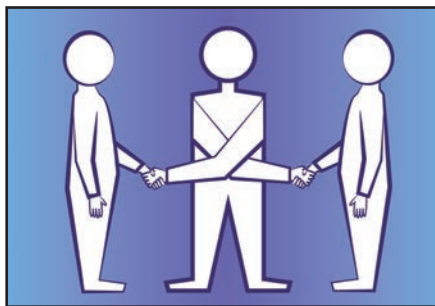


INSIDE



Conflict? Find a better solution

According to attorney Kent Scott, a better method of conflict resolution is gaining traction in the construction and mining industries. Although not always successful, mediation generally saves time and money when disputes arise between parties to a contract. Some professional mediators are seeing successful resolution as much as 85 percent of the time.

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Issue Sponsor:



Focus

MINING



The White Mesa Mill in San Juan County has come to the forefront in the production of "critical minerals" as designated by Pres. Donald Trump in a 2017 executive order. The mill is the last conventional uranium mill operating in the United States, but it has also begun producing rare-earth-element-rich Monazite, critical to the president's goal of domestic production of 35 critical minerals, 31 of which are currently mostly imported.

Utah becoming key link in the president's domestic critical-mineral supply-chain goal

In December 2017, Pres. Donald Trump signed Executive Order No. 13817 which directed the Secretary of the Interior to identify minerals that are "essential to the economic and national security of the United States," have supply chains that are "vulnerable to disruption," and that serve "an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy and our national security."

The resulting report from the Department of Interior identified 35 "critical minerals" that met the criteria laid out in the president's executive order. Those critical minerals are: aluminum, antimony, arsenic, barite, beryllium, bismuth, cesium, chromium, cobalt, fluorspar, gallium, germanium, graphite, hafnium, helium, indium, lithium, magnesium, manganese, niobium, platinum group metals, potash, the rare earth elements group, rhenium, rubidium, scandium, strontium, tantalum, tellurium, tin, titanium, tungsten,

uranium, vanadium and zirconium.

On Sept. 30 of this year, the president signed a follow-on executive order, "Addressing the Threat to the Domestic Supply Chain from

Reliance on Critical Minerals from Foreign Adversaries" (13953).

This executive order noted that: "These critical minerals are necessary inputs for the products our military, national infrastructure and economy depend on the most. Our country needs

critical minerals to make airplanes, computers, cell phones, electricity generation and transmission systems and advanced electronics. Though these minerals are indispensable to our country, we presently lack the capacity to produce them in processed form in the quantities we need. American producers depend on foreign countries to supply and process them. For 31 of the 35 critical minerals, the United States imports more than half of its annual consumption. The United States has no domestic production for 14 of

the critical minerals and is completely dependent on imports to supply its demand."

The order also noted that the United States formerly had substantial critical mineral production capacity, but that domestic mining and processing has fallen victim to the "aggressive economic practices of certain non-market foreign producers." In other words, many foreign countries are directly and indirectly subsidizing their own mining and processing operations and flooding the market with mineral commodities with artificially low prices in order to displace competitors and control supply chains.

Many of these "non-market foreign producers" also do not abide by the same environmental, labor and health standards as producers in the U.S. and other democratic countries. So, today we not only lack truly free markets for critical minerals but we also have "global dependence on minerals produced in countries that do not

