

RECEIVED

JAN 19 2023

2024 (M)

SR

MINING COMMISSION

BEFORE THE NEW MEXICO MINING COMMISSION

IN THE MATTER OF THE PETITION FOR REVIEW OF THE DIRECTOR'S ACTION
DATED NOVEMBER 13, 2023, PERMIT MODIFICATION 23-1 TO PERMIT NO. CA027EM

STANLEY KING as authorized representative for the Mogollon Concerned Citizens

Petitioners

RESPONSE TO MOTION TO DISMISS
SUMMARY OF RELEVANT FACT TO PETITION 23-1

Pursuant to: NMAC 19.10.14.1429 CONDUCT OF HEARING

C. Members of organizations that are parties or interested participants will appear and participate only through counsel or authorized representatives.

MOGOLLON CONCERNED CITIZENS conveying authority for Stanley King to be their
Representative

(SEE ATTACHMENT)

Pursuant to:

New Mexico Rules of Civil Procedure 1-012(B)(6)

B. How presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion:

(6) failure to state a claim upon which relief can be granted

Page 2 of Petition 23-1

Claim: The PAP and the Approved Permit Modification 23-1 CA027EM are out of compliance
with: MINIMAL IMPACT EXPLORATION OPERATIONS NMAC 19.10.3.302.D(2)

Pursuant to: NMAC 19.10.1.7 GENERAL PROVISIONS:

P. Definitions with the letter "P".

(3) "Permit area" means the geographical area defined in the permit for a new mining operation or for an existing mining operation on which mining operations are conducted or cause disturbance.

Pursuant to: **NMAC 19.10.3.302** **MINIMAL IMPACT EXPLORATION OPERATIONS:**

D. The application shall include the following information:

(2) the location of the proposed operation as shown on a topographic map which **indicates the proposed permit area** and gives the location of the following: perennial, intermittent and ephemeral streams; springs; wetlands, riparian areas, lakes and reservoirs; residences; existing and proposed roads; other access routes; support facilities; cemeteries; burial grounds; cultural resources listed on either the *national register of historic places* or the *state register of cultural properties*; pipelines; and oil, gas and water wells on the permit area; **areas and types of proposed disturbances shall be indicated; the anticipated dimensions of each proposed disturbance shall also be provided;**

Relief: Suspension of Permit Modification 23-1 to Permit No. CA027EM Summa Silver Mogollon Minimal Impact Exploration Operation and re-evaluating the "minimal impact" status of this permit addressing the project Permit Area boundary.

FILING OF PETITION

Petition 23-1 was filed Pursuant to: NMAC 19.10.14.1417 **FILING OF PETITION:** The proceeding shall be started by the filing of a petition with the Commission within 60 days from the date of notice of the Director's action. The Petitioner shall file the original and 12 copies of the Petition with the Hearing Clerk and serve a copy on the Division and the applicant if the applicant is not the Petitioner. The Hearing Clerk shall promptly serve copies of the petition to the Commission. The Petition shall:

A. Identify the Petitioner, and state how the Petitioner is or may be adversely affected by the Director's action;

Page one of Petition 23-1 identifies the Petitioner and states three (3) issues on how the Petitioner is or may be adversely affected by the Director's action.

B. Identify the Director's action which is the subject of the appeal, specify the portions of the Director's action to which Petitioner objects and specifically state the objections. The Commission will consider only the objections included in the Petition;

Page two of Petition 23-1 Identifies the Director's action which is the subject of the appeal.

The Director approved **Permit Modification 23-1 to Permit No. CA027EM Summa Silver Mogollon Minimal Impact Exploration Operation** while the permit application remains out of compliance with **NMAC 19.10.3.302 D.2.**

2023-04 Application for Permit Renewal and Modification (page 8)

SECTION 3 – MAPS AND PROJECT LOCATION (§302.D.2) (Component D Mogollon Project Map Series)

B. Maps: Are topographic maps included with the application that show the following items: Yes – The boundary of the proposed exploration project Permit Area

The project Permit Area as shown in the permit application package 2023-04, page 150 is copied from the original permit application 2021-03. The drill pads (6) of which are identified on provided maps on pages 142 and 143 of Permit Application 2023-04 are not in this project Permit Area as shown on page 150. (Component D Mogollon Project Map Series)

CONCLUSION

The Permit Application 2021-03 page 100 complies with **19.10.3.302 D.2** and there was no objection filed with this part of this permit. The 19 drill pads (disturbed areas) associated are shown on this map of the “Permit Area”. (Attachment D page 100)

The **NMAC 19.10.3.302 D.2** clearly states “the proposed permit area” as singular as depicted in Permit Application 2021-03 page 100. The drill pads or “the areas and types of disturbances shall be indicated” clearly implies “drill pads” are not “Permit Areas” and are shown as such on Permit Application 2021-03 page 100.

