



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

MAY 16 2017

Department of
Environmental Quality

Alan Matheson
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

CERTIFIED MAIL
(Return Receipt Requested)

Hidden Splendor Resources, Inc. – Horizon Mine
50 West Liberty Street, Suite 880
Reno, NV 89501

Dear Sirs:

Subject: UPDES Permit # UTG040019, Hidden Splendor Resources, Inc. – Horizon Mine,
Notice of Violation & Order, Docket No. UT-I17-05

Enclosed is the Notice of Violation (NOV) and Compliance Order (CO), issued to Hidden Splendor Resources, Inc. – Horizon Mine by the Division of Water Quality, for your immediate attention.

If you have any questions regarding this notice, please contact Mike Herkimer at (801) 536-4386 or at mherkimer@utah.gov.

Sincerely,

Kim Shelley
Acting Director

KS/MH/blj

Enclosure (1) 1. Notice of Violation and Compliance Order (NOV/CO) (DWQ-2017-002959)

cc: Paul McConkie, Utah Attorney General's Office, via email w/encl.
Brady Bradford, Southeastern Utah District Health Department, via email w/encl.
Scott Hacking, District Engineer, via email w/encl.
Daron Haddock, Division of Oil, Gas & Mining, via email w/encl.
Alexander H. Walker III, via email w/encl.

DWQ-2017-002942

HIDDEN SPLENDOR RESOURCES, INC. – HORIZON MINE 50 West Liberty Street Suite 880 Reno, NV 89501	NOTICE OF VIOLATION AND ORDER DOCKET NO. UT-117-05
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A. STATUTORY AUTHORITY

This **NOTICE OF VIOLATION and COMPLIANCE ORDER (NOV/CO)** is issued by the **DIRECTOR OF THE UTAH DIVISION OF WATER QUALITY (DIRECTOR)** pursuant to the authority under the Utah Water Quality Act, as amended, Utah Code Ann. §§ 19-5-101 to 19-5-124 (the **ACT**), including Utah Code Ann. §§ 19-5-106(2)(d), 19-5-111 and 19-5-115. This **NOV/CO** is also issued in accordance with the Utah Administrative Procedures Act, Utah Code Ann. §§ 63G-4-101 through 63G-4-601.

B. APPLICABLE STATUTORY AND REGULATORY PROVISIONS

1. Utah Code Ann. § 19-5-102(23)(a) defines waters of the state as “all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state.”
2. Utah Code Ann. § 19-5-107(1) (a) states: “Except as provided in this chapter or rules made under it, it is unlawful for any person to discharge a pollutant into waters of the state or to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water”. It is also unlawful “to place or cause to be placed any wastes in a location where there is probable cause to believe it will cause pollution.”
3. Utah Admin. Code R 317-1-2.1 states: "No person shall discharge wastewater or deposit wastes or other substances in violation of the requirements of these rules.”
4. UPDES Permit UTG040019 Part III.A provides: The permittee must comply with all conditions of their permit. Any permit non-compliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and re-issuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
5. UPDES permit UTG040019 Part III.E provides: The permit requires that the permittee shall at all times operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit.

6. UPDES permit UTG040019 Part I.E provides: The permit requires that the permittee monitor any effluent from the facility through Outfall 001 (sedimentation pond) for those parameters listed in the effluent limit table included in Part I.E of the permit.
7. UPDES permit UTG040019 Part II.D provides: The permit requires submittal of a monthly Discharge Monitoring Report (DMR) of the monitoring results of the effluent at Outfall 001. If no discharge occurs during the reporting period, “no discharge” shall be reported. DMR reports are due on the 28th day of the month following the reporting period.

