



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

Southern Nevada District Office

Pahrump Field Office

4701 N. Torrey Pines Drive

Las Vegas, Nevada 89130

<http://www.blm.gov/nevada>

In Reply Refer To:  
N-101723  
3809 (NVS01000)

CERTIFIED MAIL NO. 9589 0710 5270 0112 4845 04

### DECISION

Rover Metals (USA), Inc.	:	
Attn: John Zimmerman	:	43 CFR Subpart 3809
14403 Rattlesnake Road	:	Notice
Grass Valley, CA 95945	:	

### RESCISSION OF ACKNOWLEDGEMENT OF NOTICE AND REQUIREMENT FOR PLAN OF OPERATIONS

On April 6, 2023, the Pahrump Field Office (PFO) acknowledged exploration Notice NVN-101723. This acknowledgment was in error. On the record before the Bureau of Land Management (BLM), the agency has concluded that proposed operations are likely to result in disturbance to localized groundwaters that supply the connected surface waters associated with Threatened and Endangered (T&E) species in local springs in the Ash Meadows National Wildlife Refuge (NWR), and perhaps cause significant impacts to other identified T&E species in and around the Notice area.

Accordingly, the BLM is rescinding the Acknowledgment of the Notice issued on April 6, 2023, because BLM concludes that the operator cannot prevent unnecessary or undue degradation based on the record before it. BLM is requiring Rover to submit a Plan of Operations (Plan) under 43 CFR § 3809.11 that will provide more information to BLM to assess whether the operator can engage in the proposed activities without causing unnecessary or undue degradation.

#### Background

On January 20, 2023, the BLM PFO received a notice from Rover Metals USA, Inc., (Rover) to conduct exploration activities within MDM T. 16 S., R 50 E., sec. 33 & 34 and MDM T. 16 S., R 51 E., sec. 03, 04 & 05, just north of the established Ash Meadows Area of Critical Environmental Concern (ACEC) and the Ash Meadows NWR in Nye County, Nevada. This Notice was serialized as N-101723.

The BLM notified Rover that portions of its Notice were located inside the Ash Meadows ACEC, and on March 25, 2023, Rover submitted a modified Notice that moved all proposed drilling operations outside the ACEC boundary. The PFO completed its review of the modified Notice in accordance with 43 CFR § 3809.311(c) and acknowledged Rover's Notice on April 6, 2023. The PFO review team did not include a fisheries biologist.

On June 23, 2023, the PFO received a memorandum from The Nature Conservancy (TNC), which had contracted Roux Inc., to review potential impacts from Rover's Notice. This memorandum provided additional information to the PFO—not known to BLM during its review of the Notice—that highlighted concerns over potential artesian conditions that could result in groundwater impacts and associated effects on nearby surface water bodies. This memorandum included information and data on United States Geological Survey (USGS) well log 98656, which data showed that, after airlifting, which is a type of water pump, the well exhibited artesian flow at rates up to 36 gallons per minute.

Well log 98656, in turn, is close to several drill sites in Rover's Notice and less than a mile from Fairbanks Spring. Fairbanks Spring is designated critical habitat for the Ash Meadows Amargosa pupfish. The spring is located inside the Ash Meadows NWR, an area managed by the United States Fish and Wildlife Service (USFWS) that includes designated critical habitat for up to fifteen T&E species. In addition, in a memorandum dated July 11, 2023, the USFWS expressed concern about the proposed project and potential impacts to water quality and spring discharge on the Ash Meadows NWR resulting from exploration drilling. The USFWS specifically highlighted the proximity of the project to the Fairbanks, Rogers, and Longstreet springs, and potential effects to groundwater connected to these springs.

Based on this record, BLM has concluded that the operator cannot prevent unnecessary or undue degradation or, at minimum, BLM cannot be certain without more information from the operator that it could engage in drilling at this site without causing unnecessary or undue degradation. 43 CFR § 3809.311(b)-(c). In addition, based on the information before it, BLM concludes that the operations will cause surface disturbance greater than casual use in "lands or waters known to contain Federally proposed or listed threatened or endangered species or their proposed or designated critical habitat" and therefore require a Plan of Operations. 43 CFR § 3809.11(c)(6).

We have enclosed a copy of the 43 CFR subpart 3809 regulations for your convenience. Please use the list provided under 43 CFR § 3809.401(b) as a guide for what information Rover must provide in its Plan. We have also enclosed a copy of the Voluntary-3809 Plan of Operations Outline/Format, which can be used as a format guide and to assist with understanding what information you may need to include in Rover's Plan. We note that, in issuing this recission, Rover has not begun ground disturbing activities in a manner demonstrating material reliance on BLM's acknowledgement of the notice.

If you have any questions, please contact Michael Evans, Geologist, at (702) 515-5153.

#### Appeal of a Decision under 43 CFR § 3809

If you are adversely affected by this decision, you may request that the BLM Nevada State Director review this decision. If you request a State Director Review, the request must be received in the BLM Nevada State Office at 1340 Financial Blvd, Reno, Nevada 89502, 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 under 43 CFR § 3809.808. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the Nevada 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 Nevada 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 the Las Vegas Field Office at 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130 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 with the Las Vegas Field Office at 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130 within 30 days from receipt of this decision or when your request for State Director Review is declined. 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. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### 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 must show sufficient justification based on the following standards:

1. The relative harm to 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.
4. Whether the public interest favors granting the stay.

Angelita S Bullets, District Manager  
Southern Nevada District

Enclosures (4):

1. Copy of 43 CFR § 3809
2. Rover's original Notice
3. Voluntary – 3809 Plan of Operations Outline/Format
4. Form 1842-1

cc: Rover Metals (USA), Inc.  
Attn: John Zimmerman  
14403 Rattlesnake Road  
Grass Valley, CA 95945

ecc: John Zimmerman  
Daniel Atkinson

