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COPPER FLAT MINE FACES NEW OBSTACLE: OPERATOR MUST HAVE SUFFICIENT WATER FOR CLEANUP

SANTA FE, N.M. – On March 31, 2020, the Mining and Minerals Division (MMD) of the Energy, Minerals and Natural Resources Department, rescinded its prior determination that the permit application for the Copper Flat Mine is technically complete. According to the MMD’s order, the mining company’s mine permit application is incomplete because the mining company has not demonstrated that it holds adequate water rights to operate the mine and – more important – to reclaim the mine. Until the mining company can demonstrate that it has sufficient water rights to operate and reclaim the mine, the application will not go forward.

Eric Jantz, Interim Director of the New Mexico Environmental Law Center, which represents several clients in this case, said “We are pleased with MMD’s change of heart - MMD typically has not taken into account the availability of water in reviewing applications for mining permits. This is a very positive development and an important precedent for implementation of the New Mexico Mining Act.”

“We applaud the Mining and Minerals Division decision to pull back this permit and require the operator to demonstrate that it has the water rights necessary for reclamation of the mine site, said Allyson Siwik, Executive Director of Gila Resources Information Project, a client in this case. “This is a critical component of the reclamation plan that will ensure that the Copper Flat mine is cleaned up properly, preventing a repeat of its 1982 failure that left behind contaminated groundwater and a pit lake.”

Mining operations consume a large quantity of water, and so does reclamation of a mine site once mining operations cease. Water rights for the Copper Flat Mine have been controversial. N.M. Copper Corp. estimated that it would need 6,095 acre-feet per year (afy) of water to operate the mine, and more than 2,000 acre-feet during the first year of reclamation. In February 2018, a New Mexico court ruled that most of N.M. Copper Corp.’s water rights had been abandoned, leaving only about 865 afy for mining and reclamation. During a 2018 MMD hearing, our clients’ expert, an experienced mining engineer, testified that N.M. Copper Corp. “has not demonstrated ownership of legal rights to water in a quantity sufficient to complete” the necessary reclamation.

While the MMD decision is encouraging, our clients and we will continue to challenge the mine operator and hold state regulatory agencies accountable.

BACKGROUND:

The MMD order is the latest development in an attempt to reopen the Copper Flat Mine, located five miles northeast of the town of Hillsboro, in Sierra County, New Mexico. The mine operated briefly – for about three months – in 1982, before shutting down and leaving behind a legacy of contaminated groundwater and a contaminated pit lake. The mine has not operated since. On July 17, 2012, New Mexico Copper Corporation, a wholly-owned subsidiary of THEMAC Resources Group, Ltd., a Canadian corporation, submitted a permit application to operate the mine under the New Mexico Mining Act. MMD determined, on July 13, 2018, that the permit application was “technically approvable,” meaning that the application was complete and ready for agency consideration. MMD held a hearing on the permit application on October 23 and 24, 2018 in Truth or Consequences, N.M. On December 28, 2018, the hearing officer issued a report, but did not make any recommendation whether to grant or deny the permit. The permit application has been pending with MMD since that time.

The New Mexico Environmental Law Center represents the Ladder Ranch, the Hillsboro Pitchfork Ranch, and the Gila Resources Information Project (GRIP) in opposing this mine. The ranch properties are immediately adjacent to the mine site. The ranches contain sensitive ecosystems, including Las Animas Creek, Cave Creek, and the Avant Pasture, which support many important animal and plant species. The ranch owners and GRIP fear that mining operations would seriously deplete and degrade water resources at the ranches, with devastating consequences.

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Read the [Rescission of Notice of Technical Approvability](#)