

# STATE OF COLORADO

## DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

1313 Sherman St., Room 215

Denver, Colorado 80203

Phone: (303) 866-3567

FAX: (303) 832-8106



January 14, 2013

Lawrence Fiske  
Battle Mountain Resources, Inc.  
P.O. Box 310  
San Luis, CO 81152-0310

John W. Hickenlooper  
Governor

Mike King  
Executive Director

Loretta E. Piñeda  
Director

**RE: Technical Revision Required, Inspection and Reporting Frequency for the  
Tailings Impoundment, San Luis Project, Permit No. M-1988-112**

Dear Mr. Fiske:

It has come to the attention of the Division of Reclamation, Mining and Safety (Division); permit conditions at the San Luis Project do not provide an appropriate protocol whereby routine inspections of the tailings impoundment are ensured and the results of such inspections are reported to the Division. Periodic inspections and reporting for the tailings impoundment is in accordance with the general requirements of the Hard Rock Act and Rules. Therefore, the Division shall require the Operator to address this issue through the Technical Revision process, as described under Rules 1.1(52) and 1.9. The review fee for a Technical Revision to the 112d-3 permit is \$1,006.

The Division requires the Operator to file a Technical Revision with the Division within 60 days, due **March 15, 2013**, addressing an inspection and reporting program to be implemented for the tailings impoundment. The inspection and reporting program must include, but is not limited to, the following:

1. The tailings impoundment shall be inspected on an annual basis by a qualified registered professional engineer or other qualified professional specialist under the direction of a professional engineer. The professional engineer or specialist shall be experienced in the construction and maintenance of tailings impoundments. The examination shall also be in accordance with the applicable requirements of the Office of the State Engineer for impoundments of similar size and/or capacity. The annual inspection frequency shall continue until the Division approves a different frequency and/or the Division has approved full release of the financial and performance warranties and the Division's permit has been terminated.
2. The qualified registered professional engineer shall, within 20 working days after each inspection, provide to the Division a certified report verifying the impoundment has been constructed and/or maintained as designed, and in accordance with the approved plan and the applicable regulations. A copy of each certified report shall also be maintained at or near the mine site and available for review.

3. The annual certified inspection reports for the tailings impoundment shall include discussion of, but not limited to, the following:
  - Any appearance of erosion, instability, structural weakness or other hazardous conditions;
  - Existing and required monitoring procedures and instrumentation;
  - The depth and elevation of any impounded waters or fluids at the time of the certified report;
  - Existing storage capacity of the tailings impoundment;
  - Any other aspects of the structure affecting stability, or requiring maintenance;
  - Appropriate demonstrations as necessary to verify the impoundment is compliant with applicable requirements of the Office of the State Engineer.
4. The tailings impoundment shall be examined at least quarterly, by a qualified person designed by the Operator, for appearance of structural weakness and other hazardous conditions. The reports generated from the quarterly examinations shall be retained at or near the mine site and a copy of the report shall be submitted to the Division on a quarterly basis.
5. If any examination or inspection indicates that a potential hazard exists, the person who examined or inspected the impoundment shall within 24 hours inform the Division of the finding and of the emergency procedures formulated for public protection and remedial action. If adequate procedures cannot be formulated or implemented, the Division shall be notified immediately. If the Operator has knowledge of a failure or imminent failure of the impoundment or embankment the Operator shall follow the emergency notification procedures of Hard Rock Rules 8.1 and 8.2.
6. Plans for an enlargement or reduction in size, reconstruction, or other modification to the tailings dam, spillway(s), or other portion of the impoundment, shall be submitted for Division review and approval through the appropriate processes outlined in the Hard Rock Act and Rules. Except where a modification is required to eliminate an emergency condition constituting a hazard to public health, safety or environment, the Division shall approve the plans before modification begins.

The primary contact for the Operator has recently changed from Bill Lyle to Lawrence Fiske. Additional changes have occurred for designation of personnel at the operation, such as mine manager, shift foreman or safety officer. Please ensure the revision, due March 15, 2013, also provides an updated Emergency Response Plan, in accordance with Rule 8.3.

Sincerely,



Wallace H. Erickson

Environmental Protection Specialist

Ec: Russ Means, DRMS GJFO