

Ennis, David, EMNRD

From: Roth, Daniela, EMNRD
Sent: Tuesday, October 02, 2012 3:25 PM
To: Eustice, Chris, EMNRD
Subject: New Mine Permit Application, Copper Flat Mine, Permit No. SI027RN

Dear Chris Eustice:

Thank you for giving me the opportunity to review and comment on the New Mine Permit Application for the Copper Flat Mine, in Sierra County, NM (Permit No. SI027RN).

As identified in the Baseline Data Characterization Report (Vol. 1) there are several state listed plant species that have the potential to occur in the vicinity of the project (*Cirsium wrightii*, *Escobaria duncanii*, *Hedeoma todsenii*). Surveys for these species were conducted by Parametrix in 2010 and 2011 and no state or federally listed plants were found (Biological Resources Survey Report 2011). Therefore I do not anticipate any impacts to these species from the proposed mining project.

Please let me know if I can be of further help.

Daniela Roth

BOTANY PROGRAM COORDINATOR

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Susana Martinez



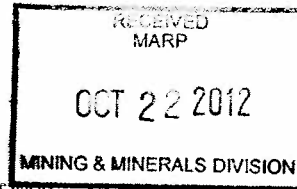
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October 18, 2012

Chris Eustice, Permit Lead
EMNRD Mining and Minerals Division
1220 South St. Francis Drive
Santa Fe NM 87505

Copper Flat New Mine Permit Application SI027RN; NMDGF Project No. 15288

Dear Mr. Eustice:

In response to your letter dated August 23, 2012, the New Mexico Department of Game and Fish (Department) has reviewed the above referenced document. New Mexico Copper Corporation (NMCC) proposes to reopen and expand an open pit mine and mill located on private and U.S. Bureau of Land Management land in Sierra County near Hillsboro, NM. The products would be copper and molybdenum, as well as gold, silver, or other metals, if economically recoverable. The permit application package contains a Mine Operation and Reclamation Plan (MORP), Sampling and Analysis Plan (previously reviewed in October 2010 as NMDGF Project No. 13803), Baseline Data Report (BDR), various design drawings, and a placeholder for the Financial Assurance package to be completed when mine designs have been fully developed. We reviewed the MORP and the Vegetation and Wildlife chapters of the BDR.

BDR Chapter 4, Vegetation Survey

- This chapter is concise and well written.
- Please review Table 4-10 to determine if values were copied over correctly from Table 4-9, and revise as necessary.
- Two locations are described on page 4-22 as meeting CWA definition for wetlands. Based on preliminary discussions with U.S. Army Corps of Engineers (USACE), the cattails in the pit are not jurisdictional. No statement is made as to jurisdictional status of the Gooddings willow dominated wetland in Grayback Arroyo. The Biological Resources Survey Report on the pipeline and well sites, attached as Appendix 5-A to Chapter 5 of the BDR, discusses this wetland. On page 13 it states it is not jurisdictional. However, on page 14 it states that no determination was made due to lack of anticipated impact on this area. We know that New Mexico Environment Department (NMED) considers this wetland jurisdictional under state standards. Please note state status in the final BDR, and clarify whether it is USACE jurisdictional.

BDR Chapter 5, Wildlife Survey

- Section 5.2.3, on page 5-3, it states isolated springs and seeps were “nearly all on private land and inaccessible”, and thus were not examined. However, all of these springs were sampled for flow as reported in the BDR Chapter 8, Surface Water and Groundwater, which raises the question whether any attempt was made to access these locations for vegetation or wildlife surveys. Please clarify that all springs are on private land and access was, and is, denied, or conduct qualitative biological resource surveys using photographs.
- Table 5-6, Bat Species Detected by Habitat. It is difficult for experts to distinguish many species by call, especially for the Myotis group of species. The list is acceptable as submitted, but precise species identifications should be considered with skepticism.
- Table 5-6, Bat Species Detected by Habitat. Please include relative activity level (as indicated by calls per unit time), possibly as a separate table.
- Table 5-2 and 5-3. S-W diversity indices are helpful, but please also show relative abundance (for example, using terms like “abundant”, “common”, “uncommon” and “rare”).
- The pit lake may be an important resource for migrating waterfowl and other birds. The migratory seasons should be covered by monitoring in addition to winter and summer surveys.
- Please incorporate winter observations from Appendix 5-B, Winter Bird Survey Report, into summary Tables 5-2 and 5-3.
- Any abandoned historic mine features comprised of more than a shallow blind shaft in extent should be evaluated to determine use by roosting or hibernating bats, especially if the features are expected to be disturbed or destroyed by future mining.
- Section 5.4.1.3, page 5-9. Please report in text or tabular form the relative abundance of large and medium size mammal sightings/sign by location or habitat type. Include a comparison to the reference plots.
- Please conduct a survey for raptor nests in all suitable habitat within one mile of any potential mine-related disturbance.
- Please conduct focused monitoring of wildlife use of the pit lake. This might include camera traps, diurnal and nocturnal passive observation sessions, track counts, or spot-lighting surveys.

