

STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY
Department of Natural Resources

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June 11, 2013

John M. Clement
Executive VP & General Council
Ouray 79 Mining, LLC
P.O. Box 1917
Forney, TX 75126

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta Piñeda
Director

RE: Notice of Determination for a Notice of Intent to Conduct Prospecting, Wanakah Mine, NOI File No. P-2013-009

Dear Mr. Clement:

Pursuant to Rule 5.1.1(2) of the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal and Designated Mining Operations (Rule), the Division of Reclamation, Mining and Safety (Division) has determined the majority of the activities proposed in the above referenced NOI application are development and mining activities, not prospecting. With the exception of the five surface drill holes and underground core drilling the proposed activities exceed the scope of prospecting activities, as defined under CRS Section 34-32-103(12) and Rule 1.1(43). The proposed reopening of multiple mine portals; rehabilitation and/or expansion of existing underground mine workings; construction of an underground incline and slusher drifts; construction of an underground shop area; construction of underground storage areas for fuel, lubricants and/or explosives; and the surface disposal of refuse from underground mining are mine development and/or mining activities, as defined under CRS Sections 34-32-103(4) and (8) and Rule 1.1(31). As such, the Division cannot accept the NOI as submitted. Pursuant to Rule 5.1.1(2), any appeal of this determination shall follow the procedures set forth in Rule 1.4.11.

During and onsite inspection on June 4, 2013 representatives for the prospector noted there was a desire to move forward with scaled back drilling activities to investigate the commercial values of the historic ore body prior to submission of a mining permit. The Division requested from the prospector a written proposal for review outlining an underground core drilling program with minimal surface disturbance and no deposition of waste or ore materials on the surface.

After careful review of the written proposal received on June 6, 2013 the Division has determined that the revised activities would be classified as prospecting and not development as defined by CRS 34-32-103(4). Due to language in Rule 5.1.1 (3) modifications can only be addressed for "existing" NOIs. Therefore the prospector must submit a new NOI application which is limited in scope to prospecting activities discussed for formal review and approval. Staff has requested that your application fee of \$86.00 be returned to you and has initiated the refund process. Please find enclosed your financial warranty check for \$6,000 which was not processed. As a matter of record, the NOI submittal, P-2013-009 has been denied.

If the Applicant desires to move forward with rehabilitation and development of the historic Wanakah Mine and Bright Diamond Mine, please submit an application for a Limited Impact 110 type mining operation, or Regular 112 type mining operation, as appropriate for the surface acreage and production of the proposed operation. Given the potential for exposure or disturbance of toxic or acid-forming materials, the potential for generation of acid mine drainage, and the need to protect the existing prevailing hydrological balance, the Division will require the Applicant to demonstrate the proposed mining operation is not a Designated Mining Operation (Rules 1.1(1), 1.1(2), and 1.1(14)). If it cannot be demonstrated that the mining activities will not have the potential for acid generation an appropriate 110d or 112d permit with the required Environmental Protection Plan (EPP) as required per CRS 34-32-103(3.5) and Rule 6.4.21 shall be submitted. Staff will be happy to discuss these requirements in detail if a permit application is contemplated.

If you need additional information please visit our website @ <http://mining.state.co.us>. You may also contact me directly at the Division of Reclamation, Mining and Safety, Grand Junction Field Office, 101 S. 3rd St., Suite 301, Grand Junction, Colorado 81501, by telephone at 970.241.1117, or by e-mail at russ.means@state.co.us.

Sincerely,



G. Russell Means
Senior Environmental Protection Specialist
West Slope Field Office Supervisor

Cc: Tony Waldron, Minerals Program Supervisor
Wally Erickson, DFO Minerals Specialist
Christine Brookshire, Minerals Administrative Assistant