



File Code: 2720; 2820
Date: September 1, 2023

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Dan Darlington
Mine Manager, Smoky Canyon Mine
J.R. Simplot Company
1890 Smoky Canyon Road
Afton, WY 83110

NOTICE OF NONCOMPLIANCE

Dear Mr. Darlington,

On or about May 11, 2023, J.R. Simplot Company (Simplot) discovered a small lead leak in the Smoky Canyon Mine to Don Plant (Pocatello, Idaho) phosphate ore slurry pipeline and reported it to the Forest Service. The original estimate concluded approximately five gallons of materials had spilled. Subsequent to the initial report, on or about August 4, 2023, Simplot reported that a larger volume of slurry had been released than originally thought. Evidence of the spillage was observed as far as 2.5 miles downgradient from the pipeline leak site.

This notice is formal notification that you are in noncompliance with the terms and conditions of the October 26, 2010, special use permit SSC51 issued to you for the purpose of transporting phosphate ore slurry via pipeline.

Specifically, you are in noncompliance with the following terms and conditions of your special use permit:

Clause III (C) OPERATING PLAN

“The holder shall prepare and annually revise by April for inclusion in the annual operations report an operating plan. The operating plan shall be prepared in consultation with the authorized officer or the authorized officer's designated representative and shall cover all operations authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's operations for compliance with the terms and conditions of this permit. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer's designated representative prior to commencement of operations and shall be attached to this permit as an appendix. The authorized officer may require an annual meeting with the holder to discuss the terms and conditions of the permit or operating plan, annual use reports, or other concerns either party may have.”

Simplot has not provided the required annual updates to the pipeline operating plan as part of the annual operations reports.



Clause IV (G) HEALTH, SAFETY, AND ENVIRONMENTAL PROTECTION

“The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any activity or condition arising out of or relating to the authorized use or occupancy that causes or threatens to cause a hazard to public health or the safety of the holder's employees or agents or harm to the environment (including areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources). The holder shall prevent impacts to the environment and cultural resources by implementing actions identified in the operating plan to prevent establishment and spread of invasive species. The holder shall immediately notify the authorized officer of all serious accidents that occur in connection with such activities. The responsibility to protect the health and safety of all persons affected by the use or occupancy authorized by this permit is solely that of the holder. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations and activities of the holder for hazardous conditions or compliance with health and safety standards.”

The pipeline breach has caused or threatened to cause a hazard to public health or the safety of the holder's employees or agents or harm to the environment (including areas of vegetation or timber, fish, or other wildlife populations, their habitats, or any other natural resources). The degree and extent of the damage has not yet been assessed or reported by Simplot. We readily and gratefully acknowledge Simplot's immediate notice to the Authorized Officer as soon as the pipeline breach and the slurry spill were discovered.

The Code of Federal Regulations, at 36 CFR 251.60(e), also requires: “Except when immediate suspension pursuant to paragraph (f) of this section is indicated, the authorized officer shall give the holder written notice of the grounds for suspension or revocation under paragraph (a) of this section and reasonable time to cure any noncompliance, prior to suspension or revocation pursuant to paragraph (a) of this section.”

To cure your noncompliance, you must:

1. Continue to coordinate with the Forest Service and other jurisdictional agencies to assess the potential harm resulting from the slurry released to the environment.
2. In writing, submit a report that describes the pipeline breach, the estimated volume of slurry released and potential hazards of the slurry to the environment and to human health. The report should include the results of any environmental sampling undertaken by Simplot since the breach occurred.
3. In writing, submit a proposed response action plan that describes how Simplot proposes to address the released slurry, and measures to prevent future pipeline breaches. Include any system or design failures that contributed to the pipeline breach and allowed the slurry reduction in the pipeline to go unnoticed, and how those will be corrected by Simplot.

If the above noncompliance items are not remedied by October 1, 2023, I will recommend to the Caribou-Targhee National Forest Supervisor that revocation action be taken on your special use permit.

If you have questions or find any of the above to be in error, please contact me immediately. I will be glad to meet with you.

Sincerely,

A handwritten signature in cursive script that reads "Christopher J. Colt".

CHRISTOPHER COLT
Acting District Ranger

cc: Jennifer Cornell, Idaho Department of Environmental Quality
Lori Lusty, Simplot
Brandon McLaughlin, Bureau of Land Management
Nick Nielsen, Idaho Department of Environmental Quality
Ron Quinn, Simplot
Shawn Storbo, Regional Office
Bill Stout, Bureau of Land Management
Ben Swaner, Supervisors Office