and will help bring this mine into prompt compliance once the injunction applicable to the Department of Energy lease tracts is lifted. The pending federal court injunction was issued on Oct. 18, 2011, and modified on Feb. 27, 2012, and cannot serve to excuse decades of inactivity and deferred reclamation at this or other uranium mines.

The enclosed correspondence from the Department of Justice confirms that maintenance and other activities at other federally leased mines are occurring under the injunction but that Gold Eagle Mining, Inc., is not conducting similar activities on its leased mines. [Please see Att. B.] As Judge Martinez recognized in the court order, the precise extent of allowable activities at these sites cannot be determined in the abstract. [Please see Att. C at pages 5-6.] Instead, the Division and the Board should make their regulatory determinations based on site-specific information and take action consistent with Colorado reclamation laws that prevent such sites from languishing for decades. (Should the Division encounter a ripe situation where the injunction may pose a barrier to maintenance, stabilization, or reclamation activities necessary to comply with Colorado law, please contact Jeff Parsons or Travis Stills, the attorneys representing the co-plaintiffs, in the litigation.)

For these reasons, respectfully, we urge you to decline these notices. As the Mined Land Reclamation Board, you have the discretion to order final reclamation and terminate permits; please exercise this authority. Without decisive, curative action these mines are likely to continue on in the same fashion for many years to come.

Despite the generous amount of time the Division has allowed Gold Eagle Mining, Inc., to come into compliance with the Mined Land Reclamation Act, the situation today remains nearly the same as it was when the Division noticed all operators in January 2012 of incremental deadlines to address widespread violations at uranium mining sites that have been idled since the 1980s.

Time has continued to pass since INFORM again raised these questions with the Division. On Oct. 1, 2012, Gold Eagle Mining, Inc., missed its deadline to file a complete Environmental Protection Plan for each of its mines. Gold Eagle managed to file partial plans and was informed by the Division that additional time would be allowed to provide the necessary information, noting that all of Gold Eagle’s mines had not had “any activities or permit review since originally

submitted almost 35 years ago.”¹⁹ On Dec. 21, 2012, after no additional filings and the second deadline had passed, INFORM wrote the Division requesting enforcement action be taken against Gold Eagle for failing to complete the process. [Please see Att. D.] The Division responded that it was continuing to work with the operator to achieve legal compliance. On Jan. 7, 2013, Gold Eagle Mining finally notified the Division that it would not complete the EPP submission process and would instead enter full reclamation. Then, on March 5, another letter from Gold Eagle announced that because it believed reclamation was prohibited, another period of temporary cessation would be necessary.

Despite the intervening six months, the only difference now is that another winter has passed and more waste has been washed into the Dolores River.

Thank you for the opportunity to comment.

Respectfully submitted,



Jennifer Thurston
Executive Director
INFORM

Enclosed Attachments:

Att. A: Department of Energy Draft PEIS, Uranium Leasing Program, dated March 2013, Chapter 1, page 1-25. Excerpt attached, full document available at: http://ulpeis.anl.gov/documents/dpeis/chp/Draft_ULP_PEIS_Chapter_1.pdf

Att. B: Department of Justice email, Routine Maintenance Activities Performed by the ULP Lessees, Dec 2012 - Feb 2013.

Att. C: U.S. District Court Order, Feb. 27, 2012, in re: *Colorado Environmental Coalition et al. v. Office of Legacy Management*.

Att. D: INFORM letter to Loretta Pineda, DRMS, dated Dec. 21, 2012.

¹⁹ DRMS Notice of Incomplete EPP Submittal to Gold Eagle Mining, Inc., dated Oct. 9, 2012. In permit file: <http://drmsweblink.state.co.us/drmsweblink/ElectronicFile.aspx?docid=967196&searchid=8f44d806-b9b9-47a3-a926-076d6bb98305&dbid=0>

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 08-cv-01624-WJM-MJW

COLORADO ENVIRONMENTAL COALITION,
INFORMATION NETWORK FOR RESPONSIBLE MINING,
CENTER FOR NATIVE ECOSYSTEMS,
CENTER FOR BIOLOGICAL DIVERSITY, and
SHEEP MOUNTAIN ALLIANCE,

Plaintiffs,

v.

