STATE OF COLORADO

Bill Ritter, Jr., Governor
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

July 16, 2009

Ben Wright, Registered Agent
London Mine, LLC
3243 S. Columbine Street
Denver, CO 80210

Certified Mail Number: 7005 1820 0000 3212 8250

RE: Service of Notice of Violation/Cease and Desist Order, Number: IO-090715-1

Dear Mr. Wright:

London Mine, LLC is hereby served with the enclosed Notice of Violation / Cease and Desist Order (the "NOV/CDO"). This NOV/CDO is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") pursuant to the authority given to the Division by §§25-8-602 and 25-8-605, C.R.S. of the *Colorado Water Quality Control Act*, (the "Act"). The Division bases this NOV/CDO upon findings that London Mine, LLC has violated the Act, and/or Permit regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., London Mine, LLC is required, within thirty (30) calendar days of issuance of this NOV/CDO, to submit to the Division an answer admitting or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

This action could result in the imposition of civil penalties. The Division is authorized pursuant to §25-8-608, C.R.S. to impose a penalty of $10,000 per day for each day during which such violation occurs.

Please be advised that the Division is continuing its investigation into this matter and the Division may identify supplementary violations that warrant amendments to this NOV/CDO or the issuance of additional enforcement actions.

Should you or representatives of London Mine, LLC desire to discuss this matter informally with the Division, or if you have any questions regarding the NOV/CDO, please do not hesitate to contact Kelly Morgan of this office by phone at (303) 692-3634 or by electronic mail at kelly.morgan@state.co.us.

Sincerely,

Kelly Morgan

Kelly Morgan
Enforcement Unit
WATER QUALITY CONTROL DIVISION

cc: Park County Health Department
MS-3 File

ec: Aaron Urdiales, EPA Region VIII
Paul Kim, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Gary Beers, Permits Unit, CDPHE
Carolyn Schachterle, OPA

Enclosure(s)

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER **NUMBER: IO-090715-1**

IN THE MATTER OF: **LONDON MINE, LLC**
CDPS PERMIT NUMBER: CO-0038334
PARK COUNTY, COLORADO

Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority is implemented through the Department's Water Quality Control Division (the "Division"), and pursuant to §§25-8-602 and 25-8-605, C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times relevant to the alleged violations identified herein, London Mine, LLC was a Colorado limited liability company in good standing.

2. London Mine, LLC is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).

3. London Mine, LLC owns and/or operates the London Mine Water Tunnel and associated treatment works (the "Facility"), which is located approximately twelve (12) miles northwest of Fairplay, Park County, Colorado.

4. The Facility consists of a treatment works for an underground mining operation that is no longer in operation. The principle products from this mine included gold and a small amount of silver. The contributing wastewater sources at the Facility include mine water and groundwater conveyed through the London Mine Water Tunnel. The Facility treats mine related wastewater from the tunnel portal through a sedimentation pond.

5. The Facility is the subject of Colorado Discharge Permit System, Permit No. CO-0038334 (the "Permit"). The current Permit became effective on February 1, 2006 and is due to expire January 31, 2011.

6. The Permit authorizes London Mine, LLC to discharge treated wastewater from the Facility through the outfall associated with the final sedimentation pond (Outfall 001A) and into South Mosquito Creek. The final sedimentation pond receives water directly from the tunnel portal.

7. South Mosquito Creek is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).

8. Pursuant to 5 CCR 1002-61, §61.8, London Mine, LLC must comply with all the terms and conditions of the Permit, and violations of such terms and conditions as specified in the Permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S

Failure to Comply with Permit Effluent Limitations

9. Pursuant to Part I.A.1. of the Permit, among other parameters, London Mine, LLC's permitted discharge shall not exceed the effluent limitations specified below:

Effluent Parameter	Discharge Limitations			
	30-Day Average	7-Day Average	Daily Maximum	24 Month Rolling 85th Percentile
Flow, MGD	Report	Report	N/A	N/A
Total Suspended Solids, mg/l	20	30	N/A	N/A
pH, s.u. (minimum-maximum)	N/A	N/A	6.5-9.0	N/A
Oil and Grease, mg/l	N/A	N/A	10	N/A
Zinc (Potentially Dissolved), µg/l	Report	1,300	Report	654
Cadmium (Potentially Dissolved), µg/l				
Through 2/28/2007	4	N/A	N/A	N/A
Beginning 3/01/2007	3.2	N/A	N/A	N/A
Whole Effluent Toxicity, Chronic	N/A	N/A	Statistical Difference	N/A

10. Pursuant to Part I.B.1 of the Permit, London Mine, LLC is required to monitor defined effluent parameters at specified frequencies to provide an indication of compliance or non-compliance with the effluent limitations identified in the Permit.

