

OGMCOAL - NOV 10073

From: OGMCOAL
To: ddragoo@swlaw.com
Date: 2/16/2011 3:30 PM
Subject: NOV 10073
CC: Daron Haddock; Dave Shaver; Steve Christensen
Attachments: NOV10073.pdf

See attached mailed certified 2/16/11.



**Citation for Non-Compliance
Utah Coal Regulatory Program**

1594 West North Temple, Salt Lake City, UT 84114
Phone: (801) 538-5340 Fax: (801) 359-3940

Citation #: 10073

Permit Number: C0150032

Date Issued: 02/16/2011

NOTICE OF VIOLATION **CESSATION ORDER (CO)** **FAILURE TO ABATE CO**

Permittee Name: GENWAL RESOURCES INC	Inspector Number and ID: 54 SCHRISTE
Mine Name: CRANDALL CANYON MINE	Date and Time of Inspection:
Certified Return Receipt Number: 7005 0390 0000 7507 4894	Date and Time of Service: 02/16/2011

Nature of condition, practice, or violation:
The Permittee failed to comply with the terms and conditions of the approved Crandall Canyon Mining and Reclamation Plan (MRP). Commitments to provide summary/chronology information and operational costs associated with the mine-water treatment system at the Crandall Canyon Mine were not fulfilled. The information was not submitted for inclusion into the MRP within established deadlines. (See Attached Chronology)

Provisions of Act, regulations, or permit violated:
R645-300-143: The permittee will comply with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program.

This order requires Cessation of ALL mining activities. (Check box if appropriate.)

<input type="checkbox"/> Condition, practice, or violation is creating an imminent danger to health or safety of the public.	<input type="checkbox"/> Permittee is/has been conducting mining activities without a Permit.
<input type="checkbox"/> Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.	<input type="checkbox"/> Permittee has failed to abate Violation(s) included in <input type="checkbox"/> Notice of Violation or <input type="checkbox"/> Cessation Order within time for abatement originally fixed or subsequently extended.

This order requires Cessation of PORTION(S) of mining activities.

Mining activities to be ceased immediately: Yes No **Abatement Times (if applicable).**

Action(s) required: Yes No
(See Attached)

_____ (Print) Permittee Representative	 STEVE CHRISTENSEN (Print) DOGM Representative
_____ Permittee Representative's Signature - Date	 DOGM Representative's Signature - Date

SEE REVERSE SIDE Of This Form For Instructions And Additional Information

IMPORTANT – READ CAREFULLY

Pursuant to the Utah Coal Mined Land Reclamation Act, Utah Code Ann. § 40-10-1 et. seq. (Act), the undersigned authorized representative of the Division of Oil, Gas, and Mining (DOGM) has conducted an inspection and found that a Notice of Violation or Cessation Order must be issued.

This order shall remain in effect until it is modified, terminated or vacated by written notice of an authorized representative of DOGM.

1. PENALTIES.

Proposed assessment. DOGM assesses fines based upon a proposed recommendation by an assessment officer. If there is additional information you wish DOGM to consider regarding the cessation order and proposed fine, please submit that to DOGM within *15 days of the date this notice or order is served on you or your agent*. Such information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. Once DOGM has determined the proper penalty, it will serve the proposed assessment on you or your agent, no later than 30 days of the issuance of this notice or order. See Utah Admin. Code R645-401-600 et. seq.

The penalty will be final unless you or your agent file, within 15 days of receipt of the proposed assessment, a written request for an informal hearing before the assessment officer.

Assessment. For each violation included in this notice, a penalty of up to \$5,000 may be assessed for each separate day the violation continues.

If you fail to abate any violation within the time set for abatement or for meeting any interim step, you will be assessed an additional minimum penalty of \$750 for each day of continuing violation beyond the time set for abatement. You will be issued a Cessation Order requiring cessation of surface coal mining operations or the portion of the operations relevant to the violation.

2. INFORMAL PUBLIC HEARING.

On the reverse side of this page, an authorized representative has made a finding as to whether or not this notice requires cessation of mining. If this order or notice requires cessation of mining, expressly or in practical effect, you may request that an informal public hearing be held at or near the mine site. If you wish an informal public hearing be held, please contact an authorized representative from DOGM. See Utah Admin. Code R645-400-350 et seq. Once an informal public hearing is scheduled, you will be notified of the date, time, and location of the hearing.