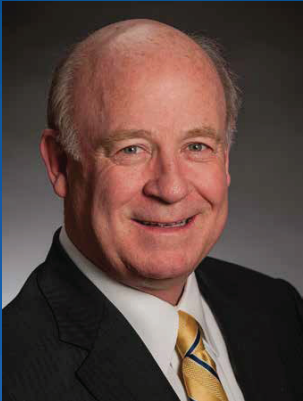


BRIAN SOMERS

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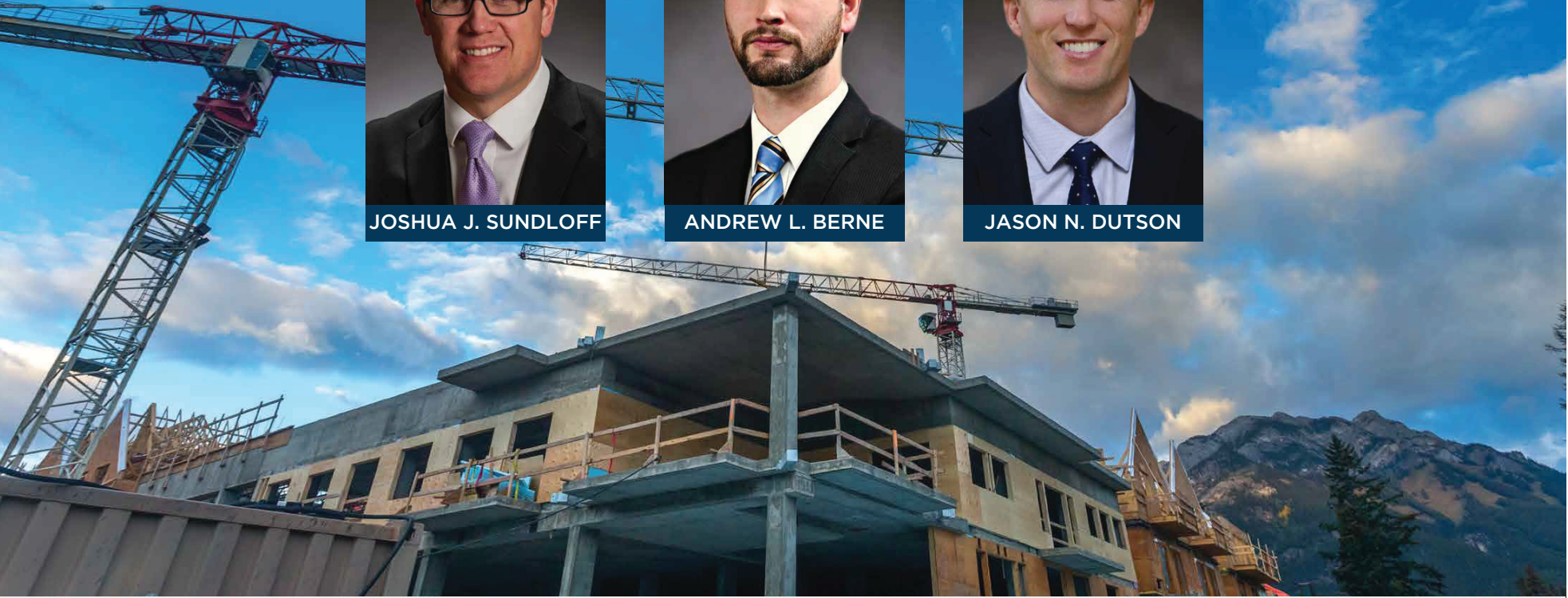
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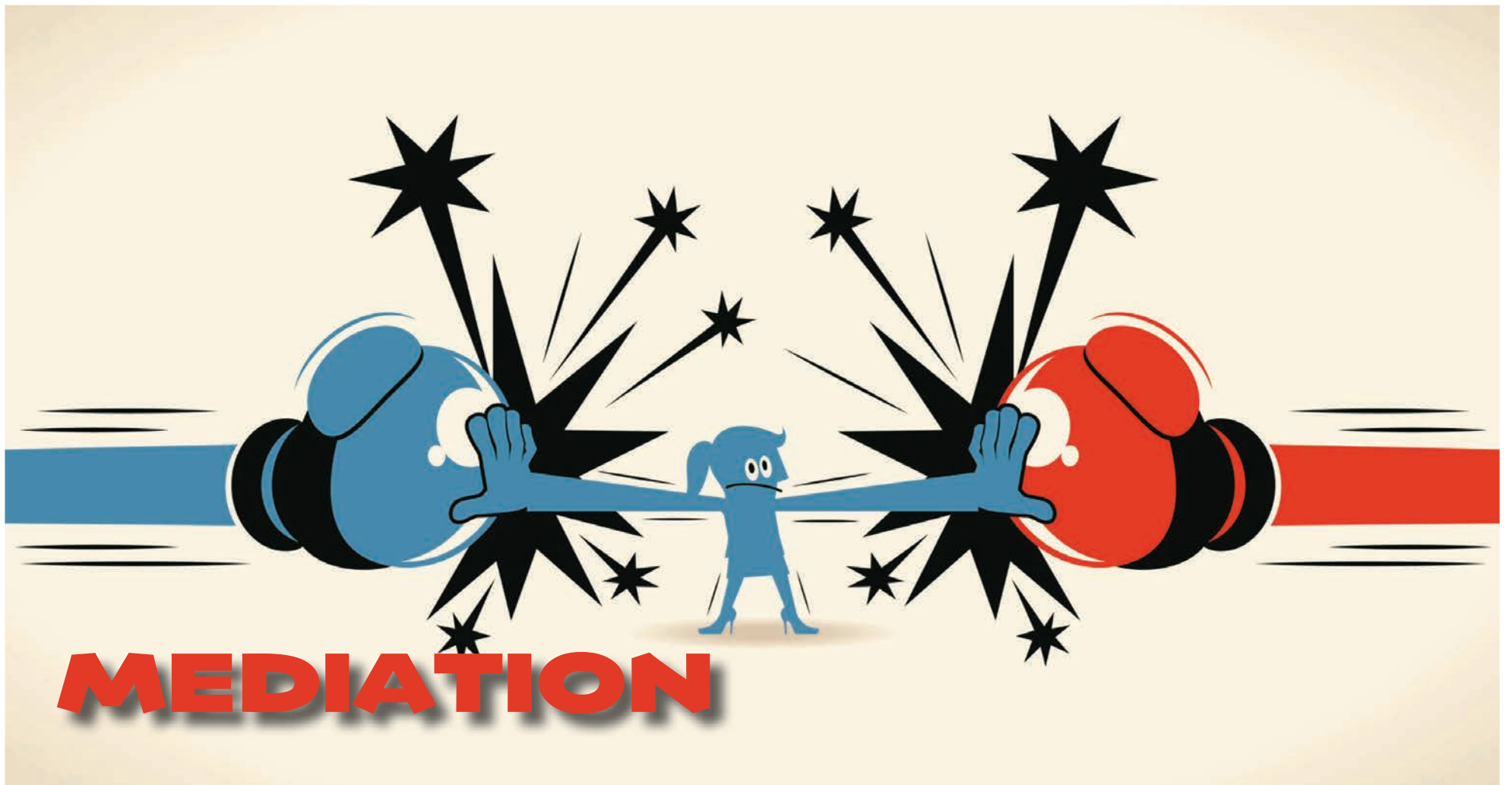


