

State of New Mexico
Energy, Minerals and Natural Resources Department

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Mining and Minerals Division



March 11, 2014

Mr. Joe Lister
Mine Manager
Mount Taylor Mine
Rio Grande Resources Corporation
P.O. Box 1150
Grants, NM 87020

RE: Technical Adequacy Review, Revision Application 13-2, Mt. Taylor Mine, Permit CI002RE

Dear Mr. Lister,

The New Mexico Mining and Minerals Division ("MMD") has conducted a technical adequacy review of the Mt. Taylor Mine Revision Application 13-2 and Closeout/Closure Plan agency comment responses from Rio Grande Resources ("RGR") that were dated December 31, 2013 and received by MMD on January 2, 2014. The December 31, 2013 submittal was identified by RGR as Revision 1 to the application to go from standby to active status at the Mt. Taylor Mine.

MMD's review generated the following comments:

Permit Revision 13-2 Application

19.10.5.502.D NMAC

RGR's December 31, 2013 responses adequately addressed each of the comments in MMD's letter of October 4, 2013. However, we did note the following typographic errors during the latest review:

1. Figure 1-6 - Observation well OBW 24-85 is indicated to be in Section 15 in the PLSS location. It should be Section 24.
2. Same Figure 1-6 - Well SM31-1-2D is indicated as being located in Section 24 in the PLSS location. It should be Section 31.
3. The following typographic errors were noted on the APPENDIX A DRAWINGS sheet:

MT13-AC-09 - South Waste Rock Pile "Buildout" should be "at Mine Reactivation" Sections

MT13-AC-10 - North Waste "Rock" Pile "Buildout" Plan View

MT13-AC-11 - North Waste "Rock" Pile "Buildout" Sections

MT13-AC-15 - Ore Pad Runoff "Collection and" Retention "Pond"

4. Drawing MT13-AC-03 – There are two coordinates labeled N 1580500 on both the east and west margins of the drawing.

5. Appendix E, Outfall Investigation Work Plan - It appears that the three references on pages 1 and 2 to Figure RGR RAI-3.2 are supposed to be to Figure E-2.

Permit Revision 13-2 Closeout/Closure Plan

19.10.5.506.B and 506.G NMAC

RGR's December 31, 2013 responses to the majority of the MMD comments (1-8, 10, 15-30) were adequate. However, we have continuing concerns regarding financial assurance calculations for the north waste rock pile and the existing ore pile, characterization of cover material suitability, an additional purpose of the disposal cell test plots, and a few typographical errors.

6. MMD agrees that the posting of financial assurance may be postponed for the North Waste Rock Pile, which can be addressed as a future increment under 19.10.12.1202.A(2) NMAC, as RGR has done. Please provide the incremental financial assurance schedule required by 19.10.12.1202.A(2)(a) NMAC, and specify the financial assurance amount to be provided for the North Waste Rock Pile, and the access route to the pile, as required by 19.10.12.1202.A(2)(c) NMAC.

7. Appendix E, Section 1.4.1 and Table 4.3 describe 15,906 cubic yards of material to be removed, hauled and dumped from the Ore Pad at closeout. This scenario is after the proposed reconstruction of the Ore Pad. The CCP should include a cost estimate for reclamation of the existing ore pad for a worst-case scenario where MMD would have to reclaim the ore pad during the period between a return to active status and removal of the ore to a mill. Once the existing ore is removed for milling, the permit could be modified to remove the financial assurance associated with the cost of disposing of the existing ore.

8. MMD raised an issue regarding an insufficient demonstration of cover suitability and the December 31, 2013 RGR response does not satisfy the concern. This is based on the inadequate number of samples to characterize the proposed borrow area location, and because not all of the Mining Act Reclamation Program ("MARF") Soil Suitability Guideline parameters were tested for at the other borrow source areas.

MMD requires that RGR provide soil analyses data to include all of the parameters as listed in the MMD MARF Soil Suitability Guidelines document:

Table 1 –Soil and Overburden Evaluation for Plant Establishment and the first three parameters from:

Table 2 – Soil & Topsoil Nutrient Suitability Ratings Primary Root Zone (Nitrate-NO₃, Phosphorus and Potassium).

