In re New Mexico Copper Corporation's
Part 6 New Mine Permit Application under
The New Mexico Mining Act of 1993 (Application for Permit No. S1027RN)

Closing Submission of New Mexico Copper Corporation
Following the Public Hearing in Hillsboro, New Mexico

Introduction

This Closing Submission of New Mexico Copper Corporation ("Closing Submission") follows the public hearing conducted by the New Mexico Mining Division ("MMD") on the evening of September 17, 2026 in Hillsboro, New Mexico. Consistent with the overall approach of New Mexico Copper Corporation ("NMCC") throughout this permit process, and as testified to by Mr. Steve Crosby at the hearing in Hillsboro, NMCC's intention is to be diligently transparent and as responsive as possible to the wishes and concerns of the community regarding the Copper Flat mining project. In fact, it was this approach that led to the updated 2026 Mine Operations Reclamation Plan ("MORP"), which both substantially reduced the amount of water that will be used over the projected life and close out period of the Copper Flat Mine and eliminated the need for wet tailings management and dam safety considerations based upon the company's shift to filtered tailings management and related engineered project improvements.

The substantive core of this Closing Submission is comprised of the attached Response of New Mexico Copper Corporation and accompanying technical Appendices A through G that are intended to comprehensively address the public comments and technical testimony offered at the hearing in Hillsboro, regardless of whether the offerings were or were not precisely within the limited scope of the hearing as reflected in the public notice of the hearing. NMCC intentionally withheld objection to public comments that were beyond the scope of the updated MORP, because it preferred to hear the broad range of wishes and concerns of the citizens who took the time to attend the hearing and express their views. It is NMCC's hope that this Closing

Submission addresses the public's concerns and facilitates MMD's continuing technical review of NMCC's Part 6 permit application under the New Mexico Mining Act of 1993. NMCC of course stands ready to further respond to any future requests for information should MMD identify other desired information needed to fulfill its regulatory responsibilities under the Act.

The Hearing Officer who presided over the hearing, Felicia Orth, allowed for closing submissions such as this one within thirty days of the September 17 hearing, including the opportunity for NMCC to respond not only to comments from members of the public, but also to technical testimony from two witnesses of the Gila Resources Information Project ("GRIP") who were allowed to testify by recorded videotape without opportunity for cross examination, and one witness whose technical testimony was read into the record by community member Max Yeh late in the evening, and who also was not available for cross examination due to the fact the witness had left the hearing prior to its conclusion. Although NMCC's counsel preserved an objection to the lack of any opportunity to cross-examine these witnesses (that is afforded to parties as a matter of right under the applicable procedural rules), and also preserved a right to respond to these experts at or following the hearing, counsel intentionally did not seek to exclude the witnesses or their testimony. This, too, was prompted by NMCC's conscious spirit of openness with, and genuine desire to be responsive to, the community and others—including both MMD and other regulators—who are interested in the Copper Flat mining project.

Overview of NMCC's Response

The attached Response of New Mexico Mining Corporation is essentially divided into four main parts, following an "Introduction" and discussion of the "Limited Scope of MMD's Public Meeting in Hillsboro," Section III sets out the engineering basis on which NMCC's amended MORP addresses each issue raised that NMCC believes fall within the limited scope of

the hearing; Section IV affirmatively offers permit conditions that NMCC is prepared to accept; Section V responds to matters raised that NMCC believes fall outside the limited scope of the hearing; and Section VI sets out what NMCC believes to be the remaining steps before a Part 6 permit can be issued.

Overview of Technical Appendices Accompanying NMCC's Response

Seven technical appendices accompany NMCC's Response. Appendix A responds to the technical testimony of GRIP's witness, Dr. D. Chambers, regarding the Cake Stack Tailings Facility in the updated MORP, including on the issue of the facility's stability. Appendix B responds to the technical testimony of GRIP's witness, Dr. S. Emmerman, regarding water consumption and water balance issues under the updated MORP. Appendix C provides a discussion of the probable hydrologic consequences under the updated MORP and includes a memorandum and schematics responding to public comments that expressed concerns about perceived drawdown effects in Lower Animas Creek and at the water supply wells in Hillsboro. Appendix D provides responses to summary written and oral comments received by the Hearing Officer on issues that included water balance sufficiency, dust and air quality, electricity supply, water rights legality, pit reclamation and rapid fill, precedent, scale and process chemistry, a previously existing MMD Director's Order and related settlement agreement, and site history and credibility claims. Appendix E addresses other agency determinations and communications involving the Office of the State Engineer, the New Mexico Environment Department, and the New Mexico Department of Transportation. Appendix F identifies NMCC's adjudicated water rights. Finally, Appendix G addresses technical design aspect of the Cake Stack Tailings Facility, taking into account storm-water.

Closing

In sum, NMCC's Closing Submission offers, as comprehensively as possible, responses to public comments and technical witnesses offered during the hearing in Hillsboro. NMCC looks forward to continued open and responsive interactions with MMD and the interested community.

Respectfully submitted,

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New Mexico Copper Corporation's Counsel

Response Following the Public Hearing

NMCC-REG-HRG-002 · Rev 0 · with Appendices A–G

Attachment to the Closing Submission of New Mexico Copper Corporation

To	Director, Mining and Minerals Division, New Mexico Energy, Minerals and Natural Resources Department, through the Hearing Officer
From	New Mexico Copper Corporation — Stephen F. Crosby, Senior Vice President, Project Development
Matter	In re New Mexico Copper Corporation's Part 6 New Mine Permit Application under the New Mexico Mining Act of 1993 — application to amend Mining Operation Permit SI027RN, Copper Flat Project, Sierra County
Date	16 October 2026
Contents	146 pages: the Closing Submission of NMCC (pages 1–4), this cover and contents, the Response (23 pp) and the certification of the Engineer of Record, followed by Appendices A–G with divider sheets; bookmarks follow the contents on the next page

Note on the appendices

- Appendices A and B contain the responses of WSP USA Inc., the Engineer of Record, to the testimony of Dr. D. Chambers and Dr. S. Emerman, with NMCC's response matrix to Dr. Emerman and WSP's water balance memorandum.
- Appendix C contains the DBS&A; probable hydrologic consequences analysis (Revision 1, already in the Division's record) and the DBS&A; memorandum of 16 October 2026 on drawdown at the Las Animas Creek and Hillsboro wells.
- Appendix D summarizes every written and oral comment and gives the section of the Response that answers it.
- Appendix G lists the supporting technical documents that are available to the Division on request and are not filed with this Response.

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RESPONSE OF NEW MEXICO COPPER CORPORATION

Following the Public Meeting on the Application to Amend Mining Operation Permit SI027RN — Copper Flat Project, Sierra County, New Mexico

In re New Mexico Copper Corporation's Part 6 New Mine Permit Application under the New Mexico Mining Act of 1993 — Attachment to the Closing Submission of New Mexico Copper Corporation

Document control	
Document	NMCC-REG-HRG-002 · Rev 0 · 16 Oct 2026
Submitted by	New Mexico Copper Corporation (NMCC), Stephen F. Crosby, Senior Vice President, Project Development
Engineer of Record	WSP USA Inc., Rajiv Srivastava, Ph.D., P.E. (New Mexico PE No. 31564) — certification attached
Filed with	Closing Submission of New Mexico Copper Corporation (Modrall Sperling Roehl Harris & Sisk, P.A.), 16 October 2026
Attachments	Appendices A to G as listed at the end of this response. Design values are WSP's unless identified in the text as NMCC screening.

I. Introduction

New Mexico Copper Corporation (NMCC) submits this response following the public meeting held by the Mining and Minerals Division (MMD) in Hillsboro on 17 September 2026 on NMCC's application to amend Mining Operation Permit SI027RN for the Copper Flat Project (submitted August 2025; administratively complete December 2025). The amendment replaces the conventional slurry tailings impoundment in the earlier plan with filtered tailings placed in a lined, underdrained, compacted dry-stack tailings storage facility (DSTSF).

This response does four things. Section III sets out the engineering basis on which the amended plan addresses each issue within the scope of MMD's hearing notice, with the design values, analyses and data sources stated so that each can be checked. It answers the two expert presentations made at the meeting, Dr. David Chambers on the stability of the DSTSF and Dr. Steven Emerman on water consumption, and the technical claims published during the comment period; the detailed responses, prepared with WSP USA as Engineer of Record, are Appendices A and B. Section IV offers permit conditions that NMCC is prepared to accept. Section V responds to matters raised that fall outside the hearing notice. Section VI sets out the remaining steps before a permit can issue.

Where this response reports NMCC's own calculations, they are screening analyses prepared to test WSP's design values, and they are identified as such. WSP's feasibility design governs where the two differ.

II. Limited Scope of MMD's Public Meeting in Hillsboro

As stated in MMD's notice of public hearing, the purpose of the hearing is to give the public an opportunity to learn about and comment on the amended application for a new mining operation permit for the Copper Flat Mine. The scope of the hearing is thus limited to changes proposed in the amended application.

A. Copper Flat's Revised Operations Plan Responds to Earlier Public Feedback

MMD's earlier review of Copper Flat turned largely on water. On 31 March 2020 the Director reopened review over the sufficiency of water rights. On 5 June 2020 the Director adopted a Settlement Agreement whose conditions rested on the wet-tailings plan: about 6,095 acre-feet per year (AF/yr) of operating water, an offset of about 16,382 acre-feet to the Rio Grande and Caballo Reservoir, and an Office of the State Engineer (OSE) dam-safety permit for the tailings impoundment.

The amended plan removes the basis for each of those conditions. Pumping from the main production well field falls from 6,095 AF/yr to 861.84 AF/yr, and total well pumping is about 1,046 AF/yr, within NMCC's adjudicated rights. There is no tailings impoundment and no supernatant pond, and OSE has determined that the DSTSF and its contact-water pond are not jurisdictional dams. The change was made in response to the concerns the public and MMD raised in the earlier process.

B. The Amended Plan Follows Established Filtered-Tailings Practice and Reduces Fresh-Water Use by About 80%

Filtered tailings stacking is an established method at large copper and iron operations, including Karara in Western Australia (30,000–45,000 tonnes per day), Mantoverde in Chile (about 32,000 tonnes per day) and Cerro Lindo in Peru (about 20,800 tonnes per day). NMCC's survey of operating filtered-tailings facilities identifies about 18 at more than 5,000 tonnes per day (NMCC-PRO-RPT-005). Copper Flat's design rate is 30,000 short tons per day.

Because water is recovered at the filter plant rather than left in a tailings pond to evaporate, the amended plan needs far less fresh water. Three comparisons are in the record, and each is stated on its own basis so that they are not confused. At the main production well field, pumping falls from 6,095 AF/yr (2018 plan) to 861.84 AF/yr, a reduction of 86%. On WSP's current site-wide water balance (memorandum R2, 5 December 2025), well make-up is 984 AF/yr for the filtered-tailings plan against 4,650 AF/yr for a conventional facility under the same assumptions, a reduction of 77%. Confining the comparison to tailings-related water, with the same non-tailings

uses in both cases, consumption falls from about 3,160 to about 900 AF/yr, a reduction of about 72%. NMCC uses 'about 80%' as the summary figure; the like-for-like basis is set out in Appendix B.

III. Showings on the Issues Within the Scope of the Hearing Notice

A. The Filtered Tailings Process Avoids Wet Tailings Management

Flotation tailings leave the concentrator at about 31% solids, about 1,316 short tons per hour of solids at the nominal mill rate. They are cycloned; the coarse underflow (about 65% solids) goes directly to the filter feed tanks and the fine overflow to a 42.3-m high-rate thickener (anionic flocculant, 35 g/t), whose underflow (about 60% solids) joins the cyclone underflow in agitated filter feed tanks at about 62% solids. The tanks give the only surge in the circuit: when the filters are down beyond that surge, the concentrator throttles, because there is no slurry impoundment to fall back on. Membrane pressure filters (four presses, three duty and one standby) run a cycle of about 12 minutes (feed at 6 bar, membrane squeeze to 16 bar, air blow, discharge) to a cake of 86% solids, 14% moisture by total mass (wet basis), against 12% achieved in the Pocock testwork on worst-case samples. Thickener overflow, filtrate and water returned from the seepage collection pond go to the reclaim tank and back to grinding and flotation; fresh well water is added only to close the balance.

The cake is conveyed to the DSTSF by belt conveyor, grasshopper conveyors and a radial stacker, spread by dozer in 18-inch lifts across the whole active cell and roller-compacted. WSP's design basis, as stated in its response to Dr. Chambers (Appendix A), is a minimum of 90% relative compaction in the main body of the stack and 95% in the outer active zone, the active zone by compaction equipment; the Proctor reference for the tailings is the standard Proctor (ASTM D698), the basis of the laboratory compaction testing in REP-200 (Table 6-14); NMCC's operating commitment, above that minimum, is roller compaction of every lift throughout the stack, tested for moisture and density at one test per 5,000 square yards per lift; failing areas are re-rolled and re-tested before acceptance, with independent construction quality assurance reporting. Each lift rests seven days before the next is placed. NMCC's operating basis is placement at 13–16% moisture (wet basis), typically about 15%: the cake must carry at least 13% for roller compaction to reach the specified density, and it is not placed below 8% because dry cake dusts. Cake moisture is measured continuously at the filter discharge; cake outside the band is corrected at the filters and, if necessary, diverted to a bypass stockpile beside the transfer point rather than stacked. The moisture target is a control point, not a cliff: the compaction specification is met above and below it. There is no slurry pipeline, no tailings pond and no decant system.

The base containment system, from the bottom up (WSP Pre-Feasibility Engineering Design, 17 March 2025, §4.3–4.4), is: a prepared subgrade graded to drain to the east at 2–3%; a 12-inch compacted soil liner on the base (6 inches on slopes steeper than 5%) of 25–40% fines with a plasticity index above 15, compacted to at least 95% of Modified Proctor for a hydraulic conductivity of 1×10^{-6} cm/s or less; an 80-mil (2.0 mm) double-textured high-density polyethylene (HDPE) geomembrane; an 18-inch free-draining gravel overliner (not more than 5% passing the No. 200 sieve; hydraulic conductivity of at least 5×10^{-2} cm/s); and 12-inch primary and 4-inch secondary perforated HDPE collection pipes in the gravel that carry seepage by gravity to the seepage collection pond. The underdrain sits on the geomembrane within the drain gravel; there is no drain below the soil liner. The result is that any water reaching the base of the stack, whether drain-down from the cake or infiltration from rain, is removed at the liner rather than building head on it. Water that drains from the stack, and storm runoff from the active stacking surface, is collected and routed to the lined seepage collection pond and pumped back to the mill for reuse; each source (wells, pit, contact water, seepage return) is metered separately.

B. OSE Dam Safety Regulations Do Not Apply to the DSTSF or the Contact-Water Pond

By letter dated 5 June 2026 (S. K. Chaudhary, Bureau Chief; review memorandum T. Trujillo, 1 June 2026), the OSE Dam Safety Bureau determined that neither the DSTSF nor the seepage (contact-water) collection pond is a jurisdictional dam under 19.25.12 NMAC. The determination is based on the preliminary design submitted on 24 October 2025: the only embankment is about 5 feet high (crest El. 5,165 ft, downstream toe El. 5,160 ft), and the

storage above the downstream toe is 45.8 acre-feet; the majority of the pond's volume lies below the toe, in excavation. The jurisdictional thresholds are 6 feet and 50 acre-feet. The determination is conditional on the final design not departing from that preliminary design. NMCC will build the pond to that design: it is NMCC's rule that the pond does not change, and that any adjustment needed for storm water is made in the channels (Section III.C.7).

The pond as shown on WSP drawings 10-3022-20-505 and -506 Rev 1, as reviewed by OSE, has a floor at El. 5,124 ft, an operating volume of 167.8 acre-feet (54.7 million gallons) at El. 5,160 ft, 5 feet of freeboard to the crest at El. 5,165 ft (213.5 acre-feet; 69.6 million gallons), a double 60-mil HDPE liner with a leak collection and removal system between the liners, and no spillway: in a storm beyond its design, water would leave only over the crest toward Grayback Arroyo.

The historic Quintana-era tailings dam on the site (OSE File D-564) remains a jurisdictional dam until it is altered under an OSE permit. It impounds about 1,350 acre-feet of unlined 1982 tailings, which SRK's 2013 characterization classes as potentially acid-forming (sulfide 0.77%; net neutralization potential −2.85 kg $CaCO_3$/t; neutralization potential ratio 0.89). All of those tailings will be removed before production under Abatement Plan 2, held on a temporary liner, and placed above the HDPE liner in the DSTSF together with new tailings. The embankment stays in place and is breached where the contact and non-contact channels pass through it, so that it can no longer impound water; it remains at the toe of the stack, separated from the stack by a lined contact-water channel designed with a safety factor of 2.0. The breach will be designed and filed with OSE Dam Safety under a separate application so that the structure is determined to be non-impounding and leaves OSE jurisdiction. The amended plan therefore removes the one unlined, potentially acid-generating tailings deposit above Grayback Arroyo today and converts the one tailings dam into a breached, non-impounding embankment.

C. The DSTSF Will Be Constructed in Five Stages

The DSTSF is built in five stages progressing west to east on the site of the Quintana facility. Each stage is graded, lined and underdrained, and accepted by independent construction quality assurance, before any tailings are placed on it; liner construction runs at least a year ahead of stacking. Final geometry is 3H:1V inter-bench slopes with 25-ft benches at every 60 ft of height (benches at El. 5,237.6, 5,297.6 and 5,357.6 ft) and a crest at El. 5,373.6 ft, an overall slope of about 3.4–3.5H:1V; stage heights at the critical sections are 143–190 ft. The permit footprint is 486 acres, of which about 325 acres is active stacking surface at full build-out. Each stage is brought to final outer geometry before the next is started, which is what allows contemporaneous reclamation (III.C.1).

1. The staged approach allows contemporaneous reclamation, and reclamation is part of the storm-water design

As each stage reaches final geometry, its outer slopes and benches, and its completed platform, are covered and seeded while stacking continues on the next stage. Reclamation of completed surfaces begins about Year 3 to Year 5 of operations. Concurrent reclamation is within the $68.2 million reclamation cost estimate and is scheduled in the progressive financial assurance plan (Section III.F).

Concurrent reclamation is not only a closure measure; it is the control that gives the seepage collection pond its margin in extreme storms. A covered stage sheds clean water to the diversion channels, so the contact area that drains to the pond is the active stage plus, at most, the stage just finished. The pond meets the required 100-year storm at every stage whether or not completed stages are covered (III.C.7); with them covered it also holds the 1,000-year storm, which is margin beyond the requirement rather than part of it. NMCC therefore treats cover of completed stages, platforms as well as slopes, one stage behind the active stage, as an operating commitment, tracked as an operating trigger (Amber at six months behind; Red at one full stage behind) under its Water Management Operating Standard (NMCC-ENG-DTW-001 Rev 1 §4).

2. The design is advancing from pre-feasibility to feasibility

The design submitted with the application is WSP's Pre-Feasibility Engineering Design of the DSTSF (US0035412.9417-10-3022-10-REP-001, 17 March 2025) with its design criteria (DCR-200), geotechnical characterization (REP-200), stacking plan (PLN-201) and slope-stability memorandum (Appendix F). Since then NMCC and WSP have advanced the design toward feasibility. The 2026 geotechnical program, designed by WSP and to be drilled by Yellow Jacket Drilling, comprises 15 boreholes (BH26-01 to -15), about 2,065 ft of sonic drilling and about 360 ft of HQ3 core, SPT and Denison sampling, and 12 holes to be completed as standpipe or vibrating-wire piezometers with falling-head testing.

Ten of the boreholes are located within the proposed tailings storage facility footprint. Their purpose is to confirm foundation conditions for final design and to replace certain conservative assumptions used in the pre-feasibility design with site-specific measured data. The pre-feasibility design was intentionally developed using conservative engineering parameters and incorporates robust factors of safety consistent with applicable design criteria.

The additional geotechnical investigation is not being conducted to address a deficiency in the pre-feasibility design; rather, it is a standard final-design activity intended to confirm foundation conditions, validate design assumptions, and identify opportunities for design optimization. Where field and laboratory testing indicate conditions are stronger than assumed, the degree of conservatism may be reduced appropriately; where conditions are less favorable, the design will be adjusted accordingly. In all cases, the governing design criteria, including factors of safety, hydrologic and seismic design bases, and regulatory requirements, remain unchanged.

Results of the investigation will be reviewed by the Engineer of Record, incorporated into the final design, and reported to MMD (Section IV). The program also responds directly to comments on the limited depth and extent of the 1979–1980 subsurface investigations, which generally extended to about 40 to 45 feet. Earlier investigations of the same ground are the Sergent, Hauskins & Beckwith borings and test pits (1976–1981), Golder Associates' 2013 feasibility work, and WSP's 2024–25 geophysical surveys. The feasibility-level analysis that WSP has recommended, and that NMCC has adopted, are listed in III.C.5 and offered as a condition in Section IV.

3. The facility meets stability criteria at the pre-feasibility level, and the governing mechanism is understood

WSP analyzed one critical section per stage at final height (sections A-A′ to E-E′) with Rocscience Slide2 by Spencer's method, static and pseudo-static, for circular and non-circular surfaces. Strength parameters were $\varphi' = 35°$, $c' = 0$ and $\gamma = 115$ pcf for the compacted tailings; an interface friction angle $\delta = 26.5°$ with $c = 0$ for the 80-mil double-textured geomembrane, measured by Golder (2016) in direct shear and reported in Appendix F but, for the pre-feasibility runs, not applied (the liner was modelled as a slip-surface exclusion zone of infinite strength, Appendix F §3.4.2 and Table 3-2, note 2); and softened strengths for the foundation clays. The design earthquake is the 2,475-year event (2% in 50 years), peak ground acceleration 0.11 g for Site Class D (assigned from the 647 standard penetration tests in the existing investigations) from the USGS 2023 model, applied as a seismic coefficient kh = 0.07 (two-thirds of PGA per Hynes-Griffin and Franklin). Acceptance criteria are a static factor of safety of at least 1.5 and pseudo-static of at least 1.1.

Stage	Section	Critical surface	Static FoS (≥ 1.5)	Pseudo-static FoS (≥ 1.1)
1	A-A′	circular / non-circular on the liner	1.72 / 1.60	1.35 / 1.21
2	B-B′	circular / non-circular on the liner	1.87 / 1.74	1.48 / 1.37
3	C-C′	circular / non-circular on the liner	2.04 / 1.86	1.60 / 1.49
4	D-D′	circular / non-circular on the liner	2.11 / 1.93	1.87 / 1.53
5	E-E′	circular / non-circular on the liner	1.88 / 1.65	1.48 / 1.34

WSP PFS Table 6-4. In every stage the governing (lowest) surface is non-circular sliding along the base of the stack immediately above the liner, at the tailings strength of 35°. Local angle-of-repose bench faces stand at FoS ≈ 1.0 during operation; local sloughing is maintenance, not instability (PFS §6.2.1).

Three points respond to the published critique of Appendix F (that the critical surface is block sliding on the liner interface, that the analysis assumes a drained base and 'infinite' interface friction, and that the seismic analysis is incomplete).

First, the critique is correct on this point: Appendix F reports the interface friction angle, δ = 26.5°, from Golder's 2016 direct-shear tests of tailings and drain fill against the specified 80-mil double-textured geomembrane (Appendix F §3.4.2, Table 3-2), but for the pre-feasibility stability runs it assigned the liner an infinite strength to define an exclusion zone through which slip surfaces may not pass, so the 'non-circular on the liner' surfaces in Table 6-4 run through the tailings just above the liner at φ′ = 35°, not along the interface at 26.5°. The interface strength is therefore measured but not yet applied in a stability case. Block sliding on the interface at the measured value, static and seismic, and interface testing of the actual filter cake and liner bedding against the geomembrane, are the first item of the feasibility program (III.C.5), and NMCC's seismic screening below is to be re-run on the same basis.

Second, the base is drained by construction, not by assumption. The 18-inch gravel overliner and perforated pipe network sit directly on the geomembrane and carry water by gravity to the pond, so a phreatic surface cannot build on the liner while the drain is functioning. WSP's stability analysis applied a piezometric surface from infiltration of the full mean annual precipitation (12.4 in) and treated the tailings as drained (PFS §6.2.3); the water levels shown on the sections are the foundation potentiometric surface from the 2014 groundwater model (historic high about 29 ft below grade at the east end), not water stored in the stack. The underdrain and overliner capacity, the resulting phreatic surface, and the sensitivity of stability to a raised water level at the liner are addressed by the transient seepage and stability analysis in the feasibility program (III.C.5, item 2). The underdrain flow is metered, and vibrating-wire piezometers in the stack read against trigger levels set by WSP, so the drained condition is verified in operation rather than assumed.

Third, WSP itself recommended a site-specific seismic hazard assessment (REP-200 §4.5), and NMCC has adopted it (III.C.5). As a screening check on the margin, NMCC derived the yield acceleration of each stage by interpolation between WSP's static and pseudo-static results and estimated sliding displacement along the liner by the Jibson (2007) regression on the USGS hazard curve at the site. Stage yield accelerations (for the Appendix F surfaces, which exclude the interface) are 0.108–0.163 g, at or above the 2,475-year ground motion; estimated median sliding is less than 0.1 cm at 2,475 years, 0.3–1.7 cm at 10,000 years and 5–13 cm at 100,000 years (NMCC-ENG-HAZ-007 Rev B Table 4-5, rigid-block, order of magnitude only; to be re-run on the Site Class D curve of the current model with the site-specific assessment). The consequence that matters is a possible strain in the geomembrane, which would be detected by underdrain-flow and groundwater monitoring, not a release to the arroyo: the facility stores no water for shaking to release.

Mr. Wayne Ericson, P.E., raised four further points in writing. First, that dry stacking creates a 'buttress or dam-like (dike) structure' raised by upstream construction: it does not. The Copper Flat stack is a single compacted mass placed in 18-inch lifts across the full cell with 3H:1V outslopes trimmed as each bench reaches grade; there is no retaining dike, no upstream raise and no impounded water, which is why OSE found it non-jurisdictional. Construction also begins at the west end of the site, against the west and north ridges, and advances east and south, so the stack is built up against rising ground rather than across a drainage: there is no basin behind it in which water could collect. Second, static stability should include undrained analyses with reduced undrained strengths (Ladd 1991) because of clay and silt layers in the alluvium beneath the facility: WSP's analyses assigned softened strengths to the foundation clays, and NMCC has added an undrained-strength (SHANSEP-type) foundation case to the feasibility program (III.C.5). Third, that cyclic triaxial testing of the foundation clays and silts should establish whether they lose strength under seismic loading: adopted, with deformation analysis to follow if they do. Fourth, that the seismic coefficients should come from deterministic and probabilistic site-specific analysis: adopted, as above. His recommendation that the design be reviewed at the level of an OSE-permitted dam is answered by the OSE determination itself, which examined the preliminary design and found the facility

outside its jurisdiction; the equivalent review is provided by the Engineer of Record, independent construction QA on each liner stage, the Independent Tailings Review Board and periodic dam-safety review (Section IV).

The GRIP / PAWA closing statement objects that the stability and seepage analyses are separate, with the tailings assumed drained in one and saturated in the other, and that a 500-acre, 200-ft stack 'on an inclined surface' in a seismic area has not been shown safe. The foundation is graded to drain at 2–3% toward the pond, with natural side slopes of 5–10%, and the design earthquake at the site is a 2,475-year peak ground acceleration of 0.11 g, a low-to-moderate hazard. The separation of the two pre-feasibility analyses is a fair description of pre-feasibility practice, and the coupled transient seepage and stability analysis that replaces it is the first item of the feasibility program in III.C.5. The saturated assumption in the seepage analysis is conservative for flow; the drained assumption in the stability analysis rests on the underdrain, on placement dry of saturation (III.C.4) and on piezometers that will verify it.

4. The tailings are placed unsaturated, and the facility does not have the ingredients of the failures cited against it

The comment that failure surfaces appear at 65–70% saturation (Gallardo et al. 2024) and that cake at 16% moisture is about 60% saturated, a 'thin margin', is answered by the placement basis and by the saturation calculation. With a specific gravity of 2.67 and a standard Proctor maximum dry unit weight of 107.5 pcf for the composite tailings, the degree of saturation of the placed cake (S = wGs/e) is:

Relative compaction (Std Proctor)	Depth below surface	S at 13%	S at 15%	S at 18% (WSP upper target)
90%	at placement	48%	55%	67%
90%	30 m (98 ft)	55%	64%	77%
90%	60 m (197 ft)	59%	68%	82%
95%	at placement	55%	63%	76%
95%	30 m (98 ft)	65%	75%	90%
95%	60 m (197 ft)	70%	81%	97%

NMCC calculation (HAZ-007 Rev B Table 4-2; Gs and Proctor maximum from WSP REP-200 Table 6-16, Cc from REP-200 §6.2.5): closed system, no drainage or evaporation, so the values are upper bounds; the underdrain and the 7-day drying cycle both reduce them. Void ratio at depth from Cc = 0.13 and an assumed compaction prestress of 100 kPa.

Across the 13–16% operating band the tailings are unsaturated at placement (48–63% at 13–15%, and about 59% at 16% with 90% compaction) and remain unsaturated under 60 m of overburden (59–81% at 13–15%, about 73% at 16%). Saturation is approached only outside the band, at WSP's 18% upper target with 95% compaction. That is the technical reason for the 16% cap, for continuous cake-moisture measurement at the filter discharge, and for the stack piezometers. The band brackets the standard Proctor optimum for the tailings samples tested in REP-200 (14.5–16.8%), with typical placement at about 15% at or slightly dry of it, on the part of the compaction curve that leaves the material unsaturated, and it is at the demanding end of filtered-tailings practice: operations described by Crystal, Hore and Ezama (Tailings and Mine Waste 2018) run at 17–18% in smooth operation and 20–23% off-specification, with 12–13% specified only for structural zones under stringent compaction.

Flow liquefaction, the mechanism of the Fundão (2015) and Feijão Dam I (2019) failures, requires saturated tailings in a contractive (looser-than-critical) state and a trigger; Mount Polley (2014) was an undrained failure in a weak glaciolacustrine foundation layer beneath an embankment retaining a pond. Copper Flat has no embankment retaining tailings, no pond on the stack, compacted and underdrained tailings placed dry of saturation, and foundation clays assigned softened strengths in the design; consolidated-undrained triaxial tests on the Copper Flat tailings (Golder 2013) showed decreasing pore pressure with increasing confinement, a dilative response. Dr. Chambers' two examples, Pau Branco (January 2022) and Turmalina (December 2024), are both in Minas Gerais, Brazil, where annual rainfall is about 63 inches and December alone brings about 14 inches; Pau Branco failed after 5.7–8.2 inches fell in 24 hours nearby, more than Copper Flat's 1,000-year, 24-hour depth of 5.16 inches. Pau

Branco is described as a benched mine-waste slope on a natural hillside and Turmalina as a co-disposal pile of tailings and waste rock; neither was a compacted, lined, underdrained filtered stack in an arid climate (Appendix A, WSP response to Comment 2). Dr. Chambers' slides give runout ratios for those two failures of about 17 and 21 times the facility height (828 m and 400 m). Ratios of that order are characteristic of flow-type failures of saturated or loose material; they are not a property of filtered stacks as a class, and the runout and consequence assessment in III.C.5 will establish the credible runout for Copper Flat's compacted, unsaturated stack and what lies within it (the seepage collection pond, the channels, the breached D-564 embankment and Grayback Arroyo), rather than rely on either side's analogy. The limitation NMCC acknowledges is that WSP's strength parameters come from 1980 and 2013 tests on whole, cyclone and composite tailings rather than filter cake as it will be produced, and no critical-state testing exists for the Copper Flat material; both are addressed in III.C.5.

5. Feasibility-design work adopted by NMCC

Dr. Chambers made five recommendations (Appendix A). Two repeat WSP's own: a site-specific seismic hazard analysis and a foundation investigation; the second is under way (III.C.2). One, compaction by compacting equipment confirmed by density testing, is the design basis for the active zone and, as an NMCC commitment above the pre-feasibility minimum, the operating basis for the whole stack (III.A; Appendix A, Recommendation 5); the placement specification (item 6 below) will carry it. The remaining two, a re-saturation analysis and a check of each completed stage against closure criteria, are reasonable additions to feasibility design. NMCC has adopted the following program, each item within WSP's feasibility scope, and offers it as a permit condition (Section IV):

1. Laboratory testing of representative filtered tailings: compaction, permeability, consolidated-undrained triaxial, and critical-state (state-parameter) testing at the placement density and moisture; geomembrane interface shear testing against the soil liner and drain gravel.
2. Transient unsaturated seepage analysis with a design monsoon sequence, and stability with the resulting pore pressures, including an undrained / partially saturated sensitivity case; a calibrated three-dimensional seepage model that reconciles the underdrain flow.
3. Foundation: laboratory strength testing of the alluvial clay and silt layers from the 2026 boreholes, including an undrained-strength (SHANSEP-type) stability case and cyclic triaxial testing for strength loss under seismic loading, with deformation analysis if it is found; update of the foundation strengths in the stability model.
4. Site-specific probabilistic seismic hazard assessment, with the deformation analysis re-run on the resulting Site Class D hazard.
5. Check of the closure configuration of each completed stage against the GISTM (2020) closure seismic and flood criteria, using the site-specific hazard.
6. Placement specification setting roller compaction of every lift throughout the stack, compaction effort, acceptance testing and the moisture band, aligned to the 13–16% operating range (13% minimum for compaction; 8% floor for dust); in-situ verification (cone penetration testing) of placed tailings during operation.
7. Credible-failure-mode, runout and consequence assessment per GISTM; the credible mode for a filtered stack with no impounded water is a local slope slump onto the perimeter berm and channels with runout of tens of meters inside the lined footprint, and the assessment will confirm or correct that and identify anything in the runout zone.

Results will be presented to the Independent Tailings Review Board once chartered (Section IV). The remaining items are refinements to be closed in feasibility design, not preconditions for a safe facility: risk is reduced as low as reasonably practicable, the facility is operated by the observational method (measure the governing quantities; decide the response to each departure in advance), and safety rests on independent barriers rather than any single parameter (NMCC-ENG-HAZ-008 Rev B).

6. The footprint is smaller, and no dam is needed

The DSTSF permit footprint is 486 acres, of which about 325 acres is active stacking surface at full build-out, compared with 564 acres for the earlier wet tailings facility. Total mine disturbance falls from 1,290 to 1,191 acres. The stack is self-supporting compacted material, not an impoundment held by an embankment; the only embankment is the 5-foot seepage-pond berm that OSE has found non-jurisdictional. The facility has a preliminary High consequence classification (Canadian Dam Association 2019 / GISTM), WSP's conservative assignment for the purpose of setting design criteria, not a finding that a release is credible; the classification will be confirmed with the runout assessment.

7. Storm water: the facility is designed to the required 100-year storm; the 1,000-year work is an additional check, not a requirement

Storm runoff is separated at source into three streams (WSP PFS §4.4–4.5; WSP water-management technical memorandum, 26 August 2025). Clean upslope runoff is intercepted by the North and South diversion channels, which follow the access roads around the facility, and by four middle channels that are relocated as stacking advances; all discharge to natural ground and Grayback Arroyo as the runoff does today. Rain that falls on the active stack (contact water) is collected by Type 1 channels on the benches and slopes (40-mil HDPE) and Type 2 channels at the toe (60-mil HDPE) and routed to the seepage collection pond; a berm at the toe of each stage keeps runoff from unimpacted ground inside the footprint apart from runoff off the tailings. Runoff from covered stages is clean and goes to the diversions. Contact water from the plant site, haul areas and waste rock stockpiles is caught separately in three lined impacted-stormwater impoundments (SW-A, SW-B, SW-C), each sized for the 100-year storm with 2 ft of freeboard and pumped to the process water tank; SW-B overflows only into the open pit, which is a closed basin.

The State's design basis is the copper rule, 20.6.7.17.D NMAC: impacted-stormwater impoundments contain the runoff and direct precipitation of the 100-year storm with 2 ft of freeboard; conveyances to an impoundment carry the 100-year peak with at least 6 in of freeboard; and an impoundment that is primary containment for process water may not have a spillway that empties onto the ground. The pond holds the 100-year, 24-hour storm plus 24 hours of maximum underdrain flow with no pumping, with at least 3 ft of freeboard (5 ft on the Rev 1 drawings), and its whole operating volume lies below the downstream toe; there is no discharge to ground in any storm up to the 100-year. WSP's channels are designed for the 100-year, 24-hour SCS Type II storm at 3.66 in (NOAA Atlas 14 at the site now gives 3.75 in, and WSP's October 2026 verification uses 3.74 in, the average of the three nearest stations; WSP's 90% interval is 3.20–4.09 in).

That is the design basis, and the facility meets it. No rule applicable to the facility requires a larger storm: the copper rule sets the 100-year, 24-hour event, and neither MMD nor NMED has asked for more. NMCC nevertheless tested the design beyond that basis, on its own initiative, because the question was asked by Elephant Butte Irrigation District (EBID) and in public comment, including a call for a 300-year standard. The results below are an additional check offered for the record; they do not change the regulatory basis and are not offered as a new one. The check used the 1,000-year, 24-hour storm (5.16 in at the site, NOAA Atlas 14 Vol. 1 v5) on the NRCS New Mexico Type II-75 distribution. Three results matter.

The site storm is front-loaded. NOAA Atlas 14 at the site puts 26–37% more of the 24-hour depth into the 30-minute to 2-hour window than the SCS Type II pattern assumes (1-hour/6-hour ratio 0.75–0.76 against 0.64); the 1,000-year hour is 3.12 in. Peak flows in the small catchments on the facility rise by about 32% on that account, while 24-hour runoff volumes, and therefore pond inflows, change by only 3–4%. WSP's October 2026 channel verification applies a different pattern to the same depth, the NOAA Atlas 14 observed 24-hour temporal distribution (third-quartile storms, 75th percentile), which WSP also labels Type II-75; that pattern spreads the storm over the day and gives peak flows below those of the SCS Type II design storm. The two patterns bracket the design storm. NMCC's check uses the more severe, and the compliance finding below rests on the SCS Type II design basis, which WSP's verification and NMCC's check both treat as governing. A 104-year generalized-extreme-value fit to the Hillsboro record (1893–2026) brackets the Atlas 14 depths at every return period from 10 years

upward: 100-year 3.92 in (90% interval 3.35–4.61) and 1,000-year 5.40 in (4.16–7.25) against Atlas 14's 3.75 and 5.16 in. The largest day recorded at Hillsboro is 3.47 in (28 September 1941) and at Caballo Dam 4.00 in (17 April 2000).

The pond, which is sized and permitted for the 100-year storm with nothing covered, also holds the 1,000-year storm at every stage once completed stages are covered. Using WSP's stage inflow volumes (hydraulic verification, October 2026) and the Rev 1 pond geometry, with the pond empty at the start of the storm and no pumping:

Stage	Stage ends (yr)	100-yr inflow, nothing covered (ac-ft; % of 167.8)	1,000-yr inflow, nothing covered (ac-ft; %)	1,000-yr inflow, finished stages covered (ac-ft; %)
1	2.8	56 (33%)	98 (59%)	98 (59%)
2	5.2	84 (50%)	137 (82%)	137 (82%)
3	7.8	115 (69%)	180 (107%)	≈ 95 (57%)
4	9.7	126 (75%)	194 (116%)	≈ 74 (44%)
5	11.0	157 (94%)	237 (141%) — ≈ 24 ac-ft over the 213.5 ac-ft crest	≈ 90 (54%)

WSP stage volumes (no cover) from WSP's hydraulic verification (October 2026), NOAA Atlas 14 depths; percentages of the 167.8 ac-ft operating volume. Covered case is NMCC screening (HAZ-007 Rev B Table 3-7): the active stage plus the whole of the previous stage uncovered, i.e. cover one full stage behind. The 100-year inflow at Stage 5 with nothing covered is 94% of the operating volume (102% of the draft permit's 153.8 ac-ft), which is the point of the reclamation commitment in III.C.1.

Run day by day through four rainfall records (Hillsboro 1893–2026, Caballo Dam 1936–2026, Truth or Consequences 1950–2026 and the site gauge 2010–2022, about 270 station-years including September 2026), with cover one stage behind, the pond peaks at 35–64% of its operating volume and never overflows, even with the plant shut down for 14 days after every day of an inch or more. With nothing covered, the pond rises into its freeboard at Stage 3 or 4 in the wettest record but does not overtop; overtopping appears only at full height with nothing covered, once under normal pumping (Caballo Dam record, September 1990, 19 ac-ft).

The channels are the only place the check led to a design change, and the one change that is a compliance matter is a 100-year item. At the Type II-75 intensity, seven of the twelve channel reaches carry the 1,000-year storm with full freeboard at their current heights, three stay in bank with reduced freeboard, and two would overtop: the Type 1 bench channel on the stack (contact water) and reach J3 of South Diversion #2 (clean water). The Type 1 bench channel is also short of the 6-in minimum freeboard at the 100-year peak on the SCS Type II design storm (about 4–5 in in WSP's design), so deepening it is a 100-year compliance item, not only a beyond-design refinement. The bench channel is being deepened to meet the 100-year requirement; reach J3 is being deepened as a matter of good practice while the channels are re-sized, not because any rule requires 1,000-year capacity; the Type 1 slope, Type 2 and South #2 J2 reaches are being checked at the same time; and contact channels are designed to spill toward the stack and the pond, never toward a clean diversion. WSP's October 2026 verification confirms, on the SCS Type II design basis, that every other channel meets the 6-in minimum and that the bench channel meets it at the deepened section (0.65 m). The seepage collection pond does not change.

A two-dimensional flood model confirms the routing. NMCC built a rain-on-grid shallow-water model of the site on the 2018 USGS lidar (4 m grid) with the future surface from the design drawings and ran the 1,000-year storm through it. On the Stage 1 configuration, clean water from the hills passes the stack in the diversion channels and leaves under Highway 152 as it does today; water on the stack reports to the lined perimeter ditch and the pond, which reaches about 16% of its crest volume by evening; nothing from the stack leaves the site. The Grayback Wash diversion around the open pit peaks at about 4,800 cfs (137 m^3/s) in that storm, higher than a lumped unit-hydrograph estimate (3,600 cfs) because the model follows the water down the real terrain; both are screening values, and WSP's hydrology governs.

What a beyond-design storm would do. This is offered for information, since no rule requires the facility to contain it. The worst case on paper is a 1,000-year storm at full height with nothing covered and the pond empty at the

start: about 24 ac-ft (29,000 m^3) of contact water overflows the crest of the seepage collection pond, and the plant and waste-rock impoundments SW-A and SW-C exceed their capacity by up to about 33 ac-ft between them, part of which their freeboard holds (NMCC screening pending WSP's design calculations). The combined release to Grayback Arroyo is up to about 57 ac-ft with no credit for that freeboard, or about 39 ac-ft with it. The same storm sends about 6,450–7,490 ac-ft of natural runoff down Grayback Arroyo from its 29,000–35,000-acre watershed, so the release is well under 1% of the flood it would join. Its character is set by the tailings chemistry: SRK's 2013 synthetic precipitation leaching tests on Copper Flat tailings gave pH 8.9–9.1, total dissolved solids 40–60 mg/L, sulfate 8.4 mg/L, and every metal with a New Mexico irrigation criterion (20.6.4.900 NMAC) below the criterion and mostly below detection; net acid generation tests classify every new-tailings sample as non-acid-forming (NAG pH 8.4–9.2). Mixed into the flood, 24 ac-ft of pond water at SRK's upper-bound sulfate of 200 mg/L would add less than 1 mg/L of sulfate; the realistic load is fine, non-acid-forming sediment, about 2 ac-ft, against about 313 ac-ft of natural sediment reaching Caballo Reservoir in an average year. With finished stages covered, the pond holds that storm. The geochemistry basis is being updated with leach and pore-water tests on filter cake (Section IV).

