



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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In Reply Refer To:

3809 (NV0100)

NVN-067881(11-1A)

DOI-BLM-NV-B010-2013-0066-EA

SEP 21 2015

CERTIFIED MAIL NO.: 7010 1670 0001 5008 7537

Return Receipt Requested

DECISION

Tonkin Springs, L.L.C.
Attn: Jim Smithson,
Environmental Manager
1595 Meadow Wood Lane, Suite 3
Reno, NV 89502

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Surface Management

Tonkin Springs Mine Final Plan for Permanent Closure Approval Determination of Required Financial Guarantee

INTRODUCTION

The Bureau of Land Management (BLM) has evaluated the Amendment to the Plan of Operations (APO) titled *Amendment to Plan of Operations #NVN-067881 – Final Plan for Permanent Closure for the Tonkin Springs Mine* and has prepared an Environmental Assessment (EA), DOI-BLM-NV-B010-2013-0066-EA that analyzes the affected environment, environmental impacts, and identifies environmental protection measures associated with Tonkin Springs LLC (TSLLC) Tonkin Springs Mine permanent closure (Project). The final APO was submitted on February 10, 2014, in accordance with the BLM Surface Management Regulations 43 Code of Federal Regulations (CFR) 3809, as amended. It has been assigned BLM case file number NVN-067881(11-1A). The Project includes approximately 3,000 acres of public land administered by the U.S. Department of the Interior, Bureau of Land Management, Mount Lewis Field Office. The Project is located in Eureka County, Township 23.5 North, Range 49 East, Sections 2, 3, and 4, and in Township 24 North, Range 49 East, Sections 20, 21, 27, 28, 29, 32, 33, and 34, Mount Diablo Baseline and Meridian (MDB&M).

BACKGROUND

TSLLC proposes an amendment (NVN-067881(11-1A)) to their existing approved Tonkin Springs Mine Plan of Operations, located in north-central Nevada approximately 40 miles northwest of Eureka, Nevada, in Eureka County. The APO was submitted to the BLM and the Nevada Division of Environmental Protection (NDEP) Bureau of Mining Regulation and

Reclamation (BMRR) on January 28, 2011 and was revised on February 10, 2014, in accordance with BLM Surface Management Regulations 43 Code of Federal Regulations (CFR) 3809, as amended, and Nevada reclamation regulations at Nevada Administrative Code (NAC) 519A. The purpose of the APO is to fully close the remaining mine facilities at the Tonkin Springs Mine. Closure modifications discussed in the APO, include decommissioning and clean-closing the tailings impoundment, relocating sulfide ore stockpiles and the TSP-1 waste rock dump, backfilling the TSP-1 open pit, and constructing a new evaporation pond for post-closure fluid management of TSP-1 seepage water and heap leach pad draindown.

PUBLIC INVOLVEMENT

Native American tribal consultation invitation/initiation letters were sent on June 13, 2014 to the following: Te-Moak Tribe of the Western Shoshone, Battle Mountain Band, South Fork Band, Elko Band, and the Duckwater Tribe. No site visits were requested by the tribes.

The EA was made available for a 30-day public comment period ending on July 14, 2014. Notifications of the availability of the EA were sent to persons and agencies on the project mailing list and the EA was posted on the Battle Mountain District ePlanning webpage. No comments were received from the public or other Federal, state, or local agencies.

All correspondence relative to this planning process is part of the public record and available for review at the Mount Lewis Field Office.

DECISION

1. As a result of the analysis presented in the EA and making a Finding of No Significant Impact (FONSI), it is the Decision of the Authorized Officer to select the Proposed Action as the BLM's Preferred Alternative and approve the APO with the financial guarantee requirements. The BLM approval of the APO will be subject to operating, reclamation and monitoring measures committed to by TSLLC in the APO, the performance standards set forth in 43 CFR 3809.420, and the Applicant-Committed Environmental Protection Measures (EPMs) as set forth in the EA and restated in this Decision under the Conditions of Approval.

Approval of the APO by the BLM does not constitute a determination regarding the validity or ownership of any unpatented mining claims involved in the exploration operation. TSLLC is responsible for obtaining any use rights or local, state or federal permits, licenses or reviews that may be required before operations begin.

