



State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF RADIATION CONTROL
Rusty Lundberg
Director

December 20, 2010

CERTIFIED MAIL
(Return Receipt Requested)

Jo Ann Tischler, Director Compliance and Permitting
Denison Mines (USA) Corp.
1050 17th Street
Suite 950
Denver, CO 80265

Subject: Signed and Executed Tolling Agreement, Relevant to Terms of Stipulated Consent Agreement Docket No. UGW09-03

Two copies of the final Tolling Agreement between Denison Mines (USA) Corp. (DUSA) and the Co-Executive Secretary are enclosed. The copies have been signed by David C. Frydenlund (DUSA, Vice President and Counsel) and Rusty Lundberg (Co-Executive Secretary).

If you have any questions or concerns regarding this transmittal, please contact Loren Morton at (801) 536-4262 or Tom Rushing at (801) 536-0080.

Sincerely,

UTAH WATER QUALITY BOARD

Rusty Lundberg
Co-Executive Secretary

RL:TR:tr

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TOLLING AGREEMENT

This Tolling Agreement (Agreement) is made by and between Denison Mines (USA) Corp. (DUSA) and the Co-Executive Secretary of the Utah Water Quality Board (Co-Executive Secretary).

WITNESSETH

WHEREAS, DUSA and the Co-Executive Secretary entered into a Stipulated Consent Agreement Docket No. UGW09-03 dated January 27, 2009 (Consent Agreement) related to nitrate contamination at DUSA's White Mesa Uranium Mill Site, Blanding Utah (Mill);

WHEREAS, pursuant to Item 6.A of the Consent Agreement, DUSA submitted a *Nitrate Contamination Investigation Report, White Mesa Uranium Mill Site, Blanding Utah*, dated December 30, 2009 (CIR) to the Utah Division of Radiation Control (DRC);

WHEREAS, Item 7.C of the Consent Agreement provides as follows:

If the Executive Secretary determines that the CIR has omitted any information, content requirements, or failed to meet the performance standards or objectives mandated by Item 6.A, the Executive Secretary will so advise DUSA by written notice and DUSA will remedy such omission or failure within 30 calendar days of receipt of such notice. If DUSA fails to remedy such omission or failure within such 30 day period, DUSA will pay stipulated penalties in the amount of \$2,000 per calendar day for every day after such period that the CIR remains incomplete, as determined by the Executive Secretary;

WHEREAS, by letter dated October 5, 2010 and hand delivered to DUSA on the same date, the Co-Executive Secretary notified DUSA of his determination that the CIR is incomplete (October 5, 2010 DRC Notice). As a result of this determination under Item 7.C of the Consent Agreement, DUSA is to remedy such omissions in the CIR on or before November 4, 2010;

WHEREAS, Item 11 of the Consent Agreement provides as follows:

The deadline stipulated in items 7.A – 7.D may be amended by prior written mutual agreement of the parties. The party requesting the amendment must write to the other party 14 days before the stipulated deadline and request an amendment of the deadline. The other party will either agree to or deny the amendment in writing within 10 days;

WHEREAS, the October 5, 2010 DRC Notice also directed DUSA to take one of the following actions, in accordance with the Consent Agreement:

- 1) perform a number of additional studies suggested by DRC under a revised CIR that could be submitted to the Co-Executive Secretary for review and approval;
- 2) opt to request to amend the 30-day deadline for DUSA to submit a revised CIR, pursuant to Item 11 of the Consent Agreement; or
- 3) opt to request amendment of the Consent Agreement (under Item 11) to provide a schedule for submittal of performance standards and a Corrective Action Plan for the nitrate contamination for Co-Executive Secretary approval under Item 8 of the Consent Agreement;

WHEREAS, by an email transmitted to the Co-Executive Secretary on October 20, 2010, and pursuant to Item 11 of the Consent Agreement, DUSA requested an amendment to the deadline stipulated in item 7.C of the Consent Agreement, which required that Denison must remedy any omissions in, content requirements of, or failure to meet any performance standards or objectives relating to the CIR mandated by Item 6.A of the Consent Agreement, within 30 calendar days of receipt of the October 5, 2010 DRC Notice (*i.e.*, November 4, 2010). Instead, DUSA requested item 7.C be amended as follows:

