(DW-28) **TEMPORARY** **No. 70538-T**

APPLICATION FOR PERMISSION TO CHANGE POINT OF DIVERSION, MANNER OF USE AND PLACE OF USE OF THE PUBLIC WATERS OF THE STATE OF NEVADA HERETOFORE APPROPRIATED

Date of filing in State Engineer's Office **OCT 28 2003**

Returned to applicant for correction

Corrected application filed

Map filed **FEB 14 2002 under 68460-T**

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The applicant **Round Mountain Gold Corp, Homestake Nevada Corp, BaRGold Corp dba Smoky Valley Common Operation**, hereby makes application for permission to change the **point of diversion and place of use of a portion** of water heretofore appropriated under **Permit #59218**

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1. The source of water is **underground (DW-28)**

2. The amount of water to be changed **1.15 cfs**

3. The water to be used for **mining activities (including reclamation) milling, and dewatering**

4. The water heretofore permitted for **mining, milling, domestic, and dewatering**

5. The water is to be diverted at the following point **within the SW¼ of the SE¼ of Section 24, T10N, R43E, M.D.M., or at a point from which the NW corner of said Section 24 bears N 42 degrees 57 minutes 31 seconds W for a distance of 5581.7 feet**

6. The existing permitted point of diversion is located within **SW¼ SW¼ of Section 19, T 10N, R44E, or at a point from which the SE corner of Section 30, T 10N, R44E MDM bears S 34 degrees 46' 16" E 7138.5 feet**

7. Proposed place of use **within Sections 17, 18, 19, 20, 29, 30 & 31, T10N, R44E, M.D.B&M. (portions unsurveyed); Sections 13, 23, 24, 25, 26, 34, 35 & 36, T10N, R43E, M.D.B&M.; Section 6, T9N, R44E; and Sections 1, 2, & 3 T9N, R43E, M.D.B.&M.**

8. Existing place of use **within Sections 17, 18, 19, 20, 29 and 30, T 10N, R 44E, MDM (portions unsurveyed) and Sections 13, 23, 24, 25, and 26, T 10N, R 43E, MDM**

9. Use will be from **January 01** to **December 31** of each year.

10. Use was permitted from **January 01** to **December 31** of each year.

11. Description of proposed works **Existing well.**

12. Estimated cost of works **$100,000**

13. Estimated time required to construct works **Cased well with submersible pump and electric motor.**

14. Estimated time required to complete the application of water to beneficial use **Temporary right.**

15. Remarks: **This well will serve to dewater the mining pit and to ensure highwall stability.**

The water developed will be co-mingled with other water rights held by the applicant and will primarily be utilized for mining and milling activities, including associated reclamation activities.

By **Gina Myers**
s/Gina Myers
P.O. Box 480
Round Mountain, NV 89045

Compared ag/cmf ag/cmf
Protested

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APPROVAL OF STATE ENGINEER

This is to certify that I have examined the foregoing application, and do hereby grant the same, subject to the following limitations and conditions:

This temporary permit to change the point of diversion, place of use and manner of use of a portion of the waters of an underground source as heretofore granted under Permit 59218 is issued subject to the terms and conditions imposed in said Permit 59218 and with the understanding that no other rights on the source will be affected by the change proposed herein. The well shall be equipped with a 2-inch opening and a totalizing meter must be installed and maintained in the discharge pipeline near the point of diversion and accurate measurements must be kept of water placed to beneficial use. The totalizing meter must be installed before any use of the water begins or before the proof of completion of work is filed. If the well is flowing, a valve must be installed and maintained to prevent waste. This source is located within an area designated by the State Engineer pursuant to NRS 534.030. The State retains the right to regulate the use of the water herein granted at any and all times.

This temporary permit will allow the permittee to dewater the pit area.

It is understood that any water pumped as a result of the production and dewatering operation shall be used first by the permittee for mining, milling, heap leaching, drilling, road watering and other related mining uses within the described place of use on this permit.

