

Ennis, David, EMNRD

From: Ohori, David, EMNRD
Sent: Wednesday, August 15, 2018 10:06 AM
To: Bays, Tyson R.
Cc: Shelley, Thomas L.; Princehouse, David; Lilla, Mandy; Gutierrez, Jeanie; Shepherd, Holland, EMNRD
Subject: RE: -reposneMMD.pdf
Attachments: Permit GR079EM - Emma Expl Proj 081418.doc; Permit GR079EM - Emma Expl Proj 081418 clean.doc

Hi Ty,

We have received and reviewed the permit document with the changes that you made to include the financial assurance ILOC information. Thank you for having the Certification page signed by Mr. Bower, however, MMD has made some minor changes to the permit document to make the FA amounts more exact and to clean up some formatting issues. Attached is what MMD deems as the final version of the permit along with the version that you sent to us yesterday showing the changes MMD has made. Please review MMD's final version, and if you agree, please have Mr. Bower sign the Certification page and return it to me by e-mail (original by certified mail). Once we receive this and the ILOC's executed by the bank, we'll have the MMD Director review them for his approval.

Regarding the comments in your August 14, 2018 letter on exploration drill hole plugging costs, MMD firmly stands behind its Guidance on Estimating Reclamation Costs for Part 3, Minimal Impact Exploration and Minimal Impact Mining. It was developed based on the costs for a third party (a contractor hired by the State of New Mexico) to perform the reclamation, not on exploration drill hole plugging costs that a driller would provide to a mine or other company applying for a Part 3 permit. As in the case of the Emma Exploration Project, MMD has worked with mining operators, large and small, to lessen the burden of the financial assurance (FA), by allowing operators to post FA for a partial number of exploration drill holes and "phase" the FA to the next set of drill holes once MMD has received and approved the drill hole plugging reports from the driller. In addition, once the drill hole plugging for the exploration project has been confirmed by MMD to meet the requirements of MMD and other state and federal agencies (if applicable), MMD has released the financial assurance for the drill hole plugging (usually the majority of the FA held by MMD), well in advance of releasing the FA for the reclamation of the surface disturbance caused during the project.

I will be in the office this morning, but out of the office this afternoon and tomorrow, and back on Friday. Please contact Holland Shepherd (505-476-3437, or Holland.Shepherd@state.nm.us) if you need assistance during the time that I am away.

Thank you.

David R. Ohori
Supervisor/Senior Reclamation Specialist
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From: Bays, Tyson R. <tbays@fmi.com>
Sent: Tuesday, August 14, 2018 8:36 AM

To: Ohori, David, EMNRD <david.ohori@state.nm.us>

Cc: Shelley, Thomas L. <tshelley@fmi.com>; Princehouse, David <dprinceh@fmi.com>; Lilla, Mandy <mlilla@fmi.com>; Gutierrez, Jeanie <jgutierrez1@fmi.com>

Subject: FW: -reposneMMD.pdf

David: Attached is the revised permit, cover letter and draft copies of the letters of credit. The Letters of Credit will be forwarded to you today after the Bank has signed them and sent them to our Corporate Office. The dates for the letters of Credit will be as in the draft letters dated to today. If you have any questions please feel free to contact me. We are hoping to start this project later this week, if you could give me an idea when the Director will sign and this permit, or otherwise when we may proceed.

From: Gutierrez, Jeanie

Sent: Tuesday, August 14, 2018 8:29 AM

To: Bays, Tyson R. <tbays@fmi.com>

Subject: RE: -reposneMMD.pdf

Here is all the info, cover letter, permit and LC's.

Jeanie Gutierrez

Administrative Assistant

Environmental Services, Tyrone

(575) 912-5747

jgutierrez1@fmi.com

From: Bays, Tyson R.

Sent: Tuesday, August 14, 2018 7:23 AM

To: Gutierrez, Jeanie <jgutierrez1@fmi.com>

Subject: FW: -reposneMMD.pdf

From: Ohori, David, EMNRD <david.ohori@state.nm.us>

Sent: Thursday, August 9, 2018 5:09 PM

To: Bays, Tyson R. <tbays@fmi.com>

Cc: Shelley, Thomas L. <tshelley@fmi.com>; Lilla, Mandy <mlilla@fmi.com>; Princehouse, David <dprinceh@fmi.com>

Subject: RE: -reposneMMD.pdf

Hi Ty,

Attached is the permit with changes highlighted in yellow.

Let me know if you have any questions.

Thanks.

David R. Ohori

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From: Bays, Tyson R. <tbays@fmi.com>
Sent: Thursday, August 9, 2018 10:36 AM
To: Ohori, David, EMNRD <david.ohori@state.nm.us>
Cc: Shelley, Thomas L. <tshelley@fmi.com>; Lilla, Mandy <mlilla@fmi.com>; Princehouse, David <dprinceh@fmi.com>
Subject: RE: -reposneMMD.pdf

David: I will review this and forward on to our staff. I don't think this works for a multitude of reasons and the biggest is I don't think your agency will be able to keep up with our progress, thus we will be delayed in getting your inspections done and approval of drilling logs. However, I assume you are going to be on the conference call, Tom Shelley scheduled for today at 11:30 and we can discuss further.