- a. DUSA representatives will meet with the Co-Executive Secretary and his legal counsel within two weeks from the date of the email to discuss the legal responsibilities of DUSA with respect to the nitrate contamination;
- b. Once the legal responsibilities of DUSA with respect to the nitrate contamination have been determined, DUSA will, within 30 days after such a determination is made, submit to the Co-Executive Secretary for approval a plan and schedule to perform any further investigations that may be required in order to remedy any such omissions, content requirements or failures of performance standards, and to submit a revised CIR; and
- c. DUSA will perform such investigations and submit a revised CIR in accordance with the agreed upon plan and schedule;

WHEREAS, on October 26, 2010, DUSA met with the Co-Executive Secretary, DRC staff and legal counsel (October 26, 2010 Meeting) to discuss DUSA's legal obligations with respect to the nitrate contamination. At the meeting, DUSA reported that it was premature to submit a schedule for submittal of performance standards and a Corrective Action Plan for the nitrate contamination. In turn, DUSA presented a new theory for a possible source of the nitrate and chloride contamination beneath the Mill, based on DUSA's review of the scientific literature (New Theory). Based on this New Theory, DUSA suggested that the nitrate contamination source is or could be caused by naturally occurring nitrate and chloride salt deposits located in the vadose zone near or beneath the Mill site area, which have been mobilized by natural and/or artificial recharge. The parties agreed that this New Theory warrants additional investigation, along with certain of the other additional studies suggested in the October 5, 2010 DRC Notice;

WHEREAS, as agreed at the October 26, 2010 meeting, DUSA submitted via email on November 15, 2010, a letter setting out the additional studies to be considered that have been identified to date, including the additional studies suggested in the October 5, 2010 DRC Notice, proposed additional studies relating to the New Theory, and any other additional studies that

DUSA believes may be relevant. In the November 15, 2010 letter, DUSA proposed that a meeting be held on November 30, 2010 between DRC Staff and DUSA technical and regulatory staff to discuss the foregoing studies and any associated matters, to agree on the studies to be performed and the manner of performing those studies, and to develop a plan and schedule for performing such studies and for submittal of a revised CIR;

WHEREAS the meeting contemplated in DUSA's November 15, 2010 letter was held on November 30, 2010, among DRC Staff and DUSA technical and regulatory staff. At that meeting, DUSA presented a number of additional studies (herein "Additional Studies") to be performed by DUSA in order to complete the CIR. The Additional Studies were in addition to the New Theory. The Co-Executive Secretary and DUSA further agreed that DUSA would prepare a detailed plan and schedule (the "Plan and Schedule") for performing such studies and for submittal of a revised CIR that meets the requirements of all applicable regulations on or before February 15, 2011. The February 15, 2011 date for submittal of the Plan and Schedule is somewhat later than the original 30 days proposed by DUSA in its October 20, 2010 email to the Co-Executive Secretary, due to the complexity of certain of the Additional Studies to be performed. During the November 30, 2010 meeting it was agreed that both the Plan and Schedule and the revised CIR will be subject to Co-Executive Secretary approval;

WHEREAS, via email correspondence between October 29 and December 13, 2010 the parties exchanged various drafts of the Tolling Agreement;

WHEREAS, in lieu of proceeding further under Item 11 of the Consent Agreement, and amending any deadlines pursuant to Item 7.C, or pursuing dispute resolution under Item 13 of that agreement, the parties desire to give themselves time for:

- (a) DUSA to prepare and submit the Plan and Schedule, which addresses both the New Theory and the Additional Studies, to the Co-Executive Secretary for approval. The performance objectives for said Plan and Schedule and revised CIR shall meet all applicable regulatory requirements, including those identified in the Consent Agreement, Item 6(A)(vi).
- (b) the Co-Executive Secretary to review and approve the Plan and Schedule, with any modifications deemed necessary by the Co-Executive Secretary; and
- (c) the Co-Executive Secretary and DUSA to agree on a revised or replacement Consent Agreement that incorporates the deliverables and timelines set out in the approved Plan and Schedule; and

WHEREAS, the parties acknowledge that the covenants and forbearance under this Agreement constitute adequate and sufficient consideration.

