

State of New Mexico
Energy, Minerals and Natural Resources Department

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Deputy Cabinet Secretary

Fernando Martinez, Director
Mining and Minerals Division



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

7012 0470 0000 0880 6078

February 6, 2018

Alissa Sanchez, Director, U.S. Environmental Permitting
Elko Mining Group, LLC
9650 Gateway Dr., Suite 202
Reno, NV 89521

**RE: Request for Additional Information, Permit Revision 15-1 Application for Standby Status
MMD Permit No. HI001RE – Banner Mill Complex
Hidalgo County, New Mexico**

Dear Ms. Sanchez:

The New Mexico Mining and Minerals Division (“MMD”) received a permit revision application (Permit Revision 15-1 “Application”) from the Lordsburg Mining Company (“LMC”) in August 2015, proposing to revise Permit No. HI001RE for the Banner Mill Complex to place the facility into standby status pursuant to §19.10.7 NMAC of the New Mexico Mining Act Rules (“Rules”). MMD determined the application to be administratively complete and notified LMC in a letter dated August 10, 2015, and MMD then distributed the Application to the reviewing state agencies to begin technically reviewing the Application as required by §19.10.7.701 E and F NMAC of the Rules. MMD received review comments on the Application from the New Mexico Environment Department (“NMED”) and from the New Mexico Department of Game and Fish (NMDG&F”) and these comment letters are enclosed for your records.

Shortly after MMD began processing the Application in August 2015, LMC filed for bankruptcy and entered Chapter 11 proceedings which ultimately led to the dissolution of LMC and the transfer of Permit HI001RE from LMC to Pyramid Peak Mining, LLC, (“PPM”) in January 2017. During these bankruptcy proceedings, MMD temporarily suspended the processing of Permit Revision 15-1 until the proceedings were resolved and a new permittee for the facility be designated; and now PPM is the permittee for Permit HI001RE. MMD currently anticipates following through with the approval of

RE: Request for Additional Information
Permit Revision 15-1 Requesting Standby Status, MMD Permit No. HI001RE – Banner Mill Complex
Hidalgo County, New Mexico

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Revision 15-1 toward formally placing the facility into standby status while inactive; however, in order to complete Revision 15-1, PPM must provide additional information requested by NMED and NMDG&F by addressing the comments provided by these agencies in the enclosed letters.

Please find the attached comment letters from NMED Ground Water, Surface Water and Air Quality Bureaus (“GWQB” “SWQB”, respectively) and address the issues raised by the SWQB on page 2 of the October 2, 2015, letter regarding the Facility’s apparent lack of a current, updated Storm Water Pollution Prevention Plan (“SWPPP”) pursuant to coverage under the EPA’s Multi-Sector General Permit. Furthermore, on page 2 of the October 2015, letter from NMED, the GWQB indicates that there are outstanding permit fees associated with DP-1651, and GWQB also indicates that a site visit will be required to ensure that impacted storm water is being managed in accordance with the approved discharge permit (DP-1651). Additionally, the GWQB indicates on page 2 of its October 2015, letter that it is not providing an environmental determination at this time pending completion of a sitewide inspection and resolution of the aforementioned concerns regarding the apparent lack of coverage pursuant to EPA Multi-Sector General Permit requirements. Be advised that the written environmental determination from NMED is required by MMD pursuant to §19.10.7.701 B(3) NMAC prior to approving this permit revision.

Also, please find the attached comment letter from NMDG&F and address the concerns identified throughout the letter regarding potential impacts to wildlife. Additionally, NMDG&F requests that the Application be amended to include a wildlife monitoring plan covering the anticipated term of standby status in addition to providing further information as required by §19.10.7.701 B NMAC describing how the Facility will meet applicable requirements of the New Mexico Mining Act and §19.10 NMAC during the term of standby status.

MMD requires that PPM review the enclosed comment letters and address the outstanding issues identified by this letter and provide a response to MMD within 30 days of receiving this letter.

If you have any questions, please contact me at (505) 476-3436, or via email at: james.hollen@state.nm.us.

