

August 25, 2020

State of New Mexico  
Energy, Minerals and Natural Resources Department  
Mr David Otori, Supervisor, Senior Reclamation Specialist  
New Mexico Mining and Minerals Division  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

**RE: Response to Comments on Regular Exploration Application, Tererro Exploratoion Project,  
Permit No. SF040ER, Comexico, LLC**

Dear Mr. Otori

Comexico LLC ("Comexico") have prepared responses to comments provided by the New Mexico Mining and Minerals Division ("MMD") on April 27, 2020 on the Tererro Exploration Project, Permit No. SF040ER.

In a phone call in mid-February between Comexico and the United States Forest Service, Santa Fe National Forest ("USFS"), Comexico was notified that the USFS had determined they would be reviewing the Plan of Operations via an Environmental Assessment ("EA") rather than the formerly planned review type of Categorical Exclusion. The current USFS and Comexico arrangement for completing the EA is that the USFS will write the EA based upon field work and reports from Comexico's contractor. As stated in an email from Comexico to MMD on June 25, 2020, Comexico was considering how to proceed given the change in USFS review type. Since that email Comexico's contractor has completed the second season of Mexican Spotted Owl surveys and USFS personnel have conducted additional cultural survey work in the proposed project area. As a result Comexico will propose that the USFS analyze and review a modified proposed action and Comexico will submit an updated Plan of Operations to the USFS with the primary changes being 1) operating duration from less than 1 calendar year to up to 3 years, and 2) the removal of seasonal restrictions which currently limit Comexico to an operating period from October through February. The USFS have indicated that these modifications will require additional analyses and probably additional consultation primarily from the Biological and Cultural Analyses survey and report fronts.

Comexico is of the of the understanding that an approved MMD Regular Exploration Permit grants 12 months of operations and that in order to maintain full authorization to operate under an USFS-approved 3-year Plan of Operations and EA decision, Comexico would need to renew the MMD permit per NMAC 19.10.4.405 C., annually.

Comexico will prepare an updated MMD Application based upon the comments to date as well as prepare an updated Hydrologic Report and Road Maintenance Plan. The updated documents will be submitted as soon as possible after our formal change to the USFS Plan of Operations. The decision



to take this modified approach to the MMD Application and USFS Plan of Operations was made by Comexico within the last several weeks and therefore we have not yet had a chance to formally propose the Plan of Operations modification to the USFS. I wanted to respond to the comments from the MMD in a timely manner and thus our responses are below but I note that the Regular Exploration Permit Application nor the changes to the Hydrological Resources Report or the Road Maintenance Plan have been amended or updated at this time.

### **Comment Responses**

1. Section 5.E is the correct description of drill site disturbance dimensions, Section 5.G is a typo, and Comexico will correct that typo. For purposes of Calculating the proposed disturbance area and reclamation cost estimate, Comexico assumed that the drill pad dimensions would be 60 feet by 40 feet even though the majority of the proposed disturbance is upon existing disturbance (ie roads, former drill sites, cleared benches, etc).
2. Upon further consideration of this matter, Comexico proposes to use mud pits for the exploration project as is the generally accepted practice for exploration drilling. Liner is typically black, 6 mill thickness and is purchased in rolls which come in dimensions of 20 feet by 100 feet.
3. The MMD's permit application does not include a section for "overland routes" and Comexico incorrectly used the portion of the permit 5.H, Roads. Resolution of this issue was attempted via correspondence from Comexico to the USFS and MMD in an email dated June 8 which. The future amendment to the MMD Application will stay in line with that email.

Comexico does not agree with the USFS' assessment that the proposed laydown area will require 1 acre (Figure 1, electronically attached) and instead proposes an area of 100 ft by 100 ft – this area is upon an area of existing disturbance.

