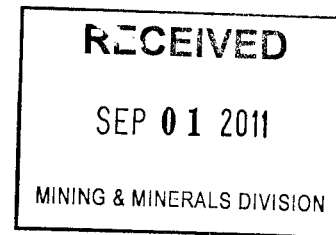




Friends of Wild Rivers



September 1, 2011

Mr. Fernando Martinez
Interim Division Director
Mining and Minerals Division
New Mexico Environment, Minerals and Natural Resources Department

Re: Amigos Bravos' Post Hearing Submission in the matter of Rio Grande Resources' Application for Renewal of Standby Permit, Permit Revision 10-1, Mt Taylor Mine, Permit No. CI002RE

Dear Director Martinez:

On behalf of Amigos Bravos, please consider the following post hearing submission in the above matter.

I. BACKGROUND

Amigos Bravos is a nationally recognized statewide river conservation organization dedicated to preserving and restoring the ecological and cultural integrity of New Mexico's rivers and waters. Amigos Bravos was a leading advocate in the process that led to the New Mexico Mining Act (NMMA) and has a vested interest in seeing that the NMMA is implemented effectively and fairly in accordance with its letter and intent.

The mining business is inherently boom-and-bust for a variety of reasons and Amigos Bravos understands that asking a mine to implement its closeout plan during "a *temporary* cessation of mining operations" [NMMA, 19.10.7.701 NMAC; emphasis added] is unreasonable. Absent, of course, evidence for environmental and/or public health problems from the mine site, a mine operator should have some latitude, although we would always prefer the earliest possible start to any remediation and reclamation activities.

However, "a temporary cessation of mining operations" is not the case with the Mount Taylor Mine (MTM), which has been out of production for almost 22 years.

In addition, the MTM has no prospects for viable economic activity into the foreseeable future, has existing and potential future contamination, and has outdated financial assurance.

Therefore, the Mining & Minerals Division should *at best* renew Standby Status for MTM only with conditions, for less than the maximum time period permitted, and after reviewing and updating the Closure Plan and Financial Assurance requirements. However, it is Amigos Bravos' preference that the mine owner, Rio Grande Resources (RGR), be informed that Standby Status is no longer appropriate and that closure should be implemented following a review and update of the Closure Plan and Financial Assurance.

II. Contamination

The NMMA requires the following as part of any Standby permit:

B. ...

(2) describe the measures to be taken to reduce, to the extent practicable, the formation of acid and other toxic drainage and to prevent releases that cause federal or state environmental standards to be exceeded;

(3) describe how applicable federal and state environmental standards and regulations will be met during the duration of standby status and provide to the Director a written determination from the Secretary of the Environment Department stating that the permittee has demonstrated that the operation will be expected to achieve compliance with all applicable air, water quality and other environmental standards of the Environment Department during standby status if carried out as described;

(4) describe how waste and storage units, leach piles, impoundments and pits will be stabilized during the duration of standby status

At present, the MTM and RGR cannot meet Standby permit requirements because there is incomplete characterization of existing contamination and therefore an inability to address subsections 2 through 4 of section B.

On September 1, 2010, the Mining Environmental Compliance Section, Groundwater Quality Bureau, New Mexico Environment Department (NMED) stated that they could approve at most a two (2) year Standby permit period because: 1) there is existing contamination in the alluvium whose source is unknown; and 2) the Stage 2 Abatement Plan investigation to characterize that contamination is incomplete.¹

The new NMED Cabinet Secretary, David Martin, decided in May 2011 that RGR's *promises* to abide by all relevant environmental regulations were sufficient to issue a favorable Determination for a five (5) year Standby permit. However, in public testimony on the MTM Standby permit application in Grants on August 17, 2011, Mary Ann Menetrey, Program Manager of the Mining Environmental Compliance Section, who signed the September 1, 2010 letter, testified that characterization was still incomplete and

¹ Attachment #1

that the nature and extent of remediation/reclamation activities at the MTM would not be known until characterization was complete and could be analyzed.

Amigos Bravos agrees with the September NMED letter that it is not sufficient that RGR simply assert, without complete data and data analysis, that it can meet the requirements of the NMMA as they apply to Standby permits.

There is precedent for requiring more than promises from a mine operator.

On May 16, 2008, the Groundwater Quality Bureau wrote to Mr Holland Sheppard at the Mining Act Reclamation Program (MARF) regarding renewal of Standby Status for Freeport McMoRan's Little Rock Mine.² NMED said that,

“...it is *inappropriate* for an additional standby period to be approved by NMED for the areas of the mine site posing *ongoing risks* to ground and surface water”. [emphases added]

Although the Little Rock Standby permit application contained *provisions* for reclamation of the leach stockpile and other facilities and *promises* of a reclamation plan prior to remediation, NMED insisted that it could not issue a favorable Determination until a reclamation plan had been approved. Ultimately, Freeport McMoRan submitted a “Construction Design Quality Assurance Plan (CDQAP), although approval by MMD and NMED of the revised CDQAP was still contingent on approval of an amended Mine Plan of Operation to reclaim the leach stockpile. In this important case, MMD and NMED placed conditions on the mine operator before granting yet another Standby Status renewal. Similarly, NMED earlier sought to apply conditions in the case of the MTM based on the lack of adequate characterization and therefore lack of knowledge regarding the extent of possible reclamation/remediation activities. . The Little Rock standby permit process illustrates how the Mining Act intended for agencies to work together – consulting and cooperating to ensure that mining operations are conducted in as an environmentally responsible manner as possible. Forcing MMD to blindly follow NMED's direction is contrary to this purpose. As with the Little Rock mine, it is possible that the activities required at the MTM could require an amended Mine Plan of Operation (and amendments to the Closure Plan and Financial Assurance), further limiting RGR's ability to make a positive statement about its ability to meet the Standby permit requirements listed earlier.

The current positive Determination letter from NMED is based solely on assertions and promises from RGR. At the Grants public hearing on August 17th, Mining and Minerals Division Interim Director, Fernando Martinez, indicated reluctance, or even an inability, to require more of RGR than NMED's

² Attachment #2

Determination letter required. However, the NMMA Standby rules clearly state that:

D. The Director may require additional information [beyond the list of requirements] to ensure that an operation in standby status minimizes adverse impacts to the environment and complies with applicable regulations.

In other words, the Director may – as NMED did earlier – require that RGR’s Standby permit be limited in time in order to allow all necessary information to be brought to bear on the contamination at the MTM site. In refusing to act independently, the Director is abrogating his responsibility under the NMMA.

III. Standby Timeline

The NMMA allows a *maximum* of one (1) Standby permit and three (3) renewals *up to* five years each” [emphasis added]; that is, a maximum of twenty (20) years.

It is important to emphasize that RGR acquired the MTM in 1991 and has *never* put the mine into production. In other words, RGR has avoided closure at the MTM for twenty (20) years.³ Placing conditions and a limited time period on the current Standby permit application is entirely consistent with the letter and intent of the NMMA.

MMD approved the mine’s Closure Plan and Financial Assurance in 1998. The first Standby Status permit was approved in October 1999. Unofficially, then, the mine has been in “standby” for the 20 years that RGR has owned it. Officially, the mine has been in Standby Status for almost twelve (12) years. Amigos Bravos believes, then, that the MTM should have, at most, only another eight (8) years of Standby Status remaining.

That issue aside, and given the reality of non-operations at the MTM, there is every reason for MMD to declare that RGR can no longer claim that the MTM is experiencing “a *temporary* cessation of mining operations”. RGR has never had mining operations at the MTM to cease, temporarily or permanently. There is no justification for renewing Standby Status for the mine under these circumstances; it clearly violates the intent of the NMMA in seeking a compromise between getting early closure and giving a mine operator time to resume operations.

IV. Economic Viability

The NMMA Standby regulations state that an applicant must:

³ Amigos Bravos is well aware that the NMMA and Standby processes did not come into play until after RGR purchased the MTM, but the larger point is that RGR has an unfounded basis for claiming a “temporary” cessation of operations in an effort to avoid closure

B. ...

(6) provide an analysis of the anticipated future economic viability of the units proposed for standby status.

The MTM has been out of production since late 1989 – before RGR purchased the MTM – and was placed in “Inactive Status” in January 1990 – almost 22 years ago. As already noted, RGR has never had the mine in production. RGR asserts in its application that production at the MTM will resume in the “relatively near future”, but the application contains no analysis – as required by the NMMA – on “future economic viability”. Just as with the issue of contamination at the MTM, RGR is simply *promising* that it will resume operations “soon”.

Amigos Bravos understands that – assuming the accuracy of the estimate of recoverable uranium at the site – the MTM represents a *potentially* enormous economic opportunity for the mine owner. The MTM also represents a *potentially* large source of jobs, although almost certainly not a source of a large number of long-term jobs, since the history of mining operations in New Mexico and around the world is one of boom-and-bust activity.

But “potential” is not the same as “viability” in the context of the NMMA’s intent in granting Standby Status to a mine experiencing “temporary” cessation of operations. Imagine RGR going to a set of investors and telling them that if they just trust its promises, RGR will unleash the potential in the MTM and begin operations “in the relatively near future”, with no indication of a path forward to profitable production. In this context, “viability” assumes that the mine – during the *maximum* five-year Standby period for any permit or renewal – can reasonably be expected to resume operations and that the mine operator can provide an analysis that justifies that expectation.

However, a look at production and other activities at the mine in relation to the spot price for uranium is instructive.⁴

The spot price was at or above \$50 in 1979 when the mine started production, but had steadily declined to around \$25 by the time production stopped in 1982. During the 1985-89 production run, the price ranged from around \$18 down to \$10. The price continued to hover around \$10 when MMD approved the closure plan in 1998 and the first Standby Status permit in 1999. When the second Standby Status renewal was granted, in July 2005, the spot price of uranium had been rising for two (2) years, was higher than at any time since 1980, and was more than triple what it had been when RGR purchased the mine. The price continued to rise for another 1½ years until peaking in 2007 at \$138. The current price is still around \$50.

⁴ Attachment #3

For the past five (5) years, the price of uranium has never been below what it was when the mine started producing in 1979, but RGR states in its renewal application that recent years have shown only “some improvement”, and that it will have to wait until there is “sufficient improvement”, which it expects, conveniently, in “another four or five years”.

The recent price boost led the uranium industry across the globe to begin what industry representatives themselves characterized as “a feeding frenzy” for leases, permits, and mine plans. However, during this frenetic activity across the uranium industry, RGR made no apparent effort to finally start operations at MTM, made no apparent effort to move forward on its mill application with the Nuclear Regulatory Commission or get firm commitments from other mill operators, and made no apparent effort to get long-term contracts that would underpin mining and milling activities. Finally – since spot prices or any other market signal are not what lead to mine operations – RGR has given no indication at all that it has any likelihood of a long-term contract with a buyer over the next five years.

In fact, the only economic activity RGR points to in its application is a Water Supply Project, which appears to be a fancy way of describing mandatory mine dewatering necessary before any production at the mine and which, therefore, is not likely to actually go into full-time operation until the mine does and which, in any case, seems to suffer from a lack of interested parties.

On the other hand, Neutron Energy, which consolidated three mines into two on the other side of Mt Taylor, was very active during the uranium price boom. Neutron announced on August 16, 2011 – at a MMD Director’s Advisory Committee meeting which Amigos Bravos and many MMD staff attended – that it plans on moving forward with its mining application process in early 2012 and is beginning the process to build its own mill.

Furthermore, RGR’s Mine Manager, Joe Lister, stated at least twice at the Grants public hearing on the MTM application on August 17th that RGR *always* says in its Standby applications for the MTM that it expects that there will be “sufficient improvement” in “another four or five years”.

This is simply outrageous. Mine companies cannot be allowed to treat the NMMA Standby process as a rubber stamp allowing them to avoid closure for twenty (20) years or more. Based on Mr Lister’s statement alone, RGR’s claim of economic viability should be thrown out and the request for renewed Standby Status declined. Amigos Bravos’ own suspicion is that, because MTM is the single largest high-grade uranium source in the United States, viable production at the mine would depress prices across the industry, a condition that is likely to be the case for the foreseeable future – certainly much longer than “another four or five years”.

Of course, doing remediation and reclamation *would* provide economic activity at the mine, but this does not appear to interest RGR.

V. Financial Assurance

The New Mexico Mining Act requires that before a permit is issued, the applicant must provide financial assurance (FA) sufficient to ensure that the permit's performance requirements can be met, including closure. The FA estimate must be reviewed periodically.

In the case of MTM, the FA has not been revised since 1998 when the MMD approved the Closure Plan and FA. It is highly unlikely that the \$468,000 estimated in 1998 is still relevant. Taking into consideration the lack of complete characterization of the waste rock pile and the potential for significant reclamation activity, it is even less likely that either the Closure Plan or the FA is adequate.

As an example of recent mandated update of a FA requirement, the NMED Resource Protection Division (RPD) notified Chevron Mining in July this year that it had made a Determination of Inadequate Financial Assurance for the two discharge permits at the Molycorp Mine.⁵ The required revision of FA at Molycorp is also a matter before the MMD in coordination with the RPD.

Therefore, before issuing a Standby Status renewal permit for the MTM, MMD must wait for complete characterization of the alluvium contamination and the full scope of potential reclamation/remediation activities, and then, if necessary, update the Closure Plan, amend the Mine Operation Plan, assure that other related permit requirements are met, and establish a new estimate for FA.

VI. "Bad Actor"

The NMMA has what are commonly referred to as "bad actor" provisions. In the scope of the NMMA, these are applied only to "new operations". It is a convenient fiction for RGR that at the time it came under the NMMA, the MTM was classified as an existing mine, even though it was in "Inactive" status before RGR purchased it and RGR had made no effort to initiate mining operations in the nine years between its purchase of the MTM and its first Standby permit.

Nevertheless, as previously noted, the NMMA allows the MMD Director to consider any additional information that might bear on a Standby permit or permit renewal.

In its review of RGR's DP-1712, the NMED Groundwater Quality Bureau noted that RGR and the Cotter

⁵ Attachment #4

mill in Colorado are “closely held subsidiaries” of General Atomics, itself a privately held corporation.⁶ At the time of the NMED DP-1712 review, both RGR and Cotter shared the same President and Treasurer. Given the close ties among RGR, Cotter, and General Atomics, NMED concluded that:

[b]ecause both RGRC and Cotter engage in related businesses, have a common business purpose in processing uranium ore from the Mt. Taylor Mine, and share the same offices, Cotter’s compliance history at the Canon City facility is relevant to this proceeding.

RGR’s corporate sister, Cotter shows a pattern of violations at its site:

- In a letter stamped “Jul 25 2008”, the Colorado department of Public Health and Environment notified the Cotter Mill that it was in violation of License Condition 23.1 for a plume of dissolved uranium.⁷ Cotter was directed to submit a corrective action program proposal and schedule within sixty (60) days.
- In a letter stamped “Jul 07 2010”, the same Department issued another Notice of Violation for deficiencies in the Radiation Management Program that resulted in corrective actions not being taken where radiation levels exceeded standards. In addition to the Notice of Violation, the letter also contained three (3) Items of Concern, including an outdated Reclamation Plan.⁸
- On December 9, 2010, the Colorado Division of Reclamation Mining & Safety sent Cotter a “Cease and desist” Order as final determination in the matter of Notice of Violation MV-2010-030. The Order was based on the undisputed fact that Cotter had refused to comply fully with four (4) corrective actions mandated by the Colorado Mined Land Reclamation Board.

Furthermore, RGR seems to have a pattern of unfounded and blatant attempts to block the public participation requirements of its various permits. Public participation is a key component of the Standby permit process (as it is for all permit processes in New Mexico) and concerted efforts to thwart that participation should not be treated lightly.

The NMED Groundwater Quality Bureau characterized RGR’s attempt to “preempt” public comment – specifically testimony from the Multicultural Alliance for a Safe Environment (MASE) – at the public hearing for its Discharge Permit as “inappropriate”. At the public hearing in Grants on August 17th, 2011, RGR succeeded in getting the Hearing Officer to improperly exclude any testimony by Amigos Bravos, MASE, their legal representative, the New Mexico Environmental Law Center (NMELC), or their technical expert, Jim Kuipers. RGR’s reasons for excluding all this public participation were unfounded and seriously compromised the hearing.⁹

VII. Conclusion

⁶ Attachment #5 (minus original document attachments)

⁷ Attachments 6, 7, and 8 cover the various Cotter violations referenced in the text

⁸ Note that the Cotter Reclamation Plan that Colorado considered outdated was only five (5) years old at the time of the letter, while RGR’s MTM Closure Plan is *thirteen* (13) years old

⁹ More detail on this matter is contained in the submission from the NMELC

Amigos Bravos has for many years been concerned that the New Mexico Mining Act (NMMA) regulations providing for Standby Status have become a mechanism for mining companies to postpone reclamation activities rather than a tool to balance reclamation with reasonable scope for a return to operations. For 22 years – the entire period of its ownership of the MTM – RGR has *neither* entered the MTM into production nor commenced reclamation.

