

1 April 2016

BLM Las Cruces District Office  
Attention: Mr. Doug Haywood  
1800 Marquess Street  
Las Cruces, NM 88005

**Re: New Mexico Copper Corporation's Comments to Copper Flat Copper Mine Draft Environmental Impact Statement**

Dear Mr. Haywood:

The New Mexico Copper Corporation ("NMCC") hereby respectfully submits its comments to the November 2015 Copper Flat Copper Mine Draft Environmental Impact Statement ("DEIS") prepared by the Bureau of Land Management ("BLM"), as follows. These comments are made within BLM's extended comment period of April 4, 2016, and are therefore timely made.

**INTRODUCTION**

In accordance with the National Environmental Policy Act ("NEPA"), BLM's DEIS analyzes the potential environmental impacts of the proposed reestablishment of a poly-metallic mine and processing facility located near Hillsboro, New Mexico ("Mine"). BLM correctly analyzed the environmental impacts of four alternatives that would meet the proposed purpose and need. BLM has designated Alternative 2 as the Preferred Alternative.

NMCC recognizes and greatly appreciates the great amount of time, effort, and resources BLM has expended in evaluating all of the Proposed Alternatives, and in developing the very detailed DEIS. NMCC believes that BLM has come to the correct decision in designating Alternative 2 as the Preferred Alternative, and NMCC firmly supports that decision.

Moreover, from NMCC's review of the DEIS, BLM's designation of the Preferred Alternative is even more appropriate than is currently reflected in the DEIS. In particular, there are some areas of the DEIS in which appropriate clarifications will establish that the Preferred Alternative has even fewer environmental impacts than the DEIS currently indicates. These clarifications, which are listed below, fully support the DEIS's conclusions. NMCC respectfully

requests that these clarifications be included in the Final Environmental Impact Statement (“FEIS”).

### COMMENTS

**NMCC Comment No. 1: Mammals.** In its discussion of bat activity, the DEIS states that “[a] thorough survey of shafts was not conducted for bat activity.” (§ 3.10.1.3, at 3-131). It is possible that this statement might be misconstrued to indicate that the shafts have not been studied for bat activity, which is not accurate. NMCC notes that surveys of bat activity in adits and shafts were conducted as part of the 2013 Baseline Data Report Addendum, including a mist net survey at the two adits with the most favorable environmental conditions for roosting, and the results of these surveys were provided to BLM as it came to its decision. The FEIS should clarify this accordingly.

**NMCC Comment No. 2: Impacts to Gold Dust Road.** In discussing traffic capacity under the Proposed Action, the DEIS states that “[i]mpacts to [level of service] for Gold Mine Road, with time, would be major and potentially significant.” (§ 3.20.2.1, at 3-221), and that impacts for the Preferred Alternative would be the same as with the Proposed Action (§ 3.20.2.3, at 3-224). As an initial matter, NMCC notes that the correct name of this road is “Gold Dust Road.”

The DEIS states that “[n]o mitigation measures for transportation and traffic beyond regulatory requirements described in the Proposed Action have been identified for any alternative.” (§ 3.20.2.3, at 3-224) In this regard, NMCC notes that it will maintain Gold Dust Road through mutually agreeable mitigation agreements with Sierra County, which in turn will ensure that impacts to the level of service for Gold Dust Road, if any, will be neither major nor significant. The FEIS should clarify this accordingly.

**NMCC Comment No. 3: pH levels.** The DEIS makes the statement that “[r]unoff from mines into surrounding environments alters the pH of the receiving soils, contaminates soils with trace elements, and ultimately deteriorates soil fertility.” (§ 3.8.2.1.1, at p. 3-111). This generic statement, however, does not address the specific conditions and restraints involving runoff at the Mine under the Preferred Alternative.

In particular, NMCC will control runoff, and shall submit and maintain a stormwater management plan to include the management of impacted stormwater in a manner which prevents water pollution that may cause an exceedance of the applicable standards. Indeed, this

runoff control will be an express requirement of the discharge permit (“DP”) the New Mexico Environment Department (“NMED”) issues to NMCC. *See, e.g.*, NMAC 20.6.7.17C(4). Because the DEIS as currently worded may give the inaccurate impression that such runoff protections will not be present at the Mine, the FEIS should clarify that fully enforceable controls will be in place.

**NMCC Comment No. 4: Water used for dust suppression.** The DEIS states that “[i]f pit water is used for dust suppression, high [total dissolved solids], sulfates, metals, etc. contained in the water would contaminate soils. Such impacts could range from negligible to moderate depending on contaminate concentrations.” (§ 3.8.2.1.1, at p. 3-111). This pair of sentences is concerning because they assume pit water used for dust suppression will in fact contain high levels of contaminants, and that the result of dust suppression using pit water will in fact be elevated contaminants in soils. Neither assumption takes into account BLM’s separate observation that the use of pit water for dust control “would require a groundwater DP from the NMED,” thereby subjecting those discharges to applicable New Mexico groundwater standards. (§ 2.1.7.2, at 2-29).

The reality is that NMCC’s DP from NMED will require testing of any pit water that may be applied outside of the pit’s own watershed or capture zone. *See* § 2.1.7.2, at 2-29 (“Pit dewatering activities would be managed according to a mine operation and water management plan approved by the NMED. The mine operation and water management plan is a component of the NMED Groundwater Discharge Permit Application”). Any unsuitable water will not be used for dust suppression. The FEIS should clarify that any water used for dust suppression will be tested pursuant to NMCC’s discharge permit, that no water containing high levels of the listed contaminants will be used for dust suppression.