Comexico had not originally proposed maintenance on the roads accessing the Tererro Exploration Project Jones Hill Camp area and so the original application did not include the Road Maintenance Area. Moving forward, Comexico will include the road maintenance in its total proposed disturbance calculation. Table 1 is an updated proposal of Comexico's surface disturbance:

*Table 1: Proposed Surface Disturbance*

<b>Disturbance Type</b>	<b>Area (acres)</b>	<b>notes</b>
30 Drill Pads (60 ft. by 40 ft.)	1.65	modified the maximum disturbance area per drill site to 60 ft. by 40 ft.
Overland Travel (1,138 ft. by 15. ft wide)	0.39	noted as not technically "new road"
Equipment Laydown Area (100 ft. by 100 ft.)	0.23	reduced from USFS proposed 1 acre to proposed 100 ft. by 100 ft. – area currently disturbed
Maintenance on USFS Roads (w/in Permit Area, 3 mi. long by 15 ft. wide)	5.45	maintenance of existing road
<b>Total</b>	<b>7.72</b>	

Comexico have revised the reclamation cost estimation and indirect cost calculations based upon the provided guidance from MMD.

If those drill sites are implemented upon, Comexico does propose to remove trees from the proposed overland routes according to the Amended Application submitted August 6, 2019. The tree removal is also part of the unfinished Biological Assessment report.

4. Based upon Comexico and its related companies recent drill activities, mud pits typically contain the following components upon completion of a bore hole:
  - Water
  - Bore hole rock chips and cuttings
  - AMC 206: liquid polymer mud additive
  - AMC EZEE BORE: bentonite additive; mud viscosifier
  - AMC EZEE PAC R: sodium carboxymethylcellulose; viscosifier/fluid loss reducer
  - AMC HV Foam: RC drilling additive for air lifting rock chips
  - AMC Torque Guard: mud additive; friction reducer/lubricant
  - AMC Grout 20: abandonment grout
  - Portland Cement: abandonment material

MSDS for these specific brands of material are included as an electronic attachment to this letter transmittal email.

Comexico will dispose of all trash and waste at an approved site in compliance with state, local, and federal laws and regulations.

5.
  - a. Comexico received a verbal approval from the well owner, the USFS to test the subject water well. Comexico will notify MMD upon acquiring a water sample and upon completion of a TDS analyses.
  - b. Affirmative.
  - c. Comexico will contact the USFS to assess whether installing a locked cap and concrete pad is acceptable.

In the August 6, 2019 amendment to the application Comexico stated “Comexico can commit to capping, covering, welding, or cinching [the historic collars] shut if necessary to mitigate [threats to wildlife].” Comexico would prefer to complete that legacy reclamation work upon receipt of authorizations to drill.

6.
  - a. Comexico had more broadly described the project area in Section 8.A and will focus information on this section specifically toward disturbance in the upcoming amendment. Areas to be disturbed typically comprise of existing disturbance such as roads or clearings and graded areas formerly used to drill one of the 115 Comexico-documented historic drill holes in the project area. Areas proposed to be disturbed are generally characterized by minor grasses, flowers, and tree saplings. If downed trees or slash are removed from existing roads during operations then Comexico would consider that as practice in monitoring and maintaining the existing USFS

roads and the removed material would not be replaced. If downed trees or slash are removed from areas of new disturbance such as overland routes or drill sites then Comexico will replace the removed material during reclamation.

- b. Top soil would be scraped using either a grader, bulldozer, or excavator. Comexico will use additional measures and BMPs to ensure erosion of sediment from top soil piles will not erode off of the drill sites – including covering the pile/s with tarps.

Comexico will propose site specific erosion control plans to the MMD at least 60-days prior to implementation, per drill site or overland route.

For existing roads within the project area that are not proposed for maintenance, Comexico has not proposed to install any erosion control measures. Comexico and the USFS have identified that these roads are currently able to support the limited daily pickup-truck and water truck traffic Comexico have proposed.

Comexico would like to state that it is of the position that the road maintenance work proposed to be undertaken on 3 miles of existing road is in-and-of-itself an erosion control measure to be implemented upon existing USFS roads which would otherwise continue to erode into the Indian Creek Tributary, unchecked. Comexico will provide further detail on BMP proposed to control possible erosion control during and after road maintenance.