How the facility is operated in storms. NMCC's Water Management Operating Standard sets a trigger-action-response plan with Green, Amber and Red states for pond volume, the 72-hour pond forecast (National Weather Service gridded forecast run through the pond model), 24-hour rainfall, channel condition, leak-collection flow, cake moisture, stack piezometers and movement, earthquake acceleration, cover progress, and flow and water quality in Grayback Arroyo at stations upstream and downstream of the site. When the forecast puts the pond above 50% of its operating volume, it is pumped down and the channels inspected and cleared before the storm; stacking stops at 1 in of rain in 24 hours or a flash-flood watch; in an extreme storm the operation is shut down and no tailings are placed with water standing on the platforms; a Red pond condition or any release is notified to the Engineer of Record, NMED and EBID within 24 hours. The standard adds an emergency action plan exercised annually with EBID, Sierra County and WSP, and six independent review layers: construction QA by a licensed engineer on every liner stage, annual Engineer-of-Record review, an independent review board, periodic dam-safety review by a firm other than the EOR, an annual published instrument-calibration audit, and an annual joint site walk with EBID. EBID will have a live, read-only view of pond level, site rainfall and the Grayback stations from a one-way replica of the plant historian.

8. The engineered cover uses evapotranspiration

Completed surfaces receive a three-layer store-and-release cover: 6 inches of topsoil over 18 inches of growth medium over a 6-inch gravel capillary break, 36 inches in all, with the top surface graded at 1–5% and bench and perimeter channels armored for the 100-year, 24-hour storm (WSP closure plan, MORP Appendix E, 26 November 2025, Table E1). In an arid climate with net evaporation in every month (about 12.3 in/yr of precipitation against 86.1 in/yr of pan evaporation, net 62.7 in/yr) the cover stores precipitation in the upper layers until plants and evaporation return it to the atmosphere, which limits water reaching the tailings. Cover material is mostly salvaged from the existing DSTSF footprint and has been tested and approved.

9. Dust from the stack and haul roads will be controlled

Dust is controlled under NMCC's Fugitive Dust Management Plan (Rev 2): roller compaction of every lift, a limited active surface, progressive cover of completed areas, water application as needed, an 8% floor on cake moisture because dry cake dusts, and magnesium chloride on haul roads, a hygroscopic suppressant that binds fines and reduces the water needed for road dust control. Point sources in the crushing and handling circuits are fitted with Camfil cartridge dust collectors rated at not more than 0.004 grains per cubic foot. The FEIS figures quoted at the hearing (6,174 tons/yr of suspended particulates against an allowable 788.8; 726 AF/yr of non-recycled dust-control water, FEIS Table 2-29) are from the 2018 wet-tailings plan with conventional haul-road watering; the amended plan's dust-control water is 149 AF/yr in the WSP R2 balance, to be replaced by the bottom-up estimate in III.D.4, and its particulate inventory is being re-stated in the air permit revision. NMCC is revising air permit NSR 0365-M3 with Onterris to reflect the dry stack. The reagents that reach the tailings circuit are the anionic flocculant used in the thickener (about 35 g/t of tailings), residual sodium hydrosulfide from the molybdenum circuit (with

hydrogen sulfide monitoring at the plant) and the dust suppressants; the full reagent schedule with safety data sheets will be provided with the air permit revision and is available to MMD on request.

D. Water Will Be Captured and Reused, Reducing Well-Field Drawdown from About 70 Feet to About 10 Feet

1. NMCC has updated its analysis of probable hydrologic consequences

Daniel B. Stephens & Associates (DBS&A; T. N. Blandford, P. Botros) prepared an Updated Probable Hydrologic Consequences Analysis dated 14 August 2025 (Revision 1, 16 June 2026, which revised Figures 3-1, 3-5 and A-1 to show the full well and spring inventory at MMD's request of 1 May 2026; text and results unchanged), using the same calibrated regional groundwater model as the 2018 analysis by John Shomaker & Associates (JSAI 2014) and changing only the pumping schedule to the dry-stack water balance. The simulation covers 13.4 years of construction and mining and 100 years after mining. Compared with the 2018 wet-tailings analysis:

Quantity	2018 PHC (wet tailings)	2025 PHC update (dry stack)	Change
Maximum pumping, supply wells PW-1 to PW-4 (AF/yr)	6,095	861.84	−86%
Total project pumping (AF/yr)	—	1,046 (PW-1–4 + GWQ-1, -2, -9)	—
Maximum drawdown at the supply well field (ft)	≈ 70	≈ 10.5	−85%
Maximum drawdown beneath Las Animas Creek (ft)	> 40	≈ 6	−85%
Reduced groundwater discharge to the Rio Grande and Caballo (AF/yr)	1,089	84	−92%
Reduced outflow to the south Palomas Graben, treated as reduced flow below Caballo (AF/yr)	983	148	−85%
Induced inflow from the north Palomas Graben, maximum (AF/yr)	275	33 (peaks about year 40)	−88%
Reduced flowing-well discharge, Las Animas and Percha Creeks (AF/yr)	1,075 (52% of 2,030)	184–185 (9% of 2,030)	−83%
Stream-flow and riparian evapotranspiration reduction (AF/yr)	43	92	+49
Cumulative storage depletion to end of pit filling (AF)	42,813	9,424	−78%
Maximum ground subsidence at the well field (ft)	0.7	0.1	—
Drawdown at mapped springs, 100 years after mining (ft)	≈ 0	0.00–0.07	—
Water levels recover to pre-mining	—	≈ 20 years after pit rapid fill	—

2. Effects on Las Animas and Percha Creeks will be small and temporary

Flowing wells along Las Animas and Percha Creeks discharge about 2,030 AF/yr before mining (about 1,750 Animas, 280 Percha). The largest predicted reduction is 185 AF/yr (9%), in about year 16, falling to about 15 AF/yr over the following 30 years. Maximum drawdown beneath Las Animas Creek is about 6 ft, against more than 40 ft in the 2018 analysis. Predicted direct effects on mapped springs are zero, with changes of 0.00 to 0.07 ft at 100 years. Stream flow and riparian water use are reduced by up to 92 AF/yr just after pit rapid fill, falling to 13 AF/yr at 100 years. The PHC analysis reports the flowing-well reduction as a single figure for the two creeks; the Percha Creek spring in the model (PCS-A) shows no simulated drawdown at the end of mining or at 100 years, and the simulated water level at the Upper Percha well is among the hydrographs in Appendix A of the PHC report.

The Hillsboro Mutual Domestic Water Consumers Association's supply is water right LRG-06356; DBS&A identified three wells of record in the New Mexico Water Rights Reporting System, close together in the western part of Hillsboro, about 4 miles southwest of the open pit. All of the model projections show zero drawdown at those wells from mine pumping, at any time, including with the pit lake in place after mining (Exhibit C-2; PHC report Figure A-1).

Representatives of the Boone, Diamond and Newman families, whose wells lie along the eastern reach of Las Animas Creek about 2.5 miles east-northeast of the production well field, spoke at the hearing about the effect of mine pumping on their wells. Ms. Boone stated in public comment that the water table at her well would fall by 3 meters (about 10 feet), the decline at which, citing J. Stromberg (Arizona State University), the Las Animas Canyon Sycamore Grove would be lost. A figure of that size corresponds to the 2018 analysis of the wet-tailings plan, under which the predicted maximum drawdown at those wells ranged from about 9 to more than 20 feet (JSAI 2018, Figure 3.1). That drawdown will not occur, because the pumping that produced it is not in the amended plan. At NMCC's request DBS&A located the wells of record for the three families in the New Mexico Water Rights Reporting System and plotted the predicted maximum drawdown at each under both plans (Figures III-1 and III-2 below; Exhibit C-2, Figures 4 and 5). Under the amended plan the predicted maximum drawdown at most of those wells is between 1 and 2 feet, and about 3.5 feet at one well, LA-00025, identified at the hearing as Ms. Boone's 1952 well. The difference follows directly from the 86% reduction in production-well pumping, from 6,095 to 861.84 AF/yr, that filtered tailings make possible.

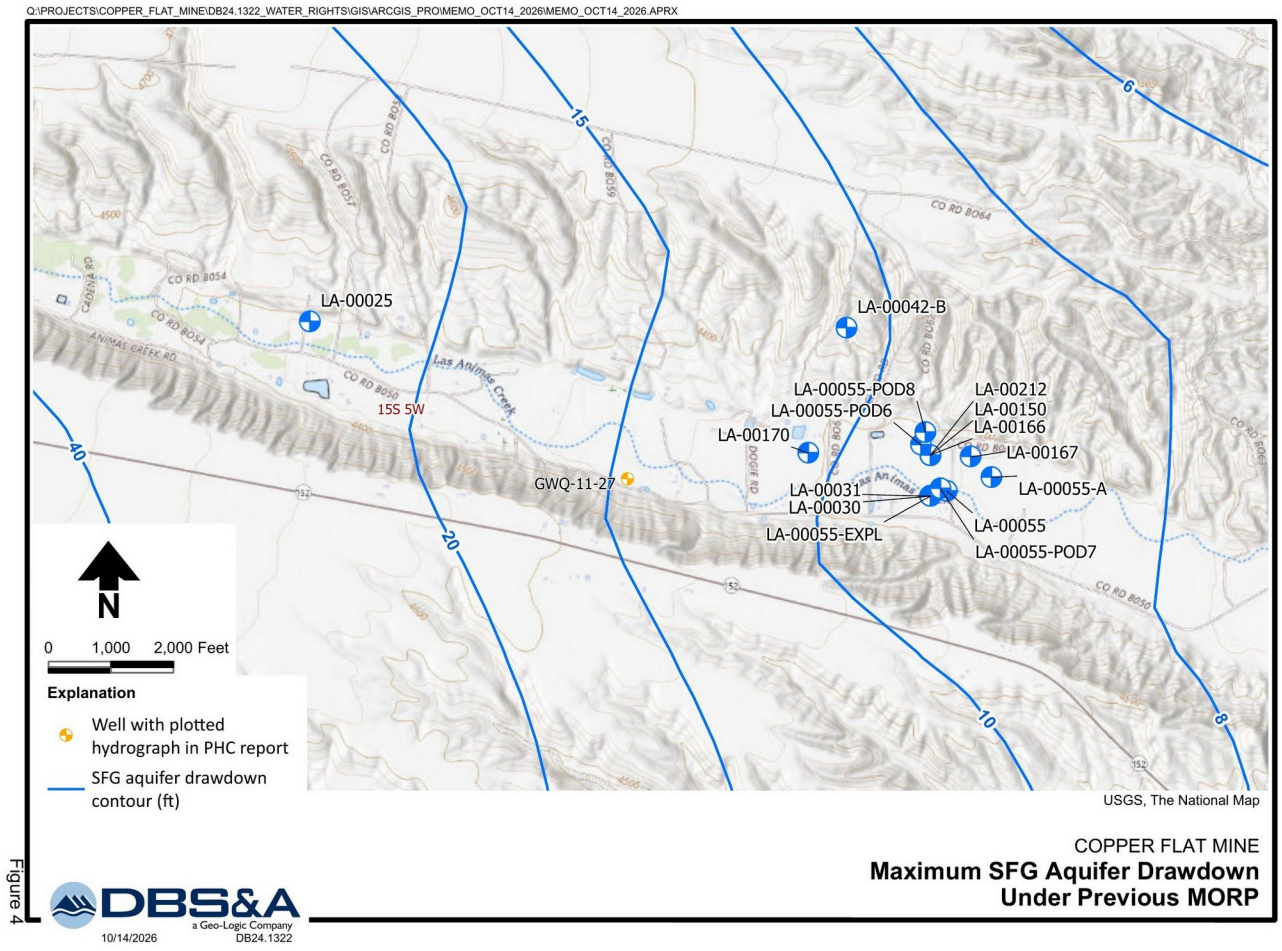


Figure III-1. Maximum SFG aquifer drawdown at the Las Animas Creek wells under the previous (2018) plan — DBS&A, Exhibit C-2, Figure 4 (contours in feet).

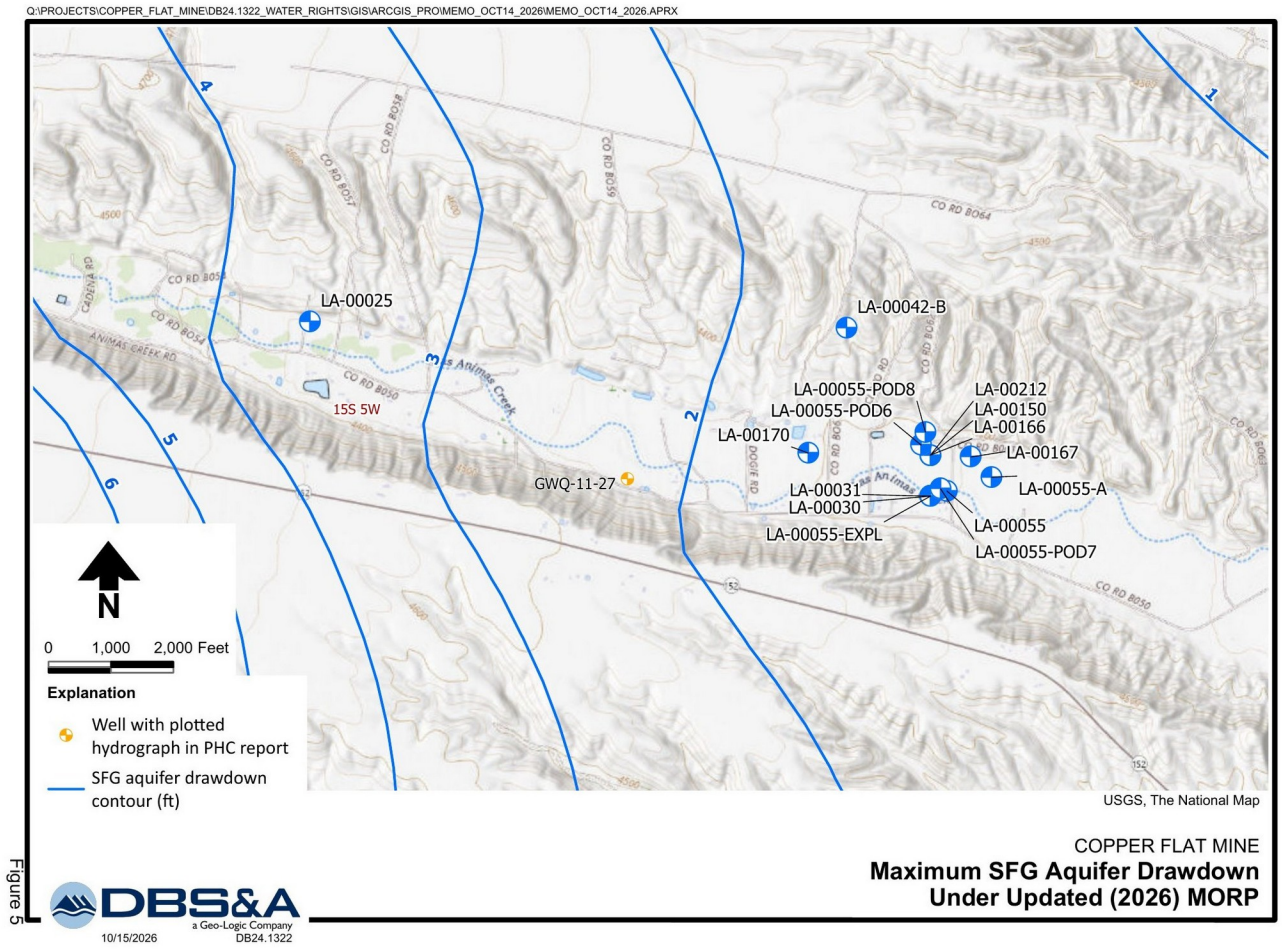


Figure III-2. Maximum SFG aquifer drawdown at the same wells under the amended (2026) plan — DBS&A, Exhibit C-2, Figure 5 (contours in feet).

Two further points bear on these wells. First, the drawdown plotted is the maximum, which occurs at the end of pit filling; after the pit is filled, water demand falls substantially and water levels at the well field and along Las Animas Creek recover, so the maximum persists for about a year or less. The simulated hydrograph at well GWQ-11-27, near the family wells, shows the decline and the recovery (Figure III-3; Exhibit C-2, Figure 6), and the full set of hydrographs is in the PHC report. Second, the predicted maximum drawdown in the reach of the family wells under the amended plan, about 1 to 3.5 feet (0.3 to 1.1 m) for about a year, is about a third of the 3 m decline Ms. Boone cited for the sycamore grove; NMCC's baseline monitoring of the Animas Creek wells and the sycamore reach, and the continued monitoring offered in Section IV, are the means of verifying it in operation.

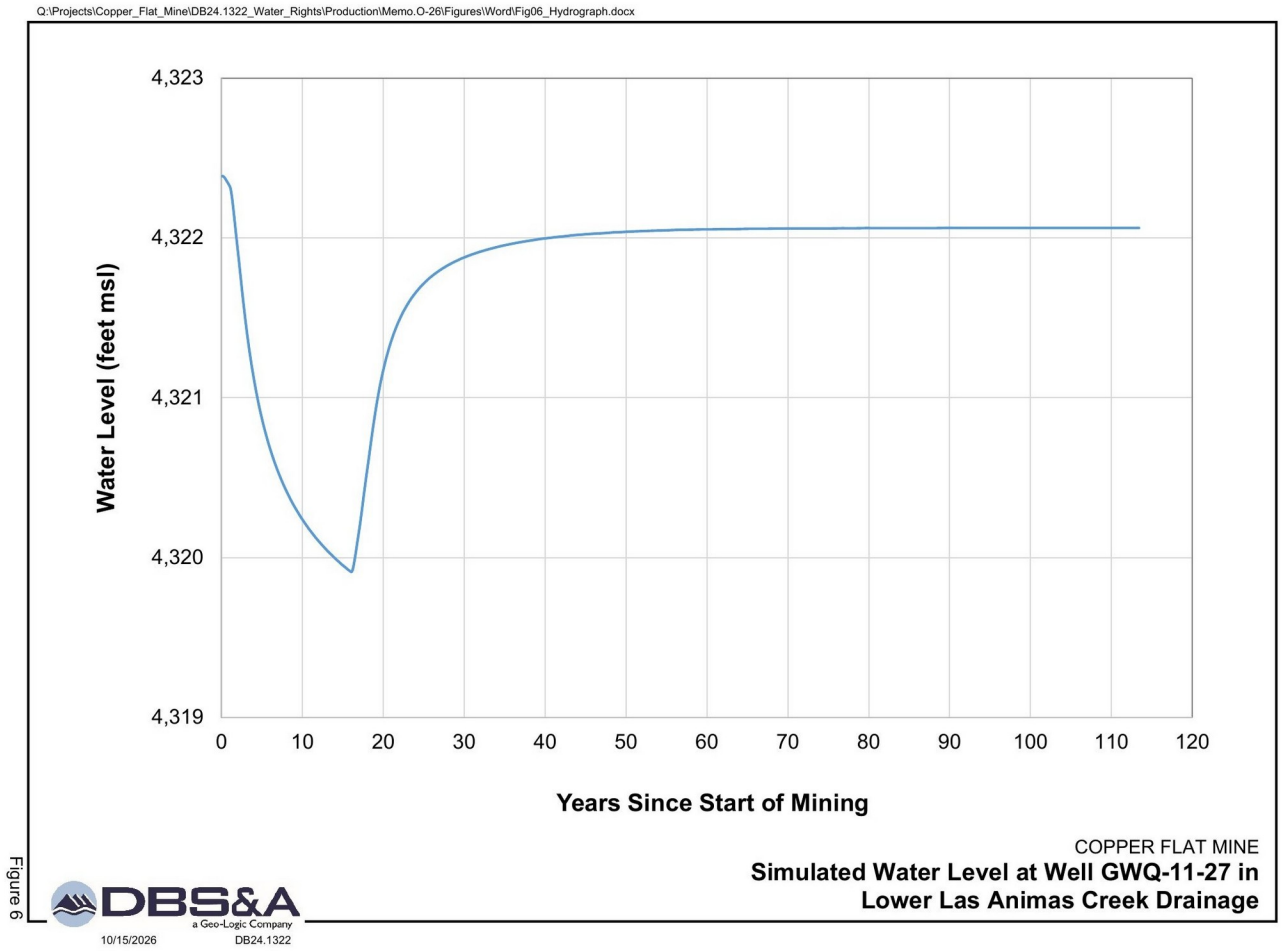


Figure III-3. Simulated water level at well GWQ-11-27, lower Las Animas Creek, over 120 years from the start of mining — DBS&A, Exhibit C-2, Figure 6.

3. Depletions to the Rio Grande are small and within the adjudicated rights

The predicted reduction in flow to the Rio Grande and Caballo Reservoir peaks at 84 AF/yr just after pit rapid fill and falls to 16 AF/yr at 100 years; the reduced outflow to the south Palomas Graben, which DBS&A treats as reduced flow to the Rio Grande below Caballo, peaks at 148 AF/yr. Together with up to 33 AF/yr of induced inflow from the north, which peaks later, the upper bound on the Rio Grande system is about 265 AF/yr if the peaks coincided, against about 2,080 AF/yr plus up to 275 AF/yr in the 2018 analysis. Cumulative depletion through pit filling is about 2,329 AF against 16,382 AF in 2018. DBS&A concludes that these effects are intrinsic to NMCC's adjudicated rights and that the 2018 offset plan is no longer required;

4. The water balance has been developed in a series of studies, and its sensitivities are known

The site water balance has been developed through WSP Technical Memorandum TM-001 (October 2024; 1,050 AF/yr); the water balance in WSP's DSTSF design report (March 2025); WSP's site-wide water balance memorandum R2 (5 December 2025), which gives 984 AF/yr of well make-up (1,048 AF/yr with storm capture) at 14% cake moisture and is the figure of record; and NMCC's live-formula model of the WSP balance (NMCC-WB-MDL-001 Rev 0, September 2026), which reproduces R2 and tests its assumptions across four scenarios. The base case on the operating-hour basis (337 operating days; 1 gpm = 1.491 AF/yr) is:

Water in	AF/yr	Water out (consumptive)	AF/yr
Well make-up (residual)	994	Retained in the stack (cake moisture)	963
Moisture in run-of-mine ore (3.1%)	246	Evaporation from the active stack	172
Storm-water capture	64	Dust control and other mine uses	149

Water in	AF/yr	Water out (consumptive)	AF/yr
Pit groundwater inflow	36	Stockpile drying	61
Precipitation on the active stack	25	Domestic / wastewater	12
		Copper and molybdenum concentrate	7
Total	1,365	Total	1,365

NMCC-WB-MDL-001 Rev 0, Scenario 1, aligned to WSP R2: 14% placed cake, drain-down recovered, 1,333 stph. Rounded. The model's finding is that make-up is governed by the moisture the stack retains, about 100 AF/yr per moisture point at design throughput, with a break-even retained moisture of 11.5% (wet basis) at the water right; its four scenarios span 860–1,268 AF/yr.

One figure in the DP-1840 public notice has been read as a water demand and is not. The 1,613,000 gallons per day in the draft permit (condition A100.B) is the permitted maximum of water entrained in the filter cake placed in the DSTSF: 38,000 tons per day of dry tailings at about 15% moisture (wet basis), stated on a 24-hour maximum basis. It is water that leaves the mill inside the cake, which is what the discharge permit regulates; it is not a withdrawal, and nothing of it is discharged to the environment. The quantity NMCC may pump is set by the water right: about 1,046 AF/yr, which averages about 934,000 gallons per day over the year, against a balance of record of 984 AF/yr (about 878,000 gallons per day).

Dr. Emerman argued that filtered tailings cannot save more than 60% of the water used by a conventional facility, and that Copper Flat would need at least 2,500 AF/yr. The detailed response is Appendix B. Several of his inputs are correct and are already in the balance: concentrate water (7 AF/yr), dust control (149 AF/yr), and credits for precipitation and runoff (89 AF/yr). The analysis is incorrect in three respects. No source is given for a 60% limit, and NMCC is aware of no standard that sets one; a fixed percentage applied to another project's baseline is not a water balance (6,100 × 0.40 = 2,440 AF/yr appears to be the origin of his 2,500). His own evaporation source (Spiller & Dunne 2017) places a hot, dry, windy site such as Copper Flat at the high end of the savings range, where he himself allows 71%. And his 0.13 m^3/t arithmetic treats the water right as if all of it were retained in the tailings; it omits the 371 AF/yr that enters free (246 AF/yr as moisture in the ore, plus storm capture, stack precipitation and pit inflow), so make-up is the residual after those. His moisture figures are on the dry basis; the 14% wet-basis design cake is 16.3% dry, his 'typical' value, and the 13–16% operating range is 14.9–19.0% dry. Holding other demands at their balance values, 2,500 AF/yr would require the filter plant to send cake to the stack at roughly 21–25% moisture against a 14% design, and cake above the operating band is diverted to the bypass stockpile rather than stacked. The filtered cake is the only water the stack receives: rain on the compacted surface runs off to the lined pond and is reused.

The genuine variables are the moisture the stack retains and the dust-control demand. Drain-down and consolidation testwork to confirm retained moisture, and a bottom-up dust-control estimate (haul-road area, magnesium chloride application and re-watering frequency, crusher and stockpile sprays, DSTSF controls) to replace the percentage-based figure in R2, are in hand or proposed (Section IV). Consumption is in any case capped by the water right: NMCC will operate within it and reduce mill throughput if retained moisture or other demands run above plan (III.E).

5. Pit rapid fill and the pit lake

At closure the open pit is filled rapidly with about 2,720 acre-feet of pumped groundwater over about 2.6 years, within the adjudicated rights, so that pit walls are submerged quickly. The lake stabilizes at about El. 4,898 ft and about 22.5 acres, where inflow from rain, runoff and groundwater (about 94 AF/yr) balances evaporation. The pit remains a long-term hydrologic sink: groundwater flows toward it, not away from it, so pit water does not discharge to groundwater.

E. Copper Flat Privately Holds Water Rights Sufficient for the Operating Plan, and Will Operate Within Them

NMCC's water rights are adjudicated in the Lower Rio Grande Adjudication (No. CV 96-888), subfile LRG-4652. They total 1,105.21 AF/yr, of which 1,051.56 AF/yr is for mining purposes: 861.84 AF/yr at the main production wells PW-1 to PW-4 (priority 10 December 1975), 39.0 + 72.6 + 72.6 AF/yr at the GWQ wells, and 5.52 AF/yr in-pit; the balance is 34.65 AF/yr evaporation, 18 AF/yr livestock and 1 AF/yr domestic. The well-field right was affirmed by the Court of Appeals (2021-NMCA-066), and a Final Subfile Order was entered on 12 December 2023. Of the mining total, about 1,046 AF/yr is available for mining and milling; OSE's memorandum of 7 May 2026 indicates the 5.52 AF/yr in-pit right is not. The operating plan uses about 1,046 AF/yr from Years 3 to 16 and no pumping after Year 18; including the pit rapid fill, the plan leaves a cumulative surplus of about 654 acre-feet within the rights (DBS&A Table 2-1). MMD's draft Supplemental Order finds the water condition met by about 1,046 AF/yr.

Water is the first design constraint at Copper Flat, and the plan is built around it: each water source is metered separately (wells, pit, contact water, seepage return), make-up is set by the moisture the stack retains, and if the balance in operation is less favorable than predicted, mill throughput will be reduced to stay within the right. For reference, the maximum mill feed within the right is about 1,430 stph at 10.9% retained moisture, 1,254 stph at 12% and 1,018 stph at 14%, against the 1,333 stph nominal basis. NMCC proposes metered reporting of well pumping against the right as a permit condition (Section IV).

F. Financial Assurance Will Be Progressive and Based on the Revised Reclamation Cost Estimate

NMCC's revised reclamation cost estimate for the amended plan, prepared on the Standardized Reclamation Cost Estimator (SRCE) in September 2026 and provided to MMD, is $68.2 million in 2026 dollars, undiscounted and without salvage credit: $51.7 million of direct costs for closure of every mine unit, including $15.5 million for the tailings facility, $12.5 million for the waste rock stockpiles, $5.6 million for the open pit and $1.5 million for pit rapid fill, with 100 years of post-closure monitoring and maintenance, plus $16.5 million of indirect costs (engineering and construction planning, contingency, contractor overhead and profit, and contract administration and procurement). The calculation assumes all work is performed by third-party contractors at prevailing wage rates. NMCC will submit, with the reclamation cost estimate, a progressive financial assurance plan under which the posted amount follows the reclamation liability as it is incurred and retired, with recalculation every three years, annual reporting, posting of each tranche with professional-engineer certification, and bond release tied to field-verified reclaimed area; the schedule of concurrent reclamation during operations (III.C.1) is set out in that plan. The existing letter of credit remains in place until the first tranche is posted.

IV. Proposed Permit Conditions

NMCC is prepared to accept the following conditions:

1. Water. Well pumping and each other water source (pit, contact water, seepage return) will be metered and reported annually to MMD and OSE, and mill throughput will be held within NMCC's adjudicated water rights.
2. Feasibility design before Stage 1 construction. NMCC will submit to MMD the feasibility-design program in III.C.5: laboratory and interface testing of representative filtered tailings; transient unsaturated seepage and stability analysis; site-specific probabilistic seismic hazard and deformation analysis; closure-configuration check against GISTM criteria for each stage; placement specification with roller compaction throughout, compaction effort, acceptance testing and the moisture band; and a credible-failure-mode, runout and consequence assessment.
3. Independent review. NMCC will charter an Independent Tailings Review Board before Stage 1 construction, provide its reports to MMD, and maintain the review layers in NMCC-ENG-DTW-001 (construction QA on every liner stage, annual Engineer-of-Record review, periodic independent dam-safety review, annual instrument-calibration audit).

4. Storm water. The facility will be designed to the 100-year, 24-hour storm required by 20.6.7.17.D NMAC; the Type 1 bench channel will be deepened if required to give at least 6 in of freeboard at the 100-year peak; the channel system will be re-sized on the New Mexico Type II-75 distribution at the 100-year event; the seepage collection pond will be built as reviewed by OSE; and completed stages (slopes and platforms) will be covered no later than one stage behind the active stage, with cover progress reported annually.
5. Monitoring and response. NMCC will operate the DSTSF and its ponds under a trigger-action-response plan and emergency action plan, install rainfall, pond, channel, stack, seismic and Grayback Arroyo instrumentation, sample Grayback Arroyo upstream and downstream of the site before construction and during operations, and give MMD read-only access to the data.
6. Geochemistry. Before Stage 1 construction, NMCC will provide leach (SPLP and MWMP) and pore-water testing of filter cake, and a kinetic-test addendum, to update the 2013 characterization.
7. Dust will be monitored and reported under the Fugitive Dust Management Plan.
8. Financial assurance will be posted progressively, with recalculation every three years and annual reporting.
9. Groundwater and flowing-well monitoring in the Las Animas and Percha Creek area, with annual reporting.

V. Issues Raised That Were Beyond the Scope of the Hearing

The following matters were raised in comment. They fall outside the scope of the hearing notice, but NMCC responds to them for the record.

A. Roads

NMCC's commitments on NM-152 are set out in a Cooperative Project Agreement with the New Mexico Department of Transportation (NMDOT Contract No. D15995), executed on 23 July 2018 under NMSA 1978 § 67-3-6 and in effect for the 20-year design life of the work (Appendix E). The Agreement rests on two studies NMCC commissioned: a 2012 pavement condition assessment (AMEC) of the 10.57-mile corridor from the I-25 interchange to the mine access road near mile post 55, which found the existing multi-layer chip-seal roadway in good condition and recommended a hot-mix asphalt overlay to increase its structural strength against the accelerated wear that mine truck traffic would cause; and a traffic impact analysis (Bohannan Huston), reviewed by NMDOT, which concluded that the added traffic would not warrant capacity or operational improvements on NM-152 or I-25. NMDOT requested the overlay as the mitigation, and NMCC agreed to it.

Under the Agreement NMCC funds, designs and builds, to NMDOT's Design Manual and Standard Specifications and under NMDOT review and approval at the 30, 60 and 90 percent and final-plans milestones, a one-time 2.5-inch hot-mix asphalt overlay of the full corridor (28 ft wide: two 12-ft travel lanes and 2-ft paved shoulders), and a 12-ft right-turn lane and 12-ft acceleration lane at the mine entrance (52 ft of overlay width at the intersection), completed within 12 months of the start of commercial production. NMDOT agreed that the work will meet a 20-year design life for NM-152 including the projected mine traffic, and NMDOT maintains the highway for that design life and thereafter with no further obligation on NMCC. The plan NMCC submitted to BLM in 2017 for the EIS also described 6-ft shoulders on both sides of the corridor to serve as bicycle lanes, beyond what NMDOT required. The 2019 Final EIS found that NM-152 traffic (421 vehicles per day) would move from level of service A to B during construction and operations, with 14–19 concentrate loads per day.

Two points were raised orally. Mr. Ericson asked for a structural evaluation of the NM-152 pavement (cores and subbase) from the mine road to I-25 rather than an overlay alone, noting concentrate trucks at 80,000–100,000 lb gross. The Agreement provides for that: the overlay was selected from the pavement assessment as the structural measure, the design NMCC submits must address the anticipated life of the roadway under the projected traffic, and NMDOT approves the design at each milestone before a notice to proceed is issued. Ms. Boone stated that the pavement design life would be 10 to 15 years; the Agreement sets 20 years, agreed by NMDOT with the mine

traffic included. NMCC will clear the haul route after storms and maintain an on-site emergency response team; its arrangements with Hillsboro volunteer fire and EMS will be set out in the community plan.

B. Power

Power will be delivered by Sierra Electric Cooperative from Tri-State Generation and Transmission. The Federal Energy Regulatory Commission accepted the Tri-State/Sierra Letter Agreement (Rate Schedule 440) for the Copper Flat delivery point on 16 July 2026 (Docket ER26-2724-000), effective 3 August 2026, with no protests filed. The load was studied at 40 MW. NMCC pays Sierra's full share of the required upgrades, about $10.75 million, including rebuilding about 12 miles of 115 kV line from Caballo and a share of the Caballo ring bus, builds its own substation with reactive compensation, and indemnifies Sierra for system impacts of its load; the cost of serving the mine is carried by NMCC, not by other members of the cooperative. The comment that filtration raises energy use from about 236 to 306 GWh/yr is about right in size and is already in the plan: the filter plant and the dry-stack conveying and stacking system draw about 8 MW, which is about 65 GWh/yr over the plant's 337 operating days (70 GWh/yr if run continuously), the same increment the comment cites. That load is inside the 40 MW studied by Sierra and Tri-State and accepted by FERC, and it replaces the slurry tailings pumping and most of the 6,095 AF/yr of well pumping that the earlier plan required.

C. The 2020 Director's Order and Settlement Agreement

The 5 June 2020 Director's Order and the Settlement Agreement attached to it were written for the wet-tailings plan. MMD and NMCC have negotiated a Director's Supplemental Order Adopting a Revised and Restated Settlement Agreement (MMD draft v3 of 28 August 2026; NMCC's comments returned to MMD on 15 October 2026), to be signed for NMCC by its Senior Vice President, Project Development and for MMD by the Division Director. Under it the Director withdraws the June 2020 Order in its entirety and the permitting process proceeds under the Revised and Restated Agreement, which: records that NMCC has secured approximately 1,046 AF/yr of adjudicated water rights to operate and reclaim the mine as amended (OSE memorandum to MMD, 7 May 2026) and that OSE has found the dry-stack facility non-jurisdictional (5 June 2026), so that the five water and dam-safety demonstrations required by the 2020 Agreement, including the lease-term showing, the transfer approvals, the offset of about 16,382 acre-feet of Rio Grande depletion over a 45-year recovery period, and the OSE dam-safety permit, no longer apply; provides that NMCC will propose, and MMD consider, a revised reclamation cost estimate for the amended plan, with NMCC agreeing to transfer water rights sufficient for reclamation to the State in the event of default, to be returned on completion of reclamation; records that the 2018 notice of technical approvability no longer applies because the amended application warrants reassessment, and that no obligation on MMD to issue the permit arises until the Agreement's requirements are met; and rescinds the 2020 Settlement Agreement. The permit itself issues only when the requirements of 19.10.6 NMAC are met.

D. Noise, Vibration and Light

The 2019 Final EIS evaluated these effects and found them not significant. The nearest residence is about 0.5 mile from the mine and Hillsboro about 3.5 miles; ambient levels are 40/34 dBA day/night and the 65 dBA DNL contour lies inside the mine area. Blasting will take place two to three times a week in daylight, typically mid-afternoon; overpressure reaches 130 dBP at 556 ft and 115 dBP at 2,344 ft, and no residence lies within those distances. NMCC has committed to blast noise and vibration monitoring throughout operations. NMCC also commits to night-sky lighting standards for the mine and the DSTSF: exterior fixtures will be fully shielded and directed downward, there will be no uplighting, lighting will be limited to what operations and safety require, and the standard will be carried into the facility lighting design and operating procedures.

E. Intent to Mine and Project Activity

Comment suggested that the application serves only to protect water rights from forfeiture. The record of active development is: Plan of Operations Amendment No. 1 (NMNM 125986) filed with BLM on 16 June 2026; NMED's technical-completeness determination for Discharge Permit DP-1840 on 22 June 2026 and the draft renewed

permit issued for public notice on 11 September 2026. FERC acceptance of the power delivery agreement on 16 July 2026; the 2026 geotechnical program; and long-lead equipment pricing in hand. The project's public figures are: life of mine per the Master Project Reference; water right 1,051.56 AF/yr for mining (1,105.21 total); make-up 984 AF/yr; DSTSF footprint about 486 acres; about 1,300 peak construction jobs with at least 60% New Mexico hire and about 300 operations jobs.

F. MMD's Environmental Evaluation and the 2019 Final EIS

MMD stated at the hearing that its environmental evaluation is being updated to reflect the amended MORP, and NMCC will provide the information MMD needs. Two commenters (K. Sloan; W. Ericson, P.E.) argue that the 2019 BLM Final EIS does not address dry stacking and that a new or amended EIS is required. Whether the 2019 Final EIS covers the amended plan, and what further NEPA documentation if any is required, is a determination for BLM as the federal lead agency, not a question before MMD under the Mining Act. That review is under way: NMCC filed Plan of Operations Amendment No. 1 with BLM on 16 June 2026 and Supplement No. 1 on 13 October 2026, and BLM has the amendment under review and has not yet made its NEPA determination. NMCC will provide whatever analysis BLM requires, and MMD's environmental evaluation of the amended MORP under 19.10.6 NMAC proceeds in parallel. The fourteen items Ms. Sloan lists as gaps are each addressed in the record as follows:

Item raised	Where it is addressed
1–2. Failure analysis of the tailings facility; consequences of a catastrophic collapse	III.C.3–III.C.5; credible-failure-mode, runout and consequence assessment per GISTM (Section IV); NMCC-ENG-HAZ-003/-005/-007 (Appendix G)
3. Fine particulates	III.C.9; Fugitive Dust Management Plan Rev 2; air permit 0365-M3 revision
4–5. Water for dust control and for concurrent reclamation	III.D.4 (149 AF/yr dust and other mine uses within the 984 AF/yr balance; bottom-up estimate proposed); reclamation water within the same balance.
6. Electrical power	V.B
7–8. Traffic on NM-152	V.A (FEIS LOS A → B; NMDOT agreement)
9. Equipment use and emissions	V.B; air permit revision
10. Noise and vibration from the filter plant and stacking	V.D (FEIS; filter plant is within the mill area)
11. Night lighting of stacking	V.D (night-sky lighting commitment: shielded, downward-directed fixtures, no uplighting)
12. Visual change from a 200-ft stack	FEIS visual resources; concurrent reclamation and cover (III.C.1, III.C.8). The DSTSF crest (El. 5,373.6 ft) is lower than the wet tailings embankment evaluated in the FEIS.
13. Acid rock drainage into the pit lake from slow fill	III.D.5; pit is a hydrologic sink; geochemical update for the 2.6-year fill (W11); pit-lake wildlife plan NMCC-ENV-PIT-001
14. Cost and intermittency of operations	Outside the hearing notice; financial assurance (III.F) secures reclamation in any event

G. The 2020 Settlement Agreement and the Sufficiency of Water Rights

GRIP and PAWA argue that the 5 June 2020 Director's Order and Settlement Agreement remain 'the law of the case', that NMCC has not demonstrated water rights sufficient to operate and reclaim, and that 1,046.04 AF/yr is 'clearly insufficient' on the expert testimony. On the technical point, the demonstration is in III.D and III.E: the operating plan uses about 1,046 AF/yr within adjudicated rights of 1,051.56 AF/yr for mining, the current engineering water balance is 984 AF/yr, its sensitivities are quantified (about 100 AF/yr per point of retained moisture; 860–1,268 AF/yr across scenarios), throughput is the balancing item, and the pit rapid fill is within the same rights. Dr. Emerman's 2,500 AF/yr rests on a percentage applied to a different project's baseline and on treating the whole water right as retained in the tailings (Appendix B).

H. Other Comments

The written comments and NMCC's responses to each are summarized in Appendix D, together with the register of the 26 oral comments made on 17 September 2026 and the section of this response that answers each. The oral

comments of the Las Animas Creek well owners (Ms. Boone, Mr. Diamond, Mr. Newman) are answered in III.D.2 and Exhibit C-2; Mr. Elder's well near Caballo in III.D.3 (effects on the Rio Grande and Caballo Reservoir); the Hillsboro MDWCA comment (Mr. Gritzbaugh) in III.D.2.

VI. Conclusion

The amended plan answers the issues that stopped the earlier permitting process with engineering that can be checked. Fresh-water use falls by about 80%; there is no tailings impoundment and no supernatant pond, and OSE has found the facility non-jurisdictional; well-field drawdown falls from about 70 feet to about 10 feet, drawdown at the domestic wells along lower Las Animas Creek from as much as 20 feet to about 1 to 3.5 feet for about a year, and the effect on the Rio Grande system from about 2,080 to about 232 AF/yr at peak. The tailings are placed unsaturated on a composite liner with an underdrain, the stability of the stack has margin on the surfaces analyzed, the one surface not yet analyzed at its measured strength (the liner interface) is identified and is the first item of feasibility design, and the remaining analyses are scheduled with it. The facility is designed to the 100-year storm the copper rule requires, and the seepage collection pond holds it at every stage with no pumping; NMCC's additional 1,000-year check, which no rule requires, shows the pond also holds that storm once completed stages are covered, and led to one 100-year compliance correction in a bench channel; and the facility will be operated against set triggers with the data shared. The remaining steps, as MMD identified on 17 September 2026, are BLM approval of Plan of Operations Amendment No. 1, completion of NMED's process for Discharge Permit DP-1840, and MMD approval of the reclamation cost estimate and financial assurance. With those steps completed, NMCC asks that MMD approve the amendment to Permit SI027RN, subject to the conditions offered in Section IV.

Respectfully submitted,

NEW MEXICO COPPER CORPORATION

Stephen F Crosby

Stephen F. Crosby
Senior Vice President, Project Development
New Mexico Copper Corporation
16 October 2026

Certification

The factual and project information in this response is certified by NMCC's authorized representative, and the engineering analyses, technical conclusions, recommendations and professional opinions presented in it were prepared under the responsible charge of Rajiv Srivastava, Ph.D., P.E., New Mexico Professional Engineer License No. 31564, WSP USA Inc., Engineer of Record. The signed certification page (16 October 2026) follows this response. Screening calculations identified in the text as NMCC's are NMCC's own and are presented as such.