OFFICE OF LEGACY MANAGEMENT, and
UNITED STATES DEPARTMENT OF ENERGY,

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANTS' MOTION FOR RECONSIDERATION**

This matter is before the Court on Defendants' Motion to Reopen and for Reconsideration of October 18, 2011 Order. (ECF No. 95.) Plaintiffs have filed a Response to the Motion (ECF No. 100), and Defendants have filed a Reply (ECF No. 101). The Court hereby REOPENS this action for the limited purpose of ruling on Defendants' Motion for Reconsideration. See D.C.COLO.LCivR 41.2. Having carefully considered the arguments presented, Defendants' Motion for Reconsideration is GRANTED IN PART and DENIED IN PART.

I. BACKGROUND

The Uranium Lease Management Program ("ULMP") is a uranium mining program administered by Defendants in the Uravan Mineral Belt in Mesa, Montrose, and

San Miguel Counties in southwestern Colorado. Plaintiffs brought this action to challenge (1) Defendants' 2007 decision to expand the ULMP, (2) Defendants' issuance of leases to uranium mining companies under the expanded ULMP, and (3) Defendants' approvals of exploration or reclamation activities on certain lease tracts.

The Court, in its October 18, 2011 Opinion and Order, held that Defendants' 2007 Environmental Assessment ("EA") and Finding of No Significant Impact ("FONSI") approving the expansion of the ULMP violated the National Environmental Policy Act ("NEPA") and Endangered Species Act ("ESA"). (ECF No. 94.) As a result, the Court invalidated the EA and FONSI, ordered Defendants to conduct a NEPA- and ESA-compliant environmental analysis on remand, stayed the leases already issued by Defendants, enjoined Defendants from issuing any new leases on ULMP lands, and enjoined Defendants "from approving any activities on lands governed by the ULMP, including exploration, drilling, mining, and reclamation activities" (collectively, the "Injunction"). (*Id.* at 52.)

II. ANALYSIS

A. Parties' Arguments

In their Motion for Reconsideration (the "Motion"), brought under Federal Rule of Civil Procedure 59(e), Defendants argue that:

- (1) the Injunction is not warranted and constitutes manifest legal error;
- (2) the Court should reconsider the Injunction given that Defendants have conducted further steps in completing an Environmental Impact Statement ("EIS"); and
- (3) the Court should at least modify the Injunction to allow:

- (a) activities on ULMP lands that are necessary to complete the EIS;
- (b) activities on ULMP lands that are required to comply with orders from government regulatory agencies; and
- (c) certain reclamation activities on ULMP lands.

In response, Plaintiffs argue that the Motion should be denied because Defendants failed to meaningfully confer with Plaintiffs prior to filing the Motion, and because none of the relief sought is warranted.

B. Legal Standard

“A Rule 59(e) motion to alter or amend the judgment should be granted only to correct manifest errors of law or to present newly discovered evidence.” *Phelps v. Hamilton*, 122 F.3d 1309, 1324 (10th Cir. 1997) (quotation marks omitted); *see also Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000) (“Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice.”).

C. Discussion

1. Meet-and-confer requirement

Plaintiffs argue that the Motion should be denied because Defendants failed to meaningfully meet and confer prior to filing the Motion. The Court agrees that Defendants’ counsel’s last minute efforts to meet and confer on the day of the deadline to file a timely Rule 59(e) motion were inadequate. However, under the unique circumstances present here, in combination – namely, (1) counsel for Defendants did

make three attempts to contact counsel for Plaintiffs on the day of the deadline, but counsel for Plaintiffs did not respond until very late in the afternoon and then proposed meeting and conferring the next day, (2) the 28-day deadline to file a motion under Rule 59(e) is jurisdictional, and (3) the primary relief sought by Defendants is complete dissolution of the injunction, which makes the Motion comparable to a potentially dispositive motion, which is not subject to the meet and confer requirement under D.C.COLO.LCivR 7.1A. The Court accordingly declines to deny the Motion on this ground.

