



# OFFICE OF THE GOVERNOR

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February 10, 2021

## Via Email

Mr. Holland Shepherd, Program Manager  
Mining and Minerals Division  
Wendell Chino Building, Third Floor  
1220 South St. Francis Drive  
Santa Fe, NM 87505

**Re: Pueblo of Acoma Comments on Rio Grande Resources Corp. Permit Modification Request for Update Closeout/Closure Plan Schedule, Updated PMLU and Disposal Cell Expansion, Permit CI002RE, Rev. 13-2; Mt. Taylor Mine.**

Dear Mr. Shepherd,

On behalf of the Pueblo of Acoma ("Pueblo" or "Acoma"), I submit these comments regarding the Rio Grande Resources ("RGR") Corporation's permit modification request. The Pueblo of Acoma met with you and other representatives from the New Mexico Mining and Minerals Division ("NMMMD") regarding this permit modification request on February 4, 2021. This letter memorializes those comments relayed to the NMMMD.

## **I. Background**

For many years, the Pueblo of Acoma has been concerned about the potential impact by the Mt. Taylor Mine to the environment, our limited water resources, and Acoma cultural resources. The Pueblo fought for many years to help establish the Mt. Taylor Traditional Cultural Property in light of over a dozen pending mining applications on the mountain. Mt. Taylor, and its interconnected landscape and natural resources surrounding the mountain, play a significant role in the lives of the Acoma people. When activities such as mining occur, our immediate concerns focus on potential contamination to the Rio San Jose and aquifers that we rely on, potential pollutants that we may be downwind of or impact Acoma people during cultural activities on the mountain, and the destruction of unidentified Acoma cultural resources and sites by ground disturbing activities. These all represent existential threats to the Acoma people's health, wellbeing, and our way of life.

For many years, Acoma has been and remains concerned about the dewatering of aquifers and the unnecessary depletion of the Rio San Jose Basin due to diversion of this water to the basin to the north, despite the limited and stressed water sources remaining in the Rio San Jose Basin. Acoma provided testimony in 2017 before the NMMMD commission as part of RGR's application for active status and reiterated our concern about the removal of water from the basin in our testimony.

We have reviewed the modified reclamation plan and have particular concerns and requests for additional information that are detailed below. Primarily, Acoma is concerned about the expansion of the waste disposal cell and potential contaminants from its expansion and existing ponds on site.

## **II. Disposal Cell Expansion**

As part of the permit modification, Acoma understands RGR is proposing to significantly expand the waste disposal cell. Acoma is concerned about the sufficiency of the proposed clay and vegetation cover for the disposal cell upon construction. Acoma is concerned that contaminants may be released, due to significant erosion caused by severe weather events. These contaminants may be released, for example, by being blown or washed away from the surface of the expanded disposal sites, or seep into the ground due to failures in the disposal cell's integrity from severe flooding and other severe, and cumulative weather events.

Acoma recommends NMMMD require RGR to demonstrate the sufficiency of proposed clay composition which the Pueblo understands is to be excavated from a nearby location. Acoma further recommends that the maximum feasible amount of clay thickness be used, and that at least two feet of rock being placed on top to retard soil erosion. Continued monitoring or leakage detection systems should be required to ensure the integrity of the clay, and additional material, covering on the disposal cell to ensure they have not deteriorated. The Plan should also provide for replacement of cover where deterioration is detected. Additional linings or other materials, in addition to the clay, soil and rock layering, should also be considered below and on top of the expanded disposal cell. Acoma does not consider the two-foot clay layer encapsulating the disposal cell to be sufficient.

Acoma requests additional information on how RGR will ensure its construction to expand the disposal cell will not expose contaminants from the existing cell during the construction phase.

Acoma requests information on any current or proposed air monitoring. Acoma is concerned of the potential for fugitive dust or contaminants that may be released into the air as part of construction or long-term placement of the disposal cell.

Acoma further requests information on the likely contaminants being placed in the expanded disposal cell. Acoma is concerned primarily about the effect of burying low-grade uranium, to be placed in perpetuity, as opposed to its removal from the site entirely. In addition, Acoma is concerned with other materials or chemicals that may be hazardous and also placed within the disposal cell.

