

Oregon Water Resources Department
Water Right Services Division

Water Rights Application
Number G-11847

Final Order
Extension of Time for Permit Number G-10994
Permit Holder: Seabridge Gold Corp

Appeal Rights

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. A request for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either file for judicial review, or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Application History

Permit G-10994 was issued by the Department on April 5, 1990 to Atlas Precious Metals, Inc. On December 2, 2003, the permit was assigned to Seabridge Gold Corporation. The permit called for completion of construction by October 1, 1992 and complete application of water to beneficial use by October 1, 1993. Five prior permit extensions have been granted for Permit G-10994. The most recent extension request resulted in the completion dates for construction and full application of water being extended from October 1, 1997 to October 1, 2008. On February 8, 2012, Calico Resources USA Corp. on behalf of the permit holder, Seabridge Gold Corp., submitted to the Department an Application for Extension of Time for Permit G-10994. On June 12, 2012, the Department issued a Proposed Final Order proposing to extend the time to complete construction to October 1, 2028 and the time to fully apply water to beneficial use to October 1, 2028. The protest period closed July 27, 2012. No protest was filed.

On November 6, 2012, the Department issued a superceding Proposed Final Order proposing to extend the time to complete construction to October 1, 2028 and the time to fully apply water to beneficial use to October 1, 2028. Comments were received from Martha Pagel, on behalf of Calico Resources USA Corp dated December 5, 2012.

The protest period closed December 21, 2012. No protest was filed.

The Department adopts and incorporates by reference the Proposed Final Order dated November 6, 2012, with the exception of three changes described below:

1: New Finding of Fact Number 12:

Compliance with Conditions [OAR 690-315-0040(3)(c)]

The water right permit holder's conformance with the permit or previous extension conditions.

- a. The Department has considered the permit holder's compliance with conditions and has not identified any concerns.

Explanation for change in finding: In the November 6, 2012, Proposed Final Order, the Department stated that "the record does not show the maintenance and use of adequate treatment facilities to remove sediment before returning the water to the stream." This concern has been satisfied by the December 5, 2012 letter which explains that there have been no discharges to the stream. This eliminates the necessity for the permit holder to install or maintain treatment facilities.

2: New finding of Fact Number 24:

Unforeseen Events [OAR 690-315-0040(2)(h)]

The Department recognizes that there have been at least two unforeseen events that have contributed to the delay of the development of this project: (1) the bankruptcy of former permit holder Atlas and resulting sale of the property to Seabridge (which occurred during the last extension period, between 1999 and 2003); and (2) a significant drop in the price of gold, which only began to recover near the end of the extension period.

Explanation for change in finding: The December 5, 2012, letter from Ms. Pagel points out, and clarifies, information already in the record relative to the delay in development.

3: Last Extension Condition:

In consultation with Ms. Pagel's office, and consistent with the December 5, 2012 letter, the Department has agreed to a change in condition wording that is clearer and should reduce the potential for confusion in the future:

New Last Extension Condition:

"This is to be the last extension of time granted for Permit G-10994. Any future extensions of time requests will be denied."

The Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to the following conditions:

CONDITIONS

1. Last Extension Condition

This is to be the last extension of time granted for Permit G-10994. Any future extensions of time requests will be denied.

2. **Checkpoint Condition**

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2017, October 1, 2022, and October 1, 2027. A form will be enclosed with your Final Order.**

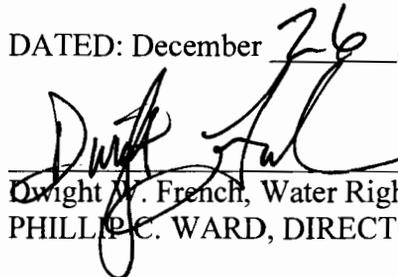
- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;
- (b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0040(2).

Order

The extension of time for Application G-11847, Permit G-10994, therefore, is approved subject to conditions contained herein. The deadline for completing construction and the deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 1, 2008 to October 1, 2028.

DATED: December 26, 2012


Dwight W. French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing List for Extension FO Copies

Note: Include a copy of the "Important Notice" document along with the original copy of the Final Order being sent to the permit holder.

FO Date: December _____, 2012

Copies

Mailed

Application G-11847

By: _____

Permit G-10994

On: _____

Original mailed to permit holder

Seabridge Gold Corp
172 King Street E
Toronto, Ontario, Canada M5A 1J3

Bill Wagener, President and CEO
Calico Resources USA Corp
122 A Street East
PO Box Q
Vale, OR 97918

Copies sent to:

1. WRD - App. File G-11847/ Permit G-10994
2. WRD - Watermaster District 9, Ron Jacobs

Fee paid as specified under ORS 536.050 to receive copy:

3. None

Receiving via e-mail (10 AM Tuesday of signature date)

(DONE BY EXTENSION SPECIALIST)

4. Martha O. Pagel, Schwabe, Williamson & Wyatt, Agent.
Email: mpagel@schwabe.com

If Progress Reports are included:

(DONE BY EXTENSION SPECIALIST)

Add record to Progress Report tracking sheet.xls Done: by _____ Date _____

CASEWORKER: JMS/DWF

