



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Las Cruces District Office
1800 Marquess Street
Las Cruces, New Mexico 88005
www.blm.gov/new-mexico

IN REPLY REFER TO:

3809 (L0310)
NMNM 137589

SEP 18 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
7018 0360 0000 8137 7319

DECISION

Frank Bain :
2425 Chof Trail : Surface Management
Flagstaff, AZ 86005 :

PLAN OF OPERATIONS AMENDMENT APPROVED-CONDITIONS OF APPROVAL REQUIRED

DETERMINATION OF REQUIRED FINANCIAL GUARANTEE AMOUNT

The Plan of Operations (PoO) for the Lordsburg Playa Exploration Project is hereby approved subject to conditions of approval listed below. You must conduct operations as described in the Plan of Operations and in accordance with the following Bureau of Land Management (BLM) conditions of approval (COA):

Conditions of Approval:

You must follow all mitigation measures and design features outlined in the Environmental Assessment for the Lordsburg Playa Exploration Project and the PoO.

1. All personnel associated with the project are required to maintain a prudent vehicle speed on dirt roads, especially while on the

This COA is needed to help reduce dust on the playa.

2. A water truck must be used to water disturbances to suppress dust when the wind starts causing blowing dust on the playa

This COA is needed to help prevent blowing dust on the playa.

3. Equipment used for drilling, road construction, reclamation, etc., must be washed with the intent of removing plant material before it enters BLM administered land.

This COA is needed to help prevent the spread of noxious weeds.

4. All onsite refueling must take place over spill mats. In the event that hazardous or regulated materials are spilled, measures must be taken to control the spill immediately and the BLM must be notified as required. Any resulting waste must be transferred off site in accordance with all applicable local, state and federal regulations to a licensed treatment or permanent storage facility.

This COA is needed to help prevent the the spill and contamination of hazardous materials.

5. Operator must comply with all applicable BLM and NM State fire laws, regulations, guidelines and requests. All reasonable measures to prevent and suppress fires in the project area must be taken by contractors and other onsite personnel.

This COA is needed to control the spread of wildland fires.

6. The exploration drilling operations must be managed to minimize surface disturbing activity. The BLM must be notified when drilling activities and reclamation work are complete.

This COA is needed to help prevent unnecessary and undue degradation.

7. If any eligible cultural resource sites are found, the sites must be avoided by all exploration related activities. If previously undiscovered / unreported cultural resources are exposed as a result of operations under this Notice, the operator must cease operations, leave the discovery intact and notify the BLM Archaeologist or District Manager. The operator must not proceed until notified by the appropriate official that compliance with provisions for mitigating unforeseen impacts as required by 36 CFR Chapter II Part 228.4(e) Subpart A have been satisfied.

This COA is needed to protect cultural resources.

8. Should any protected plant species be identified they would be avoided by all exploration related activities.

This COA is needed to protect threatened and endangered or sensitive plant species.

9. No activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of three inches deep, the soil shall be deemed too wet to support construction equipment.

This COA is needed to reduce impacts to soils.

10. The operator must immediately notify the BLM Authorized Officer of any paleontological resources discovered as a result of operations under this authorization. The operator must suspend all activities in the vicinity of such discovery until notified to proceed by the Authorized Officer and must protect the discovery from damage or looting. The operator may not be required to suspend all operations if activities can be adjusted to avoid further impacts to a discovered locality or be continued elsewhere. The Authorized Officer will evaluate such discoveries as soon as possible, but not later than 10 working days after being notified. Appropriate measures to mitigate adverse effects to significant paleontological resources will be determined by the Authorized Officer after consulting with the operator. Within 10 days, the operator would be allowed to continue construction through the site, or would be given the choice of either (1) following the Authorized Officer's instructions for stabilizing the fossil resource in place and avoiding further disturbance to the fossil resource, or (2) following the Authorized Officer's instructions for mitigating impacts to the fossil resource prior to continuing construction through the project area.

This COA is needed to protect paleontological resources.

11. Road maintenance such as grading or blading must be done to the smallest extent possible. Road maintenance must occur in a manner that does not alter existing natural flow patterns and must not allow stormwater to channelize in the road bed (i.e. roads must not be bladed below existing grade and must not leave any bermed sediment on the road sides).

This COA is needed to protect existing flow patterns on the playa.

12. Road maintenance through arroyos and drainages must be done to the smallest extent possible. The sides of the drainages may be sloped to allow for ingress and egress of equipment. The arroyo or drainage bed must remain at the current elevation. No material can be excavated below the current drainage bed, nor can fill material be added to the existing drainage that would raise the elevation of the drainage bottom above the existing elevation of the drainage bed.

This COA is needed to prevent the alteration of existing arroyos and drainages.

13. All Federal, State, and local laws and regulations must be followed.

Required Financial Guarantee - Based on the reclamation cost estimate provided by the New Mexico Mining and Minerals Division, the BLM's review and consideration of the above conditions of approval, the required financial guarantee amount is hereby set at \$25,900 for the Lordsburg Playa Exploration Project. This cost only covers the drilling of two holes, the surface disturbance associated with those two holes and the road maintenance work. The financial guarantee in the amount of \$25,900 must be submitted to and accepted by the BLM New Mexico State Office 301 Dinosaur Trail, Santa Fe, NM 87508. You must receive written

notification from that office accepting and obligating your financial guarantee before you begin any surface-disturbing operations.

The types of instruments that are acceptable to the BLM for financial guarantees are found at 43 CFR 3809.555. Please contact Ida Viarreal, (505) 954-2163 for forms and further information regarding acceptable financial guarantees.

Appeal of the Decision - If you are adversely affected by this decision, you may request that the BLM New Mexico State Director review this decision. If you request a State Director Review, the request must be received in the BLM New Mexico State Office at 301 Dinosaur Trail, Santa Fe, NM 87508 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 a stay is granted by the State Director.

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 Interior Board of Land Appeals (IBLA). You may contact the BLM New Mexico 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 1800 Marquess St., Las Cruces, NM 88005, which we will forward to IBLA.

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 3809.801(a)(1). Your Notice of Appeal must be filed in this office at 1800 Marquess St., Las Cruces, NM 88005 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 that contains information on taking appeals to the IBLA. This decision will remain in effect while the IBLA reviews the case, unless a stay is granted by the IBLA.

Request for a Stay - If you wish to file a petition 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 Interior Board of Land Appeals (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 the 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, and
- 4) Whether the public interest favors granting the stay.

If you have any questions, please contact Leighandra Keeven, Geologist, at (575) 525-4337.



for Bill Childress
District Manager
Las Cruces District Office

Enclosure

- 1 - Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals

cc:

Clinton Chisler
New Mexico Energy, Minerals
and Natural Resources Department
Mining and Minerals Division
1220 South St. Francis Drive
Santa Fe, NM 87505

Ida Villareal
BLM New Mexico State Office
301 Dinosaur Trail
Santa Fe, NM 87508