From: Ohori, David, EMNRD <david.ohori@state.nm.us>
Sent: Thursday, August 9, 2018 9:36 AM
To: Bays, Tyson R. <tbays@fmi.com>
Cc: Shepherd, Holland, EMNRD <holland.shepherd@state.nm.us>; Shelley, Thomas L. <tshelley@fmi.com>
Subject: RE: -reposneMMD.pdf

Ty,

Please review the draft condition below regarding a "staged" approach to the financial assurance for drill hole plugging for the Emma Project. Let me know if you and your driller would agree to these requirements and we can incorporate it into the permit. In this way there should be minimal or no interruptions in having your driller complete the drilling project.

"For each phase of borehole reclamation the Permittee will submit copies of the drill hole abandonment records for MMD approval, to include an affidavit signed by a licensed, bonded driller, engineer, or the project geologist, attesting to the fact that the drill holes have been plugged and abandoned according to the requirements of this Permit. The Permittee will not initiate the next phase of drilling until the MMD has approved-and at the discretion of MMD-inspected the plugging of drill holes."

The permit would be conditioned so that the FA for a number of exploration drill holes (for example, for five (5) drill holes using \$14.00 per foot for drill hole plugging x 1,300 ft./drill hole = 5 x \$18,200 = \$91,000) would be submitted by FMI and approved by MMD. Upon MMD receipt and approval of the drill hole abandonment records from the driller and an affidavit from the driller submitted as required above, the driller could move on to the next "phase" of 5 drill holes for the exploration drilling project. MMD would also require the full amount of the FA for the surface reclamation for the project (\$20,513) until MMD releases it following the termination of the permit. So the total FA submitted at any one time would be \$91,000 + \$20,513 = \$111,513. We would suggest splitting the FA into 2 ILOC's so that it would make it easier to release the full FA for the drill hole plugging shortly after all of plugging has been done and approved, leaving the surface reclamation FA in-place until it is released later.

Let me know if you have any questions. Thanks.

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From: Ohori, David, EMNRD
Sent: Wednesday, August 8, 2018 11:20 AM
To: 'Bays, Tyson R.' <tbays@fmi.com>
Cc: 'Holland Shepherd (Holland.Shepherd@state.nm.us)' <Holland.Shepherd@state.nm.us>
Subject: RE: -reposneMMD.pdf

Hi Ty,

We have reviewed your response to MMD's and other agency comments. I have calculated the amount of financial assurance (FA) that MMD will require based on the MMD guidance for estimating reclamation costs for minimal impact exploration projects. The results of my calculations are shown below:

Surface Reclamation

Total surface disturbance = 3.37 acres
Reclamation Cost Estimate = 1 acre @ \$8,900 + 2.37 acres @ \$4,900 = \$8,900 + \$11,613 = \$20,513 Total for Surface Reclamation

Drill Hole Plugging

21 Drill Holes x 1,300 Ft. per Drill Hole = 27,300 Ft.
27,300 Ft. x \$14.00 per Ft. = \$382,200 Total for Drill Hole Plugging

Total FA Cost Estimate

\$20,513 Total for Surface Reclamation + \$382,200 Total for Drill Hole Plugging = **\$402,713 Total FA Amount**

Attached is Permit No. GR079EM with the financial assurance amount of \$402,713. The form of financial assurance will be an irrevocable standby letter of credit (ILOC) based on the type of FA that you specified in the application. Attached is a template form to be used for that type of FA instrument. Once MMD receives and approves the ILOC and inserts the information for that FA into the permit document I will send you the final version of the permit for FMI's signature on the Certification Page. Once I receive the signed Certification Page I will have Director Martinez review and sign the permit.

Please let me know if you have any questions.

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From: Bays, Tyson R. <tbays@fmi.com>
Sent: Friday, August 3, 2018 12:46 PM
To: Ohori, David, EMNRD <david.ohori@state.nm.us>
Cc: Deely, Sheila H. <sdeely@fmi.com>; Gutierrez, Jeanie <jgutier1@fmi.com>
Subject: -reposneMMD.pdf

David: Attached is our response to your comments as well as the other agencies. As you will see we have accepted your seed mix and have made some major concessions to the FA. In addition we have committed to further assurances to complete the project in a timely manner and as you will see all reclamation will be completed concurrent with our drilling, except of course the seeding, which will be done in one small project at the end of drilling. We have a drill rig on site and would very much appreciate approval of this permit at your earliest pleasure. If you have any questions please give me a call at (575)-912-5757.