

STATE OF COLORADO

John W. Hickenlooper, Governor
Larry Wolk, MD, MSPH
Executive Director and Chief Medical Officer

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

March 21, 2014

Mr. Fred Craft
U.S. Energy Corp.
877 N. 8th W.
Riverton, WY 82501

RE: Historic Keystone Mine in Crested Butte Voluntary Cleanup Eligibility

Dear Mr. Craft:

The Colorado Department of Public Health and Environment (the Department) has reviewed the voluntary cleanup plan submitted on behalf of U.S. Energy Corp. (the Applicant) concerning the property identified in the application and known as 2131 County Road, in Crested Butte, CO (the site). This review included materials submitted by the Applicant and interested stakeholders, and included all materials required by § 25-16-304(2), C.R.S except as required below.

Based upon the information you provided us in your Voluntary Cleanup (VCUP) application, U.S. Energy's property is eligible to apply for a VCUP. Approval of your application as a whole is contingent upon the Department reviewing and approving three documents noted in the application, clarification of some issues we noticed in the application, and termination of existing Notices of Intent prior to implementing activities described in the application. In order for the Department to fully evaluate the protectiveness of U.S. Energy's application, please provide at your earliest convenience:

1. **A comprehensive Monitoring Plan** encompassing the historic Keystone Mine workings, segments 11 and 12 of the Upper Gunnison River Basin (Coal Creek), and any other areas that might be impacted by the work proposed in the plan. The purpose of the monitoring plan is to characterize baseline surface and ground water conditions and develop a network of monitoring locations to evaluate potential changes in local hydrology and hydrogeology. Data collected under the monitoring plan will be used to evaluate potential changes to ground water and surface water quality, changes in groundwater elevations, identify and quantify potential new discharges, and any other hydrologic changes that might result from bulkhead installation and associated changes in groundwater elevation and quality.
2. **A comprehensive Contingency Plan** addressing the Keystone Mine, the workings, the bulkhead, and any springs or leaks from the site. The contingency plan will define potential adverse water conditions and rely on the monitoring plan to determine if any adverse water condition has occurred. An adverse water condition could include development of new

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discharges (springs or seeps), changes in metals loading to Coal Creek, or other conditions that might result from activities outlined in the application. The contingency plan should outline a process that defines how to address any adverse water condition. Methods to address adverse water conditions could range from additional monitoring to collection and treatment of contaminated water. Notification and reporting requirements for adverse water conditions should also be outlined in the contingency plan.

3. **A detailed preliminary bulkhead design** for the various mine openings/portals called for in the plan.
4. **Clarification of issues identified in the application.** CDPHE has identified a number of minor issues with the application requiring clarification in order for us to fully evaluate the protectiveness of the proposed activities. A list of those items is included as "Attachment A" to this letter. Please provide a response to the requested clarifications at your earliest convenience. Answers to these questions does not require formal amendment of the application but may be submitted in letter format or as application replacement pages, or both.
5. **Termination of DRMS Notices of Intent P-2007-026 and P-2008-052.** The amended application directly conflicts with NOI P2007-026. NOI P-2008-052 facilitates baseline information collection no longer needed for prospecting operations if the amended application plan is implemented.

Once we have received these plans, the bulkhead design, clarifications, and confirmation of NOI termination, we will work with the Department of Natural Resources to review the plans and determine whether we approve your Voluntary Cleanup application.

In addition, if the Department ultimately approves the application, continuing approval will be conditioned upon no additional degradation of segments 11 and 12 of the Upper Gunnison River Basin (Coal Creek) resulting from activities outlined in the application.

The Applicant shall comply with all applicable federal, state, and local laws or regulations and shall obtain all necessary approvals or permits to conduct the activities required by the voluntary cleanup plan. The Department makes no representation with respect to approvals or permits required by federal or local laws or regulations or state laws or regulations other than the Voluntary Cleanup and Redevelopment Act.

Further, the Department shall not be liable for any injuries or damages to persons or property resulting from acts or omissions of the Applicant or those acting for or on behalf of the Applicant, including its officers, employees, agents, successors, representatives, contractors, or consultants in carrying out the activities required by the voluntary cleanup plan. Nothing in the Department's approval of the voluntary cleanup plan, or the Department's conclusions or opinions relating thereto, shall constitute an express or implied waiver of sovereign immunity otherwise applicable to the Department, its employees, agents, or representatives.

Nothing in this letter shall be construed to limit the Department's authority, and the Department reserves all rights and authorities to bring any action pursuant to applicable state laws or regulations.

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If you have any questions, please call me at (303) 692-3411.

Sincerely,

A handwritten signature in black ink, appearing to read 'Fred Craft', with a large loop at the end of the name.

Fonda Apostolopoulos
Voluntary Cleanup Program

cc: RV140205-1
Allen Sorenson, DRMS
Monica Sheets, HMWMD
Steve Gunderon, WQCD
Bonie Pate, WQCD
Aaron Huckstep, Mayor, Town of Crested Butte
Art Trezise, Deputy Gunnison County Attorney
Greg Dyson, Executive Director, HCCA
William Ronai, Chair, Red Lady Coalition
Steve Glazer, Coal Creek Watershed Coalition
David Kreutzer, First Assistant Attorney General
Scott Reisch, Hogen Lovells
Todd Crosett, Crested Butte