

## OGMCOAL - Draft Action Plan

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**From:** "Belka, Christine" <cbelka@osmre.gov>  
**To:** Dana Dean <DANADEAN@utah.gov>  
**Date:** 1/22/2012 4:40 PM  
**Subject:** Draft Action Plan  
**CC:** "Walker, Kenneth" <KWalker@osmre.gov>  
**Attachments:** Draft Action Plan (Crandall Bond).docx

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Dana,

The revised draft Action Plan is attached. Please review this draft and provide me with any comments, concerns, or proposed revisions you may have. I would like to finalize this Plan within two weeks (NLT February 6<sup>th</sup>).

Thank you,

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**Action Plan ID: #UT-2012-001**

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**Problem Description:** Genwal Resources, Inc. (Genwal) has failed to maintain adequate bond coverage at all times. Genwal's performance bond for the Crandall Canyon Mine is inadequate to cover the costs associated with perpetual pollutional discharge water treatment. The Office of Surface Mining Reclamation and Enforcement (OSM) originally identified this problem on November 9, 2009, by issuing ten day notice #X09-140-182-002. The Utah Division of Oil, Gas, and Mining (DOGGM) issued Division Order DO09A to Genwal on November 23, 2009. This Order required an increased bond to cover the costs of perpetual water treatment. Genwal appealed this Order to the Board. The Board required DOGM and Genwal to negotiate this dispute. During these negotiations, DOGM revised the requirements set forth under DO09A and issued DO10A on August 17, 2010. This Division Order was more flexible and reasonable in its approach to attaining the additional financial assurance. DO10A required Genwal to post a bond to cover the costs of long term water treatment over the course of a ten year period. Genwal appealed this Order to the Board in a Request for Agency Action filed September 15, 2010. The Division filed a response and entered into a Stipulation filed October 21, 2010 ("Scheduling Stipulation"). The Scheduling Stipulation extended the required dates for compliance stated in DO10A until the completion of hearings and a decision by the Board on this matter. The Board has upheld DOGM's authority to require the increased financial assurance, but questioned the use of a trust fund bonding mechanism. The Board required DOGM and Genwal to work out a solution to the inadequate bond. DOGM issued revised Division Order DO10A on June 20, 2011. Division Order DO10A requires Genwal to fund a long term surety account over the course of ten years. Genwal appealed that Order to the Board. The Board has not yet ruled on this matter.

**Criteria for Resolution:** The regulatory authority must hold a performance bond adequate to cover the costs of long-term water treatment and reclamation at the Crandall Canyon Mine.

**Action Sequence:**

1. Resolution of the Board process which is currently underway.
2. If DO10A is not upheld, then DOGM must require a full cost bond for long-term water treatment. The bond amount must be based upon the costs associated with the current treatment facility. OSM will monitor to ensure the full cost bond is posted within one year of the Board's decision.
3. If DO10A is upheld, OSM will monitor DOGM's implementation of Division Order DO10A. DO10A, or its acceptable successor, will cause Genwal Resources, Inc. (Genwal) to post increased financial assurance for the Crandall Canyon Mine incrementally over a period of ten years. The following steps will apply:
  - a. Genwal must post an interim (five year) surety
  - b. Genwal must post one additional year's operating expenses
  - c. Genwal must post one additional year's operating expenses
  - d. Genwal must submit plans for the long-term water treatment facility

- e. DOGM will determine amount necessary for long-term financial assurance account
  - f. DOGM will transfer interim surety funds to long-term account
  - g. DOGM will calculate the difference between current amount held and necessary funds for long-term account
  - h. Genwal must post 1/5 of this difference
  - i. Genwal must post 1/5 of this difference
  - j. Genwal must post 1/5 of this difference
  - k. Genwal must post 1/5 of this difference
  - l. Genwal must post 1/5 of this difference
  - m. DOGM will hold and manage the long-term bond for the Crandall Canyon Mine.
4. In the event the Division of Oil, Gas, and Mining (DOGM) is unable to attain adequate bond coverage within the specified time period, the OSM Denver Field Division (DFD) will conduct a Federal inspection and take Federal enforcement action to compel compliance.

**Schedule:**

1. No later than March 28, 2012, resolve the current Board review process.
2. If DO10A is not upheld, no later than March 28, 2013, Genwal must post a full cost bond based on the costs associated with the current treatment facility.
3. If DO10A is upheld, no later than April 30, 2012, Genwal must post the interim surety sufficient to cover five years of operating expenses.
4. No later than April 30, 2016, Genwal must post one additional year's worth of operating expenses to the interim surety. This will result in DOGM holding six years of operating expenses.
5. No later than April 30, 2017, Genwal must post one additional year's worth of operating expenses to the interim surety. This will result in DOGM holding seven years of operating expenses.
6. No later than April 30, 2017, Genwal must submit plans for its permanent water treatment facility. The long-term bond will be calculated based on the costs associated with this long-term facility including operation, maintenance, and reclamation.
7. No later than January 31, 2018, DOGM will determine the amount for a long-term financial assurance adequate to cover the costs of operating the treatment facility, the capital cost of the long-term treatment facility and equipment, and a 15% surcharge of the capital costs of the long-term facility.
8. No later than April 30, 2018, DOGM will transfer all funding held in the interim surety into the long-term treatment account.
9. No later than May 31, 2018, DOGM will calculate the difference between the interim surety and the amount necessary for the long-term account.
10. No later than June 30, 2018, Genwal must post 1/5 of the difference (calculated in step 8) to the long-term treatment account.
11. No later than June 30, 2019, Genwal must post 1/5 of the difference (calculated in step 8) to the long-term treatment account.

12. No later than June 30, 2020, Genwal must post 1/5 of the difference (calculated in step 8) to the long-term treatment account.
13. No later than June 30, 2021, Genwal must post 1/5 of the difference (calculated in step 8) to the long-term treatment account.
14. No later than June 30, 2022, Genwal must post 1/5 of the difference (calculated in step 8) to the long-term treatment account.
15. No later than July 1, 2022, DOGM will hold an adequate long-term financial assurance. The long-term account must have an interest bearing account adequate to fund the annual operation, maintenance, and reclamation expenses of the permanent facility.