
**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): **December 11, 2020**

GOLDEN MINERALS COMPANY
(Exact name of registrant as specified in its charter)

DELAWARE
(State or other jurisdiction of
incorporation or organization)

1-13627
(Commission
File Number)

26-4413382
(I.R.S. Employer
Identification Number)

**350 Indiana Street, Suite 650
Golden, Colorado 80401**
(Address of principal executive offices) (Zip code)

Registrant's telephone number, including area code: **(303) 839-5060**

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 (see General Instruction A.2. below):

- ☐ 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))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.01 par value	AUMN	NYSE American

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2). 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. ☐

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Item 8.01 Other Events.

On December 20, 2016, Golden Minerals Company (the “Company”) entered into an At The Market Offering Agreement (the “ATM Agreement”) with H. C. Wainwright & Co., LLC (“Wainwright”), under which the Company may, from time to time, issue and sell shares of the Company’s common stock, \$0.01 par value per share, on the NYSE American, or on any other existing United States trading market for its common stock, through Wainwright as sales manager for aggregate sales proceeds of up to \$5,000,000 (the “ATM Offering”). A copy of the ATM Agreement was filed with the Securities and Exchange Commission (the “SEC”) on a Current Report on Form 8-K on December 20, 2016.

On October 1, 2020, the Company filed a new shelf registration statement (the “New Shelf Registration Statement”) with the SEC on Form S-3 (No. 333-249218), which replaced the existing shelf registration statement on Form S-3 (No. 333-220461) filed with the SEC on September 14, 2017 and declared effective on September 28, 2017. On October 14, 2020, the New Shelf Registration Statement was declared effective. On December 11, 2020, the Company will file a new prospectus supplement (the “Prospectus Supplement”) with the SEC in connection with the ATM Offering. As of the date of the Prospectus Supplement, the Company may offer and sell shares of common stock having a maximum aggregate sales price of up to \$4,027,000 pursuant to the Prospectus Supplement.

On December 11, 2020, the Company entered into an agreement (the “Amendment”) with Wainwright to amend the ATM Agreement, as previously amended on September 29, 2017 and November 23, 2018. The Amendment, among other things, (i) extended the term of the ATM Agreement so that it shall remain in full force and effect until such date that the ATM Agreement is terminated pursuant to certain other terms of the ATM Agreement or upon mutual agreement by the parties, and (ii) reflects the New Shelf Registration Statement.

The legal opinion of Davis Graham & Stubbs LLP relating to the common shares being offered pursuant to the ATM Agreement and Prospectus Supplement is filed as Exhibit 5.1 to this Current Report on Form 8-K.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
<u>5.1</u>	<u>Opinion of Davis Graham & Stubbs LLP</u>
<u>10.1</u>	<u>Amendment to the At The Market Offering Agreement, dated December 11, 2020, between Golden Minerals Company and H.C. Wainwright & Co., LLC</u>
<u>23.1</u>	<u>Consent of Davis Graham & Stubbs LLP (included in Exhibit 5.1)</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: December 11, 2020

Golden Minerals Company

By: /s/ Robert P. Vogels

Name: Robert P. Vogels

Title: Senior Vice President, Chief Financial Officer and Corporate Secretary

EXHIBIT INDEX

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23.1	Consent of Davis Graham & Stubbs LLP (included in Exhibit 5.1)

December 11, 2020

Golden Minerals Company
350 Indiana Street, Suite 8650
Golden, Colorado 80401

Re: Golden Minerals Company

Ladies and Gentlemen:

We have acted as counsel to Golden Minerals Company, a Delaware corporation (the “Company”), in connection with the filing by the Company of a prospectus supplement dated December 11, 2020 (the “Prospectus Supplement”), which supplements the Company’s Registration Statement on Form S-3 (Registration No. 333-249218) filed with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Securities Act”), and effective October 14, 2020 (the “Registration Statement”), including the Prospectus dated October 15, 2020 included therein (the “Base Prospectus”) and together with the Prospectus Supplement, the “Prospectus”), relating to the offer and sale of up to \$4,027,000 of shares of the Company’s common stock, par value \$0.01 per share (the “Shares”).

