



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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May 21, 2010

Thomas Seley, Field Manager
Bureau of Land Management
Tonopah Field Office
P.O. Box 911
Tonopah, NV 89049

Subject: Round Mountain Expansion Project Final Environmental Impact Statement
(EIS), Nye County, Nevada [CEQ # 20100135]

Dear Mr. Seley:

The U.S. Environmental Protection Agency (EPA) has reviewed the above referenced document. Our review and comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementation Regulations at 40 CFR 1500-1508, and our NEPA review authority under Section 309 of the Clean Air Act.

We have appreciated the opportunity to work with you during the preparation of the Draft and Final EISs consistent with the draft Memorandum of Understanding between the Nevada Bureau of Land Management (BLM) and EPA on mining-related NEPA projects. We continue to have concerns about the proposed monitoring and mitigation plans for the project and offer the following recommendations.

In accordance with 40 CFR 1505.2(c), the Record of Decision (ROD) should include the Long-Term Monitoring and Management Plan, including all activities that will be implemented and covered under the Long-Term Trust Fund (LTTF). The Plan should include the projected costs of each long-term monitoring and management activity, including appropriate contingencies.

The ROD should also include a detailed description of the LTTF agreement. The LTTF agreement should be finalized before start up of the mine expansion. The ROD should describe the project costs and financial assumptions used to estimate the funding level; the projected trust fund growth rate; and the amount needed in the fund, including the starting balance and the projected annual balance necessary to ensure coverage of the long-term monitoring and management plan for as long as it may be needed. The ROD should also specify the mechanics of the LTTF, which are also critical to determining whether sufficient funds will be available to implement the Long-Term Monitoring and Management Plan. This information includes: (a) requirements for timing of payments into the trust fund; (b) how BLM ensures that the trust fund is bankruptcy remote; (c) acceptable financial instruments (such as those specified in 43 CFR 3809.555); (d) legal structure of the trust for tax purposes; (e) who will pay the taxes on trust

earnings and trust fees and expenses; (f) how taxes and trust fees will be paid on the trust if the mining company goes out of business; (g) who will make investment decisions if the operator is no longer viable; (h) if the federal government controls the investment decisions, what legal and ethical issues arise from BLM controlling investment decisions about investments in private companies, voting stock and similar issues if the trust owns stock; (i) the identity of the trust fund beneficiaries; and (j) the identity and corporate structure of the operator with responsibility/liability for financial assurance at this site. EPA continues to object to the cost calculations and financial assumptions BLM made for the Phoenix Mine, as well as the mechanics of that LTTF agreement. For the Round Mountain LTTF agreement, we recommend BLM use a conservative return rate, not authorize high-risk instruments, require annual monitoring of the LTTF performance, and require adjustments to the LTTF whenever they are needed.

Mitigation Measure V-1 indicates that Round Mountain Gold Corporation (RMGC) would compensate for the estimated direct disturbance of 0.6 acre of riparian vegetation at a ratio of 2:1. RMGC, in coordination with BLM, would identify the sites for mitigation and implement mitigation measures within one year of direct disturbance. We recommend the ROD commit to implementation of mitigation measures in advance of the disturbance to allow sufficient time for the enhancements to prove successful and ensure there is no time gap between when the habitat impacts occur and when they are mitigated. The details of the riparian habitat compensation plan should also be included in the ROD.

Final EIS Response 1-1: The Final EIS still indicates that the evaporation and evapotranspiration cells may be designed with an overflow system to a subsurface infiltration basin. However, we understand that an overflow system is no longer planned to be included (pers. comm. Pat Maley, RMGC, to Jeanne Geselbracht, EPA). The ROD should identify this change to the Plan of Operations.

Final EIS Response 1-2: Figure 2.4-1 depicts stormwater diversion channels along the southeastern side of the Round Mountain South Dedicated Pad and growth media and/or ore stockpiles, as well as the southeastern side of the Gold Hill facilities. However, there are several ephemeral streams that appear to run into the facilities along the eastern side of Round Mountain and Gold Hill facilities north of those diversion channels. It remains unclear whether or how stormwater will be diverted around the facilities to protect the facilities from stormwater damage during operations and post-reclamation. We recommend BLM reconsider the need for additional stormwater diversion structures in these areas.

The Final EIS identifies the post-reclamation monitoring that would be conducted; however, pit lake monitoring remains unclear. The Long-Term Monitoring and Management Plan should include monitoring of the pit lake for water quality and inflow/elevation to compare sampling data with the modeled predictions. Modeled predictions and assumptions should be adjusted, as appropriate, based on actual conditions during mine life and post-reclamation/closure.

We request a copy of the Record of Decision when it becomes available. If you have any questions, please call me at (415) 972-3521, or have your staff call Jeanne Geselbracht at (415) 972-3853.

Sincerely,

/s/

Kathleen M. Goforth, Manager
Environmental Review Office

Cc: David Gaskin, Nevada Division of Environmental Protection
Kristine Hansen, U.S. Army Corps of Engineers