If this notice requires cessation of mining, it will expire within 30 days from the date you are notified unless an informal public hearing is held or waived, or the condition, practice, or violation is abated within the 30-day period.

3. FORMAL REVIEW AND TEMPORARY RELIEF.

You may appeal this notice or order to the Board of Oil, Gas, and Mining by submitting an application for hearing within 30 days of receipt of this notice or order. See Utah Admin. Code R645-300-164.300. Please submit the application for hearing to:

Secretary
Board of Oil, Gas, and Mining
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801

If applying for a formal board hearing, you may submit with your petition for review a request for “*temporary relief*” from this notice. Procedures for obtaining a formal board hearing are contained in the Board’s Rules of Practice and Procedure and in Utah Admin. Code R645-401-800 et. seq.

4. EFFECT ON PERMIT.

The permit may be suspended or revoked if it is determined that a pattern of violations of the Act, regulations or permit conditions exists, and that the violations were caused by an unwarranted or willful failure to comply.

For further information, consult Utah Code Ann. § 40-10-20 through 40-10-23 and Utah Admin. Code R645-400-300 et. seq. and R645-401 et. seq., or contact the Division of Oil, Gas, and Mining at (801) 538-5340.

Crandall Canyon Mine
NOV #10073

Actions Required:

- Submit the summary/chronology information of the mine-water treatment system (as outlined on page 11 of Appendix 7-65) for inclusion into the Crandall Canyon MRP by March 16th, 2011. The submission must address outstanding deficiencies (listed for Experimental Treatment Design Information) identified in the February 16th, 2011 deficiency letter for Task ID #3714 and #3724 and be submitted under a notarized C1/C2 form.

- Submit an up to date summary of equipment costs and projected annual operations/maintenance costs for the current mine-water treatment system (as outlined on page 11 of Appendix 7-65) for inclusion into the Crandall Canyon MRP by March 16th, 2011. The cost information must be submitted in the example format provided (See Attached). Additionally, the cost information must address outstanding deficiencies (relative to the mine-water treatment system costs) identified in the February 16th, 2011 deficiency letter for Task ID #3714 and #3724 and be submitted under a notarized C1/C2 form.

Chronology/Regulatory Basis for Issuance of Crandall NOV#10073

February 16th, 2011

Genwal Resources, Inc. (the Permittee) was found to be in violation of R645-301-143 of the State of Utah R645-Coal Mining Rules. R645-301-143 states, "*The Permittee will comply with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program.*" The Division of Oil, Gas and Mining (the Division) finds that commitments located on page 11 of Appendix 7-65 of the Crandall Canyon MRP have not been submitted in the established time line. The commitments were negotiated and agreed upon by the Permittee and the Division as a result of permitting action #3582, *Temporary Iron Sludge Storage*. Based upon the Division's understanding of the agreed upon timeline for submittals (as established by the November 4th, 2010 Revised Stipulation-Compliance Schedule and the Division's December 21st, 2010 letter), all of the commitments from Task #3582 were to have been submitted for inclusion in Crandall Canyon MRP by January 6th, 2011. The summary/chronology of the experimental process and cost information were not submitted as amendments to the MRP.

The following is a summary and time-line of the numerous permitting actions and agreements that led the Division to issue Notice of Violation #10073 (NOV #10073).

In July 2010, Genwal requested to discharge a sludge-water mixture from the mine water treatment system sedimentation basin to the Crandall Canyon sediment pond on a temporary basis to facilitate experimentation with sludge dewatering technologies. The following commitments (hereafter referred to as Commitment Numbers 1 through 5) were added to the MRP in July 2010 in association with Task ID# 3582 - Temporary Iron Sludge Storage:

Following the termination of the clean out testing period (ending October 30, 2010), the following revisions to Appendix 7-65, Mine Discharge Water Iron Treatment Facility, will be submitted to the Division of Oil, Gas and Mining by November 30, 2010:

- 1. Deletion of any previously approved language, discussion or attachment that is no longer relevant or applicable based upon current conditions.*
- 2. Revisions that reflect the design, as-built construction, operation, clean out and maintenance aspects of the Mine Discharge Water Iron Treatment System.*
- 3. A summary/chronology of the experimental process that led to the final design including:*

- *A summary of the various treatment methods that were examined/tested.*
 - *A discussion as to the chemical additives that were employed during the trial and error process. The discussion shall include the ratios of chemicals that were utilized in the various test configurations as well as the corresponding water quality results.*
 - *An up to date tabulation of the mine-water flow data that has been collected since the installation of the AVF Flow Meter*
 - *The field data and lab analytical results that were obtained during the various test configurations/water treatment approaches that were explored.*
4. *A discussion of iron sludge disposal options as contingency in the event that the Wildcat Loadout facility is no longer available to receive the material.*
 5. *An up to date summary of the operational costs for the operational water treatment system configuration including: chemical costs, labor costs, maintenance costs, clean-out costs and equipment repair/replacement costs.*

On August 16th, 2010, Division Order 10A (DO-10A) was issued to Genwal Resources, Inc. DO-10A contained five items (See below) to be addressed by the Permittee. Commitment Numbers 2 and 5 describe information which is also required from the Permittee under Item IV.1 of Division Order 10A (DO-10A).

I. Commencing immediately:

Conduct additional monitoring on the chemistry and flow of the mine-water discharge.

II. By August 31, 2010:

Amend the MRP to reflect the required additional water monitoring and data collection required under item I.

III. By October 16, 2010:

Provide a bond or establish a trust fund or other funding instrument acceptable to the Division that will yield a yearly payment sufficient to cover mine-water treatment costs in perpetuity.

IV. By October 31, 2010:

1. *Amend the MRP to reflect the current operations, especially the "operational" treatment measures and facilities associated with the ongoing mine-water discharge, including all aspects of the treatment process with associated costs (capital, operations, maintenance) and as-built drawings.*
2. *Revise the Probable Hydrologic Consequences (PHC) determination in the MRP to reflect current conditions for the Crandall Canyon Mine. The new PHC must address the impact to water quantity and quality and aquatic*

habitat. It must also include water-monitoring recommendations, and describe how water-monitoring data will be used.

V. By March 31, 2011:

- 1. Amend the MRP to reflect the recently updated R2P2 filed with the BLM.*
- 2. Amend the MRP with feasible plans to address the mine-water discharge in perpetuity.*

Items I and II of DO-10A were satisfied by a permit amendment received by the Division on August 25, 2010 and approved September 20, 2010 (Task #3605). A challenge to the Division's request for financial assurance for long-term mine water treatment under DO-10A and a request for hearing was submitted by Genwal to the Board of Oil, Gas and Mining on September 14, 2010 (Docket No. 2010-026 Cause No. C/015/0032F). A stipulation entered on October 21, 2010 deferred without prejudice the schedule for compliance with DO-10A items III and V until after the Board rules on DO-10A. A second stipulation was entered on November 4, 2010, which extended the deadline for DO-10A Items IV.1 and IV.2 (and Commitment Numbers 2 and 5) to November 30, 2010 and Commitment Numbers 1, 3 and 4 to December 15th, 2010.

On November 30, 2010 the Division received two submittals by which Genwal intended to satisfy Commitments Numbers 2 and 5 and DO-10A item IV.1 (Task ID #3703) and DO-10A item IV.2 (Task ID #3704). The Division responded by letter on December 7, 2010 that there were major deficiencies in the amendments and required that Genwal address these deficiencies by December 23, 2010. The Division met with Genwal on December 8, 2010 to discuss the deficiencies and the schedule, and Genwal provided a proposed schedule for addressing the deficiencies on December 9, 2010. The Division responded by letter on December 21st, 2010 providing a deadline of January 6, 2011 to respond to the deficiencies identified for Commitments Numbers 2 and 5 and DO-10A items IV.1 and IV.2.