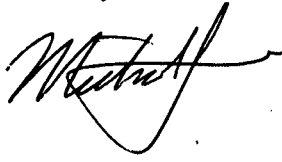
The NMMA clearly intended that mine owners and operators undertake as much reclamation and remediation as practical while in Standby Status. In general, this has not been the case, although the NMED had recently begun to insist on conditions, first at the Little Rock Mine and then – until the new administration – at the Mount Taylor Mine. That recent effort to impose meaningful conditions on standby permits needs to be revived:

- The Mt Taylor Mine is a pollution source in the alluvium and poses a risk for new pollution;
- The NMED had initially insisted on only a two (2) year permit renewal because of incomplete characterization and therefore unknown reclamation activities; those concerns have not been met in a way that would justify the more recent NMED Determination supporting a five (5) year renewal;
- The most favorable interpretation shows that the mine has already been in Standby for 12 years and that a time-limited Standby renewal at this time would not “rob” RGR of any reasonable Standby Status;
- RGR cannot present any evidence that the MTM will be economically viable “in the relatively near future” or ever;
- The mine Closure Plan and Financial Assurance must be reviewed prior to any permit renewal; it is highly likely that given the length of time since the initial FA estimate as well as the potential for significant activities associated with a completed characterization that the FA estimate will have to be increased.

Amigos Bravos does not believe that RGR should be given a renewed Standby permit. Instead, given the undisputed fact that the mine has already contaminated at least one place on its site and has not completed characterization of that contamination; the 22 years of non-operations and RGR’s failure to initiate any meaningful return to operations during the recent uranium price boom despite the magnitude of such activity by the rest of the industry in New Mexico; the pattern of violations within its shared corporate structure; the strong likelihood that the Closure Plan, Financial Assurance, and possibly the Mine Plan of Operations will require updating; and a general failure to meet the requirements for Standby Status as outlined in the NMMA, RGR should be ordered to begin closeout.

Thank you for your consideration of these concerns and please do not hesitate to contact me if you have any questions.

Sincerely,



Michael Jensen
Communications Director
Amigos Bravos

ATTACHMENTS

- #1 – September 29 2010, MARP/MMD/EMNRD: Review of Application for Renewal of Standby Status, Permit Revision 10-1, Mt. Taylor Mine, Permit No CI002RE
- #2 – May 16 2008, GWQB/NMED: Comments on Little Rock Mine Revised Application for Renewal of the Little Rock Mine Standby Status, Freeport McMoRan Copper & Gold, Permit No. GR007RE (attached as two pages)
- #3 – Monthly Uranium Spot Price 1980-2011 w/ milestones in RGR MTM history
- #4 – July 7 2011, RPD/NMED: Determination of Inadequate Financial Assurance, Chevron Mining Inc, Questa Mine and Tailing Facility, DP-1055 and DP-933
- #5 – April 19 2010, GWQB/NMED: Groundwater Quality Bureau's Response to RGRC's Motion *In Limine* to Exclude Evidence and Limit the Scope of the Hearing
- #6 – July 28 2008, CDPHE: Cotter Corporation Canon City Mill, Colorado Radioactive Materials License 369-01, Notice of Violation
- #7 – July 7 2010, CDPHE: Notice of Violation
- #8 – December 8 2010, CDRMS: Findings of Fact, Conclusions of Law, and Order, Cotter Corporation, File No. M-1977-300, MV-2010-030

SEP 01 2011

MINING & MINERALS DIVISION,
Department of Energy

7008 1830 0001 9868 8050

RE: Review of Application for Renewal of Standby Status, Permit Revision 10-1, Mt. Taylor Mine,
Permit No. CI002RE

September 29, 2010

Page 2

period of 2 years would be appropriate while the waste rock pile is investigated for potential contribution to the contaminated saturated alluvium. Please understand that it is RGR's responsibility to address these concerns directly with NMED, in order to obtain their written determination and provide it to MMD in support of the standby renewal Application. MMD cannot approve the renewal of standby status prior to RGR receiving the written determination from NMED.

If you have any questions, please contact me at (505) 476-3432, or by email at:
david.ohori@state.nm.us, or Holland Shepherd at (505) 476-3437 or by email at:
holland.shepherd@state.nm.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Ohori', followed by a horizontal line.

David Ohori, Permit Lead
Mining Act Reclamation Program (MARF)
Mining and Minerals Division (MMD)

Enclosures

cc: Holland Shepherd, Program Manager, MMD/MARP
Chuck Thomas, Executive Manager, Mine Reclamation Bureau, MMD
Kurt Vollbrecht, Team Leader, MECS, NMED GWQB
Barbara Everett, Program Manager, Kleinfelder
Mine File (CI002RE)



**NEW MEXICO
ENVIRONMENT DEPARTMENT**

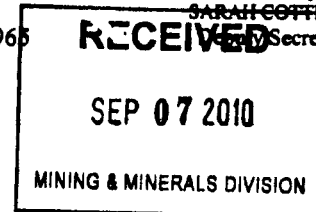
Ground Water Quality Bureau



BILL RICHARDSON
Governor
DIANE DENISH
Lieutenant

Harold Runnels Building
1190 St. Francis Drive, P.O. Box 5469
Santa Fe, New Mexico 87502-6110
Phone (505) 827-2918 Fax (505) 827-2965
www.nmenv.state.nm.us

RON CURRY
Secretary
SARAH GOTTRELL
Deputy Secretary



September 1, 2010

Charles Thomas, Chief
Mine Reclamation Bureau
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

RE: NMED Determination for Mt. Taylor Mine Standby Request

Dear Mr. Thomas:

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) dated July 22, 2010, regarding Rio Grande Resources Corporation's (RGRC) request for Standby Status for the Mt. Taylor Mine. MMD requested that NMED either provide the written determination that environmental standards will be achieved during the standby period, or provide MMD with further information needed from the operator to address the NMED determination.

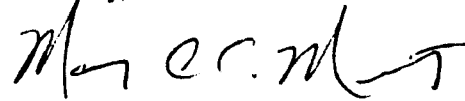
Additional information has been obtained through the Water Quality Control Commission Abatement regulations over the last few years related to contamination in the alluvium. RGRC has not ruled out the potential contribution from the un-reclaimed waste rock pile at the site. Therefore, NMED cannot provide a written determination that environmental standards will be met over the 5-year period proposed for standby.

RGRC has however, submitted a Stage 2 Abatement Plan to address the contaminated saturated alluvium which can be amended to investigate the waste rock pile. NMED therefore believes that a standby period of 2 years would be appropriate while the waste rock pile is investigated for potential contribution to the contaminated saturated alluvium. The Standby Status application or the MMD permit revision must therefore reflect a shorter standby period in order for the NMED to provide a written determination.

RGRC Standby Status
September 1, 2010
Page 2

If you have any questions regarding the above, please contact me at (505)827-2944.

Sincerely,

A handwritten signature in black ink, appearing to read "M. A. Menetrey", with a stylized flourish at the end.

Mary Ann Menetrey
Program Manager
Mining Environmental Compliance Section

cc: Tom Skibitski, Manager, NMED District 1
David Ohori, MARP
Jerry Schoeppner, MECS
DP-61 file

GOVERNOR
Bill Richardson



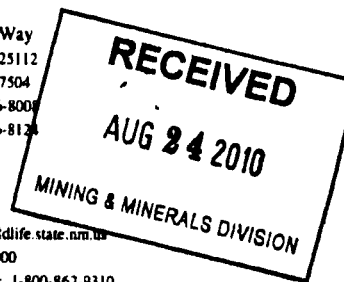
DIRECTOR AND SECRETARY
TO THE COMMISSION
Tod Stevenson

Robert S. Jenks, Deputy Director

STATE OF NEW MEXICO
DEPARTMENT OF GAME & FISH

One Wildlife Way
Post Office Box 25112
Santa Fe, NM 87504
Phone: (505) 476-8000
Fax: (505) 476-8124

Visit our website at www.wildlife.state.nm.us
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Silver City, NM

THOMAS "DICK" SALOPEK, Commissioner
Las Cruces, NM

August 18, 2010

David Otori, Permit Lead
EMNRD Mining & Minerals Division
1220 South St. Francis Drive
Santa Fe NM 87505

Re: Mt. Taylor Mine Application for Renewal of Standby Status, Permit No. CI002RE;
NMDGF Project No.13485

Dear Mr. Otori:

In response to your letter dated July 22, 2010, the New Mexico Department of Game & Fish (NMDGF) has reviewed the above referenced document. The Mt. Taylor Mine is an underground uranium mine which has been inactive since 1990. Standby permit status was first approved by MMD in 1999 and was renewed in 2005 for a five year term. Rio Grande Resources Corp. is now requesting an additional five years of standby status. No changes are proposed to existing site maintenance practices. No site inspection was conducted by NMDGF staff in connection with this consultation request.

The application refers to water-containing impoundments, including one water treatment lagoon and several stormwater runoff basins. Any tank or impoundment which may contain water exceeding the NM Water Quality Commission surface water standards (General or Livestock and Wildlife) should be covered or netted to exclude flying and terrestrial animals. Extruded, knit or woven material is preferred above monofilament netting material, as it is less likely to ensnare wildlife and cause injury or death. Netting should be maintained taut around the frame. Standard barbed-wire fencing does not keep out wildlife. Wildlife exclusion fencing should consist of chain-link at least eight feet in height, wrapped around the bottom with smaller mesh material to exclude small animals.

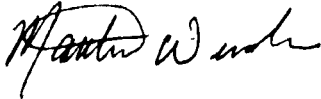
If the impoundments or tanks will contain only water and inert ingredients, and they are not covered or netted, they should be provided with ramps to allow the escape of wildlife which may become trapped. If space allows, ramps may consist of sloping back at least one side of the pond to a 3:1 or greater horizontal:vertical ratio. Constructed ramps are commonly made from sheets of expanded metal for steel tanks, or constructed of packed earth for earthen ponds.

Ramps made of material with surface texture can be used in the presence of smooth liners or other slippery substrate. To be effective, the escape mechanism must be intercepted by an animal swimming around the periphery of the tank or pond at any water level. NMDGF is available for consultation regarding netting or escape ramp options for any specific size and type of pond. Above-ground tanks should also be covered, netted or provided with a means of escape.

The application describes a 6.8 acre ore stockpile covered with an unspecified thickness of uncontaminated soil and rock. The stockpile has developed a cover of vegetation over the past 18 years during which it has not been disturbed. NMDGF recommends that this vegetative material should be tested for accumulation of uranium or other metals which are elevated in the ore material, which may be taken up through roots that penetrate the clean cover.

Thank you for the opportunity to comment on this permit action. We do not expect significant adverse impact to wildlife or wildlife habitat from approval of renewed standby status. If there are any questions, please contact Rachel Jankowitz at 505-476-8159, or rjankowitz@state.nm.us.

Sincerely,



Matthew Wunder, PhD
Chief, Conservation Services Division

cc: Wally Murphy, Ecological Services Field Supervisor
Brian Gleadle, NW Area Office Supervisor, NMDGF
Kurt Vollbrecht, NMED Groundwater Quality Bureau

Ohori, David, EMNRD

From: Myers, Kevin, OSE
Sent: Wednesday, August 04, 2010 10:41 AM
To: Ohori, David, EMNRD
Cc: Johnson, Mike S., OSE; Rappuhn, Doug H., OSE; Ward, Jess L., OSE
Subject: OSE comments on Mt Taylor Standby Request...

David,

On July 18, 2010, NM OSE Hydrology received a Standby Permit Renewal Application for the Mount Taylor Mine, Rio Grande Resources Corporation (RGR), MMD Permit No. CI002RE. NM OSE Hydrology has reviewed the Standby Permit Renewal Application. Overall, there are no NM OSE issues for this standby renewal request. One comment is provided below.

1. Page 1 of 11, Standby Permit Renewal. RGR mentions its readiness to take steps to begin mining or start a water supply project (WSP) over the next five years. Reactivation of the mine or initiation of a WSP may require the NM OSE Water Rights Division to evaluate water rights permits such as, but not limited to, de-watering a mine, appropriating water, and changing beneficial use/place of use. As early as possible in the process to re-activate the mine or initiate a WSP, RGR should contact NM OSE District I Office. Contact information is as follows:

Jess Ward, District Supervisor

5550 San Antonio Dr. NE
Albuquerque, NM 87109-4127
(505) 383-4000

If you have any questions regarding the above, please contact me.

KCM
Kevin Myers, Hydrologist
Hydrology Bureau - NM OSE
P.O. Box 25102
Santa Fe, NM 87504-5102
Ph: (505) 827-3521
Fax: (505) 476-0220

<http://www.ose.state.nm.us/>

SEP 01 2011

MINING & MINERALS DIVISION



BILL RICHARDSON
Governor
DIANE DENISH
Lieutenant Governor

NEW MEXICO
ENVIRONMENT DEPARTMENT

Ground Water Quality Bureau

1190 St. Francis Drive
P.O. Box 26110, Santa Fe, NM 87502
Phone (505) 827-2918 Fax (505) 827-2965
www.nmenv.state.nm.us
William C. Olson, Bureau Chief



RON CURRY
Secretary
JON GOLDSTEIN
Deputy Secretary

MEMORANDUM

DATE: May 16, 2008

TO: Holland Shepherd, Program Manager, Mining Act Reclamation Program

FROM: Keith Ehlert, Ground Water Quality Bureau *KWE*
David Menzie, Surface Water Quality Bureau

THROUGH: Kurt Vollbrecht, Mining Act Team Leader, Ground Water Quality Bureau *KV*

RE: Comments on Little Rock Mine Revised Application for Renewal of the Little Rock Mine Standby Status, Freeport McMoRan Copper & Gold, Permit No. GR007RE

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) dated April 14, 2008 regarding the Freeport McMoRan Copper & Gold - Tyrone Operations (PDTI), Little Rock Mine Standby Status Application (Application). MMD requested that NMED review the Application and provide comments. The Application is dated February 21, 2008 and is a revised version of a previously submitted application dated October 29, 2007. The Application requests that the October 29, 2007 application be withdrawn and the revised Application be accepted in its place. The NMED Surface Water Quality Bureau (SWQB) and Ground Water Quality Bureau (GWQB) have submitted comments in this memorandum jointly.

NMED reviewed the October 29, 2007 application and provided a comment letter dated February 8, 2008 indicating that ground water and surface water contamination have been documented at the Little Rock Mine for decades, primarily as a result of ongoing leaching of contaminants from an unlined leach stockpile. NMED stated that it is not appropriate for an additional standby period to be approved by MMD for the areas of the mine site posing ongoing risks to ground and surface water. In response, the revised Application includes provisions for reclamation of the leach stockpile and precipitation plant and indicates that a reclamation plan specific to the leach stockpile will be submitted for approval to MMD, NMED, BLM, and the U.S. Forest Service prior to starting the reclamation work.

Although the Application indicates that a reclamation plan for the leach pile will be provided, NMED has not received a reclamation plan for the leach pile to date. NMED cannot issue a Determination on the Standby Permit Application until a reclamation plan has been approved that demonstrates the requirements of the WQA and WQCC Regulations will be met during the standby period.

NMED will request in writing from PDTI a plan and schedule for reclamation of the Little Rock leach stockpile. Upon NMED approval of the plan and schedule, NMED will issue the Determination on the Standby Permit Application. NMED will copy MMD on all correspondence regarding this matter.

If you have any questions, please contact Keith Ehlert at 827-9687.