Mine Operation and Reclamation Plan

- Fences associated with various mine site facilities are discussed on pages 41, 50 and 62. It is not clear what type of fence is proposed at each location. For example, the last paragraph of Section 4.3.2, page 62, seems to contradict the first paragraph of that section as it pertains to fencing around stormwater ponds. Exclusion fencing (8 foot chain link wrapped around the bottom with smaller mesh material) should be used wherever there is a potential chemical or physical entrapment hazard. Alternatively, escape ramps can be provided for entrapment hazards. Liquids containing potentially harmful additives such as hydrocarbons or surfactants should be screened or covered to exclude birds. Barbed wire fencing intended to exclude wildlife and people should be designed so as to minimize

potential injury to wildlife which attempt to cross. The MOP should include a figure or clear description of fence purpose and specifications at each proposed location. Department staff is available to assist with fence design specifications for particular applications.

- On page 44, the proposed post mining land use (PMLU) is wildlife habitat for the pit area, and grazing for the rest of the site. The wildlife PMLU should be contingent on pit water quality that meets NMED surface water quality standards. There may be opportunities to incorporate additional wildlife enhancement features in the pit area in its final configuration (please see the enclosed information on Providing Interim Wildlife Habitat). The existing pit lake has been used by local wildlife for decades. The extent of current use will be documented by supplemental baseline studies. We recommend that NM Mining and Minerals Division should consider a permit condition requiring a replacement, precipitation-fed water source nearby but outside the perimeter of operational mining activities. Alternatively this could be constructed as a voluntary mitigation effort by NMCC.
- Reference is made on pages 54 and 65 to the small riparian cottonwood- and willow-dominated wetland habitat patches in the Grayback Arroyo. No direct impact to these wetlands is expected but the underlying hydrology is poorly understood. We recommend monitoring of flow and/or water level at these locations, and the preparing a contingency plan in case effects are documented.
- Page 53. Weed-free mulch should be specified.
- Table 10, page 54-56. The Department concurs with the proposed interim and final seed mixes.
- Section 3.18, page 58-59. Please identify the anticipated number of haul truck trips per day. New exploration disturbance should be folded into the proposed interim or final reclamation plans.
- Section 4.3.2, page 62, last paragraph. Specify conformance with Avian Power Line Interaction Committee 2006 Suggested Practices guideline (aplic.org/mission.php).
- Page 68, middle paragraph. Strike out the words "up to" before "36 inches of suitable material."
- Section 4.7, pages 72-73. The closeout plan is not complete without a specified success standard, whether it is an approved reference area, technical standard, or combination of the two. Please provide more detail on the proposed success standard and monitoring methods.

Thank you for the opportunity to comment on this permit application. If there are any questions please contact Rachel Jankowitz, Mining Habitat Specialist at 505-476-8159 or rjankowitz@state.nm.us.

Sincerely,



Matthew Wunder, Chief
Conservation Services Division

cc: USFWS NMES Field Office
Pat Mathis, SW Area Habitat Specialist, NMGF
Kurt Vollbrecht, NMED Groundwater Quality Bureau

4. Providing Interim Wildlife Habitat

Section editor: Bonnie C. Postovit

Subsection author: Bonnie C. Postovit

Situation:

Temporary habitat enhancements can help alleviate the impacts of mining on wildlife.

