

State of New Mexico
Energy, Minerals and Natural Resources Department

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Fernando Martinez, Director
Mining and Minerals Division



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

7012 0470 0000 0880 5828

May 9, 2016

Gerald Smith, President
GEO Southwest, LP
P.O. Box 353
9751 Hwy. 86
Silverton, TX 79257

RE: Agency Review Comments on the Proposed Closeout Plan and Financial Assurance for the Deming Mill and Tailing Facility; Permit No. LU009RE, Luna County, NM

Dear Mr. Smith:

The Mining and Minerals Division (“MMD”) has reviewed the above referenced Closeout Plan and Financial Assurance (“FA”) proposal, and has also received agency comments on your September 18, 2014, submittal. MMD has reviewed the Closeout Plan and deemed it administratively complete, pursuant to §19.10.5.506 NMAC; however, MMD has found the Closeout Plan to be technically incomplete until receipt of acceptable supplemental information as requested by this letter. This letter provides comments from MMD on the submittal, in addition to comments and review letters received by MMD from the New Mexico Environment Department (“NMED”). **MMD hereby requests that you address the following specific comments and provide a response to MMD within 60 business days following receipt of this letter.**

1. The Closeout Plan does not address an unreclaimed disturbance area located along the former tailing pipeline corridor where tailings were released historically throughout time during earlier ASARCO operations and now exhibits several areas of exposed tailing material where original cover material has become eroded or is absent altogether. The Closeout Plan must include a reclamation plan for addressing all areas of disturbance located within the Permit Area, including this area, in addition to including the area within the reclamation cost estimate and FA proposal. **GSW must revise the Closeout Plan and reclamation cost estimate and FA proposal to include a reclamation plan for addressing this area, including a schedule for completing the reclamation work.**

RE: Agency Review Comments on the Proposed Closeout Plan and Financial Assurance for the Deming Mill and Tailing Facility; Permit No. LU009RE, Luna County, NM

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2. Please find the enclosed letter from NMED Groundwater Quality Bureau and address the comment regarding a recommendation from for plugging and abandonment of three groundwater monitoring wells associated with the permit area. **The disposition of the three monitoring wells described by NMED must be included within the Closeout Plan in addition to including this activity and associated costs within the reclamation cost estimate and FA proposal.**
3. The Closeout Plan requires an estimate of the FA based on the cost of reclaiming the disturbance within the permit area by a third party. Within your Closeout Plan submittal, you indicate that the estimated amount of FA required for reclaiming the site by a third party is \$225,201.00, and you have proposed to provide FA in this amount by offering real property as collateral pursuant to 19.10.12.1208.C. Before accepting any real property collateral as FA for a closeout plan, the Mining Act Rules require that the MMD Director (“Director”) “evaluate the adequacy of the real property”. Your FA proposal included some of the required information necessary for adequately evaluating the value of the real property proposed for collateral and has been deemed acceptable, including information required by 19.10.12.1208.C(3)(c)(i), (ii) and (iii) NMAC; however, following our review of the documentation for the real property collateral in which GSW has provided as part of its financial assurance package, **MMD has determined that additional information is necessary to assist the Director in evaluating the property, including a requirement that the permittee is required to submit certain documents and information concerning the property, including a “phase I environmental assessment” unless the Director, for good cause, waives the requirement pursuant to 19.10.12.1208.C(3)(c) NMAC.**

We have considered whether there are obvious environmental contamination issues and whether the properties violate the following Mining Act Rules prohibition: “The real property cannot be within the permit or affected area of a mining operation”. 19.10.12.1208.C(3)(a) NMAC. The Rules define “affected area” to mean “the area outside of the permit area where the land surface, surface water, ground water or air resources are impacted by mining operations within the permit area”. 19.10.1.7.A(3) NMAC. Based on our analysis made of the proposed collateral properties without the benefit of a Phase I Environmental Assessment Report to prove otherwise, MMD has determined that the properties in which GSW has offered as collateral contains areas of significant environmental concern or may include portions of the mine permit area or otherwise may be considered an “affected area”. **In order to evaluate these conditions, MMD requires that GSW provide MMD with the results of a Phase I Environmental Assessment of the properties being considered for collateral FA.**

