



Gila Resources Information Project

Promoting Healthy Communities by Protecting Our Environment Since 1998

August 19, 2011

Fernando Martinez
Mining and Minerals Division
1220 S. St. Francis Dr.
Santa Fe, NM 87505

Re: Public Comment on Application for Modification of Waiver – Tyrone Mine Permit GR010RE

Dear Mr. Martinez:

The creation of the Mining Act regulations was the combined effort of industry and environmental organizations working with the state of New Mexico. I felt at the time that the effort was industry dominated, but in fact, the Act is one of the most protective reclamation laws in the Western US. Even though the regulations were completed in the early 1990s the rules are still being put to the test.

The long-term success of completed reclamation in order to achieve a Self-Sustaining Ecosystem at the FMI mines, a requirement of the Mining Act, has yet to be determined. Portions of the almost half billion dollars in financial assurance are being released as reclamation is completed. The remaining bond amount is in place to assure that IF whatever corporation owns these mines goes bankrupt the state can hire a third party to complete reclamation to protect our environment. The reality is that post-closure reclamation could take many years, and water treatment, which is bonded for 100 years, would need to be done in perpetuity.

Reclamation of the potentially acid generating stock piles at the mines is essential to protect air quality, surface and ground water.

To the credit of FMIT, the Mining Act, water quality regulations, the state regulators who enforce these rules and citizens and groups like GRIP and the NM Environmental Law Center, reclamation is well underway. FMIT is taking an accelerated and innovative approach to reclamation during this time of high copper prices. It is, of course, in the company's best interest to do so. It gets hefty bond releases for the work done, lessens its liabilities making share holders happy, AND this has been accomplished while making staggeringly large profits.

I think it is also important to note that during the economic downturn of 2008 and the subsequent layoffs of mine workers, that well over one hundred reclamation workers both FMIT and contractors remained in their jobs re-grading, covering and revegetating waste piles. In addition to the environmental benefits of reclamation, these requirements have been the driver for maintaining mining-related jobs for Grant County citizens.

- We strongly urge MMD and FMIT to commit to elimination of habitat islands and the creation of habitat connectivity to the extent feasible, as was requested by NM Department of Game and Fish. FMIT has explained to GRIP how, as potential mining plans advance, areas could be back-filled that would create a more contiguous habitat at Closure. We support this. We also support Game and Fish in their request that FMIT identify potential dangers to wildlife and livestock and list mitigation measures that will be taken.
- GRIP also thinks the Office of the State Engineer's comments should be addressed more fully by FMI. The cost of lost natural resources, such as water, should be factored into the Cost Benefit Analysis used to justify the waiver. What is the economic value of groundwater damages resulting from lack of reclamation in waiver areas? Although FMI says that all impacted water is captured and treated, what is the volume of water that would otherwise not be impacted if reclamation were to happen? The economic value of damaged natural resources such as wildlife habitat or clean water is borne by the public and should be assessed.
- Like the OSE, we are concerned about increased stormwater drainage from steep slopes impacting reclaimed areas and we encourage MMD to look at this closely to ensure that the costs are appropriate so that there is sufficient bonding for operation and maintenance of unreclaimed interior slopes and any infrastructure such as roads after closure.

In closing, GRIP's perspective is to see responsible mining conducted at Grant County mines. Therefore we want continued reclamation as part of mine planning and operation, remediation of existing natural resource damages, and protection of the environment and wildlife as the primary goal of mine planning, operation, and reclamation activities.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in cursive script that reads "Sally Smith".

Sally Smith
President