This decision also constitutes concurrence with TSLLC's use and occupancy of public lands as described in the approved APO. TSLLC must maintain compliance with the Use and Occupancy regulations at 43 CFR 3715.2, 43 CFR 3715.2-1 and 43 CFR 3715.5 throughout the duration of the approved APO. Concurrence by BLM on TSLLC's proposed use and occupancy is not subject to State Director review, but may be appealed by adversely affected parties directly to the Interior Board of Land Appeals as outlined in enclosed BLM form 1842-1.

FINANCIAL GUARANTEE

This office has determined that the amount of **\$3,604,503.00** is sufficient to meet all anticipated reclamation requirements. The amount of the reclamation cost estimate is based on the operator complying with all applicable operating and reclamation requirements. The financial guarantee provides surface reclamation coverage for operations conducted by the principal on lands in Nevada governed by 43 CFR 3809. Line items in the approved reclamation cost estimate are not to be considered as the limits of the reclamation expenditures should forfeiture of the financial guarantee be necessary. The line items listed are solely for the purpose of arriving at a total amount for the financial guarantee. This amount may be spent as the BLM deems necessary to implement the approved reclamation plan. Nor does the financial guarantee amount represent reclamation liability limits or constraints should the actual cost of reclamation exceed this amount.

Within sixty (60) days of receipt of this Decision, the operator must submit an acceptable financial guarantee in the amount of **\$3,604,503.00** to the Bureau of Land Management, Branch of Minerals Adjudication, 1340 Financial Blvd., Reno, NV 89502-7147. You must receive written notification from that office accepting and obligating your financial guarantee before you may begin the amended actions. Failure to provide an acceptable financial guarantee within the specified time frame will result in an enforcement action against the operator for failure to maintain an acceptable financial.

This amount is subject to change pending further review by the BLM and the Nevada Division of Environmental Protection, Bureau of Mining Regulation and Reclamation (NDEP-BMRR).

LONG-TERM FUNDING MECHANISM

Pursuant to the Guidelines for Establishing a Long Term Funding Mechanism (LTFM) and in accordance with 43 CFR 3809.552(c), the BLM may determine that a LTFM will be required for post-reclamation obligations (including long-term monitoring and mitigation) associated with the closure process of the Tonkin Springs Mine Final Plan for Permanent Closure. When BLM identifies a need for the LTFM, TSLLC shall establish a trust fund or other funding mechanism to ensure the continuation of long-term treatment to achieve water quality standard and for other long-term post-mining maintenance requirements.

2. CONDITIONS OF APPROVAL

Air Quality

The dust from the use of roads and excavation activities would be minimized to the extent acceptable by the Authorized Officer (AO) by using BMPs such as minimizing vehicular traffic, using prudent vehicle speeds (i.e., 15 to 25 miles per hour), and watering to minimize fugitive dust. Water used for dust control would be obtained from an existing well.

Solid Wastes and Hazardous Substances

Pursuant to 43 CFR 8365.1-1 (b)(3), no sewage, petroleum products, or refuse will be dumped from any trailer or vehicle. Regulated wastes will be removed from the Project and disposed of in a state, federally, or locally designated area. All refuse generated during the Project will be removed and disposed of in the existing Class III landfill or nearest licensed facility, consistent with applicable regulations. No refuse will be disposed of or left on-site.

Water Quality

Sediment control structures could include, but not be limited to, fabric and/or hay bale (certified weed-free) filter fences, or filter berms, mud pits, and downgradient drainage channels in order to prevent unnecessary or undue degradation to the environment. TSLLC will follow the Spill Contingency Plan identified in the APO.

Spill Contingency

Spills or releases will be managed using source control including up-righting tipped containers, shutting off valves, turning off pumps, and plugging holes in containments where the pressure and flow is low, and flow diversion. Earth-moving equipment will be mobilized to construct berms to contain releases, and once contained all impacted soils will be excavated and properly disposed of in a suitable location. Other temporary emergency containment or diversion methods include straw bales and booms, absorbent pads, diversion ditches and liners. Depending upon the magnitude and type of release, notification to one or all of the following agencies is required: Nevada Division of Environmental Protection, Nevada Division of Emergency Management and/or National response Center. It is the responsibility of TSLLC to make appropriate notifications.