Because the project Permit Area as referenced in **NMAC 19.10.1.7.M(2)** is crucial to the determination of “minimal impact status” of any mining or exploratory permit application, we object to the Director's action to approve **PERMIT MODIFICATION 23-1 TO PERMIT NO. CA027EM** without complying to **NMAC 19.10.3.302 D.2**.

Pursuant to: **NMAC 19.10.14.1417**: The proceeding shall be started by the filing of a petition with the Commission within 60 days from the **date of notice of the Director's action**. and page 3 of FAQ - Mining Act Reclamation Program – NM EMNRD website: Any person who is adversely **affected by any order, penalty assessment or permit action** taken by the MMD Director can appeal to the Mining Commission. The Commission will then conduct an evidentiary hearing on the appeal.

Petition 23-1 before the
NM Mining Commission

**IN THE MATTER OF THE PETITION FOR REVIEW OF THE DIRECTOR'S ACTION
DATED NOVEMBER 13, 2023, PERMIT MODIFICATION 23-1 TO PERMIT NO. CA027EM**

Co-signers and/or persons conveying authority of representation to Stanley King for the Mogollon
Concerned Citizens in the matter of Petition 23-1

Bob Moore Dec 14, 2023, 8:47 AM

Please take note that I authorize you, Stan King, as our representative in the said appeal.

Bob Moore sosilvercreek@gmail.com

Vicki Moore Dec 14, 2023, 8:45 AM

I authorized Stanley King to be the authorized representative for this appeal.

Vicki Moore vmooore50@gmail.com

John Gebhardt Dec 14, 2023, 5:49 PM

Please accept this message as Authority to Represent in the Appeal to the mining commission.

John Gebhardt gebhardt47@mac.com

kathy Knapp Fri, Dec 15, 2023, 11:18 AM

I, Kathy Knapp, convey to Stanley King, permission to be Authorized Representative for the subject appeal.

Kathy Knapp kathyknapp01@gmail.com

Cordelia Rose Dec 12, 2023, 1:39 PM

Stan

I accept you as my authorized representative and am thankful you are willing to be such. Cordelia

Cordelia Rose

Whitewater Mesa Labyrinths & Glenwood Yoga

355 Bursum Road, Glenwood, NM 88039

575 313-1002 www.wmlabyrinths.com

hilary klein Dec 12, 2023, 1:46 PM

Thank you Stan!

This is interesting.

I am happy to participate and have you as my authorized representative.

Hilary Klein kleinhilary@gmail.com

Victoria Dec 12, 2023, 3:07 PM

I approve Stan King as our authorized representative.

Please sign my name to this appeal.

Victoria Linehan valinehan@gilanet.com

beth.m Mountain Tue, Dec 12, 2023, 7:39 AM
Please add my name, Stan.
Beth Miller beth.miller07@gmail.com

Niels Mon, Dec 18, 2023, 2:00 PM
I Niels Mandoe here by authorize Stan King to represent me in the appeal to the mining commission
Niels Mandøe nmandoe@icloud.com

Elisabeth Bayless Jan. 5, 2024 5:13 PM
I convey authority to Stanley King to represent me on petition 23 -1.
Linda E Bayless elizah.bay@gmail.com

Frank DeAngelis Fri, Jan 5, 8:07 PM
I convey my authority for Stanley King to be my Authorized Representative. Thank you.
Frank Deangelis frankydeangelisart@gmail.com

Gary Clauss Sun, Jan 7 4:02 PM
To whom it may concern,
I authorize Stanley King to add my name Gary Clauss to his petition to the New Mexico Mining Commission.
Respectfully,
Gary Clauss clauss.gary@gmail.com

CERTIFICATE OF SERVICE:

NEW MEXICO MINING COMMISSION
IN THE MATTER OF THE MINERAL AND MINING DIVISION'S RESPONSE
TO PETITION 23-1

DATED 1/4/2024

PERMIT NO. Modification 23-1 CA027EM

Stanley E King



Authorized Representative for
Mogollon Concerned Citizens
Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of January 2024 a true and correct copy of the foregoing
RESPONSE TO MOTION TO DISMISS was electronically mailed to the following

Counsel of Record: Stephanie Rodriguez,

Summa Silver Corp: Chris York

NM EMNRD Director of MMD: Albert Chang

Attorney for Summa Silver: Stuart Butzier

Attorney for MMD: Gabriel Wade

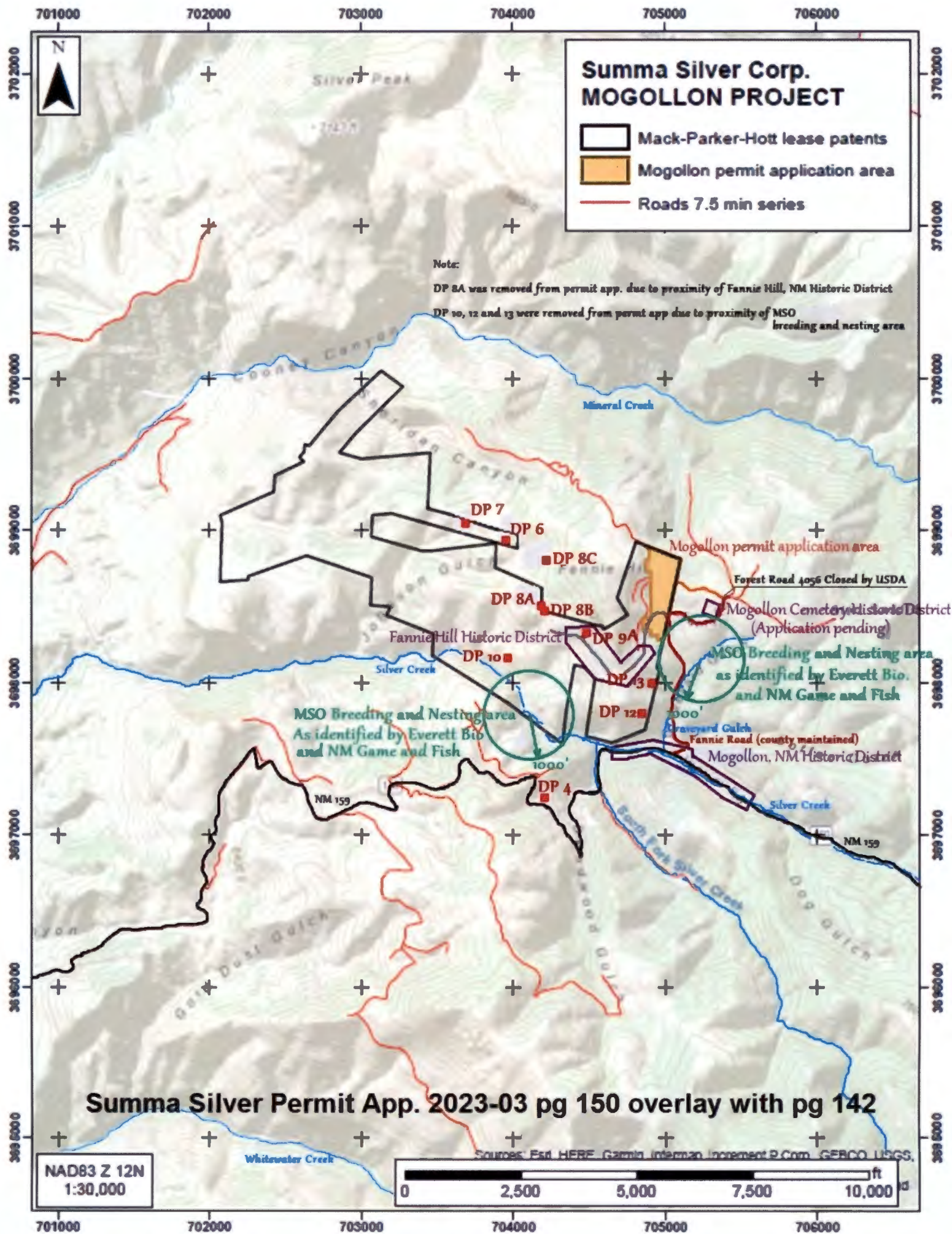
Attorney for NM Mining Commission: Daniel Rubin