There is no plan to disturb nor protect any other roads en route to the project area. Reclamation of the existing USFS roads will not take place unless the USFS desires that outcome. Comexico intends to place non-drivable water bars to block other existing USFS roads along the access route and can commit to constructing non-drivable water bars in other locations as a reclamation measure if requested by the surface owner.

- c. During the project site visit and meeting in August of 2019 Comexico noted that both USFS and New Mexico biologists recommended against reseeding of any disturbance as it tends to introduce non native plant species and weeds. Comexico understands that MMD prefers that the disturbed areas are reseeded as part of reclamation and is still awaiting feedback from the USFS for an appropriate final seed mix.
- d. Comexico will update the revegetation schedule to reflect a best estimate of the likely timing to approvals, implementation, then subsequent operations.
- e. Comexico will provide more detail on BMPs planned for operations and reclamation due to the presence of New Mexico recognized riparian and wetland areas. The Hydrological Resource Report will also be updated to reflect New Mexico's characterization of wetlands.
- f. Comexico proposes to regrade all graded surfaces to their profiles as they existed prior to any Comexico operations as well as to instal erosion control measures based



upon BMPs on a per site basis to control any possible erosion. Comexico will detail each proposed drill site erosion control and reclamation plan as requested in point 2 of the Hydrologic Resources Report portion of MMD's April 27, 2020 letter.

- g. Comexico will assume that all exploration drill holes will be permitted by NMOSE and plugged in accordance with NMOSE and NMED requirements for exploration drill holes that encounter groundwater.
  - h. Maximum drill site area is proposed to be 60 ft. by 40 ft. Comexico proposes to use mud pits. Comexico will protect humans and wildlife by employing covering, fencing, and construction of escape ramps in mud pits. Top soil and mud pit soil piles will be covered with tarps and bounded by erosion control measures.
  - i. Comexico does not propose to construct portals, shafts, adits, or ponds. Comexico does not propose to reclaim the existing roads that are in the USFS road system. Comexico does not propose to reclaim the laydown area because it is an area of existing disturbance that is considered by Comexico to be a part of the existing road network utilized by the grazing permittee for cattle operations. Comexico will request the USFS provide feedback here.
- 7. In a phone call from mid-February, the USFS indicated to Comexico that they would be reviewing the plan of operations and proposed action via an Environmental Assessment (EA) rather than a Categorical Exclusion. In an email dated March 18, 2020 the USFS stated that they were planning to undertake the EA in-house. Comexico's most recent project update from the USFS has indicated that additional analyses will be required for at least the Biological Report and Cultural report as a result of the planned modified Plan of Operations and proposed action. In July, 2020, additional archaeological surveying was undertaken by the USFS in the project area.
- 8. Comexico would prefer to commit to safeguarding historical drill collar openings upon receipt of approvals to operate as proposed in amended Regular Exploration Permit Applications and Plan of Operations.

Mud pits would be fenced with t-posts and wooden snow-fence as well as additionally covered with chicken wire. An escape ramp will be constructed within each 5 ft pit to allow egress for humans or animals.
- 9. The Biological Assessment Report will address protection and mitigation of wildlife and habitat. The current status of this report is that it is soon-to-be subject to a modified proposed action and Plan of Operations so additional analyses will need to be completed. The last update I received from the USFS was that the biologist responsible for reviewing and determining the completeness of the Biological Report will be busy with other work until about October, 2020.
- 10. Comexico will provide a table which lists and indicates how and where BMPs will be used during operations in addition to providing an erosion control plan per drill site, overland

route, laydown area, and road maintenance area. The table will be a part of an amendment to the MMD Exploration Application expected to be submitted in the next several weeks.

11. See electronic attachment from email transmittal table titled “20200824\_Financial Assurance Estimate\_Tererro” which accompanies the responses to this part. Comexico utilized the document located here:

[http://www.emnrd.state.nm.us/MMD/MARP/documents/MMD\\_Part3FAGuidelines\\_Sept2013.pdf](http://www.emnrd.state.nm.us/MMD/MARP/documents/MMD_Part3FAGuidelines_Sept2013.pdf)

as guidance to recalculate the estimated financial assurance.

