



# MINING

## INDUSTRY AND LEGAL UPDATE

**KALIKOVA &**  
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*law firm*

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## Industry Update

31 May 2017

### Refinery plant of Kyrgyzlatyn passed the certification of to the international standards of LBMA

Kyrgyzaltyn OJSC's refinery plant passed the certification of the international standards of LBMA. Adherence to LBMA standards improves the process of concluding deals with partners that manufacture Dore alloy.

The availability of this document guarantees the high quality of the products produced by the refinery - the highest grade gold of 999.9.

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16 May 2017

### The State Committee for Industry, Energy and Subsoil Use put up licenses for 4 subsoil objects for auction

The State Committee for Industry, Energy and Subsoil Use put up for auction licenses for 4 subsoil objects with the total starting price of \$25 thousand 487 or 1,7 million soms.

As stated on the website of the committee, the following objects are put up for auction:

- Sulyukta deposit
- Kokinskaia field
- Sulyukta deposit, Severnyi field
- Deposit of brown coal Sulyukta
- Field of sand and gravel mizture Aksuu

Auction will take place on June 14, 2017 in Sulyukta city, Batken oblast.

## Legal Update

6 May 2017

### Government Decree No. 165-p dated May 16, 2017

In order to attract investments into the complex and rational development of the Tuyuk-Kargash coking coal deposit, the Government of the Kyrgyz Republic approved the terms and procedure for holding a tender for the right to use subsoil to develop the Tuyuk-Kargash coking coal deposit and conduct geological exploration and criteria for determining the winner.

The Interdepartmental Tender Commission was entrusted to conduct in accordance with the established procedure a tender for the right to use subsoil in order to develop the Tuyuk-Kargash coking coal deposit and conduct geological exploration work.

8 May 2017

### The State Committee for Industry, Energy and Subsoil Use proposed to exclude a category of the state reserve of deposit lands from the Land Code

The State Committee for Industry, Energy and Subsoil Use proposed to exclude a category of the State reserve of deposit lands from the Land Code of the Kyrgyz Republic. The respective bill "On amendments to the Land Code of the Kyrgyz Republic" was made available for public discussions.

According to the Land Code and Mineral Resources Law the new 8th category of the State reserve of deposit lands shall include lands under which mineral resources are explored and accounted for, i.e. only land that is limited to the limits of the mining allotment. The lands for infrastructure facilities (roads, warehouses, tailing dumps, factories, etc.) remain unreached. It is impossible beforehand, before the development of a

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26 April 2017

## First gold production at Jerooy mine expected by end - 2018

An official ceremony to celebrate the beginning of the construction works at the Jerooy gold mine was held on April 25 in the Talas region.

Jerooy is listed among the objectives set out in the National Sustainable Development Strategy of the Kyrgyz Republic, Saparaliev said in his opening speech. "The open and fair bidding for Jerooy was held in 2015. Construction of the mill will create about 1,000 jobs. Besides, local residents of Talas will benefit from social programs to be funded by four specially created foundations. I am sure that Jerooy will become one of the most successful and profitable economic projects in the modern history of the Kyrgyz Republic", the official noted.

According to him, Alliance Altyn mining company began construction of a road from Jerooy mine to Bishkek-Sussamy-Talas-Taraz highway.

The project is anticipated to produce first gold by end-2018 and to reach design capacity by mid-2019 with the estimated gold reserves being 105.553 tons.

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24 April 2017

## Akart white marble mine developer selected

The tender commission selected a developer of the Akart white marble deposit located in the Nookat district of the Osh region.

The bids for the second tender were submitted by two companies: Aldayar Ugol Limited and Kersara Ltd.

The tender commission selected Aldayar Ugol Limited by a majority vote. According to its deposit development program, the company intends to invest about \$1 million in the first year.

Aldayar Ugol Limited must sign the community benefit agreement with the local authorities within three months from the date of obtaining the license.

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18 April 2017

## Government proposes to regulate gold ore export through taxation

technical design or technological scheme for the selection of groundwater, to predetermine the boundaries of the land allotment necessary for the construction of infrastructure facilities and to include them in a new category. In this case, subsoil users will have to solve in general procedure the issues of obtaining temporary rights to use the land for infrastructural facilities and transfer (transformation) of these lands from other categories to the category of "industrial, transport, communications, defense and other lands"

The lack of regulation in the legislation of the category of lands of the State reserve of deposit lands facilitated the aggravation of the situation in obtaining temporary land rights by subsoil users. Often, local administrations refuse to approve documents for transferring (transforming) land plots from other categories to the category of industrial, transport, communications, defense and other land, citing a new category of land.

To date, the State balance of mineral resources has taken into account the reserves of minerals in hundreds of deposits. If we consider the possibility of transferring (transforming) all land plots on which mineral deposits are located, then a large part of the territory of land from other types of land categories of the Kyrgyz Republic should be transferred to the category of lands of the State reserve of deposit lands.

In connection with foregoing, the committee proposes to replace the term "State reserve of deposit lands" with the term "Lands granted for subsoil use" available in the current Mineral Resources Law. Also, it is advisable in connection with the exclusion of the category of lands of the State reserve of deposit lands, the committee explains.

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21 April 2017

## President signs law proposing amendments to some legislative acts

President Almazbek Atambaev signed the Law No. 62 dated April 19, 2017 proposing amendments to some legislative acts of the Kyrgyz Republic (the Tax Code, the Mineral Resources Law). The law was enacted by the Jogorku Kenesh on March 16, 2017.