2. Whether the Court Committed Legal Error by Issuing the Injunction

Defendants first argue that the Injunction was not warranted because the Court failed to adequately evaluate the governing factors from *Monsanto Co. v. Geertson Seed Farms*, 130 S. Ct. 2743, 2756 (2010), and in particular the requirement of irreparable harm. (ECF No. 95, at 5-7.) The Court disagrees. The Court carefully considered the *Monsanto* factors, applied them to the facts, and found the requisite irreparable harm. (ECF No. 94, at 49-50.) The Court did not clearly err in reaching this conclusion. Therefore, the Court denies the Motion as to this argument.

3. Further Steps in Completing EIS

Defendants also emphasize that they have completed significant new steps in working on an EIS, including creating a draft schedule for the EIS's completion. (ECF No. 95, at 7-10.) Defendants made similar arguments to the Court in their original Response brief, in which they argued that this action was prudentially moot because of Defendants' plan to create an EIS. The Court rejected those arguments, finding

numerous reasons why the action was not prudentially moot. (ECF No. 94, at 11-15.)

Although the Court emphasized in its Order that Defendants had not even yet created a timetable for the completion of the EIS, the fact that a draft schedule has now been created does not change the Court's conclusion, given all the other reasons expressed by the Court for why the action was not prudentially moot.

4. Activities Necessary to Complete EIS

Defendants also seek clarification of the Court's Order regarding activities on ULMP lands that are necessary to complete the EIS. (ECF No. 95, at 10-12.) The Court recognizes that its injunction prohibiting "any activities on lands governed by the ULMP" is broad, and there is good cause to amend that portion of the Injunction. (ECF No. 94, at 52.) Therefore, as ordered below, the Injunction will be amended to allow those activities on ULMP lands that are absolutely necessary to conduct an environmental analysis on remand regarding the ULMP that fully complies with NEPA, ESA, all other governing statutes and regulations, and this Court's October 18, 2011 Opinion and Order. As proposed by Defendants, the Court will require Defendants "to provide notice to the Court and Plaintiffs . . . before any such activities beg[i]n . . . on the [ULMP] lands." (ECF No. 101, at 3.)

5. Activities Necessary to Comply With Orders From State Regulatory Agencies

Defendants also seek clarification regarding activities on ULMP lands that are necessary to comply with orders of government regulatory agencies. (ECF No. 95, at 14-15.) They point out that the Colorado Division of Reclamation, Mining and Safety has already ordered two lessees to prepare an Environmental Protection Plan, and that

activities on ULMP lands may be necessary to comply with that Order. Although this issue is to some degree not yet ripe, the Court finds good cause to modify the injunction to allow those activities on ULMP lands that are absolutely necessary to comply with an order from a federal, state, or local government regulatory agency. As to these actions also, the Court will require Defendants to provide notice to the Court and Plaintiffs before any such activities begin on ULMP lands.

6. Reclamation Activities

Defendants also contend that they should be allowed to conduct certain reclamation activities on the ULMP lands. While Defendants' Motion and supporting documents did not provide enough detail to the Court to adequately analyze this request, Defendants' Reply brief and the accompanying Declaration of Steven R. Schiesswohl does.

The Court finds good cause to amend the Injunction to allow certain reclamation activities on ULMP lands. Specifically, the Court will amend the injunction to allow those activities on ULMP lands that are absolutely necessary to remediate dangers to the public health, safety, and environment on ULMP lands caused by major storm events, acts of vandalism, or land subsistence. (See ECF No. 101-1, ¶ 6.) As to these actions, the Court will require Defendants to provide notice to the Court and Plaintiffs before any such activities begin, if possible. However, if an emergency situation prevents Defendants from providing such notice before such activities begin, Defendants shall provide notice to the Court and Plaintiffs of such response activities no later than seven days after the activities began.