- a. Comexico have revisited the reclamation cost estimation and indirect cost calculations based upon the provided guidance from MMD.
- b. Comexico have modified Section I of the Cost estimate for overland travel to 0.22 miles (1,138 ft). Exploration Application Section 5.H was addressed in an email to Larry Gore of the USFS from June 8, 2020, cc'd to MMD. The updated table provided lays out the estimated financial assurance following guidance provided by MMD.
- c. We don't intend to use a truck mounted drill rig at this time.
- d. Pits and piles would exist upon/within drill pads. All plastic waste will be removed from site and disposed of. Mud pits would be mixed with stockpiled dirt over the course of several days to weeks to assist the proposed drying and ultimately buried, graded and reclaimed with the rest of the drill site. Comexico have revised the reclamation cost estimation and indirect cost calculations based upon the provided guidance from MMD.
- e. Comexico have revised the reclamation cost estimation and indirect cost calculations based upon the provided guidance from MMD and this section was removed.
- f. Comexico have revised the reclamation cost estimation and indirect cost calculations based upon the provided guidance from MMD and this section was removed.
- g. Comexico have revised the reclamation cost estimation and indirect cost calculations based upon the provided guidance from MMD and this section was removed. Comexico will abandon and plug boreholes in accordance with MMD guidance and NM OSE regulations.
- h. Comexico have revised the reclamation cost estimation and indirect cost calculations based upon the provided guidance from MMD. \$19 per foot has been input as the abandonment rate. Comexico proposes bonding 5,000 ft of borehole at a time.

- i. Comexico have revised the reclamation cost estimation and indirect cost calculations based upon the provided guidance from MMD and this section was removed.
- j. Comexico have revised the reclamation cost estimation and indirect cost calculations based upon the provided guidance from MMD and this section was removed.
- k. Comexico have revised the reclamation cost estimation and indirect cost calculations based upon the provided guidance from MMD.

### **Hydrologic Resources Report (Hydro Report)**

1. Comexico will modify the subject report to reflect wetlands as characterized by New Mexico. Comexico will better define specific BMPs per proposed drill site, overland route, and for the road maintenance and conclude that BMPs should protect wetlands.

Comexico will modify the subject report to reflect impaired waters within the vicinity of the project area. Comexico will better define specific BMPs per proposed drill site, overland route, and for the road maintenance and conclude that BMPs should protect impaired waters. It is notable that at the time of this writing no specific road maintenance is planned within the Macho Creek watershed. Comexico also notes that a) according to the “Draft 2020-2022 State of New Mexico Clean Water Act Sections 303(D)/ 305(B) Integrated List of Assessed Surface Waters” it appears 9/25/2013 was the last date a Macho Creek sample was collected to determine an exceedance in specific conductivity; b) it appears this sample point is located roughly at about where State Highway 63 crosses Macho Creek; c) it appears the sample point is directly downstream (as close as about 980 ft and as far as about 4,600 ft) from several homes in within Macho Canyon just west of State Highway 63; d) it appears the entire stream, Macho Canyon Creek from Pecos River to headwaters, more than 8 miles, is classified as impaired; and e) it appears the sample point is greater than 4 miles along Macho Creek to an unnamed tributary, an additional 0.85 miles to another unnamed tributary, and then an additional 0.52 miles to a point within our proposed project area that is about 110 feet from proposed drill site DH05.

Comexico were of the position that a construction general permit would be sufficient for the proposed exploration activities but will review the EPA’s 2015 MSGP documents. There continues to be an unclear distinction between mining and exploration activities and the definitions do not typically remain consistent across different agencies or levels of government.

