

State of New Mexico  
Energy, Minerals and Natural Resources Department

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Brett F. Woods, Ph.D.  
Deputy Cabinet Secretary

Fernando Martinez, Director  
Mining and Minerals Division



January 5, 2016

Ms. Katie Emmer  
New Mexico Copper Corporation  
4253 Montgomery Blvd., Suite 130  
Albuquerque, NM 87109

**RE: Baseline Data Report Addendum, Biological and Paleontology Resource Surveys on Nine Mill Sites and Two Substation Alternatives, Copper Flat Mine, Sierra County, New Mexico, Permit Tracking No. SI027RN**

Dear Ms. Emmer,

The Mining and Minerals Division ("MMD") has reviewed the reports entitled *Biological Resources Survey, Copper Flat Mine: Nine Mill Sites and Two Substation Alternatives* ("Biological Report") and *Paleontology Resource Survey Summary Report* ("Paleontology Report") submitted by New Mexico Copper Corporation ("NMCC"). These two reports were submitted by NMCC as an addendum to the Baseline Data Report ("BDR") submitted as part of the permit application package for the Copper Flat Mine.

MMD requested comments on the Biological Report from the State Forestry Division and the New Mexico Department of Game and Fish ("NMDG&F"); those comments are attached for your review and are required to be addressed by NMCC. In addition, MMD has the following comments to be addressed.

**Vegetation Monitoring:**

- The Sampling and Analysis Plan ("SAP") dated September 2010 indicates that two vegetation sampling events will be performed: one in April 2010 and a second event in late summer/early fall 2010. The Biological Report, however, completed only one vegetation sampling event in April/May 2015. Please address the absence of a second vegetation sampling event in late summer/early fall for the mill site claims and substation areas.
- The SAP dated September 2010 proposed to quantify numerous vegetation parameters that are required by 19.10.6.602.D(13)(c) NMAC including a description of cover, density and productivity of the plant communities within the proposed permit area. The Biological Report for the mill site claims and substation alternatives does not report percent cover, density or productivity information. Please address this deviation from the SAP.

RE: Baseline Data Report Addendum, Biological and Paleontology Resource Surveys on Nine Mill Sites and Two Substation Alternatives, Copper Flat Mine, Sierra County, New Mexico, Permit Tracking No. SI027RN

January 5, 2016

Page 2

**Wildlife Monitoring:**

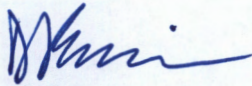
- The SAP dated September 2010 proposed that wildlife presence and activity surveys will occur twice per year: once during the overwintering period (December/January) and once during breeding season (late May/June). Section 19.10.6.602.D(13)(d)(iii) NMAC states that the wildlife data shall include distribution by season and habitat type. The Biological Report for the mill site claims and substation alternatives conducted a single survey in late April/early May, which does not match the frequency or seasonal timing proposed in the SAP. Please address this deviation from the SAP.

MMD does not have any comments on the Paleontology Report for the millsite claims and substation alternatives.

Please submit responses to the comments on the Biological Report within 60-days of receipt of this letter.

If you have any questions, please contact me at (505) 476-3434 or by email at david.ennis@state.nm.us.

Sincerely,



David J. (DJ) Ennis, P.G.  
Permit Lead / Reclamation Specialist

Enclosure (Agency Comments)

cc: Holland Shepherd, Program Manager

GOVERNOR  
Susana Martinez



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STATE OF NEW MEXICO  
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September 28, 2015

David J. (DJ) Ennis, P.G.  
Permit Lead  
EMNRD Mining and Minerals Division  
1220 South St. Francis Drive  
Santa Fe, NM 87505

***RE: Request for Review and Comment, Baseline Data Report Addendum 3 – Biological and Paleontology Report for Mill Site Claims and Substation Location, New Mexico Copper Corporation, New Mine Permit Application for the Copper Flat Mine, Permit No. SI027RN; NMDGF No. 16718.***

Dear Mr. Ennis:

In response to your letter dated 28 July 2014, the New Mexico Dept. of Game and Fish (Department) has reviewed the biological section of the above referenced document. The document, submitted by GeoSystems Analysis, Inc. (GAI), is an addendum to the Baseline Data Report for the proposed Copper Flat Mine in Sierra County, New Mexico. The addendum includes information regarding a total of eleven new sites that are located east of the proposed Copper Flat Mine Permit Area. These sites were overlooked during the biological surveys conducted for the mine's Baseline Data Report (2012). The 11 new sites include nine previously designated as mill site claims for Copper Flat, and two potential alternative sites for the location of an electrical substation. The nine mill sites are approximately five acres each in size, and the entire substation survey area encompasses about 110 acres. Comments regarding specific components of the report are listed below.

