

Developers: Mine's loans not in default

By JAN FALSTAD
Of The Gazette Staff



The developers of the Bull Mountain coal mine near Roundup on Tuesday denied claims made in a federal lawsuit that their project has defaulted on nearly \$20 million in loans.

On Friday, three East Coast companies that originally invested \$19.3 million in the Bull Mountain projects filed a lawsuit in U.S. District Court in Yellowstone County. The money was invested with funds that Webb Financial Group Inc., Franklin Asset Exchange LLC and Disciples Limited LLC solicited from about 350 investors, according to Atlanta securities attorney Gregory Bartko, who represents the lenders.

On Tuesday, John Baugues Jr., president of the Bull Mountain Land Co., told The Gazette that the lawsuit "jumped the gun" because of a 90-day cooling-off period after the debt was due on Nov. 15.

"There's a grace period in the contract that they don't refer to," Baugues said, adding that the lawsuit may have been designed to apply pressure for quick payment.



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Baugues, general counsel Joe Gerbase and John DeMichiei, president and chief executive of Bull Mountain Coal Mining Inc., which is the new corporate name, said they hadn't seen the lawsuit because they hadn't been served.

"I was shocked," DeMichiei said.

On Tuesday, Bartko said he had talked with New York attorney Stan Lane, who represents both Bull Mountain and Airlie, the firm that owns 75 percent of the Bull Mountain coal projects, and that Lane agreed to be served with the lawsuit.

The settlement language signed May 23 allows a 90-day extension of the debt under two conditions, Bartko said.

The first condition is that the borrowers sign a legal document that says a judgment can be filed in court without a lawsuit. Discussions on this point occurred, he said, but broke off on Dec. 8, a week before he filed the lawsuit.

The second condition was that Bull Mountain developers would try to find a buyer. The notes are backed by coal mine assets, he said.

"We've asked them three times in writing to tell us what efforts they've made to sell the property," Bartko said. "They never bothered to respond."

Baugues said he owns 25 percent of the Bull Mountain venture, with Airlie holding the rest. According to Forbes, one of the Airlie companies, the Airlie Opportunity Capital Management L.P., "manages hedge funds that invest in stressed and distressed high-yield debt markets."

Airlie, which bought into the Montana coal mine assets on Sept. 9, 2005, has invested heavily in Montana, he said.

"We've been trying to raise money for years out

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here," Baugues said. "Airlie has spent \$110 million out here. These people are good people."

The mine's future

DeMichiei, who has 30 years' experience in the coal industry, is in charge of developing a coal mine and railroad that will set a standard of quality, he said.

"We are really optimistic we will be ready to ship coal on Dec. 1, 2007," he said.

Permits are in place and work is about to start on the rail line, although high steel prices are driving the \$65 million cost estimate made five years ago to \$100 million, Baugues said.

Meanwhile, parallel development continues on what DeMichiei predicts will be the largest long-wall coal mine in the United States, or perhaps the world.

George Parthemos, a New York financier, invested in the project several years ago and chairs the board.

The lawsuit said Baugues and Parthemos borrowed the money that is now in dispute. The debt was assumed by Airlie when it bought majority ownership in 2005.

Meanwhile, Baugues said the developers filed a request with the Montana Department of Environmental Quality on Dec. 8 to modify their air-quality permit.

The permit now covers traditional pulverized coal technology. The modification would convert the permit to an integrated gasification combined cycle plant. That means instead of combusting coal, coal would be turned into a synthetic gas. That gas turns a turbine that generates electricity. That will "lower the emissions significantly," Baugues said.

The application will be reviewed for completeness over the next 30 days, said Dave Klemp, the DEQ's air quality permitting program manager in Helena. A decision should come in six months to a year, he said, depending on whether the environmental impact statement needs to be supplemented or redone.

Baugues said the Bull Mountain coal mine would supply coal to Gov. Brian Schweitzer's proposed coal-to-liquids plant if one is built near Roundup. DKRW Advanced Fuels is trying to develop that project.

"Our plant is arm's length from theirs," Baugues said.

Klemp said it is his understanding that the permit change could encompass both projects.

Baugues also said that after the mine closed in 1998, reports that he returned to Tennessee are false. He

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stayed in Montana to continue developing the coal reserves at the mine 16 miles south of Roundup. He said he has repaid past bad debts from the 1990s, which he said totaled more than \$2.5 million.

"Nobody left, and everybody was paid," Baugues said.

The mine closed in 1998 when the state revoked its permit. The permit was reinstated in 2001 under special legislation brought before the Montana Legislature. Mining resumed in 2004, and workers are producing 400,000 tons of coal this year, which is being hauled by truck to Lockwood to be shipped by rail.

Meanwhile, Baugues said he's optimistic.

"We've got this thing in pretty good position," he said. "We feel pretty confident."

When the mine's long-wall production is fully ramped up, the Bull Mountain mine is expected to produce 11 million tons of coal a year.

"This thing is not going away," Gerbase said. "These are big folks with lots of resources."

That is one point that both sides agree on.

"The Airlie people impressed me as being not short-term players," Bartko said.

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