The BLM Gold Book, or Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development, classifies the existing Forest Service access road to Comexico’s proposed project area as a “BLM Resource or FS Local Road which may be surfaced, drained, and maintained for all-weather use”. In addition, the Gold Book states “Gravel or other surfacing is not always required, but may be necessary for “soft” road sections, steep grades, highly erosive soils, clay soils, or where all-weather access is needed.” Further information from the Gold book on Road Maintenance: “Maintenance

activities normally required include monitoring, blading, surface replacement, dust abatement, spot repairs, slide removal, ditch cleaning, culvert cleaning, litter cleanup, noxious weed control, and snow removal.” Comexico is of the position that BLM Resource/FS Local roads are generally “Low Volume Roads” as defined by USDA USFS’ Low Volume Roads Engineering Best Management Practices Field Guide.

[https://www.fs.fed.us/t-d/programs/forest\\_mgmt/projects/lowvolroads/](https://www.fs.fed.us/t-d/programs/forest_mgmt/projects/lowvolroads/)

Low Volume Roads are defined therein as roads having an average daily traffic of less than 400 vehicles per day. Comexico has proposed daily access via pickup trucks. If two drill rigs are operating simultaneously then average daily traffic could approach 12 pickup truck passes at a given point along the proposed project area access.

Comexico have proposed blading, spot repairs, slide removal, ditch cleaning, culvert cleaning as well as water bars and cross ditches in the proposed road maintenance plan.

Comexico will define in a more detailed verbal and geolocated manner the BMPs proposed for use at each specific drill sit, overland route, laydown area, and road maintenance disturbance location.

Comexico will assume each drill hole will encounter groundwater and accordingly follow NMOSE and MMD regulations for drilling and abandonment.

Comexico will work with the USFS and the NMOSE for use of well UP-00826, in an amount not to exceed 3 acre-feet per year. Comexico believes it is notable that the subject well’s listed “use” from the date of registration on June 19, 1981 until September 9, 2019 was “PRO” which is a code used by the NM OSE for “Prospecting, mining, or drilling operations to discover or develop natural resources”. The current code for use is “STK” or “Livestock Watering”.

Comexico does not have plans to propose road maintenance or road work upon the New Mexico Department of Game and Fish property through which Comexico maintain a right to access via a Roadway Right of Way Contract originally executed between the NMDGF and Conoco Inc on August 20, 1980 and which has been assigned to Comexico’s partners and granted to Comexico via option agreement in the spring of 2019. It is the position of Comexico that the road upon NMDGF property is of a suitable quality to support the proposed activities such as driving pickups up and down the existing road. Comexico will continue to keep NMDGF, MMD and USFS apprised of any developments regarding the need for road improvements on NMDGF property.

2. Comexico will provide an erosion control plan for MMD approval based on site specific conditions of drill sites, overland travel routes, the laydown area, and road maintenance areas 60-days prior to commencement of the project. The plan will include controls implemented during operations and after reclamation of disturbed areas.
3. Comexico addressed this issue in response to comment 1 in the Regular Exploration Application portion of this letter. Maximum dimensions of disturbance per drill site is 60 ft

by 40 ft or 2400 square feet. Comexico will modify the Hydro Report to reflect this modification.

4. Comexico have addressed this issue in response to earlier comments in this letter, including the revised financial assurance calculation. Comexico will modify the Hydro Report to match these changes.
5. Comexico will add a grader and dozer to the Hydro Report equipment list.
6. Comexico will provide a protocol to cease vehicular traffic during road maintenance activities. The intent of the road maintenance is to establish a roadway that is more resistant to erosion than present conditions and therefore Comexico is of the position that upon having completed the proposed maintenance work the roads will be classified as all-weather access.
7. Can the MMD reference where in the New Mexico Administrative Code this requirement is substantiated? Notwithstanding that request, Comexico could comply with the requirement. In line with the notice requirement, Comexico could also advise and provide evidence of proper hole abandonment to remain within the proposed bond amount of 5,000 ft of open hole.
8. Comexico can comply with the request that Comexico submit copies of NMOSE drilling permits, plugging plans of operations, certifications from the well driller that holes were plugged in accordance with MMD/NMOSE permits, and records to MMD/NMOSE for each hole every 3-5 holes. Comexico requests that this mechanism also be used as evidence that there is never more than 5,000 ft of open/unabandoned borehole and therefore the financial assurance amount should not be required to exceed that 5,000 ft total.