The Court will also amend the injunction to allow those activities on ULMP lands

that are absolutely necessary to maintain access roads; maintain safety berms and stormwater run-off control berms associated with existing mine dumps and mine yard facilities; maintain security fences and gates to limit public access to potentially hazardous areas; conduct inspections of existing mines to maintain safe access to mine workings; conduct environmental sampling of existing monitoring wells, and air sampling of exhaust air from existing mines; perform weed control of non-native noxious weeds; perform vegetation control around existing mine portal and vent hole openings to minimize fire potential; or maintain and repair mine equipment at existing mine yard facilities. As to these actions, the Court will not require Defendants to provide notice before conducting such activities, but will require Defendants to provide Plaintiffs (but not the Court) with bi-monthly (every 60 days) summaries of such activities that have been conducted.

Defendants will not be allowed to close or gate open mine portals, close mine shafts, or close mine vents, unless ordered to do so by a federal, state, or local government regulatory agency.

III. CONCLUSION

In accordance with the foregoing, the Court ORDERS as follows:

- (1) This action is REOPENED for the limited purpose of ruling on Defendants' Motion for Reconsideration;
- (2) Defendants' Motion for Reconsideration (ECF No. 95) is GRANTED IN PART and DENIED IN PART;
- (3) Defendants' Motion for Reconsideration is GRANTED in so far as the Court's injunction will be amended to allow Defendants; other federal,

state, or local governmental agencies; and/or the lessees to conduct only those activities on ULMP lands that are absolutely necessary:

- (a) to conduct an environmental analysis regarding the ULMP that fully complies with NEPA, ESA, all other governing statutes and regulations, and this Court's October 18, 2011 Opinion and Order;
 - (b) to comply with orders from federal, state, or local government regulatory agencies;
 - (c) to remediate dangers to the public health, safety, and environment on ULMP lands caused by major storm events, acts of vandalism, or land subsistence; and
 - (d) to maintain access roads; maintain safety berms and stormwater run-off control berms associated with existing mine dumps and mine yard facilities; maintain security fences and gates to limit public access to potentially hazardous areas; conduct inspections of existing mines to maintain safe access to mine workings; conduct environmental sampling of existing monitoring wells, and air sampling of exhaust air from existing mines; perform weed control of non-native noxious weeds; perform vegetation control around existing mine portal and vent hole openings to minimize fire potential; or maintain and repair mine equipment at existing mine yard facilities.
- (4) In all other respects, Defendants' Motion for Reconsideration is DENIED;
 - (5) As amended by this Order, this Court's ongoing injunction consists of the

following provisions:

- (a) Defendants' 2007 EA and FONSI are invalidated and have no further legal or practical effect;
- (b) The 31 leases currently in existence under the ULMP are stayed;
- (c) Defendants are enjoined from issuing any new leases on lands governed by the ULMP;
- (d) Defendants are enjoined from approving any activities on lands governed by the ULMP, including exploration, drilling, mining, and reclamation activities, except that Defendants; other federal, state, or local governmental agencies; and/or the lessees are allowed to conduct only those activities on ULMP lands that are absolutely necessary:
 - (i) to conduct an environmental analysis on remand regarding the ULMP that fully complies with NEPA, ESA, all other governing statutes and regulations, and this Court's October 18, 2011 Opinion and Order;
 - (ii) to comply with orders from federal, state, or local government regulatory agencies;
 - (iii) to remediate dangers to the public health, safety, and environment on ULMP lands caused by major storm events, acts of vandalism, or land subsistence; and
 - (iv) to maintain access roads; maintain safety berms and stormwater run-off control berms associated with existing

mine dumps and mine yard facilities; maintain security fences and gates to limit public access to potentially hazardous areas; conduct inspections of existing mines to maintain safe access to mine workings; conduct environmental sampling of existing monitoring wells, and air sampling of exhaust air from existing mines; perform weed control of non-native noxious weeds; perform vegetation control around existing mine portal and vent hole openings to minimize fire potential; or maintain and repair mine equipment at existing mine yard facilities.

