

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd Leahy, JD, PhD
Deputy Cabinet Secretary

Albert Chang, Director
Mining and Minerals Division



August 21, 2023

Mr. Skyler Wildenstein
Empire Trust, Inc.
Trustee for Southwest Resources Inc.
4011 Mesa Verde Rd. NE
Albuquerque, NM 87110

Financial Assurance/Commencement of Reclamation Work Deadlines, Southwest Resources Inc., Section 12 Mine, McKinley Co., NM, Permit Tracking No. MK046RE

Greetings:

The New Mexico Mining and Minerals Division (MMD) has found Southwest Resources Inc. (SRI), Section 12 Mine, McKinley Co., NM, Permit Tracking No. MK046RE in non-compliance with the *Director's Order of Abatement on Consent (Director's Order)*, signed January 14, 2020, by Empire Trust Inc., Trustee.

Director's Order Section 32 r. states: *Submittal to MMD within 60 days of the effective date of this Order, a schedule for completion of all action items in the Reclamation Plan, excluding achievement of revegetative success, to be completed by no later than two years after the approval of the Reclamation Plan by MMD;*

A conditional approval for the Final Reclamation Plan was provided by MMD on November 16, 2020. It has been over the two-year timeframe referenced above in Section 32 r, therefore SRI is in violation of the signed Director's Order. Subsequently MMD sent SRI deadline letters on March 23, 2021, and October 15, 2021, to further advance this project. The deadline letter sent on October 15, 2021, required that reclamation work be complete on the site by December 31, 2022. This deadline has also not been met.

Because the deadlines in the above paragraph have not been met, MMD hereby invokes Section 29 of the Director's Order. which states: *In the event that the Responsible Parties fail to abide by the terms and schedule set forth in this Order of Abatement on Consent and the Final Reclamation Plan, the Director may require the Responsible Parties to provide financial assurance in accordance with the Mining Act Rules.*

MMD is prepared to give SRI two options to move forward with this project:

1. Provide a financial cost estimate for MMD approval within 90 days of this letter followed by an

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appropriate financial assurance instrument (e.g. certificate of deposit, surety bond, letter of credit) within 60 days of the cost estimate's approval.

2. Start reclamation on the site within 90 days of this letter with completion of all reclamation activities, with the exception of achieving vegetative success, within 2 years of the date of this letter.

Per the *Director's Order of Abatement on Consent Section 12 Mine, McKinley County, New Mexico*, signed January 14, 2020, SRI shall align all future submittals with the timelines specified in Sections 30 – 36 of the Director's Order.

Please respond to this letter within 30 days of receipt. Should you have any questions, comments, or require additional information concerning this letter, please contact me at (505) 467-9589, or via email at: clinton.chisler@emnrn.gov.

Sincerely,



Clint Chisler, Permit Lead
Mining Act Reclamation Program (MARF)
New Mexico Mining and Minerals Division

cc: Gabriel Wade, Mining and Minerals Division Counsel
Anne Maurer, Mining Act Team Leader, NMED

Mine File (MK046RE)