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Steve Tarlton  
Program Manager Radiation Program  
Colorado Department of Public Health and Environment  
Denver, CO 80246-1530

RE: Cotter Corporation Milling Facility (CCMF) SURETY BOND AMOUNT

Dear Mr. Tarlton:

I welcome this opportunity to address CCMF's surety bond. My first comment has to do with the process itself:

First, I believe that the Colorado Department of Public Health and Environment (CDPHE), specifically the Radiation Management Unit (RMU), could have chosen to implement radiation rules that would clarify the process of public comment on Cotter's surety bond; thereby, making this process more "user-friendly" for the public. The passage of HB 1348 was a clear message from the people of the State of Colorado and their Legislators stating – and making law – the public's right to give input as to the amount of Cotter's surety bond.

However, from the first Community Advisory Group (CAG) after the bill was signed into law when it was stated that no rules would be promulgated for the Uranium Processing Accountability Act, the RMU has allowed Cotter to provide only the minimum notice to the public of our opportunity to make comment. CDPHE has also only provided the minimum notice to the public as well. Instead of seeking to clarify the process for the public, the RMU has allowed the process to be vague and obscure. The practice of minimal notice from both Cotter and the RMU has been vague and is an affront to the public which should be remedied. CDPHE's "new" website information does not go far enough in explaining the commenting processes to the public: "*Any comments regarding the financial assurance should be directed to:...*"; this does not explain **when** the comments are due, if the comments will be posted on the website, when or if the public can expect an answer regarding their comments, etc.

I am aware that the Water Quality Control Division (WQCD) and the Water Quality Control Commission (WQCC) take public comment quite often, and I now specifically – in writing – request that the RMU seek better and different ways to inform the public of processes involving the CCMF. After all it was the CCMF that spilled and leached its radioactive waste into the neighborhoods down-gradient tainting area surface and ground water. The public is the victim here, not the RMU or Cotter. Instead of assisting the public, the RMU has invited a lawsuit from the public. There is something terribly wrong with this picture and attitudinal changes need to be made in order to assist these victims.

From December 2009 through August of 2010, the Department of Reclamation Mining and Safety (DRMS) held Rulemaking hearings to which the Tallahassee Area Community was a party. The process was above-board and conducive to public input; thus, assisting those who are most affected by companies who release radioactive toxins into the environment. However, I find the Radiation Management Unit's process to be difficult to understand, vague, and uninviting of public input.

Secondly, I fail to understand why in April of 2010, CDPHE stated that the Cotter bond should be \$43.7 Million and—after the bill passed—only required the RML portion of the bond to be approximately \$20 Million? Was this political posturing by CDPHE to avoid public input and stop the bill from passing? Was this amount only proposed during the legislative session to give the appearance that CDPHE was going to be more protective of the taxpayer?

Cotter's latest surety bond review had no RAP totals in it—requiring the public to delve through other years of information—making it difficult to discern what the total bond amount is? Is the public supposed to dig through years of letters to try to find the backup for bond numbers each year? This practice is unacceptable, vague, and makes information inaccessible. Each year the entire bonding scope should be presented to the public clearly, concisely and in its entirety without any obfuscation.

Thirdly, the Community Advisory Group (CAG) is not suited to be the only forum in which public participation takes place because it is not widely publicized. Time and again, publicized public meetings held in local auditoriums have drawn crowds from 80 to 400 people interested in decisions being made at this Superfund site. Cancellation of the July 28<sup>th</sup> CAG meeting after Cotter published its yearly review on July 14<sup>th</sup> in the Florence Citizen is unacceptable and created even less of an opportunity for the public to be informed.

My specific concerns regarding the low bonding amounts are as follows:

- It cost taxpayers these many more millions to clean up other Colorado uranium mills; while Cotter's bond is only for around \$20 Million: Durango \$67 Million, Slick Rock \$50.4M, Naturita \$86.3M, Gunnison \$58.9M, Grand Junction \$504M, Rifle \$119M, and Maybell \$63.5M.
- The taxpayer is vulnerable due to Cotter Corporation's estimations being undervalued.
- All adjustments Cotter is making in their current review are based off of the \$20.8 million RML surety they and CDPHE agreed upon behind closed doors in the summer of 2010 after the law passed.
- A June 30, 2011 letter is missing and needs to be put on the website. That letter spells out the agreement between Cotter and CDPHE on the burden rate of 1.7275.
- Cotter is taking credit now for work that will not be completed until 10/29/11. A total of \$1,390,492.
- Nothing is based upon actual costs. Everything is based upon burdened estimates. No one including CDPHE ever knows what Cotter is actually paying for any of this work. By not knowing actual costs for this work, the RMU is losing a perfect opportunity to make more accurate estimates in the future, and an opportunity to make judgments regarding the quality of the work performed.
- None of these estimates are based upon a current, comprehensive, vetted, and approved Revised Decommissioning and Reclamation Plan which has been required of Cotter for at least six years. Until such time as one exists, these estimates are unstable and full of risk.

In conclusion, the RMU has not followed the intent of the Uranium Processing Accountability Act that was signed into law in June of 2010. The RMU has allowed Cotter to post only a minimum notice without any specificity as to the commenting process and only in other papers instead of the local Canon City Daily Record—the paper with the widest circulation in Canon City.

Also, the RMU has failed to hold a yearly Superfund meeting since 2009 to inform the public of the huge decommissioning developments at Cotter including the most substantial change to the financial assurance warranty in years. If the RMU really wanted public input, it could hold a public meeting in order to listen to what the public has to say as to the process of taking bonding comments and become informed regarding decommissioning, or should I say “closure,” events taking place at Cotter right now.

I sincerely request that the RMU changes its present attitude into one of fairness towards the public; instead of, what appears to be “coziness” with the industry. Please change this process into an open, above-board, public process, which is the right thing to do according to CDPHE’s own mission statement:

*Our mission: The Colorado Department of Public Health and the Environment is dedicated to protecting and preserving the health and environment of the **people** [our emphasis]...*

Sincerely,

Kay Hawkle