Erosion Prevention and Control

TSLLC will conduct closure operations so as to minimize soil erosion. Equipment will not be operated when ground conditions are such that excessive rutting or increased sediment transport will occur. Best Management Practices (BMPs) will be utilized to control erosion and sedimentation. BMPs for sediment control will be employed during construction, operation, and reclamation to minimize sedimentation of disturbed areas. Sediment control structures may include, but not be limited to, fabric and/or certified weed free straw bale filter fences, siltation or filter berms, mud sumps, and downgradient drainage channels in order to prevent unnecessary or undue degradation to the environment. In order to control erosion from roads and construction sites, and from the unlikely event of excavation cuttings being released, certified weed-free straw bales and silt fences will be placed in drainages to capture sediment, where required.

Public Safety

Public safety will be maintained throughout the life of the Project. All equipment and other facilities will be maintained in a safe and orderly manner. All project-related traffic will observe speed limits to enhance public safety, protect wildlife and livestock, and minimize dust emissions. All activities will be conducted in conformance with applicable federal and state health and safety requirements.

TSLLC would protect fences, gates, stock ponds, and other range improvements within the Project Area. Gates would be closed and/or locked as appropriate.

Fire Management

The following precautionary measures will be taken by TSLLC to prevent wildland fires:

All equipment will be properly muffled and equipped with suitable and necessary fire suppression equipment, such as fire extinguishers and hand tools. Adequate fire-fighting equipment (i.e. shovel, pulaski, extinguishers), and/or an ample water supply will be kept at the site. Vehicle catalytic converters will be inspected often and cleaned of all brush and grass debris. When conducting welding operations, the operations will be conducted in an area free from, or mostly free from, vegetation. An ample water supply and shovel will be on hand to extinguish any fires created from the sparks. Extra personnel will also be at the welding site to watch out for fires created by welding sparks. Wildland fires will be reported immediately to the BLM Central Nevada Interagency Dispatch Center at (775) 623-3444. When conducting operations during the months of May through September, TSLLC will contact the Battle Mountain District (BMD), Division of Fire and Aviation to determine if any fire restrictions are in place for the area of operation and to advise the BLM of approximate beginning and ending dates for the activities.

Noxious Weeds, Invasive and Non-native Species

The following measures will be taken by TSLLC to prevent the spread of noxious weeds.

In accordance with the BLM Integrated Weed Management Program the following precautionary measures will be taken to prevent the spread of noxious weeds: Noxious weeds will be controlled by washing vehicles and equipment that come from outside of northern Nevada with high-pressure sprayers prior to mobilizing to the Project. Vehicle washing will be performed in Elko or Eureka, Nevada. On-site personnel will be provided with Nevada Department of Agriculture (NDOA) and University of Nevada Cooperative Extension (UNCE) weed identification information. Roads within the Project will be reseeded with a BLM approved certified weed free seed mix. Reseeding will be consistent with all BLM recommendations for mix constituents, application rates, seeding methods, and seeding periods. If noxious weeds were introduced as a result of the Project, eradication measures will be done in a manner as to avoid impacts to wildlife species. If herbicides are necessary, herbicide use will be timed to take place during the appropriate growth cycle of the targeted noxious weed, and herbicides will be applied strictly in accordance with the manufacturer's specifications.

Wildlife (including special status species and migratory birds)

Land clearing and surface disturbance will be timed to prevent destruction or disturbance of active bird nests or birds during the avian breeding season (March 1 through July 31 for raptors, and April 1 through July 31 for other avian species). If Project activities are unavoidable during this period, clearance surveys for nesting birds and raptors would need to be completed by a qualified wildlife biologist prior to conducting Project activities. Clearance surveys would include an appropriate buffer zone determined by a BLM wildlife biologist. All nesting bird surveys are valid for 14 days; if project activities do not begin before the surveys expire, then the surveys must be performed again. If active nests are located, or if other evidence of nesting (i.e., mated pairs, territorial defense, carrying nest material, transporting food) is observed, a protective buffer (the size depending on the habitat requirements of the species) would be delineated during consultation with the BLM resource specialist. The site characteristics to be used to determine the size of the buffer area are as follows: 1) topographic screening; b) distance from disturbance to nest; c) the size and quality of foraging habitat surrounding the nest; d) sensitivity of the species to nest disturbances; and e) the protection status of the species. The buffer area would be avoided to prevent destruction or disturbance of nests or birds until they are no longer actively breeding or rearing young. Seasonal disturbance restrictions surrounding occupied nests would remain in place until the young have fledged or the nest fails. After July 31, no further avian surveys would be required until the next avian breeding season.