Special Considerations:

Some reclamation features, such as shrub stands and trees, take time to mature and achieve value to wildlife. Interim substitutes can be used to serve the functions intended for the permanent features. Some mine features, such as sedimentation reservoirs and highwalls, are of potentially great value to wildlife. Properly modified, such features can serve as important interim habitat during their existence.

Description of Technique:

a. Tree and Shrub Substitutes

Interim substitutes for shrubs and trees include brush piles, snags, and artificial nesting structures.

(1) Brush Piles

Brush piles provide escape cover and den sites for small mammals, lagomorphs, and predators. Trees or shrubs salvaged from stripping operations can be piled on newly-reclaimed areas. These brush islands will persist for several years, until vegetation is mature enough to provide cover for wildlife. The base of a brush pile can be formed of logs or larger branches piled at angles to create cavities. Smaller branches and brushy material can be piled on top to increase protective cover. Brush piles should be at least 10 to 15 feet in diameter and 4 to 5 feet high to furnish cover for a variety of small and medium-sized animals for several years.

(2) Snags

Snags are valuable habitat features for perching and nesting. Snags can be created by erecting a felled tree. The best trees for this purpose have numerous sturdy branches and long, single, straight trunks. The base of the tree must be sunk several feet into the ground for stability. Snags are put in place using normal power pole setting equipment and procedures. They provide instant tree-like habitat, and can last several years. Treating the lower part of the trunk with creosote may help prolong the life of the snag.

(3) Nesting Structures

Artificial nest structures, such as platforms and nest boxes, are commonly used to provide habitat for raptors and other birds. Designs vary depending upon the target species. For example, ferruginous hawks will use low or high platforms, but appear to dislike wind guards or shading that obstructs the view from the nest (see Figure 1 - figures at end of text). Golden eagles and red-tailed hawks prefer higher platforms. Shading can be provided by installing plywood "wings" on two sides (see Figure 2).

Platforms can serve until trees are established. In areas devoid of trees, they can be a valuable form of permanent habitat enhancement. A well-constructed platform will last for many years. The same cannot be said of nest boxes. Need for maintenance is a commonly-overlooked aspect of nest boxes. Bluebirds, for example, will not reuse a box unless old nesting material is cleaned out annually. Kestrel nest boxes likewise need periodic cleaning. ~~There is dubious value in erecting numerous nest boxes without a provision to properly maintain them.~~ Figure 3 gives an example of a nesting box design.

b. Temporary Water Source Enhancement

Reservoir modifications that can enhance temporary water sources include vegetation plantings, islands, peninsulas, shallow shoreline areas, and escapeways.

(1) Vegetation

Vegetation plantings can speed natural wetland colonization processes. It can take several years or longer for cover and food species such as sedges, rushes,

and cattails to colonize a new water source; especially if the source is relatively isolated from natural areas. A temporary reservoir might come to the end of its existence just as it was achieving high wildlife value. Transplanting clumps of vegetation along the shoreline of a reservoir will quickly boost the value of the reservoir to waterfowl and other wetland users.

Transplanting can be accomplished very simply with hand shovels and five-gallon buckets. The goal is not to plant a pond's entire shoreline, but to establish numerous clumps of swiftly-spreading plants. Transplanting is best accomplished in spring or early summer. When digging plants, it is vital to remove good-sized portions of roots or tubers intact. When replanting, the roots should be well-covered with soil. Plants should be set where water (or at least saturated soil) will be present during all seasons.

(2) Islands

Islands provide secure resting and nesting places for waterfowl. Islands can be created at any time by placing material (dirt, rocks, large round bales) in a channel or reservoir. The low water line should always leave the island surrounded by water, and the high water line should not inundate the entire island. Islands are improved if they can be vegetated to provide nesting cover.

(3) Peninsulas

Peninsulas increase the amount of shoreline, which increases the value of a reservoir. Peninsulas generally need to be incorporated during the reservoir design and construction process. The more shoreline that can be incorporated into pond design, the greater its eventual wildlife value.

(4) Shallows

Shallow shoreline areas are absent from many constructed reservoirs. Reservoirs with uniformly steep sides are of little value to most wildlife. Shallow areas are vital to shorebirds as well as resting waterfowl. A gentle slope also makes it easier for all animals to access the water source for drinking and shoreline foraging. While the economics of reservoir size to volume generally dictate a small, deep design, one side (or a portion of one side) could be altered to provide a shallow stretch of shoreline for wildlife use.

