



# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
*Executive Director*

### Division of Oil, Gas and Mining

JOHN R. BAZA  
*Division Director*

October 7, 2010

**CERTIFIED MAIL NO. 7004 2890 0000 6087 5871**

James A. Hewlett, Manager  
Intermountain Power Agency  
10653 S. River Front Parkway  
Suite 120  
South Jordan, Utah 84095

**CERTIFIED MAIL NO. 7004 2890 0000 6087 5888**

Robert Eugene Murray, President  
Murray Energy Corp.  
29325 Chagrin Boulevard  
Suite 300  
Pepper Pike, Ohio 44122

**CERTIFIED MAIL NO. 7004 2890 0000 6087 5895**

David W. Hibbs, President  
UtahAmerican Energy Inc., and  
Andalex Resources Inc.  
PO Box 910  
East Carbon, Utah 84520-0910

Subject: Potential Liability for Post-Mining Discharge of Mine Water and Need for Long-Term Treatment and Additional Bonding.

Gentlemen:

The Utah Division of Oil, Gas and Mining has issued its Division Order C/015/0032-DO10A on August 16, 2010 to Genwal Resources Inc. as operator and permittee of the Crandall Canyon Mine requiring an amendment of the permit and additional surety to cover the costs of providing treatment of post-mining water discharge. Intermountain Power Agency, Murray Energy Corp., UtahAmerican Energy Inc. and Andalex Resources Inc. are each identified in the MRP for permit C/015/0032 Crandall Canyon Mine as entities with ownership and control of Genwal Resources Inc. and the Crandall Canyon Project.

As entities with ownership and control during the period of operations before and during the time when the un-permitted mine discharge occurred, you are potentially liable



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for damages resulting from the mine discharge and for costs of treatment of the waters in order to abate the violation. In addition, you will be linked on the U.S. Office of Surface Mining (OSM) database of unabated problems attributable to the Crandall Canyon Project. Liability for abating mining violations may attach to persons charged with responsibility for protecting society and the environment and responsible for effectuating compliance with environmental performance standards. Therefore you are potentially liable for damages resulting from the mine discharge and for costs of treatment of the waters in order to abate the potential for a continuing violation.

The Division has determined that Genwal and the Crandall Canyon Project do not currently have sufficient surety to cover the cost of providing long-term treatment of the post-mining discharge of contaminated waters. In the event that Genwal Resources were to cease operations and were to lack the income necessary to meet its financial obligations, the Division would look to others to take actions as required to abate the violations. You are potentially responsible for preventing future injury to the environment and protecting public health and safety from damages caused by the mining operations during the period of your ownership and control.

Release of the untreated mine discharge water into the surface waters of Utah is in violation of state and federal water quality laws, is a violation of the Crandall Canyon Project permit, and is also a violation of the Utah Mined Land Reclamation Act and regulations. Genwal Resources is obligated to take such actions as are necessary to comply with the provisions of the permit and the Act. If Genwal is unable to meet this obligation and there is not sufficient surety, the law is clear that the State of Utah is entitled to look to each of you as owners and controllers to take appropriate action, and hold you liable for the costs of remedying such violations and abating the future consequential damages of the mining operations. These actions may include the treatment of the discharge of waters until the discharge is no longer in violation of the water quality standards. The Division has determined that the discharge waters may require treatment in perpetuity.

The Division's Order directs Genwal to amend its permit to detail the actions to be taken to prevent damage to the hydrologic balance and to comply with the water quality laws and to provide sufficient financial surety to cover the costs of these actions in perpetuity. You are hereby advised that notwithstanding this Division Order, you and each of you as owners and controller are considered potentially responsible for the costs of preventing any environmental damages that may result for the Crandall Canyon Project's operations. This potential for liability is based on your current and prior ownership and control and will not be diminished by changes in ownership and control that may occur hereafter.

Your assistance and cooperation in providing adequate financial assurance for the Crandall Canyon Project that will avoid risk of future damage to the public health and safety

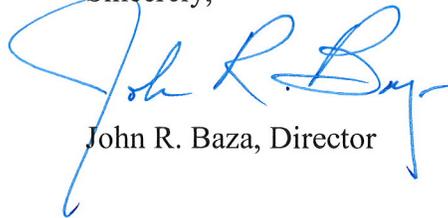
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would be the most direct way to prevent such claims. Your questions and suggestions for dealing with this potential problem will be very welcome, and I encourage you to contact Ms. Dana Dean or Mr. Daron Haddock of this office for more information.

Sincerely,

A handwritten signature in blue ink, appearing to read "John R. Baza". The signature is fluid and cursive, with a large initial "J" and "B".

John R. Baza, Director