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ERIKA SCHWENDER  
Division Director

MEMORANDUM

DATE: June 24, 2014

TO: Holland Shepherd, Program Manager, Mining Act Reclamation Program

FROM: George Llewellyn, Ground Water Quality Bureau

THROUGH: Keith Ehlert, Acting Mining Act Team Leader, Ground Water Quality Bureau

RE: **NMED Comments Regarding Billali Mine Application for Modification 14-1, Permit No. GR058MN**

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The New Mexico Environment Department (NMED) received the Billali Mine modification application (Application) from the Mining Act Reclamation Program (MARF) on May 19, 2014. Pursuant to Subpart 302.G of the New Mexico Mining Act Rules (NMMA), the Surface Water Quality Bureau, Ground Water Quality Bureau, and Air Quality Bureau have reviewed the application. Air Quality Bureau and Surface Water Quality Bureau comments are included under separate memorandum. A site inspection of the Billali Mine was performed by NMED on April 29, 2014.

**Site Location and Description**

The Billali Mine is located approximately 15 miles northeast of Duncan, Arizona and is located in Section 26, T16S, R21W, Grant County, NM. Shooting Star Mining Company, LLC (Shooting Star) proposes an above ground 1000 foot six inch aluminum pipeline to discharge approximately 200 gallons per minute (GPM) of water being pumped from the Billali mine north to a 5000 gallon tank at the Monzingo Ranch and to an unnamed tributary to Bitter Creek.

The water in the tank is used at the Monzingo Ranch. The pipeline will cross private property and Bureau of Land Management land.

The Billali Mine is presently allowed to discharge approximately 150 GPM of water from the Billali Mine into the nearby Norman King Shaft. NMED considers the discharge into the Norman King Shaft an Underground Injection Control (UIC) well and required registering the well pursuant to the NMED UIC program. The operator of the Billali Mine submitted a completed UIC Well Inventory registration form on May 5, 2014.

Shooting Star must file a Notice of Intent with the New Mexico Ground Water Quality Bureau for the additional 200 gpm discharge of Billali mine water to the 5000 gallon tank and unnamed tributary to Bitter Creek. (20.6.2.1201 NMAC)

During a telephone call on May 5, 2014, Earl Harrison advised me that Shooting Star is removing their equipment from the Billali Mine, including the discharge pipelines to the Norman King Shaft and Monzingo Ranch. It is unknown at this time whether the equipment has been removed.

Surface Water Quality Bureau and Air Quality Bureau comments are provided under a separate memorandum.

xc: Kurt Vollbrecht, Program Manager NMED MECS  
Jerry Schoeppner, Chief, GWQB  
James Hogan, Chief, SWQB  
Richard Goodyear, Chief, AQB  
Fernando Martinez, Director, EMNRD-MMD  
David Ennis, EMNRD-MMD

## MEMORANDUM

**To:** Keith Ehlert, NMED Acting Mining Act Team Leader

**From:** Daniel Valenta, Surface Water Quality Bureau sent by e-mail

**CC:** Melissa Day, Surface Water Quality Bureau  
Sarah Holcomb, Surface Water Quality Bureau  
Bruce Yurdin, Surface Water Quality Bureau

**Subject:** Request for Comments, Application for Modification 14-1, Billali Mine, Grant County, New Mexico Permit No. GR058MN.

**Date:** June 12, 2014

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### **Clean Water Act and NPDES Permit Requirements**

In the application for Modification 14-1, Billali Mine, Grant County, New Mexico, Permit No. GR058MN dated May 14, 2014 a proposal is made to allow a dewatering system, already built, to discharge to a nearby King shaft and also discharge to an unnamed arroyo, which flows to Bitter Creek, located on private land. Point source discharges to a surface water of the United States are regulated under.

Section 301 of the Federal Clean Water Act states:

*Except as in compliance with this section and sections 302, 306, 307, 318, 402 and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.*

40 CFR 122.1(b) states, “*The NPDES program requires permits for the discharge of “pollutants” from any “point source” into “waters of the United States.”*” The terms pollutant, point source and waters of the United States are defined at §122.2.”