## **III. Ponds**

Acoma remains concerned about the potential contaminants from ponds that will be retained and those that are filled in. Due to the location of these ponds along the natural drainage of the Marquez arroyo, we are concerned for potential contaminants from seepage or excess runoff from retained ponds. Based on observations from aerial photos, existing ponds appear to be near capacity. Acoma would request information on the adequacy of existing ponds to be retained.

In addition, for those ponds designated for filling, Acoma is concerned about the sufficiency of the excavation of contaminated sediments and soils from the eight ponds. Acoma is concerned whether it can be guaranteed that all contaminants have been removed from the eight ponds identified for filling.

Acoma is also concerned that the present run-off capture system may be inadequate for the size of the disposal pile. Acoma recommends that existing and proposed run-off capture systems be reviewed for adequacy in light of the larger disposal cell. In addition, monitoring should be required to ensure contaminated sediments and soils have been completely removed. Similarly, testing or monitoring should be required to ensure that contaminants from these ponds (both retained and excavated) have not penetrated the water table and do not do so in the future.

#### **IV. Cultural Resources**

Acoma reviewed Google Map images of the areas where we roughly understand the expanded disposal cell will be constructed. However, without further on the ground investigation of this area, we are unable to inform you about any potential effect to known or unidentified historic properties or cultural resources.

However, because of the Mt. Taylor Traditional Cultural Property and significant historic properties and cultural resources identified by the Pueblo in the vicinity of the Lee Ranch and the Roca Honda Uranium Mine project, Acoma remains concerned about the presence and potential impact to unidentified Acoma cultural resources in the area of potential effect of these reclamation activities.

Acoma recommends that RGR be required to notify the Pueblo of Acoma and the State Historic Preservation Officer in the event of any intentional or unintentional exposure of cultural resources or human remains, and that reclamation work halt until examination and consultation with the Pueblo of Acoma and State Historic Preservation Officers. Similarly, should remediation require disturbance of land that has not been disturbed in the development and operation of the mine, Acoma recommends that the Acoma Tribal Historic Preservation Office be permitted to perform a rapid ethnographic assessment prior to disturbance.

Acoma further requests any cultural resource surveys or studies conducted by RGR as part of the mines construction or activities be provided to the Pueblo.

#### **V. Post Mining Land Use**

Regarding RGR's proposed mining land use ("PMLU") to provide water to third-party users, Acoma recommends the NMMMD not base its decision of approving any PMLU on the existence or non-existence of third-party contracts for the sale or lease of RGR's claimed water rights. Since the 1980s, users in the Rio San Jose Basin have identified the Northwest Morrison aquifer underlying the mine site as a future water source. Therefore, feasibility of such a PMLU should not be limited to only aquifers identified by RGR.

#### **VI. Schedule**

Acoma remains concerned about the request for a rather large extension of time to complete these proposed reclamation activities. While Acoma is appreciative of the time necessary to properly ensure the full completion of the proposed tasks and the uncertainty related to the present COVID-19 pandemic, we

wish to impress upon the NMMMD, Acoma's desire to ensure full accountability by RGR to complete its proposed cleanup. Acoma does not want to see a perpetual kicking of the can, so to speak, on the RGR's obligations to fully, and safely complete its duties to reclaim the mine. One can only look down the road to other mines and uranium industry activities like Homestake that have turned into extensive, and seemingly lifelong, if not impossible remediation projects.

## **VII.Conclusion**

The Pueblo of Acoma is appreciative of this opportunity to provide comments on RGR's proposed modifications. We are further appreciative of NMMMD's patience and flexibility with the Pueblo during the COVID-19 pandemic to provide comment. If you have any further questions, please do not hesitate to contact my office.

Sincerely,  
PUEBLO OF ACOMA



Brian D. Vallo  
Governor

CC: Donna Martinez, Acoma Environment Department  
Jacob Wilson, Acoma Water Rights Office  
Franklin Martinez, Acoma Natural Resources Department  
Ann Berkley Rodgers, Chestnut Law Offices, P.A.  
Aaron M. Sims, Chestnut Law Offices, P.A.