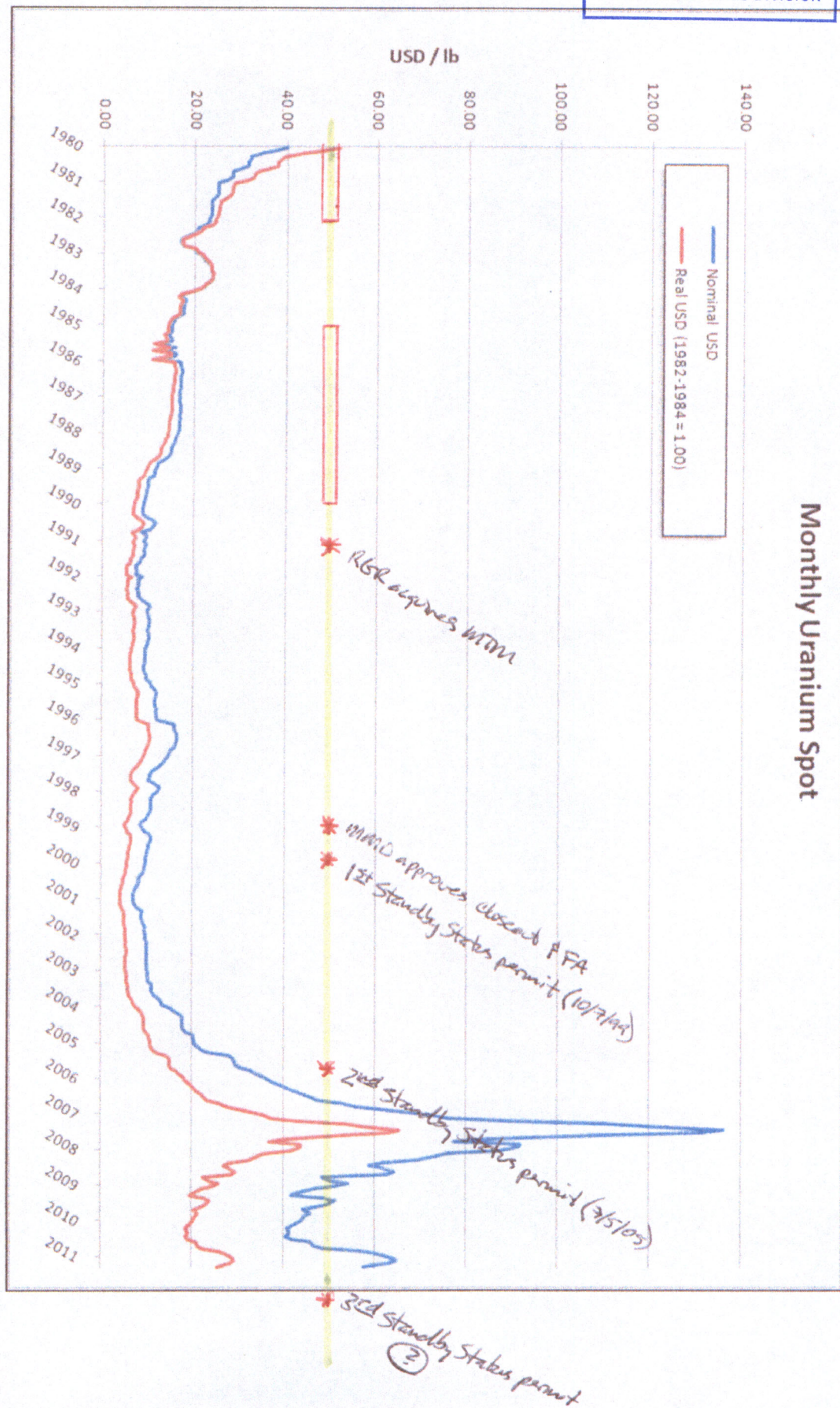
cc: William C. Olson, Chief, GWQB
Glenn Saums, Chief, SWQB
Rachel Jankowitz, NMDGF
Mary Ann Menetrey, NMED MECS
Karen Garcia, Chief, Mine Reclamation Bureau

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SEP 01 2011

MINING & MINERALS DIVISION

NUEXCO Exchange Value (monthly spot price)
<http://www.uranium.info/index.cfm?go=c.page&id=29>





SUSANA MARTINEZ
Governor

JOHN SANCHEZ
Lieutenant Governor

NEW MEXICO
ENVIRONMENT DEPARTMENT
Resource Protection Division

P.O. Box 5469

1190 St. Francis Drive

Santa Fe, New Mexico 87502-5469

Phone (505) 827-2918 Fax (505) 827-2965

www.nmenv.state.nm.us

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SEP 01 2011



DAVE MARTIN
Secretary

RAJ SOLOMAN, P.E.
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 7, 2011

Phil Howard
Mine Manager
Chevron Mining, Inc.
P.O. Box 469
Questa, NM 87556

RE: Determination of Inadequate Financial Assurance, Chevron Mining Inc, Questa Mine and Tailing Facility, DP-1055 and DP-933.

Dear Mr. Howard:

By this letter the New Mexico Environment Department (Department) is notifying Chevron Mining, Inc. (CMI) that the Department has determined that the financial assurance currently in place for the MolyCorp Mine and Tailing Facility in Questa, Taos County, New Mexico, is inadequate to cover the costs of closure of the mine. Therefore, the Department directs CMI to prepare and submit to the Department a revised costs estimate, which shall then be used as the basis for revised financial assurance under Discharge Permit 1055 (DP-1055) and Discharge Permit 933 (DP-933).

The Water Quality Control Commission Regulations, at section 20.6.2.3107.A.11 NMAC, authorize the Department to require financial assurance as a condition in a discharge permit. Accordingly, financial assurance is required for the MolyCorp Mine under DP-1055 and for the Tailing Facility under DP-933 to ensure that sufficient funds will be available to implement the closure plans in the event CMI is unable or fails to implement those plans. Under the permits, the amount of financial assurance must be adjusted as necessary to maintain sufficient financial assurance to finance closure. Condition 34 of DP-1055, approved on November 15, 2000, states that "Within thirty (30) days of NMED approval of a revised closure plan, or upon a determination that the existing financial assurance is inadequate, MolyCorp shall propose a revised closure cost estimate and financial assurance instrument(s)" Likewise, Condition 78 of DP-933, approved on February 29, 2008, states that "Within 30 days of NMED approval of an updated or revised closure plan, or upon a

Phil Howard, Mine Manager
Chevron Mining Inc.
July 7, 2011
Page 2

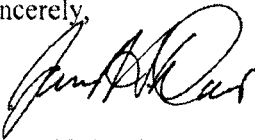
determination that the existing financial assurance is inadequate, . . . CMI shall submit to NMED for approval a revised closure cost estimate and financial assurance instruments”

The Department has reviewed the cost estimates for remedial activities at the Molycorp Questa Mine Site and Tailing Facility provided in the CMI Final Feasibility Study Report (FS) dated November 16, 2009, developed by CMI for the United States Environmental Protection Agency (EPA). The cost estimates in the FS – prepared by CMI – are significantly higher than the cost estimates and financial assurance currently approved for closure of the mine and tailing facilities under Discharge Permits DP-1055 and DP-933. The total financial assurance currently in place under DP-1055 and DP-933 is \$158,869,100. The cost estimates in the FS show that a total of \$516,602,000 to \$882,557,000 will be required to properly close permitted facilities and conduct remedial activities necessary to protect human health and the environment. The Department has therefore determined that the existing financial assurance for the Molycorp Mine and Tailing Facility is inadequate.

Therefore, within 30 days of receipt of this letter, please submit to the Department for approval a revised closure cost estimate and proposed financial assurance instruments that address the inadequacy of the existing financial assurance and provides for updated costs as presented in the FS that CMI submitted to EPA. The revised financial assurance must meet the requirements of Conditions 76 and 77 of DP-933 and Condition 35 of DP-1055.

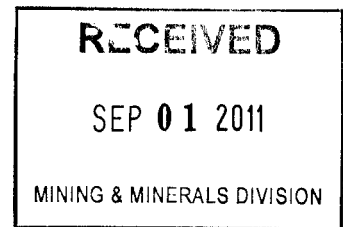
The Department is aware that the Mining and Minerals Division (MMD) of the Energy, Minerals and Natural Resources Department is also requesting that the financial assurance for the Molycorp Mine and Tailing Facility be updated. The Department will work with MMD to coordinate the financial assurance revisions. If you have any questions on this matter, please call me at 505-827-1758 or Bill Olson at 505-827-2919.

Sincerely,



James H. Davis, Ph.D.
Division Director
Resource Protection Division
New Mexico Environment Department

cc: Bill Olson, GWQB-NMED
Holland Shepherd, MMD
Mark Purcell, EPA
✓ Brian Shields, Amigos Bravos
Deb Miller, Village of Questa
Jim Kuipers, RCRC



September 1, 2011

Acting Director Fernando Martinez
Mining and Minerals Division
NM Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, NM 87505

Re: Renewal Permit for Mt. Taylor Mine owned by Rio Grande Resources

Director Martinez,

Environment New Mexico opposes the renewal permit for the Mt. Taylor Mine owned by Rio Grande Resources.

The mine has been in active for over two decades and Environment New Mexico opposes the renewal for the following reasons:

- The Mt. Taylor Mine's parent company, General Atomics, has a history of refusing to comply with state environmental laws. The Cotter Mill in Canon City, Colorado, another project under General Atomics, has repeatedly disregarded the law and has more than 100 violations in the past 10 years. Under New Mexico's Bad Actor Provision, the Mt. Taylor Mine's request for renewal of a standby permit should be denied.
- The longer this site remains in standby status, reclamation efforts will not begin. The Mt. Taylor Mine site is already out of compliance with New Mexico groundwater standards. The Old Waste Pile and the old sewage lagoon are releasing levels of nitrates and uranium that are beyond groundwater contamination standards. This area needs to begin reclamation immediately in order to prevent further contamination of groundwater.
- Economically this project is not feasible. Rio Grande Resources has failed to prove that economic conditions will improve enough within the next 5 years to allow new mining to begin at the Mt. Taylor Mine. Rio Grande Resources has yet to identify a plan for the milling of uranium ore. Currently, there is only one operating uranium mill in the US.
- The New Mexico Mining Act and its regulations state that a mine may only be in standby status for a maximum of 15 years. The Mt. Taylor mine has not been in operation or in reclamation status since 1990. The NM Mining Act passed in 1993 and became effective in 1996. The Mt. Taylor mine has been in standby status for more than 20 years already and should not be issued another standby permit.

Sincerely,

Sanders Moore
Advocate
Environment New Mexico



New Mexico
Environmental Law Center

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SEP 01 2011

MINING & MINERALS DIVISION

September 1, 2011

Mr. Fernando Martinez
Interim Division Director
Mining and Minerals Division
New Mexico Environment, Minerals and Natural Resources Department
220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Multicultural Alliance for a Safe Environment's and Amigos Bravos' Post Hearing Submission; Rio Grande Resources, Application for Renewal of Standby Permit, Permit Revision 10-1, Mt. Taylor Mine, Permit No. CI002RE

Dear Director Martinez:

On behalf of the Multicultural Alliance for a Safe Environment ("MASE") and Amigos Bravos, please consider the following post hearing submission in the above matter outlining concerns about Rio Grande Resources' standby permit application and the public hearing conducted on that permit application.

I. BACKGROUND

On June 16, 2010, Rio Grande Resources ("RGR") submitted an application to the Mining and Minerals Division ("Division" or "MMD") for renewal of its standby permit for the Mt. Taylor Mine. The Division began processing this standby permit application as a revision of RGR's Permit No. CI002RE, under the number Permit Revision 10-1. *See*, Sept. 29, 2010 letter from David Otori to Joe Lister, available at http://www.emnrd.state.nm.us/MMD/MARP/permits/documents/20100929_ReviewofApplicationforRenewalofStandbyStatus_Rev10-1_CI002RE.pdf. As part of the review process, MMD solicited comments from other agencies on RGR's permit revision application. *See*, July 22, 2010 letters from David Otori to the New

1405 Luisa Street, Suite 5 Santa Fe, NM 87505
Phone (505) 989-9022 Fax (505) 989-3769 nmelc@nmelc.org

Mexico Environment Department (“NMED”), Office of the State Engineer, New Mexico Department of Game and Fish, the Historic Preservation Division, and the State Forestry Division, available at http://www.emnrd.state.nm.us/MMD/MARP/permits/documents/20100722_RequestforreviewComments_MtTaylorMineStandbyStatus_CI002RE.pdf.

NMED provided comments in a letter dated September 1, 2010, where NMED expressed concerns about uranium contamination in the alluvium near the existing waste rock pile at the Mt. Taylor Mine. A copy of that letter is attached as Exhibit A. Because of those concerns and the fact that the source of the contamination had not yet been identified, NMED recommended that RGR’s standby period be granted for two, rather than the standard five, years. *Id.*

Nevertheless, NMED issued a determination on May 27, 2011 that RGR would meet all groundwater standards at the Mt. Taylor Mine for the entire five year standby permit period. A copy of that determination is available at: http://www.emnrd.state.nm.us/MMD/MARP/permits/documents/20110527_NMEDSupportof5YearStandbyRenewal_CI002RE.PDF.

MASE and Amigos Bravos requested a public hearing on RGR’s standby permit renewal application. The Division scheduled a public hearing for August 17, 2011 in Grants. *See*, Public Notice: Mt. Taylor Mine Public Hearing, available at: http://www.emnrd.state.nm.us/MMD/MARP/permits/documents/Mt_Taylor_PublicNotices_StandbyRenewal.pdf.

Amigos Bravos and MASE appeared at the August 17 hearing through their representatives and legal counsel. The Division presented testimony about the standby permit process and RGR presented testimony in favor of its standby permit application. Amigos Bravos and MASE attempted to present evidence concerning the undisputed groundwater contamination at the Mt. Taylor Mine. However, Rio Grande Resources objected, arguing that the Mining Act and its regulations only allowed the Division to accept, without question, NMED’s determination

that the Mt. Taylor Mine would meet groundwater standards during the standby permit period. Audio Transcript of August 17 Public Hearing, STE-000 at 2:51:31 – 2:51:49 (“Tr.”). Any question as to the source of the groundwater contamination or how it would be remediated was, according to RGR’s argument, a challenge to the NMED’s determination, which could only be challenged through a petition for a writ of certiorari pursuant to New Mexico Rule of Civil Procedure 75. Tr. at 3:07:45 – 3:08:10. The Hearing Officer upheld RGR’s objection, and MASE and Amigos Bravos were prohibited from presenting any evidence on the issue of groundwater contamination or RGR’s technical or financial ability to remediate that contamination. Tr. at 2:52:20 – 2:53:00.

Further, MASE and Amigos Bravos attempted to present testimony concerning RGR’s willingness to conduct interim reclamation measures on the likely source of the alluvial contamination, i.e, the waste rock pile. RGR’s attorney again objected, claiming that MASE and Amigos Bravos were attempting to challenge RGR’s close out plan, which MMD approved in 1998. Tr. at 2:50:59 – 2:51:22. Again, the Hearing Officer upheld RGR’s objection and MASE and Amigos Bravos were prohibited from presenting any evidence about interim reclamation measures that would be appropriate to address the alluvial contamination. Tr. at 2:51:54 – 2:52:19.

Finally, MASE and Amigos Bravos attempted to present testimony that RGR’s financial assurance was outdated and would be insufficient to cover any interim reclamation of the waste rock pile or groundwater remediation. However, RGR’s attorney also objected to this testimony, arguing that evidence about the sufficiency of RGR’s financial assurance was beyond the scope of the standby proceeding. Tr. at 2:34:26 – 2:35:58. The Hearing Officer again agreed with

RGR, deciding that MASE and Amigos Bravos must pursue any concerns about RGR's financial assurance in a separate proceeding. Tr. at 2:36:07 – 2:37:54.

II. STATUORY AND REGULATORY FRAMEWORK

A. The New Mexico Mining Act.

The purposes of the New Mexico Mining Act ("Act" or "Mining Act") "include promoting responsible utilization and reclamation of lands affected by exploration, mining or the extraction of minerals that are vital to the welfare of New Mexico." NMSA, 1978 § 69-36-2. In order to realize the Mining Act's purposes, the New Mexico legislature delegated authority for its implementation to the New Mexico Mining Commission ("Commission") and Director of the Mining and Minerals Division ("Director"). *Id.*, §§ 69-36-7, 69-36-9; *see also*, *Rio Grande Chpt. of the Sierra Club v. Mining and Minerals Div.*, 130 N.M. 497, 501, 27 P.3d 984, 988 (Ct. App. 2001).

Among the responsibilities delegated to the Commission is the requirement that it adopt regulations for standby permits that at a minimum insure that a mining operation on standby status meet applicable federal and state environmental standards and regulations for the duration of the standby period. *Id.* at § 69-36-7(E)(3). The Commission's regulations must also insure that a permittee comply with the application requirements of the Mining Act and its regulations. *Id.* at § 69-36-7(E)(5).

Further, the Act places a particular emphasis on public notice and participation. The Act requires the Commission to promulgate regulations that give "all interested persons ... a reasonable chance to submit data, views, or arguments orally or in writing and to examine witnesses testifying at the hearing." *Id.* at § 69-36-7(K).

The Legislature also delegated specific duties to the Director. Under the Mining Act the Director is required to exercise all powers of enforcement and administration under the Act not delegated to the Commission, and execute and administer the Commission's regulations. *Id.* at § 69-36-9(A). Additionally, the Director is required to "confer and cooperate with the secretary of the environment in administering the New Mexico Mining Act, in developing proposed regulations and obtain the concurrence of the secretary of the environment regarding areas of the regulations that have an impact upon programs administered by the department of the environment." *Id.* at §69-36-9(D).

Finally, the Mining Act provides for both administrative and judicial review. Any "order, penalty assessment or issuance or denial of a permit by the director" pursuant to the Act may be appealed to the Commission by an adversely affected person within sixty days of its issuance. *Id.* at § 69-36-15(A). A final action of the Commission may be appealed to the district court. *Id.* at § 69-36-16(C).

B. Mining and Minerals Division Regulations.

Pursuant to its responsibilities under the Act, in 1996 the Commission promulgated regulations implementing the Mining Act. These regulations set the boundaries for the Director's implementation of the Act.

The primary regulation governing standby permit applications is 19.10.7.701 NMAC. That regulation requires, in relevant part, that the permit applicant provide, at a minimum, a description of how applicable federal and state environmental standards and regulations will be met during the standby status. 19.10.7.701.B.(3) NMAC. The applicant's submission must include a written determination from the Secretary of the Environment stating that the permittee has demonstrated that the operation will be expected to achieve compliance with applicable state

environmental standards. *Id.* Further, the applicant must describe how it will meet the requirements of the Act and Part 19.10 regulations. *Id.* at §701.B.(5). A standby permit application must be approved if the Director finds the applicant has met the requirements of § 701.B. *Id.* at § 701.F.

Pursuant to the Act, the Commission adopted regulations encouraging public participation. Those public participation procedures include procedures for public hearings, where any interested person may testify or submit written statements containing data, views or arguments. 19.10.9.905.C, E NMAC.