40 CFR 122.21(a) states, “*Duty to apply. Any person who discharges or proposes to discharge pollutants”.... “shall submit a complete application (which shall include a BMP program if necessary under 40 CFR 125.102) to the Director in accordance with this section and part 124.”*

Water pollution degrades surface waters making them unsafe for drinking, fishing, swimming, and other activities. As authorized by the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge do not need an NPDES permit; however, industrial, municipal, and other facilities must obtain permits if their discharges go directly to surface waters. More information about the NPDES permit can be found at: <http://cfpub.epa.gov/npdes/>

## **Clean Water Act, Section 402 NPDES Industrial Storm Water Construction General Permit (CGP)**

The U.S. Environmental Protection Agency (USEPA) requires National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) coverage for storm water discharges from construction activities (such as pipeline installation, clearing, grading, excavating, and stockpiling) that disturb (or re-disturb) one or more acres, or smaller sites that are part of a larger common plan of development or sale. Prior to discharging storm water, construction operators must obtain coverage under an NPDES permit.

Among other things, this permit requires that a Storm Water Pollution Prevention Plan (SWPPP) be prepared for the site, including support and staging areas, and that appropriate Best Management Practices (BMPs) be installed and maintained both during and after construction to prevent, to the extent practicable, pollutants (primarily sediment, oil & grease and construction materials from construction sites) in storm water runoff from entering waters of the U.S. This permit also requires that permanent stabilization measures (re-vegetation, paving, etc.), and permanent storm water management measures (storm water detention/retention structures, velocity dissipation devices, etc.) be implemented post construction to minimize, in the long term, pollutants in storm water runoff from entering these waters.

Part 9 of the 2012 CGP includes permit conditions applicable to specific states, Indian country lands, or territories. In the State of New Mexico, except on tribal land, permittees must ensure that there is no increase in sediment yield and flow velocity from the construction site (both during and after construction) compared to pre-construction, undisturbed conditions (see Subpart 9.4.1.1 of the 2012 CGP).

USEPA requires that all "operators" (see Appendix A of the 2012 CGP) obtain NPDES permit coverage by submitting a Notice of Intent (NOI) for construction projects. Generally, this means that at least two parties will require permit coverage. The owner/developer of this construction project who has operational control over project specifications, the general contractor who has day-to-day operational control of those activities at the site, which are necessary to ensure compliance with the SWPPP and other permit conditions, and possibly other "operators" will require appropriate NPDES permit coverage for this project.

The CGP was re-issued effective February 16, 2012. The CGP, NOI, deadlines for submitting an NOI, Fact Sheet, and Federal Register notice is available at: <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>

## **Clean Water Act, Section 402 NPDES Multi-Sector General Permit (MSGP)**

*Section 301 (a) of the Federal Water Pollution Control Act states that "Except as in compliance with this section and sections 302, 306, 307, 318, 402 and 404 of this Act, the discharge of any pollutant by any person shall be unlawful."*

In addition, operation of these types of facilities requires Storm Water Multi-sector General Permit (MSGP – see <http://cfpub.epa.gov/npdes/stormwater/msgp.cfm>) coverage. Because of the land-disturbing nature of the ore mining and dressing industry, contaminants of concern generated by industrial activities include total suspended solids (TSS), total dissolved solids (TDS), turbidity, acid drainage, and heavy metals. Permit coverage is required of all phases of mining operations, whether active or inactive, as long as there is exposure to significant materials. This includes land disturbance activities such as the expansion of current extraction sites, active and inactive mining stages, and reclamation activities at those establishments primarily engaged in mining, developing mines, or exploring for metallic minerals (ores).

This permit requires preparation of a Storm Water Pollution Prevention Plan (SWPPP), and installation of appropriate Best Management Practices (BMPs), such as oil/water separators, dikes or berms, use of absorptive materials during fueling operations, use of dry cleanup methods, or other practices to prevent or reduce the pollution of waters of the United States (per the SWPPP).

The 2008 MSGP expired at midnight on September 29, 2013. A new permit to replace it has not been issued. Facilities that obtained coverage under the 2008 MSGP prior to its expiration are automatically granted an administrative continuance of permit coverage. The administrative continuance will remain in effect until a new permit is issued.