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The American Arbitration Association is reporting success rates as high as 85 percent when mediation is tried before resorting to arbitration, litigation or some other dispute resolution procedure

In the construction business, the American Institute of Architects (AIA) is a widely recognized source for standard legal forms and agreements that are used throughout the building and mining industries. AIA's form No. A-201 is titled "General Terms of the Construction Project" and provides a requirement for the parties to the agreement to mediate any disputes before resorting to arbitration or litigation.

The contract requirement, in part, states,
"If a dispute arises out of or relates to this contract, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Construction Industry Mediation Rules before resorting to arbitration, litigation or some other dispute resolution procedure."

The mediation of a construction dispute has traditionally been voluntary. The A-201 mediation requirement, similar contract provisions and required court annexed alternate dispute resolution programs have brought a new element to the dispute resolution game — mandatory mediation.

Whether mandatory mediation will serve the needs of the construction industry or become just another fossil in the graveyard of "good attempts" is unknown. For now, mediation is going to be used with increased frequency by parties involved with a construction dispute. Here are some of the questions being asked by the contractors involved with those disputes:



KENT
SCOTT

What is Mediation?

Mediation is a procedure where two or more parties attempt to resolve their dispute with a neutral party (mediator) who presides over a meeting. The mediator remains neutral throughout the meeting. Mediation is not a judicial settlement conference where a judge attempts to pressure the parties to settle. The process is confidential and no resolution can be reached without the consent of the parties. If an agreement is reached, the agreement will be binding and can be enforced by the courts.

How Successful is Mediation?

There is no authoritative study on the success rate of construction mediation. The American Arbitration Association reports an 85 percent success rate. This percentage is consistent with the success rate reported by other institutional and individual alternate dispute resolution providers.

What are the Elements of a Successful Mediation?

The success of a particular mediation is mainly controlled by the parties. Some of the critical components of a successful mediation involve:

1. The background and capabilities of the mediator.
2. Attendance of the right people with the knowledge and authority to settle.
3. The needs and interests of the parties.
4. Whether a trial or arbitration has been scheduled.
5. The commitment of the parties and their attorneys to prepare for and participate in the mediation.

What Happens at Mediation?

The following is a brief outline of the events involving a mediation:

- The attorneys prepare a short brief for the mediator.
- The parties are introduced and sign a confidentiality statement.
- The parties summarize their positions in a joint session.
- The parties go into separate confidential meetings with the mediator to discuss objectives, needs and settlement options.
- The mediator shuttles between the parties in an effort to find common ground.
- If a settlement is reached, a written agreement is created that outlines

the general terms of the resolution. The agreement may provide for more detailed documentation to be drafted and signed by the parties.

- If a settlement is not achieved, another session may be scheduled or the mediator may offer some suggestions to consider that may assist the parties in future negotiations or other settlement efforts.

When and Where Do I Mediate?

