



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Mount Lewis Field Office
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http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html

In Reply Refer To:

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NVN-082096 (14-2A)

DOI-BLM-NV-B010-2015-0015-EA

APR 23 2015

CERTIFIED MAIL NO.: 7013 1710 0000 3371 2260

Return Receipt Requested

DECISION

Eureka Moly, LLC	:	
Attn: Pat Rogers,	:	Surface Management
VP Environmental and Permitting	:	
2215 North 5 th Street	:	
Elko, Nevada 89801	:	

Amendment to the Plan of Operations Approval Determination of Required Financial Guarantee

INTRODUCTION

The Bureau of Land Management (BLM) has evaluated the Amendment to the Plan of Operations (APO) titled, *Mount Hope Project Plan of Operations Amendment and Application for Reclamation Permit Modification* and has prepared an Environmental Assessment (EA), EA number DOI-BLM-NV-B010-2015-0015-EA, that analyzes the affected environment, discloses environmental impacts, and identifies environmental protection measures associated with Eureka Moly's, LLC (EML) Mount Hope Project (Project). The final APO was submitted in November 2014, in accordance with the BLM Surface Management Regulations 43 Code of Federal Regulations (CFR) 3809, as amended. The APO has been assigned BLM case file number NVN-082096 (14-2A). The Plan boundary includes approximately 23,065 acres. There are approximately 22,760 acres of public land and approximately 305 acres of private land. The Project is located in all or parts of Township 20 North, Range 50 East (T. 20 N., R. 50 E.), Sections 2-5; T. 21 N., R. 50 E., Sections 1-3, 11-14, 23, 25, 26, and 32-36; T. 21 N., R. 51 E., Sections 1, 7, 8, 12, 16-18, and 31; T. 21 N., R. 52 E., Sections 4-9; T. 21.5 N., R. 51.5 E., Section 36; T. 21.5 N., R. 52 E., Sections 31-33; T. 22 N., R. 50 E., Section 36; T. 22 N., R. 51 E., Sections 1, 2, 11-15, and 20-36; T. 22 N., R. 51.5 E., Sections 1, 12, 13, 24, 25, and 36; T. 22 N., R. 52 E., Sections 6-8, 17-20, and 29-32; T. 23 N., R. 51 E., Sections 25, 35, and 36; and, T. 23 N., R. 52 E., Section 31, Mount Diablo Base and Meridian, located in Eureka County, Nevada.

BACKGROUND

On November 16, 2012, the BLM, Mount Lewis Field Office approved the Plan of Operation (Plan) and issuance of right-of-way grants for the Project, authorizing the development of an open pit mine and molybdenum processing operations within the Plan boundary. Since approval the surface disturbance has been limited to mine development and construction consisting of growth media clearing and grubbing in some areas and only brush and vegetation clearing in others. To date, this activity has created approximately 1,652 acres of surface disturbance.

In November 2013, the BLM issued a Noncompliance Order to EML for surface disturbance that occurred outside of the approved surface disturbance footprints, but within the approved 2012 Plan boundary. The unauthorized disturbance totals approximately 153 acres and was associated with construction of powerlines, water lines, roads, collection channels, and ancillary facilities.

EML submitted the APO on February 10, 2014, in response to the Noncompliance Order. Revisions to the APO were received in May 2014, June 2014, and the final version on November 07, 2014. The APO proposes an increase of the Plan boundary by 180 acres from 23,065 acres to 23,245 acres and an increase of authorized disturbance of 365 acres from 8,253 acres to 8,618 acres to facilitate the development of the previously authorized operations. EML also submitted a modification to the 230 kV powerline right-of-way grant within the Plan boundary, previously authorized under N-84632 and N-91272. This modification will remove 22 acres associated with the powerline right-of-way (ROW) out of the acreage identified in the proposed APO and would also realign the powerline within the Plan boundary.

