



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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In Reply Refer To:

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NVN-067575 (14-1A)

DOI-BLM-NV-B010-2015-0055-EA

SEP 11 2015

CERTIFIED MAIL NO.: 7010 1670 0001 5008 7599

Return Receipt Requested

DECISION

Barrick Cortez Inc. :

Attn: Matthew D. Gili, General Manager :

HC66 Box 1250 :

Crescent Valley, NV 89821-1250 :

Surface Management

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, *Barrick Cortez Inc. (NVN-067575 [14-1A]) Amendment 3 to Plan of Operations and Reclamation Permit Application* and has prepared an Environmental Assessment (EA), DOI-BLM-NV-B010-2015-0055-EA that analyzes the affected environment, environmental impacts, and identifies environmental protection measures associated with Barrick Cortez Inc. (BCI) Cortez Gold Mine Project Operation Area (Project). The final APO was submitted in August 20, 2015, 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-067575 [14-1A]. The proposed modifications will result in a total of 581 acres of new surface disturbance and the reallocation of use of currently authorized disturbance at the Pipeline and Cortez Hills complexes. The total surface disturbance within the Plan of Operations Area will increase from 16,119 acres to 16,700 acres. The proposed modifications will be located on BLM-administered land within all or parts of Township 28 North (T28N), Range 47 East (R47E), Sections 28, 29, 30, 31, and 33; T27N, R46E, Sections 1, 12, and 13; T27N, R47E, Sections 4, 6, 7, 9, 10, 14, 16, 17, 18, 23, 24, 25, 26, 35, and 36; T27N, R48E, Sections 30 and 31; and T26N, R47E, Sections 1 and 2, Mount Diablo Base and Meridian (MDB&M), Eureka and Lander Counties, Nevada.

BACKGROUND

BCI proposes an amendment to their approved CGM Operations Area (Project), located in north-central Nevada approximately 24 miles south of Beowawe, Nevada, in Eureka and Lander Counties. The APO was submitted to the BLM and the Nevada Division of Environmental Protection (NDEP) Bureau of Mining Regulation and Reclamation (BMRR) on August 20, 2014, (revised October 22, 2014, July 24, 2015, and August 2015). The proposed modifications include the following activities: Deepen the Gap Pit; Construct the Range Front Declines and associated infrastructure; Expand the Area 30 heap leach facilities; modify mining rate between the Cortez Hills and Pipeline areas; Add a water treatment plant and infrastructure; Allow off-site ore haulage up to approximately 1.2 million tons per year site wide; Reconfigure the Pipeline, Canyon, and Gap waste rock facilities; and infrastructure addition; including a new maintenance shop. The proposed modifications will result in 581 acres of new disturbance and increase the total Plan surface disturbance to 16, 700 acres.

PUBLIC INVOLVEMENT

The BLM initiated Native American consultation in December 18, 2014, by contacting the Battle Mountain Band of Western Shoshone, the Duckwater Shoshone Tribe, the Elko Band of Western Shoshone, the Te-Moak Tribe of the Western Shoshone, and Yomba Shoshone Tribe.

The EA was made available for a 30-day public comment period ending on August 26, 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. Five 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. The BLM reviewed and considered these comments and determined that they did not identify or present any significant new information or changed circumstances that warranted additional NEPA analysis.

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.

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 mining and exploration operation. BCI 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 BCI's use and occupancy of public lands as described in the approved APO. BCI 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 of Operations. Concurrence by BLM on BCI'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 **\$227,523,322** 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 **\$227,523,322** 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 guarantee.

The amount of the financial guarantee 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).

2. Conditions of Approval¹

BCI's committed environmental protection measures for operations in the Project area were identified in the Cortez Hills Expansion Project Final EIS, Supplemental EIS (SEIS), and Plan of Operations and incorporated into the Cortez Hills Expansion Project Record of Decision (ROD), as well as those identified in DOI-BLM-NV-B010-2013-0071-EA for Barrick Cortez Inc. 2011 Amendment to Plan of Operations and Reclamation Permit Application, and the Amendment for

¹ All citations refer to EA number DOI-BLM-NV-B010-2015-0055-EA

the South Pipeline Project and SEIS for the Pipeline/South Pipeline Project. 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 undue and unnecessary degradation of the environment. The measures that specifically apply to construction, operation, and reclamation of the currently proposed project modifications are identified below and described in APO.

