



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

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May 24, 2002

Anne Wagner
Environmental Manager
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Molybdenum Group
P.O. Box 469
Questa, NM 87556-0469

**SUBJECT: Approval of Waiver Request, Questa Mine Pit, Questa Mine and Mill Facility,
TA001RE (96-2)**

Dear Ms Wagner:

This letter addresses Molycorp, Inc.'s (Molycorp) request for a waiver of the Questa Mine Pit. The request for waiver was included in Molycorp's Closeout Plan submittal, dated June 1, 2001. The waiver request is addressed in Sections 5.1.2 through 5.1.7 of the Closeout Plan submittal. The waiver request was made to address Section 19.10.5.507.B of the New Mexico Mining Act Rules (Rules), which requires that the operator apply for a waiver for open pits or waste units if the requirement to achieve a post-mining land use or self-sustaining ecosystem cannot be met. The operator must show that achieving a post-mining land use or self-sustaining ecosystem is not technically or economically feasible or is environmentally unsound.

Section 19.10.5.507.B of the Rules indicates that the Director may grant a waiver for an open pit or waste unit if he finds: 1) measures will be taken to ensure that the open pit or waste unit will meet all applicable federal and state laws, regulations and standards for air, surface water and ground water protection following closure; and 2) the open pit or waste unit will not pose a current or future hazard to public health or safety.

Molycorp discusses technical feasibility, economic feasibility and environmental unsoundness in the waiver request. Molycorp also provides two separate alternatives for pit reclamation, which include: 1) reclamation of existing slopes and benches, and 2) reclamation by backfilling the open pit. Molycorp indicates that backfilling the pit under alternative 2 is not technically feasible, economically feasible, or environmentally sound. Molycorp indicates that under alternative 1 the pit will be partially reclaimed in areas where practicable: 1) the bottom of the

entire pit and haul roads will be covered with a minimum 3ft. of cover material; 2) vegetation of trees and shrubs will be manually planted on the slope of the west wall; 3) aerial seeding will be performed on other portions of the pit slope and benches; 4) surface water run-on diversion ditches around the north side of the open pit will be constructed as a source control of runoff from natural ground; and 5) surface water runoff from the pit slopes will be conveyed to the underground workings and pumped to the water treatment plant.

The waiver request was submitted as part of the Closeout Plan application on October 23, 2001 as required by §19.10.5.506 of the Rules. The Closeout Plan is a revision to the Questa Mine permit, TA001RE. Public notice for the closeout plan and waiver request was provided, as required by Part 9, and §19.10.5.506.J(1) of the Rules, and a public hearing was conducted beginning on September 5, 2000.

In consideration of Molycorp's waiver request, MMD evaluated information relating to projected environmental impacts resulting from achieving a post-mining land use or self-sustaining ecosystem including: 1) information addressing the environmental impacts from exposing scar areas in the pit and under the existing rock piles, 2) the environmental impacts resulting from the creation of offsite borrow areas, and 3) potential air quality impacts resulting from pit backfilling. In further consideration of Molycorp's waiver request, MMD also evaluated various items of financial information including revenues, expenses, additional obligations and earnings.

Pursuant to §19.10.5.507.B(2) of the Rules the operator has satisfied the Director with information addressed under Section 5.1.6, Public Health and Safety, of the Closeout Plan application, that, if a post-mining land use or self-sustaining ecosystem are not achieved for the Questa Pit, the open pit will not pose a current or future hazard to public health or safety. The operator states that institutional controls will be implemented to restrict the potential hazards to public health or safety. The institutional controls will include site access restrictions and deed restrictions. Site access will be limited by constructing perimeter fencing. Warning signs will be posted around the perimeter of the open pit and guard stations will be staffed to prevent trespass. A letter from the New Mexico Environment Department (NMED) was received pursuant to §19.10.5.506.J(5) of the Rules, dated December 31, 2001, indicating the Closeout Plan application has demonstrated that the activities to be permitted, including the waiver for the open pit, are expected to meet all applicable environmental standards.

The Director has reviewed the application, as well as the aforementioned additional materials, and determines that a sufficient showing exists that achieving a post-mining land use or self-sustaining ecosystem for the Questa Pit is not environmentally sound and is not economically feasible. The Director therefore approves the Molycorp waiver request for the Questa Pit pursuant to §19.10.5.507.B of the Rules, subject to the conditions described below.

Pursuant to §19.10.5.506.I of the Rules the following conditions will apply to this waiver request:

- 1) A continuous wire fence will be placed around the pit perimeter with gates at points of access;
- 2) Signage will be posted on fencing at 500-foot intervals and at all access points,

warning of potential hazards present;

- 3) A continuous berm, five feet in height and ten feet in crest width will be placed around the pit perimeter and inside the fence, except for gated access points. The berm will be composed of non-acid generating material and revegetated in accordance with the open pit revegetation plan;
- 4) Permittee will monitor stability of the pit walls on a quarterly basis for the first 2 quarters then semiannually after that to identify potential failure areas, which may adversely impact the environment and public health or safety. If failure areas are identified through monitoring, the Permittee shall propose for MMD approval measures to eliminate the hazard within 30 days of identification;
- 5) The Permittee shall provide further evaluation of the highwalls pursuant to the *Mine Rock Pile Erosion and Stability Evaluation* addressed under Section 9, Conditions YY through AAA, of Revision 96-2 to Permit No. TA001RE; and
- 6) Molycorp will evaluate reclamation options for areas within the open pit that are projected to be impacted by subsidence. In addition Molycorp will address reclamation of this portion of the subsidence area in the Closeout Plan to be submitted April 30, 2004.

The waiver request is hereby approved.

By Order of the Director



Douglas M. Bland
Director
Mining and Minerals Division

cc: Karen Garcia, Bureau Chief, Mine Regulatory Bureau
Fernando R. Martinez, Program Manager, Mining Act Reclamation Program
Mary Ann Menetrey, Program Manager, MECS, NMED
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File TA001RE