There is no set formula for assuring a mediation will be successful. Mediation can be effective anytime. Most mediations occur after a claim has been filed and some exchange of information has taken place. The decision as to whether or when to mediate will vary with each case. However, the statistics from the major institutional mediation services indicate that mediation is most successful when the dispute is in its early stages before the parties have expended their resources on combat, which resources could have been used for settlement. It is important to realize that successful mediation involves a good-faith exchange of information between the parties.

The mediation should take place at a neutral site. The location is often

COAL MINES

Ranked by Short Tons Produced 2019



Mine	County	Coal Field	Company	Thousand Short Tons Produced
1 SUFCO	Sevier	Wasatch Plateau	Wolverine Fuels	4,374
2 Skyline No. 3	Carbon/Emery/Sanpete	Wasatch Plateau	Wolverine Fuels	3,896
3 Lila Canyon Mine	Emery	Book Cliffs	American Consolidated Natural Resources	3,664
4 Emery	Emery	Emery	Bronco Utah Operations	694
5 Castle Valley No. 3	Emery	Emery	Gentry Mining	562
6 Castle Valley No. 4	Emery	Emery	Gentry Mining	488
7 Dugout Canyon Mine	Carbon	Book Cliffs	Wolverine Fuels	430
8 Coal Hollow Mine	Kane	Alton	Alton Coal Development	240

METAL MINES

Listed Alphabetically



Mine Name	Commodity	Mine Location	Mining Method	Owner	Year Opened
Bingham Canyon Mine	Copper, Gold, Silver, Molybdenum	Bingham Canyon, Salt Lake Co.	Surface	Rio Tinto Kennecott	1906
Deer Trial Mine	Silver, Gold, Lead, Zinc	Marysvale, Piute Co.	Underground	DT Mining/Mag Silver	2020
Gold Springs Project	Gold, Silver	Great Basin, NV and UT	Surface	Gold Springs Resources	2020
Henry Mountains Complex (Tony M & Bullfrog Mines)	Uranium	Henry Mountains, Garfield Co.	Underground	Energy Fuels Inc.	*
La Sal Complex (Beaver & Pandora Mines)	Uranium, Vanadium	La Sal Mountains, San Juan Co.	Underground	Energy Fuels Inc.	*
Lisbon Valley Mine	Copper	Lisbon Valley, San Juan Co.	Surface	Lisbon Valley Mining Co.	2004
Rocky Range Mine	Copper	Milford, Beaver Co.	Surface	Tamra Mining Co. LLC	*
Spor Mountain Mine	Beryllium	Spor Mountain, Juab Co.	Surface	Materion Natural Resources	1968
US Magnesium Facility	Magnesium	Great Salt Lake, Tooele Co.	Solar Evaporation	US Magnesium LLC	1972
White Mesa Mill Facility	Uranium, Vanadium, Alternative Feeds	Blanding, San Juan Co.	Mill	Energy Fuels Inc.	1980



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Atkinson Construction	atkn.com 303-985-1660	Heavy civil & industrial construction
Barney Trucking	barneytrucking.com 800-524-7930	Trucking services
Barr Engineering	barr.com 801-333-8400	Engineering & environmental consulting
Boart Longyear	boartlongyear.com 801-972-6430	Drilling equipment & service
Bowen Collins & Associates	bowencollins.com 801-495-2224	Engineering & environmental consulting
Brahma Group Inc.	brahmagroupinc.com 801-521-5200	Industrial construction & project management
Brunel	brunel.net 801-987-5946	Recruitment & workforce solutions
C&G Construction	cgconst.com 435-882-1529	Civil construction, excavation, steel erection
Cumberland Surety Inc.	cumberlandsurety.com 800-767-8622	Insurance, underwriting, surety bonds
Dark Horse Timber	darkhorsetimber.com 435-525-1012	Mining timbers, lumber services
DC Power Solutions	dcpower.cc 800-326-0691	Large battery sales & service
Dorsey & Whitney	dorsey.com 801-933-7360	Legal services—natural resources practice
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Em Strategies Inc.	emstrats.com 775-826-8822	Environmental consulting
Epiroc LLC	epiroc.com 844-437-4762	Equipment distribution & service
ERM-Rocky Mountain	erm.com 801-204-4300	Environmental, health, safety consulting
Fabian Vancott	fabianvancott.com 801-531-8900	Legal services—natural resources practice
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Job Industrial Services Inc.	jobindustrial.com 801-433-0901	Engineering, procurement, construction mgmt.
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Komatsu Mining	mining.komatsu 435-636-6100	Equipment distribution & service
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Magnum Development	magnumdev.com 801-993-7001	Chemical, gas storage; clean energy storage
McNeil Engineering	mcneilengineering.com 801-255-7700	Civil engineering & design services

