



MODRALL SPERLING

L A W Y E R S

Via E-mail david.mayerson@state.nm.us

Larry P. Ausherman
505.848.1836
Fax: 505.848.9710
lpasherman@modrall.com

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David L. Mayerson
Mining Environmental Compliance Section
Ground Water Quality Bureau
New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502-5469

Re: RGR's review of Draft Mt. Taylor Mine/Discharge Permit DP-61

Dear Mr. Mayerson:

This responds to your letter of July 21, 2015 providing an opportunity for RGR's review of draft DP-61. On behalf of RGR, this letter provides its comments on the draft.

Page 1, 2nd ¶; page 4, 2nd ¶; page 6, 1st ¶; page 15, ¶53 - "ground water contamination that had resulted from previous operations" -

The water is more accurately characterized as perched water from the waste lagoon. The impacted water is not in a pre-existing ground water horizon and is not ground water, as defined by the regulations. Nevertheless, RGR remains committed to the abatement plan for the perched water.

Page 2, first complete paragraph -

In the introductory sentence before the bullet points, the phrase "upon reactivation" has been deleted from the earlier draft. RGR understands that the intent is that RGR need not implement the upgrades now. RGR suggests inserting the phrase "upon reactivation". As an alternative, the insert could be "prior to resuming discharge."

Page 2, last sentence -

Treated water flows to ponds 8, 4 and 5 before going to 6 and 7.

Page 3, 2nd ¶ under section C; Page 4, last sentence under section D -

The statement that Se and Mo levels in the Westwater aquifer presently exceed regulatory standards is not correct; levels increased with pumping over time during the

Modrall Spierling
Roehl Harris & Sisk
P.A.

Bank of America
Centre
500 Fourth Street
NW
Suite 1000
Albuquerque,
New Mexico 87102

PO Box 2168
Albuquerque,
New Mexico
87103-2168

Tel: 505.848.1800
www.modrall.com

1980s but most recent data show Se and Mo below standards. However, levels may increase when dewatering resumes.

Page 4, 2nd ¶; Page 15, item #54 –

RGR will pump perched water to MWTU pond #2 when the liner is installed in this pond. This point on page 4 (and subsequent treatment of it at item 54) should make clear that lining of the pond and pumping need not occur until the mine permit is revised to active status and RGR has reasonable time to perform earthwork, concrete work and liner installation for this pond.

Page 6 –

RGR suggests changing the word “effluent” to “water”.

Page 9, item 13 –

The reference to disposal at an “appropriately-licensed facility” should be changed to “appropriate facility.” RGR should be able to propose on-site disposal.

Page 15, item 54 –

See comment regarding page 4 above.

Page 17, item 61 –

Please add the word “monitoring” before the word “well” in the first line, and again in the second line. RGR understands that the intent is that this condition applies to monitoring wells but not to all the other wells on site.

Page 17, item 62 –

If a well contains “insufficient water to effectively monitor ground water quality”, it does not necessarily follow that the well is defective or should be replaced. As we have seen on several RGR monitor wells, there may be insufficient water to monitor. Item 62 requires the same clarifications as #61 above to clarify that it applies only to monitoring wells, and that it does not apply to other wells.

Items 55 and 59 –

“Significantly” and “significant” are terms used in the rules but not defined.

Page 18, 3rd ¶ -

A ground water elevation contour map cannot be created based on the water level in one well; it is implicit that a map would use other water level data that are available as well. RGR understands that this item appears to refer to alluvial monitoring wells.

Items 64b and 64c –

These contain conflicting requirements – one week vs 15 days. The inconsistency should be corrected.

Page 19, 1st full ¶ -

“Reasonable probability” is vague and not defined. “Reasonable” is used frequently in the rules but is not defined.

Page 19, item 66 –

This condition should clarify that the requirement to schedule removal of ore from the pad upon temporary cessation applies only after the mine resumes production.

Items 67, 69, 70 –

RGR intends to abandon the deep wells upon closure, not after, in accordance with OSE requirements. Only Point Lookout wells will remain available for monitoring then. All of this was contained in the CCPs, and NMED had not previously made a similar comment about post-closure monitoring of deep wells below the Pt Lookout in commenting on the CCPs. This post-closure monitoring should be limited to Point Lookout wells.

Page 21, item 76 –

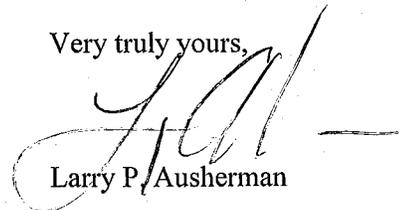
In the revised draft, NMED has deleted the word “significant” as a modifier to the word “change”. RGR suggests that “significant” be reinserted here. RGR can foresee possible insignificant variations in volume, location, amount, character, of the discharge.

Page 22, items 78 and 79 –

RGR does not understand why this waiver provision was inserted. RGR understands that the criminal penalty provision is intended to simply track the statute.

Thank you for this opportunity to comment on draft DP-61.

Very truly yours,



Larry P. Ausherman