Vegetation and Non-Avian Wildlife Surveys

- Survey Methods, Pedestrian Surveys, pages 5-6: No dates are given for the timing of the pedestrian vegetation and wildlife surveys. Based on the overall survey dates, minus the bird survey dates, it appears that the vegetation and wildlife pedestrian surveys occurred on April 21, 22, 25 and May 2. The dates for these surveys should be specified in the Pedestrian Surveys methods section to help the reader assess the expected growth phenology and migration status for plants and birds, respectively, at the survey sites.

Avian Surveys

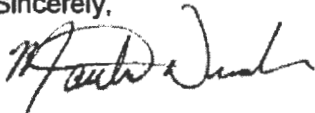
- The bird survey dates of April 23-24 and May 3-4 were not sufficient to fully document avian use of the areas. The Department recommends survey dates that would include: one date in April, two in May (early and late), and one in June (early). Winter surveys should also be conducted to document avian winter use of the permit areas.



- Bird surveys conducted on April 23-24 were point count surveys that consisted of 15 points distributed throughout the survey area, and counts were ten minutes in length. A detailed map showing the location of the point counts should be included in the report. The protocol for the May 3-4 surveys changed from point counts to timed (90-minute) area searches in creosote shrubland and arroyo/draw habitat types. The change in protocol was made to provide a more comprehensive inventory of avian use of these sites. However, we believe that consistency of methods should be maintained throughout the survey periods. If the goal is to replicate the surveys to determine population trends before, during, and after mining operations, then point counts should be employed. If the goal is simply to inventory species occurrence within the project area, then area searches may be used. Based on the need for comparable survey data, a single survey methodology should be chosen and used consistently over time. In order to obtain a more complete and representative inventory of avian species in the project area, surveys should be repeated during another bird breeding season utilizing the dates suggested above in April, May, and June.
- Raptor Nesting Substrate, page 26: Surveys by GAI identified only one, apparently inactive, stick nest in the project area that was located in a large mesquite tree in Greyback Arroyo. They speculated that the nest was used by Swainson's Hawks, but without the nest being occupied or actively being defended, this assumption cannot be stated with confidence. The identified nest could also be used by ravens or Great Horned Owls. A photo of the nest site showing the surrounding habitat and location coordinates would be useful. The nest should be checked annually for occupancy, in advance of any potential disturbance to the area. Swainson's Hawk and Red-tailed Hawk were documented as common and observed foraging within the project area. These species likely nest in the vicinity of the surveyed areas. Surveys for nesting raptors should include a buffer zone extending at least one half mile from the mine claims and proposed substation permit area boundaries. Winter raptor surveys should also be conducted.
- Conclusion, page 33: The report states that Loggerhead Shrike was the only special status species observed. However, Sagebrush Sparrow and Scaled Quail were also observed (Table 4, page 24), and both are considered by the state of New Mexico as Species of Greatest Conservation Need (Comprehensive Wildlife Conservation Strategy for New Mexico, 2006). Presence of these species should be discussed in the Conclusion section and included in Table 5, page 28.

Thank you for the opportunity to review and comment on the permit Baseline Data Report. If you have any questions, please contact Ron Kellermueller, Mining and Energy Habitat Specialist at (505) 476-8159 or [ronald.kellermueller@state.nm.us](mailto:ronald.kellermueller@state.nm.us).

Sincerely,



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

cc: USFWS NMES Field Office

**Ennis, David, EMNRD**

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**From:** Roth, Daniela, EMNRD  
**Sent:** Monday, August 10, 2015 3:34 PM  
**To:** Ennis, David, EMNRD  
**Subject:** RE: Copper Flat Mine Baseline Data Report Addendum 3 (Permit SI027RN)

Dear David Ennis:

Thank you for giving me the opportunity to review and comment on the Baseline Data Report Addendum 3, for the proposed Copper Flat Mine, in Sierra County, NM (Permit No. SI027RN).

I have reviewed the Biological and Paleontology survey report and concur that no impacts to state listed endangered plants will result from the proposed mining activities, based on the information provided in the report.

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

Daniela Roth

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