
Section 1: 8-K (FORM 8-K)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K
CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): March 1, 2019

Pershing Gold Corporation
(exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction
of incorporation)

001-37481
(Commission File Number)

26-0657736
(IRS Employer
Identification No.)

1658 Cole Boulevard
Building 6 - Suite 210
Lakewood, Colorado
(Address of principal executive offices)

80401
(Zip Code)

Registrant's telephone number, including area code: (720) 974-7248

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4 (c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement

Amendment to Agreement and Plan of Merger

On March 1, 2019, Pershing Gold Corporation (the “Company”) entered into a First Amendment (the “First Amendment”) to the Agreement and Plan of Merger dated September 28, 2018 (the “Merger Agreement”) with Americas Silver Corporation (“Americas Silver”) and R Merger Sub, Inc., a wholly-owned subsidiary of Americas Silver (“Merger Sub”) with respect to the previously disclosed merger between the parties (the “Merger”). The First Amendment extends the “Outside Date”, as defined in the Merger Agreement, to June 1, 2019. The Outside Date is the date after which either party may terminate the Merger Agreement if the Merger has not been consummated on or before such date. Additionally, the First Amendment makes technical and immaterial adjustments to the process by which shares will be issued and distributed by Americas Silver and Merger Sub upon closing.

This summary of the First Amendment is not complete and is qualified in its entirety by reference to the full text of the agreement that is attached as Exhibit 10.1 to this Current Report on Form 8-K and incorporated by reference herein.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers

Alexander Severance Agreement Amendment

On March 1, 2019, the Company and Eric Alexander, the Company’s Vice President Finance and Controller and principal financial officer, entered into a Second Amendment to the Fourth Amended Severance Compensation Agreement dated March 1, 2019 (the “Alexander Amendment”). The Alexander Amendment amends the Fourth Amended Severance Compensation Agreement between the Company and Mr. Alexander dated December 21, 2017, as previously amended on September 28, 2018 (the “Fourth Amended Agreement”), a copy of which was filed as Exhibit 10.1 to the Current Report on Form 8-K filed on December 28, 2017.

The Alexander Amendment extends the term of the Fourth Amended Agreement to June 1, 2019. There are no other changes to the Fourth Amended Agreement.

This summary of the Alexander Amendment is not complete and is qualified in its entirety by reference to the full text of the agreement that is attached as Exhibit 10.2 to this Current Report on Form 8-K and incorporated by reference herein.

Janke Offer of Employment Amendment

On March 1, 2019, the Company and Timothy Janke, the Company’s Chief Operating Officer, entered into a Second Amendment to Offer of Employment dated March 1, 2019 (the “Janke Amendment”). The Janke Amendment amends the Offer of Employment between the Company and Mr. Janke dated January 10, 2018, as previously amended on September 28, 2018 (the “Offer Letter”), a copy of which was filed as Exhibit 10.1 to the Current Report on Form 8-K filed on January 18, 2018.

The Janke Amendment extends the term of severance and change of control provisions in the Offer Letter to June 1, 2019. There are no other changes to the Offer Letter.

This summary of the Janke Amendment is not complete and is qualified in its entirety by reference to the full text of the agreement that is attached as Exhibit 10.3 to this Current Report on Form 8-K and incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits

(d) The following are filed as exhibits to this report on Form 8-K.

Exhibit No.	Description
<u>10.1</u>	<u>First Amendment to Agreement and Plan of Merger, dated March 1, 2019, among Pershing Gold Corporation, Americas Silver Corporation, and R Merger Sub, Inc.</u>
<u>10.2</u>	<u>Second Amendment to Fourth Amended Severance Compensation Agreement, dated March 1, 2019, between Pershing Gold Corporation and Eric Alexander.</u>
<u>10.3</u>	<u>Second Amendment to Offer of Employment, dated March 1, 2019, between Pershing Gold Corporation and Tim Janke.</u>

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: March 4, 2019

PERSHING GOLD CORPORATION

By: /s/ Eric Alexander
Eric Alexander
Vice President Finance and Controller

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Section 2: EX-10.1 (EXHIBIT 10.1)

Exhibit 10.1

FIRST AMENDMENT TO MERGER AGREEMENT

THIS AMENDMENT is made as of March 1, 2019 between Americas Silver Corporation (the "Purchaser"), R Merger Sub, Inc. ("Acquireco"), and Pershing Gold Corporation (the "Company").

