New Mexico
Environmental Law Center
TM

Mr. Jerry Schoeppner
Director, Mining and Minerals Division
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

VIA ELECTRONIC MAIL and
U.S. MAIL, FIRST CLASS

Re: Request for hearing, Permit No. CI002RE (Mt. Taylor Mine)

July 14, 2022

Dear Director Schoeppner:

On behalf of the Multicultural Alliance for a Safe Environment (MASE) and Amigos Bravos, please accept the following request for a hearing, pursuant to 19.10.9.904.A NMAC, on Rio Grande Resources Corp.'s (RGR) proposed revisions to its Closure/Closeout Plan (CCP).[1]

MASE is rooted in the experiences of uranium-impacted communities of the southwestern U.S. MASE is a coalition of communities working to restore and protect the natural and cultural environment through respectfully promoting intercultural engagement among communities and institutions for the benefit of all life and future generations. MASE's members live near Mt. Taylor and many have substantial cultural ties to the mountain. Thus, MASE's members have a significant interest in ensuring that the Mt. Taylor Mine remediation protects public health and environmental resources, particularly groundwater and cultural values.

Amigos Bravos is a statewide water conservation organization guided by social justice principles and dedicated to preserving and restoring the ecological and cultural integrity of New Mexico's water and the communities that depend on it. While rooted in science and the law, their work is inspired by the values and traditional knowledge

[1] RGR published newspaper notice that its CCP was available on June 15, 2022. MASE's request for hearing is therefore timely.

1405 Luisa Street, Suite 5 Santa Fe, NM 87505
Phone (505) 989-9022 Fax (505) 989-3769 nmelc@nmelc.org

of New Mexico's diverse Hispanic and Native American land-based populations, such as MASE members, with whom they collaborate. Both MASE and Amigos Bravos have participated in various aspects of Mt. Taylor Mine permitting since 2010.

MASE and Amigos Bravos seek a hearing on RGR's CCP application for the following reasons. MASE and Amigos Bravos reserve the right to identify and submit additional concerns.

MASE and Amigos Bravos are concerned that proposed soil cleanup standards are insufficient to protect public health and cultural values. The CCP indicates that for radium, soil will be remediated to 5 picocuries per gram (pCi/g) above background levels. The CCP indicates that background radium concentrations average 1.8 pCi/g. Thus, the proposed soil cleanup would ultimately result in radium concentrations more than three times background (6.8 pCi/g). As a matter of equity and sound reclamation policy, RGR should be required to remediate soil to pre-mining conditions.

Additionally, the cost estimate for financial assurance that RGR submitted on June 18, 2022 does not appear to include estimates for long-term groundwater quality monitoring or remediation if necessary. MASE and Amigos Bravos have long expressed concern that any meaningful remediation effort include long-term water quality monitoring of every groundwater source impacted or having the potential to be impacted by the Mt. Taylor Mine. While RGR has included a long-term groundwater monitoring plan in the CCP, the plan does not appear to be adequate to address the various potential avenues by which groundwater contamination might occur. RGR's long-term monitoring plan also does not seem to be reflected in the cost estimate.

MASE and Amigos Bravos are further concerned that the long-term groundwater monitoring program described in the CCP is not sufficiently robust to ensure long-term (100+ years) groundwater protection. RGR appears to rely on existing wells for use as a monitoring network. These wells may not be located to best detect mine related groundwater contamination. MASE and Amigos Bravos would like to opportunity to develop recommendations in this regard and provide them for the agencies' and RGR's consideration.

Further, the CCP does not appear to include any monitoring plan for water in the flooded mine workings. RGR asserts that existing grouting will ensure that contaminated water in the mine shaft will never mix with uncontaminated

groundwater sources. However, there is no demonstration that the current grouting will maintain its integrity over the long term. If the mine shaft is not backfilled in a manner to permanently prevent aquifer intermixing, what contingency plan, and funding source, will be in place to ensure that the public does not inherit the liability from the decision to allow the mine to fill with water without backfilling in 1989?

MASE and Amigos Bravos are concerned that RGR's proposed waste pile coverings will not permanently protect against erosion or water infiltration. MASE members' experience at other mine sites suggests that standard waste pile covers, such as RGR proposes, do not prevent erosion, water infiltration, or wildlife burrowing, particularly over the long term. In some instances, MASE members have observed significant erosion in as little as ten years at sites using the same techniques that RGR proposes. The CCP needs to include monitoring and maintenance measures in perpetuity to ensure that engineered covers and other aspects that will be permanently relied upon maintain integrity for a minimum of 100 years and preferably for 500 years or longer.

Finally, the CCP does not appear to consider the impacts of climate change on remediation plans. For example, the CCP does not appear to consider the likelihood of more frequent 100-year or even 1000-year storm events causing extreme precipitation due to climate change and what impacts the increased frequency of such events, or a single 1,000-year event, might have on remediation plans, such as on mine waste cover integrity, stormwater runoff and contaminated sediment transport.

MASE and Amigos Bravos look forward to working with MMD, NMED and potentially RGR, to address their concerns and ensure that the Mt. Taylor Mine remediation can serve as an example of mine remediation that protects environmental resources and respects cultural values.

Sincerely,

Eric Jantz
Senior Staff Attorney