Geology

Geotechnical monitoring, consisting of geologic structure mapping, groundwater monitoring, and slope stability analyses, will be conducted during active mining to assist in optimizing final pit designs. Slope movement monitoring also will be initiated to evaluate the safety of the open pit highwalls. In addition, operational procedures for controlling blasting and bench scaling will facilitate mining with stable pit walls.

Waste rock characterization will continue to be performed in accordance with the site's BLM waste rock characterization requirements and NDEP-BMRR water pollution control permit requirements.

BCi previously implemented management, monitoring, and mitigation measures to address possible future fissuring in the Pipeline Complex area. These measures are described in the Pipeline/South Pipeline Pit Expansion Project Final Supplemental EIS (SEIS) (BLM 2004). These measures, which currently are and will continue to be implemented, include integration of the following components:

- Storm water diversion ditch to intercept and route surface water runoff away from the fissure area;
- Dewatering pipeline instrumentation and pressure monitoring;
- Intercept trench east of the existing Pipeline/South Pipeline Heap Leach Facility and west of the main fissure complex;
- Backfilling of existing open fissure gullies;
- Protective berms and surface grades to exclude water from the fissure field;
- Alluvial waste rock dikes to provide containment and channelization in the event of a dewatering line break; and
- Monitoring of subsidence rates and horizontal strain.

Water Resources

To minimize impacts to water resources, the proposed expanded heap leach facility will be designed and operated as a zero discharge facility, with a composite liner system constructed in accordance with the NDEP-BMRR criteria.

Selective placement of waste rock, as needed, and routine monitoring of the waste rock disposal facilities during operations will be implemented to reduce the potential for acid rock drainage that does not meet applicable Nevada water quality standards.

To limit erosion and reduce sediment transport from project disturbance areas, erosion control measures as outlined in the Project's Stormwater Pollution Prevention Plan and Reclamation Plan (BCI 2014c) will be installed and maintained as needed. To further reduce erosion potential, storm water diversions will be installed around project facilities, as needed, to divert storm water runoff around disturbance areas. Facilities will be monitored following spring snowmelt and intense rain events to ensure that drainage and sediment control measures are effective and operating properly. In addition, implementation of concurrent reclamation will further reduce erosion potential.

Groundwater monitoring will be conducted to ensure compliance with permit criteria and to provide for early identification of potential impacts. If any monitoring wells go dry due to dewatering activities, the monitoring program will be re-evaluated in coordination with the NDEP-BMRR.

The site's Integrated Monitoring Plan (CGM and SRK 2008c) will be reviewed and updated annually to include additional surface water and groundwater resources monitoring locations in the Project vicinity.

Mineral exploration and development drill holes, monitoring and observation wells, and production dewatering wells will be properly abandoned following completion of their functions, to prevent migration of potential contaminants to groundwater.

Soils, Vegetation, and Invasive and Non-native Plant Species

To minimize impacts to soils and provide for re-establishment of vegetation, suitable growth media will be salvaged and stockpiled during the development of the mine open pits and during construction of the waste rock facilities and heap leach pads for subsequent use in reclamation. Alternately, the growth media may be transported to, and redistributed on, mine related surface disturbance areas undergoing concurrent reclamation (e.g., waste rock disposal facilities).

Best management practices (BMPs) (BCI 2013) will be used to limit erosion from project facilities and disturbance areas during and following construction and operations. These practices may include, but will not be limited to, installation of storm water diversions to route water around disturbance areas and project facilities and the placement of erosion control devices (e.g., silt fences, staked weed-free straw bales, riprap, etc.). To ensure long-term erosion control, all sediment and erosion control measures will be inspected periodically, and repairs will be performed, as needed.