If shallow areas are impossible to construct, escapeways are needed to prevent wildlife loss in plastic-lined or very steep-sided reservoirs. Creating an escapeway can be as simple as tacking down a length of burlap, or other rough fabric, from the rim of the reservoir to below the low water line. Escape ramps or ladders can be made of wooden planks, metal grating, or other material that gives a wet animal traction.

c. Highwall Modifications

Highwall modifications could be considered where a highwall will be inactive for a period of years. Features that enhance the safety and value of highwalls for wildlife include travelways, talus piles, and potholes. These same modifications can also be incorporated permanently into any highwall segment that is to be developed as a bluff in the postmining landscape.

(1) Travelways

Travelways allow animals to move from the top to the bottom of a highwall. Inactive pit areas often provide attractive shelter and shade for animals. A long, unbroken stretch of highwall can impede wildlife movement and hinder these uses. Leaving or creating ramps of material against a highwall at intervals of a few hundred meters allows animals easier passage. Sometimes the natural sloughing of a highwall helps form such travelways for wildlife. If it is possible (from a safety standpoint) to allow or augment such sloughing, this can be desirable for wildlife.

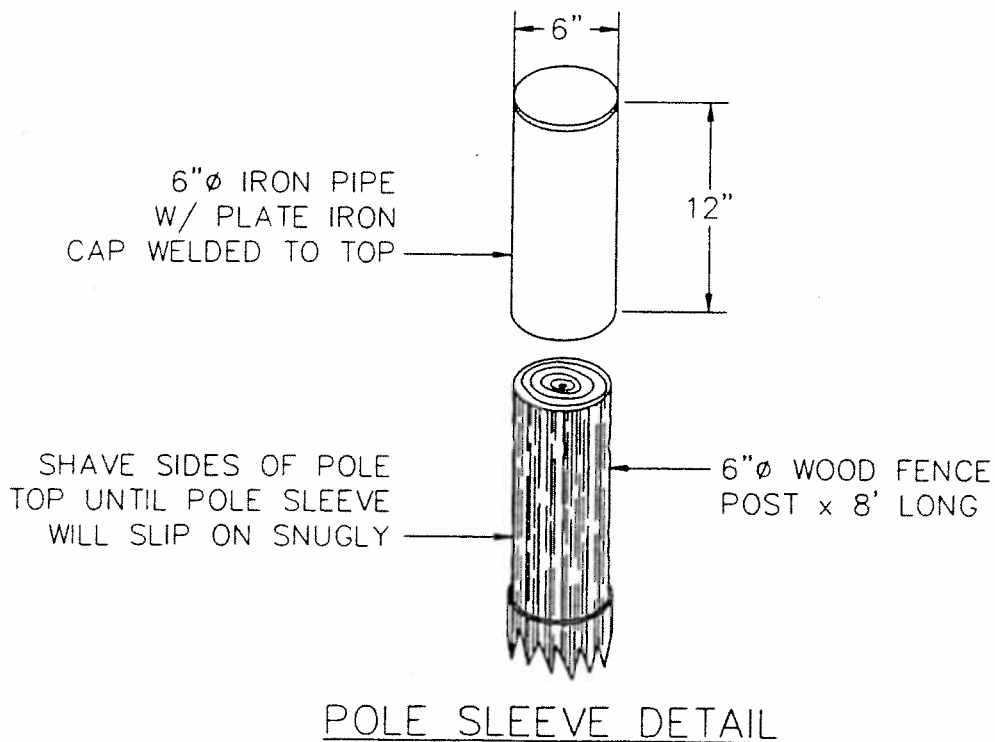
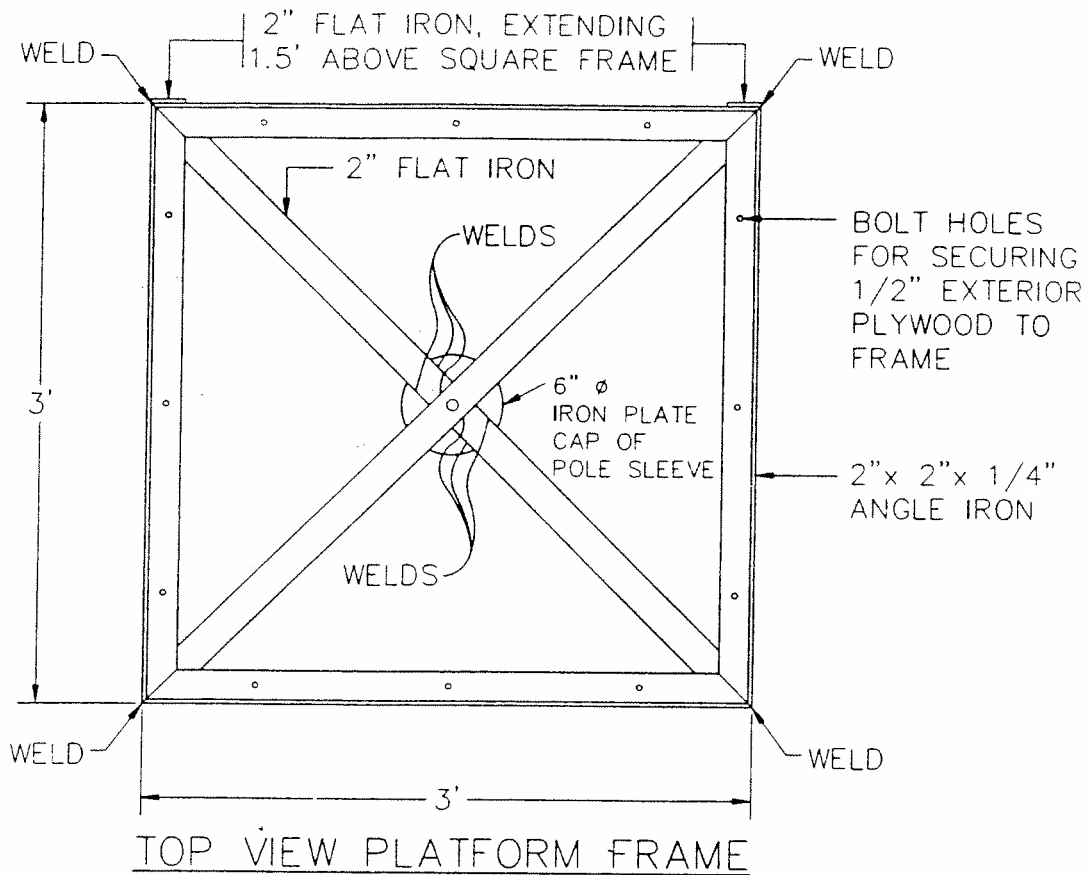
(2) Potholes