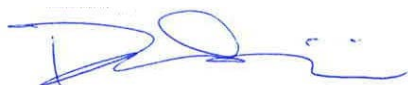
#### **Road Maintenance Plan**

1. Comexico will provide a subsequent figure illustrating roads identified by Comexico and the USFS as not requiring maintenance.
2. Comexico will not use excavated material on maintained road sections if it is erosive.
3. Comexico will restrict road maintenance operations during and after precipitation events and develop a more detailed protocol for road maintenance activities. Comexico will update the Road Maintenance Plan with specific BMPs to control erosion during and after maintenance.
4. Comexico will work with the USFS to develop a contingency plan should aggregate material be required during proposed road maintenance. This contingency will be incorporated into the road maintenance plan.
5. Figure 8 through Figure 11 illustrate elevation contours of 1 meter. Comexico developed these contours using publicly available Lidar.

6. Comexico and the USFS have concluded that the existing culverts along Indian Creek are working as intended and would not be likely to be compromised by Comexico's proposed operations. Documentation of the five identified Indian Creek culverts is provided in Appendix 1 of the Road Maintenance Plan.

Please contact me via phone or email with any questions or comments. Comexico will prepare and submit edited versions of the MMD Application, Hydro Report, and Road Maintenance Plans in the next several weeks, or prior to October 1, 2020.

