



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Anchorage Field Office
4700 BLM Road
Anchorage, Alaska 99507-2591
www.blm.gov/alaska

In Reply Refer To:
2860 (AKA012)
AA-086337 (3809)
AA-087162 (3715)

**CERTIFIED MAIL 7014 2870 0001 8787 8758
RETURN RECEIPT REQUESTED**

DECISION

Mr. Blane Wilson
President and Director
Mystery Creek Resources, Inc.
469 Stageline Loop
Elko, NV 89801

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Surface Management

NONCOMPLIANCE ORDER

A compliance examination of Mystery Creek Resources Incorporated's (MCRI) mining operation at the Nixon Fork Mine under Plan of Operations AKAA-086337 was conducted on 9 April, 2019. The compliance examination included an administrative record review which identified that the current Individual Financial Guarantee has not been updated. The deficiency is due to an insufficient and outdated Reclamation Cost Estimate (RCE). On August 11, 2016 a meeting between MCRI and the BLM Anchorage Field Office Manager identified a need to provide an updated RCE as part of the update 2016 Mine and Reclamation plans. To date, MCRI has failed to provide an acceptable RCE to demonstrate the adequacy of the Individual Financial Guarantee.

A review of the Bureau of Land Management (BLM) records indicates the following facts:

On October 6, 2016 the BLM received the RCE update for the Nixon Fork bond associated with case file number AA-086337 (Nixon Fork Mine Plan of Operations). The BLM and State of Alaska – Department of Natural Resources reviewed the RCE for consistency with regulations and the existing reclamation plan. The submitted RCE was found to be unacceptable with reasons explained in a letter dated November 18, 2016.

Following that November 18, 2016 letter there have been a series of communications via letter, email, and verbal that discussed MCRI's obligation to provide the updated RCE and post the appropriate financial guarantee.

As of the date of this letter the BLM has not received the updated RCE that address the issues identified in the November, 2016 letter or subsequent communications. As a result of MCRI's insufficient RCE, the BLM is unable to determine the adequacy of the current financial guarantee amount.

Failure to provide a financial guarantee that meets the requirements of the Surface Management Regulations is a prohibited act per 43 CFR 3809.605(d). Specifically, MCRI has failed to comply 43 CFR 3809.552(b) which requires the periodic review of the estimated cost of reclamation.

Under authority of 43 CFR 3809.601(a), MCRI is ordered, **within 30 days** from receipt of this order to:

Provide an updated Reclamation Cost Estimate in accordance with 43 CFR 3809.552(a) and (c), and 43 CFR 3809.554. Your updated RCE should also address the issues identified in previous correspondence, and incorporate 2019 cost data with estimated interest adjustments through 2024.

Upon receipt of the updated RCE, BLM will review the RCE and notify MCRI as to its acceptability. Once a complete RCE is accepted by the BLM, as required by 43 CFR 3809.554(b), the amount of Individual Financial Guarantee will be determined by the Authorized Officer.

If MCRI does not comply with this order, the BLM may take further action against MCRI pursuant to 43 CFR 3809.601(b) and issue a Suspension Order for all or part of Nixon Fork Mine's operations. Additionally, action may be taken under 43 CFR 3809.604 or 43 CFR 3809.700 if MCRI does not bring the mine into compliance.

Any questions or concerns should be directed to contact Richard Tankersley at 907-267-1256 or via email at rtankersley@blm.gov.

Appeal of the Decision

If you do not agree and are adversely affected by this decision, you may request that the Alaska State Director review this decision. If you request a State Director Review, the request must be received no later than 30-calendar days after you receive or have been notified of this decision. You may request a State Director Review either

By mail at: Alaska BLM Anchorage Field Office
Attention: Request for State Director Review

4700 BLM Rd.
Anchorage, AK 99507

Or,
By email at: [blm ak appeals@blm.gov](mailto:blm_ak_appeals@blm.gov)

You must include the following text in the email subject line:
"Request for State Director Review, Minerals Program"

The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805(a) and (b). This decision will remain in effect while the State Director Review is pending, unless the State Director grants a Stay. 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 to accept or decline 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 State Office to determine when 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, using the filing procedures outlined in the attached Form 1842-1, Information of Taking Appeals to the Interior Board of Land Appeals.

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). Within 30 days from receipt of this decision, a Notice of Appeal must be received in the following office:

By mail at: Alaska BLM Anchorage Field Office
Attention: Request for State Director Review
4700 BLM Rd.
Anchorage, AK 99507

Or,
By email at: [blm ak appeals@blm.gov](mailto:blm_ak_appeals@blm.gov)

You must include the following text in the email subject line:
"Request for State Director Review, Minerals Program"

As the appellant, you have the burden of showing that the decision appealed from is in error. Enclosed BLM Form 1842-1 contains further information on taking appeals to the IBLA.

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 the 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 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.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B. Million', with a large, sweeping flourish underneath.

Bonnie Million
Anchorage Field Manager

CC:

Kyle Moselle
Alaska Department of Natural Resources
Office of Project Management and Permitting
400 Willoughby Avenue, Suite 400
Juneau, AK 99801

Mespelt & Almasy Mining Co. LLC.
Attn: Michael Jungreis
188 W. Northern Lights
Suite 1100
Anchorage, AK 99503

Joe Galluzzi
BLM- AK State Office
AK930