

Carl Huie

"Amendment & Notification pursuant to 5.61(b)"

From: Carl Huie
Sent: Wednesday, January 05, 2005 3:45 PM
To: 'Rummel, Jeffrey'
Cc: Seppala, Vicki
Subject: RE: Phelps Dodge Corporation - File No. 0145-EX-ST-2004 (Granted under Call Sign WB9XWG); File No. 0164-EX-PL-2004 (Pending)

Section 5.61(b) of the Commission's rules does not apply to frequencies that require approval from the IRAC (Government spectrum), which is still pending (can contact Anne Reap for status, 418-2469). Therefore, experimental authority ended Oct 1, 2004, as specified in 145-EX-ST-2004.

N6048619

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-----Original Message-----

From: Rummel, Jeffrey [mailto:Rummel.Jeffrey@ARENTFOX.COM]
Sent: Wednesday, January 05, 2005 2:48 PM
To: Carl Huie
Cc: Seppala, Vicki
Subject: Phelps Dodge Corporation - File No. 0145-EX-ST-2004 (Granted under Call Sign WB9XWG); File No. 0164-EX-PL-2004 (Pending)

Mr. Huie:

As you know, pursuant to File No. 0145-EX-ST-2004 (Call Sign WB9XWG), the Commission granted Special Temporary Authority ("STA") to my client Phelps Dodge Corporation d/b/a Phelps Dodge Mining Company ("Phelps Dodge") to operate a Slope Stability Radar ("SSR") system under experimental authority at two locations, i.e., Green Valley, AZ, and Bagdad, AZ. Such STA was granted effective April 1, 2004, and the term of the STA was granted through October 1, 2004.

On August 12, 2004, well prior to the expiration of the STA, Phelps Dodge filed with the Commission an application for a 2 year license for the same facilities, as well as three additional locations (i.e., Claypool, AZ, Morenci, AZ, and Chino, NM) under File No. 0164-EX-PL-2004 ("Two Year Application"). The Two Year Application remains pending before the Commission. Consistent with Section 5.61(b) of the Commission's rules, because the Two Year Application was filed with the Commission more than 15 days prior to the expiration of the STA - Phelps Dodge is continuing to operate the facilities granted under the STA (0145-EX-ST-2004) during the pendency of the Two Year Application.

With respect to these filings, this is to confirm the following, which I had preliminarily discussed with you towards the end of 2004:

1. As confirmed above, the Commission granted STA to Phelps Dodge to operate at two locations, i.e., Green Valley, AZ, and Bagdad, AZ. To date, Phelps Dodge has operated a single SSR unit at either the Green Valley or the Bagdad location. Currently, the SSR unit is being operated at the Bagdad location to monitor slope stability issues at that location. However, because of concern of on-going slope movement activity at the Green Valley location previously monitored by the SSR, it has become necessary for Phelps Dodge to simultaneously operate an additional SSR unit at the Green Valley location to enhance the understanding and warning of potential slope movements. Pursuant to undersigned counsel's discussions with you, it is Phelps Dodge's understanding that the operation of two units under the STA would not be considered by the Commission to be inconsistent with the authority granted to Phelps Dodge under the STA, nor would the Commission object to the operation of 2 units under the STA, because the Commission has already approved of the technical parameters associated with the system at each of the two locations. Accordingly, Phelps Dodge intends to proceed within the next 2-3 weeks with the operation of an additional SSR unit at the Green Valley location, resulting in the simultaneous operation of 2 SSR units under the STA (0145-EX-ST-2004 - Call Sign WB9XWG). If the Commission has any objection with this action, it is requested that undersigned counsel be advised immediately.

2. The Two Year Application (0164-EX-PL-2004) was filed requesting authority to operate one (1) SSR unit among the five (5) specified locations. Pursuant to discussions with you, this e-mail requests an amendment of the Two Year Application to request authority to operate up to five (5) SSR units upon grant of the Two Year Application, i.e., one SSR unit at each specified location. As discussed at Exhibit 1 to the Two Year Application, each of the five (5) specified locations is characterized by different environmental/safety concerns and issues and, as such, permitting Phelps Dodge to simultaneously operate Slope Stability Radar units under an experimental license at each of the five (5) locations will allow Phelps Dodge to conduct a more comprehensive analysis of the feasibility of this technology during the brief experimental period. It is Phelps Dodge's understanding that amending the Two Year Application to request authority to operate five (5) units will not require re-submission of the application to IRAC/NTIA because no changes to the technical parameters are being requested, and that such amendment should not otherwise adversely affect processing of the Two Year Application. Accordingly, it would be greatly appreciated if you could note in the appropriate records the instant request for amendment of the Two Year Application to request authority to operate five (5) units upon grant, one unit at each specified location.

I would greatly appreciate it if you could advise in a reply e-mail that you received this message, and if there are any problems with the above issues, to please let me know at that time.

Respectfully submitted,

Jeffrey Rummel
Attorney for Phelps Dodge Corporation
d/b/a Phelps Dodge Mining Company

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