



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Southern Nevada District
Pahrump Field Office
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
<http://www.blm.gov/nv/st/en/fo/lvfo.html>

REC'D - BLM - NSO

JUL 01 2010

9:00 A.M.

In Reply Refer to:
N-74964
3809 NVSO300

JUN 29 2010

CERTIFIED MAIL NO 7009 2250 0004 4891 3617
RETURN RECEIPT REQUESTED

DECISION

American Silica Inc. : 43 CFR 3809
Mr. Ron Badraun :
26801 Vista Terrace : Plan of Operations
Lake Forest, California 92630 : N-74964

*Reviewed
7-7-10
per usps website
30 days ends
8-2-10*

FORFEITURE OF FINANCIAL GUARANTEE

Pursuant to the provisions at 43 CFR 3809.595 through 3809.599, the Bureau of Land Management – Pahrump Field Office (BLM-PFO) is pursuing forfeiture of the financial guarantee for your silica mining operation, serialized under N-74964 and located in Sec. 29, T. 15 S., R. 54 E., M.D.M. On February 17, 2010 a second non-compliance decision was issued by this office requiring American Silica Inc. (ASI) to complete reclamation in conjunction with the closure of the Sugar Silica Mine in May, 2009. On June 28, 2010, BLM-PFO received a letter from the Nevada Division of Environmental Protection (NDEP) requesting BLM forfeit the surety bond for this project due to NDEP's recent cancellation of ASI's reclamation permit. Forfeiture of your financial guarantee is being taken because you failed to meet these conditions within the timeframe provided in the noncompliance orders from both BLM and NDEP.

Based on the estimated total cost of achieving the reclamation plan requirements, including the BLM's administrative costs, the BLM will require the forfeiture of \$213,500 from your financial guarantee. Within 30 days the penal sum, \$213,500, of surety bond number 166282 and cash bond NVB000820, must be surrendered to the BLM State Office at the following address:

United States Department of the Interior
Bureau of Land Management
Nevada State Office
1340 Financial Blvd.
Reno, NV 89502
Attn: Adjudication (NV923)

You may avoid this forfeiture action by:

Providing a written agreement under which you or another person will perform reclamation operations in accordance with a compliance schedule which meets the conditions of your Plan of Operations and reclamation plan. Where the work will be done by another person, the agreement must demonstrate they have the ability, both technically and financially, to satisfy the conditions.

Obtaining written permission from the BLM for a surety to complete the reclamation. The surety must demonstrate an ability to complete the reclamation in accordance with the reclamation measures incorporated in your Plan of Operations.

If you fail to meet the requirements listed above, and you do not appeal the forfeiture decision under 43 CFR 3809.800 to 3809.807, or Interior Board of Land Appeals (IBLA) does not grant a stay under 43 CFR 4.321, or the decision appealed is affirmed, the BLM will:

Immediately collect the forfeited amount as provided by applicable laws for collection of defaulted financial guarantees, other debts, or State bond pools.

Use funds collected from financial guarantee forfeiture to implement the reclamation plan, or portion thereof.

If the amount of forfeited funds is insufficient to pay for the full cost of reclamation, you are liable for the remaining costs as set forth in 43 CFR 3809.116.

REC'D - BLM - NSO

9:00
A.M. JUL 01 2010

Right to Appeal

In accordance with 43 CFR 3809.804, if you are adversely affected by this decision, you may request that the BLM State Director in Nevada review this decision. If you request State Director review, the request must be received in the BLM Nevada State Office, 1340 Financial Blvd. 89502, P.O. Box 12000, Reno, Nevada 89520-0006, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the requirements of 43 CFR 3809.805. If you request State Director review, this decision will remain in full force and effect while the State Director review is pending, unless a stay is granted by the State Director under 43 CFR 3809.808 (a).

If the Nevada State Director does not respond to your request for State Director review of this decision within 21 calendar days after the request was timely made, you should consider the request denied. If your request for State Director Review is declined or you wish to forego a State Director review, this decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, 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 the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the

Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413 or Form 1842-1) 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.

Should you have any questions on this subject matter, contact Dave Fanning, Geologist, at (702) 515-5153.