III. ARGUMENT

A. The Hearing Officer Improperly Prohibited Testimony on Rio Grande Resources' Financial Assurance.

As a matter of law, the Hearing Officer improperly prohibited MASE and Amigos Bravos from presenting evidence on the sufficiency of RGR's financial assurance. The regulations implementing the New Mexico Mining Act clearly require that the Mining and Minerals Division evaluate whether a permittee's financial assurance is sufficient when it applies for a standby permit.

Section 1206 of the Mining Act regulations provides, "[i]n the event that the approved permit is revised or modified, the director shall review the financial assurance for adequacy, and if necessary, shall require adjustment of the financial assurance to conform to the permit as revised or modified." 19.10.12.1206.D NMAC, emphasis added. The regulations further provide, "[i]f, due to a temporary cessation of mining operations exceeding 180 days, a permittee desires to suspend reclamation pursuant to a permit for an existing or new mining operation, the permittee shall submit an application for a permit revision for standby status ... ". 19.10.7.701.A

NMAC, emphasis added. Thus, RGR's application for a standby permit is a permit revision¹, and under § 1206.D the Director is required to review RGR's financial assurance for adequacy and adjust it if necessary. The Hearing Officer's decision to uphold RGR's objection is clearly contrary to the Mining Act regulations' mandate.

The Hearing Officer should have allowed MASE and Amigos Bravos to submit testimony regarding the sufficiency of RGR's surety. Moreover, the record of the administrative proceeding contains no evidence whatsoever that MMD considered the adequacy of RGR's financial assurance. Because the Mining Act regulations require that MMD review RGR's financial assurance in the course of evaluating its standby permit application, MASE and Amigos Bravos request that MMD hold a public hearing on the issue of RGR's financial assurance and allow MASE and Amigos Bravos to submit testimony and other evidence on the sufficiency of RGR's financial assurance.

B. The Hearing Officer Improperly Prohibited Testimony on Rio Grande Resources' Ability to Meet Environmental Standards.

The Mining Act is clear that before a standby permit application is approved, the applicant must demonstrate that it will meet all state environmental standards. NMSA 1978, § 69-36-7(E)(3). It is equally clear that the public must be given the opportunity to submit testimony and other evidence about the adequacy of any permit application, prior to any action being taken on the permit application. *Id.* § 69-36-7(K). These requirements advance the Mining Act's purposes of responsible use of state resources and meaningful public participation in the decisions affecting those resources. The Hearing Officer's decision to prohibit MASE and Amigos Bravos from presenting evidence concerning RGR's ability to meet groundwater

¹ As noted in Section I, above, the Division is processing RGR's application as Permit Revision 10-1.

standards during the standby period defeats both these purposes and is contrary to the Mining Act in two ways.

1. The Hearing Officer's Determination Renders the Public Participation Provision of the Mining Act and Its Regulations Meaningless.

The Hearing Officer's determination that Amigos Bravos and MASE were prohibited from presenting any evidence on the issue of groundwater contamination at the public hearing renders the Mining Act regulations encouraging public participation meaningless, and directly contradicts the mandate of the Act itself. The Act requires the Commission to promulgate regulations that give "all interested persons ... a reasonable chance to submit data, views, or arguments orally or in writing and to examine witnesses testifying at the hearing." NMSA 1978, § 69-36-7(K). The Commission promulgated regulations further defining the boundaries of public participation, but still seeking to maximize public input on regulatory decision-making by mandating that all interested persons have a reasonable opportunity to present testimony, data, views or arguments. 19.10.9.905.C, E NMAC. Moreover, both the Act and the regulations have extensive notice requirements to ensure that the public can take advantage of the public participation processes. NMSA 1978, § 69-36-7(K)(1)-(6); 19.10.902, 903 NMAC. Based on these extensive statutory and regulatory notice and hearing requirements, the Legislature's intent to promote broad and meaningful public participation is clear.

In this case, as described in Section I, Amigos Bravos and MASE were prevented from presenting any evidence on groundwater contamination at the Mt. Taylor Mine or RGR's ability to address the contamination and its source². By prohibiting MASE and Amigos Bravos from

² It is noteworthy that NMED's process for making a determination that a permittee will meet all applicable environmental standards has no mechanism for public input. In this case, NMED did not seek public input on its determination, provided no public notice of its determination process, and provided no public notice of the determination itself.

meaningfully participating in the public hearing, the Hearing Officer undermined the Legislature's intent to promote public participation.

The New Mexico Supreme Court decision in *Colonias Development Council v. Rhino Environmental Services, Inc.* ("Rhino") is instructive in this case. *Id.*, 138 N.M. 133, 117 P.3d 939 (N.M. 2005). In *Rhino*, the petitioner community group appealed a decision by the New Mexico Environment Department approving a landfill in their community pursuant to the New Mexico Solid Waste Act. *Id.*, 117 P.3d at 942. On appeal, the community group argued that although the hearing officer conducting the public hearing on the solid waste permit application had allowed community members to speak, NMED violated the Solid Waste Act's public participation provisions by failing to consider the community group's "quality of life" testimony. *Id.* The Supreme Court agreed. *Id.* at 945. The Court reasoned that the extensive public notice and hearing provisions in the Solid Waste Act demonstrated the Legislature's intent to foster broad and meaningful public participation in solid waste permit proceedings. *Id.* at 944-946. The Environment Department's failure to consider "quality of life" public testimony violated these provisions and NMED's decision was set aside and remanded for further proceedings. *Id.* at 949-950.

In this case, the Mining Act's public notice and hearing provisions are nearly identical to those in the Solid Waste Act. *See, e.g.*, NMSA, 1978 § 74-9-29 (ensuring all interested persons "a reasonable opportunity" to be heard at a public hearing); *compare with* NMSA, 1978 § 69-36-7(K) (ensuring all interested persons shall be given "a reasonable chance" to submit data, views or arguments). Unlike the *Rhino* case, however, in this case MASE and Amigos Bravos were not even given the opportunity to submit data, views or arguments on the groundwater contamination at the Mt. Taylor Mine site, much less have their data, views and arguments considered. By

prohibiting MASE and Amigos Bravos from presenting any information on the groundwater contamination at the Mt. Taylor Mine site, the Hearing Officer violated the public participation requirements of the Mining Act and its implementing regulations. The record in this case should remain open and MASE and Amigos Bravos should be allowed to submit testimony and data on the alluvial groundwater contamination at the Mt. Taylor Mine site.

2. The Hearing Officer's Interpretation of the Mining Act and Regulations Eliminates MMD's Statutorily Mandated Role in Regulating Mining's Environmental Impacts.

In addition to violating the public participation requirements of the Mining Act and its implementing regulations, if the Hearing Officer's interpretation of MMD's regulations is accepted, MMD's role in regulating environmental impacts of mines on standby status is virtually eliminated in violation of the mandate of the Act that the Director ensure that a permittee abides by all applicable environmental laws and standards. By prohibiting MASE and Amigos Bravos from challenging MMD's acceptance of NMED's determination, the Hearing Officer effectively made the standby permit evaluation and review process one in which MMD checks off boxes on a list of required documents. This interpretation not only undermines the Division's responsibility to ensure that all environmental laws, regulations and standards are met during the standby period, it also virtually eliminates any consultation and coordination function the MMD has under the Mining Act by forcing MMD to accept as valid any determination by NMED, irrespective of whether it is based on legally or technically supportable grounds.

In this case, based on documentation and cross examination of an NMED representative, MASE and Amigos Bravos established that NMED had no technical basis for making a determination that RGR would meet groundwater standards for the term of its standby permit. The administrative record indicates that on September 1, 2010, NMED sent a letter to RGR

indicating that NMED could not determine that RGR would be in compliance with New Mexico groundwater standards for more than two years. Exhibit A. NMED cited evidence of uranium contamination of the alluvium at the Mt. Taylor Mine and the fact the contamination's source had not been identified as the basis for the two-year limit on its determination. *Id.* At the time of that letter, according to NMED's representative at the public hearing, NMED had not approved RGR's Stage 2 abatement plan. Testimony of Mary Ann Menetrey ("Menetrey Testimony"), Audio Transcript of August 17, 2011 Hearing, STE-003 at 8:24 – 8:55 ("Tr.-3"). Ms. Menetrey also stated that between the time of the September 2010 letter in which NMED refused to make a determination for more than two years and May 27, 2011, when NMED determined that RGR would be able to meet groundwater standards for five years, no circumstances had changed except that RGR's Stage 2 abatement plan had been approved. *Id.*

Significantly, however, NMED's approval of RGR's Stage 2 abatement plan does not address the presumed source of the alluvial contamination, i.e., the waste rock pile. May 2, 2011 letter from NMED to RGR giving conditional approval of RGR's Stage 2 abatement plan, attached as Exhibit B at p. 2; Menetrey Testimony at Tr-3, 6:19 – 6:45. Indeed, the conditions placed on the abatement plan require that the abatement plan be revised if groundwater sampling and waste characterization studies show that the waste rock pile or storm water retention pond are the source of the alluvial contamination. Based on NMED's own documents, the source of the uranium contamination in the alluvium remains unidentified and the Stage 2 abatement plan does not address the uranium contamination. Therefore, the NMED had no apparent technical basis whatsoever to change its determination from a two year to a five year term.

Given the lack of basis for NMED's conclusion, the Division had an obligation to question the NMED's determination in order to insure that RGR would, in fact, be able to

comply with all applicable environmental laws, standards and regulations during the permit period. The Hearing Officer's conclusion that the Division must accept NMED's determination without question, irrespective of whether that determination has a legitimate technical basis, subverts the Act's requirements that permitted operations meet all applicable environmental laws, regulations and standards³. NMSA 1978, §§ 69-36-7(A)(1), (E)(3), (N), (P)(2), (S)(3),(4); 19.10.701.B.3. Moreover, the Hearing Officer's conclusion that any public challenge to the Division's acceptance of NMED's determination is beyond the scope of a standby permit proceeding, likewise violates the Act's and regulations' mandate to ensure that permittees comply with all applicable environmental laws and standards. *Id.*

The Hearing Officer's determination also undermines the consultation provisions of the Act and its regulations. *See*, NMSA 1978, § 69-36-7(J); 19.10.5.505.B.3 NMAC. The consultation requirements evince the Legislature's clear intent for MMD and the Director to consult with, but not be beholden to, other agencies that also have responsibility for regulating environmental matters. Moreover, while the Act explicitly provides that the Director may not implement environmental statutes which are the responsibility of other agencies, reclaiming the purported source or sources of contamination, i.e., the waste rock pile and storm water lagoon, are activities that lie squarely within the Director's regulatory authority. Thus, the Hearing Officer's interpretation of the Act and regulations subverts the Legislature's intent and improperly deprived MASE and Amigos Bravos of the opportunity to challenge MMD's acceptance of NMED's determination.

³ Conversely, there is no provision in the Act that prohibits the Division from questioning the comments or determinations from other agencies.

C. Rio Grande Resources Failed to Demonstrate that the Mt. Taylor Mine Will be Economically Viable During the Standby Period.

The Act and MMD regulations require a standby permit applicant to demonstrate that the mine proposed for standby status will be economically viable during the standby period. NMSA 1978, 69-26-7(E)(6); 19.10.7.701.B.6 NMAC. In this case, RGR failed to demonstrate with any credibility that the Mt. Taylor Mine will be economically viable between now and 2016, when the current standby permit would expire.

In its standby application that it submitted to MMD, RGR asserts, without support, that:

RGR has the largest uranium deposit in the United States, which is well over 100,000,000 pounds of U₃O₈ in the Mt. Taylor Mine ore body. The market price now does not permit a viable mining operation, primarily because of the availability of uranium from weapons decommissioning in the world and U.S. markets. However, such material will be used up after a period of time, after which the market demand for new uranium oxide should increase. Additionally, in the future the demand for clean [sic] nuclear power generating plants will increase as low-cost coal reserves are depleted and demand for electric power increases. These conditions and the high grade ore reserves at Mt. Taylor will increase the value of the Mt. Taylor Mine and lead to the resumption of operations in the relatively near future.

Standby Application at 3, § 1.6⁴.

1. RGR Fails to Analyze Uranium Demand.

RGR has provided no substantive demonstration that the Mt. Taylor Mine will be economically viable during the standby permit period. Most significantly, neither RGR's written or verbal statements give any meaningful analysis of global demand for uranium.

RGR's written statement gives no meaningful analysis of uranium demand, asserting only that the supply of uranium from decommissioned weapons will fall "after a period of time" and

⁴ At the public hearing on RGR's standby permit application, MMD's witness, on cross-examination, testified that RGR had submitted an economic analysis to MMD in June, 2011, but that it was confidential and unavailable for public review. Since the hearing, counsel for MASE and Amigos Bravos has made several requests, both in writing and telephonically, for MMD to make a determination whether all portions of RGR's economic analysis are confidential, but has not received a response from MMD.

that increased demand for nuclear power will fuel demand for uranium. However, RGR does not indicate when the uranium supply from decommissioned weapons will be depleted. Further, as explained in Section C.2, below, RGR fails to analyze global energy demand in support of its assertion that demand for nuclear energy will increase. RGR's written statement regarding the Mt. Taylor Mine's economic viability over the next five years lacks any specific information, data or analysis and is insufficient to support its standby permit application.

RGR also failed to provide adequate economic analysis in its testimony at the August 17, 2011 public hearing. There, RGR's witness, Mr. Doug Irving, simply touted RGR's position relative to other potential uranium operations that do not have existing mine infrastructure or permits. Testimony of Doug Irving ("Irving Testimony"), Tr. at 45:00 – 47:40.

Moreover, in his direct testimony, Mr. Irving offered no meaningful analysis of domestic or global uranium demand. He simply asserted, without support or analysis, that worldwide demand for uranium was increasing, that uranium prices are increasing, and uranium stockpiles from decommissioned weapons are decreasing. Irving Testimony, Tr. at 51:20 – 53:30.

On cross-examination, Mr. Irving was presented with data from the International Atomic Energy Agency ("IAEA"), Nuclear Energy Agency ("NEA") and Organization for Economic Cooperation and Development ("OECD") annual report on uranium supply and demand ("Uranium Red Book") showing that existing uranium mining capacity could fulfill global uranium demand until 2025. However, Mr. Irving was unable to rebut these data or provide data that contradicts the IAEA, NEA, and OECD data. Irving Testimony, Tr. at 1:39:04 – 1:42:30. A copy of the Uranium Red Book data is attached hereto as Exhibit C. Because IAEA data show that projected demand for the next 16 years can be satisfied with existing uranium mining capacity and RGR offered no evidence to contradict those data, RGR has not satisfied its burden

of showing that the Mt. Taylor Mine will be economically viable for the term of its standby permit.

2. RGR Fails to Analyze Energy Demand.

Additionally, RGR's permit application fails to analyze global energy demand during the permit period. RGR offered no testimony on this issue at hearing. Because of its failure to consider global energy demand – other than the cursory statement that demand for nuclear power will rise – RGR's analysis of the Mt. Taylor Mine is inadequate.

Indeed, had RGR provided, or the Division required, such an analysis it would have shown that global energy demand trends do not favor nuclear power in the long term and a surge in demand in the short term, i.e., in the next five years, is highly unlikely. For example, RGR does not provide any analysis about how the worldwide and domestic economic downturn affects electric power demand. According to the United States Energy Information Administration ("EIA"), the global economic downturn slowed energy consumption in 2008 and energy consumption contracted in 2009. United States Energy Information Administration, *World Energy Demand and Economic Outlook*, Report #:DOE/EIA-0484(2010), Chpt. 1 at 9 (July 27, 2010), attached as Exhibit D. The EIA's World Energy Demand and Economic Outlook report does not assume global economic recovery and energy demand growth until 2015. *Id.*

RGR also fails to consider how improvements in energy efficiency and demand for renewable energy sources will affect demand for nuclear power⁵. As indicated in the EIA world energy demand report, global demand for renewable sources of energy (and all other sources of

⁵ Interestingly, although not a renewable resource, EIA projects that the percentage of electricity generated by coal will remain largely unchanged through 2035, directly contradicting RGR's statement that diminishing reserves of low-cost coal will increase demand for uranium. *World Energy Demand and Economic Outlook* at 12, Fig. 18.

energy) is projected to far outstrip demand for nuclear power. *World Energy Demand and Economic Outlook* at 11, Fig. 16.

Finally, RGR fails to account for the effect on worldwide energy demand due to countries such as Germany, Italy, Switzerland and Japan phasing out nuclear power. Mr. Lister's flat assertion that demand for uranium will grow despite the Fukushima disaster is insufficient. *See*, Testimony of Joe Lister ("Lister Testimony"), Tr. at 1:02:19. Because RGR has failed to analyze energy demand, it has no basis for asserting that the Mt. Taylor Mine will be economically viable during the standby permit period.

3. RGR Fails to Consider the Lack of Uranium Ore Milling Capacity.

Finally, in order for uranium ore to be economically viable, it must be milled so that it can be further processed into fuel for nuclear power plants. Lister Testimony, Tr. at 1:03:02. In its written permit application, RGR fails completely to mention where Mt. Taylor Mine ore might be milled and whether the proposed mill has the capacity to receive RGR's ore.

