



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Grand Junction Field Office
2815 H Road
Grand Junction, Colorado 81506



DRMS: M-2017-035

COC079090
3809 (COS-080)

REGISTERED MAIL NO. 7018 0360 0000 1779 5491
RETURN RECEIPT REQUESTED

BLM Case File Number
COC079090

Project
Hummingbird Mine

RECEIVED

SEP 10 2018

**DIVISION OF RECLAMATION
MINING AND S.**

Operator
Miners Mall LLC
Attn: Mr. Dennis Schneider
3143-1/2 Goldeneye Avenue
Grand Junction, CO 81504

Location
Township T14S, Range R100W
Section 11

APPROVAL OF PLAN OF OPERATION
APPROVAL OF EA, FONSI, DECISION RECORD
AND RECLAMATION COST ESTIMATE
FINANCIAL GUARANTEE REQUIRED

Dear Mr. Schneider:

We received your Plan of Operation, and subsequently assigned the case file number COC079090, for the Hummingbird Mine in our office on April 2nd, 2018. The project, located approximately 11 miles west-southwest of Whitewater, Mesa County, Colorado, entails mining along an outcropping vein at one (1) location accessed directly from CO Highway 141. Your proposed activity included creating one (1) open cut, with approximately 100 yards of overland access. All proposed work is to be completed by using hand tools and manual labor; no mechanized equipment or explosives were requested or authorized. The total proposed disturbance to be reclaimed on public lands under this Notice is approximately 0.31 acres. Occupancy is requested under the 43 CFR 3715 Regulations as part of the Plan of Operation.

A reclamation cost estimate was included with your Plan of Operation submittal. We have examined your reclamation cost estimate and have found it to be acceptable. We agree that the amount of \$2448.00 would be sufficient to reclaim your proposed surface disturbance on public

lands. We agree that the reclamation bond will be held by the Colorado Division of Reclamation, Mining, and Safety. The types of financial instruments that are acceptable to the BLM are found at 43 CFR 3809.555. As required by 43 CFR 3809.551 through § 3809.572 a financial guarantee that meets all the requirements must be provided to the BLM before beginning operations. No activity greater than what is currently acknowledged and bonded is authorized until the BLM has accepted and obligated your financial guarantee. You have 60 days from the date of this letter to submit the total financial guarantee to the BLM Colorado State Office. Please contact the BLM Colorado State Office, at 2850 Youngfield Street, Lakewood, CO 80215, or at (303) 239-3600 for further information on the financial guarantee process.

Our records indicate that the area may be culturally sensitive, and historic sites are known to occur near the area of your proposed operations. Given historic use of the area, there is potential for the operator to encounter historic artifacts such as rote cans or mining-related items when trenching and moving rock. If these types of artifacts are encountered, they should be noted and moved to the closest undisturbed area within the claim. If an extraordinary item is encountered (e.g. a rare or unique mining artifact or any prehistoric cultural item), the BLM archaeologist should be notified immediately. A cultural inspection conducted on May 2, 2017, determined that your operations would not impact any known cultural artifacts, however, be aware that your project area may be subject to inspection by a BLM archeologist to insure compliance. Due to the potential for cultural material, operations should be confined to the locations specified in your Plan of Operation. Any changes to your exploration locations may require an additional evaluation and inspection by a BLM archeologist.

All persons in the area who are associated with this project shall be informed that any person who, without a permit, injures, destroys, excavates, appropriates or removes any historic or prehistoric ruin, artifact, object of antiquity, Native American remains, Native American cultural item, or archaeological resources on public lands is subject to arrest and penalty of law (16 USC 433, 16 USC 470, 18 USC 641, 18 USC 1170, and 18 USC 1361). Strict adherence to the confidentiality of information concerning the nature and location of archeological resources would be required of the proponent and all of their subcontractors (Archaeological Resource Protection Act, 16 U.S.C. 470hh).

Inadvertent Discovery: The National Historic Preservation Act (NHPA) [16 USC 470s., 36 CFR 800.13], as amended, requires that if newly discovered historic or archaeological materials or other cultural resources are identified during the Proposed Action implementation, work in that area must stop and the BLM Authorized Officer (AO) must be notified immediately. Within five working days the AO will determine the actions that will likely have to be completed before the site can be used (assuming in place preservation is not necessary).

