



State of New Mexico  
ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT  
and the  
ENVIRONMENT DEPARTMENT

**Michelle Lujan Grisham**  
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Lieutenant Governor

**Sarah Cottrell Propst**  
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**James C. Kenney**  
Cabinet Secretary, NMED

**Electronic Transmission**

May 17, 2023

Eric Burch, Project Manager  
LAC Minerals (USA) LLC  
Cunningham Hill Mine Reclamation Project  
P.O. Box 98  
Grants, NM 87020

**Re: Approval of Postponement of Bench Regrade, Waste Rock Pile Workplan Design Package and 2021 Cover Performance Review, Cunningham Hill Mine Reclamation Project, MMD Permit No. SF002RE and NMED DP-55**

Dear Eric Burch,

The New Mexico Environment Department (NMED), Mining Environmental Compliance Section (MECS) and the Energy, Minerals and Natural Resources Department (EMNRD), Mining and Minerals Division (MMD) (collectively, the agencies) have reviewed the March 9, 2023 submittal entitled *Response to Joint Agency Conditional Approval of the Waste Rock Pile Workplan Design Package* (Design Package) from LAC Minerals (USA) LLC (LAC) for the Cunningham Hill Mine Reclamation Project. The Cunningham Hill Mine Reclamation Project is regulated by NMED pursuant to DP-55 and AP-27 and by MMD pursuant to Permit No. SF002RE.

The agencies conditionally approved the Design Package in a letter dated October 14, 2022, with a requirement that the bench regrading and seeding would be completed no later than July 1, 2023. LAC requested postponement of the bench regrading and seeding in the March 9, 2023, Response to Joint Agency comment letter due to 1) de minimus flow out of the ARD collection system and 2) established vegetation on the benches. LAC proposed to postpone the project until there was measurable flow from the Interceptor Wall collection system that would need to be reduced, thereby warranting intrusive work on the established benches.

The agencies had a call with LAC on April 4, 2023, at which time the March 9, 2023 letter was discussed. LAC informed the agencies that there was approximately 3.1 gallons per minute (gpm) of flow that started on March 20, 2023, out of the Interceptor Wall collection system. LAC attributed this to a lag in precipitation response on the Waste Rock Pile due to higher-than-average precipitation events that occurred during the winter. LAC indicated there was no indication of a “short-circuit” of flow (i.e. by-pass around the Interceptor Wall) based on downgradient monitoring well data. MECS will monitor these flows as required below.

Given the East Groin repair completed in 2021, erosion repair work completed in 2022 on the Waste Rock Pile cover, and mostly de minimus flow out of Interceptor Wall collection system since 2019, the agencies are willing to postpone the bench regrade and seeding for a period of two years given the following conditions:

- 1) LAC shall provide monthly updates via email to MECS reporting average flow rates out of the Interceptor Wall collection system for a period of two years starting in June of 2023. The report should include a graph showing the flow rates for each month versus time.
- 2) LAC shall submit a combined cover performance evaluation and Interceptor Wall effectiveness report to the agencies for review and approval by July 1, 2025, that evaluates the Waste Rock Pile reclamation holistically. The ultimate purpose of the Waste Rock Pile design and cover system is to protect groundwater and surface water from ARD impacts from the Waste Rock Pile. This includes shedding stormwater off the Waste Rock Pile effectively and not allowing meteoric water to infiltrate through the cover and into the underlying waste material. The agencies will evaluate the effectiveness of the entire Waste Rock Pile design, cover system, and Interceptor Wall collection system to determine if the bench regrade is necessary and if any additional corrective actions need to be taken (i.e., additional cover placement, upgrades to the Interceptor Wall, etc.).
- 3) MECS submitted comments to MMD on the DP-55, AP-27, and SF002RE cost estimates on May 15, 2023. MECS, in coordination with MMD, is requiring LAC to provide additional financial assurance to the agencies for the bench regrade and seeding in addition to up to 8 acres of one foot of cover placement on the Waste Rock Pile. This additional financial assurance is needed to cover the costs of corrective actions that may be needed in the event of a forfeiture.

Please contact respective MMD and NMED permit leads Carmen Rose at (505) 216-8399 and Anne Maurer at (505) 660-8878 with any questions regarding permitting issues for the Cunningham Hill Mine Reclamation Project.

Eric Burch, Cunningham Hill Mine Reclamation Project  
Approval of Postponement of Bench Regrade  
May 17, 2023

Page 3 of 3

Sincerely,

Anne Maurer  
Mining Environmental Compliance Section  
Ground Water Quality Bureau - NMED

Carmen Rose  
Mining Act Reclamation Program  
Mining and Minerals Division - EMNRD

cc: Joe Fox, Program Manager, NMED-MECS ([joseph.fox@env.nm.gov](mailto:joseph.fox@env.nm.gov))  
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