Further, the Rules require that the permittee shall grant the state of New Mexico a first mortgage, first deed of trust, or perfected first-lien security interest in real property with a right to sell in accordance with state law or otherwise dispose of the property in the event of forfeiture under 19.10.12.1211 NMAC. Additionally, the value of the property proposed for collateral must be adequate to meet 19.10.12.1208.C(1)(a) NMAC, which states: If the nature of the collateral proposed to be given as security for financial

Gerald Smith – GEO Southwest, LP

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assurance is subject to fluctuations in value over time, the director shall require that such collateral have a fair market value at the time of permit approval in excess of the financial assurance amount by a reasonable margin. The amount of such margin shall reflect changes in value anticipated over a period of five years, including depreciation, appreciation, marketability and market fluctuation. **The director shall require a margin for legal fees and costs of disposition of the collateral in the event of forfeiture and MMD requires that GSW identify the mechanism intended to grant the State of New Mexico a first mortgage, first deed of trust, or perfected first-lien security interest with a right to sell on the property.**

In support of the above described requirements, **GSW must provide MMD with the information pursuant to 19.10.12.1208.C(3)(b) and 19.10.12.1208.C(3)(c)(v) NMAC.** Alternatively, GSW may submit another more readily approvable form of FA that doesn't require the evaluation of real property as collateral FA; other acceptable forms of FA are limited to surety bonds, letters of credit or cash accounts described in 19.10.12.1208 NMAC.

If you have any questions concerning this letter, please contact me at (505) 476-3437 or James Hollen of my staff at: 505-476-3436 or via email at: james.hollen@state.nm.us.

Sincerely,



Holland Shepherd, Program Manager
Mining Act Reclamation Program/MMD

Enclosure: Review and Comment Letters from NMED

cc: Mine File - Permit LU009RE



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RYAN FLYNN
Cabinet Secretary
BUTCH TONGATE
Deputy Secretary

MEMORANDUM

DATE: December 19, 2014

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

FROM: Larry Shore, Ground Water Quality Bureau

THROUGH: John Hall, NMED Mining Act Team Leader

RE: Request for Review and Comment, Deming Mill and Mill Closeout Plan & Financial Assurance Cost Estimate, Geo Southwest, LP, Permit LU009RE, Deming, New Mexico

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on October 9, 2014 requesting agency comments on a revised Closeout Plan and Financial Assurance Estimate for the former ASARCO Deming Mill and Mill Tailings Facility, Permit LU009RE. The plan was submitted to MMD on September 12, 2014 by Gerald Smith, President of Geo Southwest LTD dba Geo Southwest LP (applicant) who acquired the former ASARCO Mill and Mill Tailings Facility from the ASARCO Multi-State Custodial Trust (Trust) on April 9, 2014. The property acquired in the purchase from the Trust is located approximately 1 mile north of Deming, in Luna County, New Mexico. MMD is requesting that NMED review and provide comments on the Modified Closeout Plan and Financial Assurance Estimate.

The request was made pursuant to 19.10.5.506.E NMAC, which are rules under the Mining Act. MMD has requested that comments be provided by December 19, 2014.

Site Location, Description and Background of the ASARCO Deming Site

The Deming Mill was constructed in 1949 and was operated by ASARCO, with periodic shutdowns, until 1979 to process lead and zinc ores from the Ground Hog Mine. From 1989 to 1995, Cyprus Pinos Altos Corporation leased the mill to produce copper-zinc concentrate from ore taken from the Cyprus Pinos Altos mine. Mill Tailings from the Cyprus Pinos Altos mine were disposed in the tailings impoundment owned and operated by Freeport McMoRan – Cobre

Mining Inc. (FMI Cobre). Prior to 1989, ASARCO discharged tailings generated from the processing of ore to tailings disposal ponds located on the north side of the Mimbres River. During the period of time prior to 1989, temporary breaks in the pipeline that carried tailings from the mill to the ASARCO tailings pile deposited an unknown amount of tailings into the banks of the Mimbres River between the mill and pipeline river crossing. These tailings were covered with clean borrow material and reseeded after 1995, however the cover on top of these tailings has eroded over time and thinned in places exposing tailings at the surface on the Geo Southwest property along the pipeline corridor generally northwest of FMI's Pinos Altos tailings impoundment. The thickness and aerial extent of the tailings and the thickness of cover over the tailings appears to not have been examined closely since the area was reclaimed.