Appendices and Exhibits

Appendix	Content	Prepared by
A	Response to Dr. D. Chambers (DSTSF stability): WSP letter to the MMD Director, Response to Public Comment, 16 Oct 2026 (Ref. 24688457) — responses to Recommendations 1–5 (re-saturation and the 100-year design storm under 20.6.7.17 NMAC; GISTM operational vs closure criteria and the High consequence classification; site-specific seismic hazard; foundation characterization; compaction by zone) and to the upstream-dam analogy and the Pau Branco and Turmalina case histories. Exhibits: WSP Pre-Feasibility Engineering Design and Appendix F; REP-200; climate data (Hillsboro NOAA normals; Caballo pan evaporation); tailings testing basis and production QC plan (W6).	WSP / NMCC
B	Response to Dr. S. Emerman (water consumption): WSP/NMCC response to Dr. Emerman's video testimony (R. Srivastava, WSP, 16 Oct 2026) — the unsupported 60% limit, the absence of a project-specific balance, the 1,450 AF/yr of losses his 2,500 AF/yr would require, and the questions the testimony leaves unanswered; and NMCC response matrix NMCC-REG-RTC-002 Rev D (16 Oct 2026), including the like-for-like comparison of the conventional and filtered cases and the base-case balance (NMCC-WB-MDL-001 Scenario 1). Exhibits: B-1, WSP memorandum Copper Flat Water Balance R2 (R. Srivastava, M. DhePaganon), 5 Dec 2025, with the conventional and filtered-stack balance figures.	NMCC / WSP
C	Hydrology. Exhibits: C-1, DBS&A Updated Probable Hydrologic Consequences Analysis, 14 Aug 2025, Revision 1 of 16 Jun 2026 (figures revised in response to MMD's 1 May 2026 comment; filed with MMD in NMCC's May 2026 response package); C-2, DBS&A memorandum to NMCC, Drawdown Effects of the 2026 MORP on Wells in Lower Las Animas Creek, 16 Oct 2026 (N. Blandford, F. Botros; DB24.1322), with a section on the Hillsboro MDWCA wells; Figures 1–6: regional maximum drawdown under the previous and the 2026 MORP, well locations, drawdown at the Las Animas Creek wells under each plan, and the simulated hydrograph at GWQ-11-27.	DBS&A / NMCC
D	Summary of written and oral comments: Table D-1, the 21 written comments filed with MMD on the amended plan (14 Oct 2025 to 8 Aug 2026), by date, commenter and subject, with the section of this response that answers each; Table D-2, the 26 oral comments made at the hearing of 17 Sep 2026, from MMD's audio recording, with the section that answers each; Table D-3, questions put to the applicant panel during the hearing and the answers given.	NMCC
E	Agency determinations and agreements. Exhibits: OSE Dam Safety determination, 5 Jun 2026; FERC acceptance ER26-2724-000, 16 Jul 2026; NMED technical completeness DP-1840, 22 Jun 2026; NMDOT–NMCC Cooperative Project Agreement for NM-152, Contract D15995, 23 Jul 2018, with the corridor figure and typical sections.	NMCC
F	Water rights. Exhibits: Final Subfile Order, CV 96-888, 12 Dec 2023; DBS&A Table 2-1 (pumping schedule within the right).	Water counsel
G	Supporting technical basis — available to MMD on request, not filed with this response: NMCC-ENG-HAZ-007 Rev B (storm runoff and downstream consequence, with calculation record), NMCC-ENG-HYD-006 Rev 0 (NMCC 1,000-year containment check), WSP water-management verification, October 2026 (channel freeboard on the SCS Type II and Atlas 14 temporal patterns; seepage-pond stage volumes), NMCC-ENG-DTW-001 Rev 1 (water management operating standard), NMCC Fugitive Dust Management Plan Rev 2 (prepared for the NMED air quality permit), NMCC-ENG-HAZ-008 Rev B (ALARP and observational-method position note).	NMCC / WSP

Glossary of Terms

Term	Meaning
ac-ft / AF / AF/yr	Acre-foot (325,851 US gallons; 1,233.5 m^3); acre-feet per year

Term	Meaning
Active zone	Outer zone of the stack beneath the final slopes, compacted to a higher density than the main body
ALARP	As low as reasonably practicable: risk is reduced until the cost of further reduction is grossly disproportionate to the benefit
CN	NRCS curve number: an index of how readily a surface sheds rain
Contact water	Water that has touched tailings or other mine materials; collected, contained and reused
CQA	Construction quality assurance
D-564	OSE file number for the historic Quintana tailings dam (jurisdictional)
DBS&A	Daniel B. Stephens & Associates, hydrologists
DP-1840	NMED groundwater discharge permit for Copper Flat
DSTSF	Dry-stack tailings storage facility (WSP: cake stack tailings facility, CSTF)
EAP / TARP	Emergency action plan / trigger-action-response plan
EBID	Elephant Butte Irrigation District
EOR	Engineer of Record (WSP USA; R. Srivastava, P.E.)
FoS	Factor of safety
Freeboard	Vertical margin between the highest allowed water level and the crest
GISTM	Global Industry Standard on Tailings Management (2020)
HDPE	High-density polyethylene geomembrane; 80 mil = 2.0 mm
kh	Horizontal seismic coefficient used in pseudo-static stability analysis
Liner interface	Contact between the geomembrane and the material above or below it; δ is its friction angle
MMD	Mining and Minerals Division, EMNRD
Moisture, wet / dry basis	Water as a share of total mass (wet) or of dry solids (dry); 14% wet = 16.3% dry
MWMP / SPLP / NAG	Meteoric Water Mobility Procedure and Synthetic Precipitation Leaching Procedure (leach tests); net acid generation test
NMAC	New Mexico Administrative Code
NOAA Atlas 14	National Oceanic and Atmospheric Administration precipitation-frequency atlas
Observational method	Design for the most probable conditions, measure what governs, and decide responses in advance (Peck 1969)
OSE	Office of the State Engineer
PFS	Pre-feasibility study (WSP, March 2025)
PGA	Peak ground acceleration, in g
PHC	Probable hydrologic consequences analysis
Proctor	Laboratory compaction test; relative compaction is the field dry density as a share of the Proctor maximum
Saturation, S	Share of the pore volume filled with water
SRCE	Standardized Reclamation Cost Estimator
Seepage collection pond	Lined contact-water pond that receives underdrain seepage and runoff from the stack
Type II / Type II-75	SCS 24-hour design-storm distribution; the NRCS New Mexico variant with a heavier peak hour
Underdrain	Gravel layer and perforated pipes on the liner that carry seepage to the pond

CERTIFICATION

The undersigned authorized representative of New Mexico Copper Corporation certifies that, to the best of the corporation's knowledge and belief, the factual and project information provided in this submission is true, accurate, and complete.

The undersigned Professional Engineer certifies that the engineering analyses, technical conclusions, recommendations, and professional opinions presented in this submission were prepared under my responsible charge.

Stephen Crosby

Digitally signed by Stephen Crosby
DN: C=US, E="scrosby@nmcopper.com ", O=NMCC, OU="NMCC Copper Flat ", CN=Stephen Crosby
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Appendix A

Response to Dr. D. Chambers (stability of the filtered-tailings facility)

A-1 WSP, letter to the Director, Mining and Minerals Division: Response to Public Comment, 16 October 2026 (Ref. 24688457)

Documents cited in the letter and already in MMD's record or available on request: WSP Pre-Feasibility Engineering Design and Appendix F; REP-200; climate data (Hillsboro NOAA normals; Caballo pan evaporation); tailings testing basis and production QC plan.

October 16, 2026 Reference No. 24688457

Director
Mining and Minerals Division
NM Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, NM 87505

RESPONSE TO PUBLIC COMMENT – PUBLIC HEARING ON THE COPPER FLAT MINE AMMENDED APLICATION

1.0 INTRODUCTION

WSP Perú S.A. (WSP), on behalf of the New Mexico Copper Corporation (NMCC), provides the following responses to comments presented during the September 17, 2026, public hearing regarding the proposed Cake Stack Tailings Facility (CSTF) for the Copper Flat Project.

During the hearing, comments were presented concerning the slope stability evaluation and design basis documented in WSP's March 17, 2025 technical memoranda, including Pre-Feasibility Engineering Design Cake Stack Tailings Facility – Copper Flat Project, and Slope Stability Analysis, Appendix F, Pre-Feasibility Engineering Design for the Cake Stack Tailings Facility – Copper Flat Project. The comments included recommendations concerning saturation conditions, flood and seismic design criteria, site-specific seismic hazard characterization, foundation characterization, and construction compaction requirements.

WSP appreciates the opportunity to clarify the technical basis of the Pre-Feasibility Study (PFS) design and to distinguish between analyses appropriate to the current level of engineering and investigations and design activities that would normally be advanced as the project progresses through subsequent stages of engineering.

Importantly, the March 17, 2025 work represents a pre-feasibility-level engineering design. Recommendations within the WSP documentation identifying additional investigations or analyses should therefore not, by themselves, be interpreted as deficiencies in PFS design. Rather, such recommendations identify matters to be addressed as the design is advanced and additional site-specific information becomes available.

The responses below address the main observations and recommendations presented regarding the CSTF.

2.0 RESPONSE TO TECHNICAL RECOMMENDATIONS

Recommendation 1: Modelling needs to take account for the possibility of re-saturation, e.g. related to a superstorm infiltration.

WSP acknowledges that infiltration resulting from extreme precipitation events is an important consideration in evaluating the performance of the proposed CSTF. However, the term “superstorm,” as used in the comment, does not define a specific precipitation magnitude, duration, frequency, or return period and therefore does not, by itself, constitute a quantifiable engineering design criterion. Engineering analyses require defined loading conditions against which facility performance can be evaluated.

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The design presented for the CSTF was developed using defined design criteria, including the applicable precipitation design event established under the New Mexico Administrative Code. Specifically, 20.6.7.17(D)(2)(a) NMAC establishes a 100-year, 24-hour design storm. Accordingly, the hydrologic and geotechnical evaluation should be assessed against the applicable regulatory and project-specific design criteria rather than against an undefined “superstorm” scenario.

In addition, the occurrence of an extreme precipitation event does not, in itself, establish that the filtered tailings stack would become re-saturated. The pore-water conditions resulting from precipitation depend on the magnitude and duration of the event and on site- and facility-specific factors, including the hydraulic characteristics of the tailings, antecedent moisture conditions, facility geometry, drainage provisions, and surface-water management. Consequently, assuming re-saturation of the stack solely on the basis of an undefined extreme storm would not represent a defined engineering loading condition and would require additional technical basis.

For conditions exceeding the established design basis, operational monitoring, contingency planning, and emergency response provide additional layers of risk management. As the project advances through subsequent stages of engineering, updated site characterization, design information, and applicable regulatory requirements can be incorporated into the design and used, as appropriate, to refine the evaluation of infiltration and pore-water conditions.

Recommendation 2: Engineering design needs to respect the GISTM (2020) recommendations for seismic and flood design events for facility closure

WSP does not agree with the implication that the design criteria adopted for the CSTF are inconsistent with the Global Industry Standard on Tailings Management (GISTM, 2020). The design basis presented in the WSP (2025) report should be considered in the context of the complete information provided in Table 3-1, Design Criteria – Geotechnical, including its accompanying notes. The excerpt of Table 3-1 presented during the public comment did not show the complete table or its accompanying notes. The omitted portions provide relevant context regarding the consequence classification used to establish the design criteria, including the basis for considering a High failure consequence classification. Therefore, the excerpt, when considered in isolation, does not fully represent the basis upon which the seismic and flood design criteria in the PFS were established. As documented therein, the seismic and flood design criteria were selected considering a High failure consequence classification and the criteria used to establish that classification.

A distinction must also be made between operational design conditions and closure design conditions. The WSP (2025) report does not represent the configuration evaluated in the pre-feasibility study (PFS) as the final passive-closure configuration. Rather, the analysis evaluates the CSTF for the design conditions applicable to the operational configuration considered at the PFS level. Under those conditions and the consequence classification adopted for the facility, the seismic and flood design criteria are aligned with the applicable GISTM recommendations for operations.

The fact that different design events may apply to the facility at closure does not render the operational design basis inconsistent with GISTM. Applicable closure requirements are not discretionary and would need to be satisfied when the facility transitions to closure. However, whether the facility is designed from the outset for the final closure conditions, or whether the operational configuration is subsequently transitioned and adapted to satisfy those closure requirements, is a design and closure-planning decision. The PFS followed the latter framework and did not represent the operational configuration as the final passive-closure condition.

Accordingly, applying closure-specific seismic and flood criteria directly to the operational configuration analyzed in the PFS conflates two distinct stages of the facility lifecycle. Closure-specific loading conditions and

performance requirements would be evaluated for the closure configuration as closure planning and engineering are advanced. This does not indicate a deficiency in the operational design criteria presented in the PFS.

Recommendation 3: A site-specific seismic hazard analysis needs to be conducted as recommended by WSP

WSP agrees that a site-specific seismic hazard assessment should be performed as the project advances, consistent with the recommendation already included in the WSP (2025) report. As such, the need for a site-specific seismic hazard assessment was identified by WSP as part of the PFS and is not a new issue identified through the public comment process. The presentation itself reproduces WSP's recommendation that a site-specific seismic hazard study be conducted.

However, the recommendation to perform a site-specific seismic hazard assessment during a subsequent stage of engineering does not invalidate the seismic basis or the stability analyses completed at the PFS level. For the PFS, WSP used the USGS precomputed probabilistic seismic hazard curves associated with the USGS National Seismic Hazard Models (NSHMs) to establish the seismic parameters used in the analyses. Site conditions were characterized as Site Class D based on the available subsurface information, including 647 Standard Penetration Tests (SPTs) performed for the project.

Accordingly, the PFS seismic stability evaluation was not performed in the absence of a seismic hazard basis or without consideration of site conditions. Rather, the analysis used an established probabilistic seismic hazard framework together with the available site-specific geotechnical information to establish seismic parameters appropriate for the PFS level of engineering. A future site-specific seismic hazard assessment will provide an opportunity to further refine those parameters as the project advances. The refined parameters should be incorporated into subsequent stages of engineering, as appropriate, and the seismic stability analyses reviewed and updated if warranted by the results. Therefore, WSP agrees with the recommendation to complete a site-specific seismic hazard assessment as the design advances but disagrees with any implication that the absence of such an assessment at the PFS stage invalidates the seismic stability analyses presented in WSP (2025). The recommendation represents a refinement of the seismic design basis as the project advances, rather than a deficiency in the PFS analysis.

Recommendation 4: The depth and extent of the soils that underlie the CSTF need to be determined as recommended by WSP.

WSP agrees that additional characterization of the foundation materials underlying the CSTF is appropriate as the project advances beyond the PFS level of engineering.

The purpose of geotechnical investigations evolves with the level of design. At the PFS stage, available subsurface data are used to establish a reasonable geotechnical model and determine whether the proposed facility is technically feasible. Subsequent phases of investigation provide progressively greater definition of the stratigraphy, engineering properties, spatial variability, and groundwater conditions required to support detailed/final design.

Therefore, the recommendation for additional subsurface characterization should not be interpreted as indicating that the PFS stability analyses are inherently invalid. Rather, it establishes a logical next step in progressing the design. The stability analyses should be revisited, as appropriate, using the refined foundation model developed from subsequent field investigations.

Recommendation 5: The tailings in the CSTF need to be compacted by compacting equipment, not compaction by equipment traffic, and the compaction confirmed by density testing

WSP does not agree with the implication that the CSTF design relies solely on uncontrolled equipment traffic for compaction or that compaction requirements have not been established. The PFS design establishes different compaction requirements for different portions of the CSTF based on their intended function. Specifically, the active zone is specified to achieve 95% relative compaction using compaction equipment, consistent with its role in stability and erosion control. The main body of the CSTF is specified to achieve a minimum of 90% relative compaction with respect to the maximum dry density determined by Proctor testing, with tailings placed on the wet side of optimum moisture content.

For the main body of the CSTF, the specified compaction criterion may be achieved through controlled equipment traffic, provided that the required density and moisture criteria are achieved. Therefore, the relevant engineering requirement is not the use of a particular type of compaction equipment, but achievement of the specified in-place material condition upon which the design is based.

The PFS report does not prescribe the number of equipment passes required to achieve the specified compaction or the frequency of field density testing. Those requirements represent construction-level details that would be established in the technical specifications and Construction Quality Control (CQC) and Construction Quality Assurance (CQA) documentation. These documents would define the procedures and acceptance criteria necessary to verify that the constructed tailings achieve the engineering properties specified by the design.

Accordingly, WSP agrees that achievement of the specified compaction should be verified during construction, but does not agree that dedicated compaction equipment is necessarily required throughout the entire CSTF. The PFS establishes performance-based compaction criteria for the different zones of the facility, while the means and methods necessary to achieve those criteria and the corresponding testing and verification requirements are appropriately developed through the technical specifications and CQC/CQA program as the design advances.

3.0 RESPONSE TO ADDITIONAL COMMENTS

Comment 1: Comparison of the CSTF to Upstream Dam Construction

WSP does not agree with the characterization of the proposed CSTF as being analogous to an upstream-raised conventional tailings dam. This comparison appears, in part, to rely on the assumption that only the outer active zone of the CSTF is compacted while the main body of the facility remains uncompacted. As clarified in WSP's response to Recommendation 5, this is not the design basis for the CSTF.

Both the active zone and the main body of the CSTF are designed as compacted filtered tailings, although different compaction requirements apply to the two zones. The active zone is specified to achieve 95% relative compaction using compaction equipment, while the main body is specified to achieve 90% relative compaction relative to the maximum dry density determined by Proctor testing, with placement on the wet side of optimum moisture content. The higher compaction requirement within the active zone is an intentional design measure that, among its functions, provides additional resistance to potential erosion of the exposed facility face. Accordingly, the distinction between the two zones should not be interpreted as a distinction between “compacted” and “uncompacted” tailings.

The comparison with upstream dam construction is also not technically representative of the proposed facility. In conventional upstream tailings dam construction, successive embankment raises may be constructed over previously deposited wet tailings associated with an impoundment used for slurry tailings deposition. By contrast, the proposed CSTF is a filtered tailings facility in which the tailings are placed and compacted to specified engineering requirements. The facility is not designed as a conventional slurry tailings impoundment containing wet deposited tailings and a supernatant pond.

Therefore, the superficial geometric resemblance between staged construction of the CSTF and successive raising of an upstream tailings dam does not establish equivalence between the two construction methods. The engineering behavior of the facility is governed by the material condition, placement and compaction requirements, pore-water conditions, foundation conditions, geometry, and loading conditions incorporated into the design. The proposed CSTF should therefore be evaluated on the basis of its actual design and construction criteria rather than by analogy to an upstream-raised conventional tailings dam.

Comment 2: Failures at the Pau Branco Mine and Turmalina Mine in Minas Gerais, Brazil, as examples of failures involving filtered tailings and referenced these events in the context of the stability of the proposed CSTF.

WSP acknowledges that failures involving filtered tailings and mine-waste stacks provide valuable case histories and should be considered in the continued development of industry practice. However, the occurrence of a failure at another filtered-tailings or mine-waste facility does not, by itself, demonstrate that the proposed Copper Flat CSTF is susceptible to the same failure mechanism. Meaningful comparison requires consideration of the site-specific climatic conditions, material characteristics, placement and compaction requirements, facility geometry, foundation conditions, surface-water and seepage management systems, operational practices, and the specific mechanisms that contributed to each failure.

With respect to Pau Branco, available information indicates that the January 2022 event involved instability of a mine-waste stack followed by material entering the Lisa stormwater-retention structure and causing overtopping. Brazil's National Mining Agency reported that the event required measures to stabilize the upstream pilha de rejeitos e estéreis, or tailings and waste-rock pile. Other published accounts characterize the failed pile as a co-disposal stack of waste rock and tailings, and report that unusually heavy rainfall affected Minas Gerais during the period of the incident. Accordingly, the Pau Branco event should not be treated as directly representative of the proposed Copper Flat CSTF solely because filtered tailings were involved.

The climatic context is also materially relevant. The Pau Branco event occurred during a period of unusually heavy rainfall in Minas Gerais, and published reporting indicates that material from the waste pile slid into the rainwater containment structure during those conditions. Consequently, attribution of the event simply to “re-saturation” does not, by itself, demonstrate that an equivalent mechanism is applicable to Copper Flat. Such a conclusion would require consideration of the respective climatic conditions, water-management systems, material properties and pore-pressure response at each facility.

With respect to Turmalina, the December 7, 2024 event involved a slump in the north wall of the Satinoco pile. The operator described Satinoco as a dry-stack pile comprising filtered tailings and waste rock, rather than solely a filtered-tailings stack. Publicly available technical commentary also indicates that establishing the failure mechanism requires further evaluation. For example, independent commentary identified the planar character of the sliding surface and raised the possibility of a pre-existing plane of weakness, rather than establishing a single definitive failure mechanism.

Therefore, neither case history should be interpreted as evidence that filtered-tailings technology itself is inherently unstable or that a comparable failure mechanism applies to the Copper Flat CSTF. The stability of the proposed CSTF should instead be evaluated based on its site-specific design criteria and conditions, including filtered-tailings characteristics, specified placement and compaction requirements, facility geometry, foundation conditions, hydrologic setting, water-management measures, pore-water assumptions, and applicable loading conditions.

The Pau Branco and Turmalina incidents provide useful lessons regarding the importance of water management, construction control, monitoring, and appropriate characterization of site and material conditions. They do not, however, establish technical equivalence with the Copper Flat CSTF. Failure case histories are most appropriately used to identify potential failure modes for consideration, rather than as substitutes for a site-specific stability assessment.

4.0 CLOSING

WSP appreciates the comments and concerns raised by Dr.Chambers and recognizes their value as considerations for the continued development of the project. Nevertheless, these comments do not invalidate the analyses performed, the engineering approach adopted, or the technical basis of the current design. The completed to date engineering already considers the underlying mechanisms and potential conditions associated with the concerns raised at a level appropriate to the current stage of design. As the project advances and additional site-specific information becomes available, the design can and will be further optimized and refined, as is inherent to the progressive development of an engineering design.

Appendix B

Response to Dr. S. Emerman (water consumption)

B-0 WSP, response to Dr. Emerman's recorded testimony (R. Srivastava, Ph.D., P.E., 16 October 2026)

B-1 NMCC-REG-RTC-002 Rev D, Response to Public Comment: S. H. Emerman — response matrix, the conventional and filtered balances side by side, and the base-case balance

B-2 WSP, memorandum: Copper Flat Water Balance, R2 (R. Srivastava, M. DhePaganon), 5 December 2025

WSP/NMCC response to Dr. Emerman’s Video Testimony

Dr. Emerman's 60 Percent Water Savings Limitation

A central premise of Dr. Emerman's testimony is his assertion that filtered tailings technology can reduce mine water consumption by no more than approximately 60 percent relative to conventional tailings disposal. This assertion is the foundation upon which he derives his conclusion that Copper Flat must consume approximately 2,500 acre-feet per year of water.

However, Dr. Emerman provides no credible technical basis for this limitation.

Most significantly, Dr. Emerman does not identify a single operating mine that has converted from a conventional slurry tailings storage facility to a dry stack tailings facility and subsequently demonstrated, through measured operating data, that water savings were limited to 60 percent. Nor does he provide any published database, peer-reviewed study, industry benchmark dataset, or operational case history establishing 60 percent as a maximum achievable reduction in water consumption.

The absence of such evidence is particularly noteworthy because the entirety of Dr. Emerman's quantitative conclusion rests upon this assumption.

In preparing this rebuttal, publicly available information regarding filtered tailings operations was reviewed together with WSP's extensive tailings experience and internal tailings database, which includes numerous dry stack tailings projects worldwide. No evidence was identified demonstrating that a universal 60 percent upper limit exists for water savings associated with filtered tailings technology. To the contrary, water recovery performance is widely recognized as highly site-specific and dependent upon numerous factors including:

- tailings mineralogy;
- particle size distribution;
- filtration technology;
- filter cake moisture content;
- process-water recovery systems;
- climatic conditions;
- evaporation rates;
- precipitation inputs;
- seepage characteristics;
- dust control requirements; and
- overall process plant configuration.

Because these variables differ substantially between projects, there is no technical basis for imposing a universal water-recovery ceiling applicable to all dry stack operations.

Dr. Emerman's testimony makes no attempt to demonstrate that the Copper Flat design is incapable of achieving the water recovery assumed in the project's engineering water balance. Instead, he substitutes a generalized and unsupported industry assumption for a project-specific engineering calculation.

This is not a valid engineering methodology.

If Dr. Emerman intends to reject the Copper Flat water balance, the burden of proof rests on demonstrating where the water balance is incorrect. Specifically, he must identify:

1. an omitted water-loss mechanism;
2. an erroneous process-water recovery assumption;
3. an incorrect evaporation calculation;
4. an unrealistic filter-cake moisture assumption; or
5. a mathematical error in the water balance.

His testimony identifies none of these.

Instead, Dr. Emerman begins with an assumed conventional-tailings water demand and applies a generalized reduction factor to arrive at a preferred result. Such an approach is not equivalent to a water balance and cannot supersede a site-specific engineering analysis.

The Copper Flat water balance explicitly accounts for:

- water retained in filtered tailings;
- tailings deposition losses;
- tailings evaporation;
- dust suppression;
- concentrate moisture;
- concentrate evaporation;
- stockpile losses;
- seal water;
- precipitation inputs;
- pit groundwater inflows; and
- process-water recovery.

After accounting for all inflows, recoveries, and losses, the calculated make-up water requirement is approximately 1,050 acre-feet per year.

To support his alternative estimate of approximately 2,500 acre-feet per year, Dr. Emerman would need to identify and quantify approximately 1,450 acre-feet per year of additional unrecovered water losses not accounted for in the engineering model:

His testimony identifies no such losses.

Accordingly, the 60 percent limitation is not demonstrated, not substantiated, and not tied to the Copper Flat project. It is simply assumed. Because the 2,500 acre-feet per year estimate is derived directly from this unsupported assumption, the resulting conclusion lacks a reliable technical foundation.

Critique of Expert Methodology

The reliability of expert testimony depends not only on the expert's credentials but also on the methodology used.

In this instance, Dr. Emerman's analysis exhibits several significant methodological deficiencies:

No Site-Specific Water Balance

The testimony presents no independent Copper Flat water balance.

No Reconciliation of Water Flows

No quantitative reconciliation of inflows, recoveries, and losses is provided.

No Error Analysis

No calculation error has been identified in the project's water balance.

No Sensitivity Analysis

The testimony does not evaluate whether reasonable changes to filter moisture, evaporation, or dust-control assumptions would materially alter the conclusion.

Unverified Assumption Drives Conclusion

The 60 percent limitation is treated as fact despite the absence of demonstrable project-specific support.

Conclusion Precedes Analysis

Rather than deriving water demand from site conditions, the testimony begins with a preferred percentage reduction and works backward toward a desired result.

From an engineering perspective, this reverses the proper analytical sequence.

WSP Cross-Examination Questions

Because Dr. Emerman's testimony was submitted in recorded form and did not permit contemporaneous examination, the following questions should be considered essential to evaluate the reliability of his conclusions.

Basis of the 60 Percent Limitation

1. Please identify the original source of your statement that filtered tailings can reduce water consumption by no more than approximately 60 percent.
2. Is the 60 percent figure derived from a peer-reviewed publication, operating data, industry database, or personal estimate?
3. What is the complete citation for the source of the 60 percent limitation?
4. Is the 60 percent value a maximum, an average, or a reported value from a specific project?
5. How many operating dry stack mines were included in the dataset on which the 60 percent figure is based?
6. What were the climates, commodities, throughput rates, and filter technologies of those mines?
7. Have any of those facilities reported water savings greater than 60 percent?
8. Can you identify any technical reason why water savings greater than 60 percent would be physically impossible?
9. Is the 60 percent figure based on measured operating data or modeled projections?
10. Have you independently verified the underlying data?

Project-Specific Analysis

11. Did you prepare an independent Copper Flat water balance?
12. If so, please provide the complete mass balance.
13. If not, on what basis do you reject the Copper Flat water balance?
14. Which specific streams in the Copper Flat water balance are incorrect?
15. What are the corrected values for those streams?
16. Which assumptions regarding filter performance are invalid?
17. What filter-cake moisture content do you believe should be used?
18. What test work supports your alternative assumption?
19. Have you reviewed the process design criteria for the Copper Flat filtration system?

20. Have you reviewed the complete water balance workbook?

Missing Water Losses

21. Please identify each water loss mechanism omitted from the Copper Flat model.
22. How much water is associated with each omitted loss?
23. What is the total annual volume of omitted losses?
24. Can you demonstrate mathematically how these omitted losses increase demand from approximately 1,050 ac-ft/yr to approximately 2,500 ac-ft/yr?
25. Where specifically does the additional 1,450 ac-ft/yr of water leave the system?
26. Is this quantified anywhere in your testimony?

Engineering Consistency

27. Do you agree that a valid water balance must reconcile all inflows, outflows, and water recoveries?
28. Can you provide such a reconciliation for your 2,500 ac-ft/yr estimate?
29. Is your estimate derived from a closed mass balance?
30. If not, why should your estimate be considered more reliable than the project-specific engineering water balance?

Ultimate Question

31. Can you identify a single quantified error in the Copper Flat water balance that, when corrected, results in a make-up water requirement of approximately 2,500 ac-ft/yr?
32. If not, what technical basis exists for rejecting the project's calculated water demand of approximately 1,050 ac-ft/yr?

Conclusion

WSP's response shows **the absence of evidence supporting the 60% assumption, the lack of a project-specific mass balance, and the failure to account for the approximately 1,450 ac-ft/yr discrepancy required to reach Dr. Emerman's conclusion.** These are substantial technical weaknesses that go directly to the reliability and weight of his video testimony.

RESPONSE TO PUBLIC COMMENT

S. H. Emerman, Ph.D. (Malach Consulting) — Water Consumption at the Proposed Copper Flat Mine, NMMMD hearing, 17 Sep 2026

Document control	
Document / revision	NMCC-REG-RTC-002 · Rev D · 16 Oct 2026
Status	Appendix B to NMCC-REG-HRG-002 (NMCC response to the MMD public hearing of 17 September 2026). The commitments in the right-hand column of the response table are offered as described in Section IV of the Response. Exhibit B-1: WSP, Copper Flat Water Balance, memorandum R2, 5 December 2025 (attached).
Prepared by	Stephen Crosby, SVP Project Development, New Mexico Copper Corporation
Comment reviewed	Video presentation and slides (12 min 13 s, 11 slides) on water consumption with conventional versus filtered tailings

1. Summary

Dr. Emerman argues that filtered tailings cannot save more than 60% of the water used by a conventional facility, and that Copper Flat will need at least 2,500 AF/yr rather than ≈1,050. Several of his inputs are correct and are already in the balance: concentrate water, dust control, and credits for precipitation and runoff. His analysis is incorrect in three respects. No 60% standard is cited. His own evaporation source places an arid site like Copper Flat at the high end of the savings range. His 2,500 AF/yr figure leaves out the water that arrives with the ore and would require the filters to deliver cake at roughly 21–25% moisture, against a 14% design; the filtered cake is the only water the stack receives. The real variables are cake moisture and dust-control water, and testwork and a bottom-up dust estimate are in hand or proposed. Consumption is capped by the 1,051 AF/yr water right; NMCC will operate within it and will reduce mill throughput if that is what it takes.

2. Figures side by side

Item	Dr. Emerman	NMCC / WSP basis
Conventional-case consumption	6,100 AF/yr	≈6,080 AF/yr (Jul 2020 projection); 4,650 AF/yr (WSP R2 conventional case)
Filtered-case well make-up	≥2,500 AF/yr (minimum)	984 AF/yr (WSP R2); 860–1,268 AF/yr across NMCC model scenarios
Reduction	≤60% (stated as industry standard)	77% (R2 headline); ≈72% for tailings-related water, dust line excluded
Filter-cake moisture	17% typical; 15%+ target (dry basis)	14% wet design = 16.3% dry; 13–16% wet operating range; 12% wet in testwork
Water intensity	0.13 m^3/t treated as all retained in tailings	0.13 m^3/t is net make-up after 371 AF/yr of free inflow
Climate	Arid / semi-arid favours evaporation savings	12.3 in/yr precipitation; 86.11 in/yr pan; 62.66 in/yr net evaporation

3. Filtered-stack water balance — base case (AF/yr)

Water in	AF/yr	Water out (consumptive)	AF/yr
Well make-up (residual)	994	Retained in stack	963
Moisture in ROM ore (3.1%)	246	Evaporation from active stack	172
Storm-water capture	64	Dust control and other mine uses	149
Pit groundwater	36	Stockpile drying	61
Precipitation on active stack	25	Domestic / WWTP	12
		Cu and Mo concentrate	7
Total	1,365	Total	1,365

Source: NMCC-WB-MDL-001 Rev 0, Scenario 1, aligned to WSP R2 (5 Dec 2025): 14% placed cake, drain-down recovered, 337 operating days, 1,333 stph. Rounded.

4. Response matrix

#	Comment	Reference	NMCC response	NMCC commitment
1	The project claims 1,050 AF/yr with filtered tailings against 6,100 AF/yr conventional, an 82.8% reduction. Can 80% be achieved?	Slide 4	The 82.8% compares two different balances: the Jul 2020 conventional-TSF projection (≈6,080 AF/yr) and WSP TM-001 (Oct 2024, 1,050 AF/yr). The current WSP site-wide balance (R2, 5 Dec 2025) gives 984 AF/yr well make-up against 4,650 AF/yr for the conventional case. R2 also changes the dust-control and other-mine-use line between cases (1,490 to 149 AF/yr). Excluding that line from both, tailings-related consumption falls from ≈3,160 to ≈900 AF/yr, a ≈72% reduction.	NMCC will restate the comparison on a like-for-like basis (the same non-tailings uses in both cases) in the feasibility study.
2	Conventional tailings hold 150–400% water; filtered tailings typically 17% (water content = mass of water ÷ mass of solids).	Slide 5	Agreed, with a note on basis. He uses the dry basis. NMCC and WSP quote cake moisture on the wet basis (water ÷ total mass). The design cake of 14% wet is 16.3% dry, i.e. his 'typical' value. The project operating range of 13–16% wet is 14.9–19.0% dry.	None. NMCC states the moisture basis wherever moisture is quoted.
3	Pond water is recycled to the plant, so the true saving is far smaller. A generic example (30 t solids) shows only 26%.	Slides 6–7	The example leaves out evaporation and seepage, which he adds on the next slide. It also holds 7 t of pore water per 30 t of solids (23% dry). For illustration, saturated tailings settled at 1.4 t/m^3 (Gs 2.67) hold ≈34% water dry basis, about one and a half times that figure. At Copper Flat, net evaporation is 62.66 in/yr, so each 100 acres of wet beach or pond loses ≈520 AF/yr. The comparison should come from the two site balances, not a generic diagram.	None.
4	Pond evaporation is 5% to over 60% of TSF water loss (Spiller & Dunne 2017). Under the most unfavourable conditions the saving could reach 71%.	Slide 8	Agreed. The conditions he lists (high temperature, high solar radiation, low humidity, wind) describe Copper Flat: 12.3 in/yr precipitation, 86.11 in/yr pan evaporation, net evaporation in every month. By his own source the site sits at the high end of the range. His 71% is also above the 60% he calls the industry limit on the next slide.	None.
5	Industry standard: filtered tailings cannot achieve more than a 60% reduction.	Slides 9, 11	No source is given for a 60% limit, and NMCC is aware of no standard or guideline that sets one. A fixed percentage applied to another project's baseline is not a water balance: 6,100 × 0.40 = 2,440 AF/yr, which appears to be the source of his 2,500. The saving depends on climate, deposition method and what the stack retains.	None. See WSP's response to Dr. Emerman (Appendix B).
6	Water to concentrate and to dust control elsewhere on site is the same either way and must be counted.	Slides 9, 10	Agreed, and both are in the balance: Cu concentrate 7 AF/yr (255 dry st/d at 90% solids), Mo concentrate <1, stockpile drying 61, dust control and other mine uses 149, domestic 12 AF/yr. Concentrate water is small. Haul roads will be treated with magnesium chloride (FDMP Rev 2), a hygroscopic suppressant that binds fines and reduces the water needed for road dust control compared with watering alone. The current dust-control figure is a percentage of an earlier estimate rather than a build-up, and is being replaced.	NMCC will prepare a bottom-up dust-control water demand (haul-road area, magnesium chloride application and re-watering frequency, crusher and stockpile sprays, and the DSTSF controls) under its Fugitive Dust Management Plan.
7	A tailings pond also gains water from precipitation and runoff.	Slide 9	Agreed. The filtered-stack balance credits the same sources: storm-water capture 64, precipitation on the active stack 25 and pit inflow 36 AF/yr. At 12.3 in/yr these are small in either case.	None.
8	In an arid climate, dust control on the filtered stack is an added water demand.	Slide 9	Agreed that it is a demand. It is controlled mainly by compaction, a small active area and progressive closure of completed surfaces under the FDMP Rev 2, with water applied as needed. Its volume belongs in the dust-control line in item 6.	Included in the bottom-up estimate (item 6).
9	Filter presses often miss the target moisture, so cake is air-dried in the field and that water is lost.	Slides 9, 10	The balance already treats all water leaving the plant in the cake as consumed, except drain-down captured on the lined stack and returned. Water that later evaporates from placed cake is that same water, not an added loss. Filtration is four filter presses (three operating, one standby) designed for 14% cake moisture against 12% achieved in testwork. Wetter cake raises make-up by ≈100 AF/yr per moisture point at design throughput.	None beyond item 10.

#	Comment	Reference	NMCC response	NMCC commitment
10	1,050 AF/yr over 29,600 st/d is 0.13 m^3/t, i.e. 13% water in the tailings. Targets are 15% or more, so minimum consumption is ≈2,500 AF/yr.	Slide 10	His arithmetic is correct: 1,051 AF/yr over ≈9.8 Mt/yr is 0.13 m^3/t. It omits the 371 AF/yr that enters free — 246 AF/yr as moisture in the ore (3.1%), plus storm capture, stack precipitation and pit inflow. Make-up is the residual after those. NMCC's balance model gives a break-even retained moisture of 11.5% wet (13.0% dry) — close to his figure — so the question is what the stack keeps, not the arithmetic. The only water the stack receives is the moisture in the filter cake; rain on the compacted surface runs off to the lined contact-water pond and is reused. Holding other demands at balance values, 2,500 AF/yr would need the filter plant to send cake to the stack at roughly 21–25% moisture (21% even with dust control at a water-only 690 AF/yr). The filters are designed for 14%, and cake above the operating band is diverted to the bypass stockpile rather than stacked. NMCC's model range is 860–1,268 AF/yr. The water right is 1,051 AF/yr and no other water is available. NMCC will operate within it: if retained moisture or other demands run above plan, mill throughput will be reduced to stay within the right.	Drain-down and consolidation testwork to confirm retained moisture; metered well make-up reported annually against the right (Section IV of the Response, condition 1); throughput set to the right.

5. References

WSP, Copper Flat Water Balance memo R2 (Srivastava / DhePaganon), 5 Dec 2025. · WSP TM-001 rB, 8 Oct 2024. · WSP, Pre-Feasibility Engineering Design, Cake Stack Tailings Facility, US0035412.9417-10-3022-10-REP-001, 17 Mar 2025, §5.0. · NMCC-WB-MDL-001 Rev 0, Site Water Balance Model, Sep 2026. · NMCC-PMT-MPR-001 (water right 1,051 AF/yr, LRG-4652). · Copper Flat Fugitive Dust Management Plan Rev 2. · Spiller & Dunne (2017), as quoted on slide 8.

MEMO

TO: Mr. Stephen Crosby

FROM: Rajiv Srivastava, Mireno DhePaganon

SUBJECT: **Copper Flat Water Balance**

PROJECT: US0035412.9417

DATE: December 5, 2025

---

1. Introduction

The Copper Flat Mine has limited availability of adjudicated freshwater, leading New Mexico Copper Corporation (NMCC) to select a filtered dry-stack tailings facility over a traditional slurry TSF. Despite higher upfront dewatering and filtration costs, the near-dry cake eliminates large ponds and dams, enabling superior water recovery and long-term risk mitigation. Water balance evaluation shows a dramatic reduction in freshwater consumption:

- Filtered dry-stack TSF: 1048 ac-ft/yr (combined freshwater make-up and storm water)
- Conventional TSF with reclaim: 4,650 ac-ft/yr (combined freshwater make-up and storm water) → 77% reduction in annual freshwater demand

This savings is driven by >90% immediate water recovery from high-efficiency filtrate return, zero evaporative loss from open ponds, and negligible seepage. The design also avoids NMOSE-regulated dams, reduces TSF footprint, enhances physical stability through compaction, and supports progressive reclamation—lowering closure costs and improving dust and erosion control.
The dry-stack approach delivers strong ESG performance, greater regulatory and community confidence, and a sustainable path forward.

Benefits of filtered stacked tailings include:

- Reduced freshwater consumption and increased tailings water recovery.
- No permitting, construction, and operation of an engineered tailings dam and seepage system regulated by NMOSE.
- Reduced risk of physical instability; dry stacked TSFs are self-supporting under compaction.
- Reduced footprint of TSF.
- Limits tailings surface dust generation and minimize tailings surface erosion.
- Reduces closure cost by allowing progressive reclamation.
- Better regulator and community perception satisfying the need for stable TSFs.
- Dry stack tailings score highly on the Environmental, Social and Governance (ESG) aspects, including visual impact.

This technical memorandum evaluates the water balance and overall freshwater make-up requirement for cake stack tailings compared to the conventional tailings dam with a reclaim water pumping back to the Processing Plant.

2. Conventional Tailings Dam

The conventional tailings approach requires pumping the tailings from the mineral processing plant (concentrator) at approximately 29 weight percent (wt%) solids to the TSF. For a 29,600 short tons per day (stpd) nominal throughput, the water in the tailing's slurry is approximately 19,000-acre ft/yr of water. Figure 1 illustrates the overall water balance for the conventional tailings scenario. Highlights of this approach are:

- The amount of water retained in the settled TSF is approximately 3,002 acre ft/yr.
- The amount of water evaporated from the TSF would be about 683 acre ft/yr.
- The amount of water used for dust control & other uses would be about 1490 acre ft/yr.
- The overall freshwater make-up and storm water collection to the site would be 4,650 acre ft/yr.

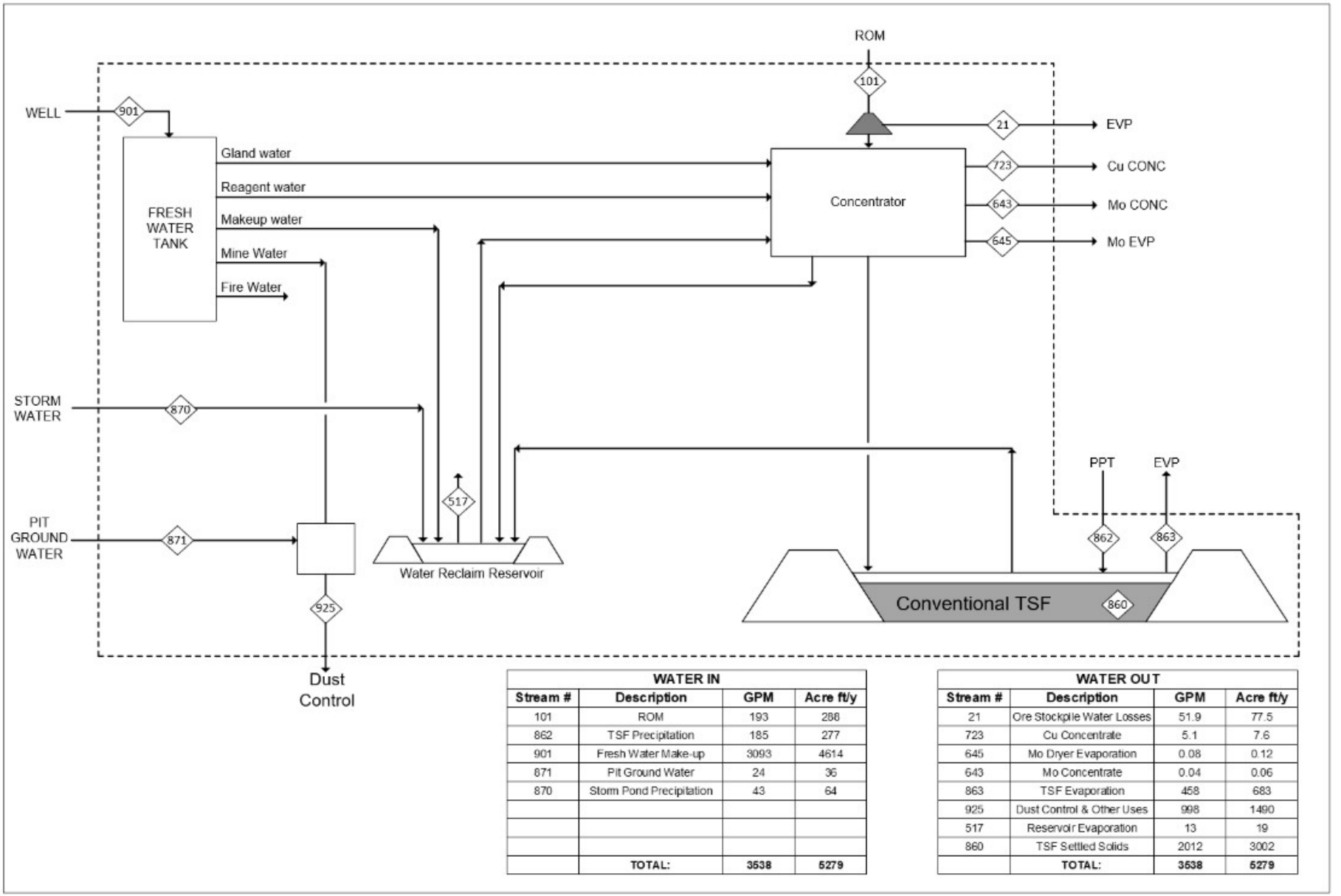
3. Filtered Cake Stack Tailings

This requires a thickener and filtration plant to separate the water from the tailings and enable conveying and stacking of the filtered tailings at about 86% solids to the TSF. The filtered tailings will therefore contain about 1,277-acre ft/yr of water. Figure 2 illustrates the overall water balance for the filtered tailings scenario. Highlights of this approach are:

- The amount of water retained in the settled TSF would be about 964 acre ft/yr.
- The amount of water evaporated from the TSF would be about 171 acre ft/yr.
- The amount of water used for dust control & other uses would be about 149 acre ft/yr.
- The overall freshwater make-up and storm water collection to the site would about 1,048 acre ft/yr.

