

STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH
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, 2013

Arthur S. Bowman, Jr., Registered Agent
London Mine Limited Liability Company
1221 South Clarkson Street, Suite 222
Denver, Colorado 80210

Certified Mail Number: 7005 1820 0000 3212 8519

RE: Service of Notice of Violation/Cease and Desist Order, Number: IO-130321-1

Dear Mr. Bowman:

London Mine Limited Liability Company ("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 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 receipt 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 me by phone at (303) 692-3634 or by electronic mail at kelly.morgan@state.co.us.

Sincerely,

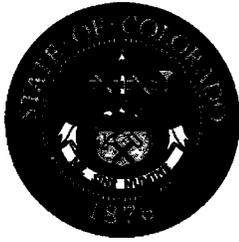


Kelly Morgan
Clean Water Compliance & Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

cc: Enforcement File

ec: Park County Environmental Health Department
Natasha Davis, EPA Region VIII (davis.natasha@epa.gov)
Annette Quill, Office of the Colorado Attorney General
Engineering Section, CDPHE
Field Services Section, CDPHE
Dick Parachini, Clean Water Program, CDPHE
Janet Kieler, Permits Section, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Tania Watson, Compliance Assurance, CDPHE



COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
DIVISION OF ADMINISTRATION
WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: IO-130321-1

IN THE MATTER OF: LONDON MINE LIMITED LIABILITY COMPANY
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 violations cited herein, London Mine Limited Liability Company ("London Mine, LLC") was a Colorado limited liability company in good standing and registered to conduct business in the State of Colorado.
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, located approximately twelve (12) miles northwest of the town of Fairplay, Park County, Colorado, (the "Facility").
4. The London Mine Water Tunnel is part of the mine workings of the London Mine which is an underground gold mine which has ceased operation. Historically, the principle ores at this mine included gold and a small amount of silver. The contributing wastewater sources at the Facility include acid mine drainage from the London Mine Water Tunnel of the London Mine. The acid mine drainage is conveyed from the London Mine Water Tunnel portal to a sedimentation pond for passive treatment that consists solely of settling. No other wastewater treatment occurs at the Facility.
5. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO-0038334 (the "Permit"). The current Permit became effective on February 1, 2006. The Permit was amended with Amendment #1 and reissued effective July 1, 2007. The Permit was modified to correct typographical

errors with Minor Modification #1 and reissued effective August 31, 2009. The Permit expired on January 31, 2011 and has subsequently been administratively extended, pending permit reissuance.

6. The Permit authorizes London Mine, LLC to discharge treated wastewater from the Facility through the outfall associated with the sedimentation pond (Outfall 001) and into South Mosquito Creek. The Permit includes an authorization for a discharge from Outfall MON1, which is a database distinction assigned to Outfall 001 for monitor and report only effluent parameters required to support a reasonable potential analysis. Outfall 001 is physically located at latitude 39° 16' 22.5"N., longitude 106° 8' 41.5" W.
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.
9. On July 15, 2009, the Division issued a Notice of Violation/ Cease and Desist Order, Number IO-090715-1, to London Mine, LLC (the "2009 Order"). The 2009 Order cited London Mine, LLC for violations of the Permit. The 2009 Order included a number of corrective actions that London Mine, LLC was required to implement at the Facility in order to ensure permit compliance.

Failure to Comply with Permit Effluent Limitations

10. Pursuant to Part I.A.1 of the Permit, London Mine, LLC's permitted discharge at Outfall 001A shall not exceed the effluent limitations specified below:

Effluent Parameter	Discharge Limitations			
	30- Day Average	7-Day Average	85 th Percentile of 24 Month Rolling Average	Daily Maximum
Flow, MGD	Report	NA	NA	Report
Total Suspended Solids (TSS), mg/l	20	30	NA	NA
pH, s.u. (minimum- maximum)	NA	NA	NA	6.5 - 9
Oil and Grease, mg/l	NA	NA	NA	10
Zinc, potentially dissolved, ug/l	NA	1,300	654	NA
Cadmium, potentially dissolved, ug/l				
Through 2/28/2007	4	NA	NA	NA
Beginning 3/1/2007	3.2	NA	NA	NA
Whole Effluent Toxicity, Chronic Lethality	NA	NA	NA	Report*

**The whole effluent toxicity limitation is subject to the conditional requirements outlined in Part I.A.2 of the Permit*

