



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

June 23, 2021

Moye White, LLP.

Attn: Amy H. Ruhl

1400 16th Street, 6th Floor

Denver, Colorado 80202-1486

Sent via email to: Amy.Ruhl@moyewhite.com

RE: Henderson Mine, M-1977-342, Surety Increase No. 4 (SI04), Evaluation of Deeds of Trust for Interest in Real Property

Dear Mrs. Ruhl,

Thank you for meeting with Jeff Fugate and me to further discuss this matter. As we discussed, the Colorado Division of Reclamation, Mining and Safety ("DRMS") has a Memorandum of Understanding with Climax Molybdenum Company ("CMC") the owner and operator of the Henderson Mine and Mill ("Henderson") regarding a financial warranty proposal. CMC would like to post as a financial warranty to cover a portion of their reclamation liability using Deeds of Trust for real property. Colorado Revised Statutes allow for the Mined Land Reclamation Board ("MLRB") to accept interests in real and personal property as financial warranty per C.R.S. 34-32-117(3)(b). DRMS and CMC's Memorandum of Understanding details our agreement about retaining independent consultants to perform a review of property valuations, as well as legal analysis and counsel to determine if CMC's proposal is acceptable. It is for this reason DRMS has reached out to you to retain your services and expertise as our consultant ("Consultant"). Per our meeting, it was agreed DRMS would draft a preliminary scope of work for you to review so a more formalized scope of work may be finalized so it is clear between DRMS, CMC and Consultant what this review and counsel will include.

CMC's initial proposal was submitted on October 1, 2020 and was amended on April 20, 2021. It is our understanding that you have copies of these proposals, if not please contact DRMS so that we may provide them. CMC's revised proposal includes the value of \$20,752,750.00 in real property. Overall, we need Consultant assistance and guidance to review the property valuations, conduct a legal analysis of the proposal so DRMS better understands the associated risks, and counsel on how best to insure (should DRMS need to forfeit the financial warranty) that the MLRB would have timely and assured possession of the real properties. In this scenario, DRMS would then need to sell the properties to obtain their cash value for reclamation and environmental protection of the Henderson site.

Based on our meeting, this process and scope of work should include the phases listed below. Follow-up questions are included in the list that will need to be answered before we proceed.

1. Phase 1 - Survey and Title Review.

- a. DRMS will approach CMC to obtain the most recent professionally conducted survey of the properties included in the proposal and their associated titles. DRMS will transmit these documents to Consultant or coordinate for CMC to provide them.
- b. If CMC produces surveys and/or titles Consultant shall review these documents and determine if a new surveys will be necessary.



- i. If new surveys will be required, is this activity something Consultant will coordinate or will DRMS need to retain separate contractors for this work?
 - c. Consultant will use a nationally recognized title company to review the current properties titles to determine the necessity of revisions to the titles so the MLRB may acquire them in the case of financial warranty forfeiture.
2. Phase 2 – Environmental assessment of properties
 - a. Conduct an environmental assessment for the property.
 - i. Are these environmental assessment(s) actions something that Consultant will coordinate, or will DRMS need to retain separate consultants for this work?
3. Phase 3 – Risk analysis
 - a. DRMS would like a clear understanding of the risks associated with the utilization of the real property as a form of financial warranty. Consultant shall provide this analysis. The analysis should include an answer to the following questions:
 - i. In accordance with Rule 4.1.2(8)(c), the MLRB may refuse to accept any type of financial warranty if the Board determines that the financial warranty offered cannot reasonably be converted to cash within one hundred and eighty (180) days of forfeiture. Can Consultant provide DRMS with an estimate of the time it would take to convert the properties into cash?
 - ii. During the time between the forfeiture of the financial warranty, possession of the real property by the MLRB, and the sale of the property, what would be the annual cost to the MLRB to have ownership of these properties?
 - iii. What would be the cost associated with selling the properties?
 - iv. Per the Hard Rock, Metal, and Designated Mining Operations Rules and Regulations of the Colorado MLRB (“Rules”), the MLRB may accept interests in real property as financial warranty of not more than eighty-five percent (85%) of the estimate value of any such property (See also, Rule 4.9.1(1)). CMC’s proposed real property values estimated to be 85% of their current value. DRMS would request legal counsel if the proposed percentage offered by CMC is adequate to protect the state’s interests or if a lesser percentage would be appropriate.
 - b. Prior to moving on to the next phases, DRMS will review the analysis and will instruct Consultant when to proceed with the next phases.
4. Phase 4 - Finalize and update the proposed real property’s titles.
 - a. Consultant shall cause to occur the necessary revisions to the properties titles so the MLRB shall have the ability to take timely possession of the properties in question.
5. Phase 5 – Provide clear instructions on the process of forfeiture and possession.
 - a. DRMS would like a clear understanding of the legal process that must occur for the ownership of the properties to be transferred to the MLRB in a timely fashion.

DRMS has a follow-up question about the proposal and the scope of work:

- Per Rule 4.9.1(2)(b) – each year CMC will have to submit an update by a qualified independent appraiser indicating any changes in the property values for the sites in question, a statement summarizing any circumstances which may affect the adequacy of the Deeds, and proof that there are not past-due property taxes. How robust of a process will it be to review this information for adequacy and what would the projected costs be to conduct this review each year?

Moye White, LLP.

June 23, 2021

Page 3 of 3

Please feel free to reach out to me at Jared.Ebert@state.co.us or at (303) 866-3567 ext. 80120 should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jared Ebert", with a stylized flourish at the end.

Jared Ebert
Senior Environmental Protection Specialist

cc: Russ Means, DRMS
Jeff Fugate, AGO