4. Conclusion

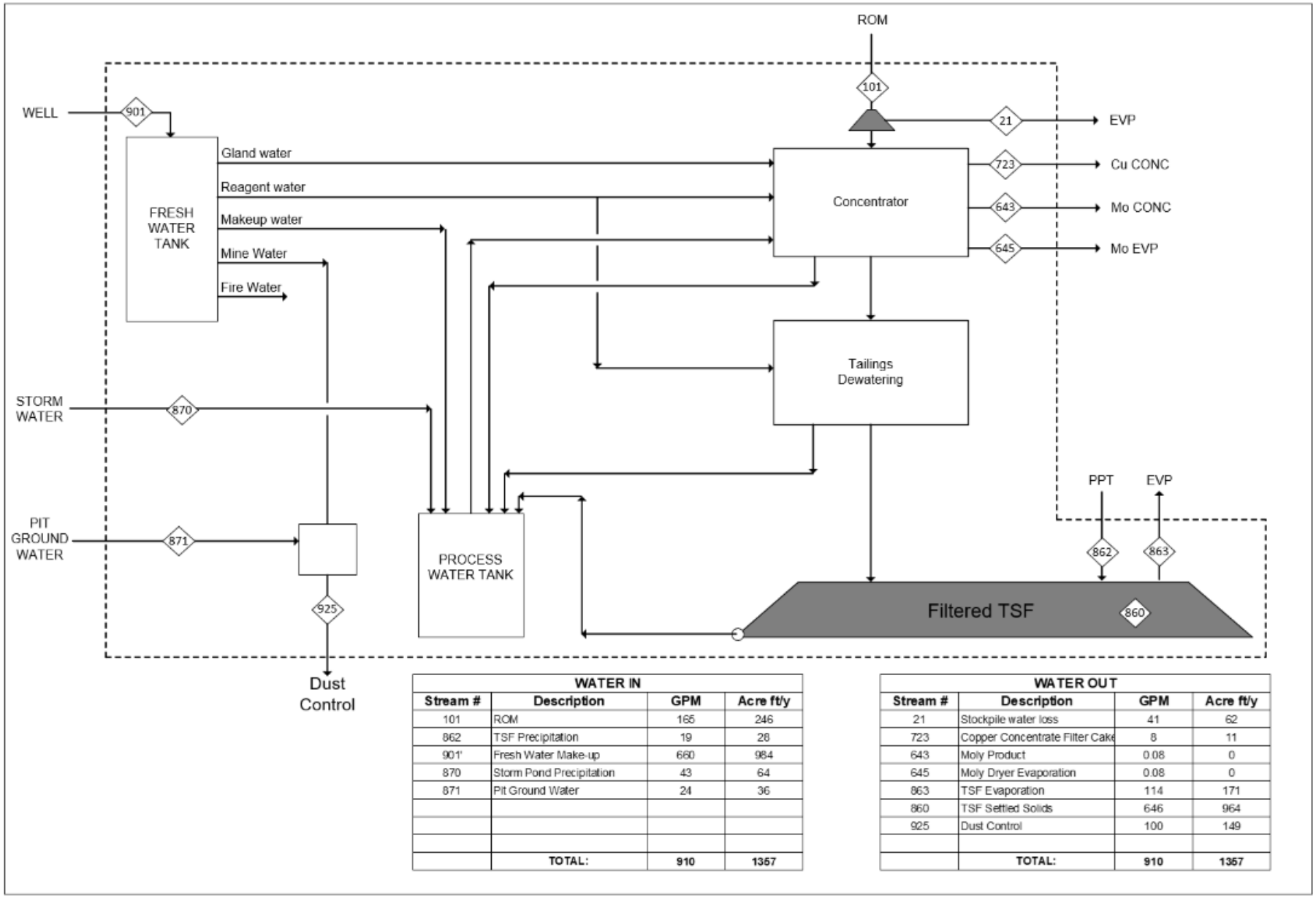
Due to the location of the mine site, freshwater consumption must be kept to a minimum. If filtered cake stack tailings is considered, the site would be able to reduce the overall freshwater consumption from 4,650 to 1,048 acre ft/yr.



WATER IN			
Stream #	Description	GPM	Acre ft/y
101	ROM	193	286
862	TSF Precipitation	185	277
901	Fresh Water Make-up	3093	4614
871	Pit Ground Water	24	36
870	Storm Pond Precipitation	43	64
	TOTAL:	3538	5279

WATER OUT			
Stream #	Description	GPM	Acre ft/y
21	Ore Stockpile Water Losses	51.9	77.5
723	Cu Concentrate	5.1	7.6
645	Mo Dryer Evaporation	0.08	0.12
643	Mo Concentrate	0.04	0.06
863	TSF Evaporation	458	683
925	Dust Control & Other Uses	998	1490
517	Reservoir Evaporation	13	19
860	TSF Settled Solids	2012	3002
	TOTAL:	3538	5279

Figure 1: Overall Water Balance - Conventional Tailings



WATER IN			
Stream #	Description	GPM	Acre ft/y
101	ROM	165	246
862	TSF Precipitation	19	28
901'	Fresh Water Make-up	660	984
870	Storm Pond Precipitation	43	64
871	Pit Ground Water	24	36
	TOTAL:	910	1357

WATER OUT			
Stream #	Description	GPM	Acre ft/y
21	Stockpile water loss	41	62
723	Copper Concentrate Filter Cake	8	11
643	Moly Product	0.08	0
645	Moly Dryer Evaporation	0.08	0
863	TSF Evaporation	114	171
860	TSF Settled Solids	646	964
925	Dust Control	100	149
	TOTAL:	910	1357

Figure 2: Overall Water Balance - Filtered Stack Tailings

Appendix C

Hydrology

C-1 DBS&A;, Updated Probable Hydrologic Consequences Analysis, 14 August 2025, Revision 1 of 16 June 2026 (filed with MMD in NMCC's May 2026 response package; included for completeness)

C-2 DBS&A;, memorandum to NMCC: Drawdown Effects of the 2026 MORP on Wells in Lower Las Animas Creek, 16 October 2026 (N. Blandford, F. Botros; DB24.1322), with Figures 1–6 and the Hillsboro MDWCA wells

Updated Probable Hydrologic Consequences Analysis Copper Flat Project

Prepared for

Copper Flat Mine
New Mexico Copper Corporation

Prepared by

T. Neil Blandford, P.G.
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DB24.1322

August 14, 2025
(Revision 1: June 16, 2026)

Revision History

Revision 1: June 16, 2026

- Three updates were made to the wells plotted on Figure A-1 and the Explanation block as follows:
  - Changed "Well used for hydrograph" in the Explanation block to "Selected well in vicinity of Copper Flat Mine." This change was made because hydrographs are not plotted for every well location in the figure.
  - Eight locations in the figure were changed from a well symbol to a spring symbol (green triangle). These locations are Cave Creek, Animas Warm, Myers, WS, CSCS-C, WSCS-A, CSCS-B, and PCS-A.
  - Updated coordinates were obtained from the prior consultant for some of the well locations in the figure. The locations are nearly the same and slight changes in the locations are either not noticeable or barely noticeable at the scale of the figure. Wells where a slight change may be noticeable upon close inspection are John Cross, Evans, Dolores, Ready Pay, Wick's Gulch, Chatfield, Ladder Airstrip, MW-8, MW-1 and Upper Percha.
  - Three Copper Flat supply wells GWQ-1, GWQ-2 and GWQ-9 (LRG-4652-S-10, LRG-4652-S-6, LRG-4652-S-9) on the mine site were added to the figure for completeness and to avoid confusion when all the wells in Figure A-1 were added to Figures 3-1 and 3-5 as explained below. In the prior (initial) version of the PHC update report, these three wells only appear on Figure 3-5, and they are not labeled by well number.
- The updated well and spring locations from Figure A-1 as described above were added to Figure 3-1, and the Explanation block was changed accordingly.
- The updated well and spring locations from Figure A-1 as described above were added to Figure 3-5, and the Explanation block was changed accordingly.

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A Projected Hydrographs

Executive Summary

This report is an update to the probable hydrologic consequences (PHC) analysis completed for the Copper Flat Project (the Project) by John Shomaker & Associates, Inc. (JSAI) revised in May 2018, referred to as the 2018 PHC analysis. Because this report is an update to the 2018 PHC analysis, only substantive changes to the 2018 PHC analysis are presented.

This updated PHC analysis is provided to account for a large decrease in Project water demand detailed in the updated water balance under separate cover. The primary change to the water balance stems from the decision by New Mexico Copper Corporation (NMCC) to use the dry stack tailing storage method rather than the wet tailing deposition behind a tailing dam storage method. In the dry stack method, the tailing is dewatered at the mineral recovery plant prior to conveyance to the tailing storage facility, and the recovered water is returned immediately for reuse in the mining process. This approach minimizes water losses, eliminates an open reservoir considered in the 2018 PHC analysis, and eliminates significant seasonal fluctuations from the Project water balance. The dry stack approach to tailing management leads to an 80 percent reduction in water demand relative to the previous wet tailing approach.

The same groundwater model applied in the 2018 PHC analysis was used to update the PHCs associated with the Project. To determine the updated PHCs, two simulations were developed: one with no Project and one with the Project. Both simulations are for a period of 113.4 years (113 years and 5 months). The Project is divided into two simulation periods: an active mining phase of 13.4 years and a post-mining phase of 100 years. The first 2.6 years of the 100-year post-mining phase has rapid fill of the pit lake to prevent oxidation of sulfates below the pit lake water line, thus optimizing pit water quality. The pit will be filled with 2,200 acre-feet of water during this period, raising the pit lake stage to the projected long-term stable water level of approximately 4,898 feet above mean sea level (feet msl). Although the rapid fill period of 2.6 years is longer than the rapid fill period of 6 months in the 2018 PHC analysis, it is believed to be short enough to achieve the intended purpose of limiting impacts to pit water quality.

Due to the large reduction in water demand estimated for the tailing dry stack approach, NMCC is able to conduct the Copper Flat Mine operation and reclamation using its existing adjudicated water rights, which total 1,046.04 acre-feet per year (ac-ft/yr). These rights are associated with seven wells completed in the Santa Fe Group (SFG) aquifer. Implicit to the exercise of these rights are the hydrologic effects attributable to NMCC's groundwater pumping, including drawdown at wells of other ownership and the diminution of stream or spring flow. Most of the

water supply (861.84 ac-ft/yr) will be obtained from wells PW-1 through PW-4 (LRG-4652 through LRG-4652-S-3) located east of the mine area. Additional supply (184.2 ac-ft/yr) will be obtained from wells GWQ-1, GWQ-2 and GWQ-9 (LRG-4651-S-6, LRG-4651-S-9, and LRG-4651-S-10), located in the eastern portion of the mine area. Smaller quantities of water will be obtained from storm water and pit dewatering.

As would be expected, all predicted hydrologic effects presented in this PHC update report are substantially less than those presented in the 2018 PHC analysis because pumping from the SFG aquifer supply wells under the updated water balance is significantly reduced. For example, pumping from wells LRG-4652 through LRG-4652-S-3 is 861.84 ac-ft/yr in this updated analysis, which is only 14 percent of the maximum pumping of 6,095 ac-ft/yr used in the 2018 PHC analysis.

As in the 2018 PHC analysis, drawdown in the crystalline bedrock approaches a maximum value of about 750 feet at the bottom of the dewatered pit. In this updated PHC analysis, the extent of the cone of depression in the crystalline bedrock is expanded due to pumping of the three SFG aquifer wells east of the pit now planned to be used for mine water supply. There is about 100 feet of drawdown in the SFG aquifer in the vicinity of these wells within the eastern portion of the mine area, and the 1-foot to 10-foot drawdown contours extend east of the mine area for a limited distance in the SFG aquifer. There are no wells of other ownership, springs, or perennial stream reaches within this limited area of increased drawdown.

Long-term pit conditions simulated in this PHC update are nearly identical to those in the 2018 PHC analysis, and the pit will remain a hydrologic sink for groundwater. The long-term open pit water body elevation of about 4,898 feet msl corresponds to a pit lake water surface area of about 22.5 acres. The final pit water balance is about 94 ac-ft/yr. Pit inflows consist of approximately 57.5 ac-ft/yr from direct precipitation and runoff and 36.5 ac-ft/yr from groundwater inflow. This same quantity is lost to evaporation from the pit lake surface.

Actual pit water levels will fluctuate around the expected long-term mean average value, rising and falling seasonally and with wet and dry climatic conditions. As detailed in the 2018 PHC analysis, consideration of a 100-year flood event of 3.29 inches of precipitation in 24 hours, or extreme drought where there is no runoff for a year, lead to changes in the pit water level elevation of only about 2 to 3 feet.

Even though the effects of groundwater pumping are permissible under NMCC's existing water rights, no significant adverse effects on adjacent water rights were identified as part of this updated PHC analysis.

1. Introduction

This report is an update to the Probable Hydrologic Consequences (PHC) analysis completed for the Copper Flat Project (the Project) by John Shomaker & Associates, Inc. (JSAI) revised in May 2018 (JSAI, 2018). The JSAI (2018) report is identified as Revision 1.0 and is referred to herein as the 2018 PHC analysis. Because this is an update to the 2018 PHC analysis, only substantive changes to the 2018 PHC analysis are presented. For ease of comparison between documents, this report follows the same outline used in the 2018 PHC analysis to the extent practical (Section 1.4).

This updated PHC analysis is provided to be consistent with significant changes in the Project water balance. The remainder of this section summarizes key changes to the Project water balance, the method of analysis, and New Mexico Copper Corporation (NMCC) water rights. The updated Project water balance is summarized in greater detail in Section 2; the updated PHCs are presented in Sections 3 and 4.

1.1 Project Description

The primary update to the Project description is the change in how tailing is placed and managed at the Tailing Storage Facility (TSF). The updated water balance stems from the decision by NMCC to convert from wet tailing deposition behind a tailing dam to the dry stack tailing storage method. In the dry stack method, the tailing is dewatered at the mineral recovery plant prior to conveyance to the TSF, and the recovered water is returned immediately for reuse in the mining process. Dewatering of the tailing will be conducted in a fully contained, engineered structure. This approach minimizes water losses, eliminates an open reservoir considered in the 2018 PHC analysis, and eliminates significant seasonal fluctuations from the Project water balance. The dry stack approach to tailing management leads to an 80 percent reduction in water demand relative to the previous wet tailing approach. Consequently, the PHCs of the Project are also substantially less than those presented in the 2018 PHC analysis.

Open pit mining, crushing, and mineral recovery operation will continue as summarized in the 2018 PHC analysis.

As was done in the 2018 PHC analysis, water supply pumping from the Santa Fe Group (SFG) aquifer wells PW-1 through PW-4 was simulated at the rates specified in the updated Project water balance. Water supply from other existing SFG aquifer wells near the open pit (wells

GWQ-1, GWQ-2, and GWQ-9) is also simulated as identified in the updated mine-site water balance; this is an update from the 2018 PHC analysis where water from these three SFG aquifer wells near the open pit was not used as part of the Project water supply. Other than changes in pumping quantities, the simulation approach is the same as that used in the 2018 PHC analysis.

1.2 Analysis Method

The same groundwater model applied in the 2018 PHC analysis was used to update the PHCs associated with the Project. Descriptions of groundwater, surface water, and "consequences" are as described in the 2018 PHC analysis. To determine the updated PHCs, two simulations were developed: one with no Project and one with the Project. Both simulations are for a period of 113.4 years (113 years and 5 months). Simulated hydraulic heads at the end of 2014 (JSAI, 2014) are used as initial heads for both simulations. The Project is divided into two simulation periods: an active mining phase of 13.4 years and a post-mining phase of 100 years. The active mining phase consists of a 2-year construction period followed by 11.4 years of mining and continued pit excavation. The first 2.6 years of the 100-year post-mining phase has rapid fill of the pit lake. The rapid fill with good quality water is to prevent oxidation of sulfates below the pit lake water line, thus optimizing pit water quality. The pit will be filled with 2,200 acre-feet of water during this period, raising the pit lake stage to the projected long-term stable water level of approximately 4,898 feet above mean sea level (feet msl). Although the rapid fill period of 2.6 years is longer than the rapid fill period of 6 months in the 2018 PHC analysis, it is believed to be short enough to achieve the intended purpose of limiting impacts to pit water quality.

In the 2018 PHC analysis, potential seepage from the waste rock stockpiles (WRSPs) and lined TSF was estimated separately from the numerical groundwater model. These calculations are unchanged, with the exception that because there will be far less water incorporated in the tailing at the TSF, the potential for seepage through a hole in the liner is greatly reduced relative to operational conditions expected previously. Functionally, the value is expected to be zero, as documented in the 2018 PHC analysis.

1.3 NMCC Existing Water Rights

When the 2018 PHC analysis was completed, some NMCC water rights were the subject of an appeal to the Doña Ana County District Court. In December 2023, the legal dispute concerning NMCC's LRG-4652 water rights reached final resolution. A summary of NMCC's existing, adjudicated water rights (all in the SFG aquifer) for the purpose of mining is provided in Table 1-1.

Table 1-1. NMCC Water Rights Used for Project Water Supply

OSE Well No.	Owner Well Name	Water Use	Quantity (ac-ft/yr)
LRG-4652, LRG-4652-S, LRG-4652-S-2 and LRG-4652-S-3	PW-1 through PW-4	Mine, milling, reclamation, dust control	861.84
LRG-4652-S-6	GWQ-2, McCravey-Dutch Gulch	Mining or milling or oil	39.0
LRG-4652-S-9	GWQ-9, S. Inspiration/IDW-1	Mining or milling or oil and construction	72.6
LRG-4652-S-10	GWQ-1, N. Inspiration	Mining or milling or oil and construction	72.6
		Total	1,046.04

OSE = New Mexico Office of the State Engineer
ac-ft/yr = Acre-feet per year

The fact that NMCC holds permitted rights to groundwater as summarized in Table 1-1 has important implications for this updated PHC analysis. NMCC is entitled to fully exercise its existing water rights using the current points of diversion, and implicit to the exercise of these rights are the hydrologic effects attributable to NMCC's groundwater pumping. The hydrologic effects may include drawdown at wells of other ownership and the diminution of stream or spring flow. Consequently, not only are the updated PHCs substantially reduced relative to the 2018 PHCs, but NMCC is entitled to induce all hydrologic effects attributable to its groundwater pumping under the water rights summarized in Table 1-1.

1.4 Report Structure

For ease of comparison between this PHC analysis update and the 2018 PHC analysis, this report follows the same outline as used in the 2018 PHC analysis to the extent practical. Information and discussion in JSAI (2018) that have not changed are not, for the most part, repeated in this document. This report does not include an update to Section 3.3 of JSAI (2018) regarding the potential discharge to groundwater from tailing and waste rock.

2. Project Water Demand

The Project water demand (Table 2-1) is based on the updated water balance provided by NMCC under separate cover. SFG aquifer wells PW-1 through PW-4 will serve as the main water supply for the Project (Table 1-1). Other SFG aquifer wells near the pit and water pumped from the open pit that accumulates due to groundwater seepage and storm flows will serve as additional sources of supply. The period of active mining is simulated as 11.4 years, consistent with the 2018 PHC analysis. For 4.6 years after the end of mining, water will continue to be withdrawn from the SFG aquifer wells to rapid fill the open pit and to supply water for mine reclamation (Table 2-1).

2.1 Water-Supply Pumping

Project water demand includes a 2-year period of mine construction and start-up, an 11.4-year mining period, and post-mining reclamation water demand requirements. Pumping for rapid fill reclamation of the open pit will require 2,200 acre-feet over 2.6 years. The Project water use is presented in Table 2-1, showing year-by-year projections of water needs.

Most of the water supply will be from the four water supply wells completed in the SFG aquifer (PW-1, PW-2, PW-3, and PW-4) and the other three SFG aquifer wells near the pit (GWQ-1, GWQ-2, and GWQ-9). These wells are permitted to produce a maximum annual amount of groundwater of 1,046 acre-feet per year (ac-ft/yr). The individual well pumping rates are listed in Tables 1-1 and 2-2.

Sources of water other than the NMCC wells are pumped water from the pit and stormwater. In most years, these other sources of water will not be relied upon, leaving some cushion in water use, illustrated as the positive balance in Table 2-1.

2.2 Open Pit Dewatering and Refilling

The existing pit will be dewatered during the 2-year construction period. Pit dewatering is simulated assuming initial pit sump pumping of 100 gallons per minute (gpm), projected to empty the existing pit volume of approximately 25 acre-feet within about 2 months. During operations, groundwater and stormwater runoff flowing to the pit will be collected in sumps and pumped out.

Table 2-1. Water Supply and Use During Mining and Post-Mining
Page 1 of 2

Year	Supply (acre-feet)				Use (acre-feet)						Balance
	Groundwater Pumping	Pit Groundwater	Stormwater	Total	Operation	Construction	Startup	Rapid Fill	Reclamation	Total	
During Mining											
1	132	0	8	140	0	132	0	0	0	132	8
2	724	4	16	744	50	233	390	0	51	724	20
3	1,046	8	24	1,078	1,046	0	0	0	0	1,046	32
4	1,046	12	24	1,082	1,046	0	0	0	0	1,046	36
5	1,046	16	32	1,094	1,046	0	0	0	27	1,073	21
6	1,046	20	32	1,098	1,046	0	0	0	0	1,046	52
7	1,046	24	40	1,110	1,046	0	0	0	27	1,073	37
8	1,046	28	40	1,114	1,046	0	0	0	0	1,046	68
9	1,046	32	48	1,126	1,046	0	0	0	41	1,087	39
10	1,046	36	64	1,146	1,046	0	0	0	14	1,060	86
11	1,046	36	64	1,146	1,046	0	0	0	41	1,087	59
12	1,046	36	64	1,146	1,046	0	0	0	41	1,087	59
13	1,046	36	64	1,146	1,046	0	0	0	14	1,060	86
14 (Months 1 to 5)	436	3	13	452	436	0	0	0	6	442	10
Post-Mining											
14 (Months 6 to 12)	610	0	19	629	0	0	0	500	104	604	25
15	1,046	0	16	1,062	0	0	0	850	196	1,046	16
16	1,046	0	0	1,046	0	0	0	850	196	1,046	0

Notes are provided at the end of the table.

Table 2-1. Water Supply and Use During Mining and Post-Mining
Page 2 of 2

Year	Supply (acre-feet)				Use (acre-feet)						Balance
	Groundwater Pumping	Pit Groundwater	Stormwater	Total	Operation	Construction	Startup	Rapid Fill	Reclamation	Total	
17	482	0	0	482	0	0	0	0	482	482	0
18	295	0	0	295	0	0	0	0	295	295	0
19 to 114 [a]	0	0	0	0	0	0	0	0	0	0	0
Total	16,277	291	568	17,136	11,992	365	390	2,200	1,535	16,482	654

[a] Year 114 includes months 1 through 5 only.

Table 2-2. Project Groundwater Pumping
Page 1 of 2

Year	Pumping (acre-feet)				
	Total	PW-1 through PW-4	GWQ-2 McCravey-Dutch Gulch	GWQ-9 S. Inspiration/IDW-1	GWQ-1 N. Inspiration
During Mining					
1	132	132	0	0	0
2	724	724	0	0	0
3	1,046	861.84	39	72.6	72.6
4	1,046	861.84	39	72.6	72.6
5	1,046	861.84	39	72.6	72.6
6	1,046	861.84	39	72.6	72.6
7	1,046	861.84	39	72.6	72.6
8	1,046	861.84	39	72.6	72.6
9	1,046	861.84	39	72.6	72.6
10	1,046	861.84	39	72.6	72.6
11	1,046	861.84	39	72.6	72.6
12	1,046	861.84	39	72.6	72.6
13	1,046	861.84	39	72.6	72.6
14 (Months 1 to 5)	436	359.25	16.25	30.25	30.25
Post-Mining					
14 (Months 6 to 12)	610	502.59	22.75	42.35	42.35
15	1,046	861.84	39	72.6	72.6
16	1,046	861.80	39	72.6	72.6

Notes are provided at the end of the table.

Table 2-2. Project Groundwater Pumping
Page 2 of 2

Year	Pumping (acre-feet)				
	Total	PW-1 through PW-4	GWQ-2 McCravey-Dutch Gulch	GWQ-9 S. Inspiration/IDW-1	GWQ-1 N. Inspiration
17	482	298	39	72.6	72.6
18	295	111	39	72.6	72.6
19 to 114 [a]	0	0	0	0	0
Total	16,277	13,330	624	1,162	1,162

[a] Year 114 includes months 1 through 5 only.

The schedule of predicted dewatering over the course of the Project is shown in Figure 2-1, including projected pit bottom elevation, pit-area groundwater elevation, and pit dewatering (groundwater and stormwater inflow) rates. Long-term total flow is expected to range between about 30 and 50 gpm (48 and 81 ac-ft/yr). After mining is complete, the pit will be rapid filled to the projected steady-state post-mining equilibrium water level as explained in the 2018 PHC analysis.

Current and projected final pit geometry are summarized in Figure 2-2, which shows the water surface area as a function of pit water level elevation. The existing pit currently has a water surface area of about 1 acre. The post-mining pit will have a water surface area of about 22.5 acres, with a final water level elevation of approximately 4,898 feet msl. Long-term average precipitation, runoff, and groundwater inflow to the ultimate pit are projected to be about 94 ac-ft/yr (Section 3.2), sufficient to sustain evaporation from a water surface of about 22.5 acres.

3. Probable Hydrologic Consequences

As presented in the 2018 PHC analysis, the PHCs are attributable to the direct hydrologic consequences (or effects) of the Project. The hydrologic effects are divided into the following primary categories:

- Groundwater withdrawal from the SFG aquifer for mine water supply
- Groundwater withdrawal from the crystalline bedrock around the open pit, and from SFG aquifer wells near the open pit for mine water supply

Although this section is divided into the effects of pumping from the SFG aquifer (Section 3.1) and the crystalline bedrock and immediately adjacent SFG aquifer (Section 3.2), all predictions of hydrologic effects presented in this report are based on model simulations that include all Project pumping from the SFG aquifer wells and dewatering due to mine-pit construction (crystalline bedrock). The division between the SFG aquifer and crystalline bedrock is made to follow the outline of the 2018 PHC analysis for ease of comparison.

JSAI (2018) provides a report section (Section 3.3) addressing potential groundwater discharge from tailing and waste rock. This section from the 2018 PHC analysis is not updated in this report, other than to note that the reduced water use as detailed in the updated water balance would lead to even less potential for seepage from the lined TSF (Section 1.2).

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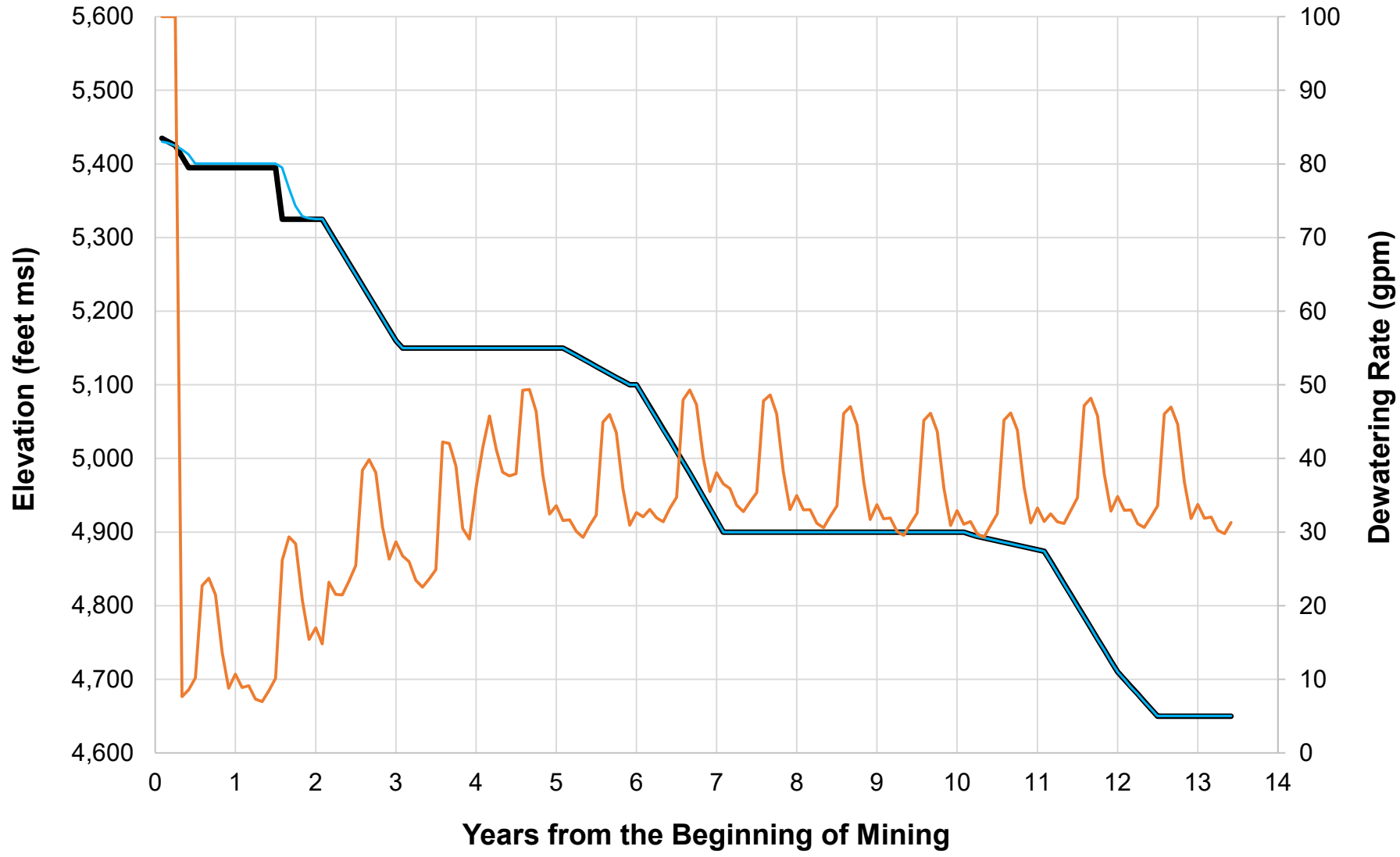


Figure 2-1

COPPER FLAT MINE

Projected Pit Bottom Elevation, Groundwater Level, and Dewatering Rate

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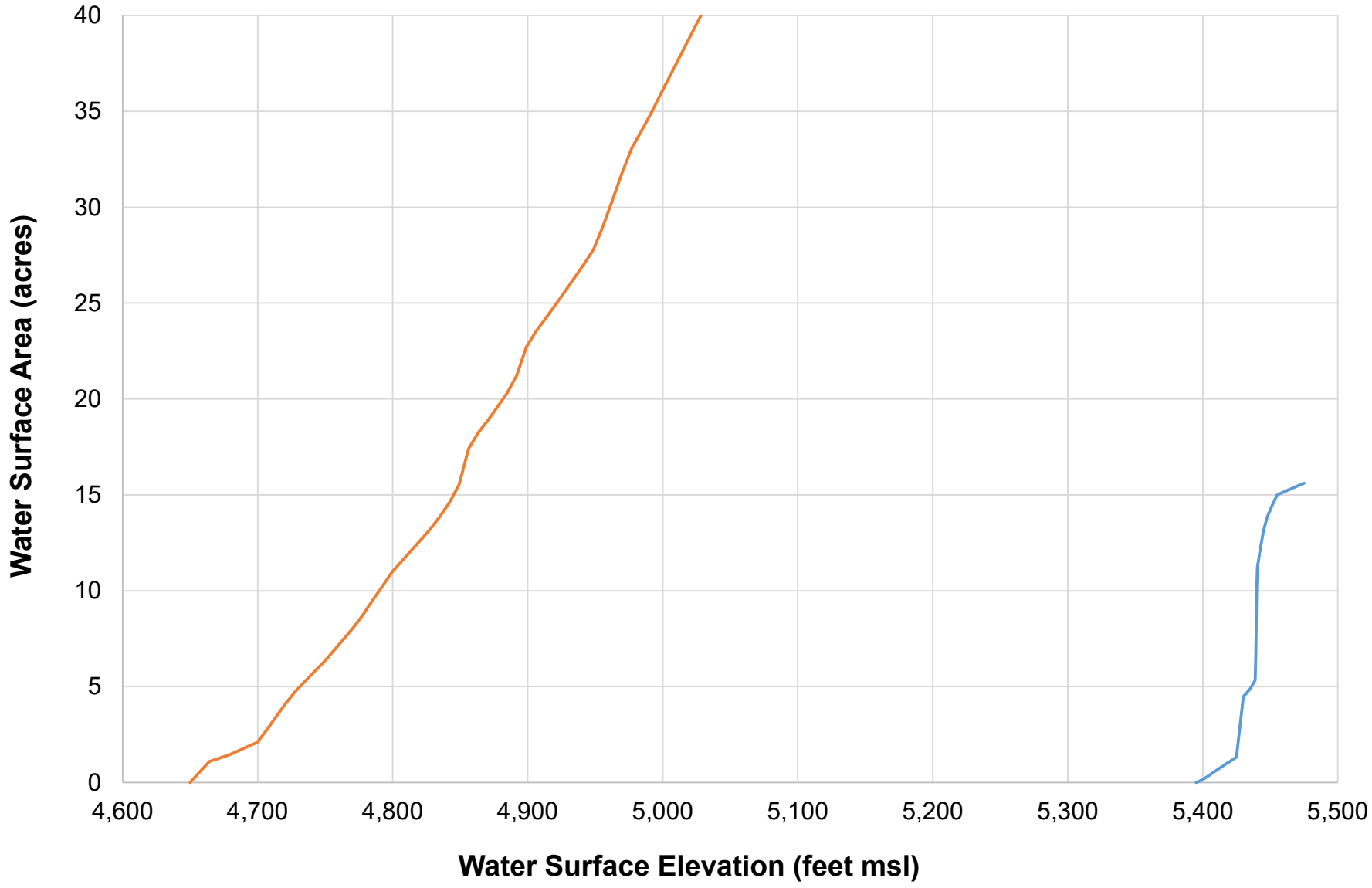


Figure 2-2

COPPER FLAT MINE

Current and Final Pit Water Surface Elevation and Corresponding Water Surface Area

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3.1 Groundwater Withdrawals from the SFG Aquifer

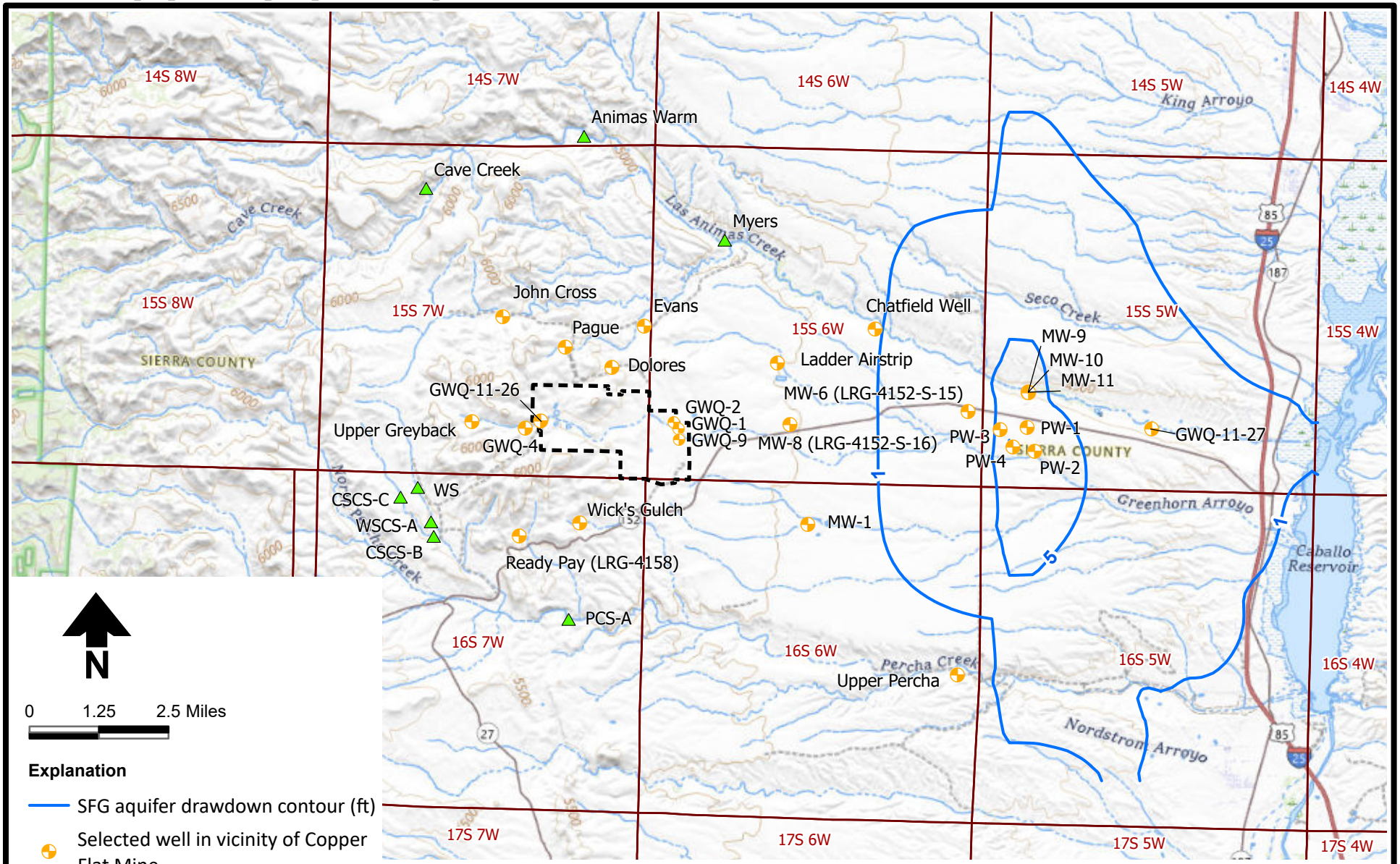
Groundwater pumping from the SFG aquifer water supply wells PW-1 through PW-4 will cause declines in aquifer water levels (drawdown), reduced groundwater discharge to the Rio Grande and Caballo Reservoir, reduced groundwater discharge to flowing wells, and reduced discharge to the Quaternary-age alluvial aquifers. Following the outline from JSAI (2018), drawdown in the SFG aquifer is discussed in Section 3.1.1, changes in the aquifer water balance due to Project pumping is discussed in Section 3.1.2, the hydrologic effect of additional inflow from the north Palomas Graben on the Rio Grande is discussed in Section 3.1.3, the effects of reduced discharge to Caballo Reservoir and the Rio Grande is discussed in Section 3.1.4, the potential effects on other groundwater rights are discussed in Section 3.1.5, the potential hydrologic effects of reduced discharge to flowing wells are discussed in Section 3.1.6, the potential hydrologic effects of reduced discharge to Quaternary-age alluvial aquifers and the Las Animas Creek perennial (riparian) zone are discussed in Section 3.1.7, and potential land subsidence is discussed in Section 3.1.8. Hydrographs of simulated water levels at wells completed in the SFG aquifer are provided in Appendix A.

As would be expected, all predicted hydrologic effects presented in this report are substantially less than those presented in the 2018 PHC analysis because maximum pumping from the SFG aquifer supply wells PW-1 through PW-4 under the updated water balance of 861.84 ac-ft/yr is only 14 percent of the prior maximum pumping of 6,095 ac-ft/yr, which is a reduction of 86 percent.

3.1.1 Regional Groundwater Level Drawdown

The projected maximum drawdown in the SFG aquifer occurs at the end of the rapid fill 2.6 years after the end of mining (Figure 3-1); limited drawdown in the SFG aquifer within and adjacent to the eastern portion of the mine site is presented separately in Section 3.2. The maximum drawdown at the LRG-4652 well field (wells PW-1 through PW-4) is about 10.5 feet, and is 1 foot or less several miles from the well field (Figure 3-1). In the 2018 PHC analysis, the maximum drawdown at the SFG well field was about 70 feet, and the 1-foot drawdown contour extended across most of the SFG aquifer extent within the model domain (JSAI, 2018, Figure 3.1). After the end of mining and the rapid fill, water levels in the SFG aquifer will recover to pre-mining levels over about 20 years (Appendix A). Pumping from the SFG aquifer will cause a reduction in groundwater storage, reduced discharge to the Rio Grande and Caballo Reservoir, and reduced discharge to other groundwater outflows, as presented in the following subsections.

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USGS, The National Map

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Projected Maximum Drawdown in the SFG Aquifer Due to Wells PW-1 Through PW-4

Figure 3-1

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3.1.2 Effects on Water Balance

The simulated effects on the water balance due to the Project in terms of the sources of groundwater withdrawals are provided in Figure 3-2. The sources of the water extracted from the SFG aquifer system are a reduction in groundwater storage (drawdown), reduced groundwater discharge to streams and flowing wells, increased groundwater inflow from the north Palomas Graben, and reduced groundwater outflow to south Palomas Graben. As was done in the 2018 PHC analysis, all of the reduced groundwater outflow at the south Palomas Graben boundary is assumed to be reduced flow to the Rio Grande below Caballo Reservoir.

The reductions in discharge are presented in Figure 3-3, which illustrates reduced discharge to the Rio Grande above and below Caballo Reservoir, reduced discharge to flowing wells, and reduced discharge to streams and riparian zone evapotranspiration. The projected water balance changes are also summarized in Table 3-1.

Comparison of Figures 3-2 and 3-3 and Table 3-1 to the equivalent figures and table in JSAI (2018) demonstrates that the hydrologic effects predicted for the updated water balance are substantially less than those predicted under the prior water balance due to the significant reduction in pumping from the SFG aquifer. For example, cumulative flow from storage 3 months after the completion of the pit lake filling is 9,424 ac-ft/yr (Table 3-1), as opposed to 42,813 ac-ft/yr in the 2018 PHC analysis (a reduction of 78 percent).