Potholes in cliffs are used as shelter and nest sites by species ranging from packrats to owls. If a highwall has few or no natural cavities, and the material has enough stability, potholes can be excavated along the face at different heights. These cavities need not be large; most species that would use such holes would need less than one meter in width, height, and depth.

(3) Talus

Talus, or piles of loose rock, at a highwall base can break up the uniformity and monotony of a long, flat, highwall face that otherwise offers little shelter. Talus provides hiding and denning places for small and medium-sized mammals. These piles can help form the travelways mentioned above.

FIGURE 1



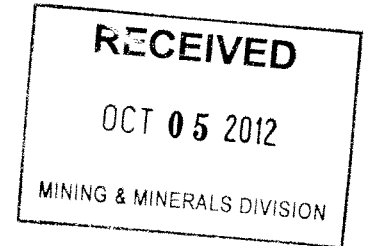
FERRUGINOUS HAWK PLATFORM

DESIGN BY: H. POSTOVIT, 1984



STATE OF NEW MEXICO
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HISTORIC PRESERVATION DIVISION

BATAAN MEMORIAL BUILDING
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SANTA FE, NEW MEXICO 87501
PHONE (505) 827-6320 FAX (505) 827-6338



October 3, 2012

Chris Eustice
Permit Lead
Mining Act Reclamation Program
Mining and Minerals Division
1220 South St. Francis Drive
Santa Fe, NM 87505

Re: Request for Review and Comment, New Mexico Copper Corporation's New Mine Permit Application for the Copper Flat Mine, Permit No. SI027RN

Dear Mr. Eustice:

This letter is in response to new mine permit application for the above referenced project, received at the State Historic Preservation Office (SHPO) on August 23, 2012. According to 19.10.6.602 NMAC, the permit application shall include baseline data, including a list and map indicating all sites on or eligible for listing on the National Register of Historic Places and/or the State Registers of Cultural Properties and known cemeteries and human burials within the proposed permit area. In addition, this list shall include a description of the effects the proposed mining operations may have on these sites and any proposed mitigation measures.

