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15 June 2022

David J. (DJ) Ennis, P.G., Permit Lead
Permit Lead, Mining Act Reclamation Program
Mining and Minerals Division (MMD)
1220 South St. Francis Drive
Santa Fe, NM 87505

**RE: Mexican Spotted Owl Survey Results, Summa Silver Mogollon Minimal Impact
Exploration, Catron County, New Mexico, Permit No. CA027EM; NMDGF No.
NMERT-1870.**

Dear Mr. Ennis,

The New Mexico Department of Game and Fish (Department) has reviewed the Mexican Spotted Owl (*Strix occidentalis lucida*) Survey Report (Report) submitted on behalf of Summa Silver by NV5. Summa Silver asserts that it has fulfilled its compliance obligations concerning the issued Permit and that the exploration project is not located in an area likely to result in adverse impacts on the Mexican Spotted Owl (MSO) because no occupied breeding territories were located within the buffer zone around their drilling activities.

The Report suggests that the Area of Interest (AOI) within the 0.5-miles buffer zone does not contain an occupied MSO breeding territory. The Report also suggests that the habitat within the AOI is generally not suitable for nesting MSOs. However, this does not preclude the possibility that there may be small pockets of suitable habitat within the AOI that could potentially be used by breeding MSOs.

The Report identified Mineral Creek, which is located outside the buffer zone, as the most likely location for breeding MSOs to occur. Male and female owls were heard along the creek bottom, and responses from the male MSO were consistently heard in the same approximate area where the pair was originally heard together. However, during repeated, daytime searches, NV5 was unable to locate a nest. The Department concurs that Mineral Creek appears to be the most likely location for an occupied breeding territory.

MSO detections were documented at two additional areas, Silver Creek and Graveyard Gulch. At both of those sites, only male owls were heard and the breeding status of these sites was inconclusive and determined to be unknown. The Silver Creek location is outside the AOI, but the Graveyard Gulch location is within the AOI and approximately 0.25-miles from where drilling operations were being conducted. The Report suggests that the male owls detected at these sites could be nonterritorial individuals, also known as "floaters".

The Department concurs that it is unlikely that the AOI contains an occupied MSO nest site. However, it has been documented that MSOs do utilize the AOI to some degree and likely forage within it. While Summa Silver's drilling operations may not be located in an area that is likely to adversely impact MSO pairs, noise disturbance during nighttime operations could impact how MSOs utilize the AOI, or potentially preclude use, when foraging during the breeding season. If drilling operations are permitted to continue, the Department recommends as a mitigation measure that drilling operations be limited to one to two hours after sunrise until one to two hours before sunset for the remainder of the breeding and fledgling-dependency period (until after 31 August 2022).

The Report also stated that additional surveys are planned to occur later this breeding season (June-July 2022) and also next year (April-July 2023) in order to gain additional information on MSO breeding territories in the area. The Department strongly recommends and supports these additional survey efforts. The Department also strongly recommends that Summa Silver continue to seek consultation with the U.S. Fish and Wildlife Service for any additional concerns or mitigation measures as exploration activities continue.

Thank you for the opportunity to provide comments on the MSO survey results. 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,

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

cc: USFWS NMES Field Office