

DH



State of Utah

JON M. HUNTSMAN, JR.  
Governor

GARY HERBERT  
Lieutenant Governor

Department of  
Environmental Quality

Richard W. Sprott  
Executive Director

DIVISION OF RADIATION CONTROL  
Dane L. Finerfrock  
Director



January 28, 2009

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. David C Frydenlund  
Vice President and General Counsel  
Denison Mines (USA) Corp. (DUSA)  
1050 Seventeenth St. Suite 950  
Denver, Colorado, 80265

Subject: Nitrate Contamination Investigation and Corrective Action Plan, White Mesa Uranium Mill  
Near Blanding, Utah. **Stipulated Consent Agreement.**

Dear Mr. Frydenlund:

On January 26, 2009 the Utah Division of Radiation Control received the final Stipulated Consent Agreement (SCA) for the Nitrate Contamination Investigation and Corrective Action Plan for the White Mesa Uranium Mill near Blanding, Utah, signed by DUSA.

For your records, enclosed with this letter is an executed copy of the SCA with Co-Executive Secretary signature. Therefore, the SCA is now in force.

We appreciate your cooperation in this matter.

UTAH WATER QUALITY BOARD

Dane L. Finerfrock  
Co-Executive Secretary

DLF/DCH

Enclosure: STIPULATED CONSENT AGREEMENT (DOCKET NUMBER UGW09-03)

UTAH WATER QUALITY BOARD



IN THE MATTER OF  
DENISON MINES  
(USA) CORP.  
1050 17<sup>th</sup> Street, SUITE 950  
DENVER, COLORADO 80265

: DOCKET No. UGW09-03  
  
: STIPULATED  
CONSENT AGREEMENT

This **STIPULATED CONSENT AGREEMENT** (hereinafter "**AGREEMENT**") is between **DENISON MINES (USA) CORP.** (hereinafter "**DUSA**") and the **UTAH WATER QUALITY BOARD** (hereinafter "**BOARD**"), concerning potential violations of the *Utah Water Quality Act, (the "Act")*, including sections 19-5-104, -106, -111 and -115, *Utah Code Annotated ("UCA")* and in accordance with the *Utah Administrative Procedures Act, UCA 63G-4-101 to -601.*

1. The **BOARD** has authority to administer the *Utah Water Quality Act*.
2. The **CO-EXECUTIVE SECRETARY** of the **BOARD** (hereinafter the "**EXECUTIVE SECRETARY**") will administer the terms and provisions of this **AGREEMENT**. *Utah Code Ann. § 19-5-115.*
3. The parties now desire to resolve this matter fully without further administrative proceedings except to the extent provided herein by entering into this **AGREEMENT**.
4. This **AGREEMENT** does not in any way relieve **DUSA** from any other obligation imposed under the Act or any other State or Federal laws, rules and regulations.
5. **DUSA** accepts the following facts and stipulations:
  - A. UCA § 19-5-107(1)(a) requires that "[e]xcept as provided in this chapter or rules made under it, it is unlawful for any person to discharge a pollutant into waters of the state or to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water, or to place or cause to be placed any wastes in a location where there is probable cause to believe it will cause pollution."
  - B. In accordance with the requirements of the Utah Administrative Code ("UAC") Ground Water Quality Protection R317-6-6.15(C)(1): "The Executive Secretary may require a person that is subject to R317-6-6.15 to submit for the Executive Secretary's approval a Contamination Investigation and Corrective Action Plan, and may require implementation of an approved Corrective Action Plan.
  - C. **DUSA** receives and processes natural uranium-bearing ores including certain specified alternate feed materials, and possesses byproduct material in the form of uranium waste tailings and other uranium byproduct waste generated by the licensee's milling operations. This facility is located approximately 6 miles south of Blanding, Utah on White Mesa in Sections 28, 29, 32, and 33, Township 37 South, Range 22 East, Salt Lake Baseline and Meridian, San Juan County, Utah.
  - D. In a letter dated September 30, 2008, the Executive Secretary determined that multiple groundwater quality samples collected from the shallow aquifer in five (5) monitoring wells

at the White Mesa uranium mill exhibited nitrate + nitrite (as Nitrogen) [hereafter "Nitrate"] concentrations in excess of the 10 mg/l Utah Ground Water Quality Standard (hereafter "GWQS"). The groundwater quality samples were collected and analyzed by DUSA as early as the second Quarter, 2005 monitoring event (June 22, 2005) from wells MW-30 and MW-31, (May 25, 2005) from well TW4-22, and more recently from wells TW4-24, and TW4-25.

