



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-4019
Phone 800-227-8917
<http://www.epa.gov/region08>

2012 NOV -7 PM 1:19
FILED
EPA REGION VIII
HEARING CLERK

NOV -7 2012

Ref: 8ENF-RC

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Dammon Frecker
Red Desert Reclamation, LLC
One Cate Street, Suite 100
Portsmouth, NH 03801

Re: USEPA Region 8 Response to Red Desert Reclamation Letter
of October 16, 2012, Administrative Order Pursuant to Section 7003
of RCRA (Order), Docket No. RCRA-08-2012-0005

Dear Mr. Frecker:

The United States Environmental Protection Agency (EPA) Region 8 is in receipt of the October 16, 2012, Red Desert Reclamation letter, which constitutes compliance with the Order's XVIII. Notice of Intent to Comply and temporary compliance with V.A.2. (submittal of an Interim Work Plan, with a time deadline extension request for submittal of the Work Plan and incorporated Operations and Maintenance Plan, as outlined in V.A.3 and V.A.4. of the Order respectively).

As informed by Mr. Dennis Lamb of the Wyoming Department of Environmental Quality (WDEQ), as well as within the context of the subject response from Red Desert Reclamation, it is the EPA's understanding that commercial operations at the facility were suspended on or about September 30, 2012.

In regard to addressing Red Desert Reclamation corrective measures taken to date, collectively, agency representatives are unsure about the twelve (12) hour minimum holding time. The holding time will be contingent upon how efficiently the treatment system is operating. As Red Desert Reclamation is aware, a major modification to your WDEQ permit is required. Mr. Lamb will be reviewing your submission for approval before construction commences.

In regard to addressing Red Desert Reclamation's assertion on October 16, 2012, that the current status of the ponds is that they are all free of surface oil and/or emulsions, following a site visit by Mr. Lamb on October 10, 2012, he stated, "Still some oil on second pond and on the third." While there is an acknowledged six (6) day time differential, Mr. Lamb also stated, "They have a skimmer operating." In conjunction with Red Desert Reclamation's monitoring of the ponds for the presence of any surface oil and/or emulsions and immediately implementing skimming operations upon the discovery thereof, the EPA and United States Fish and Wildlife Service (USFWS) encourage such

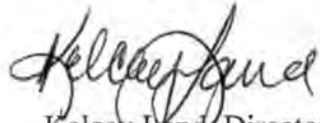
continued due diligence, especially in light of the fall migration being underway and the facility's having recently self-reported to USFWS the 'taking' of a migratory bird.

To address the Red Desert Reclamation timeline as proposed, despite the aforementioned corrective action being undertaken, Red Desert Reclamation needs to shorten the timeline to coincide with the USFWS' determination of the annual commencement of the spring migration on/about April 1. We recommend reevaluating/shortening the time frames between December 14, 2012-January 18, 2013 and January 18, 2013-February 15, 2013, to affect the date change from April 30, 2013, to April 1, 2013. By November 30, 2012, please provide respective agencies an addendum to your October 16, 2012, letter to reflect the timeline revision requested.

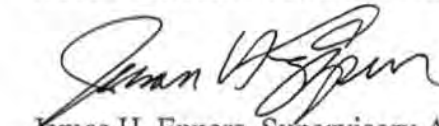
The EPA appreciates Red Desert Reclamation's responsiveness and environmental commitment to date regarding this matter. Please be advised that although EPA acknowledges Red Desert Reclamation's opportunity to confer, as specified under XVII. of the Order, under the circumstance mentioned, we are not inclined to waiver on the revised April 1, 2013, deadline to install and complete the selected and approved remedy.

In closing, if you have any comment(s) or question(s) regarding this correspondence please direct them to Mr. Randy Lamdin, of my staff, who can be reached at the address above, via telephone at (303) 312-6350 or via e-mail at lamdin.randy@epa.gov. Legal comment(s) or question(s) should be directed to Mr. Thomas E. Sitz, who can be reached at the address above, via telephone at (303) 312-6918 or via e-mail at sitz.thomas@epa.gov.

Sincerely,



Kelcey Land, Director
RCRA/CERCLA Technical Enforcement Program



James H. Eppers, Supervisory Attorney
Regulatory Enforcement Unit
Legal Enforcement Program

cc: Ms. Tina Artemis, Regional Hearing Clerk
SA Roy Brown (USFWS)
James H. Eppers (USEPA)
Mr. Dennis Lamb (WDEQ)
Mr. Pete Ramirez (USFWS)
Mr. Thomas E. Sitz (USEPA)