REC'D - BLM - NSO
9:00
A.M. JUL 01 2010

ds/ Gayle Marris-Smith
Gayle Marris-Smith
Field Manager

Enclosure (1):

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

cc: Todd Suessmith
Nevada Division of Environmental Protection
Bureau of Mining Regulation and Reclamation
901 South Stewart Street, Suite 4001
Carson City, NV 89701

Lacy Trapp
Bureau of Land Management (NV-923-c)
PO Box 12000
Reno, Nevada 89520

Mr. Peter Clarke
3503 Comstock Dr.
Reno, NV 89512



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Nevada State Office
P.O. Box 12000 (1340 Financial Blvd.)
Reno, Nevada 89520-0006
<http://www.blm.gov/nv/st/en.html>

JGAP
7-23-10

JUL 27 2010

In Reply Refer To:
3809 (NV923z)

CERTIFIED MAIL/RETURN RECEIPT REQUESTED
7007 3020 0000 1674 4070/4087

DECISION

Surety:	:		
American Contractors Indemnity Co.	:	Surety Bond Number:	166282
c/o Wigmore Insurance	:	Surety Bond Amount:	\$154,150
2970 Harbor Blvd., Suite 215	:		
Costa Mesa, CA 92626	:		
	:		
Principal:	:		
American Silica, Inc.	:	BLM Bond Number:	NVB000820 ⁰¹²
26801 Vista Terrace	:	Bond Amount:	\$154,150
Lake Forest, CA 92630	:		

Bond Performance Required

The BLM Nevada State Office (NSO) currently holds the surety bond shown above with America Silica, Inc., as principal, and underwritten by American Contractors Indemnity Co., as surety. The bond provides surface reclamation coverage for operations conducted by the principal on Plan of Operations (POO) N-74964.

By Decision dated October 15, 2009, the BLM Pahrump Field Office issued a Notice of Noncompliance ordering American Silica, Inc. to provide a Closure Plan and cost estimate for POO N-74964. The return receipt for the certified letter containing these orders shows that America Silica, Inc. received the Notice of Noncompliance on January 4, 2010. On February 17, 2010, a second Notice of Noncompliance was issued and was received by American Silica, Inc. on February 19, 2010.

Because American Silica, Inc. has not complied with the orders contained in the Notice of Noncompliance and American Contractors Indemnity Co. is the surety for the bond guaranteeing compliance with the terms of POO N-74964, including reclamation and restoration operations, American Contractors Indemnity Co. must perform one of the following actions:

1. Require the operator to begin the specified work within 30 days and continue the work diligently to completion; OR

OFFICIAL RECORD COPY

2. Directly enter into a contract such that the specified work will begin within 30 days and continue diligently to completion, with the contractor **directly** billing the surety for the work done; OR

3. Authorize in writing within 30 days for the BLM to act as the surety's agent to contract and oversee the performance of the specified work, with the contractor **directly** billing the surety for payment. In this case, the surety must pay the United States (BLM) an additional percent (6-10%) of the payment amount to compensate the United States for administrative costs for the contract, not to exceed the penal sum of the bond.

4. Submit within 30 days the penal sum, \$154,150, of surety bond number 166282, to the NSO as the following address:

Bureau of Land Management
Nevada State Office
1340 Financial Blvd.
P.O. Box 12000
Reno, NV 89520-0006

If none of the above actions are commenced within the specified times, the United States will take action to collect the forfeited amount of the bond for the costs of reclamation and restoration of land covered by POO N-74964 plus an additional percentage for administrative costs not to exceed the penal sum of the bond.

Appeal Rights

You may appeal this Decision to the Interior Board of Land Appeals, in accordance with the regulations contained in 43 CFR Part 4 and the enclosed Form 1842-1. Your notice of appeal, statement of reasons, and petition for stay (optional) must be filed in this office (BLM, Nevada State Office, P.O. Box 12000, Reno, NV 89520-0006) within 30 days from the date of receipt of this Decision. The appellant has the burden of showing that the Decision appealed from is in error.

If you wish to file a petition for a stay (suspension) of the effectiveness of this Decision pursuant to 43 CFR §4.21 during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. A petition for stay is required to show sufficient justification based on the standards listed below and 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 be evaluated 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

OFFICIAL RECORD COPY

(4) Whether the public interest favors granting the stay.