To partially satisfy the requirement of 19.10.6.602 NMAC, a summary report was provided in Appendix 2, Volume 2 of the Baseline Data Characterization Report. This section states that a full cultural resources report will be provided to the SHPO at a later date; however the summary indicates that 53 archaeological sites and four historic buildings were discovered or re-located during the cultural resources survey. One archaeological site is a cemetery.

According to the Mine Operation and Reclamation Plan, (page 62), New Mexico Copper Corporation (NMCC) proposes to protect and avoid known cultural resources, including cemeteries or burial grounds, whenever possible. At this point in time, it is hard to assess which sites may be impacted by mining and which sites can feasibly be avoided and protected. A map showing the locations of the archeological sites and historic structures in relation to the proposed mining operation has not been provided. Nor has NMCC provided a description of the effects of the proposed mining operations will have on the sites that have been documented.

Because land owned and managed by the BLM, Las Cruces District is included in the proposed permit area, the BLM is required to comply with Section 106 of the National Historic Preservation Act (NHPA). To date, the BLM has provided this office with two reports for pipeline and aquifer testing (NMCRIS #121833) and a temporary pipeline and infiltration area (NMCRIS #122757) but we have not received a full cultural resources report for the mine operations. Although we will be reviewing this project under Section 106, for the purposes of obtaining clearance from the SHPO as required under 19.10.6.603 NMAC, please provide this office with a copy of the full report and copies of all associated archaeological site records and historic building forms along with a map showing the location of the cultural resources in relation to the proposed mining operation.

If you have any questions regarding these comments, please do not hesitate to contact me at (505) 827-4064.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Ensey', written in a cursive style.

Michelle M. Ensey
Archaeologist

Log: 95196

Cc/Email: David Legare, BLM, Las Cruces District
Bob Estes, HPD



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Ground Water Quality Bureau

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Secretary

BUTCH TONGATE
Deputy Secretary

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

DATE: November 29, 2012
TO: Holland Shepherd, Program Manager, Mining Act Reclamation Program
FROM: Keith Ehlert, NMED Ground Water Quality Bureau
THROUGH Kurt Vollbrecht, NMED Ground Water Quality Bureau 
**RE: Comments on Permit Application Package for the Copper Flat Mine
Permit No. SI027RN**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on August 23, 2012 requesting NMED review and provide comments on the New Mexico Copper Corporation (NMCC) Permit Application Package (PAP) referenced above. NMED provides the following preliminary comments. The PAP includes five bound documents consisting of Appendices A through D, an introductory document with no appendix designation, and a Geochemical Characterization Report. NMED Air Quality Bureau comments are provided under separate memorandum.

General Comments

The PAP as submitted will be incorporated into the administrative record for DP-001. Technical review of the PAP pursuant to the Water Quality Control Commission (WQCC) Regulations is ongoing, and NMED may have additional comments as may arise during subsequent drafting of a ground water discharge permit. Comments pertaining to the Geochemical Characterization Report will be submitted under separate letterhead directly to NMCC with copy to MMD as this report is critical to development of a draft ground water discharge permit. NMED requests that prior to NMCC preparing a written response, NMED, MMD and NMCC meet to discuss the following comments.

Specific Comments

Mine Operation and Reclamation Plan, Introductory Document, (No Appendix Designation)

Section 2.2: With regard to the proposed Tailing Storage Facility (TSF), on pages 5 and 6 it is indicated that the new TSF will be constructed over the existing tailing storage area and will be lined with a High Density Polyethylene (HDPE) liner. The existing tailing storage area contains about 1.2 million tons of material, whereas the new TSF will contain about 100 million tons of material. Geologic maps and cross sections provided in the Baseline Data Characterization Report (Appendix B) indicate the existing tailing storage area and portions of the area where the proposed TSF will be located are underlain by Quaternary Alluvium and Santa Fe Group sediments. NMED is concerned about the potential for differential settlement of the alluvium and Santa Fe Group sediments underlying the proposed TSF. It has been NMED's experience that HDPE liners can be subject to significant stress cracking resulting from differential settlement. NMCC must perform a settlement analysis of the natural materials that will underlie the proposed TSF. The settlement analysis shall include a topographic base map with geology and cross sections showing the footprint of the proposed TSF.