One active Greater sage-grouse lek is located approximately 3.6 miles southwest of proposed project activities. Project activities will take place outside of the Greater sage-grouse lekking season (March 1-May 15) where possible. If project activities must occur during the lekking season, a BLM wildlife biologist will be consulted and mitigation measures such as timing and noise restrictions may be placed on activities within four miles of the lek.

Ravens are Greater sage-grouse nest predators and can be attracted to areas with anthropogenic disturbance. In order to avoid an increase in raven presence around the site, good housekeeping practices will be implemented. All trash will be placed in secure containers and removed from the site at the end of each workday. Additionally, road-killed wildlife detected along access roads will be promptly removed to avoid encouraging raven presence.

Off-site mitigation for surface disturbance in habitat identified as Preliminary Priority Habitat (PPH) or Preliminary General Habitat (PGH) may be required at a mitigated-area-to-disturbed-area ratio of 2:1 for PGH and 3:1 for PPH. However, this project serves to reclaim disturbed acreage that was the result of a previously approved project for which no off-site mitigation for Greater sage-grouse habitat was required. Additionally, a Memorandum of Understanding entitled, "Regarding the Establishment of a Partnership for the Conservation and Protection of the Greater Sage-Grouse and Greater Sage-Grouse Habitat" was established in 2013 between the BLM, the United States Forest Service- Humboldt-Toiyabe National Forest, the Nevada Department of Conservation and Natural Resources, and mining companies that are members of the Nevada Mining Association. Section II.E.v.b reads, "Site reclamation plans may include

specific measures designed to provide for restoration/rehabilitation or improvement of Greater sage-grouse habitat during the reclamation process. Where such reclamation is found to adequately address some or all of the impacts on Greater sage-grouse, the required mitigation or offsetting may be reduced or eliminated.” (p.4). The proposed Project activities would involve reclamation and restoration of approximately 482 disturbed acres back to sagebrush habitat in Greater sage-grouse PPH, thereby resulting in a net conservation gain for Greater-sage grouse habitat.

Nevada Department of Wildlife (NDOW) identified a golden eagle nest within ten miles of the Project (NDOW 2013). Land clearing or other surface disturbance associated with the activities within the Project will be conducted outside of the raptor nesting season, whenever feasible, to avoid potential destruction or disturbance of nesting raptors at known nests. If surface disturbance occurs during the raptor nesting season (March 1 – July 31) a qualified wildlife biologist will perform a survey for raptor nests within 0.25 mile of the Project boundary. The survey may be an aerial or ground survey and may be performed more than once, at the discretion of the BLM wildlife biologist. If active raptor nests are discovered, a protective buffer will be placed around the nest, wherein no surface disturbing activities will occur during the nesting season. The size of the buffer will be determined by a BLM wildlife biologist and will follow standard guidelines of 0.5 mile for golden eagle and goshawk nests and 0.25 mile for other raptor species.

Wild Horse and Burro

No activities will block access to water by wild horses. Any conflicts or concerns about wild horses associated with the Project will be forwarded to the Mount Lewis Field Office Wild Horse and Burro Specialist immediately.

Cultural Resources

All activities would avoid known cultural resources. Avoidance is the TSLLC-preferred treatment for preventing effects to historic properties (an historic property is any prehistoric or historic cultural site eligible for nomination to the National Register of Historic Places (NRHP)) or an unevaluated cultural resource. TSLLC will use the results of the Class III cultural resources surveys to ensure that sites eligible or unevaluated for the NRHP are appropriately avoided. Avoidance areas will be staked and/or flagged with an approximately 30-meter buffer, as needed and, if necessary, a monitor will be provided during implementation. If cultural resources not previously identified are encountered, TSLLC will immediately cease activities within 300 feet of the discovery, ensure the discovery is appropriately protected, and immediately notify the BLM authorized officer by telephone, followed by written confirmation. Work will not resume and the discovery will be protected until the BLM authorized Officer issues a notice to proceed.