The Acid/Base Potential Test (Modified Sobek), as listed in Table 1 is to be tested only on 4 samples at the site:

- 1 from the Borrow Area east of the Ore Stockpile
- 2 from the Pond Berms (1 from Pond 1 and 1 from Pond 8)
- 1 from the "Shaft Muck" material at the South Waste Rock area

If possible or applicable, sample splits from the 2007 and 2012 sampling effort may be used to measure the MARF Guideline parameters (as listed above) that were not originally measured.

These parameters are to be measured on a total of 30 samples from the following locations:

MWTU Area: 20 samples total - 2 samples at each pond area (10 ponds total - Ponds 1-8, North Storm Water Pond and Area A). The two samples at each pond area should include: 1 sample from a berm area and 1 sample from a pond bottom area - from a depth representative of material that would be used for surface cover.

Borrow Area (east of Ore Stockpile): 6 samples total - 1 sample at or near each corner of the proposed facility and 2 samples through the interior.

South Waste Rock Area: 4 samples total - 1 sample on the perimeter of the South Storm Water Pond, 1 sample from the interior of the South Storm Water Pond; 1 sample from the perimeter of the Shaft Muck area, 1 sample from the interior of the Shaft Muck Area.

Ore Pad: MMD will require a soil sampling program for this facility at closeout, in the permit as a permit condition. This sampling effort will entail collecting samples from the proposed material underneath the ore pad that would remain as a cover, at the time of closeout or at the time the ore material is removed, and assessing the MARP cover suitability criteria. If there are other areas (such as north of Marquez Canyon) at the mine site that are proposed for borrow sources, a sampling program shall be submitted to MMD for review and approval.

9. Please add an additional purpose of the Test Plots to the list on page 7 of Appendix F: to measure uptake of radium and uranium in plants that establish on the disposal cell at the South Waste Rock Pile

10. The easting coordinates seem to be getting larger to the west on drawing MT13-CL-07. RGR submitted a corrected and adequate copy of drawing MT13-CL-07 on February 17, 2014, in response to a verbal comment from MMD. No further response is necessary.

11. Under Technical Specification C.4 Earthwork, page 9, Section 2.10.4 Riprap, second paragraph, the third sentence states "The riprap thickness shall be not less than two times the average particle diameter and shall extend from the southwest corner of the waste pile eastward to the southeast corner of the waste pile at approximately where the arroyo crosses E 559450 (Drawing MT13-CL-09)"

On drawing MT13-CL-09, we were not able to find where the arroyo crosses E 559450. It appears that the quoted text requires correction.

Other Agencies

Pursuant to 19.10.5.505.B(3) and 19.10.5.506.E NMAC, MMD requested comments on Revision 13-2 and the Closeout/Closure Plan from the Department of Cultural Affairs, the Office of the State Engineer, the State Forestry Division, the Department of Game and Fish, and the Environment Department by letters dated January 7, 2014. Comments subsequently received from each of these agencies are enclosed.

We note that on February 27 MMD received updated versions of Table 4.3 from RGR showing earthwork balances, and we will ensure that the table is updated in the Closeout/Closure Plan, and provided to the other agencies. Likewise, information that was received from RGR as Addendum #1 on March 5, 2014 will be provided to the agencies.

Please respond to each of the MMD comments and the other agencies' comments, and revise Revision Application 13-2 and the Closeout/Closure Plan, accordingly.

Thank you for your cooperation. If you have any questions, please contact me at (505) 476-3416 or by email at: david.clark@state.nm.us

Sincerely,



David L. Clark

March 11, 2014

Page 4

Coal Program Manager

Cc: Fernando Martinez – MMD
Michele Ensey – HPD
Daniela Roth – SFD
Michael Johnson – OSE
Matthew Wunder – DGF
Keith Ehlert – NMED
Mine File No. CI002RE



Clark, David, EMNRD

From: Myers, Kevin, OSE
Sent: Friday, March 07, 2014 4:50 PM
To: Clark, David, EMNRD
Subject: Request for Additional Comments Revision 13-2 for MMD No. CI002RE, Standby to Active Status & Updated CCP – RGR Mt. Taylor

Dave,

On January 7, 2014, the New Mexico Office of the State Engineer Hydrology Bureau (NMOSE) received a request for additional comments from the Mining and Minerals Division (MMD) permit No. CI002RE Revision 13-2 – Mt. Taylor Mine. The request for additional comments relates to Rio Grande Resources' (RGR) responses to agency comments submitted December 31, 2013 and Revision 1 of Application for Revision of Mine Permit to Active Status dated November 2013. NMOSE has reviewed RGR's responses to agency comments and the Revision 1 of Revision 13-2 (proposed change from standby to active status) for MMD Permit No. CI002RE. Previously on November 18, 2013 and April 21, 2013, NMOSE commented on Revision 13-2 and 13-1, respectively.