Company Name	Contact Info.	Services Provided
Milex Technologies	milextech.com 775-340-4942	Light tower & custom equipment manufacturer
Millcreek Engineering Co.	millcreekeng.com 801-904-2260	Engineering & construction management
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Parr Brown Gee & Loveless	parrbrown.com 801-532-7840	Legal services—natural resources practice
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Pray and Company	praysolutions.com 775-934-9308	Human resources, PR, org. effectiveness solutions
Ray Quinney & Nebeker	rqn.com 801-532-1500	Legal services—natural resources practice
Richwood Industries	richwood.com 800-237-6951	Bulk handling equipment distribution & service
Robinson Transport Inc.	haulcoal.com 435-529-7472	Trucking services
Rocky Mountain Industrial	rmiwyoming.com 307-472-5519	Flame-resistant, winter clothing; PPE supply
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Tram Electric Inc.	tramelectric.com 435-637-7291	Electric motor rebuild & service
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Wanzek Construction	wanzek.com 701-282-6171	Heavy civil & industrial construction
WESCO	wesco.com 801-975-0600	Industrial supply chain solutions
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Wheeler Machinery Co.	wheelercat.com 801-796-8333	Equipment distribution & service
Wollam Construction Co.	wollam construction.com 801-938-9170	Heavy civil & industrial construction
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Tintic Consolidated Metals to purchase Chief Consolidated Mining

Tintic Consolidated Metals LLC (TCM), a central Utah mining company with a home office in Spanish Fork and mining operations primarily in Juab County, has purchased Chief Consolidated Mining Co. for \$23.5 million. As part the acquisition, TCM has agreed to return to the Chief shareholders the surface rights to approximately 7,000 acres in and around the town of Eureka for future residential development.

Chief is a more-than-100-year-old mining company having all of its assets, as well as its past and current operations, in the historic Tintic Mining District in Juab County. From the late 1890s until the late 1970s, the Tintic Mining District was a prolific producer of gold, silver, copper, lead and zinc. Since its early days, total district production equaled roughly \$10 billion at today's market prices.

In April 2019, IG Tintic LLC and Chief entered into an agreement to form TCM as a joint effort to explore, develop and commercialize the mineral re-

sources once held by Chief. Chief contributed all of its nearly 14,000 acres of patented mineral rights and 7,000 acres of surface rights for a minority stake in TCM. IGT contributed \$3.5 million in cash at closing to Chief and made a commitment to additional investments in TCM post-closing, in return for an initial 51 percent majority stake and management role in TCM. As a result of its subsequent investments, IGT currently owns 75 percent of TCM. Chief retained nearly 7,000 acres of surface rights to

property in and around the city of Eureka which will be returned to Chief under the new purchase agreement.

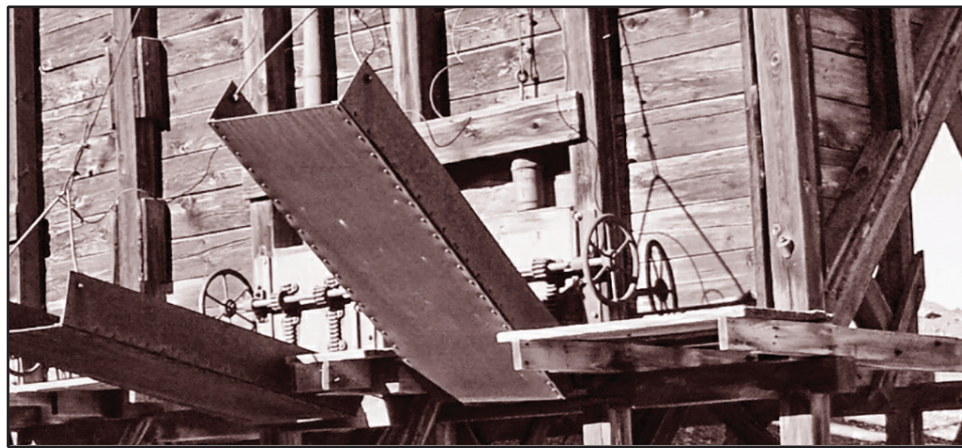
Prior to the formation of TCM and its activities, Chief's legacy mineral assets had lain largely dormant since the late 1970s except for a few years around 2000 when the company reactivated its Trixie Mine. At the time of formation of TCM, its estimated value, exclusive of its surface rights, was approximately \$7 million based upon the terms of the formation documents. Thus, TCM's of-

fer represents a substantial increase of value for Chief's shareholders in just 18 months, without sacrificing their potential real estate future value.