The Archaeological Resources Protection Act (ARPA) codified at 43 CFR § 7, as well as the Native American Graves Protection and Repatriation Act (NAGPRA), codified at 43 CFR § 10, both provide protection for historic properties, cultural resources, and Native American funerary items and/or physical remains located on federal land. In addition, ARPA provides for the assessment of criminal and/or civil penalties for damaging cultural resources. Any unplanned

discovery of cultural resources, human remains, items of cultural patrimony, sacred objects, or funerary items, requires that all activity in the vicinity of the find ceases, and notification be made to the Authorized Officer, Mount Lewis Field Office, 50 Bastian Road, Battle Mountain, NV, 89820 (775 – 635 – 4000), by telephone, with written confirmation to follow, immediately upon such discovery. Adequate steps will be taken to ensure protection, and secure the discovery in place until a Notice to Proceed is issued.

Survey Monuments

Survey monuments, witness corners, and/or reference monuments will be protected to the extent economically and technically feasible. Should moving such a feature be required, TSLLC will ensure that a licensed Professional Land Surveyor oversees and executes the relocation in a manner consistent with applicable laws. The BLM will be notified in writing prior to the moving of any such survey monument.

RATIONALE

The APO, in combination with the preceding Conditions of Approval, and the enclosed FONSI, show that all practicable means to avoid or minimize environmental harm have been adopted and that unnecessary or undue degradation of the public lands will not occur as a result of the closure activities at the Tonkin Springs Mine.

The APO is in conformance with the Shoshone-Eureka Resource Management Plan Record of Decision (ROD) which states: 1) “Make available and encourage development of mineral resources to meet national, regional, and local needs consistent with national objectives for an adequate supply of minerals (page 29),” 2) “All public lands in the planning area will be open for mining and prospecting unless withdrawn from mineral entry (page 29),” and 3) final reclamation will ensure public safety and the return of the exploration disturbance to its pre-exploration land uses of grazing, wildlife habitat, and mineral exploration. Final reclamation will also reduce visual contrast created during the mining operation.

The APO is in conformance with the President’s National Energy Policy Act of 2005 as per Instruction Memorandum (IM-2002-053), as put forth in Executive Order 13212 and will not have an adverse impact on energy development, production, supply, and/or distribution. The EA and FONSI support this Decision.

AUTHORITY

This Decision is in conformance with the National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190) as amended (72 USC 4321 et.seq.); General and Title V of the Federal Land Management and Policy Act of 1976 (FLPMA); 43 CFR Part 3800 Subpart 3809- Surface Management (16 USC et.seq.); and 43 CFR Part 3710 Subpart 3715 – Use and Occupancy Under the Mining Laws.

APPEAL OF THE DECISION

If you are adversely affected by this decision, you may request that the Nevada BLM State Director review this decision. If you request a State Director Review, the request must be received in the BLM Nevada State Office at:

BLM Nevada State Office
State Director
1340 Financial Blvd.
Reno, Nevada 89502-7147

no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM Nevada State Office to determine when the BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at 50 Bastian Road, Battle Mountain, NV 89820, which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a)(1). Your Notice of Appeal must be filed in this office at 50 Bastian Road, Battle Mountain, NV 89820, within 30 days from receipt of this decision. As the appellant, you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 that contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case, unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Request for a Stay

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the IBLA and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must show sufficient justification based on the following standards:

1. The relative harm to parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

Contact

For questions pertaining to this decision, please contact John Ames, Mining Engineer, at 775-635-4000 or at the above address.



Jon D. Sherve
Field Manager
Mount Lewis Field Office

Enclosures

cc: Nevada State Office, Branch of minerals Adjudication (NV-923)

Gene Seidlitz (NV-920)

Doug Siple (NV-920)

Bruce Holmgren
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Bureau of Mining Regulation & Reclamation
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