WHEREAS:

- A. The Purchaser, Acquireco and the Company entered into an agreement and plan of merger dated September 28, 2018 (the "Merger Agreement");
- B. Pursuant to Section 8.12 of the Merger Agreement, this Amendment will be effective with the signatures of the Purchaser, Acquireco and the Company; and
- C. Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Merger Agreement.

NOW THEREFORE in consideration of the foregoing, the Parties, intending to be legally bound, agree as follows:

- 1. In Section 1.1 of the Merger Agreement, the definition of "Outside Date" is changed from April 1, 2019 to June 1, 2019.
- 2. Section 2.4(f) of the Merger Agreement is deleted in its entirety and replaced with the following:

"Conversion of Acquireco Capital Stock. All shares of Acquireco's common stock ("Acquireco Common Stock") issued and outstanding immediately prior to the Effective Time shall be cancelled, and shall, in the aggregate, be converted into and become one newly issued, fully paid, and non-assessable share of common stock of the Surviving Corporation (the "Surviving Corporation Common Stock") with the same rights, powers, and privileges as the shares so converted. From and after the Effective Time, all certificates representing shares of Acquireco Common Stock shall be deemed for all purposes to represent the number of shares of Surviving Corporation Common Stock into which they were converted in accordance with the immediately preceding sentence."

- 3. A new Section 2.4(h) is added to the Merger Agreement consisting of the following paragraph:

"In consideration for the issue by the Purchaser of the Merger Consideration to holders of Company Common Stock and Company Preferred Stock to effect the Merger, the Surviving Corporation will issue to the Purchaser such number of fully paid and non-assessable Surviving Corporation Common Stock as is equal to the number of Purchaser Shares and Purchaser Preferred Shares so issued in connection with the Merger and the register of the Surviving Corporation shall be updated to reflect the issue of such Surviving Corporation Common Stock to the Purchaser."

4. Section 2.14 of the Merger Agreement is deleted in its entirety and replaced with the following:

“The Purchaser will, on or prior to the Effective Time, deliver or cause to be delivered, in a form acceptable to the Company acting reasonably, an irrevocable treasury direction from the Purchaser to Computershare Investor Services Inc., as transfer agent of the Purchaser, in respect of the number of Purchaser Shares and Purchaser Preferred Shares (if any) to be issued pursuant to the Merger, which direction shall be irrevocable upon such delivery and shall become effective on the Effective Time.”

5. Section 7.2(c) of the Merger Agreement is amended by deleting the following words after the words “the Purchaser has complied with its obligations under Section 2.14”:

“and the Depository shall have confirmed receipt of the Merger Consideration”

6. Except as provided in this Amendment, this Amendment shall not amend or modify any other provision of the Merger Agreement.
7. This Amendment shall be governed by and construed in accordance with, including as to validity, interpretation and effect, the internal Laws of the State of Nevada without giving effect to any choice or conflict of law provision or rule (whether of the State of Nevada or any other jurisdiction) that would cause the application of Laws of any jurisdiction other than those of the State of Nevada.
8. This Amendment will inure to the benefit of and be binding upon the respective successors (including any successor by reason of amalgamation or statutory arrangement) and permitted assigns of the Parties.
9. This Amendment may be executed and delivered in any number of counterparts (including by facsimile or electronic transmission), each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument. This Amendment will become effective when each party to this Amendment will have received counterparts signed by all of the other Parties.

[Remainder of page has been left intentionally blank. Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Amendment to be signed as of the date first above written.

AMERICAS SILVER CORPORATION

By: /s/ Peter McRae
Name: Peter McRae
Title: Senior Vice President, Corporate Affairs & Chief Legal Officer

R MERGER SUB, INC.