Prior to the initiation of ground-disturbing activities in any unsurveyed areas, BCI will obtain information from the Nevada Natural Heritage Program (NNHP) regarding any known occurrences of special status plant species that occur within this area. If known populations occur within the proposed disturbance area, an additional field survey will be conducted for the appropriate species prior to mine development in order to determine the extent of these populations. A survey report, which will include survey methods, results, summary, a map illustrating the areas surveyed, and any populations observed during the survey, will be

submitted to the BLM. After BLM's review of the report, BCI will coordinate with the BLM to develop appropriate mitigation measures.

Revegetation of disturbance areas will be conducted at the soonest optimal season for seeding and plant establishment (e.g., fall) to reduce the potential for wind and water erosion, minimize impacts to soils and vegetation, help prevent the spread of invasive and non-native species in disturbance areas, and facilitate post-mining land uses. Following construction activities, areas such as cut and fill embankments and growth media stockpiles will be seeded. Concurrent reclamation will be conducted to the extent practical to accelerate revegetation of disturbance areas. Areas undergoing concurrent reclamation will be fenced, as necessary, to minimize livestock and wildlife access until vegetation has been re-established. All sediment and erosion control measures and revegetated areas will be inspected periodically to ensure long-term erosion control and successful reclamation.

To minimize the introduction and spread of noxious weeds in project-related disturbance areas, BCI's Noxious Weed Management Plan (SRK 2014) will be implemented. The Weed Management Plan outlines procedures for the prevention, monitoring, and treatment of noxious weed infestations. The results of the monitoring program will provide the basis for updating the plan, if needed.

Certified weed-free seed mixes, approved by BLM, will be used for reclamation.

Implementation of the project's fire control plan will minimize potential fire-related impacts to vegetation.

Wildlife, Special Status Species, and Livestock Protection

Implementation of the Reclamation Plan will minimize habitat impacts for wildlife species. Implementation of the Reclamation Plan also will minimize impacts to range resources through the re-establishment of forage.

Eight-foot-high chain link fencing (i.e., Nevada Department of Wildlife (NDOW)-approved exclusion fencing per the Industrial Artificial Pond Permit) will be installed around the heap leach ponds, and netting, pond covers, or floating "bird balls," as appropriate, will be installed over ditches and ponds that will contain leach solutions to minimize potential impacts to avian and terrestrial wildlife species. In addition, the heaps will be scarified to minimize ponding and pooling of process solutions.

The transmission lines will be designed and constructed in accordance with applicable regulations to minimize raptor electrocution and collision potential. To minimize the collision potential for foraging raptors and other birds, standard safe designs as outlined in *Reducing Avian Collisions with Power Lines: The State of the Art in 2012 Avian Power Line Interaction Committee (APLIC)* will be incorporated, as applicable. To minimize the potential for electrocution of raptor species attempting to perch on the lines in areas of identified avian concern, standard safe designs as outlined in *Suggested Practices for Raptor Protection on Power*

Lines: The State of the Art in 2006 (APLIC 2006) and Avian Protection Plan Guidelines (APLIC and United States Fish and Wildlife Service 2005) will be incorporated, as applicable.

To minimize potential impacts to wildlife species, weak acid dissociable cyanide concentrations in the tailings impoundments will be maintained at non-lethal levels. As added protection, the existing cyanide detoxification system (which uses in-line addition of ferrous sulfate to the tailings solution) will be used if it should become necessary to lower the cyanide levels in the tailings discharge to the tailings facility.

To minimize potential impacts to wildlife species, the top of leach pads will be monitored daily for any substantial pooling of cyanide solutions, and wildlife mortalities will be reported in accordance with the NDOW Industrial Artificial Pond Permit.

BCI will work with the BLM and local permittees to develop livestock fencing that will preserve grazing to the extent possible while providing protection for both reclaimed mine facilities and livestock.

Livestock watering troughs may be installed to deter livestock from attempting to access water in the infiltration basins and will continue to be operated on a rotational basis in coordination with the BLM and grazing permittees.

In the event that initiation of the proposed project should occur during the raptor nesting season (March 1 through July 31), a raptor survey will be conducted. Project-related disturbance for a specific location will be conducted within 14 days of the survey, or another survey will be conducted. If active nests are located, or if other evidence of nesting (i.e., mated pairs, territorial defense, carrying nesting material, transporting food) is observed, a protective buffer (the size depending on the habitat requirements of the species and location of the nest) will be established around the nests following consultation with the BLM resource specialist. No construction will occur within the avoidance buffer until the birds are no longer actively breeding or rearing young, or until the young have fledged.