E. Attached to a cover letter dated November 19, 2008 DUSA submitted to the DRC a November, 2008 document entitled "Plan and Schedule for Nitrate Contamination Investigation Report and Groundwater Corrective Action Plan" prepared by its consultant, INTERA Inc. (hereinafter "INTERA Plan"). The INTERA Plan is hereby incorporated by reference.

6. DUSA agrees to the following:

A. DUSA will complete a nitrate contamination investigation of the shallow aquifer at White Mesa and submit a Contaminant Investigation Report (hereinafter "CIR") in accordance with the INTERA Plan, with the following exceptions:

- i.) In the event there is any conflict between the INTERA Plan and the requirements of UAC R317-6-6.15(D), the mandates of R317-6-6.15(D) shall prevail.
- ii.) Interim progress reports outlined in section 2.2.2, section 4, and items 3 through 12 listed in Table 1 in section 5 of the INTERA Plan are not required. Instead, a final written CIR shall be submitted for Executive Secretary approval on or before January 4, 2010.
- iii.) All monitoring wells installed in preparation of the CIR and/or any Corrective Action Plan shall be permanent and constructed in accordance with UAC R317-6-6.3(I)(6).
- iv.) All ground water monitoring, sampling and analysis conducted for the CIR will comply with the currently approved Quality Assurance Plan, mandated by Part I.E.1(a) of Denison's Utah Ground Water Discharge Permit, No. UGW370004.
- v.) All shallow aquifer equipotential or isoconcentration maps prepared shall be based on groundwater head or quality samples that are contemporaneous with one another: i.e. within 5 calendar days.
- vi.) CIR Performance Standards and Objectives – the CIR required by Item 5.A shall meet the following minimum performance standards and objectives upon submittal to the Executive Secretary on or before January 4, 2010:
  - a) Nitrate Plume Definition – all nitrate isoconcentration map(s) included in the CIR will be based on representative groundwater quality data, will be prepared in accordance with commonly accepted professional practice, and will fully surround the nitrate plume in the shallow aquifer, as follows:
    - i) The map will include, but is not limited to, a 10 mg/l isoconcentration line that fully and completely encloses and circumscribes the zone of nitrate contamination, and
    - ii) The isoconcentration line will be based on an adequate number of groundwater quality samples and spacing of monitoring wells, both inside and outside the 10 mg/l isoconcentration line, as determined by the Executive Secretary.
  - b) Nitrate Source Characterization – DUSA will conduct all tests and characterization necessary to determine the physical cause(s), location(s), transfer mechanism(s) and

characteristics of all the source(s) of the nitrate contamination in order to either form a basis for and facilitate later submittal of a DUSA Corrective Action Plan that meets the requirements of UAC R317-6-6.15E, or to demonstrate conclusively that DUSA did not cause or contribute to the Nitrate contamination in any manner and that, as a result, such a Corrective Action Plan is not necessary.