TCM said in a release that its goal is to revitalize the Tintic Mining District, creating rural jobs, local wealth and "economic benefits for all of Utah by utilizing a world-class team of exploration professionals and significant sources of capital that are invested in the Tintic District."

TCM's first exploration and mining target is the Trixie Mine, which is expected to produce gold, silver and potentially copper. TCM currently has both surface and underground exploration operations underway in or around the Trixie Mine, and shortly plans to bring this mine into full production.

This acquisition is expected to help TCM consolidate its focus on its operations in the Tintic District, as well as provide an exit opportunity for Chief's shareholders, many of whom are Utahans and some of whom have been shareholders of Chief for over 50 years.



CRITICAL MINERALS

from page F1

endorse and pursue appropriate minerals supply chain standards, leading to human rights violations, forced and child labor, violent conflict and health and environmental damage," as the order notes.

The president determined that the lack of domestic production and processing capacity, and the reliance on foreign supply chains, constitutes an "unusual and extraordinary" threat to the "national security, foreign policy and economy of the United States." The order directs various cabinet agencies to construct plans to "broadly enhance" domestic mining and processing capacity.

Utah stands ready to play an outsized role in re-establishing our country's ability to produce its own critical minerals. Utah has been blessed with one of the most diverse and abundant mineral estates anywhere in the world.

A recent report produced by the Utah Geological Survey found that Utah has known resources for 28 of the 35 critical minerals on the Department of Interior's list. Eighty percent of the minerals deemed critical for our country's economic and national security could potentially be produced here in Utah. This includes 22 of 31 critical minerals where the U.S. imports more than half of its annual consumption and six of the 14 critical minerals where the U.S. is completely reliant on foreign production.

A number of critical minerals are currently being produced on a commercial scale in Utah, including beryllium, magnesium, lithium, helium, platinum/palladium, rhenium, uranium, vanadium and potash. Some of these critical minerals are primary production targets. Others are byproducts of other mineral production or processing, such as lithium, which is a byproduct of magnesium production; and platinum, palladium, and rhenium which are byproducts from the production of copper, gold, silver and molybdenum at Rio Tinto Kennecott's Bingham Canyon Mine.

Many other critical minerals have known occurrences in Utah and could be produced if market manipulations by foreign actors were resolved or other actions were taken to increase domestic demand and consumption. These include: aluminum (from alunite), fluorspar, indium, antimony, arsenic, barite, bismuth, germanium, gallium, manganese, rare earth elements, scandium, tellurium, tungsten, cobalt, tin, titanium, zirconium and hafnium.

The majority of the above-listed minerals have had historical production in Utah. In some cases, production was minor. For some minerals such as bismuth and manganese, Utah was a leading producer.

Occurrences in Utah of some of the above-listed critical minerals are relatively minor. However, many of the resources are substantial. For example, Utah has the largest known alunite deposit in the U.S. and Utah has enough indium to supply total current U.S. consumption for at least 14 years,

according to estimates from the Utah Geological Survey.

The uses of rare earth elements (REEs) have grown significantly over the past number of years. REEs are used in hundreds of products, particularly in smart phones, computers, electric and hybrid vehicles and a number of critical national defense systems.

In the early 1990s, the U.S. had nearly the same level of REEs production as China. However, China now completely dominates the REEs market and REEs production, processing and supply chain issues have featured in a number of recent international trade disputes. Given the importance of REEs and China's dominance, the U.S. and other allies are working to reinvigorate REEs production and processing.

Utah has a number of exciting developments on the REEs front. Initial studies have been conducted which show that REEs may be producible byproducts of beryllium mining in Utah. A team of researchers and industry experts led by the University of Utah is working to isolate REEs from coal, coal byproducts such as fly ash and oil shale and other unconventional hydrocarbon resources — all of which Utah has in abundance.

Also, a potentially game-changing REEs project has just come online at the White Mesa Mill in San Juan County. The White Mesa Mill is owned by Energy Fuels, which is the largest domestic producer of uranium in the U.S. White Mesa is the last conventional uranium mill operating in the country and is responsible for nearly all of Utah's uranium and vanadium

production in recent years.

Monazite is a mineral which is produced in the U.S. and which contains high concentrations of REEs. Monazite also contains uranium and other radionuclides (radioactive forms of elements), which makes it very difficult to process. Currently, monazite is processed almost exclusively overseas.