At the August 17 public hearing, Mr. Lister provided some insight into how vague RGR's plans for securing a place to mill Mt. Taylor Mine ore are. Mr. Lister conceded that the only operating uranium mill in the United States is the White Mesa Mill in Blanding, Utah, owned by Denison Mines. Lister Testimony, Tr. at 1:03:09. Mr. Lister further testified that while Denison Mines was likely to use ore from its own mines for feed at White Mesa, it could accept ore from other mines. *Id.*, Tr. at 1:03:10 – 1:03:32. When asked whether the White Mesa Mill would accept Mt. Taylor ore, Mr. Lister stated that RGR had "talked" to Denison about milling. *Id.*, Tr. at 1:03:33. Mr. Lister did not offer any information to indicate that any agreements to mill Mt. Taylor ore had been made or were pending with Denison.

Further, Mr. Lister was vague about whether transportation costs to Blanding were prohibitive. *Id.*, Tr. at 1:04:30-31. However, Mr. Lister did concede that it was prohibitive to transport ore to Blanding at the current spot price of \$50.00/lb. *Id.*, Tr. at 1:05:19. Significantly, this is the price for uranium that Mr. Lister indicated would be the price at which the Mt. Taylor Mine would be profitable. *See*, Mining and Minerals Division, March 25, 2009 Annual Inspection Report, an excerpt of which is attached as Exhibit E. Mr. Lister's inconsistent statements cast further doubt on the Mt. Taylor Mine's economic viability during the standby permit period.

Finally, RGR indicated that it is planning a mill near the mine site. However, since notifying the U.S. Nuclear Regulatory Commission ("NRC") in 2008 of its intent to build a mill near the Mt. Taylor Mine, RGR has delayed submission of required archaeological and radiological surveys twice. Copies of RGR's correspondence to the NRC is attached as Exhibit F and Exhibit G. Moreover, Mr. Lister testified that RGR had not yet completed the archaeological survey for the proposed mill site, nor had it begun the required radiological survey. Lister Testimony, Tr. at 1:09:50-51, 56-58. Because RGR failed to demonstrate that there will be any milling capacity for Mt. Taylor Mine ore during the standby permit period, the Mt. Taylor Mine will not be economically viable during that time⁶.

IV. CONCLUSION

RGR's standby permit renewal application has several significant deficiencies that should prohibit it from being granted. In addition to uranium contamination of the alluvium whose

⁶ Various public statements by RGR employees have indicated that Mt. Taylor Mine ore could be heap leached at the Cotter Mill in Canyon City, Colorado. However, RGR's permit application contains no mention of this possibility and RGR's witnesses did not discuss it during the public hearing. Therefore, that information is not part of the administrative record and should not be considered. In any event, the Cotter Mill's radioactive materials license prohibits it from accepting ore from any place except the Western Slope of the Colorado Rockies. *See* attached Exhibit H.

cause has not been addressed, RGR has also failed to demonstrate that the Mt. Taylor Mine will be economically viable in the period of its standby permit. Perhaps equally important, the public participation process for RGR's permit revision was so flawed that the Director cannot and should not reach a decision without further public input.

For these reasons, MASE and Amigos Bravos oppose issuing RGR a standby permit for five years without substantial conditions to address the source of the uranium contamination in the alluvium, interim reclamation measures to abate the alluvial contamination, and an assurance that RGR has adequate financial resources to guarantee that interim reclamation measures will be conducted. Additionally, MASE and Amigos Bravos request additional public hearings or other opportunities to address the significant shortcomings identified in these comments. Alternatively, if these or substantially similar permit conditions are not placed on RGR's standby permit and further opportunities for public input are not provided, MASE and Amigos Bravos urge the Director to deny RGR's permit revision 10-1 and order RGR to begin close out activities immediately.

Thank you for your consideration of these concerns and please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric Jantz', with a long horizontal line extending to the right.

Eric Jantz
Staff Attorney

Counsel for MASE and Amigos Bravos

cc: Stuart Butzier



BILL RICHARDSON
Governor
DIANE DENISH
Lieutenant

NEW MEXICO
ENVIRONMENT DEPARTMENT

Ground Water Quality Bureau

Harold Runnels Building
1190 St. Francis Drive, P.O. Box 5469
Santa Fe, New Mexico 87502-6110
Phone (505) 827-2918 Fax (505) 827-2965
www.nmenv.state.nm.us



RON CURRY
Secretary
SARAH COTTELL
Assistant Secretary

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SEP 07 2010

MINING & MINERALS DIVISION

September 1, 2010

Charles Thomas, Chief
Mine Reclamation Bureau
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

RE: NMED Determination for Mt. Taylor Mine Standby Request

Dear Mr. Thomas:

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) dated July 22, 2010, regarding Rio Grande Resources Corporation's (RGRC) request for Standby Status for the Mt. Taylor Mine. MMD requested that NMED either provide the written determination that environmental standards will be achieved during the standby period, or provide MMD with further information needed from the operator to address the NMED determination.

Additional information has been obtained through the Water Quality Control Commission Abatement regulations over the last few years related to contamination in the alluvium. RGRC has not ruled out the potential contribution from the un-reclaimed waste rock pile at the site. Therefore, NMED cannot provide a written determination that environmental standards will be met over the 5-year period proposed for standby.

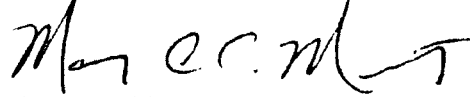
RGRC has however, submitted a Stage 2 Abatement Plan to address the contaminated saturated alluvium which can be amended to investigate the waste rock pile. NMED therefore believes that a standby period of 2 years would be appropriate while the waste rock pile is investigated for potential contribution to the contaminated saturated alluvium. The Standby Status application or the MMD permit revision must therefore reflect a shorter standby period in order for the NMED to provide a written determination.

Exhibit A

RGRC Standby Status
September 1, 2010
Page 2

If you have any questions regarding the above, please contact me at (505)827-2944.

Sincerely,



Mary Ann Menetrey
Program Manager
Mining Environmental Compliance Section

cc: Tom Skibitski, Manager, NMED District 1
David Ohori, MARP
Jerry Schoeppner, MECS
DP-61 file



SUSANA MARTINEZ
Governor

JOHN SANCHEZ
Lieutenant Governor

State of New Mexico
ENVIRONMENT
Ground Water Quality
Harold Runnel

1190 St. Francis Drive
Santa Fe, New Mexico
Telephone (505) 827-2918

www.nmenv.state.nm.us

CERTIFIED MAIL - RETURN

May 2, 2011

Mr. Joe Lister
Rio Grande Resources Corporation
Mt. Taylor Mine
P. O. Box 1150
Grants, New Mexico 87020

U.S. Postal Service		CERTIFIED MAIL RECEIPT	
Return Receipt (Only for Insurance Coverage Provided)			
Postage	\$	RECEIVED SEP 01 2011 MINING & MINERALS DIVISION	
Certified Fee			
Return Receipt Fee (Endorsement Required)			
Restricted Delivery Fee (Endorsement Required)			
Total Post			
Sent To	Mr. Joe Lister, Mine Mgr.		
Street, Apt. or PO Box	Mt. Taylor Mine/PO Box 1150		
City, State	Grants, New Mexico 87020		

RE: Conditional Approval of Stage 2 Abatement Plan for the Mt. Taylor Mine, DP-61

Dear Mr. Lister:

Pursuant to the New Mexico Water Quality Control Commission Regulations (WQCC), 20.6.2.3109.E.1 NMAC, the Stage 2 Abatement Plan Proposal dated August 2010 and additional information submitted on February 1, 2011 for the Mt. Taylor Mine is hereby approved subject to the conditions and requirements listed below. In conditionally approving this proposal, the New Mexico Environment Department (NMED) has determined that the Stage 2 Abatement Plan proposal (Plan) as contained in the August 2010 and February 1, 2011 submittals meets the requirements of WQCC Regulation 20.6.2.3109.E.1 NMAC.

The Mt. Taylor Uranium Mine was originally owned by Gulf Mineral Resources, a subsidiary of Gulf Oil. The mine has since been sold, first in 1985 to Chevron Resources and then in 1991 to Rio Grande Resources Corporation (RGRC), who owns both the mineral and surface rights. Development of the mine started in 1971 with the drilling of two shafts and ore was produced during two separate occasions, 1979 to 1982 and from 1985 to 1990. In 1990 the mine was placed on stand-by due to low uranium prices and has remained there ever since.

During development and operation of the mine, a cattle pen and watering hole was converted to a sewage lagoon and was used to manage domestic waste until a wastewater treatment system was installed in 1980. Based on previous Stage 1 Abatement Plan investigation activities, it appears that the sewage lagoon seeped fluids which created saturated conditions in the previously dry alluvium directly downgradient of the lagoon. Contaminants including nitrate, sulfate, total dissolved solids, and uranium are present in concentrations above standards in the saturated alluvium. Previous Stage 1 Abatement Plan investigation activities have delineated the extent and magnitude of groundwater contamination as well as a characterization of the hydrogeology of the site. The purpose of the Plan is to remediate alluvial groundwater downgradient of the former sewage lagoon. Approval of this Plan does not relieve RGRC of its responsibility to comply with federal state and/or local laws and regulations.

Exhibit B

CONDITIONS FOR APPROVAL

This conditional Plan approval is subject to the following conditions:

1. RGRC shall pump alluvial groundwater from well WP-5 to augment dewatering of the alluvial aquifer by Saltcedar uptake and dispose of contaminated water in the existing open top tank through evaporation.
2. RGRC shall collect groundwater samples from all existing wells that have groundwater present on a semi-annual basis and submit samples to the laboratory for analysis for nitrate, sulfate, total dissolved solids, and uranium.
3. The Stage 2 Abatement Plan shall be revised if results from the characterization activities for the waste rock pile indicate that the waste rock pile or storm water retention pond is a source for alluvial groundwater contamination.
4. The proposed site abatement activities shall be performed in accordance with the Plan dated August 2010 and additional information dated February 1, 2011.

GENERAL ABATEMENT PLAN REQUIREMENTS

In addition to any other requirements provided by law, approval of this abatement plan proposal is subject to the general requirements specified in WQCC Section 20.6.2.4107. This regulation provides for:

1. NMED entry, inspection and sampling at the site and on the property;
2. Notification to NMED of sampling and well plugging, abandonment or destruction; and
3. Requirements for well plugging, abandonment or destruction.

MODIFICATIONS

RGRC shall notify NMED, pursuant to WQCC Section 20.6.2.4111A, of any proposed modifications to this approved plan and shall obtain NMED's written approval for such modifications. WQCC Section 20.6.2.4111.B also provides for possible future amendment of the abatement plan by NMED.

DISPUTE RESOLUTION AND RIGHT TO APPEAL

If RGRC is dissatisfied with the action taken by NMED, RGRC may either initiate the dispute resolution procedures of the WQCC Section 20.6.2.4113 NMAC or file a petition for a hearing before the WQCC pursuant to WQCC Section 20.6.2.4114. Either request shall be made within thirty (30) days of the receipt of this letter. The notification of a dispute shall be by certified mail to the secretary of NMED. The petition for hearing shall be in writing to the WQCC. Unless a timely request for dispute resolution or hearing is made, the decision of the NMED shall be final.

TRANSFER OF ABATEMENT PLAN

Pursuant to WQCC Section 20.6.2.4104.B, at least 30 days prior to any transfer of ownership or responsibility, RGRC shall notify the transferee in writing that an abatement plan has been required or approved for this facility and shall deliver or send by certified mail to NMED a copy of such notification together with a certificate or other proof that such notification has in fact been received by the transferee.

ENFORCEMENT

Please be aware that the conditions, requirements and provisions of this abatement plan approval are enforceable pursuant to § 74-6-10 NMSA 1978. Violations of this abatement plan may subject RGRC to a notice of violation, compliance order, civil penalties or an action in district court. Violations may also subject RGRC to NMED modification of DP-61 pursuant to 20.6.2.3109.E NMAC.

If you have any questions, please contact Jerry Schoeppner at (505) 827-0652.

Sincerely,



William C. Olson, Chief
Ground Water Quality Bureau
New Mexico Environment Department

cc: Mary Ann Menetrey, Manager, MECS
Charles Thomas, Chief, Mine Reclamation Bureau
David Otori, MMD
Jerry Schoeppner, GWQB ✓
Gary Richardson, Metric Corporation
DP-61 file

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World Uranium Production and Reactor Requirements 2010- 2035

Source: 2009 Uranium Red Book, <http://www.oecdbookshop.org/oecd/display.asp?lang=en&sf1=DI&st1=5KMD4HVBSN41>

Compiled July 29, 2011 by Paul Robinson sricpaul@earthlink.net

World Uranium Production Capacity to 2035 – metric tons/year - T. 24, p. 55

Country	2010		2015		2020		2025		2030		2035	
	A-II	B-II	A-II	B-II	A-II	B-II	A-II	B-II	A-II	B-II	A-II	B-II
US	2,900	4,600	3,400	6,100	3,800	6,600	3,700	6,500	3,100	5,600	3,100	5,600
World	70,108	75,405	96,145	121,780	98,295	140,640	79,730	129,335	75,530	118,530	68,420	109,520

Annual reactor-related uranium requirements to 2035 Table 28, p. 81

	2010		2015		2020		2025		2030		2035	
	Low	High	Low	High	Low	High	Low	High	Low	High	Low	High
US	16,425	16,160	17,530	17,530	18,560	19,950	18,050	21,075	12,125	23,465	11,260	24,260
World	65,410	68,860	71,965	79,650	76,920	91,445	86,325	107,480	87,790	126,665	87,370	138,165

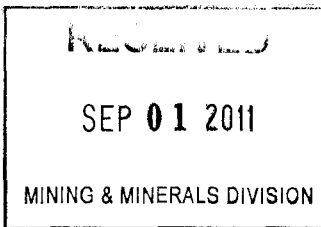
A-II - Production Capability of Existing and Committed Centers supported by Reasonably Assured Resources and Inferred Resources recoverable at <\$130/lb

B-II - Production Capability of Existing, Committed, Planned and Prospective Centers supported by RAR and Inferred Resources recoverable at <\$130/lb

#

Exhibit C

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DOE/EIA-0484(2010)

International Energy Outlook

2010

July 2010

U.S. Energy Information Administration
Office of Integrated Analysis and Forecasting
U.S. Department of Energy
Washington, DC 20585

This publication is on the WEB at:
www.eia.gov/oiaf/ieo/index.html

This report was prepared by the U.S. Energy Information Administration (EIA), the statistical and analytical agency within the U.S. Department of Energy. By law, EIA's data, analyses, and forecasts are independent of approval by any other officer or employee of the United States Government. The views in this report therefore should not be construed as representing those of the Department of Energy or other Federal agencies.

Exhibit D

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

Director
Mining and Minerals Division
1220 St. Francis St.
Santa Fe, New Mexico 87505
Telephone: (505) 476-3400

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SEP 01 2011

MINING & MINERALS DIVISION

MINING INSPECTION REPORT

Name of Operator: Rio Grande Resources, Inc. (RGR)	
Name of Mine:	Mt. Taylor Mine
Address: About 20 miles north of Grants (UTM 13S 0260351, 3914011)	
Permit Number: CI002RE	
Commodity: Uranium UNDERGROUND	_SURFACE_ <u>X</u>
Date of Inspection: March 25, 2009	
Time of On-Site Inspection: 10:00 am – 1:00 pm	
Weather Conditions: Sunny 40° - 55°F	
Purpose of Inspection: Annual inspection.	
Lead Inspector: David Otori	
Present During Inspection: NMED – Jerry Schoeppner; RGR - Joe Lister	
ENFORCEMENT ACTION TAKEN: None NOTICE OF VIOLATION: # _____ YES: _____ NO: <u>X</u> CESSATION ORDER: _____ YES: _____ NO: <u>X</u>	
Time: On-Site: <u>3</u> Permit Review: <u>1</u> Travel: <u>5</u> Report Writing: <u>1</u>	
TOTAL INSPECTION TIME: <u>10</u> HOURS	
NOTE: Mt. Taylor Uranium Mine is located NE of the Town of San Mateo, UTM 13S 0260351, 3914011 on the San Mateo Quad.	

Exhibit E

ANNUAL INSPECTION

**March 25, 2009
Mount Taylor Mine**

PERMIT UPDATE:

The Mt. Taylor Uranium Mine is in standby status until it expires on July 5, 2010. The current standby status is the first renewal of standby after the initial standby status period. The renewal and the original standby status periods were for 5 years each. The mine is eligible for 2 more extensions of standby with a maximum of 5 years per extension.

NMED is currently processing DP-1712 for the discharge of up to 14,400 gallons per day (10 gpm) of mine water that has been treated using an ion exchange treatment system back into the mine for a period of up to 120 days. The pilot scale project is designed to test various water treatment ion exchange resins to remove uranium, radium and other contaminants from the mine water. The successful treatment system may be used in the future when the mine is preparing to reopen and the underground mine workings are dewatered.

INSPECTION NARRATIVE:

Joe Lister, the mine manager, escorted the MMD and NMED inspectors around the mine site. The mine was owned by Gulf Oil Corporation from the early 1970's until 1984 when it merged with Chevron. The mine operated until 1989 when it was shut down due to depressed uranium prices. RGR, a subsidiary of General Atomics bought the mine in 1991. At the peak of mining, Joe said that the mine employed over 800 miners and staff. Per Joe, there are over 100MM pounds of uranium oxide ore in reserve at the mine. Over \$150MM was spent to develop the mine and it would take another \$100MM to reopen it according to Joe.

