



MINING INDUSTRY AND LEGAL UPDATE

KALIKOVA
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Industry Update

20 March 2014

A mining reporting optimization project launched in Bishkek

A project on optimizing the processes relating to the reporting of mining activities was launched in Bishkek.

Under this initiative, a group of experts on geology, mining and law formed by Experts of Central Asia consulting company and Ken Too project research center will explore and develop proposals to the Geology Agency on optimizing the processes relating to the making, submitting and accepting the reporting of mining activities.

To take the interests of all stakeholders into account, the Geology Agency invites mining companies and other stakeholders to submit their proposals on optimizing the processes relating to the reporting of mining activities and improving the forms of mining reports.

The proposals will be accepted until April 15, 2014.

<http://www.tazabek.kg/news:369065/>

6 March 2014

A total of 1,070 mineral licenses awarded in Kyrgyzstan

A total of 1,070 mineral licenses have been awarded in Kyrgyzstan, reported Kanatbek Ermatov, the head of the industrial safety regulation department of the Geology Agency. Among them are mining licenses

Legal Update

17 March 2014

Government approves procedure and conditions of providing geological information resources for use

On March 17, 2014, the Kyrgyz Government approved the regulation on procedure and conditions of providing for use geological information resources.

The regulation is drafted in accordance with the law on mineral resources, sets forth the procedure for the provision of geological information, payment of a fee for access to geological information resources and distribution of received proceeds.

The adopted regulation will allow the Geology Agency to optimize the process of converting geological materials from hardcopy to electronic format to ensure safety of materials, state-of-the-art equipment and many other things.

The regulation establishes three levels of access (use):

- For review, without taking information media outside the premises of the State Geological Information Fund;
- For use, allowing the making of electronic or hardcopy copies of geological information resources;
- For package use, allowing the purchase of a package of geological information by a holder of mineral right.

Now all mineral right holders have access to geological information resources on a paid basis.

Before the entry into force of the law on mineral resources of August 9, 2012, the geological information on mineral resources was provided free of charge, which resulted in the loss of documents due to their frequent use, as well as

(67%), exploration licenses (21%) and prospecting licenses (12%). These licenses have been awarded for gold (15%), metals (5%), non-ore mineral resources (41%), underground water and coal (17% each), petroleum and gas (5%).

<http://www.24.kg/economics/173782-v-kyrgyzstane-vydano-1-tysyacha-70-licenzij-na.html>

4 March 2014

Kyrgyzaltyn announces a consultancy service tender

Kyrgyzaltyn announced a consultancy service tender among Kyrgyz law firms to select a short-term local legal counsel to advise the Government and Kyrgyzaltyn on the Kumtor restructuring matter.

Any legal entity, irrespective of its business structure and type of ownership, registered in the Kyrgyz Republic and primarily engaged in the provision of legal services can participate in this tender if there is no conflict of interest with the Government and Kyrgyzaltyn. Also, an applicant must have minimum 3 years working experience and practice in the matters related to commercial and corporate law and corporate governance, joint ventures, drafting of contracts and agreements including international ones.

Priority will be given to law firms having experience in the mining industry, cooperation with international organizations and capable of providing the legal services in English.

The procurement of consultancy services will be made by the quality-based selection method.

http://www.tushtuk.kg/society/13645_oao_kyrgyzaltyn_obyavilo_tender_na_zakupku_konsultatsionnyih_uslug/

1 March 2014

The Geology Agency announces an auction of the mining license for a brown coal deposit in Batken region

The Geology Agency announced an auction of the mining licenses for a brown coal deposit in Batken region. There are four deposits put to auction by the Geology Agency, including the north-west section of mining site №12 of the Sulukta brown coal deposit. Another two deposits are the northern section of the Sulukta brown coal deposit and the Low Garm

non-return of the documents to the archive.

<http://www.tazabek.kg/news:369114/>

18 February 2014

A bill proposing amendments to the law on mineral resources passes first reading

The parliamentary committee for fuel and energy sector and mining industry has passed in the first reading a bill introducing amendments to the law on mineral resources at its meeting on February 8.

The bill is introduced to prevent the mass annulment of mineral licenses and sharp reduction of exploration and mining operations, and to prevent decrease in tax proceeds from the mining sector to the state budget, to remove internal contradictions in the law on mineral resources and to increase the liability of licensees.

The committee made a decision to approve the bill and to introduce it to Parliament for review and passing in the first reading.