On December 14, 2010 the Division received an amendment from Genwal providing revisions to Appendix 7-65 (Mine Water Treatment System) of the Crandall Canyon MRP (Task #3714). The amendment contained information that addressed Commitments 1, 3 and 4. However, the summary/chronology information (Commitment 3) was not submitted for inclusion into the Crandall Canyon MRP as required by Task #3582. Commitment 4 of the Task #3714 amendment (regarding iron sludge disposal options) was found deficient and returned to the Permittee (See Division letter dated February 3rd, 2011) under separate cover.

On January 6th, 2011, the Division received an amendment to Appendix 7-15, *Probable Hydrologic Consequences Determination* (Task #3724). The amendment also included an as-built figure for the mine-water treatment system (Commitment 2). Cost information was provided in the cover letter that accompanied the amendment. However; the cost information was not submitted for inclusion into the Crandall Canyon MRP.

The approved Crandall Canyon MRP clearly indicates that the information required by Commitments 1-5 (see pg. 11 of Appendix 7-65) would be submitted to the Division as a revision to Appendix 7-65. Additionally, the November 4th, 2010 Revised Stipulation-Compliance Schedule establishes the commitment by the Permittee that in compliance with DO-10A Paragraph IV.1 the Permittee would “*submit to the Division an amendment to the Mining and Reclamation Plan (“MRP”) to reflect the current “operational” treatment measures and facilities associated with the mine water discharge, including all aspects of the current treatment process with associated costs and as-built drawings*” by November 30th, 2010. The November 4th, 2010 stipulation outlines that the response to DO-10A paragraph IV.1 and IV.2 is responsive to Commitments 2 and 5. The November 4th, 2010 stipulation further identified December 15th, 2010 as the deadline for submission of “*additional informational requests to address Task ID #3582*” (i.e. Commitments 1, 3 and 4).

All 5 commitments that were established with the final approval of Task #3582 were to be submitted as an amendment to the approved Crandall Canyon MRP. However, Commitments 3 and 5 (summary/chronology information and cost summary information respectively) have yet to be submitted for inclusion into the Crandall Canyon MRP. As a result, the Division has issued NOV #10073.

Ref.	Description	Materials / Model No.	Means / Other Reference Number	Unit Cost	Unit	Length	Width	Height	Diameter	Area	Volume	Weight	Density	Time	Number	Unit	Swell Factor	Quantity	Unit	Cost
	Pumps, Hoses, Piping and Fittings																			
	Pump #1 - Backup Water Supply			350 EA											1 EA			1 EA		350
	Pump #2 - Fresh Water Supply			350 EA											1 EA			1 EA		350
	Pump #3 - Recirculant to Make-Down Unit			350 EA											1 EA			1 EA		350
	Pump #4 - Recirculant from Make-Down Unit			350 EA											1 EA			1 EA		350
	Pump #5 - Coagulant			350 EA											1 EA			1 EA		350
	Pump #6 - Sludge Recirculation #1			350 EA											1 EA			1 EA		350
	Pump #7 - Sludge Recirculation #2			350 EA											1 EA			1 EA		350
	Pump #8 - Effluent to Fresh Water Supply (NEW)			350 EA											1 EA			1 EA		350
	Flange 6-in			250 LS											1 LS			1 EA		250
	Pipe 4-inon PVC			2.5 FT		100									1 EA			1 EA		350
	Pipe 4-inon PVC 4-in			2.5 FT		400									1 EA			1 EA		250
	Flange 2-in			2.5 FT		2700									20 EA			20 EA		500
	Valve 2-in			250 EA											2 EA			2 EA		500
	Valve 12-in			250 LS											4 EA			4 EA		1000
	Other (Add Line Items as Necessary)														1 LS			1 EA		250
	Subtotal - Pumps, Hoses, Piping and Fittings																			23000
	Settling Basin																			
	Fill Liner			1 SF						10000										10000
	Chopping Timbers			10 EA											80 EA			80 EA		800
	Geotextile Fabric			1 SF						2000										2000
	Other (Add Line Items as Necessary)																			
	Water Treatment Equipment																			
	250-gal Fresh Makeup Water Tank			2500 EA											2 EA			2 EA		5000
	Oxidizer Unit (Masonite)			3500 EA											1 EA			1 EA		3500
	Blower for Oxidizer Unit			350 EA											1 EA			1 EA		350
	Flow Meter post-Oxidizer Unit			350 EA											1 EA			1 EA		350
	Flow Meter post-Oxidizer Unit			350 EA											1 EA			1 EA		350
	Effluent Make-down Unit			10000 EA											1 EA			1 EA		10000
	Other (Add Line Items as Necessary)																			
	Subtotal - Water Treatment Equipment																			10700
	Sludge Dewatering Equipment																			
	(Not Yet Identified)																			
	Subtotal - Sludge Dewatering Equipment																			
	Total																			57425