The Native American Graves Protection and Repatriation Act (NAGPRA) [25 USC 3001 et seq., 43 CFR 10.4] requires that if inadvertent discovery of Native American Human Remains or Objects of Cultural Patrimony occurs, any activity must cease in the area of discovery, a reasonable effort made to protect the item(s) discovered, and immediate notice be made to the BLM Authorized Officer, as well as the appropriate Native American group(s) (IV.C.2). Notice may be followed by a 30-day delay (NAGPRA Section 3(d)).

The operator may relocate activities to avoid the expense of mitigation and delays associated with this process, as long as the new area has been appropriately inventoried and has no resource concerns, and the exposed materials are recorded and stabilized. Otherwise, the operator shall be responsible for mitigation costs. The BLM authorized officer will provide technical and procedural guidelines for relocation and/or to conduct mitigation. Upon verification from the BLM authorized officer that the required mitigation has been completed, the operator will be allowed to resume construction.

Antiquities, historic ruins, prehistoric ruins, and other cultural or paleontological objects of scientific interest that are outside the authorization boundaries but potentially affected, either directly or indirectly, by the proposed action shall also be included in this evaluation or mitigation. Impacts that occur to such resources as a result of the authorized activities shall be mitigated at the operator's cost, including the cost of consultation with Native American groups.

In order to avoid potential impacts to breeding migratory birds, a careful visual inspection of habitat in the project area should be made prior to any surface disturbance (including cross-country routes) during the avian breeding season (March 1st through August 31st). Nesting activities may include eggs or young present in nest, adult behavioral displays (e.g. dive-bombing, faking injury, won't leave the area, agitated calling, etc.). If active nests are located, the BLM biologist must be notified immediately and appropriate protection measures which may include avoidance or restriction of activities will be established.

Historic mine workings are known in the area to be used by bats as maternal roosting sites. Please avoid mechanized work or use of explosives in the vicinity of such workings between May 15 and August 31 in order to avoid disrupting potential maternal roost activity.

Be aware that any improvement (blading, widening, etc.) to existing two-track roads will constitute the construction of that road, and complete reclamation may be required. The use of the two-track roads should be limited to basic project-related travel only.

We have completed our review of your Plan of Operation and determined that the document is technically adequate and that the proposed uses are reasonably incident to mining. The Grand Junction Field Office has completed an Environmental Assessment of your proposed operation, and has made a Finding of No Significant Impact (FONSI), and signed the Decision Record (DR). You may proceed with the proposed operations, according to federal regulations in 43 CFR 3809 when you have received a decision letter from the BLM Colorado State Office stating that your financial guarantee has been accepted for this project.

This acknowledgment does not relieve the operator of the following obligations:

1. Prevention of unnecessary or undue degradation of public lands and resources. As part of that, the following site management practices shall be used when on public lands.
 - a. No hazardous or toxic waste, waste oil or lubricants shall be disposed of on public lands. Trash and other debris should be contained on the work site and then hauled to an approved landfill.

- b. Burial and/or burning of trash and other debris are not authorized without specific permits from BLM and other appropriate agencies.
 - c. Operator shall be responsible for having a spill prevention and clean-up plan. Operator shall also provide adequate on-site spill control and clean up materials and instruct on-site personnel in spill prevention and clean-up methods.
 - d. Any oil, noxious fluids, fuels, or chemicals spilled onto the ground or water shall be cleaned up immediately. After clean up, the oil, noxious fluids, fuels, or chemicals and any contaminated material shall be removed from the site and disposed of at an approved disposal facility.
2. Reclamation of lands disturbed by the proposed operations.
3. Be in compliance with all applicable federal, state and local laws and regulations and obtain all appropriate federal, state and local authorizations and permits.
4. Without prior authorization from the BLM authorized officer, the operator shall not occupy the public lands under the mining laws for more than 14 calendar days in any 90 day period within a 25 mile radius of the initially occupied site; or construct or maintain temporary or permanent structures; or construct barriers to access or fences.
5. When cultural or paleontological resources, including but not limited to historic ruins, historic mine workings, historic trash dumps, prehistoric artifacts and fossils, are discovered during the proposed operations the resources shall be left intact and immediately brought to the attention of the BLM authorized officer.
6. Pursuant to 43 CFR 10.4(g) the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified to proceed by the authorized officer.
7. The Migratory Bird Treaty Act prohibits the destruction of nests (nests with eggs or young) of migratory birds. In order to avoid potential impacts to breeding migratory birds, a careful visual inspection of habitat in the project area should be made prior to any surface disturbance (including cross-country routes) during the avian breeding season (March 1st through August 31st). Nesting activities may include eggs or young present in nest, adult behavioral displays (e.g. dive-bombing, faking injury, won't leave the area, agitated calling, etc.). If active nests are located, the BLM biologist must be notified immediately and appropriate protection measures which may include avoidance or restriction of activities will be established.
8. The operator shall be responsible for controlling all noxious weeds and other undesirable invading plant species in the reclaimed area until revegetation activities have been determined to be successful by the BLM authorized officer. The operator is responsible for contacting the BLM for concurrence with any proposed weed control program prior to application of any