Thus, the bill proposes to replace the term "license annex" by the term "license agreement", which establishes a contractual procedure in the mining sector. This will allow to control the award of mineral rights, in particular those put to tender, to control compliance by licensees with the tender conditions reflected in the license agreement.

Other amendments proposed by the bill:

1. To introduce the term Extractive Industries Transparency Initiative (EITI).
2. To introduce division of mineral resources into groups in a more detailed and understandable way to prevent conflicts when considering compatibility of licenses.
3. To introduce the term "land for mining purposes" which includes the land necessary for the construction of infrastructure facilities, transmission lines, etc.
4. To clarify the meaning of the term "licensee" in accordance with Article 21 of the Law on mineral resources where the mineral right holders may include individuals and legal entities registered in accordance with Kyrgyz laws.
5. To expand the powers of the Kyrgyz Government. Thus, to improve the procedure for review of applications by suspending the acceptance of applications for mineral rights for a period of three months, since the Geology Agency fails to keep pace with reviewing applications for two years. Meanwhile, the number of application keeps growing. In case of suspending the acceptance of

section. The exploration license for these deposits is put to auction. Similar activities will be conducted by the winner of the auction at the Standard loam deposit.

The starting prices of the assets vary between \$100 and \$ 1.2 thousand. The auction will be held on April 14, 2014 in Laylak district state administration office in Isfana.

<http://www.24kg.org/economics/173376-gosgeologiya-obyavila-ob-aukcione-na-razrabotku.html>

12 February 2014

Kyrgyzstan to export gold containing materials to Italy and Belgium

Kyrgyzaltyn, K. Dioro LLC, Oshin LLC, Fortuna LLC, Mining Investment Company LLC, Asia Gold KG LLC and Fortuna&K LLC hold the licenses to export ore and concentrates containing precious metals and export them to PRC, Russian, Italy, Belgium and Kazakhstan since 2008.

The export of gold-containing materials from the republic increased almost by 9 times over four years, reaching 4,734.4 tonnes of gold-containing ore in 2008 compared to 41,560.7 tonnes exported in 2011.

<http://www.tazabek.kg/news:367293/>

12 February 2014

The Geology Agency suspends Alтынken's mining license for Taldybulak Levoberezhny gold deposit

Under Article 27.2 of the Subsoil Law, i.e. upon the failure to provide a report on performed activities, the mining licensing committee has suspended the mineral licenses of Alтынken for 3 months. In case of the failure to remedy the reasons for suspending the mineral license of this company, the licenses will be annulled.

The gold reserves at the Alтынken deposit total 78 tons. At present, the construction of tailing, gold-extraction and other facilities is underway. The assessment of environmental impact is being finalized and the public hearings will be held thereafter. The mine reclamation plan worth of 6 million USD for tailing and other facilities is ready and is currently reviewed by the governmental

application for three months the Geology Agency will be able to review all filed applications, after which will review applications within a specified period of time.

6. To provide that the procedure for the provision and use of geological information resources, the amount of the fee for access to them, their cost and procedure for spending the proceeds will be determined by the Kyrgyz Government.
7. To rephrase separate articles of the law according to the law on state registration of legal entities, branches (representative offices).
8. To remove internal contradictions among articles.
9. To change the procedure for holding a tender of mineral rights, to change the composition of the tender committee and procedure for approval of the tender conditions and criteria for determining the winner. This norm is necessary because in practice in case of tenders the local population demands to include in the tender committee many residents of the local community, which ultimately can cause lack of understanding of the tender conditions and pressure on other members of the tender committee from the local community. In this regard, the bill proposes to include only heads of representative and executive bodies of local self-government and administrative and territorial unit where the mining asset is located, who must be representatives of the local community. Whereas the tenders are conducted and announced for nationally significant assets by the decision of the Government, therefore the tender conditions must be approved by the Government.
10. Article 27 clarifies the types of reporting: on the progress of geological and mining operations and reports on the movement of mineral reserves, failure to submit which within a specified period of time entails the suspension of the mineral right. Also, the bill proposes to make "the failure to pay bonus and(or) license retention fees within a specified period of time" the grounds for suspending but not revoking the licenses. This will allow to avoid the mass annulment of licenses and at the same time to make licensees pay bonuses and license retention fees. Taking into account how significant for the economy are the mineral resources distributed by tender, the bill proposes to introduce additional grounds for termination of mineral rights over such assets.
11. For the purposes of excluding corruption, the bill proposes to introduce a

authorities.

http://www.knews.kg/gornoe_delo/44981_u_altvinkena_-_razrabotchika_mestorojdeniya_zolota_taldybulak_levoberejnyiy_priostanovleno_deystvie litsenzii/

6 February 2014

Gold-buying stores to be replaced by precious metals exchange

The joint efforts of specialists of a Turkish company, Istanbul Gold Refinery, and the Kyrgyz Government are underway to establish a precious metals exchange in the Kyrgyz Republic under the memorandum of understanding signed between Kyrgyzaltyn and Istanbul Gold Refinery in August 2013.