Section 3.15.7.1.1: In discussing reclamation, on page 46 it is indicated that "pit walls that pose a threat would be stabilized by blasting or other safe methods." NMCC must explain what criteria would be used to determine a pit wall is unstable and how blasting will achieve stability.

Section 3.15.7.1.2: With regard to reclamation of the Waste Rock Disposal Facility, it is indicated on page 47 that top surface perimeter berms will be utilized to prevent concentration of flows to outslope areas. It has been NMED's experience that generally, this is not a good practice because perimeter berms can result in ponding of water, which can inhibit vegetation growth, and can result in increased infiltration of water into underlying waste rock. Additionally, concentrated flow along a berm can result in erosion of cover material. NMCC must incorporate top surface designs that inhibit ponding and minimize erosion of cover due to concentrated flow along the berm.

Appendices C and D, Mining Sequence Maps and Tailing Facility Design (note: Appendices C and D contain no written text, only maps)

There appears to be significant inconsistencies between the mining sequence maps in Appendix C and the reclamation designs in Appendix D. Maps included in Appendix C show the end of year 11 East Waste Dump outslopes consisting of 100 foot high angle of repose interbench slopes with approximately 160 foot wide benches. Drawing 11 in Appendix D shows the East Waste Dump outslopes at year 5, with interbench slopes labeled with a slope ratio of 2.75:1 horizontal to vertical (H to V), with the slopes separated by relatively narrow drainage benches. The overall slope ratio is labeled as 3.2:1 H to V. NMED prepared cross sections through the year 5 outslopes on Drawing 11 utilizing the bar scale included on the drawing. The cross sections indicate interbench slopes of about 4.5:1 H to V with overall slope ratios of about 7:1 H to V. It appears that in addition to Drawing 11 (Appendix D) being in conflict with the Year 5 Map in Appendix C, the incorrect scale may have been used on Drawing 11. NMCC must resolve these discrepancies, provide maps with the correct scale and appropriate sequencing of

construction and reclamation, and provide detailed descriptions of the designs, proposed mining sequence and contemporaneous reclamation.

Drawing 3 of Appendix C shows the phases of proposed construction of the TSF. It appears that during construction of phases 2 through 4, a pronounced southeast draining topographic channel-like feature will be incorporated into the design at the west end of the TSF. NMED is concerned that during construction of the TSF, concentrated runoff from the feature will erode through the tailings and possibly expose the HDPE liner. NMCC must indicate what measures will be taken to insure that excessive erosion of the tailings due to this feature does not occur.

Drawing 11 of Appendix D shows the year 5 waste rock regrade plan with runoff flow arrows discharging from the outslopes onto natural ground with no channels or other features (velocity reducers) to accommodate the runoff. NMCC must provide detailed design drawings and discussions of how runoff will be controlled, and how runoff will be managed/diverted.

The drawings in Appendix D include 1 through 4, 7 through 8, and 10 through 12. There are no drawings identified as 5, 6, or 9. NMCC must clarify whether these drawings were intentionally omitted.

General Comment

Several issues in the PAP lack clarity. NMED requests that MMD, NMCC, and NMED meet for detailed review and comment.

Quality of Maps, Drawings, and Figures

The Mine Operation and Reclamation Plan (no appendix designation), Figure 4, Land Status Map, includes contour lines that are printed so light that they cannot be readily interpreted, the lines are not labeled with elevations, and no contour interval is indicated. Figures 2 and 3 are air photographs overprinted with boundaries, roads, facilities and other designations. The air photos have a washed out appearance, possibly due to being printed too dark, making it extremely difficult to interpret. Figure 7 depicts facility topography, with contour lines overprinted on an air photo. Features on the air photo cannot be discerned due to the photo having an extremely faded appearance, and the air photo background makes reading the contour lines difficult. NMCC must provide figures and maps that clearly depict the features the document is intended to depict. If topographic maps or other features are overlain on air photos, both the air photo and features overlain on the photo must be clearly depicted.