Those facilities already covered under the 2008 MSGP are not required to submit a new NOI for permit coverage until the MSGP is reissued, and must continue to comply with all of the requirements in the 2008 permit, including requirements for monitoring and reporting.

EPA extended a memorandum concerning new facilities that begin discharging stormwater associated with industrial activity after September 29, 2013. This memorandum provides a "no action assurance" for the new facilities that comply with the requirements of the 2008 MSGP, subject to particular terms and conditions as set forth in the memorandum. Until the new MSGP is issued, new facilities are unable to file an NOI for coverage under the expired MSGP. Therefore, information for coverage of these new facilities under the terms of the 2008 MSGP may be found at [http://www.epa.gov/npdes/pubs/sw\\_msgp\\_naa2014.pdf](http://www.epa.gov/npdes/pubs/sw_msgp_naa2014.pdf).

At this time EPA expects to reissue the MSGP in the fall of 2014. At that time **all** facilities desiring coverage under the MSGP, including those with administrative continuance under the 2008 MSGP, will need to submit NOIs for permit coverage.

### **Clean Water Act, Section 404 USACE/Section 401 Certification**

Information is provided below if the project (or associated construction support areas, if any) during construction requires discharge of dredged/fill material into Waters of the U.S., including wetlands. Section 404 of the Clean Water Act requires approval from the U.S. Army Corp of Engineers (USACE) prior to discharging dredged or fill material into waters of the United States (U.S.). Any person, firm, or agency (including Federal, state, tribal and local governmental agencies) planning to work in waters of the United States should first contact the USACE regarding the need to obtain a permit from the Regulatory Division. Failure to receive and implement proper permit coverage would be a violation of the Clean Water Act. More information on the §404 permitting process, including applicability of Nationwide Permits, mitigation requirements, requirements for certification for any discharges on state, private or tribal land, can be obtained from the USACE at: <http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits.aspx>

NMED Surface Water Quality Bureau Watershed Protection Section coordinates the state's §401 certification of §404 dredged/fill material permits with the USACE. In response to the §404 reissued nationwide permits on April 13, 2012, a Conditional §401 Certification for discharges to State of New Mexico surface water has been issued and is available at the following web site: <ftp://ftp.nmenv.state.nm.us/www/swqb/WPS/401-404/NWPCertificationNotice04-13-2012.pdf>.

For additional information, including permitting procedures and jurisdictional water determination, contact the USACE, Albuquerque District, 4101 Jefferson Plaza NE, Albuquerque, New Mexico 87109-343, 505-342-3262.

## MEMORANDUM

DATE: June 9, 2014

TO: Keith Ehlert,  
Acting Mining Act Team Leader  
Ground Water Quality Bureau

FROM: Neal Butt  
Environmental Scientist / Specialist, Air Quality Bureau

**RE: Request for Comments, Application for Modification 14-1, Billali Mine,  
Grant County, New Mexico Permit No. GR058MN**

The New Mexico Air Quality Bureau (AQB) has completed its review of the above mentioned mining project. Pursuant to the New Mexico Mining Act Rules, the AQB has the following comments:

### Air Quality Permitting History

The AQB has no previous record of this operation.

### Air Quality Requirements

**The New Mexico Mining Act of 1993 states that “Nothing in the New Mexico Mining Act shall supersede current or future requirements and standards of any other applicable federal or state law.” Thus, the applicant is expected to comply with all requirements of federal and state laws pertaining to air quality. Current requirements which may be applicable in this mining project include, but are not limited to the following:**

Subsection A of 20.2.72.200 NMAC states that: “Permits must be obtained from the Department by:

(1) “any person constructing a stationary source which has a potential emission rate greater than 10 pounds per hour or 25 tons per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard. If the specified threshold in this subsection is exceeded for any one regulated air contaminant, all regulated air contaminants with National or New Mexico Ambient Air Quality Standards emitted are subject to permit review. . .”; and

(3) “Any person constructing or modifying any source or installing any equipment which is subject to 20.2.77 NMAC, *New Source Performance Standards*, 20.2.78 NMAC, *Emission Standards for Hazardous Air Pollutants*, or any other New Mexico Air Quality Control Regulation which contains emission limitations for any regulated air contaminant;”

Also, Subsection A of 20.2.73.200 NMAC states that:

(1) “Any owner or operator intending to construct a new stationary source which has a potential emission rate greater than 10 tons per year of any regulated air contaminant or 1 ton per year of lead shall file a notice of intent with the department.”

