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State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

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

C/O 15/ 032 Incoming
CC: Steve C.

&

Water Quality Board
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Paula Doughty, *Vice-Chair*
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Executive Secretary

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FEB 16 2010

DIV. OF OIL, GAS & MINING

February 10, 2010

CERTIFIED MAIL
(Return Receipt Requested)

Mr. David Hibbs, President & CEO
UtahAmerian Energy, Inc.
Genwal Resources, Inc.
P.O. Box 910
East Carbon, UT 84520

Dear Mr. Hibbs:

Subject: Settlement Agreement Finalized and Payment Invoice for Notice of Violation & Order, Docket Nos. I09-02SA & I09-18SA, Genwal Resources, Inc., UPDES Permit No. UT0024368.

Enclosed is your copy of the fully executed Settlement Agreement between the Utah Water Quality Board and Genwal Resources, Inc. The 30-day Public Notice for the Settlement Agreement ended on January 25, 2010 with one comment letter received. A copy of the comments & response letter has been included for your records. The Settlement Agreement has been finalized and as stated in Part 7.A., full payment of the penalty amount is due within 30 days. Please pay particular attention to Part 7.B. also as that describes the remaining milestones for Genwal to achieve in regards to the Supplemental Environmental Project.

The penalty amount for your Settlement Agreement is \$16,495.00. Therefore, please remit \$16,495.00 within 30 days from receipt of this letter to:

Department of Environmental Quality
Division of Water Quality
Attn: Jalynn Knudsen
P.O. Box 144870
Salt Lake City, Utah 84114-4870

A separate invoice is included herein. Please be sure to include a copy of the invoice, or the invoice number with your remittance.

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Your continued efforts to achieve full compliance with the provisions of your UPDES Permit are appreciated.

If you have any questions with regards to this matter, please contact Jeff Studenka at (801) 538-6779 or by e-mail at jstudenka@utah.gov.

Sincerely,

Utah Water Quality Board



Walter L. Baker, P.E.
Executive Secretary

WLB:JAS:mc

Enclosure

cc (w/ encl.):
Amanda Smith, Executive Director, Department of Environmental Quality
Fred Nelson, Assistant Attorney General
Amy Clark, U.S. EPA Region 8 Enforcement (8ENF-T)
Claron Bjork, Director, SE Utah District Health Department
Dave Ariotti, SE Utah DEQ District Engineer
Daron Haddock, Division of Oil Gas & Mines
Dave Shaver, UEI West Ridge Mine

UTAH WATER QUALITY BOARD

IN THE MATTER OF GENWAL RESOURCES, INC. Crandall Canyon Mine (Emery County) P.O. Box 910 794 North "C" Canyon Road East Carbon , Utah 84520	DOCKET NUMBERS: I09-02SA& I09-18SA SETTLEMENT AGREEMENT UPDES PERMIT NO. UT0024368
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This **SETTLEMENT AGREEMENT** (hereinafter "**AGREEMENT**") is between **GENWAL RESOURCES, INC.** (hereinafter "**GENWAL**") and the **UTAH WATER QUALITY BOARD** (hereinafter the "**BOARD**"), concerning violations of the *Utah Water Quality Act* (the *Act*), *Utah Code Annotated*, and the *Utah Administrative Code (UAC)*.