If you have any questions, please contact Kurt Vollbrecht at 827-0195.

Cc: Jerry Schoeppner, Chief, NMED GWQB
James Hogan, Acting Chief, NMED SWQB
Richard Goodyear, Chief, NMED AQB
Chris Eustice, Permit Lead, MMD



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DAVID MARTIN
Secretary

Butch Tongate
Deputy Secretary

MEMORANDUM

DATE: October 22, 2012

TO: Kurt Vollbrecht,
Mining Act Team Leader
Ground Water Quality Bureau

THROUGH: Richard Goodyear,
Bureau Chief, Air Quality Bureau

FROM: Sufi Mustafa,
Manager Air Dispersion Modeling Section

RE: Request for Review and Comment, New Mexico Copper Corporation's, New Mine Permit Application for the Copper Flat Mine, Permit No. SI027RN

The New Mexico Air Quality Bureau (AQB) has completed its review of the above mentioned mining project. Pursuant to 19 NMAC 10.2, Subpart 302.G of the New Mexico Mining Act Rules, the AQB has the following comments:

Air Quality Permitting History

The AQB has provided comments on the initial application on November 3, 2012.

Air Quality Requirements

The New Mexico Mining Act of 1993 states that "Nothing in the New Mexico Mining Act shall supersede current or future requirements and standards of any other applicable federal or state law." Thus, the applicant is expected to comply with all requirements of federal and state laws pertaining to air quality. Current requirements which may be applicable in this mining project include, but are not limited to the following:

20 NMAC 2.72 states:

Air Quality permits must be obtained from the Department by any person constructing a stationary source which has a potential emission rate greater than 10 pounds per hour or 25 tons per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard. If the specified threshold in this subsection is exceeded for any one regulated air contaminant, all regulated air contaminants with National or New Mexico Ambient Air Quality Standards emitted are subject to permit review. Air Quality permits must be obtained prior to startup of the permitted operation or activity.

Any person constructing or modifying any source or installing any equipment that is subject to 20 NMAC 2.77, New Source Performance Standards, must comply with those applicable federal New Source Performance Standards (NSPS).

Also, 20 NMAC 2.73 states:

Any owner or operator intending to construct a new stationary source which has a potential emission rate greater than 10 tons of any regulated air contaminant per year or 1 ton per year of lead shall file a notice of intent with the division.

Details

Applicant will surface mine for copper and other metals. Mined material will be crushed and processed on site. An air quality permit may be required for the processing plant. Applicant is advised to contact air quality bureau to evaluate permit requirements.

The above is not intended to be an exhaustive list of all requirements that could apply. The applicant should be aware that this determination does not supersede the requirements of any current federal or state air quality requirement.

Fugitive Dust

Fugitive dust is a common problem at mining sites. The Air Quality Bureau does not regulate fugitive dust; however, we do recommend controls to minimize emissions of particulate matter from fugitive dust sources. The following control strategies can be included in a comprehensive facility dust control plan (from EPA's *Compilation of Air Pollutant Emission Factors, AP-42*):

Unpaved haul roads and traffic areas: paving of permanent and semi-permanent roads, application of surfactant, watering and traffic controls, such as speed limits and traffic volume restrictions.

Paved roads: covering of loads in trucks to eliminate truck spillage, paving of access areas to sites, vacuum sweeping, water flushing, and broom sweeping and flushing.

Material handling: wind speed reduction and wet suppression, including watering and application of surfactants (wet suppression should not confound track out problems).

Re: Request for Review and Comments, New Mexico Copper Corporation's New Mine Permit Application for the Copper Flat Mine

Permit No. SI027RN

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Bulldozing: wet suppression of materials to "optimum moisture" for compaction.

Scraping: wet suppression of scraper travel routes.

Storage piles: enclosure or covering of piles, application of surfactants.

Miscellaneous fugitive dust sources: watering, application of surfactants or reduction of surface wind speed with windbreaks or source enclosures.

The Air Quality Bureau or the US EPA may implement requirements, regulations and standards for the control of fugitive dust sources in the future. This written determination does not supercede the applicability of any forthcoming state or federal regulations.

If you have any questions, please contact me at (505) 476-4318.