NMOSE has the following comments:

1. RGR response #1 to OSE comment #1 dated 8-13-13. RGR's response and revised permit application indicate dewatering commenced in the early 1970's and ceased in 1990 (Page 2, Section 1.2). Because of the approximate 23-year cessation of the mine dewatering since 1990, the return to active status proposes mine dewatering initiated after the Mine Dewatering Act promulgation in 1980. In order to accommodate mining operations active or under construction prior to 1980, Section 5 of 72-12A NMSA 1978 permitted operation of mine dewatering that began prior to 1980 and shaft construction commenced prior to 1980 that continued to dewatering. In Revision 13-2, RGR proposes mine dewatering rates that range from 6,451 to 19,354 acre-feet per year, and RGR cites declarations filed in 1977 and 1978 as a basis for diverting water from depressurization wells and shafts. Based on a review of RGR's water rights numbered B-516 and B-516(1) and MMD application (Revision 13-2), the nature and extent of RGR's water rights are unclear. In order to initiate mine dewatering in the future, RGR may need to file with NMOSE District 1 for an application for a mine dewatering permit for diversion amounts that exceed existing water rights.

2. RGR response #1 to OSE comment #1 dated 8-13-13. In an effort to evaluate additional permitting requirements that may be necessary, NMOSE requests RGR provide documentation of historical diversion amounts for each year of operation of Mount Taylor Mine.

3. Page 33, Section 5.7. RGR made a determination of its impoundments based on its interpretation of jurisdictional structures as described in NMOSE Dam Safety Regulations 19.25.12 NMAC. RGR has multiple ponds for stormwater and process water. If the ponds are in fact non jurisdictional, then RGR must comply with Section 19.26.2.15 NMAC. RGR should contact NMOSE District 1.

4. Page 39, Section 6.5.1; Table 1.2. RGR has provided recent water levels for some of the mine dewatering wells and shafts. NMOSE appreciates this recent water level data. However, as RGR proposes to change from standby to active status, the historical water levels are necessary to understand the effects of mine dewatering on wells of other ownership. RGR indicates that water level data collection was sporadic during standby. Any water level data during the period when pumping ceased 1990 to present and prior to 1990 would be useful for ground water model calibration and evaluation of potential impacts for depressurizing aquifers a second time. Moreover, the re-pressurization may be ongoing albeit very slowly, and assessment of water level trends requires more than one water level measurement for a given location. NMOSE requests that RGR provide all historical water level data for RGR shafts, wells and depressurization wells.

If you have any questions about the above, please contact me.

Kevin Myers, Hydrologist
Hydrology Bureau - NM OSE
P.O. Box 25102
Santa Fe, NM 87504-5102
Ph: (505) 476-7402
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Las Cruces

February 4, 2014

David Clark, Coal Program Manager
EMNRD Mining and Minerals Division
1220 South St. Francis Drive
Santa Fe NM 87505

RECEIVED

FEB 06 2014

MINING & MINERALS DIVISION

RE: Mount Taylor Mine, Response to Comments, Revision 13-2 to Permit CI002RE; NMGF Project No. 16149

Dear Mr. Clark:

In response to your letter dated January 7, 2014, the New Mexico Department of Game and Fish (Department) has reviewed the document referenced above. The response document, dated December 31, 2013, addresses comments contained in a letter from the Department to EMNRD Mining and Minerals Division (MMD) dated September 4, 2013 (NMDGF Project No. 15741). Few comments and responses in past correspondence are numbered so we reply to them in the order they appear.

Safeguarding pits and ponds. We continue to recommend that all potential trapping hazards should be inventoried and safeguarded with covers or escape ramps when no active mining is taking place. This is necessary regardless of trapping incidents reported at specific site features, the frequency of such incidents, or the animals involved being wild or domestic. The Department appreciates the operator's commitment to fence small wildlife out of the barium chloride treatment tanks.