3.1.3 Flow from North Palomas Graben

Induced groundwater inflow from the Palomas Graben north of the study area was calculated using the same methodology as in the 2018 PHC analysis. The results of this calculation are provided in Figure 3-4. Because of the reduced groundwater pumping under the updated water balance, the simulated inflows are substantially less than in the 2018 PHC analysis. In the equivalent figure in JSAI (2018), the maximum estimated effect on the Rio Grande north of the Palomas Graben was about 270 ac-ft/yr around year 40, while in Figure 3-4 the maximum effect is 33 ac-ft/yr at about the same time period, which is a reduction of 88 percent.

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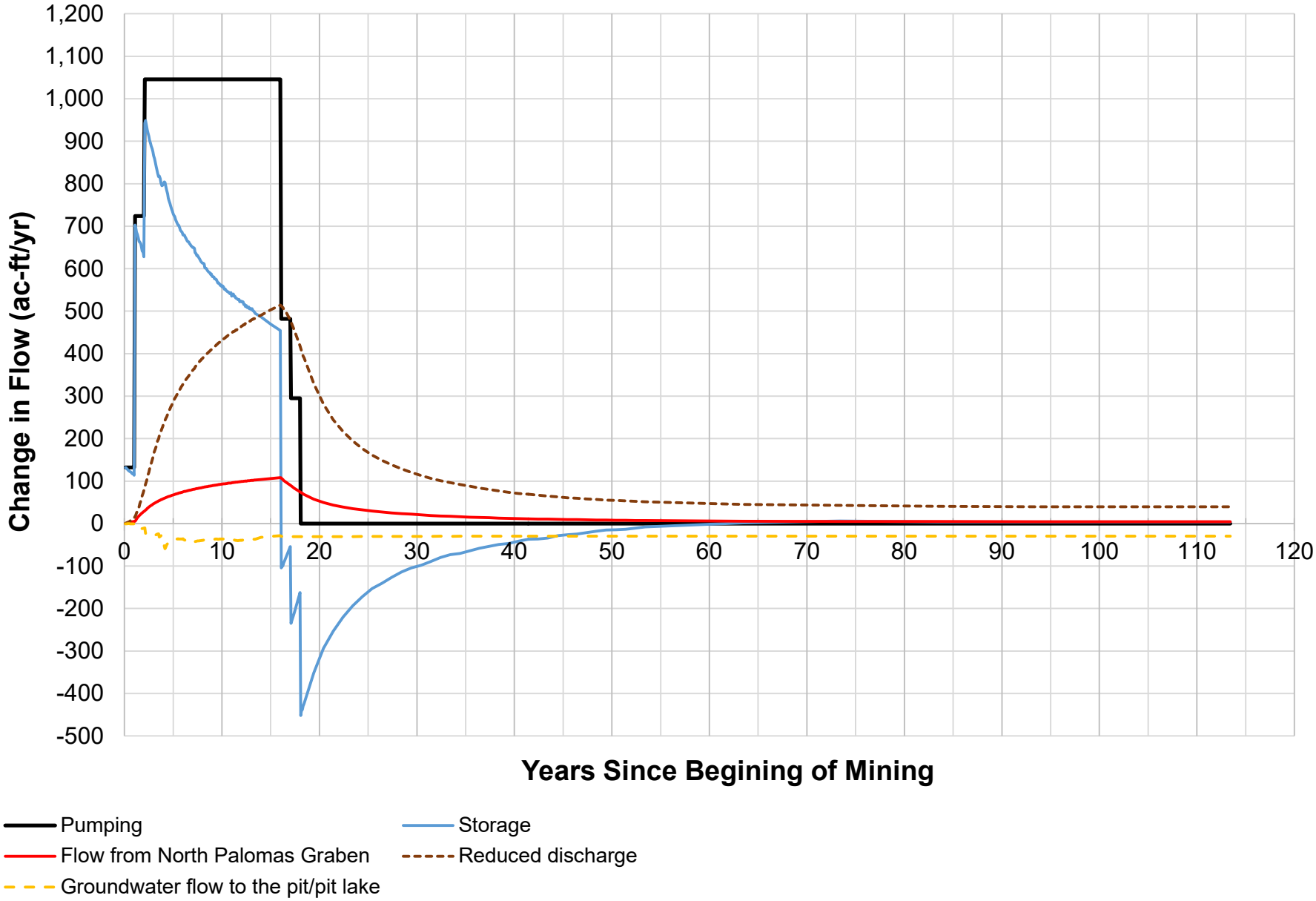


Figure 3-2

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Projected Sources of Water Pumped

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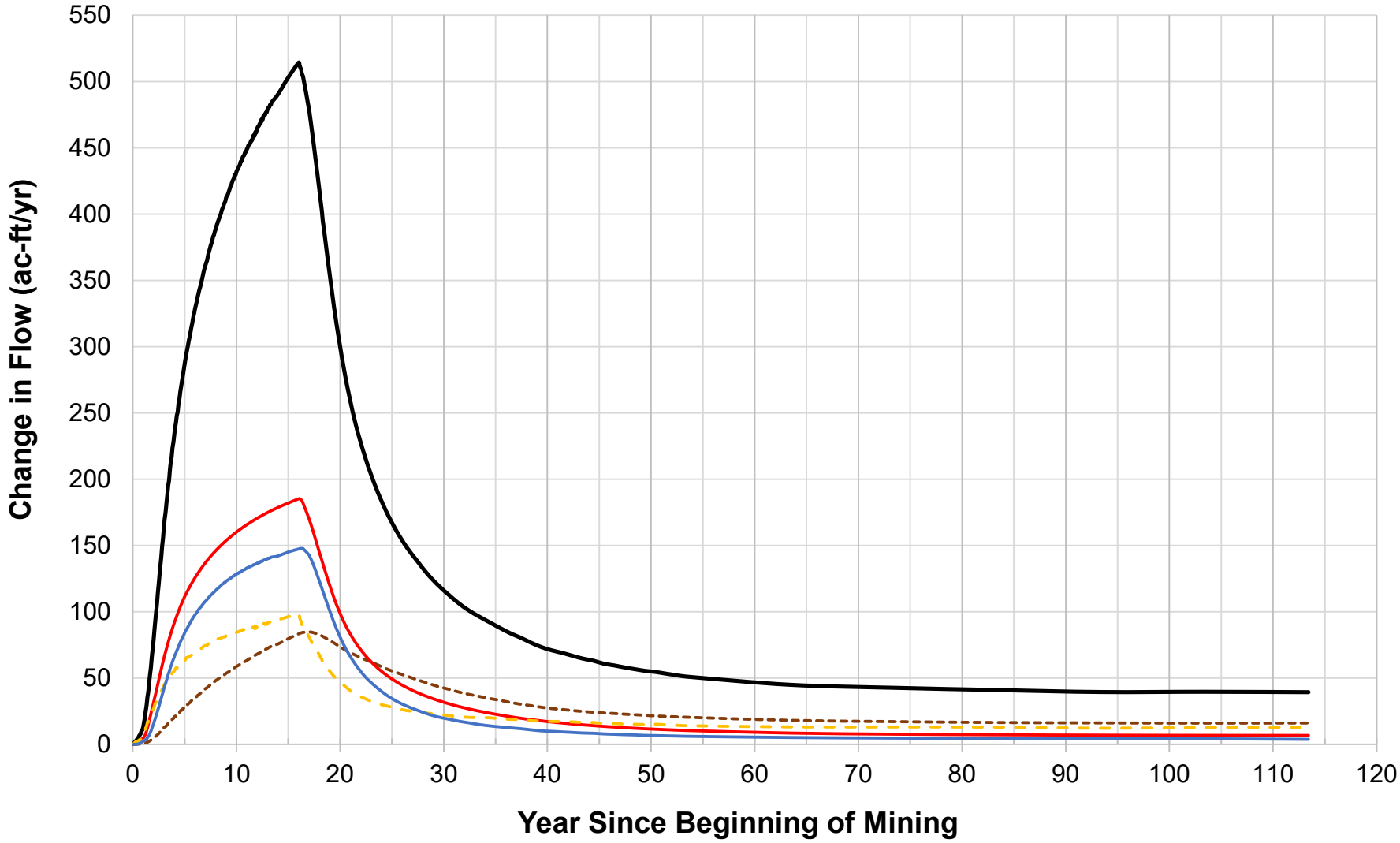


Figure 3-3

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Projected Reductions in Groundwater Discharge

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Table 3-1. Results Summary

Parameter	Change in Flow (ac-ft/yr)		Volume Change from Beginning of Mining through 3 Months of Rapid Fill (acre-feet)
	3 Months after End of Rapid Fill	100 Years Post-Mining	
Storage	–100	4	9,424
Rio Grande and Caballo Dam	84	16	732
Flowing wells	184	7	2,048
Stream flow and evapotranspiration reduction	92	13	1,123
Flow to open pit	–30	-29	-513
Inflow from graben to the north	104	4	1,224
Reduced outflow to graben to the south	148	4	1,597
Pumping	–482	0	–15,621

ac-ft/yr = Acre-feet per year

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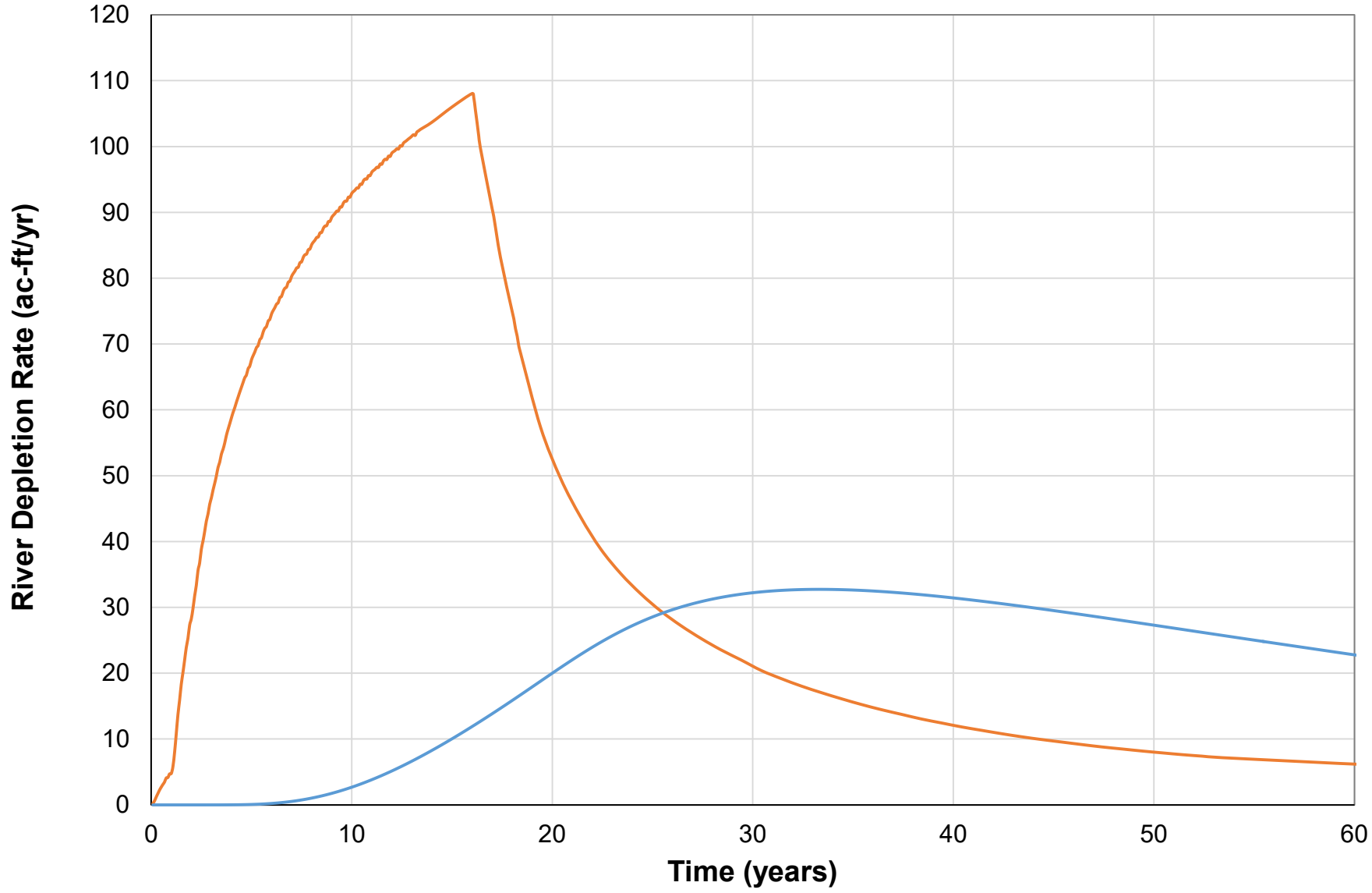


Figure 3-4

COPPER FLAT MINE

Projected Depletion to the Rio Grande due to Increased Inflow from North Palomas Graben

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3.1.4 Operational Plans for No Net Effect on the Rio Grande

In the 2018 PHC analysis, this section describes NMCC plans for offsetting the effects of Project groundwater pumping on Rio Grande system surface water flows using water leased from the Jicarilla Apache Nation. The total effects on the Rio Grande included simulated Rio Grande depletions in the model domain and simulated depletions north of the model domain due to the propagation of drawdown in the Palomas Graben (Sections 3.1.2 and 3.1.3).

A plan to account for these simulated offsets is no longer required. Because all pumping from the SFG aquifer in the updated water balance is from NMCC's existing, adjudicated LRG-4652 water rights, no effects on Rio Grande system flows are required to be offset. The effects are already recognized and are intrinsic to NMCC's existing rights.

3.1.5 Other Water Rights

In the 2018 PHC analysis, it was predicted that a small number of private wells might be adversely affected under New Mexico Office of the State Engineer (OSE) criteria due to Project pumping. Because of the large reduction in Project pumping under the updated water balance, it is highly unlikely that any nearby well will be adversely affected due to Project pumping. In addition, because pumping from the LRG-4652 well field is permitted under an existing adjudicated water right, all hydrologic effects on wells of other ownership are permitted to occur.

Regardless, if there are nearby private well owners that can reasonably demonstrate loss of supply due to Project pumping, NMCC is willing to consider their claim and at the sole discretion of NMCC mitigate the pumping effects at the well(s) in question.

3.1.6 Effects of Reduced Flowing Well Pressure

The 2018 PHC analysis identified a peak reduction is discharge to flowing wells of 1,054 ac-ft/yr out of the pre-mining discharge of 2,030 ac-ft/yr, which is a reduction of 52 percent. The 2,030 ac-ft/yr is divided into 1,750 ac-ft/yr to wells along Las Animas Creek and 280 ac-ft/yr to wells along Percha Creek. In the current simulations the maximum reduction in the discharge to flowing wells is 185 ac-ft/yr at year 16 of the simulation after the end of pit lake filling, which is a reduction of only 9 percent (Figure 3-3). The reduction in discharge to flowing wells diminishes to approximately 15 ac-ft/yr over 30 years (Figure 3-3).

As documented in the 2018 PHC analysis, 60 percent of the flowing well discharge along Las Animas Creek infiltrates to the shallow aquifer beneath the irrigated fields or the unlined ponds.

A reduction of the total flowing well discharge by a maximum of 9 percent for one year is not expected to adversely affect these water users. In addition, as with the other hydrologic effects, the small reduction in outflow at flowing wells is an allowable consequence of the exercise of NMCC's valid water rights.

3.1.7 Effects on Quaternary-Age Alluvial Aquifers and Las Animas Creek Perennial Flow and Riparian Zone

JSAI (2018) provided three figures (3.6, 3.7 and 3.8) that are not provided as updates in this report. Figure 3.6 in JSAI (2018) shows the location of a west to east hydrogeologic cross section along Las Animas Creek, and Figures 3.7 and 3.8 in JSAI (2018) show the hydrogeologic cross section with the initial (pre-Project) water table and the water table at the time of greatest drawdown in the SFG aquifer. Because the maximum simulated Project drawdown beneath Las Animas Creek declined from over 40 feet in the 2018 PHC analysis to approximately 6 feet in this updated PHC analysis, the difference in water levels could not be meaningfully presented on the figures. The location of the maximum drawdown beneath Las Animas Creek occurs in the Palomas Graben immediately north of the LRG-4652 well field (Figure 3-1).

3.1.8 Ground Subsidence

The 2018 PHC analysis calculated a maximum potential ground subsidence of 0.7 foot at the well field where maximum drawdown of about 70 feet was simulated to occur at the end of mining. Because the maximum simulated drawdown under the current water balance is only 10.5 feet rather than 70 feet (Figure 3-1), the maximum potential ground subsidence at the Copper Flat well field is 0.1 foot, using the same conservative assumptions as applied in the 2018 PHC analysis.

3.2 Groundwater Withdrawals from the Crystalline Bedrock

Groundwater withdrawals from the crystalline bedrock will occur during dewatering of the open pit and after mining as groundwater flows into the pit. In addition, limited dewatering may occur from pumping SFG aquifer wells GWQ-1, GWQ-2, and GWQ-9 at the eastern side of the mine site for water supply. Hydrologic effects of groundwater withdrawal from the crystalline bedrock include drawdown due to dewatering of the open pit and pumping nearby supply wells (Section 3.2.1), groundwater discharge to the pit and the post-mining pit water balance (Section 3.2.2), potential discharge of groundwater from the open pit (Section 3.2.3), and long-term drawdown and potential effects on springs discharging from the crystalline bedrock

(Section 3.2.4). Hydrographs of simulated water levels at wells completed in the crystalline bedrock are provided in Appendix A.

3.2.1 End of Mining Groundwater Drawdown

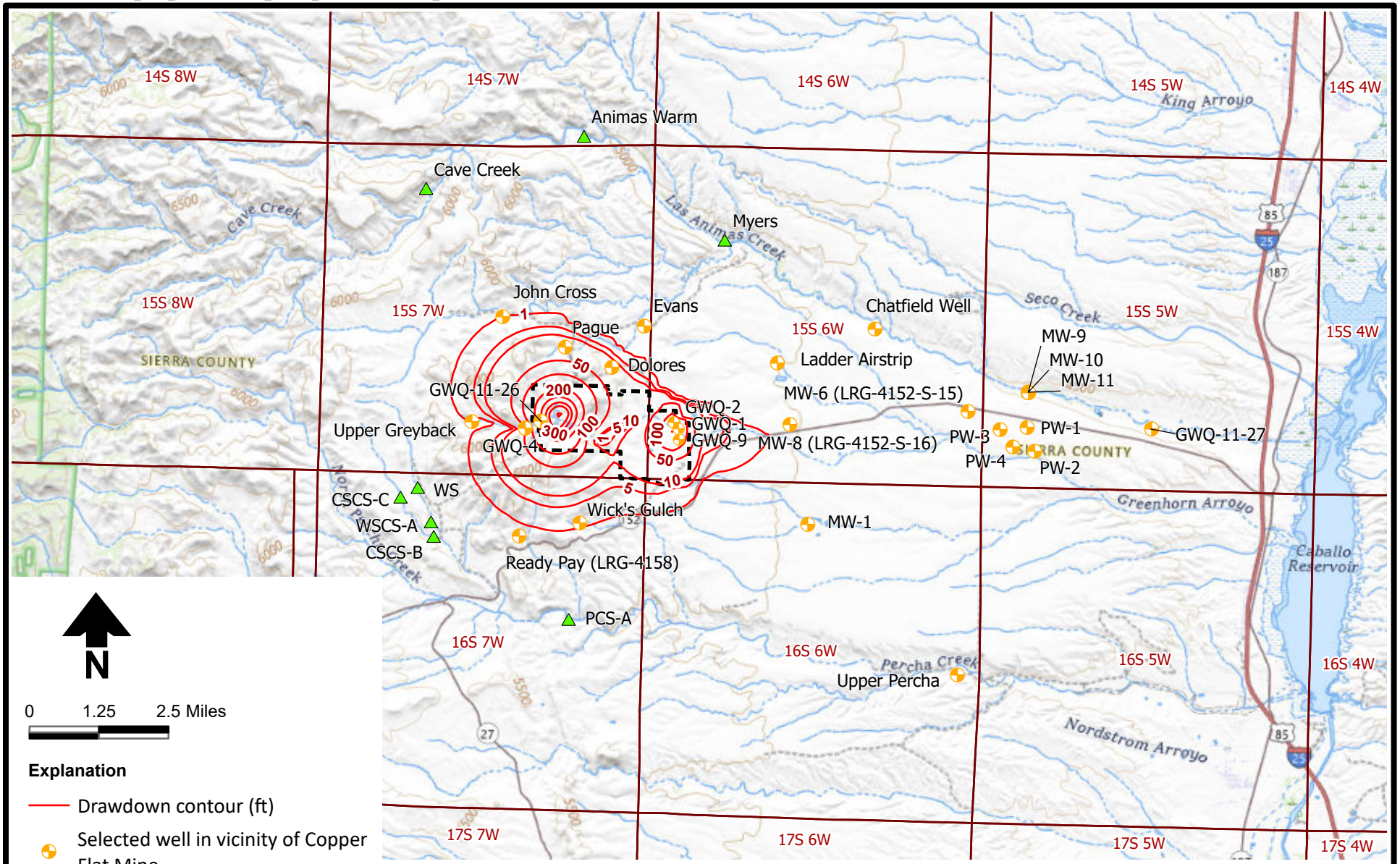
Drawdown in the crystalline bedrock and in the adjacent SFG aquifer at the end of mining (prior to rapid fill) is shown in Figure 3-5. As in the 2018 PHC analysis, drawdown approaches a maximum value of about 750 feet at the bottom of the dewatered pit. Comparison of Figure 3-5 to the equivalent Figure 3.12 in JSAI (2018) illustrates that the extent of the cone of depression in the crystalline bedrock is expanded due to pumping of the three SFG aquifer wells east of the pit for mine water supply. Specifically, there is about 100 feet of drawdown in the SFG aquifer in the vicinity of these wells within the eastern portion of the mine area, and the 1-foot to 10-foot drawdown contours extend east of the mine area for a limited distance in the SFG aquifer that adjoins the crystalline bedrock. There are no wells of other ownership, springs, or perennial stream reaches within this limited area of increased (relative to the 2018 PHC analysis) drawdown.

3.2.2 Open Pit Water Balance

Long-term pit conditions simulated in this PHC update are nearly identical to those in the 2018 PHC analysis, and the simulations assumed the same pit geometry and pit watershed conditions. The open pit surface drainage area is about 314 acres. The area within the pit highwall is about 129 acres, of which 22.5 acres is covered by pit lake at long-term steady-state conditions. Other assumptions are the same as in the 2018 PHC analysis, summarized as follows:

- Precipitation on the pit area was estimated for each month based on the record at Hillsboro (JSAI, 2014), with annual average precipitation of 12.5 inches.
- Runoff from the unreclaimed sections of the pit (72.8 acres) was simulated at 12.6 percent of average precipitation, and runoff from reclaimed sections of the pit (33.7 acres) was simulated at 30.3 percent of average precipitation. Runoff from the remainder of the watershed (185 acres) was simulated at 7.1 percent of average precipitation.
- Evaporation from the open pit was assumed to be 50 inches per year (in/yr), less than the 65 in/yr estimated potential evaporation for the area (JSAI, 2014). The lower rate reflects the wind and sun sheltering effects of the deep pit. Monthly evaporation rates based on the record at Hillsboro were scaled to match the annual rate of 50 in/yr.

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USGS, The National Map

Figure 3-5

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End-of-Mining Drawdown in Crystalline Bedrock and Adjacent SFG Aquifer

Post-mining reclamation will include use of the SFG aquifer water-supply wells and a temporary pipeline to the bottom of the pit to rapidly fill the pit to the expected long-term post-mining equilibrium water level. A pumping rate of 1,046 ac-ft/yr is simulated in the model, sufficient to fill the pit to an elevation of 4,898 feet msl in 2.6 years while providing some additional water for mine reclamation. The total volume pumped from the supply wells during the period of pit lake filling is 2,720 acre-feet (i.e., 1,046 ac-ft/yr for 2.6 years), with 2,200 acre-feet of water placed in the pit lake and the remainder of water used for reclamation (Table 2-1).

The long-term open pit water body elevation of about 4,898 feet msl (Figure 3-6a) corresponds to a pit lake surface area of about 22.5 acres. The final pit water balance is about 94 ac-ft/yr. Pit inflows consist of approximately 57.5 ac-ft/yr from direct precipitation and runoff and 36.5 ac-ft/yr from groundwater inflow. This same quantity is lost to evaporation from the pit lake surface (Figure 3-6b).

Actual pit water levels will fluctuate around the expected long-term average value, rising and falling seasonally and with wet and dry climatic conditions. As detailed in the 2018 PHC analysis, consideration of a 100-year flood event of 3.29 inches of precipitation in 24 hours, or extreme drought where there is no runoff for a year, lead to changes in the pit water level elevation of only about 2 to 3 feet.

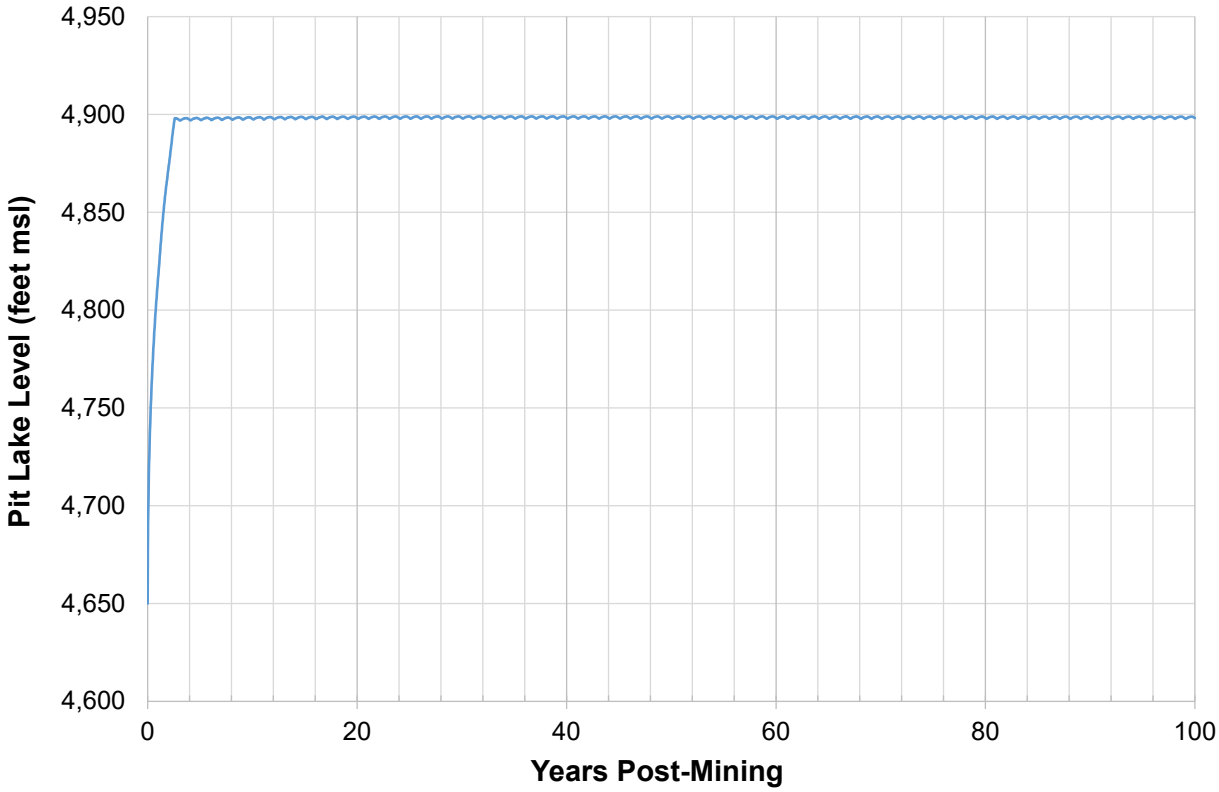
3.2.3 Potential Open Pit Discharge to Groundwater

The fact that water in the open pit will not discharge to groundwater is analyzed in detail in the 2018 PHC analysis. Nothing in the updated water balance will significantly change long-term predicted hydrologic conditions at the pit, and the pit remains a long-term hydrologic sink for groundwater. As noted in JSAI (2018, p. 30), "For a short time immediately following rapid fill, water may flow out of the pit into the dewatered space around it, then return to the pit as conditions equilibrate." This quantity of water was estimated to be less than 1 acre-foot.

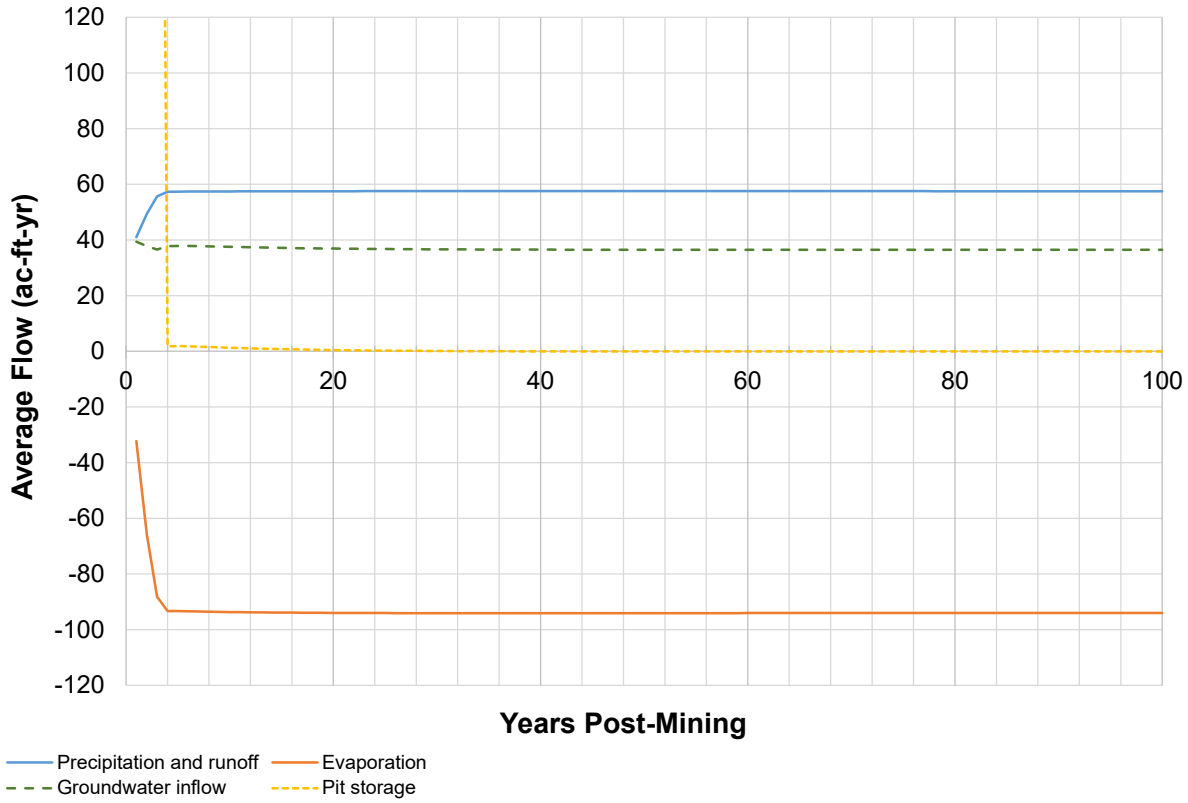
3.2.4 Effects on Springs

Springs identified in the 2018 PHC are illustrated in Figure 3-7. The simulated drawdown at these spring locations at end of mining and at 100 years after mining are provided in Table 3-5.

Based on the zero or very small potential drawdowns at 100 years listed in Table 3-5 and the observations and analysis provided in the 2018 PHC analysis, the conclusion of JSAI (2018 p. 35) that ". . . the direct effects of the Project on mapped springs are projected to be zero" is maintained in this updated PHC analysis.



a. Projected open pit water level with rapid fill during first 2.6 years



b. Projected open pit water balance with rapid fill during first 2.6 years

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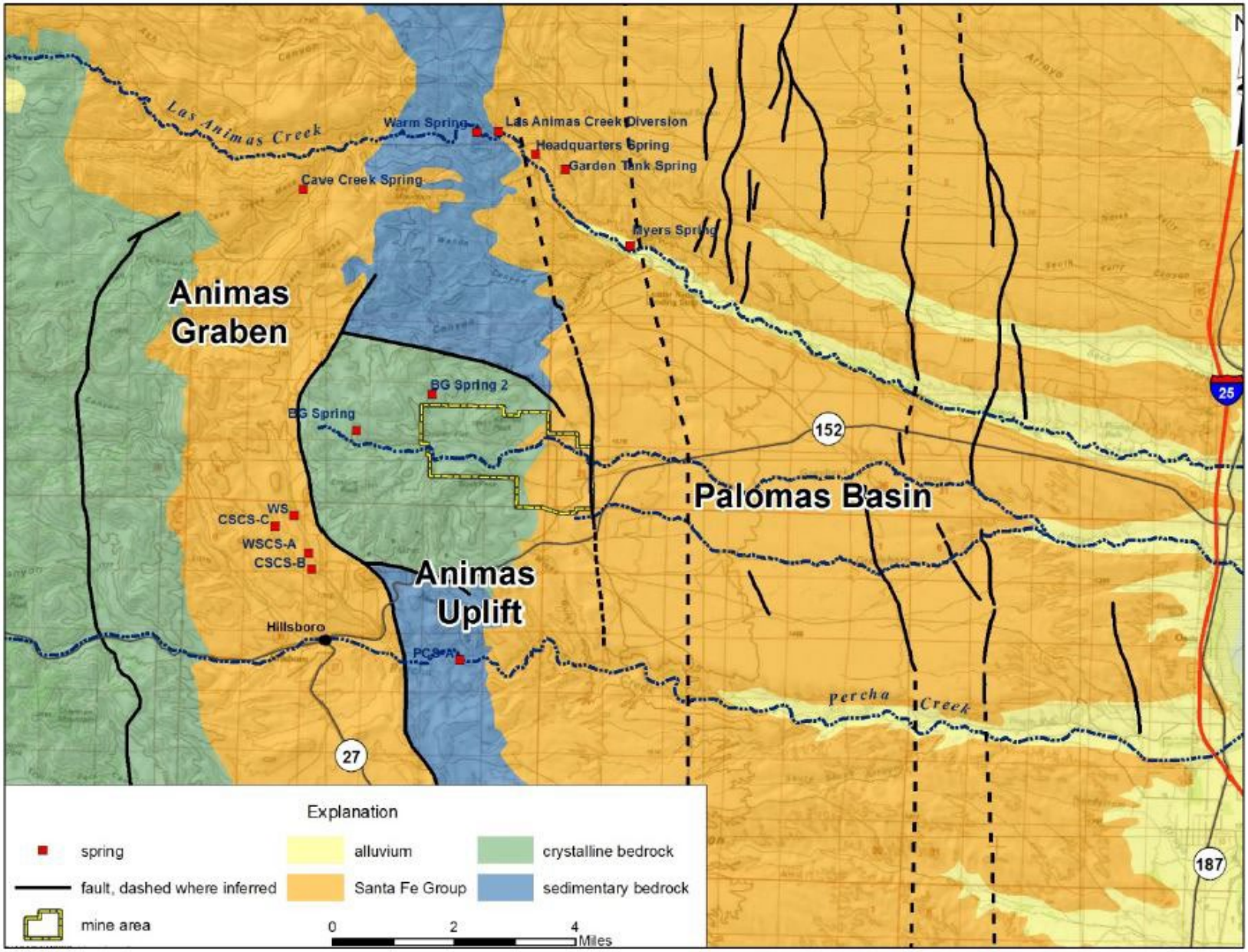
Projected Open Pit Water Level and Water Balance with Rapid Fill

Figure 3-6

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Source: JSAI, 2018

Figure 3-7

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Locations of Springs in and Around the Animas Uplift

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Table 3-5. Projected Drawdown at Spring Locations

Spring	Setting	Simulated Drawdown (feet) [a]	
		End of Mining	100 Years Post-Mining
CSCS-C	Animas Graben	0.00	0.05
WS	Animas Graben	0.00	0.07
WSCS-A	Animas Graben	0.00	0.06
CSCS-B	Animas Graben	0.00	0.06
Cave Creek	Animas Graben	0.00	0.05
PCS-A	Percha Creek	0.00	0.00
(Animas) Warm	Las Animas Creek	0.00	0.02
Myers	Las Animas Creek	0.00	0.00

[a] Reported to the nearest hundredth of a foot (0.01 foot).

4. Conclusions

This report is an update to the PHC analysis completed for the Project in 2018. The updated analysis is provided to account for the large decrease in Project water demand detailed in the updated water balance. Because the Project water demand is significantly reduced, projected hydrologic effects are significantly reduced as compared to the 2018 PHC analysis. The only hydrologic effect that increased as part of the current analysis is drawdown in the crystalline bedrock in the eastern portion of the mine area, and drawdown in a limited portion of the SFG aquifer within the eastern portion of the mine area and immediately adjacent to the eastern boundary of the mine area. There are no known wells of other ownership, springs, or perennial stream reaches within this region of increased drawdown. This drawdown is projected to occur because three existing NMCC SFG aquifer wells in the mine area will be used to provide a portion of the Project water demand. NMCC holds existing, adjudicated water rights for all supply wells used in the analysis.

NMCC plans to use its existing water rights at the permitted points of diversion. Implicit in the exercise of these rights are the hydrologic effects attributable to the groundwater pumping, including drawdown at wells of other ownership and the diminution of stream or spring flow. Even though the effects of groundwater pumping are permissible under NMCC's existing water

rights, no significant adverse effects on adjacent water rights were identified as part of this updated PHC analysis.

References

John Shomaker & Associates, Inc. (JSAI). 2014. *Model of groundwater flow in the Animas Uplift and Palomas Basin, Copper Flat Project, Sierra County, New Mexico.* Prepared for New Mexico Copper Corporation, Albuquerque, New Mexico. August 15, 2014.

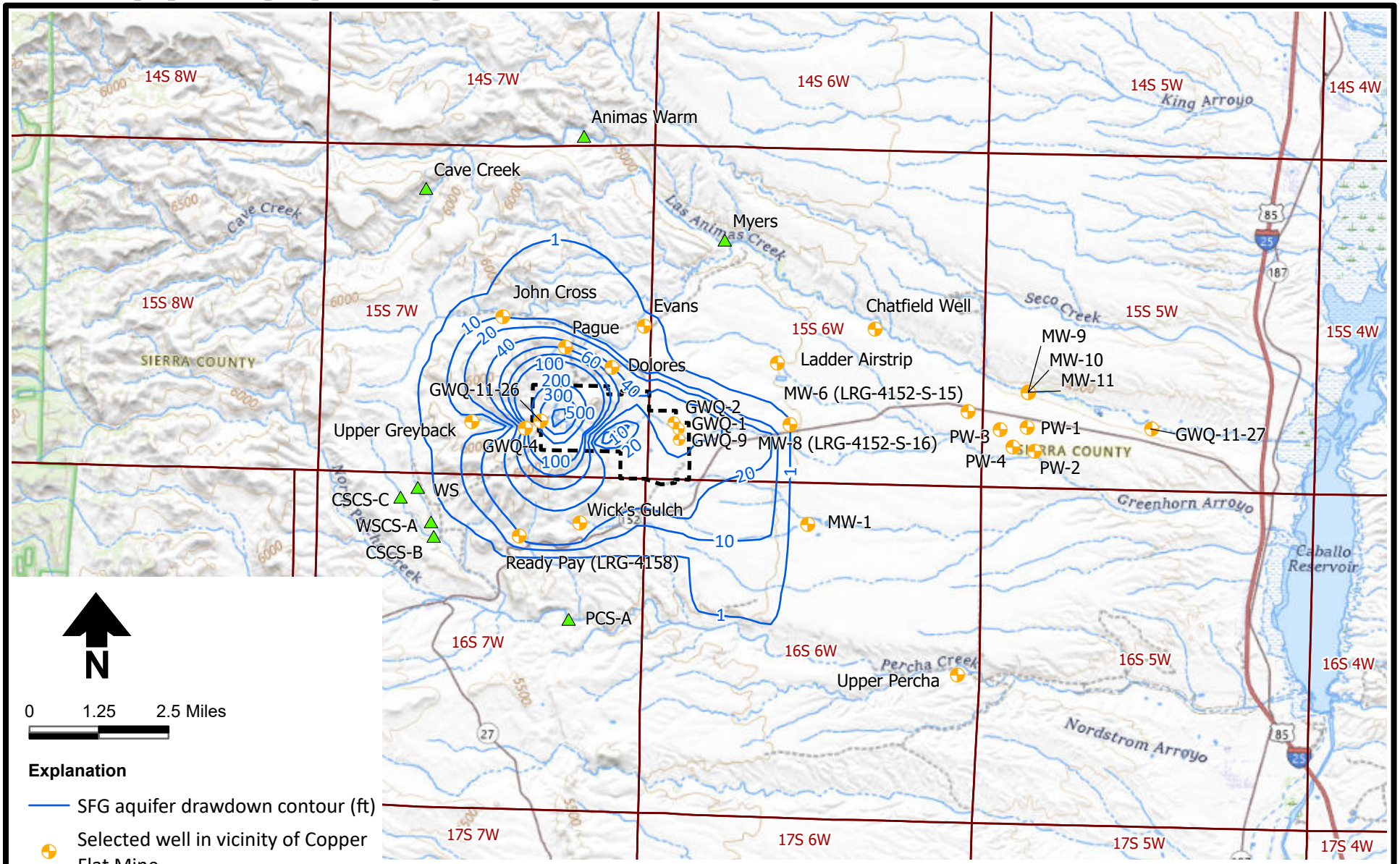
JSAI. 2018. *Probable hydrologic consequences of the Copper Flat Project, Sierra County, New Mexico.* Prepared for New Mexico Copper Corporation, Albuquerque, New Mexico. Revised May 22, 2018.