C. FINDINGS OF FACT

1. **HIDDEN SPLENDOR RESOURCES, INC – HORIZON MINE** (hereinafter “**HORIZON**”) is an underground coal mining facility. This facility is located in Carbon County near the town of Helper, Utah.
2. **HORIZON** applied for and was issued UPDES General Permit No. UTG040019 by the Utah Division of Water Quality (DWQ) with an effective date of September 1, 2013 and an expiration date of August 31, 2018.
3. **HORIZON** had two authorized discharge points: Outfall 001 which is discharge from a sedimentation pond and Outfall 002 which is discharge from the mine. Both Outfalls discharge to Jeweks Creek which is tributary to the Price River.
4. **HORIZON** ceased operations in May of 2013. **HORIZON** continued to submit DMR forms until February, 2016. Under its permit with DWQ, **HORIZON** is required to submit DMR forms to the Division of Water Quality which requires collection of sample analyses. Sample analyses were not collected and DMRs had not been received by the DWQ since February 2016.
5. In October of 2016 the DWQ received an inspection report and resulting Notice of Violation from the Division of Oil, Gas and Mining indicating a discharge had occurred at **HORIZON** without concurrent sampling of the discharge.
6. On November 1, 2016, DWQ conducted a Reconnaissance Inspection at **HORIZON** to document the conditions at the mine and to determine if a discharge had occurred. The mine portal was sealed and there was no discharge from Outfall 002 (the mine). Outfall 001 (sedimentation pond), still remained however, and it was apparent that a discharge had occurred based on the vegetation in the area. Coal residuals and fines were also spread throughout the area of the abandoned mine site.
7. **HORIZON** has not paid the issuance fee for the permit issued on September 1, 2013, or any yearly permit fees. Several letters requesting permit fee payments have been sent: August 7, 2013; April 30, 2014; July 2, 2014; and May 16, 2016.
8. There are reasonable grounds to believe that permittee has abandoned this mine and the obligations under UPDES permit UTG040019.

D. VIOLATIONS

Based on the foregoing Findings of Fact, **HORIZON** has violated the following:

1. Utah Code Ann. § 19-5-107(1) (a) and Utah Admin. Code R 317-1-2.1 by allowing wastes to remain in an area where it is highly probable that it will cause water pollution upon runoff events as described in Findings of Fact paragraph 6.
2. Part III.A of UPDES permit No. UTG040019 for not complying with all conditions of the permit as described in Findings of Fact paragraphs 4 through 8.
3. Part III.E of UPDES permit No. UTG040019 for not properly operating and maintaining the facility as described in the Findings of Fact paragraphs 4, 5 and 6.
4. Part I.E of UPDES permit No. UTG040019 for failure to comply with monitoring frequency requirements as described in Findings of Fact paragraphs 5 and 6.
5. Part II.D of UPDES permit No. UTG040019 for failure to comply with monitoring reporting requirements as described in Findings of Fact paragraph 4.
6. For not paying UPDES permit fees as described in Findings of Fact paragraph 7.

E. ORDER

Based on the foregoing **FINDINGS** and **VIOLATIONS**, and pursuant to Utah Code Annot. § 19-5-107 and 19-5-111, **HORIZON** is hereby **ORDERED** to:

1. Immediately initiate all action required to come into compliance with all applicable provisions of the Utah Water Quality Act and the Water Quality rules in the Utah Administrative Code, R317.
2. Within thirty (30) days of the effective date of this **NOV/CO** and until the permit is terminated, comply with all conditions of the permit inclusive of:
 - a. Initiate operation and maintenance activities for all treatment and control systems associated with Outfall 001.
 - b. Sample, monitor, and report any discharges as per Part I.E of UPDES permit No. UTG040019.
 - c. Submit DMRs from February of 2016 to the current date.
3. Immediately pay all required UPDES permit fees totaling \$832.00.

F. NOTICE

This **NOV/CO** is effective immediately. **HORIZON** may contest this **NOV/CO** by submitting a Request for Agency Action (RFAA) in writing as provided for in Utah Code Ann. § 19-1-301, and as specified in Utah Admin. Code R305-7-303. Any such request must be received by

the **DIRECTOR** within 30 days of the **NOV/CO**'s issuance or the **NOV/CO** shall become final. Failure to file an RFAA within 30 days waives any right to contest this **NOV/CO**.

Compliance with the provisions of this **ORDER** is mandatory. Failure to respond may subject **HORIZON** to further civil penalties or criminal fines under Utah Code Ann. § 19-5-115.

Any compliance schedules submitted by the violator as required by this **NOV/CO** must be submitted by the deadlines established in the Order and approved by the **DIRECTOR**. Once compliance schedules are approved by the **DIRECTOR**, the compliance schedule must be implemented according the deadlines and requirements established in the compliance schedules(s) and/or this **NOV/CO**. Once approved, timeframes and requirements of any compliance schedules become binding on the violator.

All reports required under the **NOV/CO** must be accompanied by the following certification, which is to be signed in accordance with Utah Admin. Code R 317-8-3.4(4):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

Utah Code Ann. § 19-5-115 provides that violation of the **ACT** or a related order may be subject to a civil penalty of up to \$10,000 per day of violation. Under certain circumstances of willfulness or gross negligence, violators may be fined up to \$25,000 per day of violation.

This **NOV/CO** does not relieve **HORIZON** from complying with all other local, State, and Federal laws and requirements, nor does it preclude the Utah Department of Environmental Quality or the **DIRECTOR** from taking any and all other actions allowed by law.

Signed this 15th day of May, 2017.



Kim Shelley
Acting Director

DWQ-2017-002959