



GARY R. HERBERT
Governor

GREGORY S. BELL
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

June 28, 2013

CERTIFIED MAIL 70101670000148103348

David Hibbs, Resident Agent
Genwal Resources, Inc.
P.O. Box 910
East Carbon, Utah 84520-0910

SUBJECT: FINAL ORDER for NOV 10105, Crandall Canyon Mine, C/015/0032, Task ID #4295

Dear Mr. Hibbs:

Pursuant to the Second Revised Findings of Fact, Conclusions of Law, and Order for NOV 10105, Crandall Canyon Mine, C/015/0032 dated May 9, 2013, the Informal Conference Officer hereby enters the Final Order in this matter. Based on Genwal's compliance with the requirements set forth in the May 9, 2013 Order, and the Division's approval of fulfillment of those requirements, Notice of Violation No. 10105 and the accompanying proposed assessment of \$990.00 are hereby vacated.

Pursuant to Utah Code Ann. § 40-10-22(3)(a) and Utah Admin. Code R645-401-800, you will have 30 days from the date of this Final Order to request a hearing before the Board of Oil, Gas, and Mining. A hearing may be requested by filing a written appeal with Julie Ann Carter, Board Secretary, P.O. Box 145801, Salt Lake City, Utah 84114-5801. If you have questions regarding the filing, she can be contacted at juliecarter@utah.gov or (801) 538-5277. If you have any other questions or concerns please contact me at (801) 538-5334.

Sincerely,

John R. Baza
Director
Division of Oil, Gas and Mining
Informal Conference Officer

Enclosure
JRB:kw:er



**BEFORE THE DIVISION OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

**In the Matter of the Informal
Conference for the Fact of Violation and
Proposed Assessment for Notice of
Violation 10105, Genwal Resources, Inc.,
Crandall Canyon Mine**

**FINAL ORDER
Cause No. C/015/0032**

PROCEDURAL HISTORY

1. On March 18, 2013, the Utah Division of Oil, Gas and Mining (“Division” or “DOGM”) issued Notice of Violation No. 10105 (“NOV”) to Genwal Resources, Inc. (“Genwal”) for failing to maintain adequate storage capacity within the primary sediment pond at the Crandall Canyon Mine.
2. On March 26, 2013, Genwal timely requested an informal conference before the Division to review the fact of the violation and proposed assessment for the NOV.
3. On April 10, 2013, the Division held an informal conference pursuant to Utah Admin. Code R645-401-700 to review the NOV. The hearing took place at the Department of Natural Resources Building, 1594 West North Temple, Salt Lake City, Utah.
4. John Baza, Director of the Division, served as the Informal Conference Officer for the conference.
5. Steve Christensen, Inspector for the Division, facilitated the Division’s presentation of arguments. Mr. Christensen and the Division were represented by Steven F. Alder and Cameron B. Johnson, Assistant Utah Attorneys General.
6. Joe Helfrich, Assesment Officer for the Division, presented arguments in support of the proposed assessment of \$990.00.
7. Jay Marshall, employee of Genwal, was present on behalf of Genwal. Genwal was represented by attorney Denise Dragoo of Snell and Wilmer.
8. On May 9, 2013, the Informal Conference Officer issued the Findings of Fact, Conclusions of Law, and Order (“May 9 Order”).¹ The May 9 Order required Genwal to (a) decant all water from the sediment pond and remove all accumulated sediment and sludge material from the pond, (b) establish at least three sediment cleanout markers within the pond, (c)

¹ The initial Findings of Fact, Conclusions of Law, and Order was revised on May 28, 2013 and June 3, 2013 to correct certain typographical errors. None of the revisions caused any substantive changes, so the date of the order remained the same and is considered the “May 9 Order.”

establish a 10-year, 24-hour design storm reference marker, (d) revise Plate 7-3 to reflect the locations of the sediment markers and the reference marker, and (e) revise the MRP to discuss the sediment markers and the reference marker. Genwal was required to complete these tasks within 45 days of the May 9 Order (on or before June 24, 2013).

FINDINGS OF FACT

9. Between May 9 and June 21, 2013, Genwal decanted water from the pond and removed the accumulated sediment and sludge material from the pond. Genwal also established the required sediment markers and reference marker, and revised Plate 7-3 and the MRP to reflect the existence of those markers.
10. On June 21, 2013, the Division sent an email to Genwal confirming that Genwal had fulfilled the requirements set forth in the May 9 Order.²

CONCLUSIONS OF LAW

11. Genwal completed to the Division's satisfaction the required tasks set forth in the May 9 Order. Accordingly, the NOV and the proposed assessment should be vacated according to the provisions of the May 9 Order.

ORDER

Based on Genwal's fulfillment of and compliance with the requirements set forth in the May 9 Order, and the Division's confirmation that Genwal has completed those requirements, **Notice of Violation No. 10105 and the accompanying proposed assessment of \$990.00 are hereby vacated.**

SO ORDERED this 28th day of June, 2013.



John R. Baza
Director
Division of Oil, Gas and Mining
Informal Conference Officer

² The Division's email also addressed a matter that was raised by Genwal in prior communications regarding the installation of a clay liner in the pond. The Division stated that it considered the clay liner issue a "separate issue" and not part of the May 9 Order. The Informal Conference Officer agrees and does not address the clay liner issue in this Final Order.

RIGHTS OF APPEAL

Pursuant to Utah Code Ann. § 40-10-22(3)(a) and Utah Admin. Code R645-401-800, you will have 30 days from the date of this Final Order to request a hearing before the Board of Oil, Gas, and Mining. A hearing may be requested by filing a written appeal with Julie Ann Carter, Board Secretary, P.O. Box 145801, Salt Lake City, Utah 84114-5801. If you have questions regarding the filing, she can be contacted at juliecarter@utah.gov or (801) 538-5277.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **FINAL ORDER** for NOV 10105, Crandall Canyon Mine, C/015/0032, Task ID #4295 to be mailed by email, First Class or Certified Mail with postage prepaid, this 1 st day of July, 2013, to the following:

Cameron B. Johnson
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Assistant Attorneys General
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1594 West North Temple, Suite 300
Salt Lake City, UT 84116
cameronjohnson@utah.gov
stevealder@utah.gov
[Via Email]

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[Certified mail #70101670000148103348]

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Earlene Russell

U.S. Postal Service
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Genwal Resources Inc. NOV Vacate

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Sent to **DAVID HIBBS, RESIDENT AGENT**
GENWAL RESOURCES, INC.
Street, Apt. No.,
or PO Box No. **PO BOX 910**
City, State, ZIP+4 **EAST CARBON, UT 84520-0910**

PS Form 3800, August 2006

See Reverse for Instructions