However, processing uranium and managing radionuclides is what the White Mesa Mill was designed to do, which means that it might be the missing link in re-establishing a domestic REEs supply chain. As part of a pilot-scale project, in the past few weeks, workers at White Mesa processed one metric ton of monazite. After recovering the uranium and isolating other radionuclides from the monazite, the mill produced a clean REEs concentrate.

Energy Fuels hopes to begin commercial-scale production of REEs in the first quarter of 2021. Because Energy Fuels is leveraging existing, licensed facilities, this REEs production might be among the lowest-cost in the Western world — and happening right here in Utah.

With known resources for 28 of the 35 critical minerals, current production of nine critical minerals, 19 more which are developable and/or had historical production, and with major advances on the REEs front, Utah is truly poised to become the crossroad of a reinvigorated domestic critical-minerals supply chain.

Brian Somers is the president of the Utah Mining Association in Salt Lake City.

MINERAL MINES

Listed Alphabetically



Mine Name	Commodity	Mine Location	Mining Method	Owner	Year Opened
American Gilsonite	Gilsonite	Near Vernal, Uintah Co.	Sub-surface	American Gilsonite	1904
Ash Grove	Portland cement products	Leamington, Millard Co.	Surface	Ash Grove Cement Co.	1980
Cricket Mountain	Limestone, limestone products	Near Delta, Millard Co.	Surface	Graymont Corp.	*
Devil's Slide	Limestone, cement products	East of Morgan, Morgan Co.	Surface	Holcim Inc.	1904
Enefit American	Oil shale	Uinta Basin, Uintah Co.	Surface	Enefit American Oil	*
Grantsville Facility	Limestone, limestone products	Grantsville, Tooele Co.	Surface	Lhoist North America	*
Great Salt Lake Minerals	Sulfate of potash, magnesium chloride	Great Salt Lake, Tooele Co.	Solar evaporation	Compass Minerals	1972
Moab Facility	Potash	Near Moab, Kane Co.	Solar evaporation	Intrepid Potash Inc.	1965
Morton Salt	Salt	Great Salt Lake, Tooele Co.	Solar evaporation	Morton Salt	*
Red Leaf Resources	Oil shale	Uinta Basin, Uintah Co.	Surface	Red Leaf Resources Inc.	*
Redmond Mine	Salt, bentonite	Redmond, Sevier Co.	Underground, surface	Redmond Minerals	1958
Sevier Playa	Potash	Sevier Dry Lake, Millard Co.	Solar evaporation	EMR Capital Investments	*
Simplot Vernal Mine	Phosphates and derivatives	Near Vernal, Uintah Co.	Surface	J.R. Simplot Co.	1960
Timple Facility	Salt	Great Salt Lake, Tooele Co.	Solar evaporation	Cargil Salt Inc.	*
US Gypsum	Gypsum	Sigurd, Sevier Co.	Surface	US Gypsum	*
Utelite Mine	Expanded shale	Coalville, Summit Co.	Surface	Utelite Corp.	1962
Wendover Facility	Potash	Great Salt Lake, Tooele Co.	Solar evaporation	Intrepid Potash Inc.	1938
Western Clay	Bentonite	Aurora, Sevier Co.	Surface	Western Clay Corp.	1963



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MEDIATION

from page F3

arranged by the mediator. For mediations involving out-of-state participants, a value judgment will need to be made concerning the time and expenses that will be incurred. Most mediators are available to travel to a neutral site to conduct the mediation.

What do I Bring to a Mediation?

The following is a brief summary of those who would be expected to attend the mediation:

- Legal counsel: Yes, if represented.
- Client: The person with authority to settle and others with knowledge of the facts.
- Experts: Avoid having experts involved. They are hired to support your position and often complicate

the process where settlement options are being discussed. Experts, however, may be helpful to describe technical information.

- Documents: Less is better. Summaries, graphs and charts are useful.
- Other individuals: Associates, secretaries or assistants are discouraged. If there is a need, make advanced arrangements so all parties approve and understand their respective roles.
- Other information requested by the mediator.

Who Makes the First Move?

This question assumes there is some advantage for one party to move the process forward. This one is a non-issue. Many items need to be discussed before offers begin to be put out on the table. A good mediator will take the time and make the effort to understand the position and interests

of each party. The mediator will know when to start the process of making offers. Usually the mediator will seek a consensus on the easy issues and work toward an agreement on more difficult matters thereafter.

How Long Should the Mediation Last?

It is common to schedule mediations for either a half or one full day. More time should be scheduled for mediations that require extensive travel, the presence of many parties or involve complex fact or legal issues. It is best to build in a margin of “float” time for the mediation session.

