



**United States Department of the Interior
BUREAU OF LAND MANAGEMENT**

Bishop Field Office
351 Pacu Lane Suite 100
Bishop, California 93514
www.blm.gov/ca/bishop



May 3, 2013

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CACA 30866

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RETURN RECEIPT REQUESTED

Donald Wedman
CMC Metals Ltd.
Suite 605 - 369 Terminal Avenue
Vancouver, British Columbia
Canada V6A 4C4

**Decision Record for the Bishop Mill Project
Inyo County, California**

**Plan of Operations Approved
Conditions of Approval and Financial Guarantee Required**

Dear Mr. Wedman,

The Bureau of Land Management (BLM) Bishop Field Office has completed our review of your proposed Plan of Operations and Reclamation Plan (PoO) for the Bishop Mill Project in Inyo County, California, pursuant to applicable regulations (43 CFR 3800 *et seq.*) and the National Environmental Policy Act of 1969 (NEPA), as amended. Upon review, your PoO for the Bishop Mill Project is hereby approved subject to the conditions of approval listed below. CMC Metals Ltd., as the current owner and operator of the Bishop Mill, must conduct operations as described in the PoO and as analyzed in environmental assessment (EA) DOI-BLM-CAC-070-2011-043-EA.

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Conditions of Approval

To minimize potential adverse effects and to ensure that no unnecessary or undue degradation of the public lands results from the re-activation and reclamation of the Bishop Mill, the following conditions of approval apply:

1. To insure conformance with the approved Plan of Operations and Reclamation Plan (PoO), the conditions of approval identified herein, and the permits required by other regulatory agencies, the operator must notify the Bishop Field Office at least 48 hours prior to beginning any activities at the Bishop Mill. A BLM employee will be on-site to conduct a compliance check on the day activities begin. Subsequent compliance checks will be conducted throughout the construction, operation, and reclamation phases of the project at the sole discretion of the BLM.
2. Construction and operation of the waste management unit (WMU) shall conform to the waste discharge requirements (WDRs) and monitoring and reporting requirements prescribed by the Lahontan Regional Water Quality Control Board (LRWQCB) in Board Order No. R6V-2011-0048 (CRWQCB, 2011a). Prior to any construction or operation activities at the Bishop Mill, the operator shall provide written documentation to the BLM that this Board Order is still in effect. Any changes or additions required by the Board based on new information shall be incorporated into the construction and operation of the WMU. The operator shall also implement the mitigation and monitoring measures identified in the mitigated negative declaration for the Bishop Mill Project adopted by the LRWQCB in July 2011.
3. To mitigate potential risks from hazardous airborne pollutants associated with mill operations, the operator shall follow the terms and conditions or dust mitigation measures prescribed by the Great Basin Air Pollution Control District in an approved Authority to Construct (ATC) permit for the Bishop Mill.
4. The operator shall implement exclusion measures to prevent bird and bat species from coming into contact with the WMU surface. Exclusion measures shall include netting placed over the WMU. Netting shall be of a type that is weather resistant and UV treated to prevent breakdown and decomposition and shall be constructed of 1-inch mesh to exclude bird and bat species. The netting shall be supported by cables and supports anchored into the ground surface to prevent net sagging and contact with the WMU surface. Exclusion netting shall be inspected and maintained on a daily basis to ensure no openings have been created and to prevent snow/ice buildup in the winter months.
5. Regulated components of the project shall be designed and constructed to meet or exceed both LRWQCB and/or BLM design criteria.
6. No cyanide or other chemicals classified as hazardous substances may be used in the milling process.