Raptor surveys will be conducted annually during the raptor breeding season in the spring, utilizing the methods outlined in Pagel et al. (2010). These include a survey area encompassing the Project area and 10-mile buffer, two rotor wing (helicopter) aerial surveys, and subsequent ground surveys of identified occupied nests. The annual survey report will be provided to the BLM.

To protect nesting birds, removal of migratory bird habitat on currently undisturbed lands in the proposed disturbance areas will be avoided to the extent possible between March 1 and July 31. Should removal of habitat be required during this period, BCI will coordinate with the BLM and NDOW to conduct breeding bird surveys and implement appropriate mitigation, such as buffer zones around occupied nests, as needed. Project-related disturbance for a specific location will be conducted within 14 days of the survey, or another survey will be conducted.

In order to reduce impacts from disturbance within Greater sage-grouse preliminary general habitat (PGH), habitat restoration/enhancement will be implemented. Restoration and

enhancement acreage for Greater sage-grouse habitat will be calculated at 2:1 (2 acres of restoration/enhancement for every 1 acre of disturbance) for disturbance in PGH. Since piñon-juniper thinning within the Project area is not a viable option, off site piñon-juniper thinning to benefit Greater sage-grouse habitat will be considered. A BLM biologist, in coordination with the Nevada Sagebrush Ecosystem Technical Team and a NDOW biologist, will choose a piñon-juniper thinning area analyzed in any of the following EAs for potential off site mitigation: Bald Mountain Wildlife Habitat Enhancement Project (BLM 2010, NV062-EA08-083-EA), Eagle Butte Wildlife Habitat Enhancement Project (BLM 2011, DOI-BLM-NV-B010-2011-0021-EA), and Toiyabe West Wildlife Enhancement Project (BLM 2013, DOI-BLM-NV-B010-2013-0020-EA). These EAs identified and assessed crucial Greater sage-grouse habitat where piñon-juniper thinning projects will be beneficial due to piñon-juniper encroachment into sagebrush communities. BLM, the Nevada Sagebrush Ecosystem Technical Team, and NDOW will choose piñon-juniper thinning projects located within the Greater sage-grouse Population Management Unit nearest to the Project area and analyzed in one of the EAs. Any off site mitigation plan will be provided to BLM for approval. BCI will implement restoration/enhancement measures within 2 years of the proposed disturbance-related activities. Completed measures will be reported in the annual disturbance report that is provided to the BLM and NDEP by April 15th each year. Impacts associated with the off site mitigation areas were addressed in the corresponding EAs; therefore, no additional NEPA analysis will be required for this mitigation option.

As outlined in the 2013 Memorandum of Understanding *Regarding the Establishment of a Partnership for the Conservation and Protection of the Greater sage-grouse and Greater sage-grouse Habitat*, payment may be made into a Greater sage-grouse mitigation bank account. The Nevada Standardized Reclamation Cost Estimator (SRCE) model will provide the basis for negotiating costs for public lands.

Prior to ground disturbing activities, dark kangaroo mouse surveys will be conducted in areas of potentially suitable habitat, with survey results submitted to the BLM.

Paleontological Resources

If vertebrate fossils are discovered during construction, operation, or reclamation, activities will be halted in the area of the discovery and BCI will contact the BLM Authorized Officer and, if requested, also may contact a qualified paleontologist. The BLM Authorized Officer and/or qualified paleontologist will evaluate the discovery within 5 working days of being notified. If the discovered paleontological resource is determined significant, appropriate measures will be developed to mitigate potential adverse effects. Activities will not resume until a notice to proceed is granted by the BLM Authorized Officer.

Cultural Resources

If previously undocumented cultural resource sites are discovered during construction of the mine facilities, all ground-disturbing activities will be halted in the area of the discovery, and the BLM Authorized Officer will be contacted to evaluate the finding. If the site is eligible for inclusion in the National Register of Historic Places (NRHP), impacts will be mitigated through

avoidance or an appropriate data recovery program developed pursuant to the Programmatic Agreement (PA) (effective September 28, 2005) among the BLM, Nevada State Historic Preservation Officer (SHPO), and BCI.

