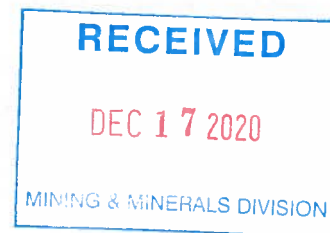


Jerry Schoeppner, Director, Mining and Minerals Division
New Mexico Energy, Mining and Minerals Department
Wendell Chino Building – 3rd Floor, Room 360
1220 S. St. Francis Dr.
Santa Fe, New Mexico 87505



December 10, 2020

Re: American Magnesium Dolomite Mine, Permit Tracking Number LU035MN

Dear Mr. Schoeppner:

I am writing on behalf of Friends of the Floridas, a community-based association in Luna County. Our organization is dedicated to the protection of the natural values within the Florida Mountain Range, and has a local affiliation in excess of 200 people. We have been active for many years in response to the American Magnesium exploration and mining proposal permit tracking number LU035MN.

We have fully participated in the National Environmental Policy Act (NEPA) review process conducted by the Bureau of Land Management (BLM). We have persistently raised concerns that the BLM environmental analysis did not include any concrete and defined details regarding ore transportation, ore processing, waste disposal, and other critical issues.

Uncharacteristically, and we assert illegally, BLM issued its Decision Record authorizing both "resource verification," or exploration, mining, and construction of a new access road as proposed by American Magnesium. BLM authorized all of this work without adequate details on how the company will transport the raw materials, where the raw dolomite will be transported for milling, or how the company will mill the raw dolomite.

As a result of the flawed NEPA process, Friends of the Floridas filed a Petition to Review the BLM's action in the Federal District Court for New Mexico. On September 11, 2020. We were joined in this action by the New Mexico Wilderness Alliance, WildEarth Guardians, the Gila Resources Information Project, and Amigos Bravos. Our Petition in Case No. 1:20-cv-924 is available from the Court.

The Plan of Operations was recently revised and it is unclear whether the BLM will be conducting a revised environmental assessment due to these modifications. We assume the application for a minimal impact mining permit with the Mining and Minerals Division (MMD) will also have to be modified. Once modified, we expect additional review pursuant to NMAC 19.10.1 will be required.

Full disclosure of all of the proposed mine's features is necessary to prepare the environmental evaluation described in NMSA 1978 Section 69-36-9(G), as well as establish and approve a proper reclamation plan and reclamation financial assurance. Under state law, MMD should require this disclosure regardless of the outcome of private litigation.

Can we assume no final decision on LU035MN will be made by MMD until these issues are resolved? Any final decision on the reclamation financial assurance for this project should include necessary facilities for milling and disposal of waste.

We are also concerned that MMD may have accepted American Magnesium's assertion that the disclosed portion of this project qualifies for treatment as a "minimal impact new mining operation." A

project does not automatically qualify for minimal impact treatment simply because an applicant states the quarry will not exceed 40 acres. MMD must do its due diligence in reviewing the aspects of this proposal provided by American Magnesium as well as the details suspiciously left out of the company's application, as contemplated by 19.10.1(M)(2) NMAC.

In order for a minimal impact mining operation to be so classified, the mine must be "...determined by the Director, in consultation with other state agencies, likely to have minimal environmental impact..." Since the application does not yet include the details of ore transportation, ore processing and waste disposal, it is impossible to determine that the operation will have *minimal* environmental impact. Just because a mine operation does not exceed the acreage of a minimal impact determination does not mean it automatically involves minimal environmental impact. That determination must be made independently by MMD.

"Minimal" is defined by the American Heritage Dictionary of the English Language, Third Edition, as "smallest in amount or degree."

In making this determination, the statutory definition of "mining" is instructive. Mining is not just the removal of ore from the ground, rather, it includes, per Section 69-36-2(H) NMSA 1978, "...the disposal of refuse...mineral transportation, concentrating, milling...and other processing." *See also*, 19.10.1.7(M)(3) NMAC (defining "Mining" to include "the disposal of refuse, . . . mineral transportation, . . . milling, . . . and other processing"). Accordingly, the exploration, mining, milling, transportation, disposal, and reclamation must all be taken into account when considering if the environmental impact of the mining operation is "minimal."

The application for LU035MN cannot be found "complete" per 19.10.3.302(I)(1) NMAC, since these critical mining activities have not been disclosed in any detail, and the application has again been revised by a new Version of the Plan of Operations. According to 19.10.3.304(D)(10) NMAC, MMD can request additional information "...necessary to meet the definition of "minimal impact mining operation." We trust this will happen so that MMD and the public can be fully aware of all the "mining" under consideration.

New Mexico Wilderness Alliance, Gila Resources Information Project, WildEarth Guardians and Amigos Bravos join in these comments.

Sincerely,



Wesley Light, President
Friends of the Floridas

Logan Glasenapp, Staff Attorney
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