Appendix A

Projected Hydrographs

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USGS, The National Map

Figure A-1

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Projected Drawdown 100 Years After Mining

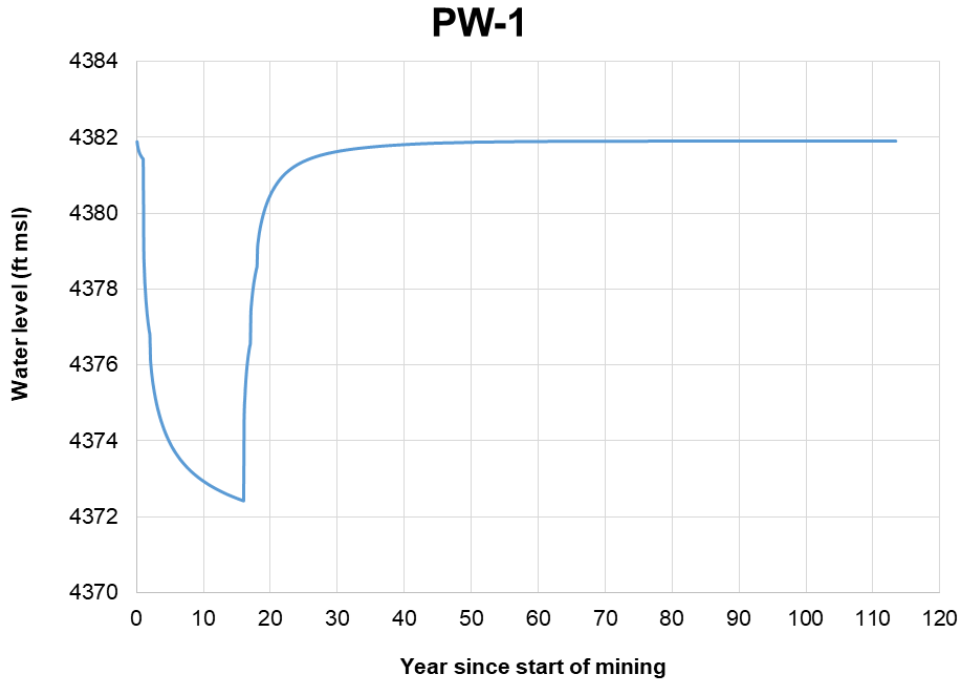


Figure A-2. Projected water level at well PW-1

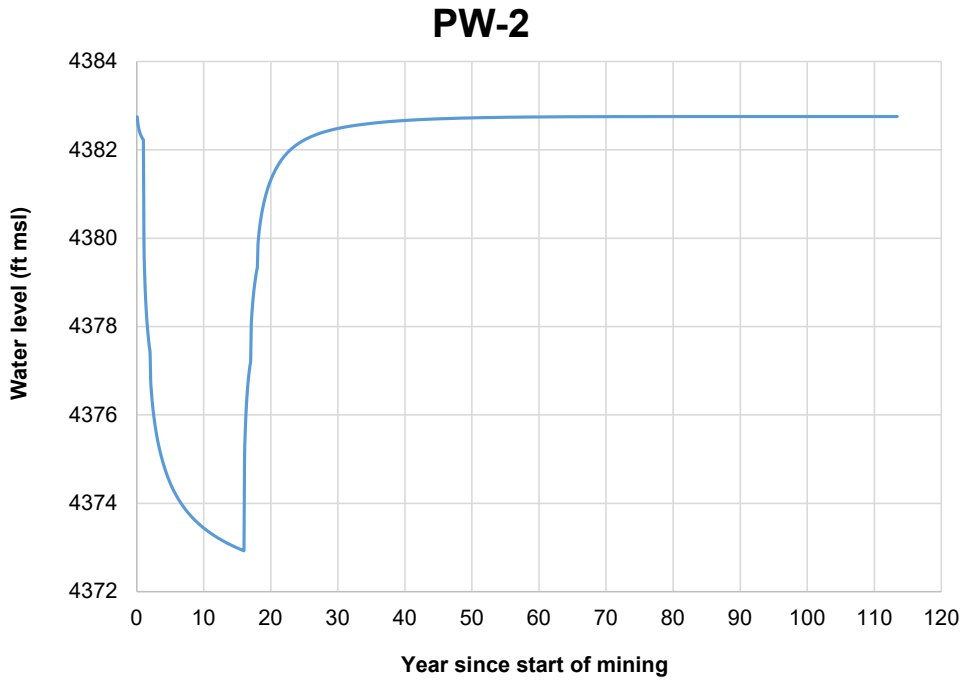


Figure A-3. Projected water level at well PW-2

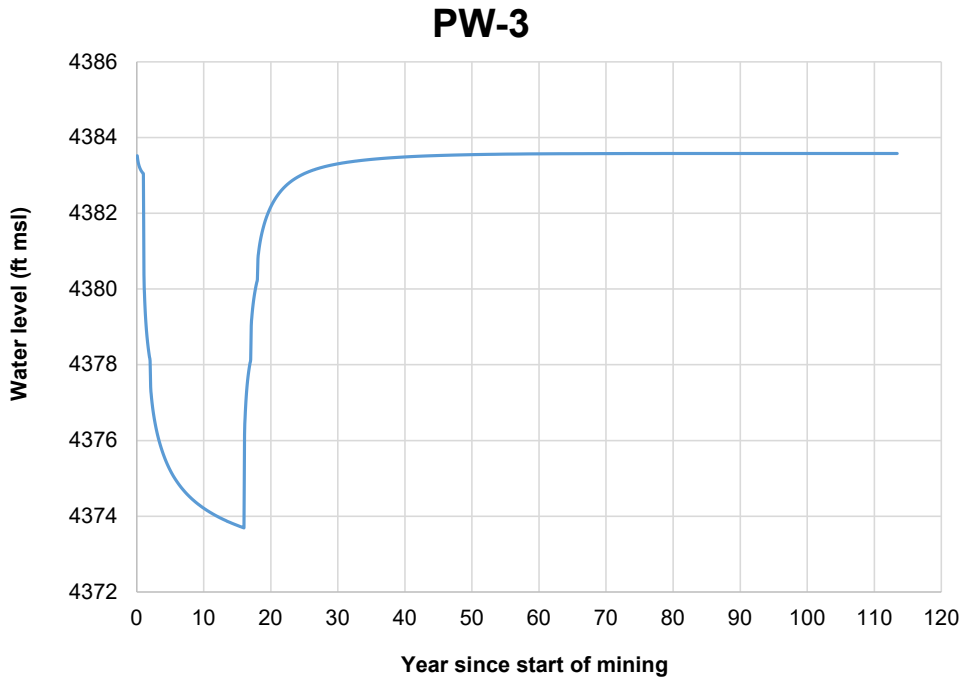


Figure A-4. Projected water level at well PW-3

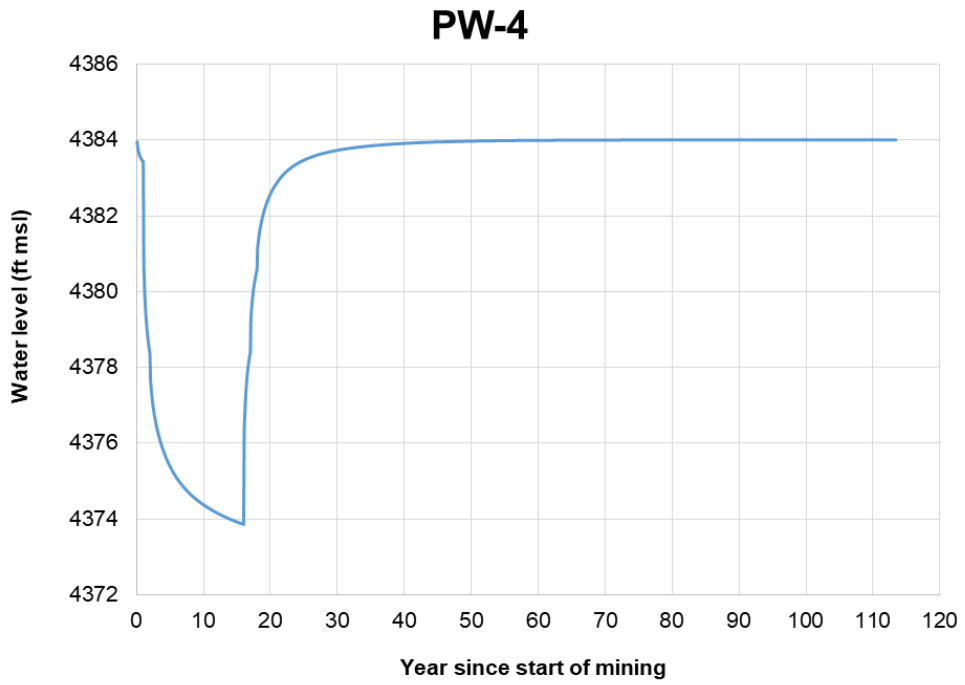


Figure A-5. Projected water level at well PW-4

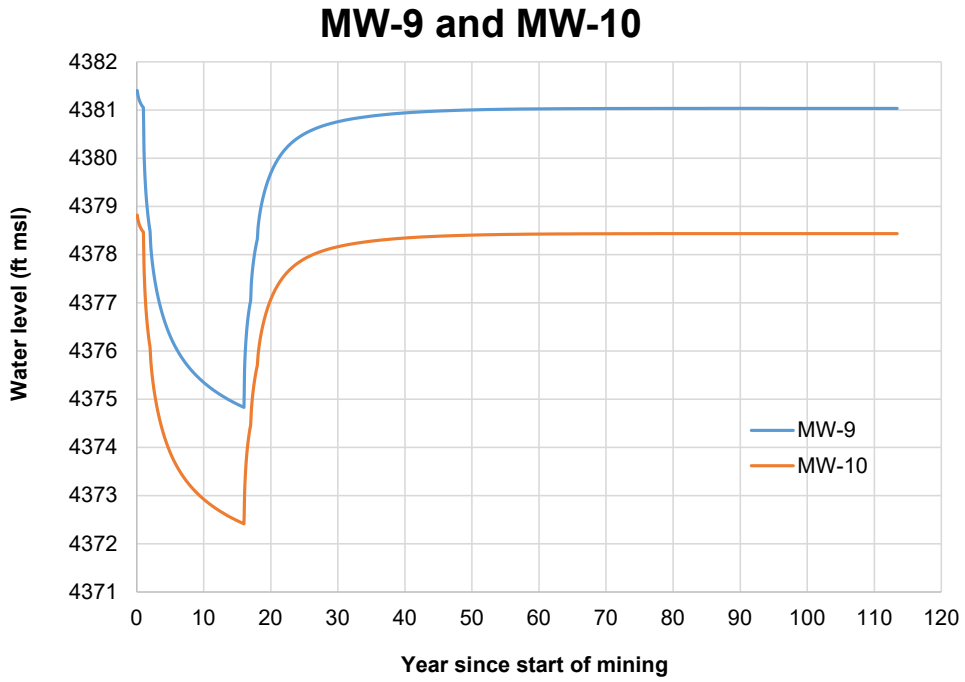


Figure A-6. Projected water level at wells MW-9 and MW-10

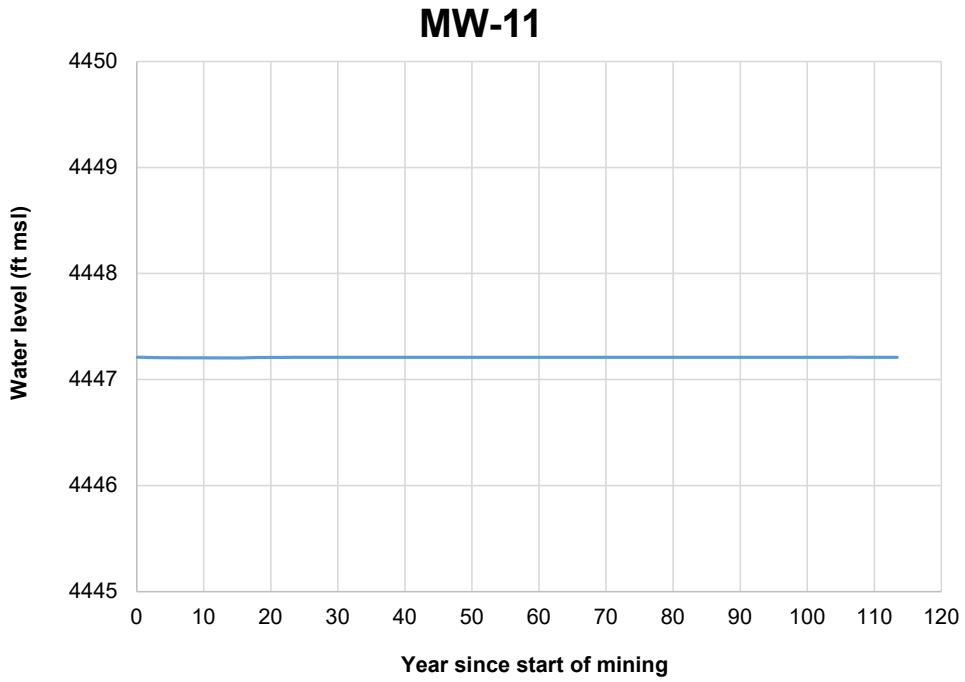


Figure A-7. Projected water level at well MW-11

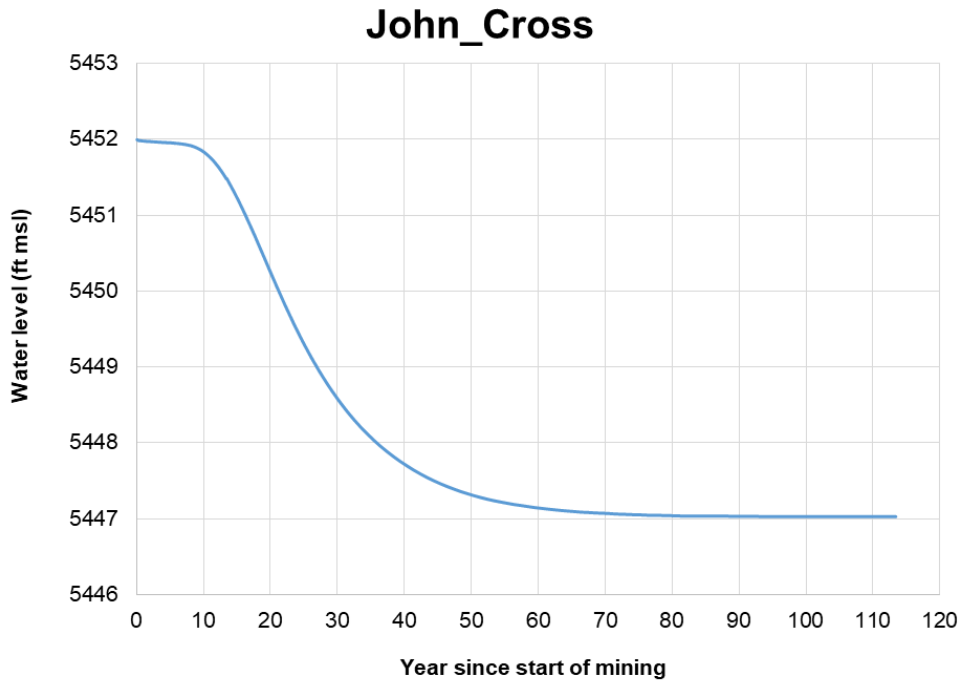


Figure A-8. Projected water level at John Cross well



Figure A-9. Projected water level at Pague well

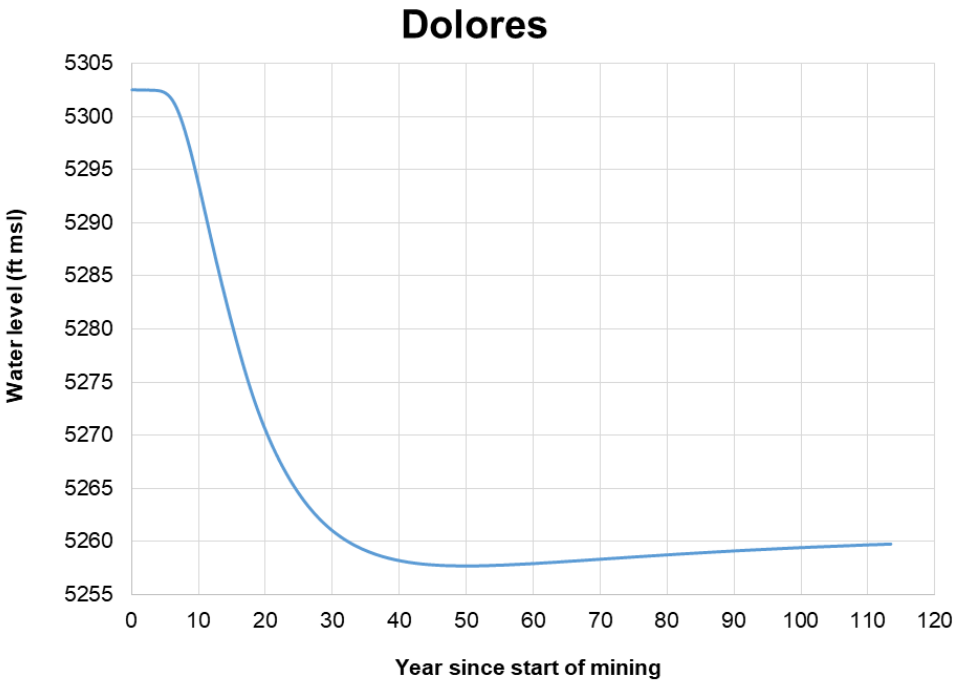


Figure A-10. Projected water level at Dolores well

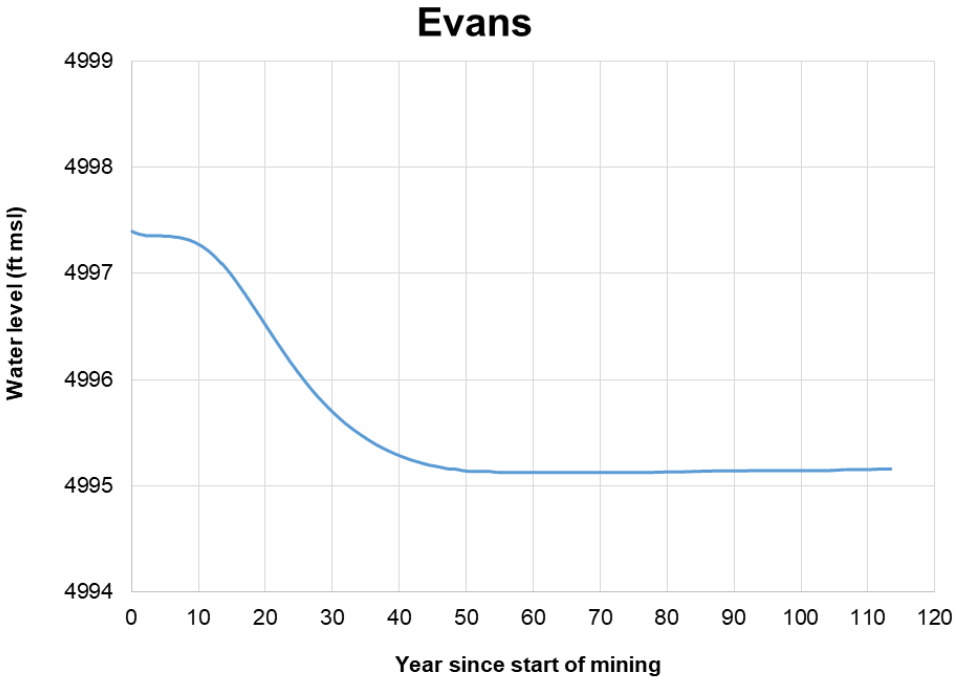


Figure A-11. Projected water level at Evans well

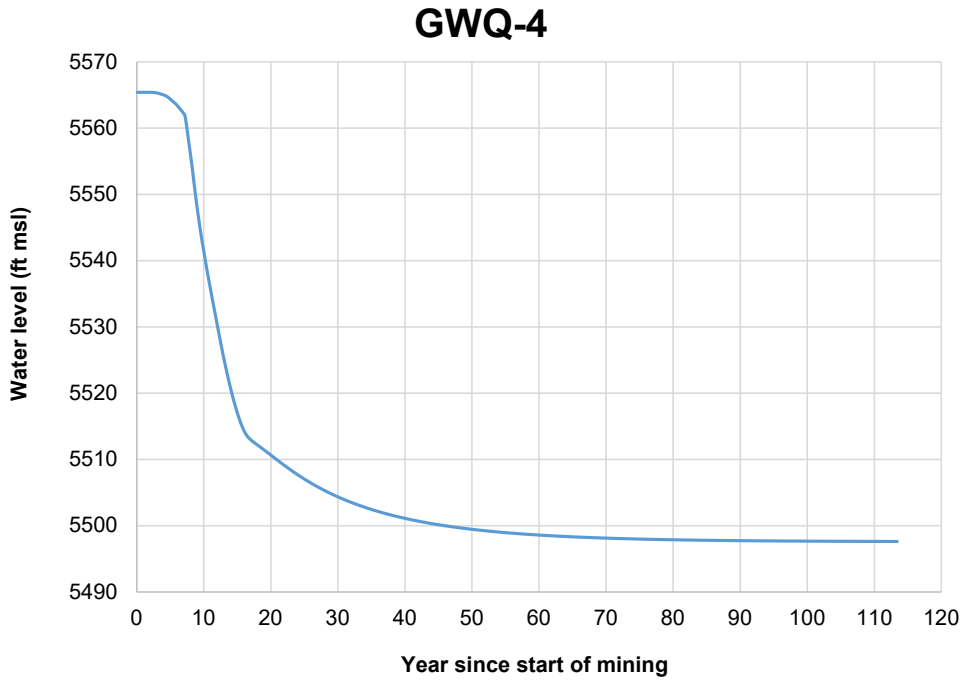


Figure A-12. Projected water level at well GWQ-4

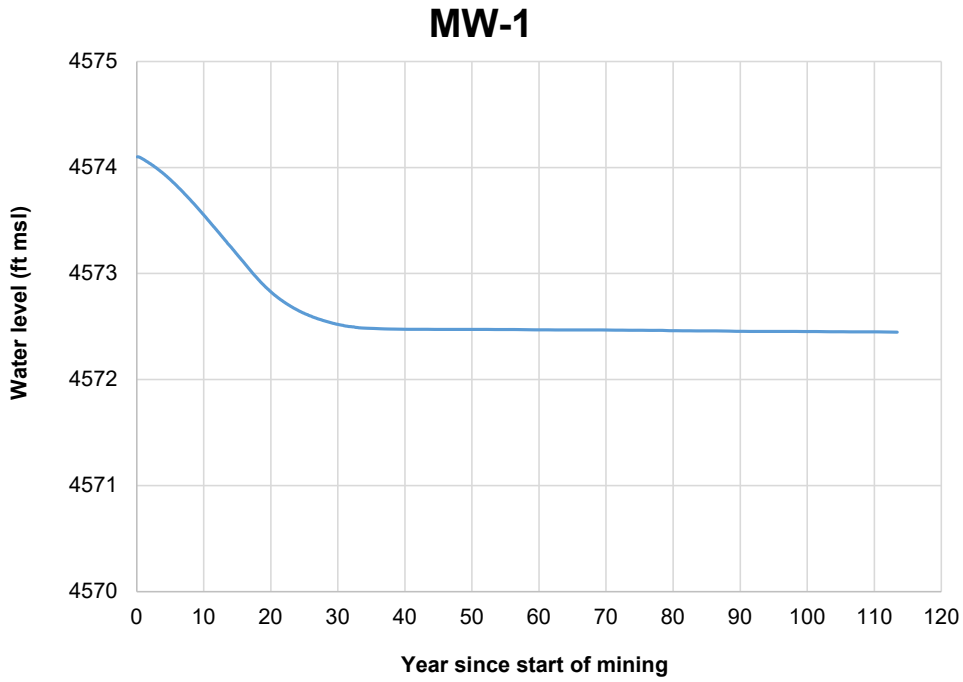


Figure A-13. Projected water level at well MW-1

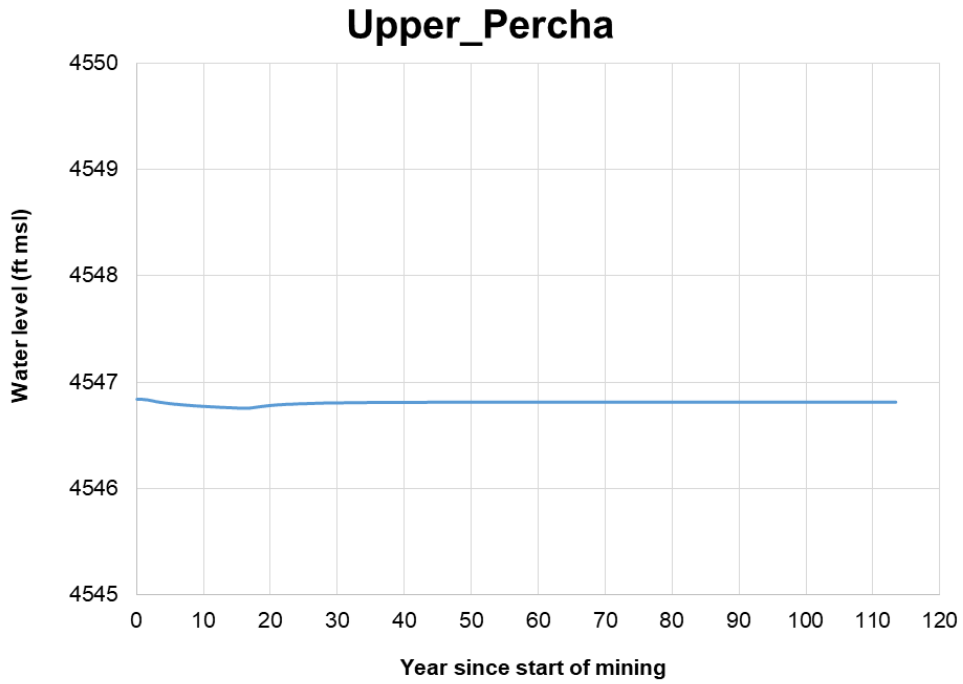


Figure A-14. Projected water level at Upper Percha well

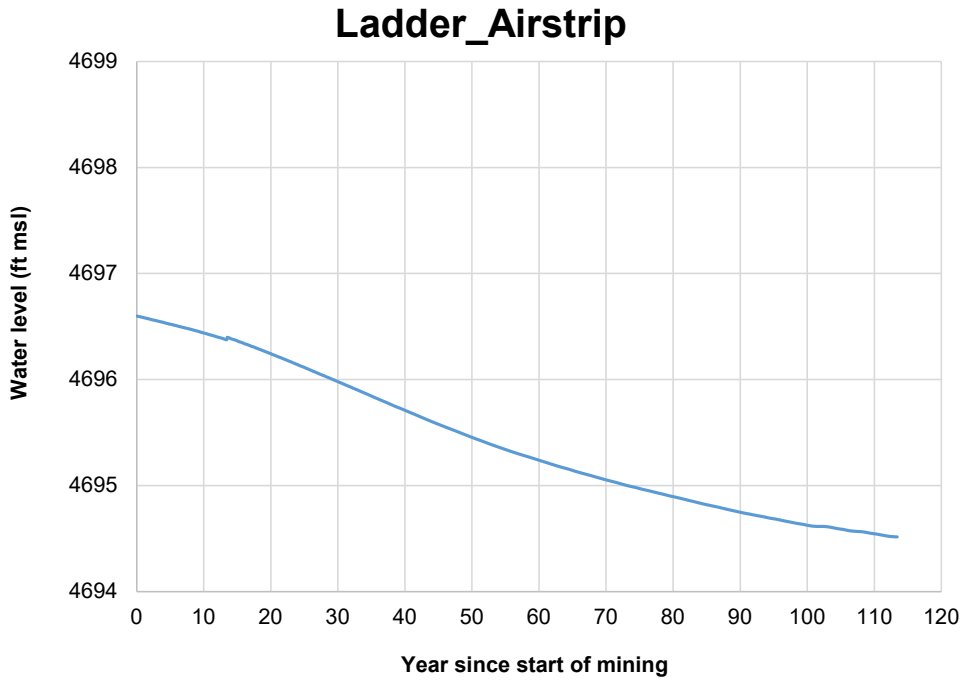


Figure A-15. Projected water level at Ladder Airstrip well

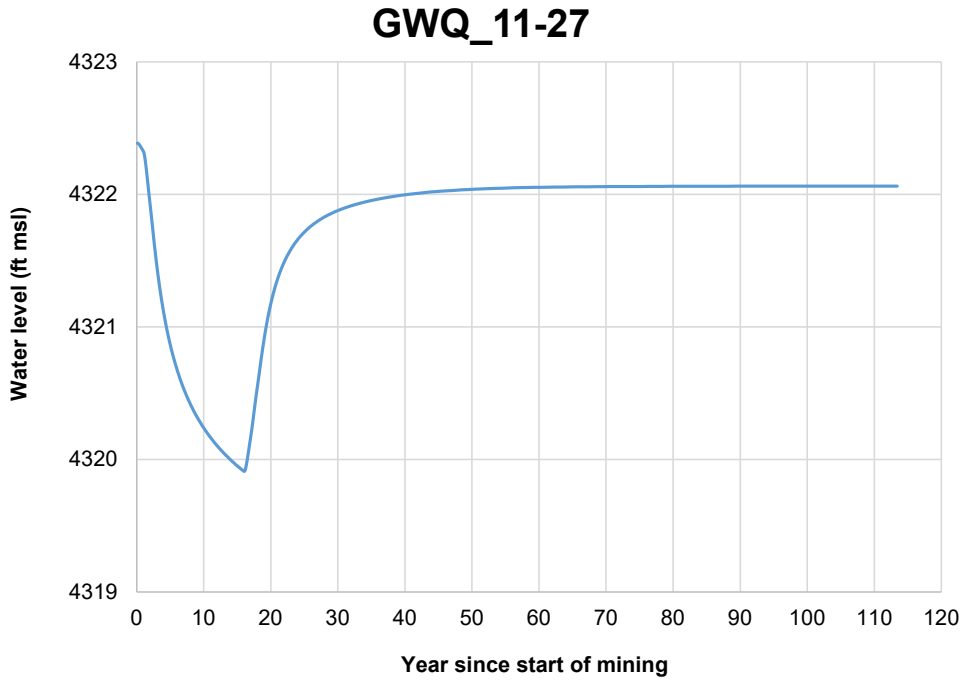


Figure A-16. Projected water level at well GWQ 11-27

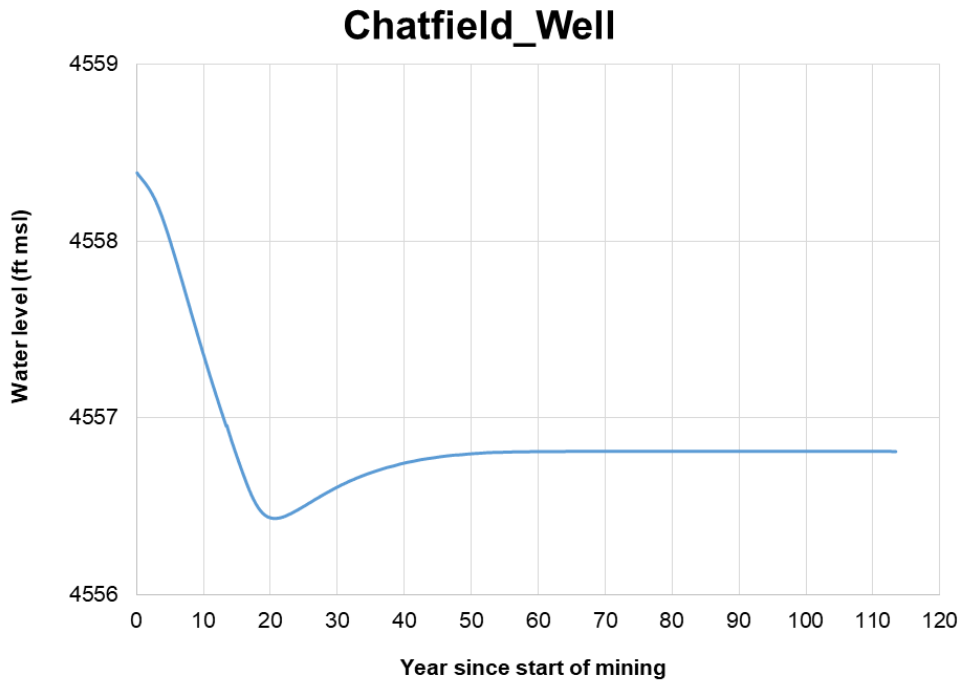


Figure A-17. Projected water level at Chatfield well

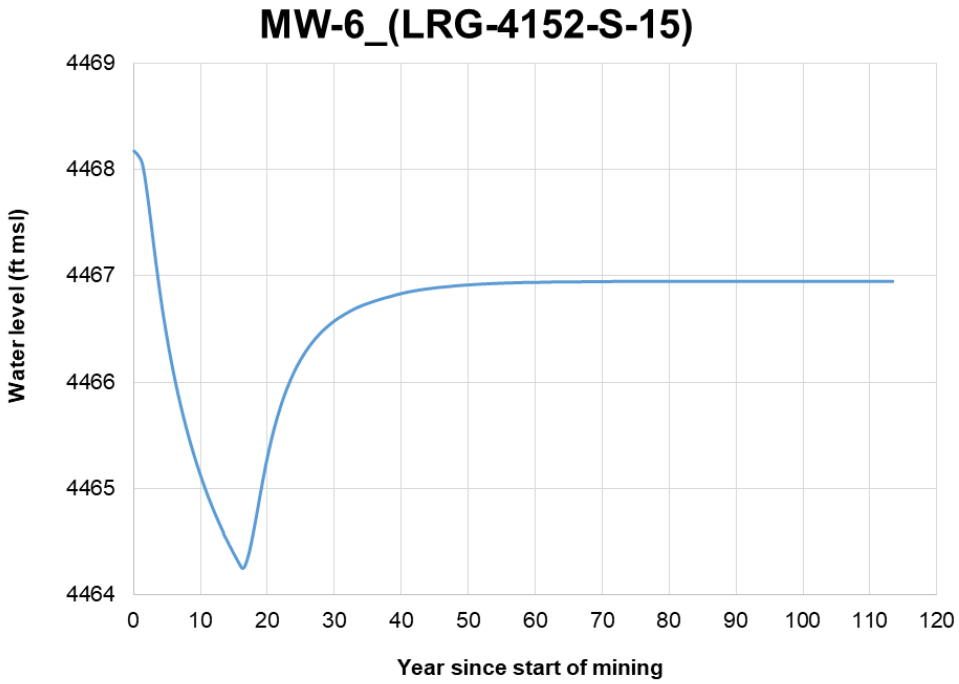


Figure A-18. Projected water level at well MW-6 (LRG-4152-S-15)

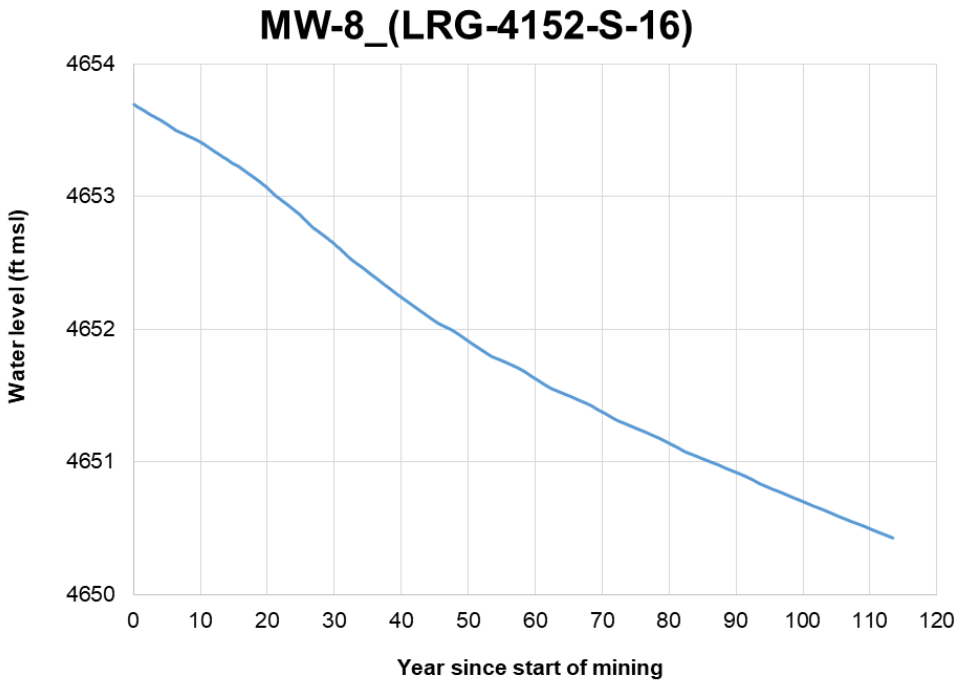


Figure A-19. Projected water level at well MW-8 (LRG-4152-S-16)

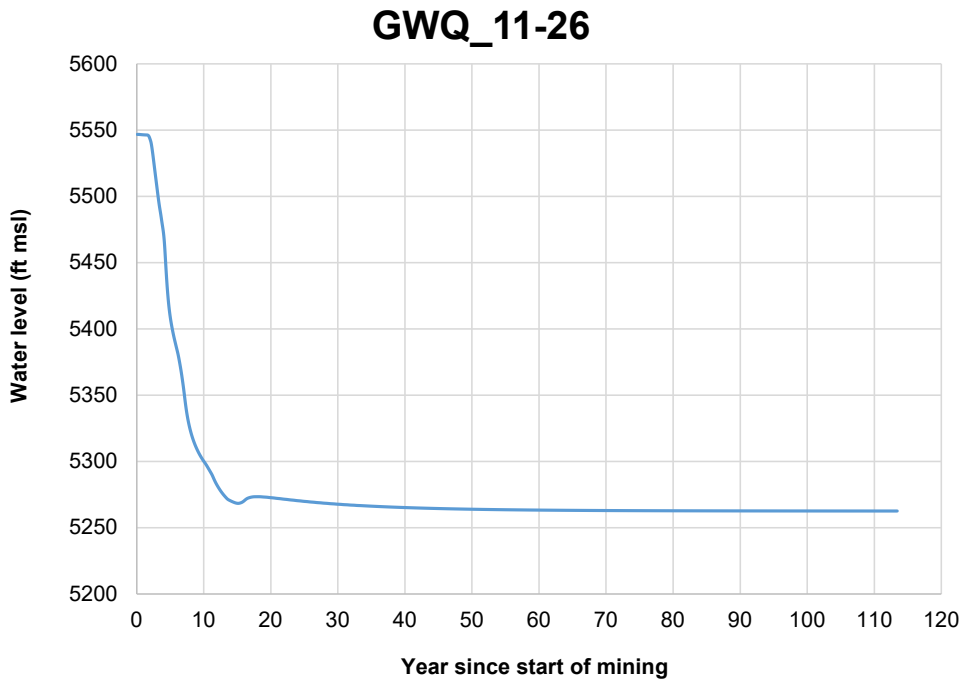


Figure A-20. Projected water level at well GWQ 11-26

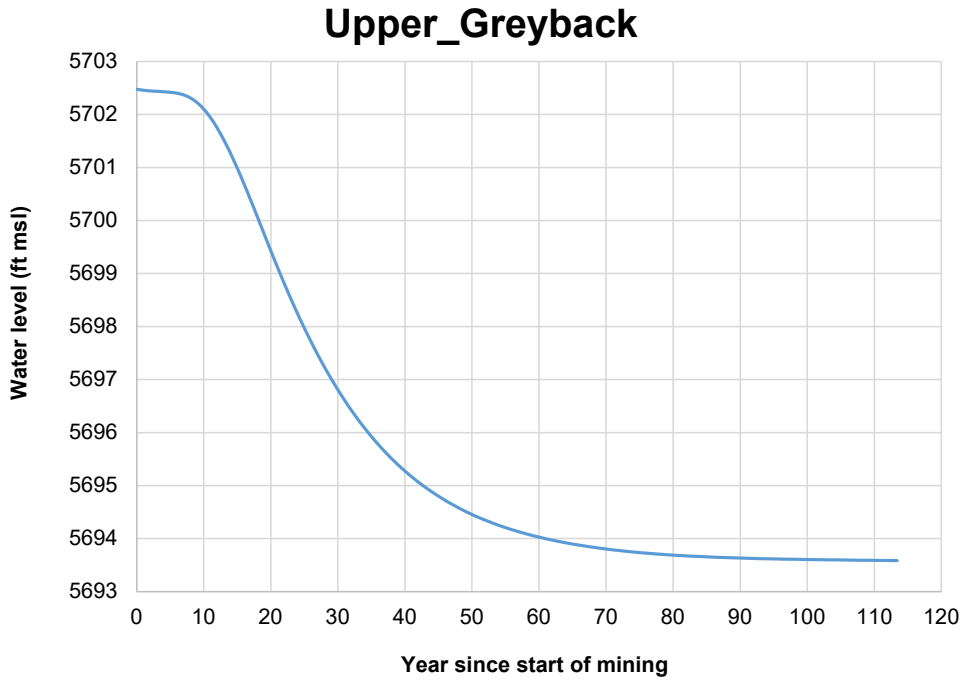


Figure A-21. Projected water level at Upper Greyback well

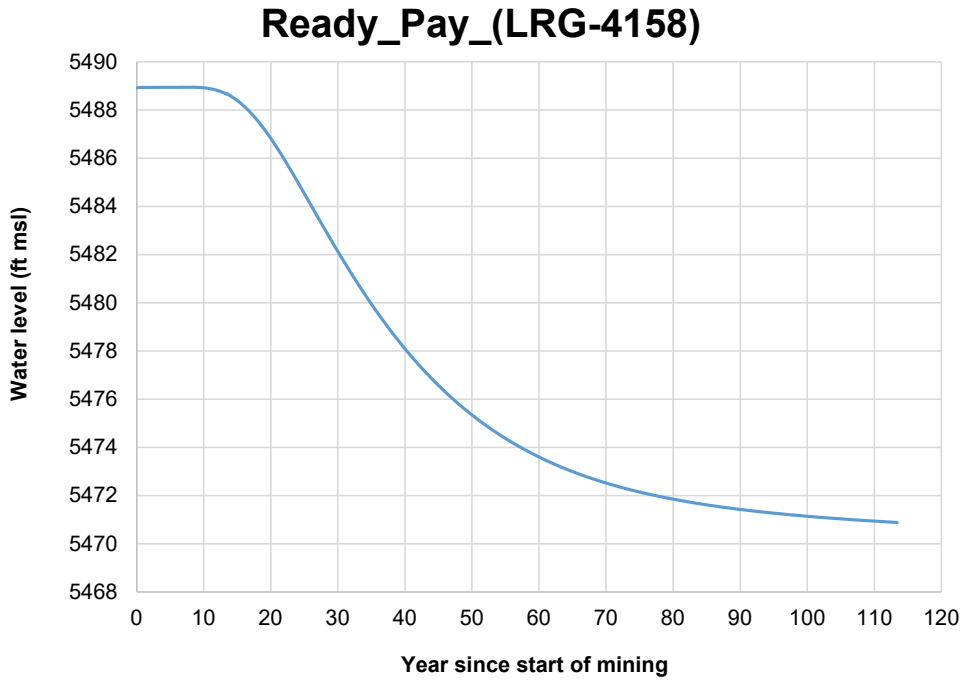


Figure A-22. Projected water level at Ready Pay well (LRG-4158)



Figure A-23. Projected water level at Wicks Gulch well

Memorandum

To: Stephen Crosby, New Mexico Copper Corporation **Date:** October 16, 2026

From: Neil Blandford and Farag Botros

Subject: Drawdown Effects of the 2026 MORP on Wells in Lower Las Animas Creek

A public hearing was held by the New Mexico Mining and Minerals Division (MMD) on September 17, 2026 in Hillsboro, New Mexico regarding the updated 2026 Mine Operations and Reclamation Plan (MORP) for the Copper Flat Mine. Several members of the public expressed concern regarding the water-level decline (drawdown) due to mining that would occur at their wells completed in the Santa Fe Group (SFG) aquifer along Las Animas Creek. One of these commenters stated that the drawdown at their well would exceed 3 meters (about 10 feet). We believe that this commenter and the others were likely referring to mine water demand under the prior MORP, and may have been unfamiliar with the updated drawdown calculations conducted for the updated 2026 MORP. In addition, the President of the Hillsboro Mutual Domestic Water Consumers Association (MDWCA) expressed concern that the mine water use will impact the Hillsboro water supply, a concern echoed by at least one other commenter.

This memorandum provides a brief overview of projected maximum water-level decline in the vicinity of these specific wells for both the previous and the updated MORP. Additional details regarding the hydrologic effects of 2026 MORP are provided in the most recent probable hydrologic consequences (PHC) report (DBS&A, 2026).

Las Animas Creek Area

The effects of mine pumping on water levels in the SFG aquifer predicted for the prior MORP are provided in the PHC report completed by John Shomaker & Associates, Inc. (JSAI) dated May 22, 2018. The drawdown contours from Figure 3.1 in JSAI (2018) are plotted in Figure 1. As indicated in the figure, the maximum projected drawdown exceeds 60 feet at the mine well field located south of Las Animas Creek on the south side of Route 152 (i.e., wells PW-1 through PW-4). The equivalent figure for the 2026 MORP is provided as Figure 2, which is the same as Figure 3-1 in the updated PHC report prepared by Daniel B. Stephens & Associates, Inc. (DBS&A) dated June 16, 2026. As indicated in the figure, the maximum drawdown for the updated MORP at the mine well field is 10 feet at one production well location, and less than 10 feet elsewhere, including Las Animas Creek. The large difference in projected drawdown is

due to the large reduction in mine water demand achieved through use of the dry stack tailing method. For example, as documented in DBS&A (2026), the maximum pumping from the mine production well field of 861.84 acre-feet per year (ac-ft/yr) is 14 percent of the 6,095 ac-ft/yr applied in JSAI (2018), which is an 86 percent reduction in pumping.