chemical treatments for weeds on public lands. A reclamation seed list that the BLM finds acceptable for your notice has been previously provided.

9. All drill holes shall be abandoned according to State of Colorado regulations. All sample bags and supplies shall be removed from the drill site and public land within 14 days of completing a drill hole.

10. The following precautionary measures should be taken to prevent wildland fires. In the event your operations should start a fire, you could be held liable for all suppression costs under Title 43 CFR 9212.4. These are in addition to any requirements imposed by the Mine Safety and Health Administration or other governing agencies for work-area fire protection.

- a. All vehicles should carry at a minimum a shovel and five gallons of water (preferably in a backpack pump), in addition to a conventional fire extinguisher.
- b. Adequate firefighting equipment (a shovel, a pulaski, standard fire extinguisher(s), and an ample water supply) should be kept readily available at each active drill site.
- c. Vehicle catalytic converters should be inspected often and cleaned of all flammable debris.
- d. All cutting/welding torch use, electric-arc welding, and grinding operations should be conducted in an area free, or mostly free, from vegetation. An ample water supply and shovel should be on hand to extinguish any fires created from sparks. At least one person in addition to the cutter/welder/grinder should be at the work site to promptly detect fires created by sparks.
- e. Any fire restrictions or closures issued by the Southwest District Office will be publicized in the local media, and notice will be posted at various sites throughout the district. **We will not individually contact operators.** Your notice serves as an authorization that may exempt your operations from certain restrictions in those orders. Your personnel will be responsible for being aware of and complying with the requirements of those orders.
- f. Any wildland fire observed should be reported immediately to the BLM Grand Junction Air Center Dispatch at (970) 257-4800.

This acknowledgment does not constitute: certification of ownership to any person or company named in your notice; recognition of the validity of any mining claims named in your notice; or recognition of the economic feasibility of the proposed operations.

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

BLM Colorado State Office
State Director
2850 Youngfield Street
Lakewood, Colorado 80215

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 you request and obtain a stay (suspension) from the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted using the standards and procedures for obtaining a stay (43 CFR 4.21) from the Interior Board of Land Appeals (IBLA).

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 IBLA. You may contact the BLM Colorado 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 2815 H Road, Grand Junction, CO 81501, which we will forward to IBLA.

Under 43 CFR 3809.801(a)(1), 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 part 4. Your Notice of Appeal must be filed in this office at 2815 H Road, Grand Junction, CO 81501, 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 which contains information on taking appeals to the IBLA. This decision will remain in effect while the IBLA's decision is pending, unless you request and obtain a stay under 43 CFR 4.21. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted under the criteria in 43 CFR 4.21.

If you wish to file a petition (request) 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 shall 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.

If you have any questions, please contact Eric Eckberg at (970) 244-3077, or at the above address.

Sincerely,

Katie Stevens
Field Manager
Grand Junction Field Office

Enclosure

cc, without enclosure:

Nicolas Sandoval
Mining Law Program Lead
BLM Colorado State Office

Stacy Beck
Bond Adjudication
BLM Colorado State Office, Solid Minerals

Amy Yeldell
CO DRMS
101 S 3rd Street, Ste 301
Grand Junction CO 81501