PUBLIC INVOLVEMENT

The BLM conducted Native American consultation in January 2015, by contacting the Duckwater Shoshone Tribe, the Ely Shoshone Tribe, and the Yomba Shoshone Tribe.

The EA was made available for a 30-day public comment period ending on March 4, 2015. 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. Additionally, the BLM issued a press release the same day providing a link to the EA and instructions on how to comment. Three comment letters were received from the public or other federal, state, or local agencies. Substantive comments were evaluated and considered by the BLM during the decision making process. Minor corrections or updates to the EA were made as a result of the substantive comment review. The BLM reviewed and considered these comments and determined that they did not identify or present any significant new information or changed circumstances that would warrant additional NEPA analysis. Responses to substantive comments are provided in Appendix B of the EA.

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), and carefully considering the comments and input received from the public, 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 in the APO, the performance standards set forth in 43 CFR 3809.420, and the Applicant-Committed Environmental Protection Measures as set forth in the EA and restated in this Decision under the Conditions of Approval. The BLM has determined that implementation of this Decision with the identified applicant committed practices, as stated in the Plan and the EA, will not cause unnecessary or undue degradation of the public lands and is consistent with other applicable legal requirements.

All applicant-committed practices that have been developed and adopted are consistent with regulations and policies in order to avoid or minimize environmental harm resulting from the selection of the BLM's Preferred Alternative. Means or methods to avoid or minimize environmental harm resulting from the selection of the BLM's Preferred Alternative have been adopted.

Approval of the Plan by the BLM does not constitute a determination regarding the validity or ownership of any unpatented mining claims involved in the exploration operation. EML 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 EML's use and occupancy of public lands as described in the approved Plan. EML 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 Plan. Concurrence by BLM on EML'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

Based on your reclamation cost estimate, BLM review of the cost estimate, and consideration of the conditions of approval, the required financial guarantee amount is hereby set at **\$75,062,488** 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. This amount is subject to change pending further review by the BLM or the

Nevada Division of Environmental Protection, Bureau of Mining Regulation and Reclamation (NDEP-BMRR).

Within sixty (60) days of receipt of this Decision, the operator must submit an acceptable financial guarantee in the amount of **\$75,062,488** 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.

2. Conditions of Approval

EML will continue to following applicant-committed environmental protection measures described in Mount Hope Project Final Environmental Impact Statement (BLM October 2012) and Plan of Operations (EML July 2012) and incorporated into the Mount Hope Project Record of Decision and Plan of Operations Approval (ROD) (BLM November 16, 2012). Additional BLM-stipulated mitigation measures also were identified in the Final EIS and incorporated into the ROD. All of these measures currently are, and will continue to be, implemented as standard operating procedures to mitigate potential impacts to environmental and human resources to prevent unnecessary or undue degradation of the environment. These measures will also apply to the construction, operation, and reclamation of the activities in the APO. No changes to these committed practices are proposed in this APO; however, a new cultural resources measure has been added to this Project.

- Within the expanded portion of the Project Area, EML would avoid all National Register of Historic Places (NRHP)-eligible sites and/or contributing elements of eligible cultural Districts by a buffer zone of 100 feet. If deemed necessary by the BLM, EML would place a qualified archaeologist on site during surface disturbing activities near known cultural resources to monitor Project implementation and ensure eligible cultural sites are avoided, unless superseded by more restrictive requirements.

RATIONALE

The APO, in combination with the 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 activities at the Project.

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 exploration 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.

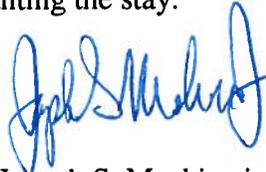
Request for a Stay

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.



Joseph S. Moskiewicz, Jr.
Acting Field Manager
Mount Lewis Field Office

Enclosures

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

Bruce Holmgren
Nevada Division of Environmental Protection
Bureau of Mining Regulation & Reclamation
901 S. Stewart Street, Suite 4001
Carson City, Nevada 89701