NOW, THEREFORE, in consideration of the promises contained herein, the parties to this Agreement do hereby stipulate, covenant, and agree as follows:

1. Calculation of any time period or monetary penalty by the Co-Executive Secretary under Item 7.C of the Consent Agreement shall:

- a) Not include the period from January 4, 2010 (submittal of the CIR to DRC) through October 5, 2010 (delivery of the DRC Notice to DUSA);
- b) Not include the period from October 5 to October 20, 2010 (whereby DUSA requested amendment of the Consent Agreement pursuant to Item 11);
- c) Not include the period from October 20, 2010, through the effective date of this Tolling Agreement; and
- d) Include the earlier of either: (i) the Effective Date of Termination of this Agreement as defined in paragraph 6, or (ii) the Automatic Termination Date as defined in paragraph 6, below.

Commencing January 4, 2010 and ending on the date specified in subparagraph 1.d, above, inclusive, is herein referred to as the "Tolling Period".

Stipulated Penalties have not begun to accrue under Item 7.C of the Consent Agreement, and shall not accrue during the Tolling Period.

3. On or before February 15, 2011, DUSA shall complete and submit for Co-Executive Secretary review and approval the Plan and Schedule. DUSA agrees that the Plan and Schedule will include:

- a. a logic diagram to identify all studies and decision processes that may be required to meet all applicable regulatory requirements including the performance objectives of the Consent Agreement, Item 6(A)(vi).
- b. a schedule including timelines for the commencement and completion of all studies identified above, and delivery of a revised CIR for Co-Executive Secretary review and approval.

4. The Co-Executive Secretary shall provide his initial comments on the Plan and Schedule on or before March 15, 2011, and DUSA and the Co-Executive Secretary will cooperate to finalize the Plan and Schedule as expeditiously thereafter as reasonably practicable.

5. DUSA and the Co-Executive Secretary shall cooperate to negotiate and finalize and execute a revised or replacement Consent Agreement that incorporates the Plan and Schedule, as soon as reasonably practicable after the Plan and Schedule has been finalized and approved by the Co-Executive Secretary. The revised or replacement Consent Agreement will contain a provision to the effect that DUSA will pay to DRC the reasonable fees payable by DRC to the URS Corporation for consulting services to be rendered by the URS Corporation in support of its review of the Plan and Schedule and revised CIR on behalf of DRC, based on an estimate or estimates of such services approved by DUSA.

6. This Agreement shall terminate on the earlier of: (a) April 30, 2011 ("Automatic Termination Date") unless extended by prior written agreement executed by the parties; and (b) the date of execution and delivery of the revised or replacement Consent Agreement contemplated by paragraph 5 above. Prior to the Automatic Termination Date, any party may

terminate this Agreement for any reason and without cause by sending a written termination notice to the other party ("Termination Notice"). Such Termination Notice shall be sent to the other party by certified mail or registered mail, return receipt requested, using the addresses indicated below. Termination shall not be effective until five (5) days after the date the Termination Notice is received by the other party (the "Effective Date of Termination"), as indicated by the return receipts. The Tolling Period shall extend only to the earlier date of: (a) the Effective Date of Termination, or (b) the Automatic Termination Date.

7. The undersigned representatives of the parties certify that they are authorized to enter into the terms and conditions of this Agreement, and to execute for and bind the party whom he represents.

The addresses and persons to whom notice is to be given are as follows:

If to DUSA:

David C. Frydenlund
Vice President and Counsel
Denison Mines (USA) Corp.
1050 17th Street, Suite 950
Denver, CO 80265

If to the Co-Executive Secretary:

Rusty Lundberg
Co-Executive Secretary
Utah Water Quality Board
195 North 1950 West
Salt Lake City, Utah 84116

With a copy to:

Assistant Attorney General Denise Chancellor,
Office of Attorney General
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, Utah 84114-0873

9. Subject to all other terms of this Agreement, the parties reserve all existing rights, privileges, defenses and contentions which exist as against each other, and enter into this Agreement without prejudice to or waiver of those rights, privileges, defenses, or contentions.


10. This Agreement may not be modified except in writing and signed by the parties to this Agreement.

11. This Agreement shall continue in full force and effect until the earlier of the Effective Date of Termination or the Automatic Termination Date, as defined in paragraph 6 of this Agreement.

12. The parties acknowledge that they have had the opportunity to consult with counsel, and have consulted with counsel, prior to executing this Agreement.


Rusty Lundberg
Co-Executive Secretary
UTAH WATER QUALITY BOARD

Date: 12/15/2010

DENISON MINES (USA) CORP.
By: 
David C. Frydenlund, Esq.
Vice President and Counsel

Date: December 15, 2010