Public comment was provided by representatives from the Boone, Diamond, and Newman families, each of which has wells along the eastern portion of Las Animas Creek about 2.5 miles east-northeast of the mine well field. The New Mexico Water Rights Reporting System (NMWRRS) was used to identify the locations of all wells with owner names corresponding to these three families, and more detailed figures were constructed to present the projected maximum drawdown in the vicinity of these wells. Figure 3 shows the region of the more detailed figures, and Figures 4 and 5 show the projected drawdown for the prior and updated (2026) MORPs, respectively. As indicated in Figure 4, the maximum projected drawdown for the previous MORP at the referenced wells along Las Animas Creek ranged from about 9 to over 20 feet. We believe the commenters were likely referring to this drawdown, which will not occur. For the updated (2026) MORP, the projected maximum drawdown at the majority of the same wells is between 1 and 2 feet, and about 3.5 feet at one well (LA-00025) (Figure 5).

It should also be noted that the maximum expected drawdown (drawdown at the end of the pit filling) is presented in the figures. After the pit filling is completed, the water demand will be substantially lower, and water levels at the mine well field and the Las Animas Creek wells will rise. Therefore, the drawdown shown in Figures 2 and 4 will occur for a limited period of time of about a year or less. Projected water levels through time (hydrographs) at multiple well locations are provided in DBS&A (2026). Figure 6 is the simulated hydrograph for well GWQ-11-27 near the lower Las Animas Creek wells; the location of well GWQ-11-27 is provided in Figures 4 and 5.

Hillsboro MDWCA

Three wells were identified in NMWRRS for Hillsboro MDWCA. The three wells are located in close proximity in the western portion of Hillsboro, approximately 4 miles southwest of the Copper Flat Mine open pit. All modeling projections indicate zero drawdown due to mining at the Hillsboro MDWCA wells. See, for example, Figure A-1 in DBS&A (2026).

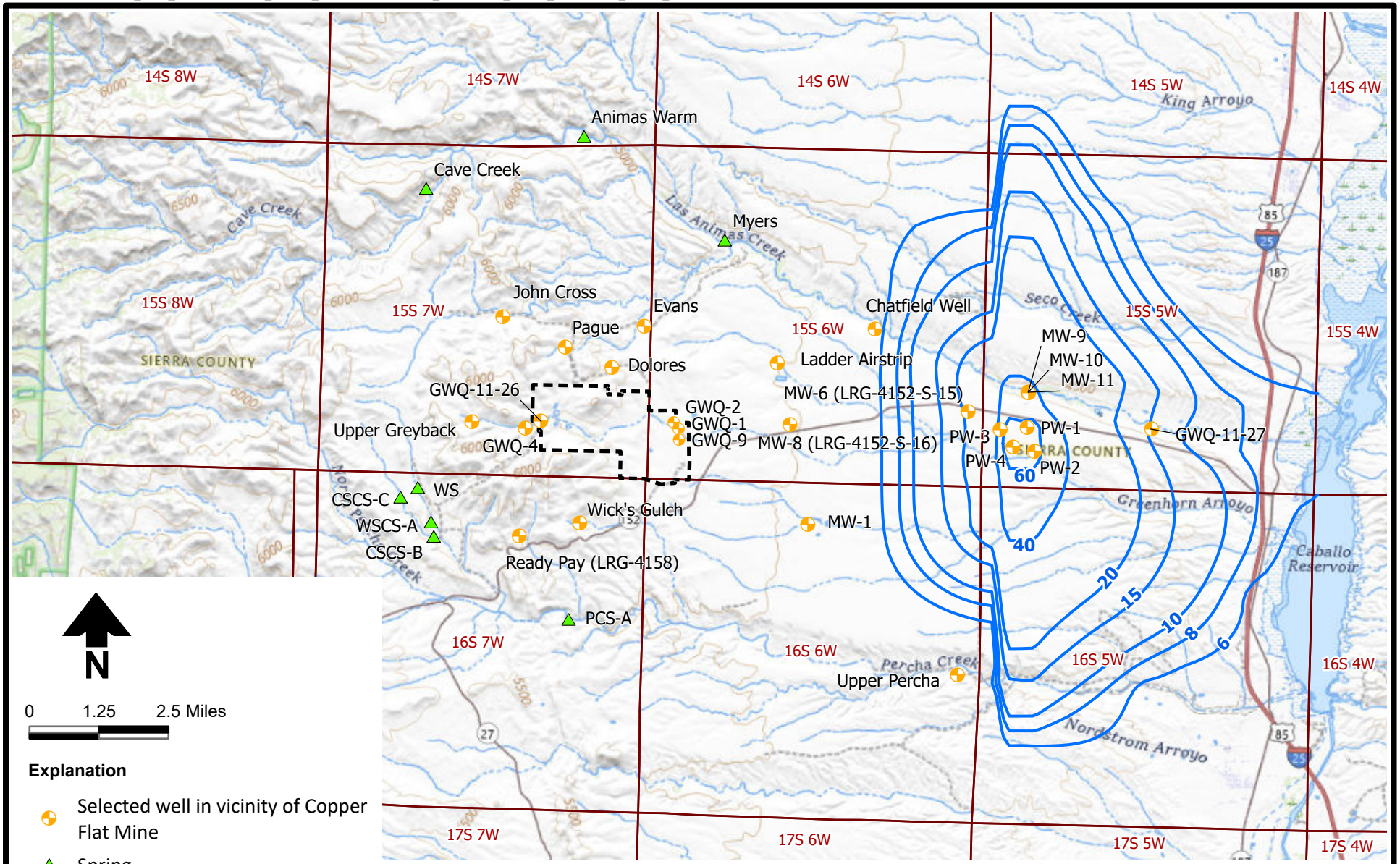
References

Daniel B. Stephens & Associates, Inc. (DBS&A). 2026. *Updated probable hydrologic consequences of the Copper Flat Project.* Prepared for Copper Flat Mine, New Mexico Copper Corporation, Albuquerque, New Mexico. June 16, 2026.

John Shomaker & Associates, Inc. (JSAI). 2018. *Probable hydrologic consequences of the Copper Flat Project, Sierra County, New Mexico.* Prepared for New Mexico Copper Corporation, Albuquerque, New Mexico. May 22, 2018.

Figures

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USGS, The National Map

COPPER FLAT MINE

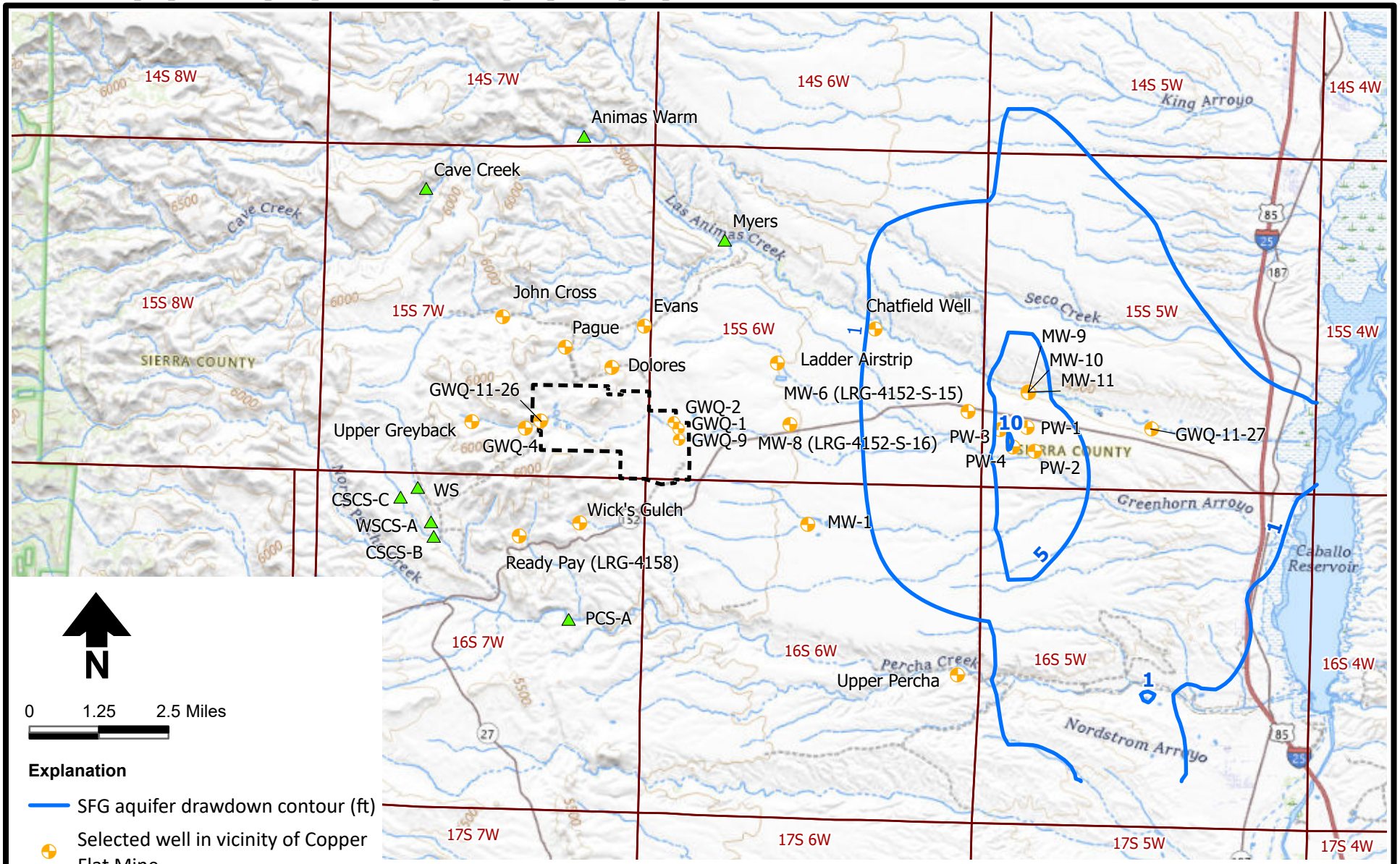
Projected Maximum Drawdown in the SFG Aquifer Due to Copper Flat Pumping Under Previous MORP

Figure 1

DBS&A
a Geo-Logic Company

10/14/2026 DB24.1322

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USGS, The National Map

COPPER FLAT MINE

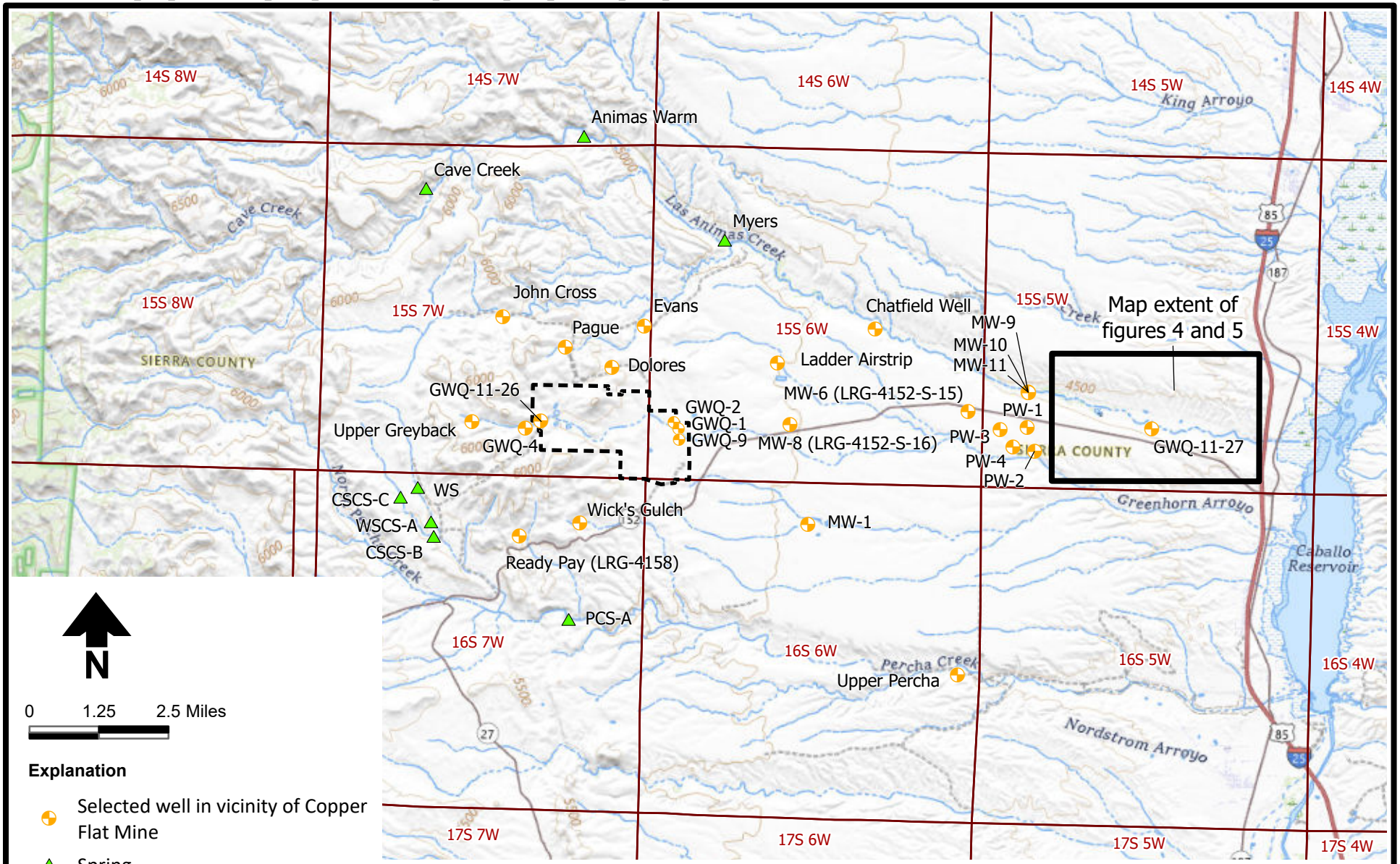
Projected Maximum Drawdown in the SFG Aquifer Due to Copper Flat Pumping Under Updated (2026) MORP

Figure 2

DBS&A a Geo-Logic Company

10/15/2026 DB24.1322

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USGS, The National Map

COPPER FLAT MINE

Mine Area with Selected Wells and Springs and Area of Figures 4 and 5 Plots

Figure 3

DBS&A
a Geo-Logic Company

10/14/2026 DB24.1322

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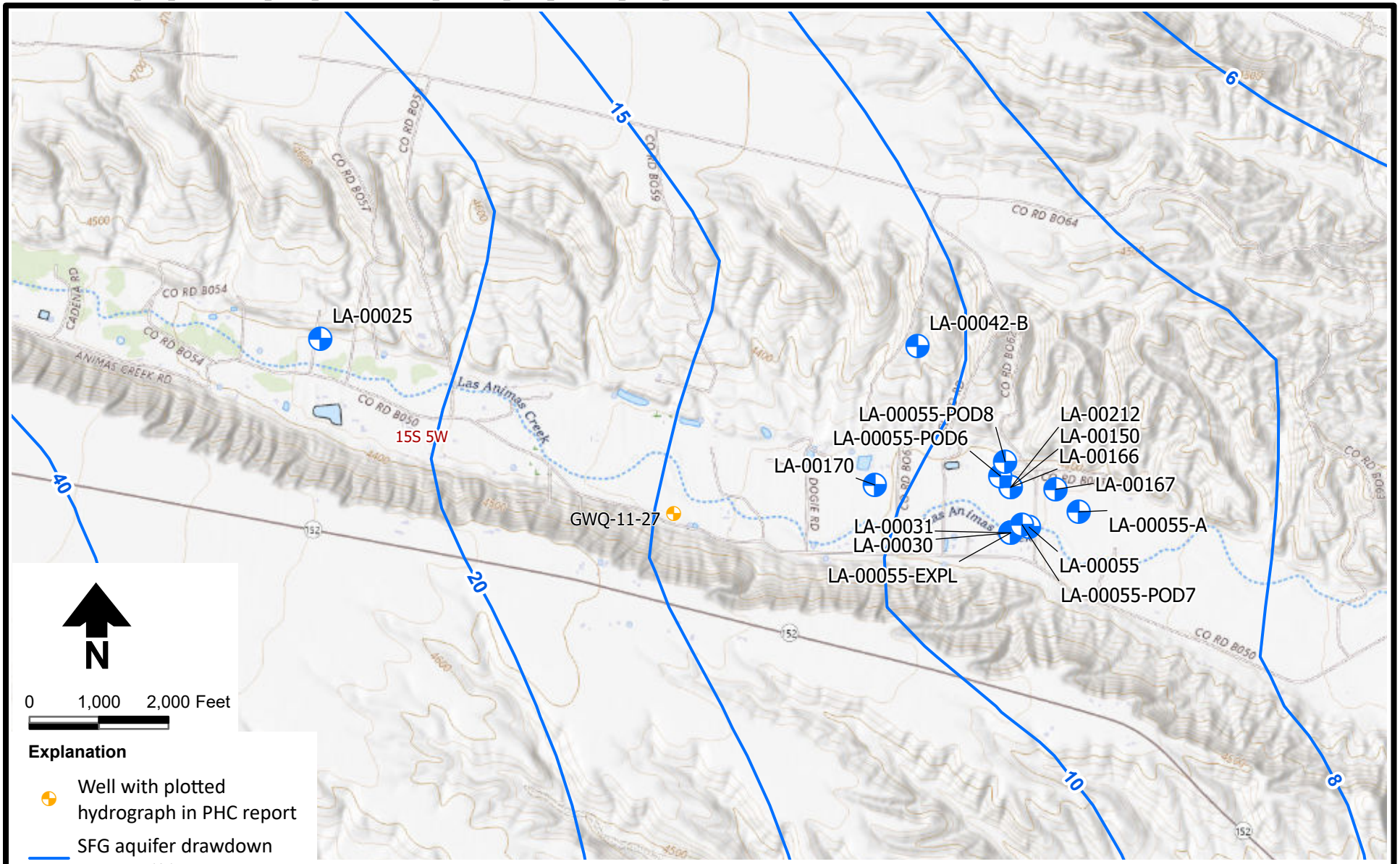


Figure 4

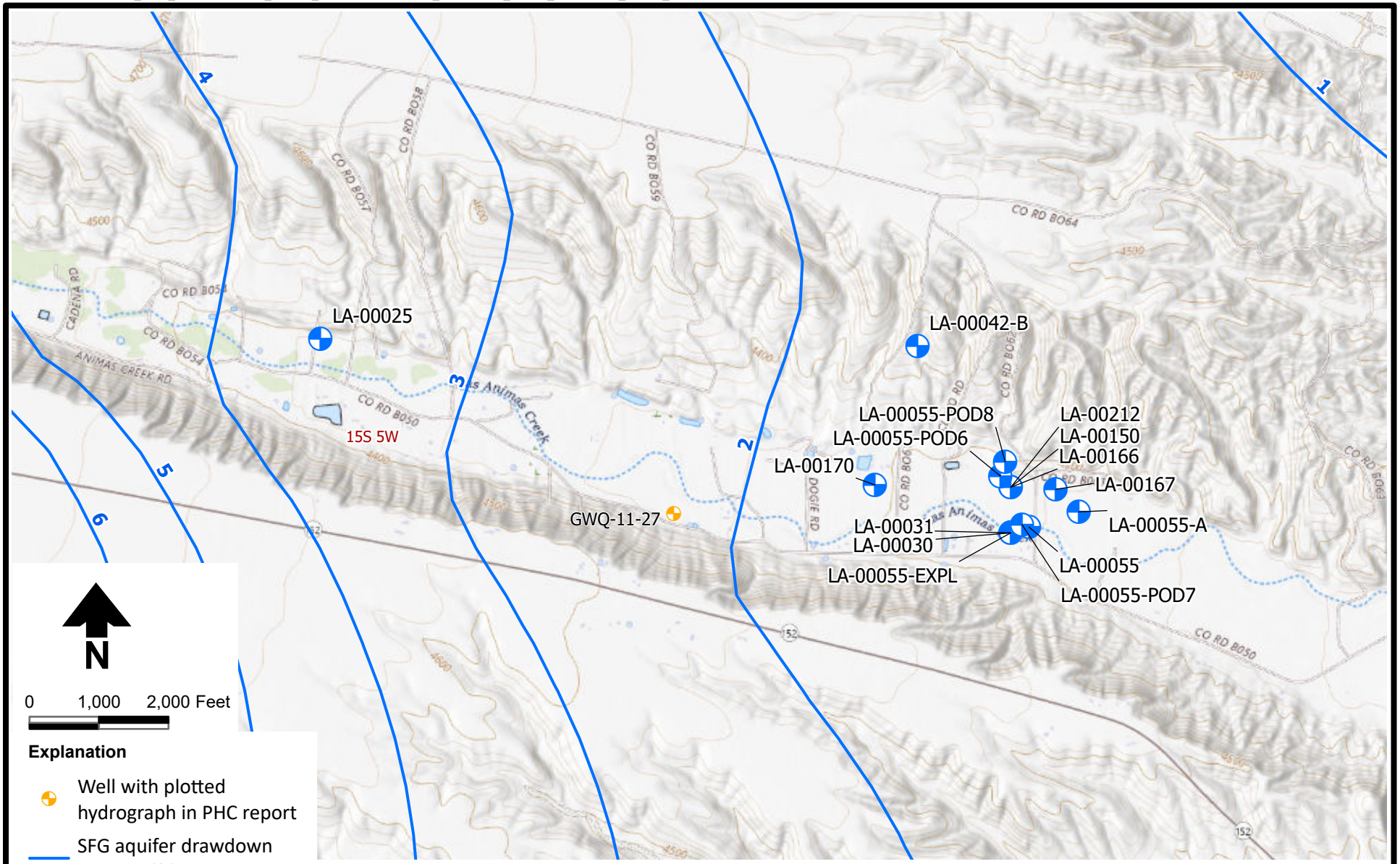
COPPER FLAT MINE

Maximum SFG Aquifer Drawdown Under Previous MORP

DBS&A a Geo-Logic Company

10/14/2026 DB24.1322

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COPPER FLAT MINE

Maximum SFG Aquifer Drawdown Under Updated (2026) MORP

Figure 5

DBS&A
a Geo-Logic Company

10/15/2026 DB24.1322

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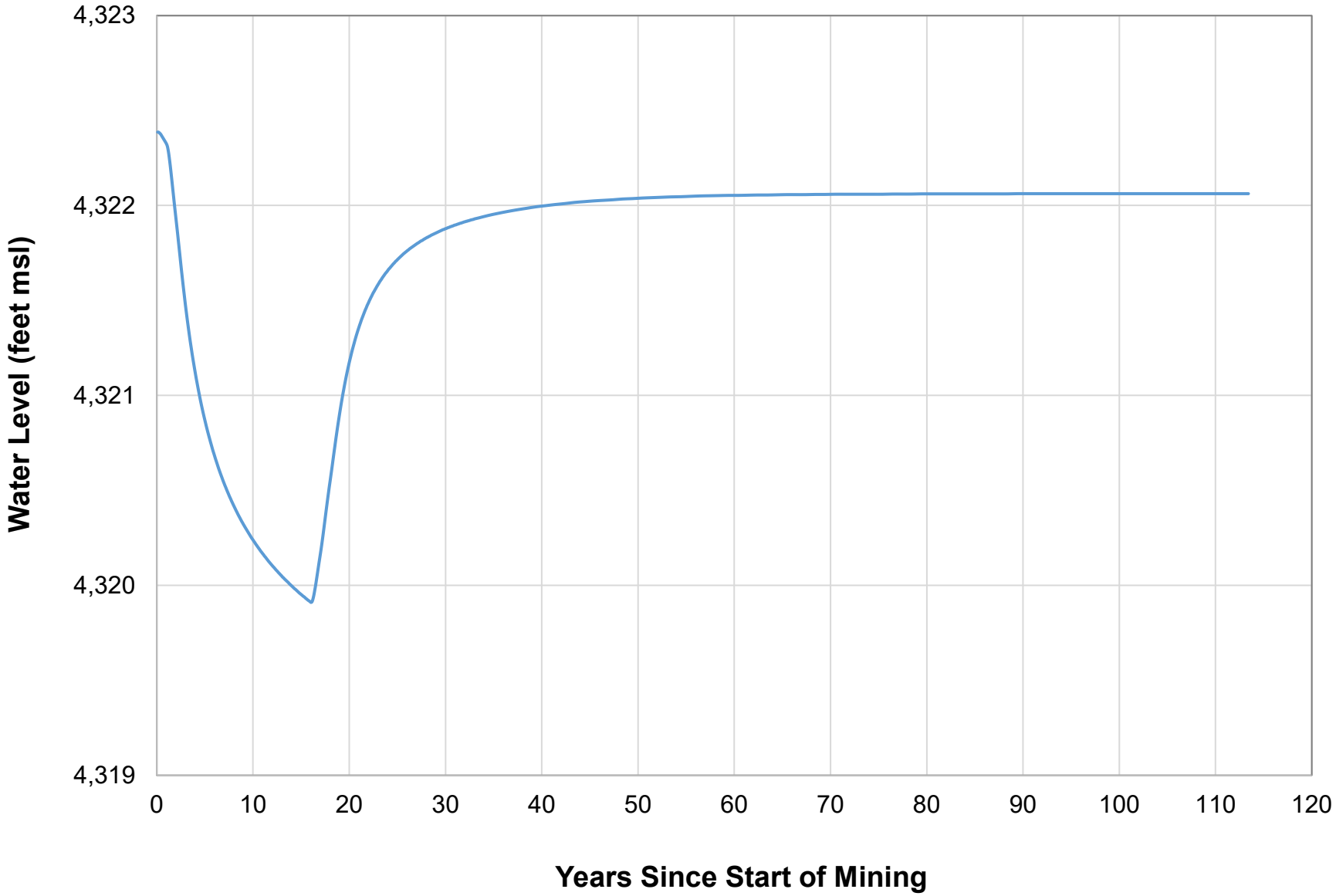


Figure 6

COPPER FLAT MINE

Simulated Water Level at Well GWQ-11-27 in Lower Las Animas Creek Drainage

DBS&A a Geo-Logic Company

10/15/2026 DB24.1322

Appendix D

Summary of written and oral comments

D Summary of Written and Oral Comments and Where Each Is Answered: Table D-1, the 21 written comments; Table D-2, the 26 oral comments at the hearing of 17 September 2026; Table D-3, questions to the applicant panel

APPENDIX D

Summary of Written and Oral Comments and Where Each Is Answered

Response of New Mexico Copper Corporation following the public hearing of 17 September 2026 on the application to amend Mining Operation Permit SI027RN — Copper Flat Project, Sierra County, New Mexico. Attachment to the Closing Submission of New Mexico Copper Corporation.

Document control	
Document	NMCC-REG-HRG-002 Appendix D · Rev 0 · 16 Oct 2026
Prepared by	New Mexico Copper Corporation (NMCC)
Written comments	Table D-1 lists the 21 written comments on the amended plan filed with MMD, or filed with another agency and copied to MMD, between 14 October 2025 and 8 August 2026, as provided to NMCC by MMD.
Oral comments	Tables D-2 and D-3 are taken from MMD's audio recording of the hearing (4 hours 11 minutes). Names and affiliations are as stated by each speaker; where a name could not be made out with certainty from the recording it is marked 'as heard'. Times are elapsed times on the recording. Subjects are summarized; numbers are as spoken.
Cross-references	The right-hand column of each table gives the section of the Response (NMCC-REG-HRG-002) and, where applicable, the appendix that answers the comment. Section IV lists the permit conditions NMCC has offered.

D.1 Written comments

MMD received 21 written comments on the amended plan before the hearing. Thirteen were filed by Mr. Max Yeh on behalf of the Percha-Animas Watershed Association (PAWA), including two letters to the Office of the State Engineer copied to MMD. Two are the June 2026 presentations to MMD and NMED of the experts retained by PAWA and the Gila Resources Information Project (GRIP). Three were requests for a public hearing from Hillsboro residents. The subjects raised are water consumption and the sufficiency of NMCC's water rights, dust, the stability of the filtered-tailings facility, electricity supply, the 2020 Director's Order and Settlement Agreement, pit reclamation and rapid fill, and the history of the site.

Date	Commenter	Affiliation (as stated)	Subject	Answered in
14 Oct 2025	Nolan Winkler	Hillsboro resident	Request for a public hearing; dust from the tailings stack; opposition to rapid fill of the pit.	III.C.9; III.D.5
25 Oct 2025	Robin Tuttle	Hillsboro / Berrenda Ranches resident	Request for a public hearing; dust; stability of the stack; electricity demand; sufficiency of water; rapid fill.	III.C.9; III.C.3; V.B; III.D, III.E; III.D.5
13 Nov 2025	Max Yeh	Percha-Animas Watershed Association (PAWA)	Data gaps in the WSP design; feasibility of dust control; sources of water; legality of storm-water use; moisture of the ore and tailings; pit reclamation.	III.C.2; III.C.9; III.D, III.E; III.C.7; III.A; III.D.5
21 Nov 2025	Rebecca Hallgarth	Hillsboro resident	Request for a public hearing; water consumption; backfilling the pit with rock; dust and air quality.	III.D.4; III.D.5; III.C.9
7 Dec 2025	Max Yeh	PAWA	Status of the 2020 MMD–NMCC Settlement Agreement and its sufficiency-of-water condition.	V.C; V.G
16 Jan 2026	Max Yeh	PAWA (letter to OSE, copied to MMD)	Mine Dewatering Act; designation of the pit as a well; legality of water used for dust control.	III.E; III.D.5
6–12 Feb 2026 (three filings)	Max Yeh	PAWA	Administrative completeness; hearing procedure; terms of the 2020 Settlement Agreement, including the 2,200 AF rapid-fill provision.	V.C; V.G; III.D.5
14 Feb 2026	Nolan Winkler	Hillsboro resident	Availability of electricity for the project.	V.B

Date	Commenter	Affiliation (as stated)	Subject	Answered in
22 Feb 2026	Max Yeh	PAWA	Electrical energy calculation; the storm standard applied to the pit lake (100-year vs 300-year); the pit as a hydrologic sink.	V.B; III.C.7; III.D.5
26 Feb 2026	Max Yeh	PAWA	Water sufficiency, part 1: arithmetic derived from the 2019 FEIS; the position that 1,100 AF/yr is insufficient at 30,000, 17,500 and 15,000 tons per day.	III.D.4; III.E; Appendix B
1 Mar 2026	Max Yeh	PAWA	Stability of filtered tailings: saturation at the liner interface; seismic design criterion (GISTM 1-in-10,000-year); scale and precedent.	III.C.3; III.C.4; III.C.5; II.B; Appendix A
2 Mar 2026	Max Yeh	PAWA	Critique of the DBS&A probable hydrologic consequences analysis; water-right priority, Active Water Resource Management and Rio Grande Compact arguments.	III.D.1; III.D.3; III.E
6 Mar 2026	Max Yeh	PAWA	Water sufficiency, part 2: the position that the maximum feasible throughput is about 10,000 tons per day; corporate finances; whether the application is in earnest.	III.D.4; III.E; V.E
7 Mar 2026	Max Yeh	PAWA	Stability addendum (saturation of filtered tailings); comparison with the chemistry of the Greens Creek, Alaska, facility.	III.C.4; II.B
24 Jun 2026	Dr. Steven Emerman	Malach Consulting, retained by PAWA/GRIP	Presentation to MMD and NMED: a maximum water saving of about 60% for filtered tailings; a minimum consumption of about 2,500 AF/yr.	III.D.4; Appendix B
25 Jun 2026	Dr. David Chambers	Center for Science in Public Participation, retained by PAWA/GRIP	Presentation: the Pau Branco and Turmalina failures; compaction and density testing; the absence of a site-specific seismic study.	III.A; III.C.3; III.C.4; III.C.5; Appendix A
30 Jun 2026	Ervin L. Henderson	Cuchillo resident	Site history: ore grade, condition of the former mill foundations, acidic runoff from benches, treatment of the pit lake, and the completeness of the information provided.	V.H; III.B; III.D.5
1 Jul 2026	Ervin L. Henderson	Cuchillo resident	Status of the ore reserve; oxidation of ore near the crusher; concentrate offtake; effect of acidity on concrete.	V.E; V.H
8 Aug 2026	Max Yeh	PAWA (letter to OSE, copied to MMD)	Whether NMCC has applied for a Mine Dewatering Act permit; runoff from the pit catchment; the use of pit water for production and dust control under the NMED draft discharge permit.	III.E; III.C.7; III.D.5

D.2 Oral comments at the hearing of 17 September 2026

The hearing was opened by the Hearing Officer at 5:30 pm at Hillsboro. MMD presented the application and the draft permit conditions; NMCC presented the amended plan; questions were put to the applicant panel (D.3); and 26 members of the public then gave sworn comment. NMCC's counsel noted for the record that GRIP's expert witnesses were not available for cross-examination and asked that the applicant be allowed to respond; the Hearing Officer allowed the applicant to respond orally or in writing by 5:00 pm on 16 October 2026. NMCC stated at the close of the hearing that it would respond in writing. This Response, with its appendices, is that response.

Time	Speaker, affiliation (as stated)	Subjects raised	Answered in
0:15	Jack Diamond — Animas Creek farm and ranch	Effect of mine pumping on the Animas Creek artesian basin; declining well; cost of deepening wells; condition of riparian trees.	III.D.2; Exhibit C-2; III.E

Time	Speaker, affiliation (as stated)	Subjects raised	Answered in
1:35	Mary Carden — local resident	Traffic on NM-152, including heavy haul; condition of the road; who pays for road upgrades; safety.	V.A; Appendix E
1:38	Donald Avery — local resident	Air, noise, light and water; adequacy of the environmental analysis; NM-152 as the only exit; adequacy of the water right; Elephant Butte storage and Rio Grande Compact deliveries; non-use of the mine's water right.	V.D; V.F; III.E; III.D.3
1:40	Taylor Streit — Taos; fly-fishing guide and author	Experience at the Questa mine; runoff from the Grayback drainage to the reservoir; Rio Grande flows and fish.	III.C.7; III.B
1:46	Lee Newman — Animas Creek farm; environmental engineer	Scale of water use; evaporation from the stack; wind and dust toward Animas Canyon and Caballo; effect on wells; success of revegetation; durability of the cover; long-term liability.	III.A; III.C.8; III.C.9; III.D.2; III.F
1:59	Wayne Ericson, P.E. — Hillsboro area	Concentrate truck weights on NM-152; condition of the I-25 interchange; status of the NMDOT agreement; request for a structural pavement evaluation with NMDOT; truck impacts in the FEIS.	V.A; Appendix E
2:02	Dan Lorimier — Sierra County resident	Water use in drought; basis of the EIS; timing of the project; the NM-152 overlay; local benefit.	III.D; III.E; V.A; V.E
2:06	Tara Gale	Whether the reclamation estimate is bonded; protection if the company is sold or becomes insolvent.	III.F
2:08	Kayson Best — Silver City; mine employee	Employment for young people; reduction in water use; recycling of process water.	II.B; III.E; V.E
2:13	Chris Elder — Caballo; well owner	Volume of the water right; condition of his well; monitoring of withdrawals; local hiring; ownership of the company.	III.D.3; III.E; IV (condition 1); V.E
2:19	James Laupan (as heard)	Long-term migration of pit-lake water to Animas Creek; concentration of the pit lake by evaporation; pit-lake chemistry; effects of copper on plants; insolvency risk.	III.D.5; III.F
2:26	Nathaniel Stephens — Sierra County resident (written copy filed)	Identification of risks; engineering and independent verification; monitoring; financial accountability; the Greens Creek precedent; confirmation of legal water through closure, stability under saturation, seismic and storm loading, contact water, groundwater monitoring and funded reclamation.	III.C.3–III.C.5; III.C.7; III.D; III.E; III.F; IV
2:31	Brian Arrington — miner	Judging the project on its engineering, water management and reclamation commitments; employment.	III; IV; V.E
2:33	Chanel Baroli (as heard) — Hillsboro volunteer fire and EMS	Support for volunteer fire and EMS services given truck traffic; road clearing after storms; documentation of community programs.	V.A; V.H
2:39	Allyson Siwik — Executive Director, Gila Resources Information Project (GRIP), with PAWA	Readiness of the application; Dr. Emerman's water-consumption conclusions; Dr. Chambers' recommendations on GISTM and failure analysis; absence of a filtered-tailings facility in New Mexico; request for OSE Dam Safety review; request for written expert responses.	III.B; III.C.3–III.C.5; III.D.4; V.G; Appendices A and B
2:54	Dr. Steven Emerman — recorded video statement (the first part was not captured on the recording)	Entrained water in conventional and filtered tailings; pond evaporation as a share of losses; an industry-standard maximum saving of about 60%; the implied cake moisture at 1,050 AF/yr and 29,600 tons per day; a minimum consumption of about 2,500 AF/yr.	III.D.4; Appendix B
2:59	Dr. David Chambers — Center for Science in Public Participation	Review of the WSP pre-feasibility design and Appendix F: re-saturation; GISTM closure criteria; site-specific seismic study and foundation investigation; compaction and density testing; the upstream-dam analogy; the Pau Branco and Greens Creek cases; drained assumptions and the phreatic surface; extent of strength data.	III.A; III.C.2–III.C.5; Appendix A

Time	Speaker, affiliation (as stated)	Subjects raised	Answered in
3:20	Wayne Ericson, P.E. — written statement read by Mr. Yeh	Treatment of dry stacking in the FEIS and ROD; OSE review of the detailed design; further subsurface investigation; undrained analyses for the alluvium; deterministic and probabilistic seismic coefficients; cyclic triaxial testing; an amended EIS.	III.B; III.C.2; III.C.3; III.C.5; V.F
3:28	Max Yeh — PAWA	Size and setting of the stack; the 2020 Director's Order and Settlement Agreement and the demonstration of sufficient water rights; total process-water requirement; consistency of the design appendices; request for a catastrophic-failure analysis.	V.C; V.G; III.C.3–III.C.5; III.D.4
3:43	Mr. White — part-time Hillsboro resident	Adequacy of planning and review; water-table effects; examination of the dry-stack alternative.	III.C; III.D; III.E
3:45	Duke Shepherd — Hillsboro resident	Light, noise, dust and traffic; downstream springs; birds; wells and Animas Creek; drought.	V.D; III.C.9; III.D.2; V.A
3:47	Kathleen Sloan (written and oral)	The requirement for an MMD environmental evaluation under 19.10.6.605(D) NMAC; fourteen matters identified as not addressed by the 2019 FEIS; request for a new evaluation.	V.F (table of the fourteen matters)
3:51	Gary Gritzbaugh — President, Hillsboro Mutual Domestic Water Consumers Association	The Hillsboro public water system: wells, water rights and 40-year plan; concern about the effect of a 1,050 AF/yr withdrawal.	III.D.2; Exhibit C-2
3:55	Barbara Perlman — Hillsboro resident; MDWCA secretary	Storm-water discharge plan; drought and reservoir storage; NM-152 as the only exit in a flood; noise and vibration from blasting on historic adobe buildings.	III.C.7; V.A; V.D
3:58	Jeffrey Forbes — retired geologist, groundwater hydrology	Scale of water use over the mine life compared with the Hillsboro system; Rio Grande Compact deliveries; allocation of the aquifer.	III.D.1–III.D.3; III.E
4:02	Delma Boone — Animas Creek; well owner	Whether the Animas wells and the mine draw on the same aquifer; NMCC's test wells on Animas Creek; protection of senior rights; height of the stack; NM-152 pavement life; noise in the creek; the Arizona sycamore grove's sensitivity to a lowered water table.	III.D.2; Exhibit C-2; III.E; V.A; V.D

D.3 Questions to the applicant panel

Between the presentations and the public comment, the Hearing Officer took questions for the applicant panel (NMCC and its consultants). The questions and the answers given are summarized below, with the section of the Response that sets out the current figures. Where a figure given orally at the hearing differed from the record, the Response states the correct figure.

Questioner	Question	Answer at the hearing and where addressed
Max Yeh (PAWA)	FEIS Table 3-9 operational particulates and Table 2-29 non-recycled dust-control water; how much additional water the stack's dust control and concurrent-reclamation irrigation require.	The FEIS figures are from the superseded conventional-tailings plan and WSP has redone the balance: dust control is 149 AF/yr and total make-up including dust control about 980 AF/yr. Mr. Yeh also read §G of the Final Subfile Order (pit water for dust control and evaporation) and said that dust-control water would require rights. III.C.9; III.D.4; III.E; Appendix F.
Ken Stinnett	Volume of the pit (computed by the questioner as about 180,000 AF) and the time to fill it at 1,100 AF/yr.	The pit is not flooded to the rim; rapid fill is about 2,200 AF over two to three years to a set level, unchanged from the prior plan. III.D.5.

Questioner	Question	Answer at the hearing and where addressed
Deborah Brandt	Aerosolized metals; how tailings are 'purged'; whether recycling concentrates solutes; whether liners leak.	The tailings form a compacted landform built in five stages with a crusting surfactant on inactive surfaces and 3 ft of cover at closure, over a geomembrane on 12 in of compacted soil with the seepage pond recycled to the plant; the process is alkaline (lime, pH above 9) with no acid and no cyanide, and the xanthate collectors and organic flocculants degrade. NMCC undertook to provide the reagent list. III.A; III.C.4; III.C.8; III.C.9 (reagents).
Michael Hutchins	Gallons in 1,050 AF; wages; internships and outreach.	1,050 AF/yr is about 342 million gallons per year (325,851 gallons per acre-foot); the figure given orally at the hearing is corrected here. Wage ranges were given for entry-level, electrical and pipefitting positions (about $50,000 plus benefits; $90,000–110,000; $60,000–75,000); internships and outreach confirmed. III.E; V.E.
Linda Sweanor	Other metals in the concentrate; pit dimensions at the end of mining; pit-lake level.	Gold, silver and molybdenum report to the copper concentrate (about 200 tons per day of concentrate at about 25% copper); the pit is about 1,000 ft deep and 2,800 ft across after 12 years; the pit-lake level is set by evaporation, the pit remains a hydrologic sink, the geochemistry meets standards and the lake is fenced. III.D.5.

Appendix E

Agency determinations and agreements

E-1 Office of the State Engineer, Dam Safety Bureau: jurisdictional determination for the filtered-tailings facility, 5 June 2026

E-2 Federal Energy Regulatory Commission: acceptance, Docket ER26-2724-000, 16 July 2026

E-3 New Mexico Environment Department, Ground Water Quality Bureau: technical completeness determination, Discharge Permit DP-1840, 22 June 2026

E-4 NMDOT–NMCC Cooperative Project Agreement for NM-152, Contract D15995, 23 July 2018, with corridor figure and typical sections

ELIZABETH K. ANDERSON, P.E.
STATE ENGINEER

DAM SAFETY BUREAU
5550 SAN ANTONIO DR. NE
ALBUQUERQUE, NM 87109
(505) 383-4113
NM.DamSafety@ose.nm.gov

STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER
Santa Fe

June 5, 2026

Mr. Stephen Crosby
Senior Vice President of Development
P.O. Box 4209
New Mexico Copper Corp.
Truth or Consequences, NM 87901

RE: Jurisdictional Determination of the Proposed Dry Stack Tailings Storage Facility and Associated Contact Water Pond at the Copper Flats Mine Site, Sierra County

Dear Mr. Crosby:

The Office of the State Engineer (OSE) Dam Safety Bureau has completed a review of the documents submitted by you on October 24, 2025 by email, followed by a printed copy submittal that was received on October 31, 2025. A review memorandum prepared by Mr. Tim Trujillo, P.E., is enclosed with this letter. I agree with the contents in the review memorandum. The proposed dry stack tailings storage facility and associated contact water pond are deemed to be non-jurisdictional per Dam Safety Rules and Regulations Governing Dam Design, Construction, and Dam Safety (19.25.12 NMAC). If the final configuration of the proposed structures deviates from the proposed preliminary design, a new review will be required for jurisdictional determination.

