

C/015/032 Incoming

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United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
Western Region Office
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Denver, CO 80202-3050



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DIV. OF OIL, GAS & MINING

John R. Baza, Director
Division of Oil, Gas and Mining
1594 West North Temple
Salt Lake City, UT 84116

Dear Mr. Baza,

On October 28th, 2009, Office of Surface Mining (OSM) inspector Christine Belka conducted an oversight inspection at the Crandall Canyon Mine. As a result of that inspection OSM issued two Ten-Day Notices (TDN's) to the Division of Oil, Gas, and Mining (DOGM) pursuant to 30 CFR Part 842. The TDN's, dated November 9, 2009, identified two potential violations: X09-140-182-001 for "failure to conduct operations only in accordance with the approved permit," and X09-140-182-002 for "failure to maintain adequate bond coverage at all times." DOGM responded to the TDN's by letter dated November 23, 2009. OSM accepted DOGM's response by letter dated December 3, 2009. However, OSM's finding that Division Order C/015/0023-DO09A constituted appropriate action to cause the violation to be corrected was based on the presumption that it would cause the increased bond to be posted within 60 days. Genwal challenged this Division Order to the Utah Board of Oil, Gas and Mining (Board) and did not post the increased bond.

DOGM issued Division Order DO10A on August 17, 2010. 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 Scheduling Stipulation filed October 21, 2010. The Stipulation extended the required dates for compliance stated in DO10A until the completion of hearings and a decision by the Board on this matter. By letter dated December 23, 2010, OSM notified DOGM that TDN #X09-140-182-002 remained unresolved because the bond had not yet been posted.

Division Order DO10A sets forth the criteria and timeline necessary to bring Genwal's bond into compliance. Although the bond has not yet been posted we believe DO10A, as revised, constitutes appropriate action in accordance with 30 CFR 842.11(b)(3) to cause the violation to be corrected. Because DOGM has taken appropriate action to cause the violation to be corrected, we are terminating TDN #X09-140-182-002. Moreover, because DO10A has not been upheld by the Board and fully implemented, we have developed Action Plan #UT-2012-001 to monitor its progress. This Plan outlines the steps of DO10A as well as steps OSM will take in the event DO10A is unsuccessful. We remain confident that DOGM will be able to independently resolve this issue, and we stand ready to assist you if necessary.

Sincerely,

Kenneth Walker
Chief, Denver Field Division