- (e) If Defendants plan to conduct activities that are absolutely necessary to complete the EIS or to comply with orders from federal, state, or local government regulatory agencies, the Court orders Defendants to provide notice to the Court and Plaintiffs before any such activities begin;
- (f) If Defendants plan to conduct activities that are absolutely necessary to remediate dangers to the public health, safety, and environment on ULMP lands caused by major storm events, acts of vandalism, or land subsistence, the Court orders Defendants to provide notice to the Court and Plaintiffs before any such activities begin, if possible, but in any event shall be provided to the Court and Plaintiffs no later than seven days after such activities began;
- (g) If Defendants plan to conduct activities that are absolutely

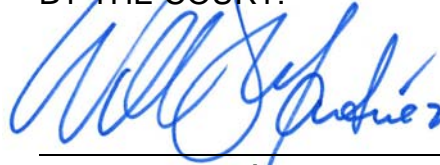
necessary to maintain access roads; maintain safety berms and stormwater run-off control berms associated with existing mine dumps and mine yard facilities; maintain security fences and gates to limit public access to potentially hazardous areas; conduct inspections of existing mines to maintain safe access to mine workings; conduct environmental sampling of existing monitoring wells, and air sampling of exhaust air from existing mines; perform weed control of non-native noxious weeds; perform vegetation control around existing mine portal and vent hole openings to minimize fire potential; or maintain and repair mine equipment at existing mine yard facilities, the Court orders Defendants to provide Plaintiffs (but not the Court) with bi-monthly summaries of such activities that have been conducted;

- (h) After Defendants conduct an environmental analysis on remand that fully complies with NEPA, ESA, all other governing statutes and regulations, and this Court's October 18, 2011 Opinion and Order, Defendants may move the Court to dissolve this injunction;
- (6) If, at any point in the future, Plaintiffs or Defendants contemplate filing a motion for reconsideration under Federal Rule of Civil Procedure 60(b) (which the Court discourages), or Defendants contemplate filing a motion to dissolve the injunction following completion of their new environmental analysis, they shall first fully and meaningfully meet and confer with opposing counsel pursuant to D.C.COLO.LCivR 7.1A.

- (7) After entry of this Order, the Clerk of Court shall again administratively CLOSE this action, subject to the Court's continuing jurisdiction to enforce full compliance with this Order.

Dated this 27th day of February, 2012.

BY THE COURT:



William J. Martínez
United States District Judge

1 A total of 47,000 tons (43,000 metric tons) of ore, containing 162,000 lb (73,000 kg) of
2 U_3O_8 and 925,000 lb (420,000 kg) of V_2O_5 have been produced and sold from the lease tract
3 mines. Royalties paid for this lease tract (production royalties plus annual royalties) total
4 \$1,200,000.

5 6 7 **1.2.3.7 ULP Lease Tract 13**

8
9 On Lease Tract 13, the C-SR-13 mine is located in Sections 29, 30, 31, 32, and 33,
10 T 44 N, R 18 W, NMPM, in San Miguel County, Colorado (see Figure 1.2-8). The original lease
11 was executed effective May 24, 1974. A royalty bid of 20.60% payable on ores containing
12 700,000 lb (318,000 kg) of U_3O_8 secured the lease.