7. The mill may be operated for a period of up to five years. A maximum of 32,000 tons of tailings may be deposited into the WMU.
8. Representative ore samples for each source and/or lithological variant of ore that is shipped to the Bishop Mill shall be collected for analysis of the constituents identified in Table 4-1 of the Report of Waste Discharge (RoWD) prepared for the LRWQCB in November 2010 (SRK, 2010) prior to transport to the mill for processing. Each sample shall be submitted to a certified laboratory and analyzed for leachable solutes (e.g., Meteoric Water Mobility Procedure, Acid Base Accounting analyses or equivalent, total threshold limit concentrations, and soluble threshold limit concentrations).
9. Primary access to the project area shall be limited to existing roads. The operator shall conduct routine inspection of Rudolf Road and Pumice Road (between U.S. Highway 6 and the project site) and provide grading or an equivalent contribution toward road maintenance in coordination with the BLM. Maintenance shall occur at least once a month when the mill is operating.
10. Roads shall be constructed to the minimum necessary width and shall receive maintenance as necessary. Maintenance shall occur at least once a month when the mill is operating.
11. Regulated wastes shall be managed according to relevant regulations. Chain of custody records shall be provided to the BLM for all hazardous waste transported from the Bishop Mill to an approved disposal facility.
12. Surface disturbance shall be minimized while optimizing the recovery of mineral resources.
13. Fugitive dust and other air emissions from disturbed and exposed surfaces shall be controlled with water application (onsite well PW-3) in accordance with regulations and applicable permits.
14. The operator shall comply with applicable federal and state water quality standards, including the Federal Water Pollution Control Act, as amended (30 USC § 1151 et seq.).
15. Surface water drainage control shall be accomplished by diverting storm water, isolating facility runoff, and minimizing erosion.
16. Where suitable as a growth media, surface soils shall be managed as a growth media resource and removed, stockpiled, identified, and replaced during reclamation.
17. To maintain conformance with VRM II Standards, the operator shall paint or screen all new or replacement infrastructure to blend with the surrounding visual landscape. The color of the paint or screening material used must be approved by the BLM.

18. To avoid impacts to night skies, any new outdoor light fixtures shall use low-energy, fully shielded light fixtures which direct light downward (i.e. lighting shall not emit higher than horizontal level).
19. The BLM will monitor noise levels generated during operation of the Bishop Mill. If operational noise levels exceed Inyo County Noise Standards, additional measures will be implemented to reduce noise levels to an acceptable level (70 Ldn for night operations, 80 Ldn for day operations). Noise minimization measures may include, but are not limited to, soundproofing the mill building or eliminating night operations.
20. Reclamation shall include all elements identified in the approved PoO including, but not limited to, earthwork and re-contouring, revegetation and stabilization, detoxification and disposal, and monitoring necessary to satisfactorily reclaim all project area disturbances including roads, processing facilities, the WMU (tailings impoundment), ancillary buildings, equipment and any remaining ore stockpiles.
21. At the end of the operating period, only tailings characterized as Group C (non-hazardous) waste will be allowed to remain in the WMU. The operator shall remove, and transport to an approved disposal facility, any and all tailings characterized as either Group A or Group B waste from the WMU during reclamation. Chain of custody records shall be provided to the BLM for all hazardous waste transported from the Bishop Mill to an approved disposal facility.
22. If previously undiscovered archaeological resources or human remains are encountered during project construction or operation, operations shall be immediately stopped and the Bishop Field Office manager and archaeologist notified. Project operations in the vicinity of the discovery shall cease until the BLM determines that continued operations will not adversely affect significant historical or archaeological properties. If the BLM determines that resumption of operations will adversely affect historical or archaeological resources that may be eligible for listing in the National Register of Historic Places (NRHP), the BLM shall consult as appropriate to determine measures to be completed before operations can resume. The BLM shall ensure compliance with regulations pertaining to the evaluation of significance, assessment of effects, and consultation with the State Historic Preservation Officer and the Advisory Council on Historic Preservation as appropriate (36 C.F.R part 800.4 through 800.9).

Financial Guarantee

Based on your reclamation cost estimate, BLM review of your cost estimate, and consideration of the above conditions of approval, the required financial guarantee amount for reclamation of the Bishop Mill is hereby set at \$191,269.00. You must provide a single financial guarantee in this amount using one of the acceptable financial guarantee instruments listed under 43 CFR 3809.555. Upon BLM acceptance of the required financial guarantee for your approved Plan of Operations and Reclamation Plan (PoO), existing financial guarantees for the Bishop Mill will be released. You must not begin any activities under the approved PoO until you receive notification from the BLM that the required financial guarantee has been accepted and obligated.

Claim Status

Approval of your Plan of Operations and Reclamation Plan (PoO) by the BLM does not constitute a determination regarding the validity or ownership of the unpatented mining claims involved in the milling operation.

Required Non-BLM Permits

The operator is responsible for obtaining any use rights or local, state, or federal permits, licenses, or reviews that may be required for the operation. You **must not** begin any activities under the approved Plan of Operations and Reclamation Plan (PoO) until you receive the required permits, licenses, or reviews and a copy of the required permits, licenses, or reviews have been provided to the BLM.

To ensure conformance with federal, state and local air quality regulations, the operator must apply for, and receive, an Authority to Construct (ATC) permit from the Great Basin Unified Air Pollution Control District prior to any construction or operation activities at the Bishop Mill.