The first stop was the water supply area located to the east and upgradient of the other mine facilities (see photos). Here a series of wells are used to supply process and potable water for the site. Since the water is geothermal and is approx. 130°F some of it must be cooled using chiller units and cooling towers and a portion diverted for potable use is disinfected using chlorine gas. A portion of the geothermal water has been used for heating buildings and preheating potable hot water systems.

The main head frame (see photo) is located above the 24 foot diameter, 3,300+ foot deep main mine shaft. A smaller head frame (see photo) is located above a 14 foot diameter shaft of the same depth. Other buildings (see photo) house support shops. The existing waste rock stockpile top surface has been used as an equipment lay down yard (see photo). The waste rock pile is located near the southwest corner of the permit area. The outcrops (see photos) are partially revegetated from seeding done in the past and from volunteer vegetation. Stormwater is retained along the perimeter of the waste rock pile and directed to a nearby stormwater retention pond. The outcrops have erosion rills in them, however, the erosion appears to be minor and is retained onsite along with the

stormwater. The mine appears to be in compliance with the terms of the standby status in preventing discharges from the mine of acidic or toxic substances, and meeting state and federal environmental standards. Stormwater appears to be handled using appropriate methods.

A forest service road bisects the mine site traveling from southwest to northeast. The mine maintains the road up to where it leaves the mine property onto USFS controlled land (see photo). According to Joe, periodically the mine has to deal with trespassers that are dumping garbage in the nearby arroyos, processing drugs, or hunting in the area.

The location of a proposed new waste rock pile is to the north (see photos) of the current mine disturbance. The new waste rock pile will be used when the mine starts up again. Prior to depositing waste rock to the new pile, RGR will excavate and store borrow material from that area to be used for mine reclamation. Most of the mine area that is used for treatment of mine water will be used for water treatment as a PMLU when the mine permanently ceases operations. In addition, most of the mine buildings will also remain after cessation of operations.

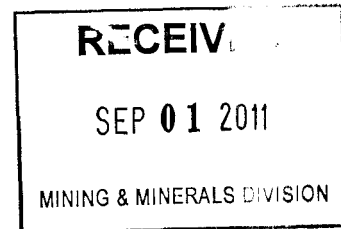
Joe took the inspectors into the administration and warehouse building that is connected by underground tunnels to the hoist house and the two shafts. These facilities are currently being maintained by the mine and appear as if the mine closed down only yesterday. A system of water and air handling systems are maintained in the main mine buildings and in underground tunnels so that when the mine reopens these systems can be used with modification to bring them up to current safety and operational standards.

Joe said that there are no current plans to reopen the mine prior to the expiration of the current standby extension period. He said that the parent company, General Atomics, is currently putting significant resources into other mines in Australia and other places. However, he said that the mine could be profitable if the price of uranium was at least \$50 per pound. Currently uranium is at approx. \$80 per pound. If the mine reopens, RGR is considering opening a mill facility that would be located approx. 6 miles farther north up the canyon.

The state inspectors exited the mine at approximately 1 pm.

ACTION ITEMS:

NMED will continue processing DP-1712. MMD will consider requiring the inclusion of the approx. 6 mile long treated mine water pipeline into the permit area or as an affected area when the mine applies for an extension of standby status in 2010.



December 15, 2009

Mr. Charles L. Miller
Office of Federal and State Materials and
Environmental Management Programs
U.S. Nuclear Regulatory Commission
Two White Flint North, Mailstop T8D22
11545 Rockville Pike
Rockville, MD 20852

Subject: Rio Grande Resources
Mt. Taylor Mine
Prospective Conventional Uranium Mill

Dear Mr. Miller:

In a letter dated March 21, 2008, Rio Grande Resources (RGR) notified you of its intent to submit a license application for a conventional uranium mill and tailings disposal facility in New Mexico. At that time, the plan anticipated an early submittal date in 2010. This letter is to update RGR plans with regard to that license application.

The downturn in the uranium market following RGR's notice of intent has delayed the license application by at least one year. Due to the magnitude of the capital investment to bring the Mt Taylor property into production, RGR opted to delay development of the license application until the market forecast is favorable.

During the latter part of 2008 and all of 2009, RGR continued to maintain the permits necessary to operate the mine at Mt. Taylor including renewal of some and studies that are necessary to renew others. RGR expects approval from the State in the near term on a water treatment study planned for the spring of 2010. This study is needed for the final design of the water treatment plant to be used for mine dewatering and operations following restart. Presently, RGR is preparing a plan for development of the license application, including the environmental work at the proposed mill site, with an expected start in the first half of 2010. It is our intent to open discussions with your staff about our project early in 2010.

Please contact myself at 505.287.7971 or Craig Harlin at 918.681.4982 if you should have any questions or require additional information.

Sincerely,


Joe Lister
Mine Manager

XC: Amory
Craig
Ron Linton

Exhibit F



RIO GRANDE RESOURCES

PO BOX 1150, GRANTS, NEW MEXICO



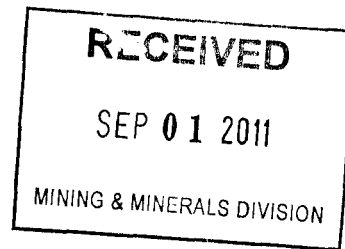
RIO GRANDE RESOURCES

PO BOX 1150

GRANTS, NEW MEXICO 87020

Mr. Charles L. Miller
Office of Federal and State Materials
Environmental Management Programs
U.S. Nuclear Regulatory Commission
Two White Flint North, Mailstop T8D22
11545 Rockville Pike
Rockville, MD 20852

AVERY 5164



November 10, 2010

Mr. Charles L. Miller, Director
Office of Federal and State Materials and
Environmental Management Programs
U.S. Nuclear Regulatory Commission
Two White Flint North, Mailstop T8D22
11545 Rockville Pike
Rockville, MD 20852

Subject: Rio Grande Resources
Mt. Taylor Mine
Prospective Conventional Uranium Mill

Dear Mr. Miller:

In a letter dated December 15, 2009, Rio Grande Resources (RGR) provided you an update with regard to the license application for a conventional mill in New Mexico. Delays in development of the license application have occurred for a number of reasons including a downturn in the uranium market and delays in State permits needed to move forward.

RGR continues to maintain compliance with and renew those permits as required. The State has now approved a water treatment study that was planned for the spring of 2010. This study is needed for the final design of the water treatment plant to be used for mine dewatering and operations following restart. We now plan to conduct the study in the spring of 2011 and will complete the design for mine water treatment based upon the results of the study. This removes a roadblock to renewal of the State of New Mexico Water Discharge Permit needed to dewater the mine workings.

Presently, RGR is preparing a plan for development of the license application beginning with environmental work at the proposed mill site. A cultural resource survey should be complete this year and, barring any unfavorable findings, plans for the radiological baseline survey will begin early in 2011. It is our intent to open discussions with your staff about our project once the cultural survey has been completed.

Please contact myself at 505.287.7971 or Craig Harlin at 918.681.4982 if you should have any questions or require additional information.

Sincerely,

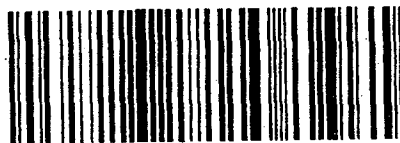
Joe Lister
Mine Manager

Exhibit G

XC: Amory Quinn
Craig Harlin
Steve Cohen

RIO GRANDE RESOURCES
PO BOX 1150, GRANTS, NEW MEXICO 87020

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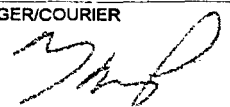
RETURN RECEIPT
REQUESTED

Mr. Charles L. Miller, Director
Office of Federal and State Materials and
Environmental Management Programs
U.S. Nuclear Regulatory Commission
Two White Flint North, Mailstop T8D22
11545 Rockville Pike
Rockville, MD 20852

AVERY 5164

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NRC FORM 253 (9-96)		U.S. NUCLEAR REGULATORY COMMISSION		DATE OF REQUEST 11-15-10	CONTROL NUMBER
MESSENGER/COURIER RECEIPT					
TO: CHARLES MILLER, DIR		OFFICE FSME	BUILDING TWFA	ROOM NUMBER 8D43/802	
FROM: BIO GRAVITY RESOURCES		OFFICE ADM	BUILDING OWFN	ROOM NUMBER P1300	
DESCRIPTION 7010 0290 0003 3162 6389		MESSENGER/COURIER SIGNATURE			
		MESSENGER/COURIER 		DATE RECEIVED 11-12-10	
				TIME RECEIVED 4:00 P	
		MESSENGER/COURIER		DATE RECEIVED	
				TIME RECEIVED	
		RECIPIENT'S SIGNATURE			
		RECIPIENT Marcia Casby		DATE RECEIVED 11/15/10	
				TIME RECEIVED 1:40 PM	
SENDER: 1. Complete "DATE OF REQUEST," "TO:," "FROM:," and unclassified "DESCRIPTION" blocks. 2. Obtain MESSENGER/COURIER signature, date received, and time received in first blocks provided. 3. Retain "SENDER'S SUSPENSE COPY."		MESSENGER/COURIER: 1. Deliver package to recipient or next messenger/courier enroute to addressee. 2. Obtain MESSENGER/COURIER or RECIPIENT signature, date received, and time received in the appropriate blocks provided.		RECIPIENT: 1. Provide signature, date received, and time received in the appropriate blocks. 2. Retain RECIPIENT'S COPY. 3. Return original to messenger/courier immediately, who will return it to the sender.	

NRC FORM 253 (9-96)

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RECIPIENT'S COPY

STATE OF COLORADO

RADIOACTIVE MATERIALS LICENSE



SEP 01 2011

MINING & MINERALS DIVISION

Colorado Department
of Public Health
and Environment

Pursuant to the *Radiation Control Act* Title 25, Article 11, *Colorado Revised Statutes*, and the State of Colorado *Rules and Regulations Pertaining to Radiation Control*, Part 3, and in reliance on statements and representations heretofore made by the licensee designated below; a license is hereby issued authorizing such licensee to transfer, receive, possess and use the radioactive material(s) designated below; and to use such radioactive material(s) for the purpose(s) and at the place(s) designated below. This license is subject to all applicable rules, regulations, and orders now or hereafter in effect of the Colorado Department of Public Health and Environment and to any conditions specified below.

1. Licensee: Cotter Corporation, a New Mexico Corporation.
2. Address: 7800 East Dorado Place, Suite 210, Greenwood Village, Colorado 80111
3. License Number: Colo. 369-01, Amendment Number 52
4. Expiration date: January 30, 2012
5. Reference Number: Colo. R-197 Fee Cat: 2A2
6. Authorized Radioactive Material and Uses

6.A. The licensee is authorized to accept, receive, possess, handle ores and other Department approved classified materials for the commercial processing and recovery of uranium. The total quantity of all such materials is limited to:

Western Slope native ores	660,000 yd ³	no greater than 0.42% U ₃ O ₈
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6.B. The licensee is authorized to possess ores and other Department approved classified materials for small scale testing and process development for recovery of uranium, zirconium, silica and other minerals, providing the ultimate processing and recovery is "primarily" for uranium, as required by the Atomic Energy Act. The total quantity of all such materials the licensee is authorized to possess, handle, and test these materials is limited to:

Uranium/Zirconium Ore	16,000 tons	no greater than 0.25% U nat, 1% Th-nat
Amazon Sands Ore	30 tons	no greater than 0.5% U-nat, 2% Th-nat
CaF ₂ material	2,000 tons	no greater than 4.0% U-nat, 1% Th-nat
Off-spec Yellowcake	2,000 tons	no greater than 90% U-nat
Euxenite Ore	20 tons	no greater than 15% U-nat

6.C. The licensee is authorized to process and distribute to authorized recipients concentrated uranium product (yellowcake). The licensee is authorized to possess and store yellowcake in quantities not to exceed 500 metric tons (1,000,000 pounds).

August 16, 2011

Director
Mining and Mineral Division
NM Energy, Minerals and natural Resources Department
1220 South St. Francis Drive
Santa Fe, NM 87505

RE: ***Rio Grande Resources Corporation Renewal Application for Standby Status, Mt. Taylor Mine***

Mining and Mineral Division Director:

I am herein stating my opposition to any further extension of Rio Grande Resource Corporation's standby status. The Mt. Taylor Mine has not been in operation since 1990. A third standby period of 5 years could extend the time for startup operations at the mine until 2015, a period of 25 years.

Should Rio Grande Resources Corporation (RGR) become insolvent due to unfavorable global market conditions for the procurement of uranium over the next 5 years, adequate financial assurances should be accurately re-assessed and reclaim the Mt. Taylor Mine site. Any further delays in reclamation could detrimentally affect the public health and welfare, as well as the public trust in regional ground water and cultural resources of the Pueblo of Acoma and other downstream communities.

Discharge Permit 1712

In 2010, Rio Grande Resources received a discharge permit, DP-1712, for a 60 day pilot water study in anticipation of mine startup operations. If Rio Grande Resources is successfully able to remove uranium from mine shaft water, it should be required to begin reclamation of groundwater in the mine immediately. Another 5-year standby could result in further contaminant excursions away from the mine and delay ground water remediation efforts indefinitely.

If the pilot water study has added to existing surface and ground water contamination, RGRC is expected to notify the New Mexico Environment Department (NMED) and submit an abatement plan investigating all known areas of ground and surface water contamination within the area covered by DP-1712.

Neither Rio Grande Resources, nor the Ground Water Quality Bureau shared the results or status of its pilot water study with Acoma, despite the Pueblo's stated concern about the effects of the pilot water study on its cultural water resources at the 2010 hearing on DP-1712.

EPA Five-Year Plan for the Grants Mining District

EPA Region 6 plans to develop a ground water investigation in the context of a comprehensive investigation of legacy uranium mines and mills in the Grants Mining District. Mt. Taylor Mine should be included as one of the legacy mines in the GMD for which reclamation is required.

favorable. After acquiring the Mt. Taylor Mine in 1991, RGR contends that market conditions are still not favorable for startup. Its renewal application for standby status covers both the mine and water treatment area units.

Continuing Environmental Hazards

Rio Grande Resources Corporation has not specified how federal and state environmental standards and regulations have been met during the mine's standby status since 1999. The corporation has not provided evidence of its compliance to date with Discharge Permit 61, federal discharge and storm water permits, or the Mt. Taylor Closeout Plan.

RGR states that its mine site has not been disturbed, but that sediment and runoff from its old 15.2 acre waste pile is being captured and collected in a containment basin. No description of the containment basin, whether lined or unlined, is described. The new waste rock pile encompassing 21.7 acres has been tested to determine shale quality, but no test results are offered or analyzed.

Drainage from RGR's 6.8 acre low grade ore stockpile has also been allowed to drain into a collection basin. It appears that the NMED has not examined stockpile drainage since 1999.

Mt. Taylor's watersheds and aquifers are important to all who live here, and should be managed to advance the greatest public good. Please make watershed protection and conservation a top priority in this era of climate change by ending Mt. Taylor Mine's protracted standby status and alternative water supply project.

Sincerely,

Laura Watchempino

P.O. Box 407

Pueblo of Acoma, NM 87034

cc: Governor Randall Vicente, Pueblo of Acoma
Steve Juanico, Haaku Water Office
Petuuche Gilbert, Acoma Realty and Natural Resources

August 16, 2011

Director
Mining and Mineral Division
NM Energy, Minerals and natural Resources Department
1220 South St. Francis Drive
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EPA Five-Year Plan for the Grants Mining District

EPA Region 6 plans to develop a ground water investigation in the context of a comprehensive investigation of legacy uranium mines and mills in the Grants Mining District. Mt. Taylor Mine should be included as one of the legacy mines in the GMD for which reclamation is required.

The NMED considers the Westwater Canyon member of the Morrison Formation aquifer to be a potential future water supply for the region. (Letter dated October 6, 2008 from Ron Curry to U.S. Nuclear Regulatory Commission regarding NRC's draft Generic Environmental Impact Statement for *In-Situ* Leach uranium Recovery Facilities) DP-1712 states that the RGR uranium mine site is a place of water withdrawal for present or reasonably foreseeable future use within the meaning of the *New Mexico Water Quality Act*, 1978 NMSA, Sections 74-6-5(E)(3).

Future dewatering of the Mt. Taylor Mine will further endanger vital water and cultural resources of the region, so important to tribal communities, local economies and traditional lifestyles.

Reclamation

A Bureau of Reclamation funded study which was undertaken in 2001, to evaluate the effects of pumping 4,000 acre feet of water per year from the Mt. Taylor Mine shows an impact to surface flows, such as springs which constitute cultural sites of the Pueblo and contributing properties to the traditional cultural properties of Mt. Taylor, and to the flows of the Rio San Jose.

It was also shown that water flows at Acoma's western boundary dropped by about 3 cubic feet per second when uranium mines were being dewatered to allow for the mining of uranium ore over a period of approximately 30 years. After the mining stopped in the late 1980's, the flow was not fully restored due to increased ground water use by other users such as the City of Grants and the Escalante Power Plant at Prewitt. Based on the last available measured flow, if the same diminution in flow that took place the last time uranium was mined in the area, Horace Springs, the sole remaining source of surface water across the Pueblo in the Rio San Jose, would cease to flow.