"Kyrgyzstan became one of the countries producing enough gold to establish its own precious metals exchange. In Turkey, Istanbul stock exchange and precious metals exchange have merged into one trading floor. Taking into account their experience, we signed a memorandum of understanding whereby our stock exchange (Kyrgyz Stock Exchange) will be used as a floor for trading gold and other precious metals", explained U. Toichubekov, the chairman of the State Service for regulation and supervision of financial market of the Kyrgyz Republic.

http://www.knews.kg/gornoe_delo/44545_punktyi_po_skupke_zolota_zamenit_birja_dragotsennyih_metallov/

4 February 2014

Ulanbek Ryskulov is appointed as deputy director of the Geology Agency

On February 4, 2014, Ulanbek Ryskulov was appointed as the deputy director of the Geology Agency. Earlier, U. Ryskulov was the head of department of information resources of the Geology Agency.

<http://www.tazabek.kg/news:366301>

1 February 2014

In 2013, gold mining produced 19.3 tonnes and antimony mining

conclusive list of the grounds for refusing to issue mineral rights.

12. The bill proposes to add an article on "social license". In practice, social license raised many questions among mineral right holders since there are no well-defined criteria, especially among the local residents, who tend to overestimate their social demands by requesting licensees to build local infrastructure.
13. The bill proposes changes relating to the extension of the period of validity of the mineral license.
14. To avoid the ambiguous interpretation of some legal provisions, the bill proposes to exclude the term "land allotment", leaving only the term "temporary use right".
15. Also, the bill proposes to establish the fund for mine reclamation not only from the start of the mining but also from the start of the exploration activities.
16. For the purposes of ensuring the timely award of the land plot to mineral right holders, until the Kyrgyz Government transforms the land where mineral resources are discovered and recorded in the State registry of mineral resources into the category of state reserve of mining land, they will be awarded under the general procedure in connection with which the bill proposes to introduce transitional provisions.
17. The bill proposes to introduce an article establishing the obligations of mineral right holders.

<http://tazabek.kg/news:367251/>

17 February 2014

Government Resolution "On approval of list of strategic assets of the Kyrgyz Republic" of February 17, 2014 № 99

On February 17, 2014, the Government of the Kyrgyz Republic approved the list of strategic assets of the Kyrgyz Republic recommended by the Defense Council of the Kyrgyz Republic.

The State Property Fund of the Kyrgyz Republic was instructed to notify relevant owners of assets within one month period of their inclusion in the list of strategic assets of the Kyrgyz Republic.

The list includes among others Kumtor Operating Company, warehouses of oil products with the capacity of more than 2,000 m³, 20 mineral deposits including Taldy-Bulak Levoberezhny, Jerooy, Altyn Jilga, Bozymchak.

produced 1.5 thousand tonnes

In 2013, gold mining produced 19.3 tonnes, antimony mining produced 1.5 thousand tonnes worth of 81 billion 957.1 million soms.

This growth is explained by the restoration of production at the enterprises operating the Kumtor deposit representing 48.6% of the whole industry and 7.8% of the GDP ensuring the highest positive input in the GDP structure (5.1%).

The increased production in this sector is ensured by such enterprises as Kumtor Gold Company, Kadamzhay Antimony Factory.

The production of non-metal minerals in January-December 2013 increased by 1.3 times, representing 8.5% of the total industrial product.

The increased production of other non-metal minerals is ensured by increase in production of construction materials and glass in January – December 2013 (23 million 419.1 thousand sq.m.), which is 10 million 259.9 thousand sq.m. and 1.8 times more than in the similar period of 2012.

<http://www.tazabek.kg/news:366134/>

31 January 2014

The Geology Agency selects a company to represent Kyrgyzstan in Stans Energy Corp. arbitration case

The Geology Agency selected an international law firm Schonherr Rechtsanwälte GmbH to represent Kyrgyzstan in Kutisay Mining LLC and Stans Energy Corp. (Canada) arbitration case.