The area where the tailings are exposed is not part of the reclamation that was performed during the 2007-2008 time period under the New Mexico Voluntary Remediation Program (VRP). That cleanup was related to the Deming Mill Windblown Tailings Site (VRP Site No. 53043001) located north of the Mimbres River. This voluntary remediation was originally begun by ASARCO and completed by the Trust in 2008 and involved scraping up wind-blown tailings and deltaic sediment deposits along the east and south sides of the two ASARCO tailings piles. The Covenant Not to Sue issued by the NMED to Geo Southwest LP, as discussed in the application, does not extend to any tailings exposed on the south side of the Mimbres.

The ASARCO mill and tailings piles were transferred to the ASARCO Multi-State Custodial Trust (Trust) in December 2009 as part of the resolution of ASARCO's bankruptcy proceedings. Between 2010 and 2014, the Trust has undertaken measures to close the ASARCO mill by sampling to identify soils to be removed, excavating and removing to the tailings piles "contaminated driveway material". The tailings piles have been rebuilt and covered with coarse rock armoring which, based on observations by MMD and NMED over the last 5 years, appears to be developing a sustainable ecosystem, a requirement for final release of financial assurance for existing mining operations under the New Mexico Mining Act [69-36-11 B. (3)].

Closure Plan and Modified Financial Assurance Estimate

The applicant indicates that the purpose of proposed Closeout/Reclamation Plan is to establish the amount of financial assurance that will be required from Geo Southwest LP for Permit Number LU009RE. While the language in the closeout plan and financial assurance proposal is unclear, NMED believes the intended post mill land use is described under Section 4 of the application, where the applicant states that the purpose of the Closeout/Reclamation Plans is to have the Site become a non-mining dependent industrial facility, and we assume that the applicant means by this statement that, at least for the time being, the post mining land use does not include attempts to recover metal values or beneficiate existing tailings material within the old piles. If this assumption is correct then the description of closure activities outlined in Section 5 of the application (DESCRIPTION OF CLOSEOUT/RECLAMATION ACTIVITIES) seems appropriate for conversion to a non-mining dependent industrial facility except for the following:

- Three monitoring wells installed during the time that ASARCO was discharging tailing solids and liquids to their tailing impoundments north of the Mimbres have not been closed. Boreholes must be abandoned in accordance with the New Mexico Office of the State Engineer requirements and New Mexico Mining Act Rules. NMED recommends that MMD require Geo Southwest LP submit a written plan including a cost estimate to close and abandon these wells.

- Tailings exposed in the spill area along the pipeline corridor should be evaluated to determine the area of exposed tailings, thickness of cover and the ability of the cover to support re-establishment of native vegetation in the area where tailings were released during earlier ASARCO operations. The amount of reclamation that might be required in this area needs to be assessed and included as a proposal, including a time schedule and cost estimate, submitted to MMD for approval and authorization under the permit to complete the work as proposed.

SUMMARY

The activities described in the proposed Closeout/Reclamation plan should have no impacts to ground water or surface water once completed. The assessment and reclamation of the area along the tailings pipeline corridor, once completed, should minimize potential surface and ground water impacts from the tailings over time. NMED finds the proposed Closure/closeout activities are likely to have a minimal environmental impact if conducted and reclaimed in accordance with the approved permit and recommendations listed above.

cc: Jerry Schoeppner, Bureau Chief, GWQB
James Hogan, Bureau Chief, SWQB
Richard Goodyear, Chief, AQB
Fernando Martinez, Director, EMNRD
Matthew Wunder, Chief, NMDGF
James Hollen, MMD Lead Staff
Kurt Vollbrecht, Program Manager, GWQB-MECS



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RYAN FLYNN
Cabinet Secretary

BUTCH TONGATE
Deputy Secretary

DATE: December 12, 2014

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

FROM: John Moeny, Surface Water Quality Bureau

THROUGH: John Hall, NMED Mining Act Team Leader

RE: Comments on the Geo Southwest, LP Deming Mill and Mill Tailings Closeout Plan & Financial Assurance Proposal Permit No. LU009RE.

The Geo Southwest, LP proposal for the Deming Mill and Mill Tailings Closeout Plan and Financial Assurance was received by the New Mexico Environment Department (NMED) from the Mining Act Reclamation Program (MARF) on October 9th, 2014. The Deming Mill was built in 1949 to process lead and zinc ores from nearby mines. The mill tailings impoundment lies north of the mill site, with the Mimbres River separating the two facilities. The proposed post-closeout land use for the Site is a non-mining-dependent industrial facility.