Another standby period would delay yet again the prospect of future dewatering and its devastating impact to Acoma Pueblo. The Mt. Taylor Mine site might further be excluded from EPA Region 6 efforts to address legacy uranium mining and milling operations if it remains on standby.

Over half of Mt. Taylor Mine's useful life has passed without any activity by RGR. It's time for RGR to commit to reclaiming the environmental hazards it has posed for over 20 years. The closeout plan and financial security approved by the Mining and Minerals Division in 1998 should now be reassessed.

Economic Viability of the Mt. Taylor Mine

RGR anticipates that market demand for new uranium oxide "should increase" in the near future due to the depletion of low-cost coal reserves and increased demand for electric power. The impact of energy conservation programs, the use of alternative renewable energy sources, or recent nuclear reactor accidents that might affect the anticipated future economic viability of the mine were not discussed.

Instead, RGR premises the future economic viability of the mine facility on a potential water supply project that would require the construction of a new pipeline that has not yet been permitted.

When the last uranium boom was in full swing in the Grants Mining District, many mines opened and were later abandoned when the demand for uranium dwindled and market conditions were no longer

**IN THE MATTER OF RIO GRANDE RESOURCES CORPORATION'S RENEWAL
APPLICATION FOR MINE STANDBY STATUS
PERMIT NO. C1002RE
MOUNT TAYLOR MINE**

POST HEARING SUBMITTAL OF RIO GRANDE RESOURCES CORPORATION

Introduction

Rio Grande Resources Corporation ("RGR") appreciates the opportunity to provide this post hearing submittal in further support of its Renewal Application for Mine Standby Status for the Mt. Taylor Mine ("Application"). As discussed briefly herein, the extensive administrative record on RGR's Application, including the Application itself, associated supporting materials, and the record of the hearing conducted on August 17, 2011, fully support renewal of the standby status for Permit No. C1002RE, an existing mine permit originally issued on January 28, 1995, and revised to incorporate RGR's Closeout Plan by Permit Revision 98-1.

This is RGR's request for a second renewal of standby status. By Permit Revision 99-1, the Mining and Minerals Division ("MMD") originally revised RGR's Permit No. C1002RE to go onto standby status. By Permit Revision 04-1, dated July 25, 2005, MMD granted RGR's first request to renew standby status for a five year period. RGR now seeks renewal of standby status for an additional five year renewal period.

This submission contains three parts. In Section I, RGR reviews the five findings that it requests the Director make to approve standby renewal under the applicable regulations. In Part II, RGR briefly summarizes the evidence supporting each of the five findings. In Part III, RGR demonstrates why the requested second renewal of standby status for a full five year period from the date of MMD's decision in this matter is supported as a matter of regulatory interpretation and sound policy.

I. Five Findings for the Director to Make Under Applicable Regulations

Pursuant to NMAC 19.10.7.701.F ("Standby Status"), "an application for permit revision for standby status will be approved" if the permittee has paid the permit revision fee and the Director makes five specified findings. The five findings specified in Subsection 701.F are:

- 1) that the permittee agrees to take measures to reduce, to the extent practicable, the formation of acid and other toxic drainage and to prevent releases that cause federal or state environmental standards to be exceeded;
- 2) that the permittee agrees to meet applicable federal and state environmental standards and regulations during the period of standby status, and the Secretary of the Environment Department has indicated environmental standards of that Department are expected to be met during the term of standby status;
- 3) that the permittee agrees to stabilize waste and storage units, leach piles, impoundments and pits during the term of standby status;
- 4) that the permittee agrees to comply with the applicable requirements of the Act, 19.10 NMAC and the permit during the term of standby status; and
- 5) that the permittee has provided an analysis of the economic viability for each unit proposed for standby status.

RGR has submitted a complete application for permit revision and has paid the permit revision fee. In its June 16, 2010 Application and at public hearing on August 17, 2011, RGR has amply established that the Director may make the five findings and grant a five year renewal of standby status.

In the next section of this submission, RGR summarizes key evidence in the administrative record supporting the five findings. References in this submission to testimony of any of RGR's three hearing witnesses (Mr. Joe Lister, Dr. Alan Kuhn, and Mr. Doug Irving) include reference to the PowerPoint slides provided to the MMD at the outset of the hearing, each of which corresponds to recorded testimony provided by these witnesses. For convenience

of reference, RGR's hearing slides are attached hereto as Attachment A, are consecutively numbered 1 through 17, and are otherwise identical to those already in the hearing record.

II. Evidence Supporting the Five Findings

Evidence supports each of the five findings. Below, each finding is referenced in bold text and is addressed in turn.

- 1) The permittee agrees to take measures to reduce, to the extent practicable, the formation of acid and other toxic drainage and to prevent releases that cause federal or state environmental standards to be exceeded.**

RGR has agreed to meet the standby status requirements under the Mining Act. (See Lister, slide 12; Application, p. 3, 4, 5, 7, 8, 9 and 10.) Specifically, RGR has demonstrated that no acid or toxic drainage is expected to be produced at Mt. Taylor Mine. Application, p. 2.

In the Application and in hearing testimony of Joe Lister, the absence of such drainage was considered unit by unit as follows. Application, pp. 2-11; Lister, slides 6-11.

- No acid or toxic chemicals are stored in the plant site unit. Therefore, there can be no acid or toxic drainage from this unit. Application, p. 2, ¶1.2; Lister, slide 10.
- Relic elevated concentrations of nitrate and uranium associated with a former stock pond and sewage lagoon in the old waste pile area have been identified and are being addressed through abatement plans administered by NMED. Kuhn, slides 14-15; Testimony of Mary Ann Menetrey. Ongoing sampling at and around the old waste pile is being conducted pursuant to RGR's Stage 2 Abatement Plan with NMED. Kuhn, slides 14-15. Whether and to what extent the old waste rock pile has the potential to contribute to these slightly elevated uranium concentrations is also being evaluated in the Stage 2 Abatement Plan. Id.

No toxic drainage from the old waste rock pile has been observed to date. Lister, slide 11; Kuhn, slide 14.

- The new waste pile unit is undisturbed. It has never been used as a waste pile. Therefore, it has no potential to generate acid or toxic drainage. (Application, ¶3.0)
- The water treatment area unit is not active. It is periodically inspected and does not have potential for acidic or toxic drainage (Application, ¶4.2).
- The low grade ore stockpile unit is covered with uncontaminated soil and rock and has developed considerable natural vegetation (Application ¶5.2). Therefore, acid or toxic drainage is not expected (Application, ¶5.3).

2) The permittee agrees to meet applicable federal and state environmental standards and regulations during the period of standby status, and the Secretary of the Environment Department has indicated environmental standards of that Department are expected to be met during the term of standby status.

RGR has agreed to meet the standby status requirements under the Mining Act, which include meeting applicable federal and state environmental standards and regulations. Lister, slide 12; Application, p. 3, 4, 5, 7, 8, 9 and 10. Specifically, RGR has demonstrated each of the two parts of this Finding #2.

- a. During the period of standby status, applicable federal and state environmental standards and regulations will be met.

RGR anticipates that during the period of standby status, applicable environmental standards will be met, as further described in the Application and hearing testimony. This expectation is supported by a variety of showings. The mine has state and federal permits designed to achieve compliance with environmental standards. In addition to permitting under the Mining Act, the Application references State discharge permit DP-61 and Federal NPDES

permits. Application, p. 2, ¶1.3. Also, the mine area has not been significantly disturbed since the 1998 mine permit was issued, as pointed out numerous places in the Application.

Most significantly, however, by letter of May 27, 2011, NMED indicated its view that RGR “has demonstrated that during standby status the operation will be expected to achieve compliance with all applicable air, water quality and other environmental standards...”, Lister, slide 13; Kuhn, slide 15; Menetrey testimony. Although an opponent of renewal at the hearing essentially asked MMD to second-guess this determination by NMED, clearly there is no basis to do so. The opponent apparently would assert that the existence of relic elevated concentrations of nitrate and uranium in the vicinity and down gradient of the former stock pond and sewage lagoon is a reason for doing so.

Any assertion by permit opponents that the existence of these relic concentrations justify disregarding RGR’s agreement to meet standards during standby, and NMED’s determination that RGR will achieve compliance, is meritless. First, the concentrations are being addressed under the Stage 2 Abatement Plan described at the hearing and in the permit record. E.g., Lister, slides 11 and 13; Kuhn, slides 14 and 15; Menetrey testimony. Those elevated concentrations exist in a confined and limited thin lens of saturated alluvium that RGR expects to dry up using evapotranspiration created by salt cedars that are to be planted in accordance with the Stage 2 Abatement Plan. *Id.* When that alluvium is dewatered, elevated concentrations will cease and standards will be met (see testimony of Alan Kuhn).

Second, any assertion that these elevated concentrations are grounds for MMD to disregard both RGR’s agreement to meet standards and the NMED’s determination that RGR will achieve standards presupposes evidence that has not been presented. Any such assertion by opponents assumes both that the concentrations exist in “ground water” as defined in regulations

promulgated under the Water Quality Act, and that the concentrations occur at a place of withdrawal of water for present or reasonably foreseeable future use under those regulations. NMAC 20.6.2.7.Z and 20.6.2.3103A. RGR does not concede these points, and opponents did not present evidence on these issues. The administrative record is clear that the goal of the Stage 2 Abatement Plan will be to reduce and eventually eliminate the confined and thin lens of water in the shallow alluvium. Because the saturation occurs in a confined area within RGR's control and will be addressed by evapotranspiration from a line of salt cedars, there is no indication that the water is now, or in the reasonably foreseeable future will be or could be, used as a drinking water supply. Moreover, it is possible that background concentrations may exceed numeric standards. But these potential issues arising under the Water Quality Control Commission's regulations are beyond what the Director need determine in this proceeding.

- b. The Secretary of the Environment Department has indicated its environmental standards are expected to be met during the term of the standby status.

Included among the attached slides used by RGR at the hearing is Secretary Martin's May 27, 2011 letter and determination satisfying this requirement. Lister, slide 13; Kuhn, slide 15. It is readily apparent on these slides that a compelling factor in NMED's compliance determination and agreement that a five year renewal period is appropriate was that NMED recently approved Stage 1 and Stage 2 Abatement Plans. Id.

- 3) RGR agrees to stabilize waste and storage units, leach piles, impoundments and pits during the term of standby status.**

RGR has agreed to meet the standby status requirements under the Mining Act. Lister, slide 12; Application, p. 3, 4, 5, 7, 8, 9 and 10. Specifically, RGR has demonstrated the following.

- a. Waste, storage units, and impoundments will be stable during the term of standby status.

This showing was amply made in the discussion of the units both in the Application and in the testimony of Mr. Lister, and no evidence was presented into the administrative record to suggest otherwise. Application, pp. 4-11; Lister, slides 7-11.

- b. There are no leach piles or pits at Mt. Taylor Mine.

As an underground uranium mine, leach piles and pits obviously are not present at the Mt. Taylor site, and the record is devoid of any reference to those types of mine features.

- 4) RGR agrees to comply with the applicable requirements of the Act, 19.10 NMAC and the permit during the term of standby status.**

Again, RGR has agreed to comply with applicable requirements of the Mining Act, its regulations, and RGR's Permit during the term of standby status. Lister, slide 12; Application, p. 3, 4, 5, 7, 8, 9 and 10.

- 5) RGR has provided an analysis of the economic viability for each unit proposed for standby status.**

As part of its Renewal Application, RGR provided to MMD an analysis of the economic viability of Mt. Taylor Mine. Application, Appendix 3. That analysis was provided on a confidential basis as provided for by 1978 NMSA, Sec. 69-36-10. The analysis demonstrates economic viability.

In addition, at hearing, RGR demonstrated through testimony of Messrs. Doug Irving and Joe Lister that Mt. Taylor Mine enjoys an advantageous economic position as an existing mine. Irving, slides 16-17; Lister, slides 1-4. Its exploration is complete. Irving, slide 16. The largest high grade deposit of uranium in the United States has been delineated at Mt. Taylor Mine.

Irving, slide 16; Lister, slide 4. Technical feasibility of operations there has been established by previous operations. Irving, slide 16. Existing state and federal permits for Mt. Taylor Mine, including but not limited to the permitting of Mt. Taylor as an "existing" mine, indicate that with appropriate supplemental permitting efforts and approvals, RGR should be able to resume mine operations. Irving, slide 16; Lister, slide 5. Previous mine development that occurred at Mt. Taylor Mine in advance of and during previous operations there will facilitate redevelopment and restarting of the mine. Lister, slide 4; Irving, slides 16. Past operating experience at Mt. Taylor Mine will also contribute to its future success. Lister, slides 1-4; Irving, slide 16.

Mr. Irving also explained that although markets for minerals, including uranium, are cyclical, Mt. Taylor Mine is well-situated to respond to anticipated strong future demand. Irving, slide 17. In the last six years long term prices for uranium have dramatically increased. Id. Also, existing stockpiles of nuclear material are shrinking. Id. These economic forces drive the need for additional uranium mines to meet future demand, and with its large reserves and proven operational track record, Mt. Taylor Mine is economically well-situated to reopen. Irving, slides 16-17.

III. A Second Renewal Term of a Full Five Years Is Justified

RGR respectfully seeks renewal of standby status for a second five year term that begins on the date of the MMD decision granting this second standby renewal term. The five year term is provided for in NMSA 1978 § 69-36-7.E, which states that "the director may renew a permit for standby status for no more than three additional five-year terms" following an initial five year standby status term. The plain language of this statute recognizes that standby status may be renewed in five year increments, and MMD already issued a first renewal for a five year period by Permit Revision 04-1, dated July 25, 2005.

RGR acknowledges the possibility that one might interpret the standby permit provisions of the Mining Act and the Mining Commission's regulations as contemplating that the longest an operation may stay on standby status is twenty years. Under this interpretation, one might argue that an operation should not be allowed to exceed a standby period of twenty years by remaining on standby status for: (1) the initial period of five years on standby status, plus (2) three additional five-year renewal periods, plus (3) whatever additional small periods of time might pass, essentially under a permit shield, between a timely application for renewal and MMD's action on that application. That interpretation might present a question about adhering to a maximum duration of standby status if RGR were to request a third renewal term, and if MMD were to then consider making the third renewal shorter than five years to account for increments of time between the end of one standby term and the start of the next. But that scenario has not yet occurred, and it might not ever occur. The future possibility does not, in RGR's view, justify shortening or denying RGR the five year renewal it now requests, for several reasons.

First, by issuing the first renewal to RGR for five years, MMD has already established a precedent, which is eminently reasonable, that interim renewals that do not cause exceedance of any arguable maximum of twenty years may be granted for full five year periods that do not necessarily commence at the completion of the earlier five year period. If twenty years is the allowable aggregate limit for standby status, the question of whether that aggregate period would be exceeded by grant of a renewal is not presented until and unless a request for a third renewal period is made. It is unnecessary to shorten an interim renewal to less than five years where grant of that interim renewal for the full five years beginning on the date of the MMD decision granting that renewal would not exceed any arguable twenty year limit. Shortening an interim renewal unnecessarily would merely accelerate the possible need to apply for and obtain a

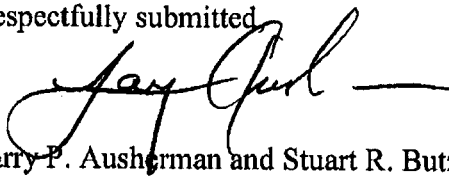
further renewal period, with the attendant waste of resources that might otherwise be avoided for both MMD and the operator.

Second, the Mining Act's standby provision quoted above nowhere expressly states that one five year renewal period must commence in lock-step at the conclusion of a prior standby period. Rather, the plain language of the Mining Act, in NMSA 1978 § 69-36-7.E, uses the discretionary language that the Director "may" renew for five year terms.

Third, neither at the time MMD originally established a precedent allowing for interim five-year renewal terms that do not necessarily commence at the end of the prior standby term, nor throughout the time of this proceeding, did any party oppose a five year renewal term on the basis that an interim renewal period must have an effective date commensurate with the end of the period it succeeds. Although one advocate espoused an early position taken by NMED that any RGR renewal should be shortened to a period of two years, that position (in a July 22, 2010 letter) was taken for an entirely different reason, and was later changed by NMED itself. Specifically, in NMED's May 27, 2011 letter accompanying its determination, on the left side of slide 13 in the testimony of Mr. Lister, NMED stated that it "is in agreement with granting the Standby request *for a period of 5 years . . .*" (Emphasis added.)

RGR respectfully submits that MMD should likewise see the merit of granting a renewal on this occasion for an additional period of five years. Doing so will improve the likelihood that RGR will be able to seek to come off of standby status during the renewal period without the potential distraction of having to simultaneously juggle a third renewal application. Meanwhile, MMD will have avoided an issue not yet squarely presented without limiting its clear discretion in the future to grant a shorter renewal period if a third renewal were ever requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Larry P. Ausherman", followed by a horizontal line.