Does not include earthwork, Jersey barriers, fencing, culverts, etc.

Ref.	Description	Materials	Means Reference Number	Unit Cost	Unit	Length	Width	Height	Diameter	Area	Volume	Weight	Density	Time	Number	Unit	Swell Factor	Quantity	Unit	Cost
	LABOR																			
1	Chemical Support (Maintain Pump, Changeout Tanks)			15	HR									520				520	HR	7800
2	Non-UPDES Monitoring (Injection Rates, System Performance)			15	HR									520				520	HR	7800
3	Mgmt (Order supplies, invoicing, scheduling)			25	HR									520				520	HR	13000
	Other Tasks (to be identified)																			
	Subtotal - Labor																			
4	Treatment Chemicals			25	GAL						3900							3900	GAL	97500
	Coagulant (NALCO 8187)																			
5	Flocculant (NALCO 783)			15	GAL						300							300	GAL	7500
	Subtotal - Treatment Chemicals																			
	Subtotal - Treatment Chemicals Facilities / Support Costs																			
6	Electricity			15	KW/MO						500							130	KW MO	1950
7	Program			15	GAL						500							500	GAL	750
8	Protein / Make-up Water			0.1	GAL						60000							60000	GAL	6000
	Subtotal - Protein / Support Costs																			
	Total																			142300

1 - 3 Assume 10 hrs/week, 52 weeks/year for each of items 1, 2 & 3
4 - 5 Assume 500 gpm, 1 ppm flocculant, 15 ppm coagulant



3 Maintenance

Rel.	Description	Materials	Magna Reference Number	Unit Cost	Unit	Length	Width	Height	Diameter	Area	Volume	Weight	Density	Time	Number	Unit	Swal Factor	Quantity	Unit	Cost
	Sludge Cleanout & Disposal																			
1	Vac Truck mobilization		02 81 20.10 3120	150 EA							320				8 EA			8 EA		1200
2	Vac Truck plus 2-man crew		02 81 20.10 3120	177.75 HR														320 HR		56850
3	Sludge Transportation		02 81 20.10 3400	7.05 MI		4800												4800 MI		33840
4	Filter Log (Excludes)			0.1 GAL							800000							80000 GAL		80000
	Subtotal Sludge Cleanout & Disposal			28 EA											12 EA			12 EA		300
	Equipment Maintenance																			172500
	Pumps				19 HR															480
	Make-down unit / Chemical Equip.				25 HR															600
	Subtotal Equipment Maintenance																			1080
	Pond Maintenance																			950
	Misc Labor				16 HR															950
	Subtotal Pond Maintenance																			950
	Total Maintenance																			174500

- 1 4 cleanout events/year
- 2 4 cleanout events/year, each event requiring 10 X 8-hr days
- 3 Assume 5000-gal truck, 30 miles round trip
- 4 Assume 4 events at 200,000 gal per event



4 Summary

Equipment	
Pumps, Hoses, Piping and Fittings	\$23,000
Settling Basin	\$12,800
Water Treatment Equipment	\$19,700
Sludge Dewatering Equipment	
Subtotal Equipment	\$55,500
Operations	
Labor	\$28,600 Year
Treatment Chemicals	\$105,000 Year
Facilities / Support Costs	\$8,700 Year
Subtotal Operations	\$142,300 Year
Maintenance	
Sludge Cleanout & Disposal	\$172,200 Year
Equipment Maintenance	\$1,300 Year
Pond Maintenance	\$1,000 Year
Subtotal Maintenance	\$174,500 Year
Total Operations & Maintenance Costs	\$316,800 Year

EXAMPLE