The Shares are to be issued pursuant to the Prospectus and an At The Market Offering Agreement, dated December 20, 2016 (the “Original Sales Agreement”), as amended on September 29, 2017, November 23, 2018, and December 11, 2020 (each amendment together with the Original Sales Agreement, the “Current Sales Agreement”) between the Company and H. C. Wainwright & Co., LLC (“Wainwright”).

We have examined the originals, or duplicates or certified or conformed copies, of such corporate and other records, agreements, documents and other instruments and have made such other investigations as we deemed relevant and necessary in respect of the authorization and issuance of the Shares, and such other matters as we deemed appropriate. In such examination, we have assumed the genuineness of all signatures, the authority of each person signing in a representative capacity (other than the Company) any document reviewed by us, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as copies, and the authenticity of the originals of such documents. In conducting our examination of documents, we have assumed the power, corporate or other, of all parties thereto other than the Company to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the due execution and delivery by such parties of such documents and that to the extent such documents purport to constitute agreements, such documents constitute valid and binding obligations of such parties. As to any facts material to our opinion, we have made no independent investigation of such facts and have relied, to the extent that we deem such reliance proper, upon certificates of public officials and officers or other representatives of the Company.

Based upon the foregoing, and subject to the limitations, qualifications, exceptions and assumptions expressed herein, we are of the opinion that the issuance of the Shares has been duly authorized and, when and to the extent the Shares are issued and paid for in the manner described in the Registration Statement and the Prospectus and in accordance with the terms of the Current Sales Agreement and the resolutions adopted by the Board of Directors of the Company setting forth the aggregate number of Shares to be sold and the pricing terms thereof, such Shares will be validly issued, fully paid and non-assessable.

The opinions and other matters in this letter are qualified in their entirety and subject to the following:

A. The opinions herein are limited to matters governed by the federal laws of the United States of America and the General Corporation Law of the State of Delaware. Except as expressly stated above, we express no opinion with respect to any other law of the State of Delaware or any other jurisdiction.

B. This letter is limited to the matters stated herein, and no opinion is implied or may be inferred beyond the matters expressly stated. We assume herein no obligation, and hereby disclaim any obligation, to make any inquiry after the date hereof or to advise you of any future changes in the foregoing or of any fact or circumstance that may hereafter come to our attention.

We hereby consent to the filing of this opinion as an exhibit to the Current Report on Form 8-K filed by the Company on the date hereof and to the use of our name in the Prospectus Supplement under “Legal Matters.” In giving this consent, we do not hereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act and the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ DAVIS GRAHAM & STUBBS LLP

DAVIS GRAHAM & STUBBS LLP

December 11, 2020

STRICTLY CONFIDENTIAL

Robert P. Vogels
Golden Minerals Company
350 Indiana Street, Suite 650
Golden, Colorado 80401

Dear Mr. Vogels:

This letter (the "Amendment") constitutes an agreement between Golden Minerals Company (the "Company") and H.C. Wainwright & Co., LLC (now known only as "H.C. Wainwright & Co., LLC") (the "Manager") to amend the At The Market Offering Agreement, dated as of December 20, 2016, as amended on September 29, 2017 and November 23, 2018, between the Company and the Manager (the "ATM Agreement"), as follows:

1. The defined term "Business Day" in the ATM Agreement is amended and restated as follows:

“Business Day” shall mean any day other than a Saturday, a Sunday or a legal holiday or other day on which banking institutions or trust companies are authorized or obligated by law to close in New York City; provided, however, for purposes of clarity, banking institutions or trust companies shall not be deemed to be authorized or required by law to remain closed due to “stay at home”, “shelter-in-place”, “non-essential employee” or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of banking institutions in New York City generally are open for use by customers on such day.”

2. The defined term "Registration Statement" in the ATM Agreement is amended and restated as follows:

“Registration Statement” shall mean, collectively, (i) for the period from December 20, 2016 until September 29, 2017, the shelf registration statement (File Number 333-199026) on Form S-3 that was initially declared effective on November 5, 2014, (ii) for the period from September 29, 2017 until October 13, 2020, the shelf registration statement (File Number 333-220461) on Form S-3 that was initially declared effective on September 28, 2017, and (iii) for the period from October 14, 2020 and thereafter, the shelf registration statement (File Number 333-249218) on Form S-3 that was initially declared effective on October 14, 2020, including exhibits and financial statements and any prospectus supplement relating to the Shares that is filed with the Commission pursuant to Rule 424(b) and deemed part of such registration statement pursuant to Rule 430B, as amended on each Effective Date and, in the event any post-effective amendment thereto becomes effective, shall also mean such registration statement as so amended.”