1. The **BOARD** has authority to administer the *Utah Water Quality Act, as amended 1953*, (hereinafter the "**ACT**").
2. The **BOARD** has been delegated authority by the U.S. Environmental Protection Agency (EPA) to administer the *National Pollutant Discharge Elimination System (NPDES)* permit program under the *Federal Clean Water Act (CWA)*.
3. The parties now desire to resolve this matter fully without further administrative proceedings except to the extent provided herein by entering into this **AGREEMENT**. Entering into this **AGREEMENT** is not an admission of liability or factual allegation set out in the **NOTICE**, nor is it an admission of or an agreement to any disputed facts or disputed legal theories, nor is it an admission of any violation of any law, rule, regulation or permit by **GENWAL**. By entering into this **AGREEMENT**, **GENWAL** withdraws its request for a hearing before the **BOARD**.
4. The **EXECUTIVE SECRETARY** of the **BOARD** (hereinafter the "**EXECUTIVE SECRETARY**") will administer the terms and provisions of this **AGREEMENT**.
5. This **AGREEMENT** resolves the **NOTICE OF VIOLATIONS** and **ORDERS**, Docket Numbers I09-02 & I09-18 (hereinafter the "**NOTICES**") issued to **GENWAL** on February 26, 2009 and August 10, 2009, respectively, by the **BOARD**. It does not in any way relieve **GENWAL** from any other obligation imposed under the Act or any other State or Federal laws.
6. This **AGREEMENT** takes into account good faith efforts by **GENWAL** to resolve the violations cited in said **NOTICES**. The **BOARD** acknowledges that in response to inspections and receipt of the **NOTICES**, **GENWAL** has investigated the violations and communicated cooperatively with Utah Division of Water Quality representatives.
7. The **OPERATOR** agrees to the following settlement terms:
 - A. The **OPERATOR** agrees to pay a penalty in the amount of \$16,495.00 within thirty (30)

days of the effective date of this **AGREEMENT** by check made payable to the State of Utah delivered or mailed to:

Department of Environmental Quality
Division of Water Quality
P. O. Box 144870
Salt Lake City, Utah 84114-4870

- B. The **OPERATOR** further agrees to fund the mitigation project, in the amount of \$39,785.00 as a part of the penalty assessment pursuant to *UAC R317-1-9.4*. The mitigation project funds must be utilized by no later than one year from the effective date of this **AGREEMENT**.

The **OPERATOR** must submit within ninety (90) days of the effective date of this **AGREEMENT** for **EXECUTIVE SECRETARY** approval, a project implementation plan for each project that includes a detailed description of the mitigation project, a cost breakdown showing how the funds will be used, and a plan for implementation of the project, which shall include a time frame for implementation and completion of the project and submission of final document(s) indicating completion of the project. The implementation plan should also include a funding schedule which specifies who receives the mitigation funds and when.

The **OPERATOR** participation in the mitigation projects must fully adhere to *UAC R317-1-9.4*. The **OPERATOR** agrees not to attempt to gain or generate any positive publicity, and further agrees not to deduct or otherwise attempt to obtain a tax benefit from the foregoing funding of the mitigation projects and/or the total penalty amount.

- C. If the **OPERATOR** fails to fund the mitigation projects or fails to submit the outlines as described in Paragraph 7.B. above, or if the mitigation projects will not utilize the full funds allotted, the **OPERATOR** shall remit the remaining unspent funds as per the method and address in Paragraph 7.A. within thirty (30) days of demand to do so by the **EXECUTIVE SECRETARY**.
- D. The **OPERATOR** must submit all documentation to the **EXECUTIVE SECRETARY** including receipts, once the funds have been spent for the approved mitigation project. This information must include who was paid, what the payment was for, and the dates of when the payment was made.
8. Nothing contained in this **AGREEMENT** shall preclude the **BOARD** from taking additional actions to include additional penalties against **GENWAL** for permit violations not resolved by this **AGREEMENT**.

9. If an agreement between **GENWAL** and the **EXECUTIVE SECRETARY** cannot be reached in a dispute arising under any provision of this **AGREEMENT**, **GENWAL** or the **EXECUTIVE SECRETARY** may commence a proceeding with the **BOARD** under the *Administrative Procedures Act* to resolve the dispute. A final decision in any adjudicative proceeding shall be subject to judicial review under applicable state law.
10. Nothing in this **AGREEMENT** shall constitute a waiver by **GENWAL** to raise in defense any legal or factual contention for future allegations of noncompliance.
11. Nothing in this **AGREEMENT** shall constitute or be considered as a release from any claims, to include natural resource damage claims, cause of action, or demand in law or equity which the **STATE** may have against **GENWAL**, or any other person, firm, partnership or corporation for any liability arising out of or relating in any way to the release of pollutants to waters of the State.

AGREED to this 10 day of February, 2010

GENWAL RESOURCES, INC.

By David W. Hibel
Authorized Agent

UTAH WATER QUALITY BOARD

By [Signature]
Executive Secretary