

COLORADO MINED LAND RECLAMATION BOARD

THE CITY AND COUNTY OF DENVER, ACTING BY AND THROUGH ITS BOARD OF WATER COMMISSIONERS, RESPONSE TO ORDER REGARDING ADDITIONAL SUBMITTALS

IN THE MATTER OF PROPOSED CHANGES TO THE MINERAL RULES AND REGULATIONS OF THE MINED LAND RECLAMATION BOARD FOR HARD ROCK, METAL AND DESIGNATED MINING OPERATIONS, 2 CCR 407-1

The City and County of Denver, acting by and through its Board of Water Commissioners (“Denver Water”) hereby submits this statement in the matter of proposed changes to the mineral rules and regulations for Hard Rock, Metal, and Designated Mining Operations, 2 CCR 407-1:

The Statement below is a response to the Mined Land Reclamation Board’s July 14th, 2010 request for additional materials prior to the start of deliberations.

Item No. 1 regarding pit liners for drilling related activities including prospecting. Denver Water supports the need for proper management of drilling muds and fluids resulting from drilling activities.

The testimony of the Tallahassee Area Community which identified 1300 prospecting pits is an eye opener and the topic needs to be addressed to prevent contamination of shallow aquifers and surface waters. Pits meet the commonly applied definitions for waste impoundments. The material in these pits meets the definition of discarded solid waste and should be managed as such. This is especially so since the waste may contain elevated concentrations of radionuclides relative to the shallow aquifer or nearby surface waters. The material in these pits also meets the definition of waste subject to the statutes pertaining to Radioactive Waste beginning at C.R.S. 25-11-201.

Existing impoundment related language at 6.3.3(2)(c) and (d) and 6.3.4(1)(e) comes after the prospecting phase and is insufficient for the potential scale of in-situ prospecting and inconsistent with other regulatory programs with existing or proposed stricter requirements for much less benign wastes. Impoundments managing wastes from drinking water plants, most of which have insignificant amounts of radionuclides, are facing proposed rules that are orders of magnitude stricter than those requirements in place for prospecting pits.

Regardless of the phase (prospecting, mining, or reclamation), it is appropriate to develop definitive design criteria for pits and impoundments and to include criteria as part of these rules. Alternatively, methods such as containment within portable tanks (Baker tanks, Rain for Rent tanks) should also be permissible. There should be a requirement in the rules that material contained in the pits or tanks be properly disposed and that disposal via seepage is prohibited without a CDPS groundwater discharge permit, or permit issued by an implementing agency such as DRMS, or HMWMD-Radiation Management.

Denver Water considers land with improperly constructed pits and waste impoundments to be affected land. The language proposed for paragraph 3.1.6 (5) is much too weak and inconsistent with existing statutes. The words "In its discretion, the Office" should be deleted. Consider re-writing the last sentence – "The use of pit liners, portable tanks, fencing, netting, or other measures is required to protect health, safety, welfare and the environment in a manner that achieves the requirements of permits issued by DRMS, WQCD, or HMWMD-Radiation Management.

Item No. 2 regarding the provision of copies or Notices of Intent to Conduct Prospecting to Local Governments (Proposed Rule 5). Denver Water believes notice serves a useful purpose and supports the notification of local governments regarding the intent to prospect. Notification to the local government should include the Section, Township, and Range impacted by prospecting since well data is organized on this basis.

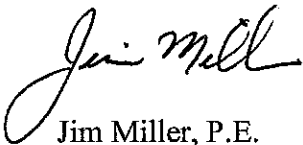
Item No. 3 regarding the collection of baseline water quality information related to prospecting. Denver Water supports the language proposed at 3.1.4.

Item No. 4 regarding the issue of de-minimus amounts of uranium recovered incidental to in-situ leach mining for other minerals (Proposed Rule 1.1 (25)). Denver Water has no opinion on this item.

Item No. 5 regarding a deadline for the Division receiving a written request regarding confidential information in Proposed Rule 1.3 (4)(IV). Denver Water has no opinion on this item.

Item No. 6 regarding changes to Exhibit S in proposed Rule 6.4.19. Denver Water has no opinion on this item.

Respectfully submitted on this 30th day of July, 2010.



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CERTIFICATE OF SERVICE

The undersigned, Jim Miller, hereby certifies that on the 30th day of July, 2010, he did file by hand-delivery, one original plus fifteen three-hole punched copies of the foregoing STATEMENT REGARDING ADDITIONAL SUBMITTALS OF DENVER WATER with the Division of Reclamation, Mining and Safety and did provide an electronic copy in PDF format to Irene.Statnton@state.co.us. He did also deliver a true and accurate copy to the following via the method indicated.

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