Any water pumped and not used for mining and milling purposes shall be infiltrated back to the Big Smoky Valley Groundwater Basin, Northern Part (137B). The permittee shall discharge water in a manner to achieve maximum conservation of the water resource. It is understood that this right must allow for a reasonable lowering of the static water level.

The State Engineer will retain the right to require additional monitoring of the water levels in observation and monitor wells, and of the flow rates of surface sources. The permittee, on a schedule acceptable to the State Engineer, shall prepare and present an update on the activities of the mine and the monitoring on a periodic basis, but not less than two times per year.

This temporary permit does not extend the permittee the right of ingress and egress on public, private or corporate land.

The issuance of this temporary permit does not waive the requirements that the permit holder obtain other permits from State, Federal and local agencies and is specifically issued contingent upon approval by the Nevada Division of Environmental Protection of the dewatering project.

The total combined duty of water for consumptive purposes under Permits 536; 1077, Certificate 267; 2908, Certificate 353; 3898, Certificate 2347; 12442, Certificate 3831; 12445, Certificate 3832; 12768, Certificate 3751; 14119, Certificate 4889; 26650, Certificate 13904; 26652, Certificate 13905; 44297; 44299; 44300, Certificate 13174; 50971; 51577, Certificate 13185; 51578, Certificate 13186; 53365; 55498; 55500; 55501; 55502; 55503; 59217; 59218; 60874; 60875; 60876 and Temporary Permits

(CONTINUED ON PAGE 3)

69927-T; 70203-T; 70205-T; 70206-T; 70534-T; 70535-T; 70536-T; 70537-T; 70538-T; 70539-T; 70541-T; 70542-T; 70543-T; 70544-T; 70545-T; 70546-T; 70547-T; 70548-T; 70549-T; 70550-T; 70551-T; 70552-T; 70553-T; 70554-T; 70555-T; 70556-T; 70557-T; 70562-T; 70564-T; 70565-T; 70566-T; 70567-T; 70568-T; 70569-T; 70570-T; 70571-T; 70572-T; 70573-T; 70574-T; 70575-T, 70667-T; 71129-T; 71212-T; 71213-T and 71214-T will not exceed 13,910 acre-feet annually.

A monthly report shall be submitted to the State Engineer within 15 days after the end of each calendar quarter which shall include: (A) the volume of water pumped from each well, (B) the measurement of pumping water level (drawdown) from each production, dewatering and monitoring well, (C) the volume of water consumptively used for mining and milling uses projectwide, (D) the volume of water used for dust control purposes projectwide, and (E) the amount of water discharged for infiltration.

A method that estimates the amount of evaporative losses from the discharge system shall be submitted with the monthly report. The evaporative losses will be considered as part of the combined duty for consumptive purposes.

The State Engineer retains the right to impose future conditions as necessary upon review and evaluation of all data submitted reporting on the dewatering program, water use and the monitoring plan. The State Engineer retains the right to regulate pumping from the dewatering project and/or any other groundwater withdrawals herein authorized to protect the public interest and existing rights.

All of the above stated conditions are issued subject to having no adverse impacts on existing rights.

This temporary permit is issued pursuant to the provisions of NRS 533.345 Section 2 and will expire on **July 22, 2005** at which time all rights herein granted shall revert to the right being changed by this temporary permit.

The amount of water to be appropriated shall be limited to the amount which can be applied to beneficial use, and not to exceed **0.9** cubic feet per second, **but not to exceed 651.57 acre-feet annually.**

Work must be prosecuted with reasonable diligence and be completed on or before:

Proof of completion of work shall be filed on or before:

Water must be placed to beneficial use on or before:

Proof of the application of water to beneficial use shall be filed on or before:

Map in support of proof of beneficial use shall be filed on or before:

TEMPORARY

IN TESTIMONY WHEREOF, I, HUGH RICCI, P.E.,

State Engineer of Nevada, have hereunto set

my hand and the seal of my office,

this **23rd** day of **July**, A.D. **2004**

H. Ricci, P.E.

State Engineer