Summary

The success rate of construction mediated disputes is approximately 85 percent. The high success rate is a compliment to the commitment of the parties, their legal counsel and the mediators who oversee the media-

tion process. The construction industry is more advanced and has more experience with mediating disputes than other industries. The expanded acceptance and use of mediation in the construction industry is evidenced by the inclusion of the mediation process in the AIA’s “A-201 Conditions of the Contract for Construction.”

Mediation provides an opportunity for people to have their input into how the process is designed and conducted. The parties are given an opportunity to confidentially express their interests and values without compromising their positions while in the presence of other parties. It provides the parties a sense of involvement and control over the mediation process and the terms of a settlement.

Kent Scott is a shareholder in the construction law firm of Babcock Scott & Babcock specializing in mediation and arbitration.



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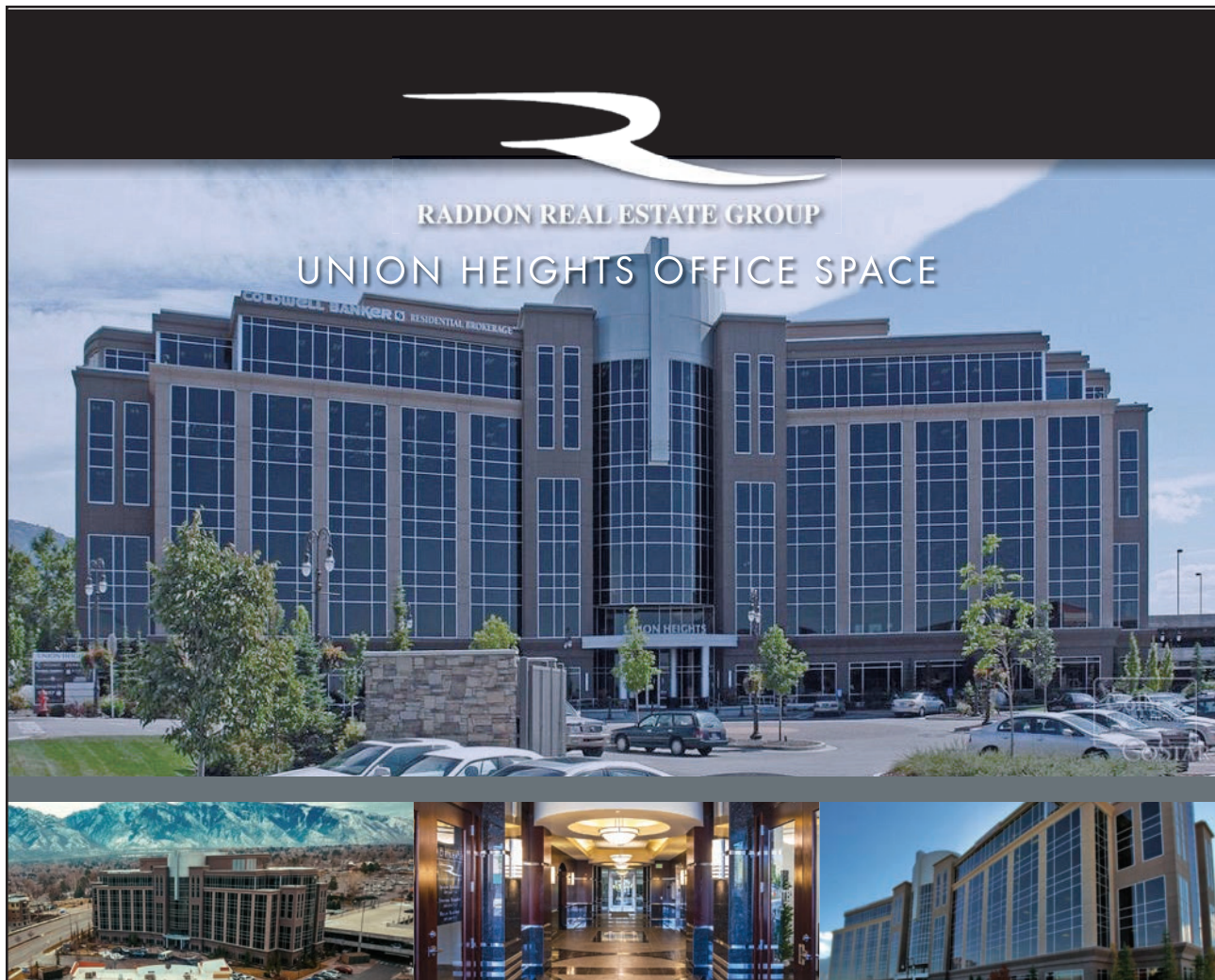
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