Larry P. Ausherman and Stuart R. Butzier

[Attorneys for Rio Grande Resources Corporation]

Dated: September 1, 2011

MT. TAYLOR MINE OPERATIONS HISTORY

- Location of Mine
- Exploration and Discovery of Uranium
- Gulf Development and Production
- Chevron Resources Production

RGR PERIOD OF OWNERSHIP

- Acquired Mine in 1991
- Mine Inactive Since 1990
- Steps to Begin Reactivating Mine Being Taken

PROJECTIONS FOR TERM OF SECOND STANDBY RENEWAL

- RGR Seeks a Five Year Renewal Term
- Uranium Market Expected to Improve
- RGR Expects to Resume Operations
- Steps In Furtherance of Reactivating Mine
 - NMED has recently permitted a pilot study
 - Working to renew discharge permit for dewatering
 - Renewed NPDES permit with EPA
 - Filed LOI with NRC to construct mill
 - Early stages of planning for mill development

FUTURE ECONOMIC EXPECTATIONS

- Difficult to Project Precisely When Mine Will Open
- Rising Market and Price for Uranium Projected
- Favorable Position of Mt. Taylor
 - Extent of known resources exceeding 100 million lbs
 - Largest high-grade deposit in the U.S.
 - History of successful operation
 - Already under an existing mine permit
 - Mine exploration and development capital spent
 - Specific mine features already constructed
 - Availability of mill site

PERMIT HISTORY UNDER MINING ACT

- Mining Act Passed and Regulations Promulgated in 1993-94
- Existing Mining Permit in 1995
- Revised to go on Standby Status in 1999
- First Renewal of Standby Status Granted in 2005
- RGR Applied for Second Renewal in June 2010

OVERVIEW OF MINE UNITS

NEW WASTE ROCK PILE

- Undisturbed Ground
- No Waste Rock Present

ORE STOCKPILE AND ASSOCIATED POND

- Rests on an Impermeable Shale Layer
- Covered With Several Feet of Soil (Natural Vegetation)
- Retention Pond Captures Runoff
- Stockpile Pond Inspected Quarterly

WATER TREATMENT AREA

- Former Impoundments Are Dry (except Impoundment 2)
- Facilities Are Maintained

PLANT AREA

- Contains Large Buildings, Warehouses, Equipment Yards
- No Toxic Chemical Storage
- Storm Water Diverted to Impoundment 2
- Two Vertical Shafts Completely Enclosed

OLD WASTE ROCK PILE & ASSOCIATED POND

- Runoff Currently Diverted to Impoundment 2
- No Acid Generation
- Unused for Approximately 20 Years
- Graded for Drainage
- Location of Former Stock Tank/Sewage Lagoon
- Dr. Kuhn Will Address Stage 2 Abatement Plan

ENVIRONMENTAL COMPLIANCE

- RGR Has Agreed to Standby Status Requirements Under the Mining Act
- RGR Received a Determination Letter Dated May 27, 2011 from NMED



State of New Mexico
ENVIRONMENT DEPARTMENT
Ground Water Quality Bureau
Harold Runnels Building
1190 St. Francis Drive, P.O. Box 5469
Santa Fe, New Mexico 87502-5469
Telephone (505) 827-2918 Fax (505) 827-2965

SUSANA MARTINEZ
Governor
JOHN SANCHEZ
Lieutenant Governor



DAVID MARTIN
Secretary
PAUL SOLOMON, P.E.
Deputy Secretary



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www.enr.state.nm.us



DAVE MARTIN
Secretary
PAUL SOLOMON, P.E.
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 27, 2011

Joe Lister, Mine Manager
Rio Grande Resources Corporation
P.O. Box 1150
Grants, New Mexico 87020

RE: NIMED Determination for Mt. Taylor Standby Request

Dear Mr. Lister:

The New Mexico Environment Department received correspondence from the Mining and Minerals Division (NIMED) dated July 22, 2010, regarding Rio Grande Resources Corporation's (RGRC) request for Standby Status for the Mt. Taylor Mine. NIMED requested that NIMED either provide the written determination that environmental standards will be achieved during the standby period, or provide NIMED with further information needed by the operator to address the NIMED determination.

NIMED responded to MMD's request in a letter dated September 1, 2010 in which NIMED stated "Additional information has been obtained through the Water Quality Control Commission. Abatement regulations over the last few years related to contamination in the alluvium. RGRC has not ruled out the potential contribution from the un-reclaimed waste rock pile at the site. Therefore, NIMED cannot provide a written determination that environmental standards will be met over the 5-year period proposed for standby."

Following NIMED's comment letter to MMD, RGRC submitted supplemental Stage 1 and revised Stage 2 Abatement Plans which NIMED recently approved to address characterization of the retention pond and un-reclaimed waste rock pile and implementation of the selected remedial alternative to address alluvial groundwater contamination associated with RGRC's former sewage lagoon. NIMED therefore is in agreement with granting the Standby request for a period of 5 years while abatement activities proceed and has provided a written determination.

"NIMED therefore is in agreement with granting the Standby request for a period of 5 years ..."

DETERMINATION PURSUANT TO
THE NEW MEXICO MINING ACT,
NMSA 1978, §§8-36-7(E)(3), AND
NEW MEXICO MINING ACT RULE 701.B.3
FOR STANDBY STATUS

Determination is hereby provided that Rio Grande Resources Corporation, the applicant for the Mt. Taylor Mine, Permit No. C1002RE submitted pursuant to the New Mexico Mining Act NMSA 1978, §§8-36-1 through 20 (Pit Stop, 1977) (NMMA), has demonstrated that during standby status the operation will be expected to achieve compliance with all applicable air, water quality and other environmental standards. It is noted that RGRC, described in the NMMA permit application for standby status and in applicable state and federal air, water quality and other environmental permits.

Applicant:
Operation:
Permit No.:
Rio Grande Resources Corporation
Mt. Taylor Mine
C1002RE

Determination by:

David Martin
David Martin, Secretary
New Mexico Environment Department

Date: May 27, 2011

"Determination is ... that during standby status the operation will be expected to achieve compliance with all applicable air, water quality and other environmental standards if carried out as described in the NMMA permit application for standby status and all applicable state and federal air, water quality and environmental permits."

FORMER LAGOON/STOCK POND

- Lagoon and Stock Pond History
- Voluntary Stage 1 Abatement Plan
- Approved Stage 2 Abatement Plan
- NMED's Oversight of the Plans
- NMED's Determination on Standby Renewal



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DAVID MARTIN
 Secretary
 PAU SOLOMON, P.E.
 Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 27, 2011

Joe Lister, Mine Manager
 Rio Grande Resources Corporation
 P.O. Box 1150
 Grants, New Mexico 87020

RE: NMED Determination for Mr. Taylor Standby Request

Dear Mr. Lister:

The New Mexico Environment Department received correspondence from the Mining and Minerals Division (NMED) dated July 22, 2010, regarding Rio Grande Resources Corporation's (RGRC) request for Standby Status for the Mr. Taylor Mine. NMED requested that NMED either provide the written determination that environmental standards will be achieved during the standby period, or provide NMED with further information needed by the operator to address the NMED determination.

NMED responded to NMED's request in a letter dated September 1, 2010 in which NMED stated "Additional information has been obtained through the Water Quality Control Commission Abatement regulations over the last few years related to contamination in the alluvium. RGRC has not ruled out the potential contribution from the un-reclaimed waste rock pile at the site. Therefore, NMED cannot provide a written determination that environmental standards will be met over the 5-year period proposed for standby."

Following NMED's comment letter to NMED, RGRC submitted supplemental Stage 1 and revised Stage 2 Abatement Plans which NMED recently approved to address characterization of the retention pond and un-reclaimed waste rock pile and implementation of the selected remedial alternative to address alluvial groundwater contamination associated with RGRC's former sewage lagoon. NMED therefore is in agreement with granting the Standby request for a period of 5 years while abatement activities proceed and has provided a written determination.

"NMED therefore is in agreement with granting the Standby request for a period of 5 years ..."

DETERMINATION PURSUANT TO
 THE NEW MEXICO MINING ACT,
 NMSA 1978, §89-36-7 (E)(3), AND
 NEW MEXICO MINING ACT RULE 701.1.3
 FOR STANDBY STATUS

Determination is hereby provided that Rio Grande Resources, the applicant for the Mr. Taylor Mine, Permit No. C7002RE, submitted pursuant to the New Mexico Mining Act (NMSA) 1978, §89-36-7 (E)(3), dated January 20, 1977 (NMSA) and the New Mexico Mining Act Rule 701.1.3, dated January 20, 1977 (NMSA) has demonstrated that during standby status the operator will be expected to achieve compliance with applicable environmental standards. The environmental standards described in the NMSA permit application for standby status are all applicable state and federal air, water quality and other environmental permits.

Applicant:
 Operation:
 Permit No.:
 Rio Grande Resources Corporation
 Mr. Taylor Mine
 C7002RE

Determination by:
 David Martin, Secretary
 New Mexico Environment Department

Date: May 27, 2011

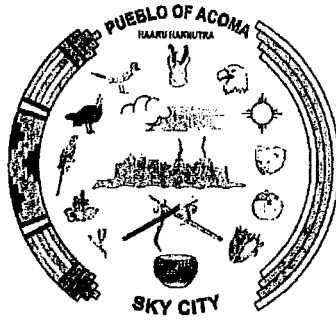
"Determination is ... that during standby status the operation will be expected to achieve compliance with all applicable air, water quality and other environmental standards if carried out as described in the NMMA permit application for standby status and all applicable state and federal air, water quality and environmental permits."

ADVANTAGES OF MOUNT TAYLOR'S STATUS AS AN EXISTING MINE

- Exploration is Complete
- Uranium Resources Have Been Delineated
- Technical Feasibility Has Been Established
- Existing Mining & Environmental Permits
- Previous Mine Development Will Expedite Redevelopment and Restarting
- Past Operating Experience is Invaluable

MINERAL MARKETS ARE CYCLICAL AND STANDBY STATUS IS APPROPRIATE

- Mineral Market Cycles are Common
- A Category for Standby is Appropriate Due to Cyclical Markets
- The New Mexico Mining Act Provides for Standby Status
- History of Uranium Markets
 - 1950-1971 (government-driven market for military)
 - 1970s and 80s (U.S. Power Plant development)
 - Grants Mineral Belt Produced 350 Million lbs U_3O_8
 - Since 1980 Demand Satisfied From Existing Mines & Stockpiles
 - In the Last 6 Years, Long-Term Prices Have Dramatically Increased
- Existing Stockpiles Are Shrinking
- New Mines Are Required to Meet Future Demand
- Mt. Taylor is Well-Situated to Respond to Future Demand



GROUND WATER
AUG 25 2011
BUREAU

P.O. BOX 309
ACOMA, NM 87034

PUEBLO OF ACOMA
OFFICE OF THE GOVERNOR

TELEPHONE: 505/552-6604
FAX: 505/552-7204

August 17, 2011

Mr. Fernando Martinez, Acting Division Director
Mining and Mineral Division
NM Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, NM 87505

**Re: Rio Grande Resources Corporation Renewal Application for Standby Status-
Mt. Taylor Mine**

Dear Mr. Martinez:

The Pueblo of Acoma herein states its opposition to any further extension of Rio Grande Resource Corporation's standby status. The Mt. Taylor Mine has not been in operation since 1990. A third standby period of 5 years could extend the time for startup operations at the mine until 2015, a period of 25 years.

Should Rio Grande Resources Corporation (RGRC) become insolvent due to unfavorable global market conditions for the procurement of uranium over the next 5 years, adequate financial assurances would be needed to accurately assess and reclaim the Mt. Taylor Mine site. Any further delays in reclamation could detrimentally affect the public health and welfare, as well as the public trust in regional ground water and cultural resources of the Pueblo of Acoma and other downstream communities.

Discharge Permit 1712

In 2010, Rio Grande Resources received a discharge permit, DP-1712, for a 60 day pilot water study in anticipation of mine startup operations. If Rio Grande Resources is successfully able to remove uranium from mine shaft water, it should be required to begin reclamation of groundwater in the mine immediately. Another 5-year standby could result in further contaminant excursions away from the mine and delay ground water remediation efforts indefinitely.

If the pilot water study has added to existing surface and ground water contamination, RGRC is expected to notify the New Mexico Environment Department (NMED) and submit an abatement plan investigating all known areas of ground and surface water contamination within the area covered by DP-1712. The Pueblo of Acoma must exercise its sovereign powers of self-government in the best interests of the Acoma people, our ancestral lands and cultural water resources. Neither Rio Grande Resources, nor the Ground Water Quality Bureau shared the results or status of its pilot water study with Acoma, despite the Pueblo's stated concern about the effects of the pilot water study on its cultural water resources at the 2010 hearing on DP-1712.

EPA Five-Year Plan for the Grants Mining District

EPA Region 6 plans to develop a ground water investigation in the context of a comprehensive investigation of legacy uranium mines and mills in the Grants Mining District (GMD). Mt. Taylor Mine should be included as one of the legacy mines in the GMD for which reclamation is required.

The NMED considers the Westwater Canyon member of the Morrison Formation aquifer to be a potential future water supply for the region (Letter dated October 6, 2008 from Ron Curry to U.S. Nuclear Regulatory Commission regarding NRC's draft Generic Environmental Impact Statement for *In-Situ* Leach uranium Recovery Facilities) DP-1712 states that the Rio Grande Resources uranium mine site is a place of water withdrawal for present or reasonably foreseeable future use within the meaning of the *New Mexico Water Quality Act*, 1978 NMSA, Sections 74-6-5(E)(3).

Future dewatering of the Mt. Taylor Mine will further endanger vital water and cultural resources of the region, so important to tribal communities, local economies and traditional lifestyles.

Reclamation

A Bureau of Reclamation funded study which was undertaken in 2001, to evaluate the effects of pumping 4,000 acre feet of water per year from the Mt. Taylor Mine shows an impact to surface flows, such as springs which constitute cultural sites of the Pueblo and contributing properties to the traditional cultural properties of Mt. Taylor, and to the flows of the Rio San Jose.

It was also shown that water flows at Acoma's western boundary dropped by about 3 cubic feet per second when uranium mines were being dewatered to allow for the mining of uranium ore over a period of approximately 30 years. After the mining stopped in the late 1980's, the flow was not fully restored due to increased ground water use by other users such as the City of Grants and the Escalante Power Plant at Prewitt. Based on the last available measured flow, if the same diminution in flow that took place the last time uranium was mined in the area, Horace Springs, the sole remaining source of surface water across the Pueblo in the Rio San Jose, would cease to flow.

Another standby period would delay yet again the prospect of future dewatering and its devastating impact to Acoma Pueblo. The Mt. Taylor Mine site might further be excluded from EPA Region 6 efforts to address legacy uranium mining and milling operations if it remains on standby.

Over half of Mt. Taylor Mine's useful life has passed without any activity by Rio Grande Resources. It is time for Rio Grande Resources to commit to reclaiming the environmental hazards it has posed for over 20 years. The closeout plan and financial security approved by the Mining and Minerals Division in 1998 should now be reassessed.

Economic Viability of the Mt. Taylor Mine

Rio Grande Resources (RGR) anticipates that market demand for new uranium oxide "should increase" in the near future due to the depletion of low-cost coal reserves and increased demand for electric power. The impact of energy conservation programs, the use of alternative renewable energy sources, or recent nuclear reactor accidents that might affect the anticipated future economic viability of the mine were not discussed.

Instead, RGR premises the future economic viability of the mine facility on a potential water supply project that would require the construction of a new pipeline that has not yet been permitted.

When the last uranium boom was in full swing in the Grants Mining District, many mines opened and were later abandoned when the demand for uranium dwindled and market conditions were no longer favorable. After acquiring the Mt. Taylor Mine in 1991, RGR contends that market conditions are still not favorable for startup. Its renewal application for standby status covers both the mine and water treatment area units.

Continuing Environmental Hazards

Rio Grande Resources Corporation has not specified how federal and state environmental standards and regulations have been met during the mine's standby status since 1999. The corporation has not provided evidence of its compliance to date with Discharge Permit 61, federal discharge and storm water permits, or the Mt. Taylor Closeout Plan.

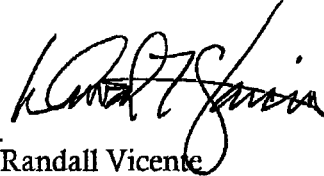
RGR states that its mine site has not been disturbed, but that sediment and runoff from its old 15.2 acre waste pile is being captured and collected in a containment basin. No description of the containment basin, whether lined or unlined, is described. The new waste rock pile encompassing 21.7 acres has been tested to determine shale quality, but no test results are offered or analyzed.

Drainage from RGR's 6.8 acre low grade ore stockpile has also been allowed to drain into a collection basin. It appears that the NMED has not examined stockpile drainage since 1999.

Mt. Taylor's watersheds and aquifers are important to all who live here, and should be managed to advance the greatest public good. Please make watershed protection and conservation a top priority in this era of climate change by ending Mt. Taylor Mine's protracted standby status and alternative water supply project.

Sincerely,

PUEBLO OF ACOMA


for Randall Vicente
Governor

cc: David F. Garcia, 1st Lt. Governor
Jody D. Vallo, Sr., 2nd Lt. Governor
Steve Juanico, Haaku Water Office
Petuuche Gilbert, Acoma Realty and Natural Resources
Theresa Pasqual, Acoma Historic Preservation
Kurt Vollbrecht, NMED Ground Water Quality Bureau
John D'Antonio, Office of the State Engineer