

**STATE OF NEW MEXICO  
BEFORE THE NEW MEXICO MINING COMMISSION**

**CAUSE NO. 01-02  
IN THE MATTER OF:  
PETITION FOR REVIEW OF  
THE DIRECTOR'S ACTION DATED: DECEMBER 29, 2000  
PERMIT REVISION 97-1 TO PERMIT NO. GR007RE  
PHELPS-DODGE LITTLE ROCK MINE,**

*Received*

**MAY 08 2001**

New Mexico Mining Commission

**GILA RESOURCES INFORMATION PROJECT,  
Petitioner.**

**JOINT STIPULATION**

Petitioner Gila Resources Information Project (GRIP), the Mining and Minerals Division (MMD) of the Energy, Minerals and Natural Resources Department (EMNRD), and Phelps Dodge Tyrone, Inc. (PDTI) (hereinafter "the Parties"), hereby state as follows:

**BACKGROUND AND PROCEDURE**

Little Rock Mine is located south of Silver City, Grant County, New Mexico. It is located near PDTI's Tyrone Mine. Underground mining for copper began at the Little Rock Mining site in the 1890's. The Little Rock Mine consists of an open pit copper mine and low-grade ore stockpiles that were mined and leached for copper recovery by another company. The most recent mining activities at Little Rock took place in the early 1970's. PDTI leased the mine in 1992. PDTI has conducted exploration but has not conducted and is not currently conducting mining operations at Little Rock. MMD granted an existing mine permit, Permit No. GR007RE, to PDTI for Little Rock Mine on December 28, 1998. Permit No. GR007RE is not at issue in this proceeding.

On December 27, 2000, the Director of MMD issued Permit Revision 97-1 to Permit No. GR007RE. Because PDTI is uncertain whether it will mine Little Rock in the future, the permit

revision approved both a non-mining and a mining scenario, and sets forth reclamation plans for both alternatives. The non-mining scenario requires PDTI to begin reclamation at Little Rock Mine within eighteen months after the permit revision was issued or to apply for standby status. The permit revision established and required financial assurance for the non-mining scenario, but not for the mining scenario. The permit revision does require that 120 days prior to commencement of any mining activity, PDTI shall submit a revised financial assurance proposal to MMD for approval. Permit, Section 8.D.

GRIP filed a Petition for Review of the permit revision on February 27, 2000. GRIP's Petition for Review challenged two parts of the permit revision. One, GRIP argued that not requiring reclamation for eighteen months after the permit revision was issued violated New Mexico mining law. GRIP's position is that New Mexico mining law requires reclamation to begin within 180 days after the permit revision approving the closeout plan is issued, unless the permittee applies for standby status. Two, GRIP argued that New Mexico mining law requires that the amount of financial assurance be established by the permit revision for the mining scenario or that the permit revision require a public hearing before the amount of financial assurance for the mining scenario is established.

MMD responded that New Mexico mining law allows MMD to establish a reclamation schedule that includes a starting date and does not require that reclamation begin within 180 days of permit issuance. MMD also argued that the New Mexico mining law does not require the permit revision to require a public hearing to establish the financial assurance for the mining scenario. MMD's position is that New Mexico mining law would require a public hearing if the current amount of financial assurance were deemed inadequate for the mining scenario and needed

to be significantly increased. MMD argued that since New Mexico mining law provided for this possibility, the permit revision did not need to include a requirement for a public hearing to establish the financial assurance for the mining scenario.

PDTI joined MMD's position that New Mexico mining law allows MMD to establish a reclamation schedule that includes a starting date and does not require that reclamation begin within 180 days of permit issuance. PDTI argued that New Mexico mining law does not require the permit revision to establish the amount of financial assurance for the mining scenario until the option is selected and then allows MMD to establish the amount of financial assurance without public participation.

#### **RESOLUTION**

The Parties agree to enter this stipulation, but do not waive their respective legal positions on the issues raised in the GRIP Petition for Review. The Parties agree that this resolution is based on the unique circumstances of the Little Rock Mine. The Parties agree that this resolution does not establish binding policy on MMD or on the New Mexico Mining Commission or serve as precedent for future disputes involving these issues.

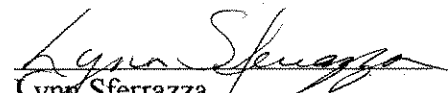
The Parties agree that within 60 days after PDTI submitting a revised financial assurance proposal for the mining scenario, that MMD shall conduct a public hearing regarding the amount of financial assurance for the mining alternative at the Little Rock Mine Site. The public hearing shall be noticed and held in accordance with the procedures established in 19 NMAC 10.2. Part 9.


GRIP agrees to withdraw its petition for review of Permit Revision 97-1 to Permit No. GR007RE on the condition that MMD and PDTI agree to hold a public hearing as described above. GRIP waives any further rights of review, including judicial review, of Permit No.


GR007RE and Permit Revision 97-1 to Permit No. GR007RE. The Parties agree that this Stipulation does not constitute a modification or revision of Permit No. GR007RE and Permit Revision 97-1 to Permit No. GR007RE and does not restart the time for seeking review of either.

Dated: May 8, 2001

Respectfully submitted,

  
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CONSENT ORDER

On December 27, 2000, the Director of MMD issued Permit Revision 97-1 to Permit No. GR007RE to PDTI. GRIP filed a Petition for Review of this action on February 27, 2000. MMD and PDTI timely responded. The Parties have entered a Joint Stipulation. The New Mexico Mining Commission has reviewed the terms and conditions of the Joint Stipulation. The New Mexico Mining Commission approves the Joint Stipulation and adopts its provisions as if fully set forth in the order. The Parties are hereby ordered to adhere to the terms and conditions of the Joint Stipulation.

It is so Ordered.

5/10/01  
Date

Terry J. Fletcher  
Chair, New Mexico Mining Commission