Safeguarding vent stacks and other vertical pipe openings. The Department appreciates the operator's commitment to cover these features regardless of how many are present.

Road and pipeline reclamation. We missed these items in the financial assurance calculations, so this comment is rescinded.

Tamarisk and Siberian elm eradication. A Revegetation and Weed Management Plan has been added to the CCP as Appendix F. We recommend a specific time be established for implementing the weed inventory and weed control program (for example, one year from the initiation of mining).

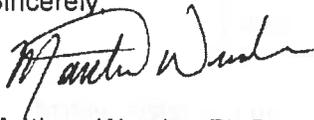
Seed Mix. Yellow sweet-clover has been removed from the seed mix on Table F.1 of Appendix F. Some of the species listed under "Perennial flower mix" may be inappropriate for reclamation of the mine site (non-native, annual, or potentially invasive). The seed mix already includes two native perennial forbs. Therefore, we suggest simply dropping the "Perennial flower mix" and increasing the rate of other species to achieve the desired total seed rate. If the "Perennial flower mix" will be used, please submit a list of species scientific names to facilitate agency review.

Metals Uptake. Test plots will be developed as a condition of returning to active mine status. The Department recommends vegetation from the test plots be sampled and analyzed for uptake of radium and uranium.

Revegetation Success Standards. Vegetation success monitoring methods have been revised in the Revegetation and Weed Management Plan (Appendix F). The methods proposed are reasonable and adequate. We further recommend that minimum cover values be specified for each of the diversity life forms (three perennial grasses, two perennial forbs, and two shrub species), and that tree and shrub density be measured using belt transects rather than line transects.

Thank you for the opportunity to comment on this permit action. If there are any questions, please contact Rachel Jankowitz, Mining Habitat Specialist at 505-476-8159 or rjankowitz@state.nm.us.

Sincerely,



Matthew Wunder, Ph.D.
Chief, Ecological and Environmental Planning Division

cc: USFWS NMES Field Office
Kurt Vollbrecht, NMED Groundwater Quality Bureau
Chuck Schultz, NW Area Habitat Specialist, NMGF



Susana Martinez
Governor

STATE OF NEW MEXICO
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March 11, 2014

David L. Clark
Coal Program Manager
Mining and Minerals Division
1220 South Saint Francis Drive
Santa Fe, NM 87505



Re: Request for Comments, Revision 13-2, Standby to Active Status Application and Updated Closeout/Closure Plan, Mount Taylor Mine, Permit No. C1002RE

Dear Mr. Clark:

Thank you for providing the updated permit materials and Rio Grande Resources (RGR) response to comments provided by the Historic Preservation Division (HPD) on September 9, 2013. This letter begins with our comments on RGR's responses and ends with additional comments on the revised permit application and updated closeout/closure plan.

RGR suggests that the Prehistoric and Historic Sites Preservation Act (PHSPA) does not apply because it does not have a consultation component and because Mount Taylor is not a listed property. The consultation procedures under the PHSPA are set forth in the regulation, 4.10.12 NMAC, *Implementation of the Prehistoric and Historic Sites Preservation Act*. The PHSPA applies when public funds from state agencies or political subdivisions will be spent on any program or project that could affect a property listed on the State Register of Cultural Properties. The PHSPA applies in this situation because the Mining and Minerals Division, a state agency, is using public funds to support the mining act reclamation program.

To clarify, the Mt. Taylor Traditional Cultural Property (TCP) was listed on the State Register of Cultural Properties on June 5, 2009. Although the Fifth Judicial District Court remanded the nomination back to the Cultural Properties Review Committee for revision, Mt. Taylor remained on the State Register of Cultural Properties pending an appeal that was heard by the Supreme Court in 2012, who recently ruled that the Mt. Taylor listing did not violate due process guarantees or statutory requirements on inspection, maintenance and integrity.

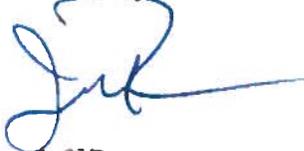
RGR is correct that the Prehistoric and Historic Sites Preservation Act (PHSPA) applies only to properties listed on the State Register of Cultural Properties. HPD did not suggest that the PHSPA applies to properties that may only be eligible for listing. HPD's recommendation for an archaeological survey is one that is routinely made by this office because it is a best practice, regardless of whether there is a requirement for a cultural resources survey. Absent a survey, it is difficult to discern whether cultural properties eligible to be listed are within the project area.