Sincerely,



James Hollen, Permit Lead – MMD Permit No. HI001RE
Mining Act Reclamation Program (“MARF”)/MMD

Enclosures: NMED Comment Letters, dated September 23, 2015, and October 2, 2015
NMDG&F Comment Letter, dated October 2, 2015

Cc: Holland Shepherd, Program Manager, MARF-MMD
Mine File HI001RE



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Ryan Flynn
Cabinet Secretary

Butch Tongate
Deputy Secretary

MEMORANDUM

DATE: September 23, 2015

TO: Kurt Vollbrecht, Program Manager
Mining Environmental Compliance Section, Ground Water Quality Bureau

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

RE: Request for Review and Comment, Application for Permit Revision for
Standby Status — Banner Mine and Mill Complex, Permit HI001RE

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 issued NSR Air Quality Permit No. 0882-M3 to this operation.

Details

Due to a temporary cessation of mining operations exceeding 180 days, the applicant, Lordsburg Mining Company (LMC) submitted an application to revise the Mining Act permit No. HI001RE to standby status for the Banner Mill and Tailings impoundment facilities. Standby status is requested for both units of the Banner mill site; the milling facility and the tailings facility. The permit area (approx. 14 acres) is located in portions of Sections 14 and 23, T23S, R19W, N.M.P.M. near Lordsburg, in Hidalgo County, New Mexico.

The AQB has no objection to the current request for standby status in reference to the mining permit. However, air quality regulations do not allow for an air quality permit to be placed on standby status. As long as the permittee holds a permit, whether the facility is operating or not,

they are still responsible for complying with the conditions of their permit, which includes the payment of fees. Presently, this company and facility (Agency Interest #1772, NSR Permit 0882M3) is delinquent in their required payment of AQB NSR Annual Fees for CY2014 and a Compliance Order has been requested through the Office of General Council (Kay Bonza).

In addition, as stated in their permit (condition # 13a), pursuant to 20.2.72.211.A NMAC: “The department shall automatically cancel any permit for any source which ceases operation for five years or more, or permanently. Reactivation of any source after the five year period shall require a new permit.”

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



SUSANA MARTINEZ
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Lieutenant Governor

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RYAN FLYNN
Cabinet Secretary

BUTCH TONGATE
Deputy Secretary

MEMORANDUM

DATE: 10-2-15

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

FROM: Larry Shore, Ground Water Quality Bureau
John Moeny, Surface Water Quality Bureau
Neal Butt, Air Quality Bureau

THROUGH: Kurt Vollbrecht, Manager, Mining Environmental Compliance Section

RE: **NMED Comments, Lordsburg Mining Company, Banner Mill and Tailings Impoundment, Permit Revision to Standby Status, MMD Permit HI001RE**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on August 10, 2015 requesting NMED review and provide comments on the above referenced MMD permitting action. The revision application requests approval of standby status for Permit No. HI001RE. MMD requested comments within 60 days of receipt in accordance with Section 19.10.7.701.E NMAC. NMED has the following comments.

Background

The Lordsburg Mining Company, Banner Mill and Tailings Impoundment is an existing gold mill and tailing impoundment located south of Lordsburg, NM. Ore from the Summit Mine in southwest New Mexico is processed at the site.

Air Quality Bureau

The Air Quality Bureau comments are attached under separate letterhead.

Surface Water Quality Bureau

In 2008 the Lordsburg Mining Company (LMC) completed their Stormwater Pollution Prevention Plan (SWPPP) during a permit revision and closeout plan update and obtained coverage under EPA's Multi Sector General Permit (MSGP) in March of 2011 under tracking number NMR05HA95. In 2014, the LMC again revised their existing mining permit to enlarge the existing tailing impoundment dam, and construct a tailing decant unit and dry stacked tailing area. A SWPPP revision would have been a requirement of that permit revision. Additionally, in June 2015, the EPA reissued the Multi-Sector General Permit. Based on review of available information it does not appear that the SWPPP for the Banner Mill and Tailings has been updated under the new EPA requirements, and LMC does not appear to have obtained permit coverage under the 2015 MSGP.