11. Pursuant to Part I.E.1 of the Permit, London Mine, LLC is required to summarize and report the analytical results of its effluent monitoring to the Division via quarterly discharge monitoring reports ("DMRs"). Each discharge monitoring report is to include a certification by London Mine, LLC that the information provided therein is true, accurate and complete to the knowledge and belief of London Mine, LLC.

12. London Mine, LLC's DMRs submitted to the Division include, among other information and data, the following effluent concentration summary data for total suspended solids, potentially dissolved cadmium, and potentially dissolved zinc which exceed the effluent limitations imposed by Part I.A.1 of the permit:

London Mine, LLC EFFLUENT SELF-MONITORING DATA			
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER**	**SAMPLE MEASUREMENT**	**SAMPLE MEASUREMENT**
TOTAL SUSPENDED SOLIDS		--	30-DAY AVG. LIMIT = 20 mg/l
September 1-30, 2006	**001A**	--	**21 mg/l**
CADMIUM (POTENTIALLY DISSOLVED)		--	30-DAY AVG. LIMIT = 3.2 µg/l
July 1-31, 2008	**001A**	--	**8.45 µg/l**
August 1-31, 2008	**001A**	--	**7.5 µg/l**
September 1-30, 2008	**001A**	--	**4.5 µg/l**
October 1-31, 2008	**001A**	--	**4.6 µg/l**
November 1-30, 2008	**001A**	--	**4 µg/l**
December 1-31, 2008	**001A**	--	**3.3 µg/l**
February 1/28, 2009	**001A**	--	**4 µg/l**
April 1-30, 2009	**001A**	--	**4.2 µg/l**
ZINC (POTENTIALLY DISSOLVED)		MAX 7-DAY AVG. LIMIT = 1,300 µg/l	ROLLING AVG. LIMIT = 654 µg/l
July 1-31, 2008	**001A**	**2,400 µg/l**	--
August 1-31, 2008	**001A**	**2,250 µg/l**	--
September 1-30, 2008	**001A**	**1,400 µg/l**	--
October 1-31, 2008	**001A**	--	**940 µg/l**
November 1-30, 2008	**001A**	**1,500 µg/l**	**1,327.5 µg/l**
December 1-31, 2008	**001A**	--	**1,327.5 µg/l**
January 1-31, 2009	**001A**	--	**1,327.5 µg/l**
February 1-28, 2009	**001A**	--	**1,327.5 µg/l**
March 1-31, 2009	**001A**	--	**1,327.5 µg/l**
April 1-30, 2009	**001A**	**1400 µg/l**	**1,377.5 µg/l**

13. Total suspended solids, potentially dissolved cadmium, and potentially dissolved zinc are "pollutants" as defined by §25-8-103(15), C.R.S.

14. Division records establish that the Permit does not authorize the pollutant discharge levels identified above in paragraph 12 and London Mine, LLC does not have any other permits authorizing such discharge into State Waters.

15. London Mine, LLC's failure to comply with the effluent limitations set forth in the Permit constitutes violations of Part I.A.1. of the Permit.

NOTICE OF VIOLATION

16. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that the London Mine, LLC has violated the following sections of the Permit:

    Part I.A.1 of CDPS permit number CO-0038334, which states in part: "In accordance with the Water Quality Control Commission Regulations for Effluent Limitations, Section 62.4, and the Colorado Discharge Permit System Regulations, Section 61.8(2), 5 C.C.R. 1002-61, the permitted discharge shall not contain effluent parameter concentrations which exceed the following limitations, discharge more than the mass pollutant loadings specified below, or exceed the specified flow limitation."

REQUIRED CORRECTIVE ACTION

Based upon the foregoing factual and legal determinations and pursuant to §25-8-602 and §25-8-605, C.R.S., London Mine, LLC is hereby ordered to:

17. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-703, C.R.S., its implementing regulations promulgated thereto and the Permit.

Furthermore, the Division hereby orders London Mine, LLC to comply with the following specific terms and conditions of this Order:

18. Within thirty (30) calendar days of receipt of this Order, London Mine, LLC shall retain the services of a qualified individual or entity, specifically experienced in mine-related wastewater treatment, to evaluate and recommend system improvements to ensure compliance with the terms and conditions of the Permit. The evaluation must consider in detail the following:

    a. An evaluation of the personnel requirements and qualifications for the operation and management of the Facility, including an evaluation of each individual's role, duties, and responsibilities in ensuring the proper operation and maintenance of the Facility;

    b. An evaluation of influent pollutant concentrations for all parameters/ pollutants that could influence treatment process, and what techniques or technologies may be utilized to produce effluent that is consistently in compliance with the Permit effluent limits;

    c. An evaluation of whether the Facility's treatment system as a whole is adequate to properly treat the influent pollutants to a level that consistently complies with the effluent limitations of the Permit.