Copies must also be submitted to each party named in this decision, to the Interior Board of Land Appeals, and to the appropriate Office of the Solicitor (see 43 CFR §4.413 and the enclosed Form 1842-1) at the same time that the original documents are filed with this office.

If you have any questions, please call Lacy Trapp at 775-861-6599, or send electronic mail to ltrapp@nv.blm.gov.

Atanda Clark

Atanda Clark
Chief, Branch of Minerals Adjudication

Enclosure
As stated above

cc:
American Contractors Indemnity Co.
9841 Airport Blvd., 9th Floor
Los Angeles, CA 90045

Peter Clarke
3503 Comstock Dr.
Reno, NV 89512

NVL0300 (DFanning)
NV920 (SMurrellwright)
NV920 (CSmith)
BMRR

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Postage	\$	Postmark Here
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Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To: American Contractors Indemnity Co. -
c/o Wigmore Insurance
2970 Harbor Blvd., Suite 215
Costa Mesa, CA 92626

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
American Silica, Inc.
26801 Vista Terrace
Lake Forest, CA 92630

NVB820 NV923.z

Article Number
(Transfer from service) 7007 3020 0000 1674 4087

Form 3811, February 2004 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature *[Signature]*

B. Received by (Printed Name) *[Signature]*

C. *[Signature]*

D. Is delivery address different from item 1? If YES, enter delivery address below:

3. Service Type

<input type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for M
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee)

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

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Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To: American Silica, Inc.
26801 Vista Terrace
Lake Forest, CA 92630

PS Form 3800, August 2006 See Reverse for Instructions



Craig
Smith/NVSO/NV/BLM/DOI

09/21/2010 09:41 AM

To Lacy Trapp/NVSO/NV/BLM/DOI@BLM, David
Fanning/LVFO/NV/BLM/DOI@BLM

cc

bcc

Subject American Silica

I was contacted by Mark Willow (SRK Consulting) today. They have been contracted to evaluate the American Silica mine, by the surety, to advise the surety on the reclamation liability and thus a decision on whether to pay or perform. Patrick Lassiter will be visiting the site tomorrow or Thursday. I gave Mark Dave's name/number so you will probably be getting a call. SRK knows that the surety has to inform BLM by Sept. 30 if they will pay or perform.

Thanks,

Kurt Faux

The Faux Law Group
1540 W Warm Springs Road
Suite 100
Henderson, Nevada 89014
Tel. No. (702)458-5790
Fax No. (702)458-5794
www.FauxLaw.com

From: Lacy_Trapp@blm.gov [mailto:Lacy_Trapp@blm.gov]
Sent: Thursday, September 30, 2010 8:17 AM
To: jyi@hcc.com
Cc: Craig_Smith@blm.gov; David_Fanning@blm.gov; Kurt Faux; Willi Siepmann
Subject: Fw: American Silica Sugar Mine Mercury Nevada

Mr. Yi,

I received the below e-mail yesterday afternoon. I will be happy to assist ACIC in providing payment for the bond once I receive confirmation from you that this is the course of action you would like to take. Please confirm this action as soon as possible.

Lacy Trapp
Land Law Examiner
BLM/Nevada State Office
775-861-6599 (p)
775-861-6710 (f)

----- Forwarded by Lacy Trapp/NVSO/NV/BLM/DOI on 09/30/2010 08:13 AM -----

Willi Siepmann <wsiepmann@fauxlaw.com>

09/29/2010 03:35 PM

To: "Craig_Smith@blm.gov" <Craig_Smith@blm.gov>
cc: "Lacy_Trapp@blm.gov" <Lacy_Trapp@blm.gov>, "Kurt Faux"
<kfaux@fauxlaw.com>
Subject: American Silica Sugar Mine Mercury Nevada
t

After having a consultant inspect the abandoned mine and getting his report, ACIC surety has decided to pay the penal sum of the bond to the BLM. Please advise how the check should be made out and whether you have a standard release for this type of resolution. If not, I'll prepare a release for your review and signature.