13
14 The initial mining plan submitted in January 1975 proposed entry through the Burro
15 Tunnel Mine. The mine portal and a portion of the main haulage drift are located on the lease
16 tract but provide access to the Burro Mine complex, which is located immediately north of the
17 lease tract on the privately held unpatented Burro claims. The plan was approved and production
18 began from an area along the northern boundary of the lease tract in an area of the Burro Mine
19 complex where ore was showing in the heading. Production continued from there and extended
20 southward toward the Ellison Mine. The initial shipment of ore was made in June 1975 and
21 production continued through 1981, at which time the mine was placed on standby status. A
22 second mining plan (the New Ellison Mine) was submitted in November 1978 proposing entry
23 through a new decline into the area northeast of the existing Ellison mine, with which it would
24 connect for ventilation. The plan was approved and development began in May 1979. The incline
25 was bottomed in August 1980 and development continued through December of that year.
26 Although ore is showing in several headings, the operation was limited to development and no
27 ore was produced. In March 1981, the mine was expanded to connect with the existing Ellison
28 mine, establishing a ventilation pathway and a secondary escapeway. Shortly afterward,
29 operations ceased and this mine was also placed on standby status. Other operations were
30 conducted sporadically during this time and include mines such as Hawkeye and Herbert.
31 However, ore shipments from these operations were small and relatively insignificant when
32 compared to the operation at the Burro Mine complex. These smaller mine sites have since been
33 reclaimed. The mine portals were gated to conserve bat habitat, or were permanently sealed and
34 closed; the mine-waste-rock dumps were recontoured to blend in with the surrounding, natural
35 topography; and the disturbed areas were reseeded.

36
37 A total of 86,000 tons (78,000 metric tons) of ore, containing 323,000 lb (147,000 kg) of
38 U_3O_8 and 2,766,000 lb (1,255,000 kg) of V_2O_5 , have been produced and sold from the lease
39 tract. Royalties paid for this lease tract (production royalties plus annual royalties) total
40 \$4,047,000.

Subject: uravan - periodic report

From: "Martin, John H. (ENRD-WMRS)" <John.H.Martin@usdoj.gov>

Date: 2/25/2013 12:43 PM

To: Travis Stills <stills@frontier.net>

CC: Jeff Parsons <wmap@igc.org>, "Piropato, Marissa (ENRD)" <Marissa.Piropato@usdoj.gov>, "Smith, Andrew (USANM)" <Andrew.Smith@usdoj.gov>

Travis:

Attached is the most recent bi-monthly summary of the ULP lessees' necessary maintenance activities, for the period from December 25, 2012, through February 24, 2013.

Thank you.

John H. Martin
U.S. Department of Justice
Environment & Natural Resources Division
999 18th Street, South Terrace, Suite 370
Denver, CO 80202
303.844.1383
303.844.1350 (fax)
john.h.martin@usdoj.gov

=====

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— Attachments: —

Bi-Monthly Summary of Lessees' Activities - December 2012 through Februa....pdf

12.5 KB

**U.S. Department of Energy Office of Legacy Management
Uranium Leasing Program (ULP)**

**Routine Maintenance Activities Performed by the ULP Lessees
(December 25, 2012 through February 24, 2013)**

During the above-referenced bi-monthly reporting period, the ULP lessee identified performed the various routine maintenance activities listed at one or more of their respective lease tracts (as noted), on one or more occasions:

Cotter Corporation:

- Check and run the ventilation fans on the surface to maintain airflow through the mine to reduce the effects of dry rot on the mine timbers (Lease Tracts C-JD-6, C-JD-7, C-JD-8, C-JD-9, and C-SM-18);
- Inspect the mine workings and perform mine maintenance activities if conditions warrant (Lease Tracts C-JD-6, C-JD-7, C-JD-8, C-SR-11, and C-SM-18)
- Do road maintenance to maintain access to lease tract operations (Lease Tracts C-JD-6, C-JD-7, C-JD-9, and C-SM-18);
- Check for noxious weeds throughout the lease tract (Lease Tracts C-JD-6, C-JD-7, C-JD-8, C-JD-9, C-SR-11, C-SR-13A, C-SM-18, C-LP-21, and C-CM-25);
- Check the lysimeters for water results (Lease Tracts C-JD-6, C-JD-8, C-JD-9, and C-SM-18);
- Check the water level in the mine (C-JD-7 and C-JD-9)
- Check and maintain storm-water run-off control facilities, including the berms, ditches, and catchment ponds (Lease tracts C-JD-7, C-JD-9, C-SR-11, C-SR-13A, C-SM-18, C-LP-21, and C-CM-25);
- Check the mine-portal access areas and the mine buildings for unauthorized entry (Lease Tracts C-JD-7, C-JD-9, and C-SR-11);
- Check the open-pit for slope stability (Lease Tract C-JD-7);
- Perform maintenance work on some of the equipment as necessary (Lease Tract C-JD-7)
- Remove mine supplies from the mine building for use at other properties (Lease Tract C-JD-7).
- Check and run the emergency escape hoist on the surface (Lease Tract C-SM-18); and
- Collect water samples from monitor well (Lease Tract C-JD-9).
- Check the portal, secondary escapeway, and venthole for security purposes (Lease Tract C-SR-13A).