19. Within forty five (45) calendar days of receipt of this Order, London Mine, LLC shall provide documentation to the Division that it has retained the services of the qualified individual or entity identified in paragraph 18. This documentation shall include at, a minimum, a copy of the individual or entity's qualifications and a copy of the written contract or agreement for such services, including a copy of the scope of services to be provided.

20. Within ninety (90) calendar days of receipt of this Order, London Mine, LLC shall submit in writing to the Division a final report on the findings of the evaluation identified and outlined in paragraph 18 above. Along with the findings of the evaluation, the report must identify, for each criterion, specific short-term and long-term measures that will be taken by London Mine, LLC to rectify deficiencies identified by the evaluation so that the Facility consistently produces effluent in compliance with the limitations identified in Part I.A.1 of the Permit. For each short-term and long-term measure identified, London Mine, LLC shall also submit a time schedule for completion of each measure. The implementation time schedule submitted must identify completion of all measures by no later than March 31, 2010. The measures and time schedule submitted shall become a condition of this Order, and London Mine, LLC shall implement the measures and time schedule as submitted unless notified by the Division, in writing, that alternate measures and/or time schedules are appropriate. If the Division imposes alternate measures and/or time schedules, they shall also become a condition of this Order.

21. Beginning thirty (30) calendar days from receipt of this Order, and every thirty (30) calendar days thereafter, until such time as this Order is closed or the Division decrees so in writing, London Mine, LLC shall submit written progress reports to the Division. At a minimum, each report shall describe the activities undertaken in the previous thirty (30) calendar days and shall specify what activities will be undertaken within the next thirty (30) calendar days to comply with this Order.

22. If London Mine, LLC becomes aware of any situation or circumstances that cause London Mine, LLC to become unable to comply with any condition or time schedules set forth by this Order, London Mine, LLC shall provide written notice to the Division within five (5) calendar days of London Mine, LLC becoming aware of such circumstances. London Mine, LLC's notice shall describe what, if any, impacts will occur on London Mine, LLC's ability to comply with the Colorado Water Quality Control Act, its Permit and any impacts on the remaining conditions and/or time schedules specified by this Order and what steps London Mine, LLC is taking to mitigate such impacts.

23. All documents submitted under this Order shall use the same titles as stated in this Order, and shall reference both the number of this Order and the number of the paragraph pursuant to which the document is required. Within thirty (30) calendar days of receiving Division comments on submitted documents, London Mine, LLC shall revise the submitted document(s) to properly address the Division's comments and resubmit the document(s) for Division review.

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, London Mine, LLC shall submit an original and an electronic copy to the Division at the following address:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-B2
Compliance Assurance and Data Management Section
Attention: Kelly Morgan
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
kelly.morgan@state.co.us

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation / Cease and Desist Order, that person shall make the following certification with each submittal:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11 London Mine, LLC is required to submit to the Division an answer affirming or denying each paragraph of the Findings of Fact and responding to the Notice of Violation. The answer shall be filed no later than thirty (30) calendar days after receipt of this action.

Section 25-8-603, C.R.S. and 5 CCR 1002, §21.11 also provide that the recipient of a Notice of Violation may request the Division to conduct a public hearing to determine the validity of the Notice, including the Findings of Fact. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002, §21.4(B)(2). Absent a request for hearing, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent Department proceeding. The request for hearing, if any, shall be filed no later than thirty (30) calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

FALSIFICATION AND TAMPERING

Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

POTENTIAL CIVIL AND CRIMINAL PENALTIES

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 703, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to the Act, or any final cease and desist order or clean-up order issued by the Division shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. By virtue of issuing this Notice of Violation / Cease and Desist Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S, and may bring such action in the future.

RELEASE OR DISCHARGE NOTIFICATION

Pursuant to §25-8-601, C.R.S., you are further advised that any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state, shall notify the Division of the discharge. If said person fails to so notify, said person is guilty of a misdemeanor, and may be fined or imprisoned or both.

EFFECT OF ORDER

Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. Nothing herein contained shall be construed to preclude other individuals, cities, towns, counties, or duly constituted political subdivisions of the state from the exercise of their respective rights to suppress nuisances or to preclude any other lawful actions by such entities or the State.

For further clarification of your rights and obligations under this Notice of Violation / Cease and Desist Order you are advised to consult the Colorado Water Quality Control Act, §§25-8-101 to 703, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this 15th day of July, 2009.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Lori M Gerzina

Lori M. Gerzina, Section Manager
Compliance Assurance and Data Management Section
WATER QUALITY CONTROL DIVISION