BCI will train employees and contractors in their responsibilities to protect cultural resources and enforce BCI's policy against off-road cross-country travel and the removal of artifacts.

Native American Cultural Concerns

Formally trained Western Shoshone observers will be provided the opportunity to be present during project-related construction activities (i.e., new surface disturbance) to provide information and/or recommendations to the BLM, as well as during any data recovery (i.e., archaeological excavation) within the project boundary. BCI will select a Native American observer from a list of previously used observers. If the selected Native American observer is not available upon 2 days notice, a different observer may be selected. If none are available within a reasonable period, BCI will document that a reasonable attempt was made to contact the Tribes and obtain an observer.

Air Quality

Fugitive dust controls, including water application on haul roads and other disturbed areas, chemical dust suppressant application (e.g., magnesium chloride), where appropriate, and application of other BMPs (BCI 2013) as approved by the NDEP Bureau of Air Pollution Control, currently are, and will continue to be, implemented. (Current operating permits include: Class I (Title V) Air Quality Operating Permit (Permit No. AP1041-2141) and Mercury Operating Permit to Construct: Phase 2 (Permit No. AP1041-2220)).

Temporary disturbance areas (e.g., growth media stockpiles, cut and fill embankments, etc.) will be seeded with an interim seed mix, and concurrent reclamation will be implemented on completed portions of the waste rock facilities, thereby minimizing fugitive dust emissions.

To reduce the generation of fugitive dust from the previously authorized overland conveyor (BLM 2008c), the conveyor will be partially covered on the south side, which is the predominant wind direction in the Plan Area. If needed, a water line and water sprays will be installed on the conveyor to further reduce fugitive dust generation.

As part of the Nevada Mercury Control Program, BCI currently uses, and will continue to use, chemical mercury precipitants in the processing circuit to inhibit the adsorption of mercury on the air control's activated carbon and remove the mercury from the system.

Land Use and Access

Post-mining safety barriers (e.g., berms, fencing, or other appropriate barriers) will be installed peripherally to the ultimate perimeters of the pits after mining has been completed, if practical and safe to install.

Visual Resources

During operations, the margins of the waste rock facilities will be constructed to provide for variable topography during final regrading, thereby providing a more natural post-mining landscape.

Concurrent reclamation will be implemented to the extent possible.

Following the completion of mining operations, structures and buildings will be dismantled and removed from the site.

To minimize effects from lighting, hooded stationary lights and light plants will be used. Lighting will be directed onto the work area only and away from adjacent areas not in use, with safety and proper lighting of the active work areas being the primary goal. Lighting fixtures will be hooded and shielded as appropriate. Lighting designed to reduce the impacts to night skies will be used.

Hazardous Materials

The Emergency Response Plan for the site (Barrick Gold of North America 2013b) will be updated, if needed, and maintained and implemented throughout the life of the project. Implementation of the prevention, containment, and cleanup procedures in this plan will minimize the potential for related impacts to soils, vegetation, wildlife, and water resources.

The current employee training program will continue to be implemented to inform employees of their responsibilities in proper waste disposal procedures.

General

The existing perimeter fence will be extended as needed to encompass proposed project facilities for security and safety purposes. BLM-approved four-strand range fencing (three strands barbed wire and a smooth bottom strand per the BLM Handbook 1741-1) will be used. The leach pad, ponds, and process areas will be fenced for wildlife exclusion.

To the extent practical, all survey monuments, witness corners, reference monuments, bearing trees, and line trees will be protected against unnecessary or undue destruction or damage. Public land survey system monuments will be protected and preserved in accordance with Nevada BLM Instructional Memorandum (IM) No. NV-2007-003. If monuments, corners, or accessories are destroyed in the course of operations, BCI immediately will report the matter to the BLM Authorized Officer. BCI will replace any damaged monuments precisely, with the approval of the BLM Authorized Officer.

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 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.

Contact

If you have any questions or concerns please contact John Gant Massey Ph.D., Environmental Protection Specialist, at 775-635-4052 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)

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