By: /s/ Peter McRae
Name: Peter McRae
Title: Secretary

PERSHING GOLD CORPORATION

By: /s/ Stephen D. Alfers

Name: Stephen D. Alfers

Title: President and CEO

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Section 3: EX-10.2 (EXHIBIT 10.2)

Exhibit 10.2

SECOND AMENDMENT TO FOURTH AMENDED SEVERANCE COMPENSATION AGREEMENT

This Second Amendment to Fourth Amended Severance Compensation Agreement (“**Amendment**”) is effective as of March 1, 2019 (“**Effective Date**”), by and between Pershing Gold Corporation, a Nevada corporation (the “**Company**”), and Eric Alexander (the “**Employee**”), and amends that certain Fourth Amended Severance Compensation Agreement between the Company and Employee dated December 21, 2017, as previously amended on September 28, 2018 (the “**Severance Agreement**”). Capitalized terms used in this Amendment without definition have the meanings given in the Severance Agreement.

WHEREAS, the Severance Agreement expires on March 31, 2019.

WHEREAS, the parties desire to modify the Severance Agreement to extend the term of the Severance Agreement through June 1, 2019.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereby agree as follows:

1. Amendment. The term set forth in Section 2 of the Severance Agreement is hereby extended to June 1, 2019.
2. General. Except as otherwise modified herein, all other terms and provisions of the Severance Agreement shall remain in full force and effect. The performance and construction of this Amendment shall be governed by the internal laws of the State of Colorado. This Amendment may be executed in any number of counterparts, with each such counterpart constituting an original and all such counterparts constituting but one and the same instrument. Signatures may be exchanged by facsimile or by an email scanned .PDF signature page, with original signatures to follow. Each party agrees that it will be bound by its own facsimiled or .pdf-scanned signature and that it accepts the facsimiled or PDF-scanned signature of the other party.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date.

PERSHING GOLD CORPORATION

By: /s/ Stephen D. Alfors

Its: Chief Executive Officer and President

Name: Stephen D. Alfors

/s/ Eric Alexander

Eric Alexander

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Section 4: EX-10.3 (EXHIBIT 10.3)

Exhibit 10.3

SECOND AMENDMENT TO OFFER OF EMPLOYMENT

This Second Amendment to Offer of Employment (“**Amendment**”) is effective as of March 1, 2019 (“**Effective Date**”), by and between Pershing Gold Corporation, a Nevada corporation (the “**Company**”), and Timothy M. Janke (the “**Employee**”), and amends that certain Offer of Employment between the Company and Employee dated January 10, 2018, as previously amended on September 28, 2018 (the “**Original Agreement**”). Capitalized terms used in this Amendment without definition have the meanings given in the Original Agreement.

WHEREAS, the severance and change in control protections set forth in the Original Agreement expire on March 31, 2019.

WHEREAS, the parties desire to modify the Original Agreement to extend the severance and change in control protections set forth in the Original Agreement through June 1, 2019.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereby agree as follows:

1. Amendment. The term set forth in the first sentence of the Severance and Change in Control section of the Original Agreement is hereby extended to June 1, 2019.
2. General. Except as otherwise modified herein, all other terms and provisions of the Original Agreement shall remain in full force and effect. The performance and construction of this Amendment shall be governed by the internal laws of the State of Nevada. This Amendment may be executed in any number of counterparts, with each such counterpart constituting an original and all such counterparts constituting but one and the same instrument. Signatures may be exchanged by facsimile or by an email scanned .PDF signature page, with original signatures to follow. Each party agrees that it will be bound by its own facsimiled or .pdf-scanned signature and that it accepts the facsimiled or PDF-scanned signature of the other party.

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IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date.

PERSHING GOLD CORPORATION

By: /s/ Stephen D. Alfors

Its: Chief Executive Officer and President

Name: Stephen D. Alfors

/s/ Timothy M. Janke

Timothy M. Janke