11. 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 of the Permit.
12. Pursuant to Part I.E. of the Permit, London Mine, LLC is required to summarize and report the analytical results of its effluent monitoring to the Division via monthly discharge monitoring reports ("DMR"). Each DMR 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.
13. London Mine, LLC's DMRs for May 2009, June 2009, July 2009, August 2009, September 2009, October 2009, November 2009, December 2009, January 2010, February 2010, March 2010, April 2010, May 2010, June 2010, July 2010, August 2010, September 2010, October 2010, November 2010, December 2010, January 2011, February 2011, March 2011, April 2011, May 2011, June 2011, July 2011, August 2011, September 2011, October 2011, November 2011, December 2011, January 2012, February 2012, March 2012, April 2012, May 2012, June 2012, July 2012, August 2012, September 2012, October 2012, November 2012, December 2012, and January 2013 include, among other information and data, the following effluent concentration summary data for total suspended solids, pH, potentially dissolved zinc, and potentially dissolved cadmium which exceeded 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		MAX 7 DAY AVG. LIMIT= 20 mg/l	30 DAY AVG. LIMIT= 20 mg/l
August 31, 2012	001A	<50	<50
pH		MINIMUM LIMIT= 6.5 S.U.	MAXIMUM LIMIT= 9.0 S.U.
June 30, 2009	001A	6.23	--
February 28, 2010	001A	6.4	--
ZINC, POTENTIALLY DISSOLVED		MAX 7 DAY AVG LIMIT= 1,300 µg/l	85 th PERCENTILE of 24 MONTH ROLLING AVG. LIMIT= 654 µg/l
May 31, 2009	001A	--	1,377.5
June 30, 2009	001A	2,300	1,400
July 31, 2009	001A	1,400	1,400
August 31, 2009	001A	1,600	1,510
September 30, 2009	001A	--	1,510
October 31, 2009	001A	--	1,510
November 30, 2009	001A	--	1,510
December 31, 2009	001A	--	1,510

London Mine, LLC
EFFLUENT SELF-MONITORING DATA

DISCHARGE MONITORING REPORTING PERIOD	OUTFALL NUMBER	SAMPLE MEASUREMENT	SAMPLE MEASUREMENT
ZINC, POTENTIALLY DISSOLVED		MAX 7 DAY AVG LIMIT= 1,300 µg/l	85 th PERCENTILE of 24 MONTH ROLLING AVG. LIMIT= 654 µg/l
January 31, 2010	001A	--	1,510
February 28, 2010	001A	--	1,510
March 31, 2010	001A	--	1,510
April 30, 2010	001A	--	1,510
May 31, 2010	001A	--	1,510
June 30, 2010	001A	--	1,510
July 31, 2010	001A	--	1,400
August 31, 2010	001A	--	1,400
September 30, 2010	001A	--	1,400
October 31, 2010	001A	--	1,400
November 30, 2010	001A	--	1,355
December 31, 2010	001A	--	1,355
January 31, 2011	001A	--	1,355
February 28, 2011	001A	--	1,310
March 31, 2011	001A	--	1,310
April 30, 2011	001A	--	1,110
May 31, 2011	001A	--	766
June 30, 2011	001A	2,780	766
July 31, 2011	001A	4,910	766
August 31, 2011	001A	3,120	766
September 30, 2011	001A	2,770	1,739.5
October 31, 2011	001A	3,410	2,775.5
November 30, 2011	001A	2,440	2,775.5
December 31, 2011	001A	2,060	2,775.5
January 31, 2012	001A	1,560	2,775.5
February 29, 2012	001A	1,560	2,775.5
March 31, 2012	001A	1,400	2,775.5

London Mine, LLC
EFFLUENT SELF-MONITORING DATA

DISCHARGE MONITORING REPORTING PERIOD	OUTFALL NUMBER	SAMPLE MEASUREMENT	SAMPLE MEASUREMENT
ZINC, POTENTIALLY DISSOLVED		MAX 7 DAY AVG LIMIT= 1,300 µg/l	85 th PERCENTILE of 24 MONTH ROLLING AVG. LIMIT= 654 µg/l
April 30, 2012	001A	1,600	2,775.5
May 31, 2012	001A	1,600	2,775.5
June 30, 2012	001A	3,600	2,967
July 31, 2012	001A	2,500	2,967
August 31, 2012	001A	2,200	2,967
September 30, 2012	001A	2,400	2,967
October 31, 2012	001A	2,100	2,967
November 30, 2012	001A	2,300	2,967
December 31, 2012	001A	2,000	2,967
January 31, 2013	001A	1,500	2,967
CADMIUM, POTENTIALLY DISSOLVED			30 DAY AVG. LIMIT= 3.2 µg/l
May 31, 2009	001A	--	4
June 30, 2009	001A	--	11
July 31, 2009	001A	--	4.7
August 31, 2009	001A	--	5.2
June 30, 2011	001A	--	11.8
July 31, 2011	001A	--	21
August 31, 2011	001A	--	14.9
September 30, 2011	001A	--	10.2
October 31, 2011	001A	--	11
November 30, 2011	001A	--	6.49
December 31, 2011	001A	--	7.62
January 31, 2012	001A	--	4.8
February 29, 2012	001A	--	5.91
March 31, 2012	001A	--	3.8
April 30, 2012	001A	--	4.4
May 31, 2012	001A	--	4.9