The above is not intended to be an exhaustive list of all requirements that could apply. The applicant should be aware that this determination does not supersede the requirements of any current federal or state air quality requirement.

### **Details**

On May 5, 2014, the Mining and Minerals Division (“MMD”) of the New Mexico Energy, Minerals, and Natural Resources Department received a permit application from Shooting Star Mining Company, LLC (“Shooting Star”) to modify permit number GR058MN for the Billali Mine located in Grant County, New Mexico. The modification application is to permit a mine dewatering system already constructed by Shooting Star across private land and land managed by the Bureau of Land Management (“BLM”) that was found to be in operation during an inspection by MMD on April 29, 2014. Water from the Billali Mine is discharged to the nearby Norman King shaft and is also discharged to an unnamed arroyo on private land north of the Billali Mine.

The application for permit modification includes a proposed description of the project as follows. A pipeline was constructed to carry subsurface potable water from the Billali Mine Portal to two locations: (i) the Norman King Mine shaft (Lat 32 deg 53’ 07.82” N, Long 108 deg 59’ 06.08 W); and (ii) a 5,000 gallon poly tank with overflow to an unnamed arroyo, both situated on private lands adjacent to Billali Mine Patent owned by Larry and Phyllis Monzingo, d/b/a/ Bar V Five Ranch. The pipeline was to be constructed utilizing 6-inch aluminum pipe in lengths of 20, 30, and 40 feet length segments, traversing approximately 1,000 feet, or less, across Federal Lands (BLM). The pipeline was to be installed and assembled by hand without the use of any trenching or other excavation equipment. The pipeline was to be laid on top of Federal Lands without the necessity of vegetation clearing. No grading work upon Federal Lands was proposed for Applicant to install the pipeline. No related structures or facilities upon Federal Lands in association with the pipeline were proposed, other than a wooden trestle approximately one foot high, four feet wide, and approximately 16 feet long encasing the pipeline as it runs across a bladed road entering the Billali Mine Patent. Applicant’s request for a right of way is temporary

and limited to one year. The easement or right of way requested will be utilized year round during the temporary term requested herein. The pipeline is designed to carry roughly 200 gallons per minute of subsurface potable water until the Billali Mine is dewatered. Dewatering initially will last one to two weeks and, thereafter, dewatering of freshly made subsurface water will continue for an additional 4-6 weeks while Applicant conducts an underground core rig drilling program. Applicant proposed to commence construction of the pipeline immediately upon securing approval of its request by the BLM. Construction was estimated to take approximately one week to complete. Other than the wooden trestle encasing the pipeline as it runs across the bladed road entering the Billali Mine Patent, no temporary work areas were proposed, nor was any grading or excavation anticipated.

Site inspections were conducted on April 29, 2014 and May 13, 2014 by MMD, NMED GWB and BLM.

### **Fugitive Dust**

Fugitive dust is a common problem at mining sites. The Air Quality Bureau does not regulate fugitive dust; however, we do recommend controls to minimize emissions of particulate matter from fugitive dust sources. The following control strategies can be included in a comprehensive facility dust control plan (from EPA's *Compilation of Air Pollutant Emission Factors, AP-42*):

Unpaved haul roads and traffic areas: paving of permanent and semi-permanent roads, application of surfactant, watering, and traffic controls, such as speed limits and traffic volume restrictions.

Paved roads: covering of loads in trucks to eliminate truck spillage, paving of access areas to sites, vacuum sweeping, water flushing, and broom sweeping and flushing.

Material handling: wind speed reduction and wet suppression, including watering and application of surfactants (wet suppression should not confound track out problems).