3. The first sentence of Section 2 of the ATM Agreement is hereby amended and restated as follows:

“The Company proposes to issue and sell through or to the Manager, as sales agent and/or principal, from time to time during the term of this Agreement and on the terms set forth herein, up to the Maximum Amount (as defined below), which is equal to the lesser of such number of shares (the “Shares”) of the Company’s common stock, \$0.01 par value (“Common Stock”), that (a) equals the number or dollar amount of shares of Common Stock registered on the Registration Statement pursuant to which the offering is being made, (b) equals the number of authorized but unissued shares of Common Stock (less the number of shares of Common Stock issuable upon exercise, conversion or exchange of any outstanding securities of the Company or otherwise reserved from the Company’s authorized capital stock), or (c) would cause the Company or the offering of the Shares to not satisfy the eligibility and transaction requirements for use of Form S-3, including, if applicable, General Instruction I.B.6 of Registration Statement on Form S-3 (the lesser of (a), (b) and (c), the “Maximum Amount”).”

4. A new Section 2(b)(ix) of the ATM Agreement is hereby inserted as follows:

“If the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a “Distribution” and the record date for the determination of stockholders entitled to receive the Distribution, the “Record Date”), the Company hereby covenants and agrees that, in connection with any sales of Shares pursuant to a Sales Notice on the Record Date, the Company shall issue and deliver such Shares to the Manager on the Record Date and the Record Date shall be the Settlement Date and the Company shall cover any additional costs of the Manager in connection with the delivery of Shares on the Record Date.”

5. Section 8(c) of the ATM Agreement is hereby amended and restated as follows:

“This Agreement shall remain in full force and effect until the date that this Agreement is terminated pursuant to Sections 8(a) or (b) above or otherwise by mutual agreement of the parties, provided that any such termination by mutual agreement shall in all cases be deemed to provide that Sections 5, 6, 7, 8, 9, 10, 12 and 14 shall remain in full force and effect.”

6. Section 13 of the ATM Agreement is hereby amended and restated as follows:

“Integration. This Agreement and any Terms Agreement supersede all prior agreements and understandings (whether written or oral) between the Company and the Manager with respect to the subject matter hereof. Notwithstanding anything herein to the contrary, the letter agreement, dated July 19, 2020, by and between the Company and the Manager shall continue to be effective and the terms therein shall continue to survive and be enforceable by the Manager in accordance with its terms, provided that, in the event of a conflict between the terms of the letter agreement and this Agreement, the terms of this Agreement shall prevail.”

7. The Company and the Manager hereby agree that the date of this Amendment shall be a Representation Date under the ATM Agreement, the Company shall deliver the deliverables required by Sections 4(k), 4(l) and 4(m) of the ATM Agreement on the date hereof, and the Company shall file a Prospectus Supplement with the Commission on the date hereof.
8. In connection with this Amendment, the Company shall reimburse Manager for the fees and expenses of Manager’s counsel in an amount not to exceed \$25,000, which shall be paid on the date hereof.

Except as expressly set forth above, all of the terms and conditions of the ATM Agreement shall continue in full force and effect after the execution of this Amendment and shall not be in any way changed, modified or superseded by the terms set forth herein.

This Amendment may be executed in two or more counterparts and electronic transmission of “.pdf” signature or otherwise, and each of such counterparts shall be deemed an original and all of such counterparts together shall constitute one and the same agreement.

[remainder of page intentionally left blank]

In acknowledgment that the foregoing correctly sets forth the understanding reached by the Manager and the Company, please sign in the space provided below, whereupon this Amendment shall constitute a binding amendment to the ATM Agreement as of the date indicated above.

Very truly yours,

H.C. WAINWRIGHT & CO., LLC

By: /s/ Edward D. Silvera

Name: Edward D. Silvera

Title: Chief Operating Officer

Accepted and Agreed:

GOLDEN MINERALS COMPANY

By: /s/ Robert P. Vogels

Name: Robert P. Vogels

Title: Senior Vice President and Chief Financial Officer

[SIGNATURE PAGE TO AUMN AMENDMENT TO ATM AGREEMENT]