London Mine, LLC			
EFFLUENT SELF-MONITORING DATA			
DISCHARGE MONITORING REPORTING PERIOD	OUTFALL NUMBER	SAMPLE MEASUREMENT	SAMPLE MEASUREMENT
CADMIUM, POTENTIALLY DISSOLVED			30 DAY AVG. LIMIT= 3.2 µg/l
June 30, 2012	001A	--	14
July 31, 2012	001A	--	8.4
August 31, 2012	001A	--	7.9
September 30, 2012	001A	--	7.8
October 31, 2012	001A	--	8.3
November 30, 2012	001A	--	8.2
December 31, 2012	001A	--	6.6
January 31, 2013	001A	--	4.1

14. Total suspended solids, pH, potentially dissolved zinc, and potentially dissolved cadmium are “pollutants” as defined by §25-8-103(15), C.R.S., or indicators thereof.
15. Division records establish that the Permit and its subsequent amendment do not authorize the pollutant discharge levels identified above in paragraph 13. London Mine, LLC does not have any other permit authorizing such discharge into State Waters.
16. London Mine, LLC’s failure to comply with the Permit effluent limitations, as identified above in paragraph 13, constitutes violations of Part I.A.1 of the Permit.

NOTICE OF VIOLATION

17. 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 section of the Permit:

Part I.A.1. of Permit No. 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), the permitted discharge shall not contain effluent parameter concentrations which exceed the following limitations...”

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:

18. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-803, 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:

19. 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 Facility improvements and/or mine water management options that must be implemented by London Mine, LLC to ensure compliance with the terms and conditions of the Permit. This evaluation must consider in detail all contributing pollutant sources and pollutant concentrations for all parameters of concern, specifically including zinc and cadmium, and what techniques or technologies may be utilized to produce effluent that is consistently in compliance with the Permit effluent limitations. The evaluation shall include itemized cost estimates associated with each treatment technique and/or technology identified as an option for mine water management.
20. 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 19. 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.
21. 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 19 above. Along with the findings of the evaluation, the report must identify the specific short-term and long-term measures that will be taken by London Mine, LLC in order for the Facility to consistently produce effluent that is in compliance with limitations identified in Part I.A. 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 October 31, 2013. 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.
22. Beginning in April 2013, and every calendar month thereafter, London Mine, LLC shall submit monthly progress reports to the Division by the end of each calendar month. At a minimum, each report shall outline activities undertaken in the current reporting period and planned activities for the next month to remain in compliance with this Order.
23. If the London Mine, LLC becomes aware of any situation or circumstances that cause the London Mine, LLC to become unable to comply with any condition or time schedules set forth by this Order, the London Mine, LLC shall provide written notice to the Division within five (5) calendar days of the London Mine, LLC becoming aware of such circumstances. The London Mine, LLC's notice shall describe what, if any, impacts will occur on the London Mine, LLC's ability to comply with the Colorado Water Quality Control Act and any impacts on the remaining conditions and/or time schedules specified by this Order, and what steps are being taken to mitigate the impacts.

24. 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, the 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, the 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-CWE-B2
Attention: Kelly Morgan
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-3634
Email: kelly.morgan@state.co.us
Fax: (303) 782-0390

(For any facsimile transmittals, please include a cover sheet addressed to Ms. Morgan.)

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 you are 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 803, 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.

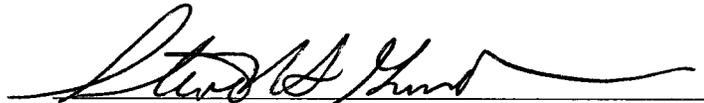
EFFECT OF ORDER

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 803, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this 21st day of March, 2013.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Steven H. Gunderson, Director
WATER QUALITY CONTROL DIVISION