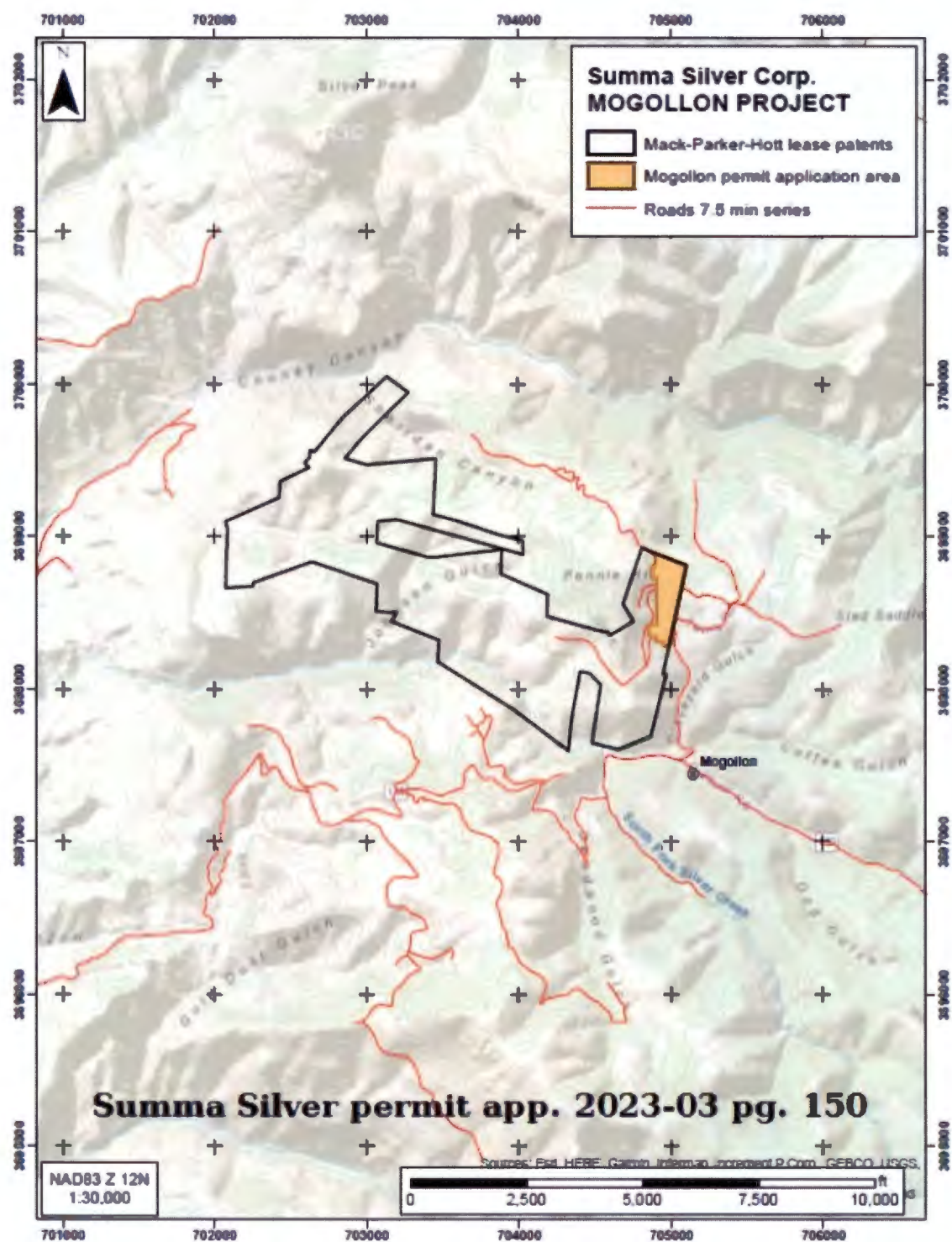
Hearing Officer: Felicia Orth

Counsel of Record:

NM Mining Commission Administrator

Stephanie Rodriguez
Mining and Minerals Division
1220 S. St. Francis Drive
Santa Fe, NM 87505







Drill Pads
Primary Access Roads
Improvement Access Roads
3rd Party Patents
Columbus Silver Patented Claims
Lehigh Metals Lease
Mogollon Enterprises Lease



0.06 0.13 0.25
Miles

Source:
North
1983
North American