Berwin Leighton Paisner LLP is selected as a stand-by law firm.

Proposals from McDermott Will & Emery and Herbert Smith Freehills law firms were rejected due to high cost of their services.

<http://www.tazabek.kg/news:366056>

29 January 2014

In 2013 the state budget received 853 million soms as bonuses from mining companies

In 2012 and until mid-2013, the Kyrgyz Government has made big changes to the mining sector. This was reported on January 28, 2014 by Temir Sariev, the minister of economy at the meeting of the agency addressing the results of socio-economic

4 February 2014

Government Resolution “On composition of State Committee for Mineral Reserves of the Kyrgyz Republic” of February 5, 2014 № 74

On February 5, 2014, the Government adopted the resolution approving the composition of the state committee for mineral reserves of the Kyrgyz Republic.

The ministry of economy of the Kyrgyz Republic is instructed to draft and introduce by March 1, 2014, to the Kyrgyz Government the draft regulation on state committee for mineral reserves in the new version to optimize and improve the legal framework for the mining sector.

4 February 2014

The Geology Agency proposes to exclude the issues of licensing in the mining sector from the law on licenses and permits system of the Kyrgyz Republic

The Geology Agency proposes to adopt the bill “On amending some legal acts of the Kyrgyz Republic” to remove the mineral licensing issues from the law on licenses and permits system in the Kyrgyz Republic.

This aims to:

- remove collisions between two regulatory acts;
- ensure general application of the legal norms regulating mining activities;
- establish general regulatory act containing general principles and approaches to regulation of mining activities;
- improve investment attractiveness;
- remove ambiguous interpretations.

The adopted law of the Kyrgyz Republic “On licenses and permits systems in the Kyrgyz Republic” officially entered into force on November 13, 2013, whereby the Kyrgyz Republic abolishes the licensing regulation of the types of activities, actions, or operations not provided by law.

Also, the law “On licenses and permits system in the Kyrgyz Republic” contains separate provisions on the period of validity of licenses and permits including for such types of activities which may

development of the Kyrgyz Republic in 2013.

According to T. Sariev, the new law on mineral resources was enacted. The amendments were made to the Tax Code, the Land Code, in respect of non-tax payments. The purpose of these amendments was to ensure an open and transparent system in the mining sector. There were adopted about 10 different regulations in furtherance and implementation of relevant laws and sub-laws. What is the result? The proceeds from license retention fees remitted to the local budget reached 129 million soms. Previously, mining companies held big areas but paid nothing. We enacted the economic law. If one takes a mining license for a certain area but fails to use it, he should pay the license retention fee", said the minister.

T. Sariev also informed that the proceeds from infrastructure development and maintenance fees (2% non-tax payment) reached 105 million soms in 2013. In the beginning of 2014, there were held 4 auctions, which generated more than 85 million soms or \$1.7 million, and proceeds from bonuses reached 853 million soms.

<http://www.tazabek.kg/news:365802/>

28 January 2014

The State Inspection Office for Environmental and Technical Safety has collected 64 million soms to the state budget at the end of 2013

The State Inspection Office for Environmental and Technical Safety has collected 64 million soms to the state budget in 2013.

According to R. Artykbaev, the deputy director of the agency, there is bad communication between the local offices and law-enforcement agencies. All cases referred to the courts are being closed as the agency is deemed to have no enough powers.

With reference to workplace safety, the deputy director informed that 57 million soms were paid as workers' compensations. He also informed that 5 cases for 3 million soms referred to the court were dismissed, while 215 cases are pending.

<http://www.tazabek.kg/news:365696/>

28 January 2014

China invests in exploration while Russia invests in trade in Kyrgyzstan

directly or indirectly affect the public and industrial safety. Thus, the types of activities in the area of circulation of explosive materials of industrial purpose, highly toxic substances, as well as weapons and munitions are referred by the law to permits which are issued without indicating the period of validity. Actually, by issuing the permit for acquisition, storage and sale of explosive materials, highly toxic substances and weapons and munitions, the state allows licensees at any time to acquire and sell the said materials without taking into account that the use of the above materials for other purposes may lead to irreparable consequences. Therefore, the Geology Agency proposes to introduce a provision indicating the concrete period for permits of explosive materials of industrial purpose, highly toxic substances and weapons and munitions.

