

2. It seems very odd to me that the company themselves get to decide whether the minerals are "locatable" or "saleable". Do I have this right? Can you explain?

The government, not the company, decides whether a mineral deposit is locatable or saleable. The classification of a deposit as locatable or saleable is based in Federal Statutes and subsequent related Case Law. Initially under the General Mining Law of 1872, all minerals were considered locatable with rights established through the staking of a mining claim. More recent laws which have revised the 1872 law include the Materials Act of July 31, 1947 (as amended by the Acts of July 23, 1955 and September 28, 1962) which removed "common varieties" of sand, stone, gravel, pumicite, cinders and clay, and petrified wood, from location and made them available for disposal through contracts of sale (to the general public) or free use permits (to government entities and some non-profit organizations). Subsequent Case Law deriving from legal contests related to specific deposits have allowed for a refinement of the definition of "common varieties." To be considered an "uncommon variety," which is locatable, the material would need to exhibit a unique physical property which would give the deposit a distinct and special value which would cause it to demand a higher price than material from other deposits without such property. Based on the knowledge and experience of several BLM geologists, we felt that the volcanic tuff in Skull Valley was a "common variety" material. If the proponent of the proposal disagrees with our opinion and feels that the material is instead an "uncommon variety," they would have to fund a "common variety determination," a technical, scientific, and legal analysis of the material, conducted by the BLM, which produces a (challengeable) decision as to the legal locatability of the deposit. Note that mining claims impart no right to the saleable (or leasable) mineral estate on Federal lands. The only nexus between saleable and locatable minerals is that the disposal of saleable minerals from an active mining claim cannot endanger or materially interfere with the exploration for or development of a locatable mineral deposit.

3. At what point could this mining application be denied by the BLM due to air quality issues? Has this EVER been done to your knowledge?

The BLM does not regulate air quality or make air quality determinations or decisions. Those are under the purview of the Environmental Protection Agency or as delegated to individual States or Counties. A BLM contract or permit is issued contingent on the operator receiving all necessary and required permits and licenses, which would include the air quality permit. The BLM could authorize the operation once it determines that all anticipated impacts are negligible or mitigatable on the resources it manages, but if another Federal, State, or Local agency has not or will not issue a required permit or license for its area of responsibility, then the operation cannot go forward.