Sincerely,

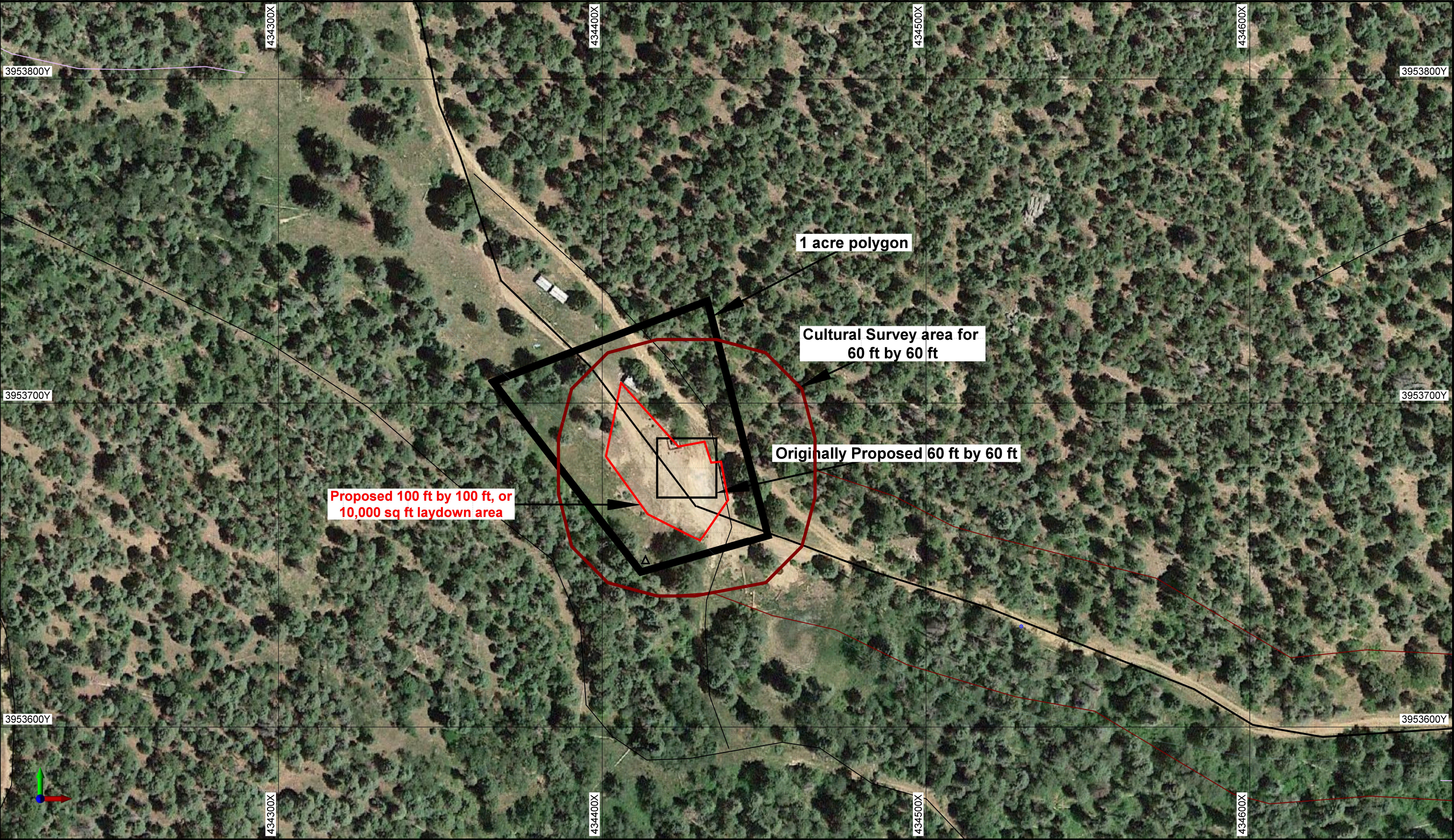


Patrick Siglin  
Comexico LLC  
Exploration Manager, North America  
720.258.6329

Enclosures

Figure 1 – Laydown Area Detail  
MSDS for materials expected in mud pits  
20200824\_Financial Assurance Estimate\_Tererro





Notes:  
UTM NAD 83 Zone 13

Notes:

Scale is Approximate	Plot Date 25-Aug-2020	Sheet 1 of 1
	Plot File: Vizex	
20 0 20m		

**Figure 1**  
**Laydown Area**

**Comexico LLC**



RECLAMATION BOND CALCULATION SHEET						
PROJECT NAME: Tererro Exploration Project (Jones Hill)						
OPERATOR: Comexico LLC						
DATE: 24-Aug-20						
I. Road Reclamation:		acres	(cost per acre)	calculated cost		
	Overland travel - 0.2 mi x 15 ft	0.39	X \$4,900.00 =	\$1,911.00		
	Road Maintenance - 3 miles x 15 ft	5.54	X \$4,900.00 =	\$27,146.00		
	Laydown area - 100 ft by 100 ft	0.23	X \$4,900.00 =	\$1,127.00		
				Total		\$30,184.00
II. Drill Pad Reclamation:		(acres)	(cost per acre)	calculated cost		
	60 ft by 40 ft - first acre at \$8,900/ac	1.00	X \$8,900.00 =	\$8,900.00		
	60 ft by 40 ft - remainder at \$4,900/ac	0.65	X \$4,900.00 =	\$3,185.00		
				Total		\$12,085.00
III. Open Drill Hole Plugging		(ft count)	(cost per ft)	calculated cost		
	up to 5,000 ft of open hole at a time	5000	\$19.00	\$95,000.00		
				Total		\$95,000.00
SUBTOTAL					Sub-Total	\$137,269.00
INDIRECT COSTS:		% Reclamation Subtotal		calculated cost		
Contractor Profit and Overhead		20.0%	=	\$27,453.80		
Reclamation or Closeout Plan Management		4.0%	=	\$5,490.76		
Engineering Redesign		4.0%	=	\$5,490.76		
Contingencies		20.0%	=	\$27,453.80		
Complexity Modifier		20.0%	=	\$27,453.80		
Procurement Costs		4.0%	=	\$5,490.76		
Mobilization and Demobilization		5.0%	=	\$6,863.45		
Contract Administration		2.0%	=	\$2,745.38		
Performance and Payment Bonds		3.0%	=	\$4,118.07		
Liability Insurance		1.5%	=	\$2,059.04		
				Total		\$114,619.62
SUBTOTAL					Sub-Total	\$114,619.62
				Grand Total		251,888.62
				Rounded up to nearest \$100.00		\$251,900.00