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September 26, 2014

Mr. Wally Erickson
Environmental Protection Specialist
Division of Reclamation, Mining and Safety
691 County Road 233, Suite A-2
Durango, CO 81301

RECEIVED
SEP 26 2014
Durango Field Office
Division of Reclamation,
Mining and Safety

Re: August 14, 2014 BMRI Letter

Dear Mr. Erickson,

The Costilla County Conservancy District ("District") desires to comment on a matter with respect to the San Luis Project, Permit No. M-1988-112 ("Project"). The District is aware of an August 14, 2014 Battle Mountain Resources, Inc. ("BMRI") letter ("BMRI Letter") to the Division of Reclamation, Mining, and Safety ("DRMS"), requesting a partial release of acreage on the Project. Although it did not receive formal notice, the District requests permission from DRMS to submit its comments and/or objections to the BMRI Letter.

The District, through undersigned counsel, submits its position and objections and comments, as follows:

- (a) BMRI appears to seek DRMS approval to have permitted acreage in the Project area decreased by 35.14 acres pursuant to an October 31, 1997 deed given by BMRI to the Costilla County Soil Conservation District;
- (b) BMRI makes its request in the context of an overall reclamation concept within the Project site (see "Remaining Reclamation" section), however BMRI provides no explanation of its planned or actual activities to achieve reclamation on its permitted land or how the 35.14 acres is accounted for in those plans or activities, either in 1997 or 2014;
- (c) The content of the BMRI Letter is unclear and confusing, assuming the request is only directed at the 1997 deed. It is not clear what purpose BMRI seeks to accomplish with the extraneous content inserted in the BMRI Letter.
- (d) The quantity of acreage within the Project permit area before and after the purported deletion of 35.14 acres is unclear. BMRI states that "the permit area is currently 1,801 acres..." yet its September 24, 1989 permit application refers to 2,200 acres. The BMRI Letter further states that the permit area is divided into permitted disturbance areas (547 acres) and undisturbed areas (1,254 acres). It states that "a reduction of 35.14 acres from the Permit Area (1,801 acres) would result in a new Permit

Area of 1,765.86 acres. There is no reference to use of 1,801 acres, as opposed to 2,200 acres, as its starting point.

(e) Under the section entitled "Remaining Reclamation", it states "the remaining reclamation to be performed is a total of 86.2 acres and is associated with the West Pit water treatment plant operation, the tailing area water management and reclamation, and access road reclamation." It is unclear what it purports to seek by its referencing reclamation in these areas or whether these contentions are appropriately part of an application to reduce the permitted acreage by 35.14 acres. If this constitutes some type of request for a finding unrelated to the acre reduction application, then the application should clearly state that fact, or the statement should be disregarded. Further, it is unclear what is meant by the term "tailing area water management and reclamation."

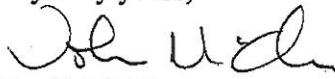
(f) Under the section "Statement of Completion", it states "BMRI believes that all applicable portions of the reclamation plan requirements have been satisfied in accordance with the Act and Mineral Rules and Regulations for Hard Rock, Metal, and Designated Mining Operations for the 35.14 acres requested to be removed from the permit area." To make this assertion, BMRI should accompany the BMRI Letter with factual support and/or an engineering analysis to support how and in what manner it contends the reclamation plan is purportedly satisfied, both in 1997 and 2014, as to the 35.14 acres.

(g) It is not clear if the BMRI Letter requests some type of an implicit acknowledgment of its contention that the remaining areas subject to reclamation is 86.2 acres, as BMRI defines the "Remaining Unclaimed Disturbance Areas". With respect to its 86.2 acre contention, BMRI provides no facts, documents, and/or engineering analyses to support it, or its component parts (38.7 acres – West Pit and 22.6 acres – Tailings Facility Storage Pond). Also, how and in what manner the 38.7 acres and the 22.6 acres will be reclaimed should be referenced.

(h) In the Published Notice section of BMRI's Letter, it also states that "BMRI requests that CDMG permit boundary be adjusted to account for land reclaimed in accordance with the approved CMLRB reclamation plan and undisturbed lands that have previously been deeded..." However, BMRI provides no factual or engineering basis to support how and in what manner this land was reclaimed.

The District reserves the right to make further comments as more information becomes known.

Very truly yours,


John C. McClure

JCM/sq

cc: Ms. Ginny Brannon



STATE OF
COLORADO

Erickson - DNR, Wally <wally.erickson@state.co.us>

DRMS/BMRI August 2014 letter

1 message

John McClure <jmcclure@melawllc.com>

Fri, Sep 26, 2014 at 5:08 PM

To: "Wally.Erickson@state.co.us" <Wally.Erickson@state.co.us>

Cc: "Brannon - DNR, Ginny (ginny.brannon@state.co.us)" <ginny.brannon@state.co.us>, "ejlobo2003@yahoo.com" <ejlobo2003@yahoo.com>

Dear Wally,

Enclosed please find:

- 1) The Board of County Commissioners objections and comments to BMRI's August 14, 2014 letter;
- 2) The Costilla County Conservancy District's objections and comments to BMRI's August 14, 2014 letter.

The District is aware of the BMRI letter and for that reason is submitting its position statement.

Thank you.

John C. McClure

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2 attachments



CCBCC Letter to Wally Erickson re BMRI Letter 9.26.14.pdf

88K



CCCD Letter to Wally Erickson re BMRI Letter 9.26.14.pdf

89K