To ensure conformance with California's Clean Water Act, the operator must comply with the waste discharge requirements for the Bishop Mill adopted by the Lahontan Regional Water Quality Control Board in July, 2011 under Board Order No. R6V-2011-0048 (CRWQCB, 2011a). Prior to any construction or operation activities at the Bishop Mill, the operator must provide written documentation to the BLM that this Board Order is still in effect.

Use and Occupancy

This decision also constitutes concurrence with the proposed use and occupancy of public lands as described in the approved Plan of Operations and Reclamation Plan (PoO). The operator must maintain compliance with the use and occupancy regulations at 43 CFR 3715.2, 3715.2-1, and 3715.5 throughout the duration of the approved PoO. Concurrence by the BLM on the applicant's proposed use and occupancy is not subject to State Director Review, but may be appealed by adversely affected parties directly to the Interior Board of Land Appeals as outlined in the attached BLM Form 1842-1.

Rational

The Bishop Mill Project involves the re-activation and reclamation of an existing mill site under an approved Plan of Operations and Reclamation Plan (PoO) pursuant to BLM regulations implementing the general mining laws (43 CFR § 3800 *et seq.*). The existing facilities are located on public lands administered by the Bishop Field Office within the bounds of seven (7) active mill site claims (43 CFR § 3832.31) near the northern extent of the Owens Valley, approximately 9 miles northeast of the city of Bishop in Inyo County, California. Together, these mill site claims total approximately 35 acres. Existing surface disturbance in the project area encompasses about 9.1 acres. The proposed project will result in an additional 0.02 acres of surface disturbance.

An environmental assessment (EA DOI-BLM-CAC-070-2011-043-EA) for the Bishop Mill Project was prepared in accordance with the NEPA. This environmental review included the identification and explanation of the effects on the human environment that would result from the proposed re-activation and reclamation of the existing mill. This environmental review also included numerous opportunities for public involvement in the decision making process. Based on my review of the environmental analyses, which include the incorporation of project design features and measures developed to minimize any potential adverse effects associated with the proposed project, other supporting documents incorporated by reference, and recommendations from staff, I determined that the re-activation and reclamation of the Bishop Mill as described and analyzed in the EA does not constitute a major federal action that would significantly affect the quality of the human environment. I issued a finding of no significant impact (FONSI) for the Bishop Mill Project on May 2, 2013.

I also reviewed the *Bishop Resource Management Plan Record of Decision* (Bishop RMP) and determined the proposed action does conform to the terms and conditions of the applicable land use plan as defined at 43 CFR 1601.0-5(b) and as required by 43 CFR 1610.5-3(b). In addition, the project is consistent with the General Policies, Area Manager's Guidelines, Valid Existing Management, Standard Operating Procedures, Decisions, and Support Needs prescribed by the Bishop RMP.

Therefore, I have decided to approve the re-activation and reclamation of the Bishop Mill as described in the applicant's PoO and as analyzed in EA DOI-BLM-CAC-070-2011-043-EA. I have incorporated conditions of approval into my decision to minimize potential adverse effects and to ensure that no unnecessary or undue degradation of the public lands results from the re-activation and reclamation of the Bishop Mill.

Administrative Remedies

If you are adversely affected by this decision, you may request that the California BLM State Director review this decision. If you request State Director Review, the request must be received in the California BLM State Office at 2800 Cottage Way, Suite W-1623, Sacramento, CA 95825, 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 you request and obtain a stay from the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted using the standards and procedures for obtaining a stay from the Interior Board of Land Appeals (IBLA).

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 IBLA. You may contact the California BLM 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 351 Pacu Lane, Suite 100, Bishop, CA 93514. We will forward your appeal to the IBLA.

Under 43 CFR 3809.801(a)(1), 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 part 4. Your Notice of Appeal must be filed with this office at 351 Pacu Lane, Suite 100, Bishop, CA 93514, within 30 days from receipt of this decision. As the appellant you have the burden of showing that the decision appealed is in error. The enclosed BLM Form 1842-1 contains information on taking appeals to the IBLA. This decision will remain in effect while the IBLA's decision is pending, unless you request and obtain a stay under 43 CFR 4.21. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted under the criteria in 43 CFR 4.21.

If you wish to file a petition pursuant to 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the 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 must 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 regarding this decision, please contact Steven Nelson at 760-872-5011 or Collin Reinhardt at 760-872-5024.

Sincerely,

/s/ Bernadette Lovato

Bernadette Lovato
Bishop Field Manager

Enclosure:

BLM Form 1842-1

Cc:

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