Bulldozing: wet suppression of materials to "optimum moisture" for compaction.

Scraping: wet suppression of scraper travel routes.

Storage piles: enclosure or covering of piles, application of surfactants.



Miscellaneous fugitive dust sources: watering, application of surfactants or reduction of surface wind speed with windbreaks or source enclosures.

The Air Quality Bureau or the US Environmental Protection Agency may implement requirements, regulations and standards for the control of fugitive dust sources in the future. This written determination does not supercede the applicability of any forthcoming state or federal regulations.

If you have any questions, please contact me at (505) 476-4317.

## Ennis, David, EMNRD

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**From:** Roth, Daniela, EMNRD  
**Sent:** Thursday, May 22, 2014 9:42 AM  
**To:** Ennis, David, EMNRD  
**Subject:** RE: Request for comments, application for modification 14-1, Billali Mine (Permit No. GR058MN)

Dear David Ennis:

Thank you for giving me the opportunity to review and comment on the application for modification 14-1, Billali Mine, in Grant County, NM (Permit No. GR058MN).

I do not anticipate any impacts to state listed endangered plants from the proposed modification.

Please let me know if I can be of further assistance,

Thanks,

Daniela Roth

BOTANY PROGRAM COORDINATOR  
EMNRD-Forestry Division  
1220 S. St. Francis Dr.  
Santa Fe, NM 87505  
(505)476-3347 (Phone)  
(505)476-3330 (Fax)  
<http://www.emnrd.state.nm.us/SFD/>

## Ennis, David, EMNRD

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**From:** cuddy, alan, OSE  
**Sent:** Thursday, May 29, 2014 1:24 PM  
**To:** Ennis, David, EMNRD  
**Cc:** Johnson, Mike S., OSE  
**Subject:** Billali Mine GR058MN, Modification 14-1

DJ,

On May 22, 2014, the Hydrology Bureau of the Office of the State Engineer received *Request for Comments, Application for Modification 14-1, Billali Mine, Grant County, New Mexico, Permit No. GR058MN* submitted by Shooting Star Mining Company, LLC. The application is for the construction of a mine dewatering system intended to dewater the Billali Mine temporarily while an underground exploratory drilling program was conducted. By the time Shooting Star submitted the application, the Billali Mine had been dewatered, the drilling program completed and the dewatering system dismantled. Shooting Star operated the dewatering under a temporary 20 acre-foot water right permit issued by the Office of the State Engineer.

The Hydrology Bureau has no comments on the application. Any future dewatering operations must be conducted under a mine dewatering permit.

If you have any questions or comments, please contact me.

Alan S. Cuddy  
Hydrology Bureau  
Office of the State Engineer  
P.O. Box 25102  
Santa Fe, NM 87504-5102  
Phone: (505) 476-7400  
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June 2, 2014

David J. Ennis, P.G.  
Permit Lead  
Mining Act Reclamation Program  
Mining and Minerals Division  
1220 South St. Francis Drive  
Santa Fe, NM 87505

Re: Request for Comments, Application for Modification 14-1, Billali Mine, Grant County,  
New Mexico, Permit No. GR058MN

Dear Mr. Ennis:

I am writing to provide comments on the above referenced application to modify permit GR058MN to include a mine dewatering system constructed on private land and land managed by the Bureau of Land Management.

A review of our records shows that there are no historic properties listed on either the National Register of Historic Places or the State Register of Cultural Properties within the permit area. Although there are no properties listed on the State or National Registers, our records also show that a cultural resources survey was conducted in the area in July 2012 for a powerline easement. Eleven historic properties were documented along this easement. Although the survey did not include the entire mine permit area, or the entire mine dewatering system, it appears that all known historic properties determined to be eligible for listing on the Register were avoided. Based on this information, the permit appears to meet minimal impact status.

If you have any questions on these comments, please do not hesitate to contact me. I can be reached by telephone at (505) 827-4064 or by email at [michelle.ensey@state.nm.us](mailto:michelle.ensey@state.nm.us).

Sincerely,

Michelle M. Ensey  
Archaeologist

Log: 99238