Please note that the current submittal does not provide any details of the removal of the existing jurisdictional dam, Copper Flats Tailings Dam, OSE File No. D-564, even though your email response to Mr. Trujillo's inquiry indicated that the existing dam will be removed. An application for permit to alter or rehabilitate an existing dam must be filed with filing and review fees along with detailed plans, specifications, and design report for removal of the Copper Flats Tailings Dam, and a construction permit must be obtained from the OSE Dam Safety Burau before any work can proceed with removal of this dam. The application form can be downloaded from the OSE website at

https://www.ose.nm.gov/dams/forms.php.

If further discussion would be helpful, please feel free to contact Mr. Trujillo at (505) 383-4057 or myself at 505-383-4134.

Sincerely,

Sushil Chaudhary

Sushil K. Chaudhary, D.Eng., P.E.
Dam Safety Bureau Chief

SKC/trt

Enclosure: Review memorandum

E-mails:

David Heber, OSE Dam Safety (David.Heber@ose.nm.gov)
Jeff Smith, NMCC (jsmith@themacresourcesgroup.com)
Craig Cathey, Manager, Water Rights Las Cruces District (craig.cathey@ose.nm.gov)
Amber Rheubottom, Mining Environmental Compliance Section, NMED (Amber.Rheubottom@env.nm.gov)

MEMORANDUM
OFFICE OF THE STATE ENGINEER
Dam Safety Bureau

DATE: June 1, 2026

TO: Sushil K. Chaudhary, D.Eng., P.E., Chief, Dam Safety Bureau SC

FROM: Tim Trujillo, P.E., Dam Safety Engineer

SUBJECT: New Mexico Copper Dry Stack Tailings Storage Facility – Evaluation of Proposed Facility

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I have completed my review of the submittal package dated October 24, 2025 for the proposed Dry Stack Tailings Storage Facility and associated contact water pond at the Copper Flats Mine Site in Sierra County. The submittal package was received by the OSE Dam Safety Bureau by email on October 24, 2025 and the printed copy was received on October 31, 2025. The package consists of a letter and a brief discussion about the proposed water management facilities along with stage-storage volume information and preliminary design drawings showing plans and sections for evaluation of the jurisdictional status. Based on the information provided, I have found that the proposed plan uses dry stacking method for the tailings and conveys seepage and storm runoff to a pond structure, which is mostly below ground. The pond embankment crest height is shown at elevation 5165 feet while the downstream toe of the embankment slope is at elevation 5160 feet, making the embankment 5 feet high. The majority of the volume is also described to be below the downstream toe elevation and only the freeboard occupies the available volume in the upper five feet at 45.8 acre-feet. These two indicators are both below the criteria for a jurisdictional dam per 19.25.12 NMAC. The proposed Dry Stack Tailings Storage Facility and associated contact water pond would therefore be non-jurisdictional from the dam safety perspective.

As the submitted design drawings are stamped with the "Preliminary – Not for Construction" designation, this jurisdictional determination is only valid if the final construction plans follow these preliminary plans and not deviate in terms of embankment height and storage above the downstream toe elevation for the contact water pond.

It must be noted that there is an existing jurisdictional dam called Copper Flats Tailings Dam (OSE File No. D-564) at this mine site, which is proposed to be removed as part of the proposed plan, but the current submittal does not provide any details of the removal. An application for permit to alter or rehabilitate a dam must be filed with filing and review fees along with detailed plans, specifications, and design report for removal of the Copper Flats Tailings Dam, and a construction permit must be obtained from the OSE Dam Safety Burau before any work can proceed with removal of this dam.

T. Trujillo

Tim Trujillo, P.E., C.F.M.
Dam Safety Engineer

trt

Professional judgments and evaluations are represented in this memorandum. They are based partly on information gathered from visual observations and a limited review of the OSE Dam Safety Bureau files for the facility. The OSE does not guarantee the performance of this dam in any way. The OSE only provides that the work and judgments rendered were performed in a manner consistent with the level of care and skill ordinarily exercised by other engineers under similar circumstances. No other warrantee or guarantee is included or intended.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

OFFICE OF ENERGY MARKET REGULATION

Tri-State Generation and Transmission Association, Inc.
Docket No. ER26-2724-000

Issued: July 16, 2026

On June 3, 2026, Tri-State Generation and Transmission Association, Inc. (Tri-State) submitted a Letter Agreement for the Copper Flat Delivery Point between Tri-State and Sierra Electric Cooperative, Inc.[1] Pursuant to authority delegated to the Director, Division of Electric Power Regulation – West, under 18 C.F.R. § 375.307, the submittal is accepted for filing, effective August 3, 2026, as requested.

The filing was publicly noticed. No protests or adverse comments were filed. Pursuant to Rule 214 of the Commission's regulations (18 C.F.R. § 385.214), notices of intervention, timely-filed motions to intervene, and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted.

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such rate or service provided for in the filed document(s); nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such action is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against the applicant(s).

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Issued by: Amery S. Poré, Director, Division of Electric Power Regulation – West

[1] Tri-State Generation and Transmission Association, Inc., Tri-State Wholesale Electric Service Contracts, Rate Schedule No. 440, Rate Schedule No. 440, Sierra (0.0.0).

Electronic Transmission

June 22, 2026

Stephen Crosby, Senior Vice President of Development
New Mexico Copper Corporation
P.O. Box 4209
Truth or Consequences, NM 87901

RE: Technical Completeness Determination, Renewal and Modification of Discharge Permit DP-1840, New Mexico Copper Corporation

Dear Stephen Crosby:

The Mining Environmental Compliance Section (MECS) of the New Mexico Environment Department (NMED) received an application (Application) from New Mexico Copper Corporation (Applicant) on March 20, 2025 for the renewal and modification of Discharge Permit 1840 (DP-1840). NMED deemed the Application administratively complete and issued materials for the first Public Notice to the Applicant on May 8, 2025. NMED received the Affidavit of Public Notice Completion from the Applicant on June 9, 2025.

In accordance with the procedures of Subsection G of 20.6.7.10 NMAC, NMED issued a Request for Additional Information letter to the Applicant for the Application on July 2, 2025. NMED received a response to the Request for Additional Information from the Applicant on September 2, 2025. NMED determined the Application remained technically deficient and conducted teleconferences with the Applicant on November 24, 2025, February 11, 2026, and April 24, 2026. The Applicant submitted supplements to the Application in response to the teleconferences on December 1, 2025, December 12, 2025, March 24, 2026, and April 28, 2026.

Pursuant to Subsection F of 20.6.7.10 NMAC of the Copper Mine Rule, NMED hereby determines that the Application for renewal and modification of DP-1840 is technically complete. Pursuant to Subsection H of 20.6.7.10 NMAC, NMED will provide a draft DP-1840 for public notice within 90 days (by September 21, 2026).

Sincerely,

Justin Ball Digitally signed by Justin Ball
Date: 2026.06.22 09:59:12 -06'00'

Justin Ball, Chief
Ground Water Quality Bureau
New Mexico Environment Department

JB:ja

cc: Stephen Crosby, New Mexico Copper Corporation (scrosby@themacresourcesgroup.com)
Jeffery Smith, New Mexico Copper Corporation (jsmith@themacresourcesgroup.com)
Joseph Fox, MECS (joseph.fox@env.nm.gov)
Brad Reid, MECS (brad.reid@env.nm.gov)
Evan Owen, MMD (evan.owen@emnrd.nm.gov)

Contract No. D15995
Vendor No. N/A
PROJECT No. N/A
Control No. N/A

COOPERATIVE PROJECT AGREEMENT
BETWEEN
THE NEW MEXICO DEPARTMENT OF TRANSPORTATION,
and
NEW MEXICO COPPER CORPORATION

NM 152

THIS Cooperative Project Agreement, herein referred to as the "AGREEMENT," is made and entered into this 23rd day of July, 2018, by and between the NEW MEXICO DEPARTMENT OF TRANSPORTATION, herein referred to as the "NMDOT", and NEW MEXICO COPPER CORPORATION, herein referred to as "NMCC". Collectively these entities shall be referred to as the "Parties," both of which AGREE AS FOLLOWS:

RECITALS

WHEREAS, the NMDOT has authority to enter into this AGREEMENT and conduct negotiations concerning issues of mutual concern with NMCC pursuant to the laws of the State of New Mexico, particularly NMSA 1978 Section 67-3-6 as amended; and

WHEREAS, NMCC has the authority to enter into this AGREEMENT and conduct negotiations concerning issues of mutual concern with the NMDOT; and

WHEREAS, NMCC seeks to utilize state highway NM 152 in Sierra County, New Mexico for access to a proposed copper mine facility; and

WHEREAS, the state highway NM 152 currently exists and provides the only arterial access to the proposed facility location and is represented in Typical Section 1 (attached); and

WHEREAS, the state highway NM 152 has been providing access to the areas in which the proposed mining facility will be located since before the beginning of the mining operation identified as the Quintana Mine in 1982; and

WHEREAS, the state highway NM 152 also provides access to residences on private land and range activities on land managed by the Bureau of Land Management and the State Land Office; and

WHEREAS, the proposed copper mine will be partially on land managed by the Bureau of Land Management, partially on New Mexico State Land and partially on private land owned by NMCC; and

WHEREAS, the proposed copper mine, including NM 152 has access to the proposed copper mine, is currently being evaluated under an Environmental Impact Statement being prepared by the Bureau of Land Management; and

WHEREAS, NMCC and the NMDOT recognize the need to make certain improvements to a portion of NM 152 as described in the project definition provided herein; and

WHEREAS, NMCC commissioned performance of a "Pavement Condition Assessment" report (PCA) in 2012 (see Attachment A to this AGREEMENT) on the portion of NM 152 that will be utilized by mine operations and described therein as beginning at the junction of NM 152 at is junction with Interstate 25 and proceeding approximately 10 miles west to the proposed entrance to the mine site; and

WHEREAS, the PCA determined that the roadway to be used by NMCC consists of multiple layers of chip seal at various thicknesses; and

WHEREAS, The PCA found the condition of NM 152 that will be used by NMCC is in good condition; and

WHEREAS, NMCC's mining operation will result in an increase in truck traffic on the NM 152 resulting in accelerated degredation of the existing chip seal surface; and

WHEREAS, the PCA recommends that an appropriate mitigation measure is to increase the structural strength of that portion of the roadway by placing a hot asphalt mix (HMA) overlay on that portion of the roadway; and

WHEREAS, the NMDOT has requested a one-time placement of a HMA overlay of 2.5 inches along NM 152 from the interchange with I-25 to the mine access road intersection near mile post 55, and NMCC wishes to install traffic turn-out and acceleration lanes at the Highway 152 intersection with the mine access road. These two tasks shall hereinafter be defined as the PROJECT and are represented in Typical Section 2 and Typical Section 3 (attached); and

WHEREAS, NMDOT agrees that the PROJECT will meet a 20-year design life for NM 152, including projected traffic associated with the proposed copper mine operation; and

WHEREAS, the NMDOT requires and NMCC agrees that the PROJECT be completed within 12 months of the onset of commercial copper mine production, barring any production delays outside the control of NMCC; and

WHEREAS, the NMDOT requires and NMCC agrees that the PROJECT will meet all applicable design and construction requirements and standards of the NMDOT; and

WHEREAS, the NMDOT and NMCC agree to work cooperatively and in good faith in reviewing and approving the design, construction, and schedule of the PROJECT, in achieving NMCC's obligations set forth in Section Two of this AGREEMENT, and in achieving NMDOT's obligations set forth in Section Three of this AGREEMENT; and

WHEREAS, NMCC will ensure the PROJECT complies with all applicable laws, including requirements under the National Environmental Policy Act, and NMDOT agrees to cooperate with NMCC in ensuring said compliance; and

WHEREAS, this AGREEMENT will provide for an understanding of and agreement upon each Party's responsibilities and allow sufficient time for the ongoing development of the design and construction of the PROJECT; and

IN CONSIDERATION of the above recitals, which are made a part of this AGREEMENT, and the mutual covenants contained herein, the Parties agree as follows:

SECTION ONE- PURPOSE:

The purpose of this AGREEMENT is to specify and delineate the rights and duties of the Parties hereto related to the PROJECT, and to define the NMDOT's and NMCC's respective commitments to funding, PROJECT design, development, construction and maintenance of the PROJECT. It is understood by both Parties that NMCC shall follow the NMDOT Location Study Procedures (2000), "Standard Specifications" identified in Paragraph 7 of Section Two, and all applicable NMDOT Infrastructure Design Directives required in order to receive PROJECT authorization.

SECTION TWO – NMCC OBLIGATIONS:

NMCC shall:

1. Obtain funding for the PROJECT, which shall include funds for payment of applicable Gross Receipt Taxes, to be used for planning, design and construction of the PROJECT.
2. Develop, design, engineer, and construct the PROJECT to the standards and specifications of the NMDOT as identified in the NMDOT Design Manual, dated October 2016. The NMDOT Design Manual defines the construction phase as when the project is built.
3. Perform the necessary project development activities for the PROJECT, including, but not limited to, appropriate analyses, environmental clearances, preliminary and final design to include delivery milestones (30%, 60%, 90% and PS&E) design reviews, and design and prepare contracts between itself and third parties, and prepare specifications. Address NMDOT's comments and concerns at each milestone prior to NMDOT review, acceptance and approval in order to proceed to the next milestone; and provide NMDOT with a detailed

engineer's opinion of probable cost for review and approval by NMDOT. The design shall address issues identified in the opinion, as well as issues related to land, right-of-way, environmental impacts, traffic impacts, utility impacts, anticipated life of the roadway, maintenance of traffic during work and other related concerns.

4. Obtain all PROJECT approvals and certifications that are required prior to PROJECT implementation, including but not limited to right of way clearance, utility clearance, and environmental/ cultural resource clearance.
5. Procure and maintain insurance to cover operations and work by NMCC, for NMCC's agents or employees, or its subcontractors, for the duration of the PROJECT as specified in the Standard Specifications, as defined in Paragraph 7 of this Section Two, which includes naming the NMDOT as an additional insured, among other specified requirements.
6. Consult with NMDOT to develop a PROJECT work schedule to include a completion date no later than 12 months from the onset of commercial copper mine production.
7. Implement the PROJECT to meet all NMDOT standards and specifications as per the State of New Mexico, Department of Transportation Standard Specifications for Highway and Bridge Construction (2007 Edition), herein referred to as "Standard Specifications".
8. Indemnify, defend, and hold harmless NMDOT and its officers, employees and agents, against liability claims, damages, losses or expenses including attorney fees, but only to the extent that the liability claims, damages, losses or expenses are caused by or arise out of the acts or omissions of NMCC, or its officers, employees or agents, in the construction of the PROJECT.
9. Provide the NMDOT with ownership of all final and approved PROJECT documents, including but not limited to, digital design files, final plans and specifications, special provisions, supplemental specifications, and as-built plans.

SECTION THREE- NMDOT OBLIGATIONS:

NMDOT shall:

1. Designate a PROJECT development engineer to provide the reviews and approvals required of NMDOT by this AGREEMENT and also provide cooperation and assistance as may be required by NMCC to comply with applicable law and obtain required permissions and approvals.
2. Review NMCC's preliminary design process and final design associated with the PROJECT and approve each step which meets the requirements, standards and specifications of the NMDOT as identified in the NMDOT Design Manual, dated October 2016, as well as subsequent design directives as duly implemented by the NMDOT Chief Design Engineer and provided to NMCC in writing prior to the execution hereof by NMCC.
3. Provide thorough and timely review, comment, and oversight of all PROJECT-related documents and plan sets submitted by NMCC prior to final approval. The NMDOT will have a minimum of two weeks and a maximum of ten weeks to review and comment on all document and plan submittals.
4. Develop in consultation with NMCC, a work schedule before a notice to proceed with the work is issued.

5. Provide a notice to proceed with work to NMCC when the PROJECT is determined by NMDOT to be ready for the construction phase after all required clearances have been obtained.
6. Provide in good faith the work management/quality assurance and acceptance of work performed for the PROJECT that meets the approved final plans, specifications, special provisions and Supplemental Specifications.
7. Provide to NMCC a written punch list of tasks needing completion for NMDOT acceptance of the PROJECT within 30 days of receiving a notice of substantial completion from NMCC.
8. Provide to NMCC written acceptance of the PROJECT within 120 days of receiving a notice of full completion from NMCC.
9. Continue to maintain NM 152 subsequent to the PROJECT without any further expectations, obligations or liabilities from or of NMCC during the projected 20-year design life of the PROJECT or thereafter.
10. Retain ownership of final PROJECT documents including but not limited to plans and specifications, special provisions, supplemental specifications, and as-built plans upon completion of work.

SECTION FOUR – THIRD PARTY BENEFICIARY CLAUSE:

It is specifically agreed between the Parties executing this AGREEMENT that it is not intended by either of them that any of the provisions of any part of this AGREEMENT have the effect of making the public, any member thereof, or any other person or entity an additional or third party beneficiary hereof or authorizing any person or entity not a party to this AGREEMENT to maintain any suit(s) for wrongful death, bodily and/or personal injury to a person, damages to property, and/or any other legal or equitable claims(s) or rights whatsoever.

SECTION FIVE – TERM:

This AGREEMENT shall not become effective until signed by both Parties hereto and shall remain in effect for 20-year design life of the PROJECT unless terminated by the Parties in accordance with Section Six of this AGREEMENT. By such termination, neither of the Parties can nullify any obligation incurred prior to the termination.

SECTION SIX – TERMINATION:

Prior to one of the Parties issuing notice to the other Party of an alleged material breach of this AGREEMENT, the Parties agree to meet and confer, in good faith, to resolve the alleged material breach. Should the meeting between the Parties to resolve the alleged material breach fail to do so, the Party alleging the material breach may terminate this AGREEMENT for cause after providing the non-breaching Party written notice of the alleged material breach and providing the breaching Party a reasonable opportunity to correct the breach. If within thirty (30) days after receipt of such a written notice, the breaching Party has not corrected the breach, or in the case of a breach which cannot be corrected within thirty (30) days and the breaching Party has not begun and proceeded in good faith to correct the breach, the non-

breaching Party may declare the breaching Party to be in default and terminate this AGREEMENT effective immediately. Each of the Parties shall retain any and all remedies available to it under law.

In the event of termination after the notice to proceed with work has been issued, all materials of any kind incorporated into the State Highway NM 152 shall be considered public property owned by the NMDOT and shall not be removed by NMCC.

SECTION SEVEN – TAXES:

Each of the Parties is responsible for making any payment of applicable taxes applied to it, unless otherwise exempted from payment of taxes.

SECTION EIGHT – ASSIGNMENT:

Neither of the Parties to this AGREEMENT shall assign or transfer any interest in this AGREEMENT or assign any claims for money due or to become due under this AGREEMENT without the prior written approval of the other Party; excepting, however, NMCC may assign or transfer its interests or obligations under this AGREEMENT, or assign any claims for money due or to become due under the terms of this AGREEMENT, to any wholly owned subsidiary in which NMCC or its owners possess a controlling interest, by providing written notice of such intent to NMDOT, subject to the reasonable approval of the NMDOT. The NMDOT may, in such instance, request, within thirty (30) days, of any notice of assignment, such additional information as it reasonably requires as to the ability of the assignee to fulfill its obligations under this AGREEMENT. The failure to request such information within thirty (30) days of such notice and/or the failure to subsequently object to the assignment with twenty (20) days following the receipt of the information if so requested, shall be deemed consent to the assignment.

SECTION NINE – LIABILITY:

Neither of the Parties shall be responsible for liability incurred as a result of the other Party's acts or omissions in connection with this AGREEMENT. Any liability of the NMDOT incurred in connection with this AGREEMENT is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1 et. seq., as amended, the Federal Tort Claims Act, as amended, and any other laws that may govern this AGREEMENT. This Section Nine is only intended to define the liabilities between the Parties hereto and it is not intended to modify, in any way, the Parties' respective liabilities as governed by common law or by statute. The NMDOT and its "public employees," as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense, and do not waive any limitation of liability pursuant to law.

SECTION TEN – APPROPRIATIONS AND AUTHORIZATIONS:

The NMDOT may commit to the expenditure of public funds for its respective obligations under this AGREEMENT from time to time as funds are appropriated, programmed, budgeted or obligated by its respective authorities.

SECTION ELEVEN – TERMS OF THIS AGREEMENT:

The performance of all duties and obligations herein shall conform with and shall not contravene any applicable state, local, federal laws, regulations, rules or ordinances.

SECTION TWELVE – INTREPRETATION:

In the event that there is a conflict between the terms and conditions of the Standard Specifications and the terms and conditions of this AGREEMENT, the Standard Specifications, as duly modified from time to time, shall control the obligations and responsibilities of the Parties.

SECTION THIRTEEN– SCOPE OF AGREEMENT:

This AGREEMENT incorporates all the agreements, covenants, and understandings between the Parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written AGREEMENT. No prior agreements or understandings, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this AGREEMENT. The Parties do not intend to create, and this AGREEMENT does not create, an agency, partnership, joint venture or any other relationship except the relationship expressly provided for herein. This AGREEMENT is not a "contract," as defined in NMSA 1978, Section 13-1-41; is not for "highway reconstruction," as defined in NMSA 1978, Section 13-1-61' is not for the construction, reconstruction or maintenance of a state highway, within the meaning of NMSA 1978, Section 67-3-43; and is not for "highway improvement," within the meaning of NMSA 1978, Section 67-3-47.

SECTION FOURTEEN – SEVERABILITY:

In the event that any portion of this AGREEMENT is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this AGREEMENT shall remain in full force and effect.

SECTION FIFTEEN – AMENDMENT:

This AGREEMENT shall not, expressly, by implication, by estoppel, or in any other way be altered, modified, or amended, and no right or obligation hereunder shall be waived by any thereof, except by an instrument in writing and executed by the Parties hereto.

SECTION SIXTEEN – APPLICABLE LAW:

This AGREEMENT shall be governed by the laws of the State of New Mexico.

SECTION SEVENTEEN – RECORDS:

Each Party agrees to maintain all books, documents, papers accounting records and other evidence pertaining to the costs incurred, and to make such materials available at its office to the other Party, at all reasonable times during the term of this AGREEMENT and for three (3) years from the date of PROJECT acceptance by NMDOT.

SECTION EIGHTEEN – PRODUCT OF SERVICES; COPYRIGHT:

All materials developed or acquired by NMCC for the PROJECT shall become the property of NMDOT when the PROJECT is complete. NMCC may keep copies of all such materials.

IN WITNESS WHEREOF, the Parties have set their hands and seals this day and year set forth below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____ Date: 7/23/18
Cabinet Secretary

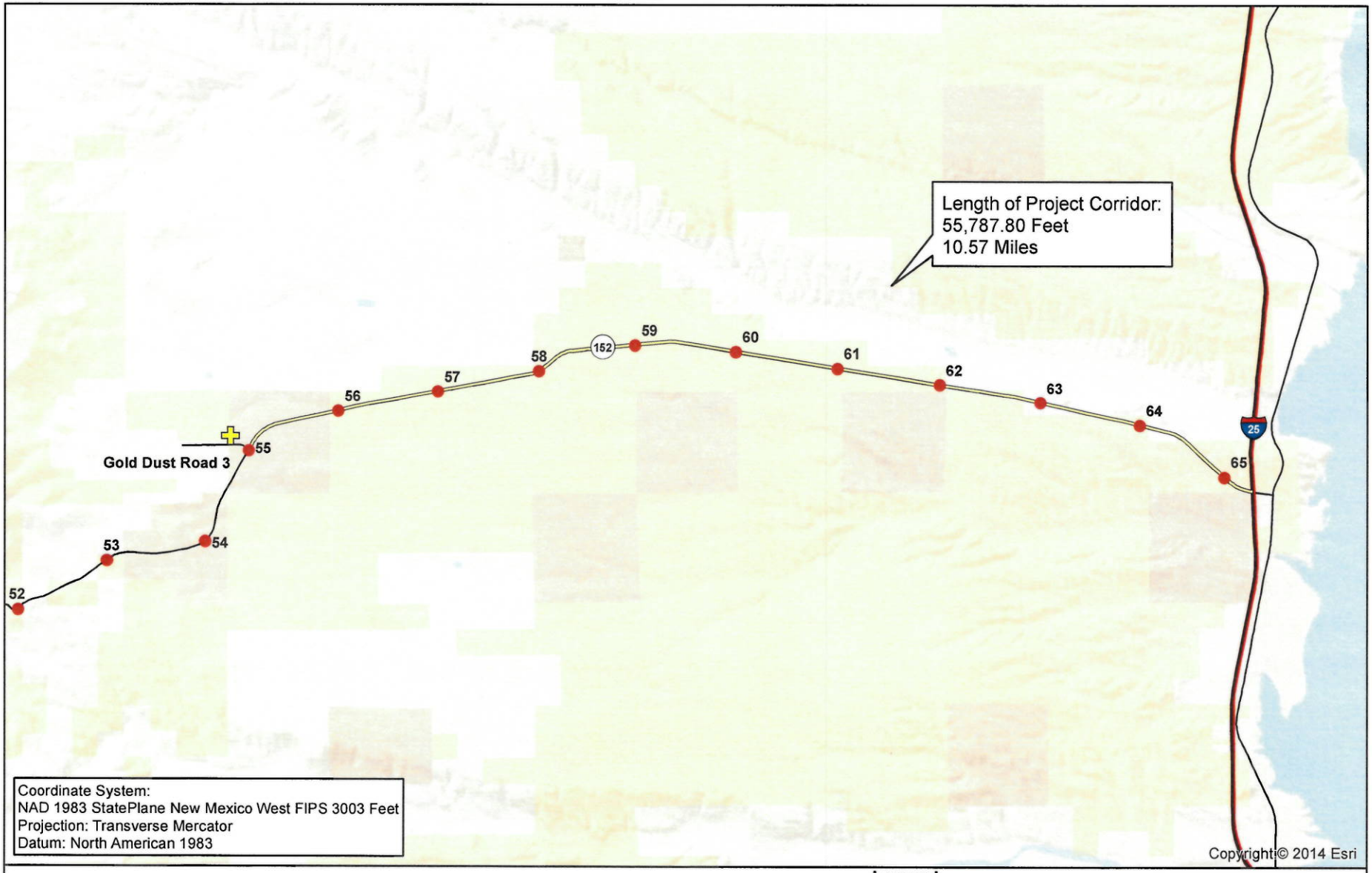
New Mexico Copper Corporation

By: _____ Date: 7/10/2018

Approved as to form and legal sufficienty by the New Mexico Department of Transportation's Office of General Counsel.

By: _____ Date: 06/29/2018
Assistant General Counsel

Attachments:
Project Area Figure - NM 152 with Mile Markers
Typical Section 1: NM 152 Existing Conditions
Typical Section 2: Proposed NM 152 Corridor Typical Section
Typical Section 2: Proposed Mine Entrance Typical Section



Bohannan Huston
www.bhinc.com 800.877.5332

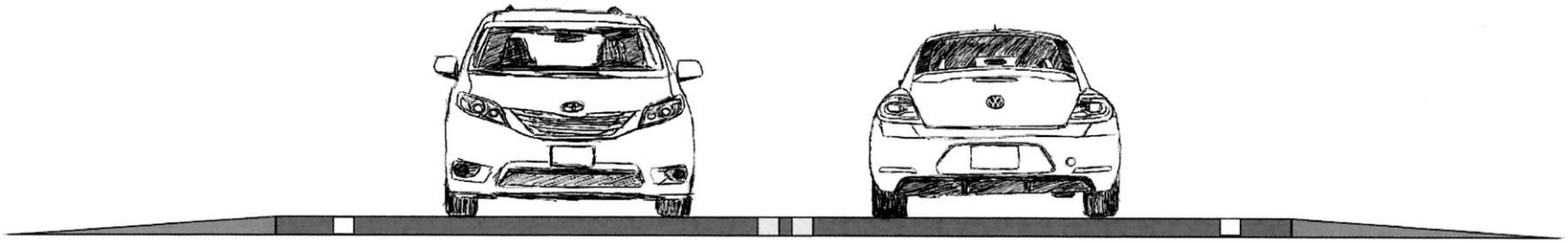
Copper Flat Project

HWY 152 with Mile Markers

P:\20120200\TRANS\Study\Workarea\Copper Flat\CopperFlat.mxd
Author: mbishop

December 2017

Typical Section 1
Existing Typical
NM 152

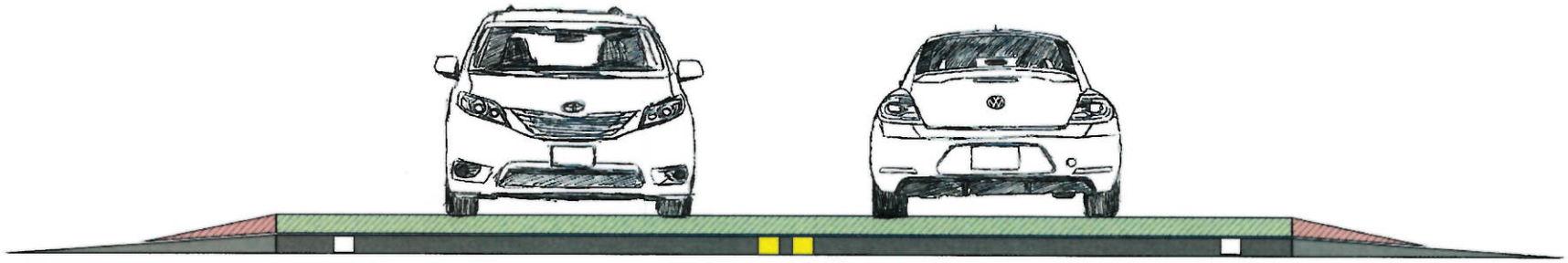


Additional Gravel Shoulder | 0-2' Paved Shoulder | 12' Travel Lane | 12' Travel Lane | 0-2' Paved Shoulder | Additional Gravel Shoulder

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70+ Feet of ROW
(including gravel shoulder)

Typical Section 2
Proposed Typical
NM 152



2'Taper

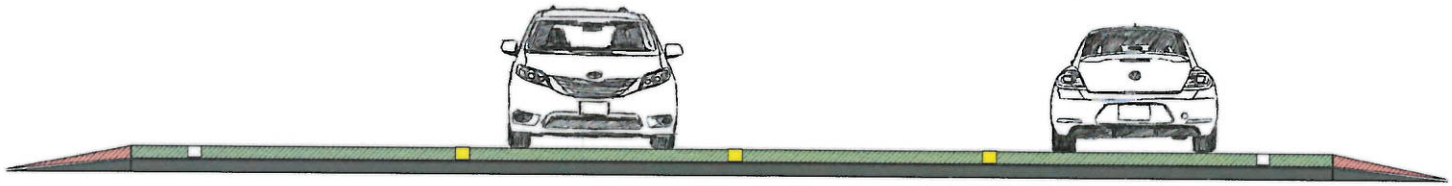
2 1/2" HMA Overlay for 28'

2'Taper

Additional Gravel Shoulder | 2' Shoulder | 12' Travel Lane | 12' Travel Lane | 2' Shoulder | Additional Gravel Shoulder

70+ Feet of ROW

Typical Section 3
Proposed Typical
Mine Entrance (looking East)



2'Taper

2 1/2" HMA Overlay for 52'

2'Taper

Additional Gravel Shoulder | 2' Shoulder | 12' Right-Turn Lane | 12' Travel Lane | 12' Acceleration Lane | 12' Travel Lane | 2' Shoulder | Additional Gravel Shoulder

70+ Feet of ROW

Appendix F

Water rights

F-1 Final Subfile Order, Lower Rio Grande Adjudication, No. CV 96-888 (subfile LRG-4652), 12 December 2023

F-2 DBS&A; PHC Table 2-1, Water Supply and Use During Mining and Post-Mining (pumping schedule within the right)

FILED IN
DEC 12 2023
DISTRICT COURT,
DONA ANA COUNTY, NM

STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
THIRD JUDICIAL DISTRICT COURT

State of New Mexico *ex rel.*
New Mexico State Engineer,
Plaintiff,

v.

Elephant Butte Irrigation District, *et al.*,
Defendants.

No. CV 96-888
James J. Wechsler
Judge Pro Tempore
Subfile No. LRO-28-008-9009
Case No.: 307-OA-9703126
New Mexico Copper Corporation

FINAL SUBFILE ORDER AND JUDGMENT

This matter having come before the Court as a designated expedited *inter se* proceeding, and trial having been held on March 14 through 18, June 14, and June 27 through July 1, 2016, with the active participation of New Mexico Copper Corporation, Turner Ranch Properties, L.P., fifteen named individuals and entities from the vicinity of Hillsboro, New Mexico, and the State of New Mexico, and the Court having filed its Findings of Fact and Conclusions of Law on December 28, 2017, a final Subfile Order and Judgment was entered with respect to the right of the Defendant on February 28, 2018; appeals were taken, and, the Judgment of the Court being partially affirmed and partially reversed and remanded, briefing was submitted and argument made on the remanded issues, and, on August 23, 2023, the Court having filed its Findings of Fact and Conclusions of Law on the remanded issues, this final Subfile Order and Judgment is hereby entered with respect to the right of Defendant

NEW MEXICO COPPER CORPORATION

to use the public waters of the Lower Rio Grande stream system and the Lower Rio Grande Underground Water Basin. This Final Subfile Order and Judgment replaces and supersedes the Court's Subfile Order and Judgment entered February 28, 2018. The Court FINDS that it has

jurisdiction over the parties and the subject matter of this suit and that the rights of New Mexico Copper Corporation to use the public waters of the Lower Rio Grande stream system and the Lower Rio Grande Underground Water Basin are as follows:

UNDERGROUND WATER ONLY

A. Office of the State Engineer File No(s): LRG-04652

(1) Priority: December 31, 1943

(2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.

(3) Purpose of Use: Non 72-12-1 Livestock Watering

(4) Point(s) of Diversion for this right:

Well No. LRG-04652-S-4 Location: X=1,257,495 Y=717,823
Map: LRO-8
on the New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

(5) Place of Use: Within the property owned by the Defendant(s).

(6) Amount of Water: Historical beneficial use not to exceed 3.00 acre-feet per year.

UNDERGROUND WATER ONLY

B. Office of the State Engineer File No(s): LRG-04652

(1) Priority: December 31, 1963

(2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.

(3) Purpose of Use: Mining or Milling or Oil

(4) Point(s) of Diversion for this right:

Well No. LRG-04652-S-6 Location: X=1,257,051 Y=719,984
Map: LRO-8
on the New Mexico State Plane Coordinate System, Canal Zone, 1983 N.A.D.

(5) Place of Use: Placer mining associated with the Copper Flat Mine located in Sections 25, 26, 27, 34, 35 & 36 of Township 15 South Range 7 West, N.M.P.M.

(6) Amount of Water: 39.00 acre-feet per annum.

UNDERGROUND WATER ONLY

C. Office of the State Engineer File No(s): LRG-04652

(1) Priority: December 31, 1943

(2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.

(3) Purpose of Use: Non 72-12-1 Livestock Watering

(4) Point(s) of Diversion for this right:

Well No. LRG-04652-S-7 Location: X=1,258,117 Y=713,845
Map: LRO-8
on the New Mexico State Plane Coordinate System, Canal Zone, 1983 N.A.D.

(5) Place of Use: Within the property owned by the Defendant(s).

(6) Amount of Water: Historical beneficial use not to exceed 3.00 acre-feet per year.

UNDERGROUND WATER ONLY

D. Office of the State Engineer File No(s): LRG-04652

(1) Priority: December 31, 1943

(2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.

(3) Purpose of Use: Non 72-12-1 Domestic & Livestock

(4) Point(s) of Diversion for this right:

Well No. LRG-04652-S-8 Location: X=1,258,129 Y=713,905
Map: LRO-8
on the New Mexico State Plane Coordinate System, Canal Zone, 1983 N.A.D.

(5) Place of Use: Within the property owned by the Defendant(s).

(6) Amount of Water: Historical beneficial use not to exceed 3.00 acre-feet per year.

UNDERGROUND WATER ONLY

E. Office of the State Engineer File No(s): LRG-04652

(1) Priority: December 31, 1974

(2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.

(3) Purpose of Use: Mining or Milling or Oil and Construction

(4) Point(s) of Diversion for this right:

Well No. LRG-04652-S-9 Location: X=1,258,288 Y=716,782
Map: LRO-8
on the New Mexico State Plane Coordinate System, Canal Zone, 1983 N.A.D.

(5) Place of Use: Placer mining and construction associated with the Copper Flat Mine located in Sections 25, 26, 27 34, 35 & 36 of Township 15 South Range 7 West, N.M.P.M.

(6) Amount of Water: 72.60 acre-feet per annum.

UNDERGROUND WATER ONLY

F. Office of the State Engineer File No(s): LRG-04652

(1) Priority: December 31, 1975

(2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.

(3) Purpose of Use: Mining or Milling or Oil and Construction

(4) Point(s) of Diversion for this right:

Well No. LRG-04652-S-10 Location: X=1,258,243 Y=717,786
Map: LRO-8
on the New Mexico State Plane Coordinate System, Canal Zone, 1983 N.A.D.

(5) Place of Use: Placer mining and construction associated with the Copper Flat Mine located in Sections 25, 26, 27 34, 35 & 36 of Township 15 South Range 7 West, N.M.P.M.

(6) Amount of Water: 72.60 acre-feet per annum.

UNDERGROUND WATER ONLY

G. Office of the State Engineer File No(s): LRG-04652

(1) Priority: March 31, 1982

(2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.

(3) Purpose of Use: Mining or Milling or Oil and Evaporation

(4) Point(s) of Diversion for this right:

LRG-04652-S-17 (open pit) Location: X=1,246,658 Y=719,198
Map: LRO-8
on the New Mexico State Plane Coordinate System, Canal Zone, 1983 N.A.D.

(5) Place of Use: 5.52 acre feet per annum used for dust control purposes associated with the operation of the Copper Flat Mine located in Sections 25, 26, 27, 34, 35 & 36 of Township 15 South Range 7 West, N.M.P.M.; and 34.65 acre feet per annum for evaporation purposes from water in the open pit associated with the operation of the Copper Flat Mine.

(6) Amount of Water: 5.52 acre-feet per annum for dust control; and 34.65 acre feet per annum for evaporation

UNDERGROUND WATER ONLY

H. Office of the State Engineer File No(s): LRG-04652

(1) Priority: NONE

(2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.

(3) Purpose of Use: No Right

(4) Point(s) of Diversion for this right:

Well No. LRG-04652-S-5 Location: X=1,257,759 Y=718,401
Map: LRO-8
on the New Mexico State Plane Coordinate System, Canal Zone, 1983 N.A.D.

(5) Place of Use: NONE

(6) Amount of Water: NONE

UNDERGROUND WATER ONLY

I. Office of the State Engineer File No(s): LRG-04654

(1) Priority: NONE

(2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.

(3) Purpose of Use: No Right

(4) Point(s) of Diversion for this right:

Well No. LRG-04654 Location: X=1,251,834 Y=723,515
Map: LRO-8
on the New Mexico State Plane Coordinate System, Canal Zone, 1983 N.A.D.

(5) Place of Use: NONE

(6) Amount of Water: NONE

1. Conditions imposed by the Office of the State Engineer in granting any permit or license relating to these water right(s), if any, are incorporated into this Final Subfile Order and Judgment.

2. The Court may enjoin and condition the exercise of the Defendant(s)' right(s) to the extent provided by the state or federal law.

3. The Defendant(s) will file notice with the Court and provide the Office of the State Engineer with a copy of any change of ownership of all or any part of their water right(s).

4. The court enters this Final Subfile Order and Judgment as a final judgment.

8. There is no just reason for delay of the entry of a final judgment as to the elements of the claims of the Defendant(s) adjudicated by this Final Subfile Order and Judgment.

IT IS THEREFORE ORDERED that the water right(s) of the Defendant(s) are as set forth above.

IT IS FURTHER ORDERED the Defendant(s) and all those in privity with the Defendant(s) are enjoined from any diversion or use of the public underground and surface waters of the Lower Rio Grande stream system and the Lower Rio Grande Underground Water Basin on the properties specifically described herein, except in strict accordance with the water right(s) set forth in this Order and in other orders of this Court. This restriction in no way affects any additional water rights the Defendant(s) may have in other subfiles.

James J. Wechsler
Judge Pro Tempore

Submitted and agreed as to form by all parties, as follows:

State of New Mexico

By: email dated 12/8/23
Richard A. Allen
Special Assistant Attorney General
P.O. Box 25102
Santa Fe, New Mexico 87504-5102
Tel: (505) 570-7754

New Mexico Copper Corporation

By: /s/ Tanya L. Scott (12/11/23)
Tanya L. Scott
Charles T. DuMars
Law & Resource Planning Associates, PC
Albuquerque Plaza
100 Sun Avenue NE, Suite 650
Albuquerque, NM 87109
Tel: (505) 346-0998

The Hillsboro parties

By: email dated 12/11/23
Mara Yarbrough
New Mexico Environmental Law Center
P.O. Box 12931
Albuquerque, NM 87195
Tel: (505) 989-9022

Turner Ranch Properties, LP

By: email dated 12/11/23
Tessa T. Davidson
Davidson Law Firm, LLC
P.O. Box 2240
Corrales, NM 87048
Tel: (505) 792-3636

Table 2-1. Water Supply and Use During Mining and Post-Mining
Page 1 of 2

Year	Supply (acre-feet)				Use (acre-feet)						Balance
	Groundwater Pumping	Pit Groundwater	Stormwater	Total	Operation	Construction	Startup	Rapid Fill	Reclamation	Total	
During Mining											
1	132	0	8	140	0	132	0	0	0	132	8
2	724	4	16	744	50	233	390	0	51	724	20
3	1,046	8	24	1,078	1,046	0	0	0	0	1,046	32
4	1,046	12	24	1,082	1,046	0	0	0	0	1,046	36
5	1,046	16	32	1,094	1,046	0	0	0	27	1,073	21
6	1,046	20	32	1,098	1,046	0	0	0	0	1,046	52
7	1,046	24	40	1,110	1,046	0	0	0	27	1,073	37
8	1,046	28	40	1,114	1,046	0	0	0	0	1,046	68
9	1,046	32	48	1,126	1,046	0	0	0	41	1,087	39
10	1,046	36	64	1,146	1,046	0	0	0	14	1,060	86
11	1,046	36	64	1,146	1,046	0	0	0	41	1,087	59
12	1,046	36	64	1,146	1,046	0	0	0	41	1,087	59
13	1,046	36	64	1,146	1,046	0	0	0	14	1,060	86
14 (Months 1 to 5)	436	3	13	452	436	0	0	0	6	442	10
Post-Mining											
14 (Months 6 to 12)	610	0	19	629	0	0	0	500	104	604	25
15	1,046	0	16	1,062	0	0	0	850	196	1,046	16
16	1,046	0	0	1,046	0	0	0	850	196	1,046	0

Notes are provided at the end of the table.

Table 2-1. Water Supply and Use During Mining and Post-Mining
Page 2 of 2

Year	Supply (acre-feet)				Use (acre-feet)						Balance
	Groundwater Pumping	Pit Groundwater	Stormwater	Total	Operation	Construction	Startup	Rapid Fill	Reclamation	Total	
17	482	0	0	482	0	0	0	0	482	482	0
18	295	0	0	295	0	0	0	0	295	295	0
19 to 114 [a]	0	0	0	0	0	0	0	0	0	0	0
Total	16,277	291	568	17,136	11,992	365	390	2,200	1,535	16,482	654

[a] Year 114 includes months 1 through 5 only.

Appendix G

Supporting technical basis (available to MMD on request)

The following NMCC and WSP documents are referenced in the Response and are available to the Division on request; they are not filed with this Response:

NMCC-ENG-HAZ-007 Rev B — storm runoff and downstream consequence, with calculation record

NMCC-ENG-HYD-006 Rev 0 — NMCC 1,000-year containment check

WSP — water-management verification, October 2026 (channel freeboard on the SCS Type II and Atlas 14 temporal patterns; seepage-pond stage volumes)

NMCC-ENG-DTW-001 Rev 1 — water management operating standard

NMCC Fugitive Dust Management Plan Rev 2 — prepared for the NMED air quality permit

NMCC-ENG-HAZ-008 Rev B — ALARP and observational-method position note