Also it is proposed to distinguish between the permit established by Article 17.27 of the Law, in particular the right to keep explosive substances and items (including pyrotechnical) and the permit to keep explosive substances and pyrotechnical items since the former refers to the competence of the Geology Agency, and the latter refers to the competence of the Ministry of Internal Affairs of the Kyrgyz Republic. Moreover, it is proposed to replace the words "explosive substances" by the words "explosive materials", since they refer to the blasting means (detonators, cords etc.).

Also it is proposed to exclude from the phrase "the permit to acquire, keep and sell highly toxic substances" the word "keep" since it duplicates the license to receive, form, keep, use, and destroy chemically hazardous substances established in Article 16.7.

<http://www.tazabek.kg/news:366239/>

4 February 2014

The Geology Agency proposes to divide the functions of state supervision over turnover of explosive substances of industrial purpose

The Geology Agency introduced to discussion the bill on "On explosive materials of industrial purpose", which distribute the functions among the Geology Agency, the Ministry of Internal Affairs, the State Inspection Office for Environmental and Technical Safety and the Ministry of Economy of the Kyrgyz Republic in the part related to the state regulation and supervision over the turnover of explosive materials of industrial purpose.

The licenses and permits of the authorized agencies were established based on the effective law of the Kyrgyz Republic "On licenses and

Over the period of 9 months of 2013, direct foreign investment reached \$685.8 million which is 1.7 times higher than in the similar period of 2012.

As of the end of 9 months of 2013, 91% of all direct investments were provided by 10 major investor countries. Almost 70% of all direct investments are provided by China and Canada. Investments from Russian made \$ 52.9 million or 7.7% of all proceeds.

China mainly invests in exploration (76.7% of received investments) and processing enterprises (16.9%), 88% account for petroleum production, Canada mainly invests in processing enterprises (Kumtor), UK invests in exploration (99.4%).

Russian invests mainly in trade (38.6%), energy sector (30.8%) and processing industry (sewing and food industries) (27.1%).

Investors from Kazakhstan invest in the financial sector (41.9%), mining industry (26.6%) and trade (21.8%).

<http://www.tazabek.kg/news:365655>

20 January 2014

A mining license for 2 sites at the Sary-Tash deposit sold for \$1.08 million

On January 20, 2014, Tuz-Bel Tash LLC won the auction of mining licenses for 2 sites of Sary-Tash limestone deposit located in Uzgen district of Osh region.

A mining license for site №17 (with 200,289 m³ of estimated reserves on site 17 in category A+B) was sold for \$575 thousand. The starting price of the auctioned asset was \$ 5,010.

A mineral license for site № 21 (with 708,577 m³ of estimated reserves on site 21 in category A+B) was awarded to the company for about \$508 thousand. The starting price of the asset was \$ 17,715.

A lot for site № 20 (with 580,844 m³ of estimated reserves on site 20 in category A+B) was suspended by the auction committee due to improper bids. The starting price of the auctioned asset was \$ 14,550.

The remaining two sites (№18 and № 19) were not auctioned due to lack of bids.

<http://www.tazabek.kg/news:365185>

permits system in the Kyrgyz Republic", as well as the concerted decisions of the interdepartmental committee for optimization of regulatory framework for business activity were earlier based on the analysis of the regulatory impact.

The bill defines the provisions establishing access for individuals to the turnover of explosive materials, the procedure for acquisition, sale, keeping, using, disposing and taking of explosive materials as well as limitations related to the turnover of explosive materials.

<http://www.tazabek.kg/news:366244/>

28 January 2014

Parliamentary committee approves amendments to the Tax Code proposing a minimum threshold tax on income of mining companies with the gold price being lower than \$1,300 per ounce

The Parliamentary committee for economic and fiscal policy approved the bill on amending the Tax Code, initiated by the Ministry of Finance of the Kyrgyz Republic at its meeting on January 28, 2014.

The current tax law of the Kyrgyz Republic does not provide for the tax on income with the gold price being lower than \$1,200 per ounce.

Taking into account the current situation related to decrease in the price of gold in the world market, the bill proposes amendments to Article 221-1 of the Tax Code of the Kyrgyz Republic, providing for a minimum threshold rate of tax on income of mining companies and/or mineral processing enterprises with the gold price being lower than \$1,300 per ounce.

<http://www.tazabek.kg/news:365746/>



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www.gov.kg

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