Ground Water Quality Bureau

The Banner Mill and Tailing Impoundment is regulated by the GWQB pursuant to Discharge Permit DP-1651. Discharges from various facilities at the site, including impacted stormwater and tailings must be managed in a manner that is protective of ground water quality during the standby period. It will be necessary to perform a site inspection to insure that impacted stormwater is being managed in accordance with the approved discharge plan. In addition, Lordsburg Mining Company has outstanding permit fees associated with DP-1651.

Determination

NMED is not providing an environmental determination at this time pending a site inspection and a response from Lordsburg Mining Company addressing the apparent failure to obtain coverage pursuant to EPA Multi-Sector General Permit requirements.

If you have any questions, please contact Kurt Vollbrecht at (505) 827-0195.

cc: Trais Kliphuis, Division Director, NMED-WPD
James Hogan, Bureau Chief, SWQB
Richard Goodyear, Bureau Chief, AQB
Fernando Martinez, Division Director, EMNRD-MMD
James Hollen, Lead Staff, EMNRD-MMD
Larry Shore, Lead Staff, MECS

GOVERNOR
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THOMAS "DICK" SALOPEK
Las Cruces

October 5, 2015

James Hollen
Permit Lead
EMNRD Mining and Minerals Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

RE: Request for Review and Comment, Application for Permit Revision for Standby Status-Banner Mine and Mill Complex, Permit No. HI001RE. NMDGF No. 16739.

Dear Mr. Hollen:

In response to your letter dated 10 August 2015, the New Mexico Department of Game and Fish (Department) has reviewed the request for standby status for the Banner Mine. We understand that the Lordsburg Mining Company (LMC) is submitting an application for permit revision for standby status at the milling facility and the tailings facility at the Banner Mine and Mill Complex, Hidalgo County, New Mexico. A site inspection has not been conducted by Department staff.

The primary area of concern for wildlife at the mine and mill complex is the impoundment area/pond. The Department had previously commented on this in a correspondence to MMD dated 24 March 2014 (NMDGF Document No. 16182), when LMC was seeking a permit revision to expand the tailings impoundment area. We reiterate our comments from that time regarding use of adequate exclusionary fencing, which should consist of 7 to 8-foot high chain link or woven wire, and be wrapped around the bottom 1 to 2 feet with smaller mesh material which extends to or below ground level, to exclude smaller animals. In addition, the Department recommends textured escape ramps that can be utilized by wildlife when pond water is present. More detailed guidelines on fencing and escape ramps can be found on the Department's website (www.wildlife.state.nm.us/conservation/habitat-information/habitat-handbook). We also recommend maintaining an alternate source of clean drinking water nearby, in order to help draw wildlife away from the impoundment.

On its application for standby status, LMC states that analysis of the ores produced by the Summit Mine and Banner Mill operations show that they do not have acid formation potential, and therefore, should not give rise to acid rock drainage (ARD) issues. They also state that the ores do not contain significant amounts of arsenic, antimony, lead, mercury, or other common toxic elements that could potentially leach from the ore and tailings material if ARD were to occur. Details of these tests, including when and by whom these tests were conducted, are lacking within the provided information. If these tests were not conducted recently, the Department recommends that the ores and tailings be re-tested for ARD potential and toxic elements before standby status is granted. The mill site appears to be designed so that all drainage from the area should be captured by the containment pond. Therefore, we also recommend that containment pond water be tested and

regularly monitored for toxicity during the standby period, in order to assess its potential impacts to wildlife.

Item number 5 on the application for standby status, which asks LMC to “describe how the applicable requirements of the Act and 19.10 NMAC will be met during the term of the standby status...”, is not answered. Therefore, the application is incomplete in its current form. This section should be fully completed before standby status is granted. . This section should include a wildlife monitoring plan that includes the maintenance of fencing and escape ramps, monitoring water quality in the containment pond, and checking for trapped or dead wildlife within the mine and mill site permit area.

Thank you for the opportunity to review and comment on this application for standby status. If you have any questions, please contact Ron Kellermueller, Mining and Energy Habitat Specialist at (505) 476-8159 or ronald.kellermueller@state.nm.us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt Wunder", is written over the word "Sincerely,".

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

cc: USFWS NMES Field Office