

## **Label: "Inbox/FOIA/Kirkland-AD"**

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# Conversation Contents

**your latest plan submittal for your Skull Valley location**

**Attachments:**

/136. your latest plan submittal for your Skull Valley location/1.1 CFR-2014-title43-vol2-part3800-subpart3809.pdf

/136. your latest plan submittal for your Skull Valley location/1.2 165IBLA140 CAMBRILLIC NATURAL STONE 3-28-2005 .pdf

**"Eddy, David" <deddy@blm.gov>**

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**From:** "Eddy, David" <deddy@blm.gov>  
**Sent:** Wed Jul 15 2015 15:39:52 GMT-0600 (MDT)  
**To:** areta@kirklandmining.com  
**CC:** David Hawes <rhawes@blm.gov>, "Verl (Jeff) Garrett" <jgarrett@blm.gov>, Frederick Conrath <fconrath@blm.gov>, David Eddy <deddy@blm.gov>  
**Subject:** your latest plan submittal for your Skull Valley location  
**Attachments:** CFR-2014-title43-vol2-part3800-subpart3809.pdf 165IBLA140 CAMBRILLIC NATURAL STONE 3-28-2005 .pdf

Areta,

We have begun reviewing your new proposal received in this office on July 8. Having discussing the subject with the minerals staff in our State Office and HFO's management, we will be sending out a decision letter (which I will be drafting) rejecting your mineral materials sale application. This rejection is based on the statements in footnote 1 of your cover letter stating "...material sale application...is in no way an admission that the material is saleable as opposed to locatable. KMC intends to demonstrate the deposit is of uncommon variety..." and the regulations at 43 CFR § 3809.101 which prevent us from disposing of locatable minerals through mineral materials sales. Also applicable is Interior Board of Land Appeals decision 165 IBLA 140 (attached) which on 165 IBLA 143 states "...BLM could not authorize sale of the stone pursuant to the Common Varieties Act, 30 U.S.C. § 611 (2000), before conducting an examination to determine whether in fact the stone is common or uncommon."

One of our State Office folks has also discussed the matter with some other mineral experts in the BLM and they think that a full Common Variety Determination examination may not be necessary. If the sample analyses submitted by KMC provides the necessary data parameters and is considered reliable and adequate to meet our requirements, that may be sufficient for us to determine that the material is a locatable mineral rather than common variety material.

Therefore, if KMC submits a Mining Plan of Operations under the 43 CFR § 3809 regulations, we can initiate processing of the proposal using those regulations and guidelines, including possibly determining locatability of the deposit up front. Note that activities conducted under 3809 may occur pending final determination of locatability but that if production is initiated prior to that determination, an escrow account with payments deposited equivalent to the saleable value royalty will be required (43 CFR 3809.101(b)(3)).

We can discuss all of this in more detail in the teleconference tomorrow. Remember that BLM actions are constrained by laws, regulations, and case law which partition allowable actions into the locatable, saleable, and leaseable categories. The gray area is where some types of minerals fall, such as material used as pozzolan, which can be either saleable or locatable depending on a deposits properties.

Dave

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