

# STATE OF COLORADO

John W. Hickenlooper, Governor  
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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

April 30, 2014

Gunnison County Board of County Commissioners  
200 East Virginia Ave.  
Gunnison, CO 81230

**RE: US Energy Corp. Voluntary Cleanup Application for the Historic Keystone Mine**

Dear Commissioners:

We have received your letter, dated April 15, 2014, outlining your concerns regarding U.S. Energy's Voluntary Cleanup (VCUP) application for the Historic Keystone Mine.

Thank you for taking the time to review the application and address your concerns to us. Our responses to the concerns raised in your letter are outlined below. For clarity, your questions have been included in italics.

1. *A technical analysis of any proposed water treatment plan be conducted by a qualified third party.*

U.S. Energy is proposing to construct a passive system to treat existing discharge from springs and seeps on the property. Both CDPHE and the Division of Reclamation and Mining Safety have expertise with these types of systems. Additionally, the existing water treatment plant is permitted by the Water Quality Control Division, and construction of the passive system will not relieve U.S. Energy of its obligations to meet water quality requirements specified in the permit. Any changes to the operating parameters of the current water treatment plant would need approval of WQCD.

2. *Full financing of any component or entirety of a project be funded and securitized as a condition of approval and before initiation of any work.*

As suggested by the title of both the program and its enabling legislation (C.R.S. § 25-16-300 *et seq.*), the program is entirely voluntary. As such, US Energy could initiate and complete the work proposed in its Voluntary Cleanup Application without going through the Voluntary Cleanup Program, and without any other approval by the State. Since financial assurances are not required under the Voluntary Cleanup Act, they cannot be a requirement for program approval of an application.

3. *Any approval of a component or entirety of a project contain a regularly updated, monitored and fully funded and securitized contingency plan should efforts under the Voluntary Cleanup Program falter or fail.*

CDPHE has required U.S. Energy to submit a comprehensive monitoring plan and a contingency plan to be considered as part of this VCUP application. CDPHE is awaiting submittal of these documents and will work with U.S. Energy to ensure that the plans are sufficient to identify and address potential adverse

water conditions associated with planned cleanup activities. As noted above, the Voluntary Cleanup Program lacks the statutory authority to require financial assurance as part of our approval process. However, please note that approval of a VCUP application does not relieve the applicant of any duty to comply with other federal, state, or local laws and regulations.

CDPHE has and will continue to share information and provide stakeholders the opportunity to submit comments or questions regarding U.S. Energy's VCUP application for the Historic Keystone Mine. CDPHE will also explore opportunities for additional community involvement once all application materials are submitted and have been shared with stakeholders. Please feel free to contact me if you have any questions. I can be reached by telephone at 303-692-3404 or via e-mail at [doug.jamison@state.co.us](mailto:doug.jamison@state.co.us).

Sincerely,



Douglas C. Jamison, Superfund Brownfields Unit Leader  
Hazardous Materials and Waste Management Division

RV140205-1

cc: Honorable John Hickenlooper  
Honorable Michael F. Bennet  
Honorable Mark Udall  
Honorable Gail Schwartz  
Honorable Millie Hamner  
Dr. Larry Wolk, CDPHE  
Mike King, CDNR  
Scott Armentrout, USFS  
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