During the above-referenced bi-monthly reporting period, the four remaining lessees (Energy Fuels Resources; Gold Eagle Mining, Inc.; Golden Eagle Uranium LLC; and Colorado Plateau Partners) did not perform any routine maintenance activities on their respective lease tracts.

INFORM

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December 21, 2012

To: Ms. Loretta Pineda
Director, Colorado Division of Reclamation Mining and Safety
1313 Sherman Street, Room 215
Denver, CO 80203
Via email to loretta.pineda@state.co.us

Re: Gold Eagle Mining, Inc., Burros Mine Permit No. M-1977-297
Gold Eagle Mining, Inc., Hawkeye Mine Permit No. M-1978-311
Gold Eagle Mining, Inc., Ellison Mine Permit No. M-1978-342
Gold Eagle Mining, Inc., C-JD-5 Mine Permit No. M-1977-248

Dear Ms. Pineda,

As you are aware, the Information Network for Responsible Mining closely monitors the work of the Division of Reclamation, Mining and Safety and mine permitting activities in Colorado and regularly comments on permit reviews, including all uranium-related proposals. We wish to congratulate the Division on its current implementation of HB 08-1161, the law that required all uranium mines for the first time in Colorado's history to develop and implement environmental protection plans and to come into compliance with current operating and reclamation standards under the authority of the Mined Land Reclamation Board. INFORM and numerous other conservation organizations in Colorado supported the law's passage in 2008 and the Division's strong efforts to implement its requirements are warmly received. We understand that implementation of this law has been lengthy and creates many challenges for the Division as it ushers in a more protective level of oversight upon a restive industry.

In particular during this process, the state, status and siting of the mines operated by Gold Eagle Mining, Inc., have been of considerable concern to us, and efforts by the Division to improve conditions at the Burros, Ellison, Hawkeye and JD-5 mines have been critically important.

Because of the especially problematic surface conditions and inherent neglect at these mines, we have long held a position that they should be released and reclaimed. In addition, the three Slick Rock mines pose serious and substantive harm to the Dolores River and we have long supported the position that not only should these mines be released and reclaimed but that these tracts should be permanently removed from the Department of Energy's Uranium Leasing Program because of their inappropriate siting and conflicting use with the surrounding public lands.

Following the passage of HB-1161, the Division began efforts to implement its requirements and engaged in an extensive and thorough notification process with Gold Eagle Mining about how to come into compliance with the law, subject to enforcement provisions. Gold Eagle Mining was formally notified on June 6, 2008, that it should comply with the updated permitting standards, including required improvements to protect ground and surface water at Designated Mining Operations. On Sept. 30, 2011, Gold Eagle Mining received a similar notice from the Division, outlining the process for coming into compliance with HB-1161. At this time, Gold Eagle was notified that its options were to either 1) demonstrate compliance; 2) release the permit and reclaim the site; 3) submit a complete Environmental Protection Plan for review before Oct. 1, 2012; or 4) file for an administrative exemption. Gold Eagle Mining did not take action to demonstrate compliance, nor did it seek an exemption. On Jan. 24, 2012, the Division reminded Gold Eagle that the intermittent status of all its mines was under review and that the permits would have to come into full compliance with the Mined Land Reclamation Act and the Board's Rules and Regulations. Because Gold Eagle Mining's permitted mines are leased from the Department of Energy, that agency notified the operator on May 2, 2012, that it must fully comply with all Colorado laws and regulations under the terms of its leases. And on Sept. 5, 2012, Gold Eagle Mining was reminded again by the Division that the mines must come into full compliance and submit Environmental Protection Plan applications before Oct. 1, 2012.