Kurt C. Faux *
Colin Chipman*
Willi H. Siepmann**
Peter J. Novak**
Robert J. Rice***
Matthew D. Peterdy **

* Also Licensed in Utah
** Also Licensed in California
*** Licensed only in California

The Faux Law Group

Integrity. Service. Excellence

1540 W. Warm Springs Road
Suite 100
Henderson, Nevada 89014
Main: (702) 458-5790
Facsimile: (702) 458-5794
Website: www.FauxLaw.com

October 14, 2010

REC'D - BLM - NSO

9:00 OCT 19 2010
A.M.

Bureau of Land Management
Nevada State Office
P.O. Box 12000
1340 Financial Boulevard
Reno, NV 89521-0006

Attention: Lacy Trapp

Re: American Silica, Inc. Sugar Silica Mine
Surety: American Contractors Indemnity Co.
Bond No. 166282
Claim No. AC 30022-1
Our Matter No. 5999-50

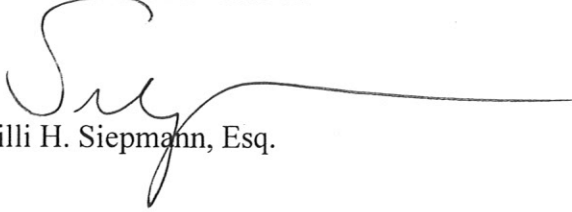
Dear Ms. Trapp:

Enclosed is a hard copy of the Release and Assignment, as well as the check for \$154,150.00 made out to "Department of Interior-BLM." Please return the signed Release.

Thank you for your assistance.

Very truly yours,

THE FAUX LAW GROUP


Willi H. Siepmann, Esq.

WHS:ps
Enclosures
cc: Client



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Nevada State Office
P.O. Box 12000 (1340 Financial Blvd.)
Reno, Nevada 89520-0006
<http://www.blm.gov/nv/st/en.html>

*Scrap
10-29-10*

In Reply Refer To:
3809 (NV923z)

OCT 29 2010

DECISION

Surety:	:		
American Contractors Indemnity Co.	:	Surety Bond Number:	166282
c/o Wigmore Insurance	:	BLM Bond Number:	NVB000010
2970 Harbor Blvd., Suite 215	:	Bond Amount:	\$154,150
Costa Mesa, CA 92626	:		
	:		
Principal:	:		
American Silica, Inc.	:		
26801 Vista Terrace	:		
Lake Forest, CA 92630	:		

Surety Payment Received Period of Liability Under Bond Terminated

The BLM Nevada State Office (NSO) currently holds the surety bond shown above with American Silica, Inc., as principal, and underwritten by American Contractors Indemnity Co., as surety. The bond provides surface reclamation coverage for operations conducted by the principal on Plan of Operations N-74964.

On July 27, 2010, the NSO required American Contractors Indemnity Co. to submit a closure plan for N-74964 and perform the necessary reclamation or; submit \$154,150, the penal sum of surety bond number 166282. This request came when American Silica, Inc. did not comply with the orders contained in the 2 Notices of Noncompliance issued by the Pahump Field Office on October 15, 2009, and February 17, 2010.

On October 19, 2010, the NSO received payment from American Contractors Indemnity Co. in the amount of \$154,150. This payment fulfills the surety's obligations under the bond. Therefore, the period of liability under surety bond number 166282 is terminated effective October 19, 2010, and the surety is released from any further obligations under the bond. At the time BLM, or its authorized representative, has completed the required surface reclamation, BLM shall refund any residual amount of the payment under the bond to the surety.

If you have any questions, please call Lacy Trapp at 775-861-6599, or send electronic mail to ltrapp@nv.blm.gov.

Elaine Guenaga

Elaine Guenaga
Supervisory Land Law Examiner

cc:

American Contractors Indemnity Co.
9841 Airport Blvd., 9th Floor
Los Angeles, CA 90045

American Contractors Indemnity Co.
601 S. Figueroa St.
Los Angeles, CA 90017-5704

The Faux Law Group
Attn: Willi H. Siepman, Esq.
1540 W. Warm Springs Rd., Suite 100
Henderson, NV 89014

Peter Clarke
3503 Comstock Dr.
Reno, NV 89512

NVL0300 (DFanning)
NV920 (SMurrellwright)
NV920 (CSmith)
BMRR