Geo Southwest, LP, is proposing to remove mining related equipment from the Mill site, while leaving some of the buildings in place in anticipation of another industrial facility occupying the location in the future. The mill tailings impoundment is current seven years out since reclamation and recent inspections by the MMD have shown the impoundment to be in "excellent" condition. Geo Southwest, LP will provide financial assurance for repair of the tailings impoundment for an additional 5 years, at a cost of \$45,175 (combined direct and indirect costs).

The Surface Water Quality Bureau is providing the following comments within the 30 day timeframe requested.

1. The both the Deming Mill site and the mill tailings impoundment lie adjacent to the Mimbres River which is considered an ephemeral stream within the project area. Closeout activities must plan and implement relevant pollution control measures to discharges into the watercourse.
2. Where practical, maintain a minimum 50 foot buffer between the stream bank and all construction/demolition activities.

3. Appropriate spill clean-up materials such as absorbent pads must be available on-site at all times during construction, site preparations, and demolition activities to address potential spills. Report all spills immediately to the NMED as required by the New Mexico Water Quality Control Commission Regulations (20.6.2.1203 NMAC). For non-emergencies during normal business hours, call 505-428-2500. For non-emergencies after hours, call 866-428-6535 or 505-428-6535 (voice mail, twenty-four hours a day). For emergencies only, call 505-827-9329 twenty-four hours a day (New Mexico Department of Public Safety).

Thank you for the opportunity to comment.

Sincerely,

John Moeny

xc: Jerry Schoeppner, Chief, GWQB
James Hogan, Acting Bureau Chief, SWQB
Richard Goodyear, Bureau Chief, AQB
Fernando Martinez, Division Director, EMNRD-MMD
Mathew Wunder, Chief, NMDGF
James Holland, EMNRD-MMD



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Ryan Flynn
Cabinet Secretary

Butch Tongate
Deputy Secretary

MEMORANDUM

DATE: November 10, 2014

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

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

RE: Request for Comments, Revised Closeout Plan and Financial Assurance Estimate,
Deming Mill and Tailings Facility
Permit Tracking LU009RE

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 not issued any air quality permits for this operation.

Details

The applicant, Geo Southwest, LP (GEO SW), is requesting review and approval of their revised closeout plan and financial estimate, for the Deming Mill and Mill Tailings Facility, Permit Tracking No. LU009RE. This Closeout/Reclamation Plan for the Deming Mill Site and Mill Tailings, previously owned by ASARCO Incorporated has been prepared by GEO SW pursuant to Section 69-36-IIB of the New Mexico Mining Act of 1993 and the New Mexico Mining Act Rules. This Closeout/Reclamation Plan references and will be part of Permit No. LU009RE (currently in standby status) which was transferred to GED SW by the Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department on August

Request for Comments, Revised Closeout Plan and Financial Assurance Estimate, Deming Mill and Tailings Facility, Permit Tracking LU009RE

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5, 2014. On April 9, 2014, GEO SW purchased from the ASARCO Multi-State Custodial Trust 1193.84 acres near Deming, New Mexico. The Property included the Permit Area which consists of approximately 163 acres including the Site, Tailings and a borrow pit.

GEO SW purchased the Property with the intent of renovating and operating the mill to process ore. The Site is located on County Road 394 in Sections 20 and 21, Township 23 South, Range 9 West, approximately one mile northwest of Deming, New Mexico.

The proposed post-closeout land use for the Site is a non-mining-dependent industrial facility. The City of Deming has recently established an industrial park on land that the City owns adjoining the Property; hence, there would likely be good demand for an industrial facility at the Site location. Closeout/reclamation activities necessary to convert the Site to a non-mining dependent industrial facility include demolition and removal of all mine-specific processing equipment and buildings. Since all contaminated soil at the Site was removed and replaced by ENVIRON, no financial assurance will be required for correction of soil contamination at this time. However, a plan to evaluate and correct possible future soil contamination along with appropriate financial assurance will be part of the requirements for GEO SW to upgrade Permit Number LU009RE to active status in order to begin operation of the mill. The purpose of this Closeout/Reclamation Plan is to have the Site become a productive industrial facility and a viable addition to the City of Deming Industrial Park; as well as to establish the amount of financial assurance that will be required from GEO SW for Permit Number LU009RE.

The AQB has no objection to the current request for revised closeout plan and financial assurance estimate.

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