

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

Ken McQueen
Cabinet Secretary

Matthias Sayer
Deputy Cabinet Secretary

Fernando Martinez, Director
Mining and Minerals Division



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

7012 0470 0000 0880 5965

March 28, 2017

Mr. Charles Mottley, President, CEO
El Capitan Precious Metals, Inc.
8390 Via de Ventura, Suite F-110
Scottsdale, AZ 85258

**RE: Joint-USFS-MMD Financial Assurance Agreement Approval
Capitan Iron Mine Access Road, MMD Permit No. LI005ME**

Dear Mr. Mottley:

Enclosed, please find your copy of the jointly approved U.S. Forest Service (“USFS”)-N.M. Mining and Minerals Division (“MMD”) Financial Assurance agreement (“FA”) covering the access road portion of the Capitan Iron Mine. The agreement consists of a Certificate of Deposit No. 8097242252 (“CD”) issued by the Wells Fargo Bank, to El Capitan Precious Metals Inc. (“ECPMI”), in the principal amount of \$5,350.00. The CD provides for reclamation costs associated with reclaiming Forest Road 489A (“FR 489A”) which provides access to the mine and is located crossing USFS system lands.

This joint FA agreement has been secured in addition to two previously existing FA agreements held under Permit No. LI005ME in the amounts of \$15,000.00 and \$59,495.00, pursuant to Part 12 of the New Mexico Mining Act Rules. Combined, the three FA agreements are in the total combined amount of \$79,845.00.

A Notice of Noncompliance dated April 21, 2016, and issued to ECPMI by MMD, included specific conditions by which ECPMI is required to modify Permit LI005ME, pursuant to the abatement of mining-related waste that had been placed and/or disposed of alongside FR 489A outside of the authorized Permit Area and outside of the approved 5-acre Phase I design limit. Toward that end and within a Plan of Operations (“POO”) approved by the USFS on February 24, 2017, the USFS addressed the work done by ECPMI outside of its Permit Area along FR 489A, and indicated within its approval of the POO that ECPMI had been granted access across

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National Forest System Lands, including FR 489A, and that ECPMI was authorized with the rights necessary to continue to utilize FR 489A for commercial purposes as the primary access road to the Capitan Iron Mine for conducting mining operations on its private land. MMD understands that the USFS authorization of the POO requires ECPMI to also remove the mining-related waste material bermed alongside FR 489A and that this material must be picked up and returned to the mine site; and that the USFS authorization of the POO also includes the installation of approximately 60 pre-cast concrete "jersey barriers" to replace the bermed material.

Because of the USFS authorization of its POO, and ECPMI's submittal of CD No. 8097242252, MMD has resumed processing Permit Mod. 16-1; however, ECPMI remains out of compliance with permit LI005ME until after the bermed mining-related waste material has been removed and returned to the mine site and has been replaced by the jersey barriers. Following completion of this work, ECPMI should notify MMD so that an inspection can be arranged and Permit Mod. 16-1 can be completed. With submittal of the \$5,350.00 CD, ECPMI has already completed the financial assurance step, in gaining approval for Mod. 16-1. Please contact Gabriel Wade, Assistant General Counsel at: (505) 476-3451, or via email at: gabriel.wade@state.nm.us if you would like to discuss further or to schedule a meeting.

Sincerely,



Holland Shepherd, Manager
Mining Act Reclamation Program/MMD

Enclosures: Approved Certificate of Deposit Agreement

cc: David Davidson, ECPMI
James Hollen, Senior Reclamation Specialist, MMD
Gabriel Wade, Assistant General Counsel, MMD
Christina Thompson, USFS Lincoln National Forest
Mine File LI005ME