- vii.) The CIR will be performed under the direction of and bear the seal of a Professional Engineer or Professional Geologist, as required under UAC R317-6-6.15.D(3),
- B. During the CIR investigation activities, DUSA will provide a written notice to the Executive Secretary at least 10 calendar days prior to all drilling, well completion, aquifer permeability testing, and groundwater sampling activities. DUSA will allow the Executive Secretary the opportunity to inspect these activities and split sample groundwater as the Executive Secretary deems necessary.
7. DUSA agrees to pay stipulated penalty amounts for partial compliance or non compliance with this **STIPULATED CONSENT AGREEMENT**. If DUSA fails to comply or only partially complies with the terms in paragraphs 6 and 8 of this **STIPULATED CONSENT AGREEMENT**, DUSA agrees to pay the stipulated amounts set fourth below within 30 days of demand by the **EXECUTIVE SECRETARY**:
  - A. If DUSA fails to provide prior written notice, as required in Item 6.B, DUSA agrees to pay stipulated penalties in the amount of \$500 per calendar day.
  - B. If DUSA fails to submit the CIR on or before the deadline required in Item 6.A, DUSA agrees to pay stipulated penalties in the amount of \$500 per calendar day.
  - C. 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.
  - D. If DUSA fails to enter into the Stipulated Consent Agreement (hereinafter "SCA") referenced in paragraph 8 within 30 days after Executive Secretary approval of the CIR required by Item 5 and a determination by the Executive Secretary that a Corrective Action Plan is required, DUSA will pay stipulated penalties in the amount of \$7000 per calendar day for every day thereafter that the SCA remains unsigned, unless failure of DUSA to sign the SCA within such time period is caused by actions or inactions of the Executive Secretary.
8. DUSA agrees that after Executive Secretary approval of the CIR required by Item 5 and a determination by the Executive Secretary that a Corrective Action Plan is required, DUSA will enter into a new SCA. The Division will prepare the SCA with agreed upon performance standards and schedule for submittal of a groundwater Corrective Action Plan for Executive Secretary approval. DUSA will sign the SCA within 30 days after Executive Secretary Approval of the CIR and Executive Secretary determination that a Corrective Action Plan is required, unless DUSA is prevented from doing so by any actions or inactions of the Executive Secretary.
9. DUSA agrees to pay any required penalties within 30 days of written notice from the **EXECUTIVE SECRETARY**, in the form of a check, made payable to the State of Utah, and delivered or mailed to:

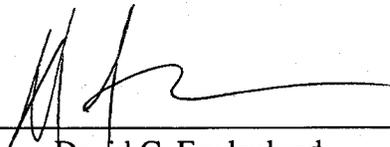
Division of Radiation Control  
Utah Department of Environmental Quality  
P.O. Box 144850  
168 North 1950 West  
Salt Lake City Utah, 84114-4850

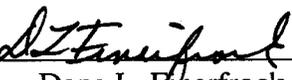
10. The **BOARD** will view completion of the requirements as outlined in this **STIPULATED CONSENT AGREEMENT** as compliance with the **AGREEMENT**.
11. The deadline stipulated in items 7.A – 7.D may be amended by prior written mutual agreement of the parties. The party requesting the amendment must 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.
12. Nothing contained in this **AGREEMENT** shall preclude the **BOARD** from taking additional actions to include additional penalties against **DUSA** for permit violations not resolved by this **AGREEMENT**.
13. If an agreement between **DUSA** and the **EXECUTIVE SECRETARY** cannot be reached in a dispute arising under any provision of this **AGREEMENT**, **DUSA** or the **EXECUTIVE SECRETARY** may commence a proceeding with the **BOARD** under the *Administrative Procedures Act* to resolve the dispute. A final decision in any adjudicative proceeding shall be subject to judicial review under applicable state law.
14. Nothing in this **AGREEMENT** shall constitute a waiver by **DUSA** to raise in defense any legal or factual contention for future allegations of noncompliance.
15. Nothing in this **AGREEMENT** shall constitute or be considered as a release from any claims, to include natural resource damage claims, cause of action, or demand in law or equity which the **STATE** may have against **DUSA**, or any other person, firm, partnership or corporation for any liability arising out of or relating in any way to the release of pollutants to waters of the State.
16. While the **BOARD** is presently not considering additional enforcement actions for any past or ongoing violations, nothing in this **AGREEMENT** shall preclude the **BOARD** from taking such actions to include other penalties against **DUSA** for violations of the ACT or permit violations not resolved by this **AGREEMENT**.

AGREED to this 27<sup>th</sup> day of January, 2009.

**DENISON MINES (USA) CORP.**

**UTAH WATER QUALITY BOARD**

By   
David C. Frydenlund  
Vice President and Counsel  
Denison Mines (USA) Corp.

By   
Dane L. Fierfrock  
Co-Executive Secretary