The Law aims to improve mining regulation by introducing provisions to the Tax Code and the Mineral Resources Law setting forth fair lease bonus mechanisms. Particularly, bonus shall be paid in case of change of ownership in participatory interest (shares) in a legal entity, holding the license for subsoil use right, except for legal entities listed on stock exchanges and the transfer of ownership as a result of universal succession provided for by the civil laws of the Kyrgyz Republic (i.e. the threshold of 10% was canceled and any change in ownership triggers payment of bonus). Also subsequent increase in the amount of mineral reserves, available at the time of granting the right to use subsoil, as a result of additional exploration, recalculation of reserves or for other reasons; increase

The Government of the Kyrgyz Republic proposes to regulate gold ore export through taxation. This was announced by Oleg Pankratov, the Deputy Prime Minister at the meeting of the parliamentary committee on fuel, energy and mineral resources.

The parliamentarians requested the official to articulate the vision of the Government as the proposer of the bill. This information was necessary for them to determine whether to impose an export duty or to build a mill.

Oleg Pankratov replied that after joining the EAEU, the Kyrgyz Republic would not be able to impose duties on the ore exported to Kazakhstan. Only export to China would be subject to duties. Export to the EAEU member states would be regulated through taxes rather than through duties.

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13 April 2017

## Ministry of Finance of the Kyrgyz Republic suspends budget support to geological organizations

Since January, the Ministry of Finance of the Kyrgyz Republic has suspended budget support to Hydro Expedition and Methodical Expedition.

According to Eldar Tadjibaev, the Chairman of the Central Committee of the Mining and Metallurgy Trade Union, the Ministry of Finance requires that the State Committee on Industry, Energy and Mineral Resources must hold tenders for the funding of these works, in which not only subordinate organizations of the State Committee on Industry, Energy and Mineral Resources, but also the private sector can participate.

The Ministry of Finance of the Kyrgyz Republic refers to the Law of the Kyrgyz Republic "On Public Procurement" and the Resolution of the Government of the Kyrgyz Republic approving the procedure for procurement of goods, works and services for national defense, national security, state secret and disaster recovery purposes, which require that all public procurement contracts must be awarded through tenders.

In 2017, funding will be awarded only through tenders. This will cause collapse of industry.

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17 March 2017

## Kyrgyzstan's EITI status suspended

Kyrgyzstan's Extractive Industries Transparency Initiative (EITI) status was suspended in March 2017 due to insufficient progress in meeting EITI standards.

Nurlan Joldoshev, the coordinator of the NGOs consortium on EITI promotion in the Kyrgyz Republic reported that the

in the size of the subsoil area granted to the subsoil user; and grant of the subsoil use right for new/additional minerals that were not declared at the time of the initial receipt of the subsoil use rights are additional basis for payment of bonus.

The law entered into force on May 5, 2017.

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6 March 2017

## Government Decree No. 62-P dated March 6 2017

The Government permitted Kadamzhai Antimony Plant to engage in recycling of mine tailings and smelter slag and waste by using modern technologies and observing normative legal acts of the Kyrgyz Republic for the purposes of environmental rehabilitation under Article 7 of the Tailings and Dumps Law.

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2 March 2017

## Some legislative acts amended

President Almazbek Atambaev signed the Law proposing amendments to some legislative acts (the Code of Administrative Liability, the Mineral Resources Law).

The Law aims to improve control over rational use and protection of mineral resources. The Law make provision for distribution of functions between the mining policy authority (the State Committee on Industry, Energy and Mineral Resources) and the mining supervisory authority (the State Inspectorate for Environmental and Technical Safety) to ensure effective control over the use and protection of mineral resources.

Thus, Article 7 of the Mineral Resources Law was amended to deprive the mining policy authority of the power to exercise control over protection of mineral resources within geological, mining and land allotments.

The Mineral Resources Law was amended by adding Article 81 setting forth the powers of the mining supervisory authority to ensure effective control over the rational use and protection of mineral resources.

The Code of Administrative Liability was amended by adding provisions delegating the power of the mining policy authority to review some administrative violations (violation of state ownership of mineral resources and geological information on mineral resources, violation of mining and processing technologies (Article 97) and violation of, or failure to comply with the counting rules) to the mining supervisory authority (Article 100)).

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2 March 2017

## The State Committee on Industry, Energy and Mineral Resources proposes to approve rules for

activists prepared an appeal to the President, Speaker, Prime Minister and Chairman of the State Committee on Industry, Energy and Mineral Resources proposing measures to address the situation. This situation can be addressed through joint efforts of the government organizations, private sector, non-governmental organizations before September 2018, he added.

Kyrgyzstan made insufficient progress in meeting a number of criteria, such as licensing and contracts, monitoring production, tax collection, revenue distribution, economic contribution and social impact.

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## crushing, sorting and enriching ore

The State Committee on Industry, Energy and Mineral Resources proposes to approve the rules for crushing, sorting and enriching the ores.

The draft rules for crushing, sorting and enriching the ore are based on the legislation and decision of the working group of the Defense Council on State Strategy for Anti-corruption Policy.

The purpose of the rules is to ensure public safety and health, protection of property of individuals and legal entities, state or municipal property and the environment from negative impacts of mining. Safety at all stages of mining is ensured by establishing mandatory requirements for all stages of mining from design to conservation (liquidation) of mines.

The Rules take into account the requirements for normative legal acts, WTO Agreement on Technical Barriers to Trade, and international best practices, including those of the CIS countries, in ore-processing industries.

The Rules apply to facilities engaged in processing (enrichment and gold recovery facilities) being highly mechanized enterprises with complex technological processes.

Responsible authorities and manner of control (supervision) shall be determined by the Government.

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