On Oct. 1, Gold Eagle Mining did submit four EPP applications to the Division, which quickly determined that the filings were insufficient and could not be certified as complete. Gold Eagle Mining was provided an additional two months -- an informal extension of a deadline already four years old -- to complete the filings and initiate a review. Gold Eagle Mining was also required by Oct. 1 to address the intermittent status of the mines, which have no record of operating or producing ore on file with the Division and which have been idle for the past three decades, if not longer. Although it was given an extensive amount of time and numerous notices from the Division, on Dec. 10, Gold Eagle Mining did not provide additional filings for review. By doing so, as a *de facto* matter of law, Gold Eagle Mining has initiated a release of all four permits.

This final act to release the permits does not remove the need to deliberate over Gold Eagle Mining's lengthy history of noncompliance with the Board's Rules and Regulations and Colorado law. Under the terms of its permits, Gold Eagle Mining is required to conduct active mining activities at the mines, specifically, the production of ore. Gold Eagle Mining has failed, through the years, to properly document activity at the mines and their status in annual reports to the Division. In fact, there is no record of ore production at any of these mines any later than

1983, and it is possible active mining ceased earlier. This extended idleness 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.” [Please see C.R.S. § 34-32-103(6)(a)(III).] We are observing now an overdue but final closure for mines that have been left untended for three decades. One fundamental conviction that spurred the passage of HB 1161 was a legislative desire to address the noncompliant status of uranium mines such as these, which persist as an environmental hazard and create burdens for the public.

INFORM now looks forward to participating in the public review of the reclamation plans for the Burros, Ellison, Hawkeye and JD-5 mines. Because of the poor condition of the mines and the environmental degradation in plain evidence at each of them, we encourage you to revoke the existing bonds in your ongoing enforcement of these permits and initiate the reclamation work directly. Simply put, these are contemporary abandoned mines in the making, and that regrettable progress must be swiftly halted.

There is a dire need to update the reclamation plans for each of these mines, as they all pose significant hazards to the public and the environment. The reclamation plans that are in place have not been significantly updated since the late 1970s, when they were first approved under standards that are considered weak by today’s measures. The JD-5 is in a deplorable state and poses a safety hazard to the public, who can access the unsecured, decrepit shaft and dangerous hoist house quite easily from a main county road. Directly adjacent to the road is a stockpile of low-quality ore that has been sitting there for so many decades that it has managed to sprout weeds. Because it is ore and not waste rock, it most likely has elevated radiation levels, even though the area around it is regularly grazed by livestock and used by travelers and recreationists.

The status of the Slick Rock mines -- the Burros, Ellison and Hawkeye -- are of paramount concern to us. These mines are in close proximity to the Dolores River, just downstream of a heavily used boat launch, near residences, and in a scenic canyon that is treasured by anglers, boaters, birders and quiet users of all sorts. At the mines, stormwater management features are in a state of disrepair and have been subject to serious neglect for years, allowing radioactive and toxic contaminants to migrate from the mine sites directly into the river. This neglect is tragic, as the Dolores River is not just loved by people, but provides an important riparian ecosystem and critical habitat for mammals, raptors, as well as sensitive fish species that state and federal agencies are actively trying to restore. The side canyons immediately surrounding these mines are home to an introduced herd of desert bighorn, another species of concern subject to special management from state and federal agencies.

Updating the reclamation plans is an important task for the Division to undertake and a crucial one to improving the environmental conditions at each of these mines. Again, we look forward to participating and commenting on this forthcoming review to ensure that the highest and most protective reclamation standards are put in place at these critical locations. We also look forward

to continuing to support your efforts to uphold the standards of the Colorado Mined Land Reclamation Act and the necessary requirements that help protect our environment, clean air and healthy rivers.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer Thurston".

Jennifer Thurston
Executive Director
INFORM

Cc: Representative Don Coram, President, Gold Eagle Mining, Inc.
Ms. Laura Kilpatrick, Realty Officer, DOE Office of Legacy Management