RGR also responded to our comments on San Mateo Pueblo. We realize that San Mateo Pueblo is located on private property and that the mining operation is not located within the boundaries of this site. Our letter mentioned the presence of San Mateo Pueblo to underscore the reason why we recommend a cultural resources survey for the mine site and discharge pipeline. Many areas surrounding major pueblos, such as San Mateo, will often contain a large number of archaeological sites. These sites can be smaller pueblos, field houses next to agricultural fields, or small artifact scatters left behind by the people who were affiliated with the larger pueblo. Because San Mateo Pueblo is located nearby, there is a higher potential that the mine site area and discharge pipeline have impacted archaeological sites that have not been documented. Even though a survey is not required, it is our opinion that one should be conducted to avoid inadvertent effects to significant archaeological sites.

RGR concludes their comments by stating their willingness to continue good faith consultation with SHPO and interested tribes. HPD is pleased that they are willing to engage in these consultations. Although Mt. Taylor is an underground mine and much of the noise, lights, etc. will occur underground, the tribes continue to be concerned about impacts to Mt. Taylor, especially the water supply.

Lastly, HPD has reviewed the revised permit application and closeout/closure plan and HPD remains of the opinion that closeout activities associated with the removal of the discharge pipeline, and recontouring and revegetation could impact unidentified archaeological sites. Based on our experience, existing mines often have areas within the permit boundaries that have not been disturbed to the extent that archaeological sites have been completely removed. These areas will most likely be located near the mine permit boundary, access roads, and the water tank.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Pappas", with a long horizontal flourish extending to the right.

Jeff Pappas
State Historic Preservation Officer

Log: 98501

Clark, David, EMNRD

From: Roth, Daniela, EMNRD
Sent: Wednesday, January 08, 2014 1:38 PM
To: Clark, David, EMNRD
Subject: RE: Standby to Active Status and Updated Closeout/Closure Plan, Mount Taylor Mine (Permit No. CI002RE) - Revision 13-2

Dear David Clark:

Thank you for giving me the opportunity to review the responses of Rio Grande Resources Corporation to my comments on the Standby to Active Status and updated Closeout/Closure Plan for the Mount Taylor Mine in Cibola County, New Mexico (Permit No. CI002RE, Revision 13-2). My comments were adequately addressed by RGR.

Please let me know if I can be of further help.

Sincerely,

Daniela

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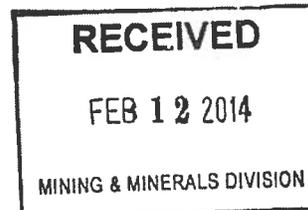
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RYAN FLYNN
Cabinet Secretary-Designate

BUTCH TONGATE
Deputy Secretary

TO: David Clark, EMNRD Program Manager
FROM: David L. Mayerson, NMED/GWQB/MECS
THROUGH: Keith Ehlert, Acting NMED Mining Act Team Leader
DATE: February 12, 2014



RE: Mt. Taylor Mine (Rio Grande Resources Corporation ["RGRC"]): Revision 1 of the April 2013 Mt. Taylor Mine Closeout Closure Plan and Revision 1 of the Application for Revision of Mine Permit to Active Status (Revision 13-2, C1002RE) [December 31, 2013]

RGRC drafted a response and included proposed relevant revised pages within the above-referenced submittal to one of NMED's previous comments on the Mt. Taylor mine permit revision 13-2 for standby to active status. While NMED regards RGRC's response to be incomplete, we assert that the issue to which RGRC responded pertains exclusively to proposed water treatment operations that would be addressed under RGRC's pending application to modify and renew Discharge Permit DP-61, rather than to RGRC's Revision 13-2 C1002RE application to MMD to reclassify mine status from standby to active. Therefore NMED will request RGRC provide a clarifying response directly to NMED for its use in reviewing materials relating to pending action on the Discharge Permit DP-61 application.

NMED has no further comments on the above-referenced submittal

Please contact me (505) 476-3777 or david.mayerson@state.nm.us if there are any questions.