**NMCC Comment No. 5: Recreation and Tourism.** The DEIS makes the generic statement that “[g]iven that self-generated receipts at state parks are closely linked to outdoor water-based activities, the existence of an open-pit copper mine could adversely impact revenue and visitation.” (§ 3.22.2.1.6, at 3-264). This statement, however, does not take into account the specific circumstances of the Mine. Unlike proposals for new mining operations where none previously existed, the Preferred Alternative is for reestablishment of an existing Mine, to which there is currently no access, and from which the public is already excluded. Moreover, the

statement speculates about the possibility of adverse impacts without addressing how close a mine would need to be to a state park for revenues to be impacted.

The Preferred Alternative would not adversely impact any state park revenue and visitation to any greater degree than may currently exist. Indeed, elsewhere the DEIS states that “due to the presence of existing mining-related structures, the open pit mine and tailings pond, and existing fencing around parts of the mine area, which already restricts access for human health and safety reasons, recreational activities in this area are not prevalent.” (§ 3.16.2.1.1, at 3-200). The FEIS should either delete the statement quoted from § 3.22.2.1.6, or clarify that because an open-pit copper mine already exists the Preferred Alternative will not result in any additional adverse impacts to recreation and tourism.

**NMCC Comment No. 5: Visual Quality.** The DEIS states that “[a]dditional tree removal for the addition of haul roads and construction of facilities would contribute minor and long-term adverse impacts to recreation in the area based on the increased degradation of visual quality.” (§ 3.16.2.1.1, at 3-200). There are, however, no groups of trees along the proposed haul road routes. It is therefore possible, and even likely, that there will in fact be no additional tree removal under the Preferred Alternative, and thus no such hypothesized adverse impacts to recreational activities that the DEIS acknowledges are not prevalent. The FEIS should clarify this accordingly.

**NMCC Comment No. 6: Water Percolation.** The DEIS states that “there is potential that the waste rock or low-grade ore would eventually reach field capacity, and that percolation could occur at some time centuries in the future unless the rate of percolation of water into the pile is mitigated during reclamation.” (§ 3.4.2.1, at 3-39). What the DEIS does not do, however, is discuss the fact that mitigation of any such percolation will in fact exist under the Preferred Alternative. In particular, the pile will be mitigated by evaporation from revegetation that will be established on three feet (or other sufficient amount) of cover materials that will be emplaced during reclamation. *See, e.g.*, NMAC 20.6.7.33(F)(1). Accordingly, the FEIS should clarify that the rate of percolation of water into the pile will in fact be minimized as a result of planned reclamation.

**NMCC Comment No. 7: Table 2-28 on Total Water Use.** Table 2-28 of the DEIS concerns total water use for the Preferred Alternative. (§2.3.7.1, at 2-83). In so doing, the DEIS indicates in a footnote that the referenced total water use “[i]ncludes recycled water.” It would be

helpful for a reader to understand in this footnote exactly what percentage of the total water used in the Preferred Alternative is recycled water, as opposed to freshwater. The FEIS should thus clarify in the footnote that 72% of the total water use described in Table 2-28 is recycled water. This clarification will be consistent with the text of the DEIS, which makes clear that process water sources “would be 72 percent of the total need.” (§2.3.7.1, at 2-83).

**NMCC Comment No. 8: Accelerated Operations.** The DEIS states that “[t]here would also be indirect impacts from groundwater pumping and pollutant migration via wind and water that would affected [sic] a larger area beyond the mine area.” (§ 3.8.2.3, at 3-113). BLM came to the correct decision regarding the Preferred Alternative even with these claimed indirect impacts, but NMCC notes that it is unaware of any factual basis for this statement. If there is no such factual basis, NMCC respectfully requests that the statement be deleted from the FEIS.

**NMCC Comment No. 9: Calcium Carbonate/Caliche Effects.** The DEIS states that “[t]oo much caliche, generally greater than 10-20 percent, is not appropriate for surface layers of a soil cover (Vinson 2014). Soils with too much surface caliche result in low plant productivity and diversity; however, where the caliche occurs 5 inches or below ground surface, plant growth is not a problem.” (§ 3.8.2.1.1, at 3-110). BLM’s decision regarding the Preferred Alternative was correct. The issue with caliche is that it is calcium carbonate. While it is true that excess carbonates in soil can restrict the growth in some plants, there are numerous native and appropriate plant species that can thrive in soils with more than 10-20 percent caliche. Indeed, the DEIS acknowledges this fact when it states that “[t]he following properties are considered unsuitable criteria when determining what soils are suitable growth medium for reclamation: . . . calcium carbonate content *greater than 40 percent* . . . (USDA 1993)” (§ 3.8.1.2, at 3-106) (emphasis added). The FEIS should be clarified to confirm that the referenced USDA standard for calcium carbonate is the appropriate standard for considering the effects of caliche in soil covers.

**NMCC Comment No. 10: Cultural Resources in the APE.** The DEIS gives specific numbers of sites that are purportedly located within the area of potential impact (“APE”), including specific numbers of sites that are associated with the development of historic mining in the region, sites that have been determined eligible for the National Register of Historic Places, sites that have undetermined eligibility, sites that have been determined not eligible, and sites that are considered to be potential contributing elements to a future mining-related historic

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district. (§ 3.13.1.7, at 3-168 to -169). NMCC respectfully recommends that these numbers be revisited to ensure that they accurately reflect current numbers in the current Programmatic Agreement under review by consulting parties.

NMCC would like to thank you again for your time and effort in preparing the November 2015 Copper Flat Copper Mine DEIS and the opportunity to submit comments on this topic.

Best regards,  
New Mexico Copper Corporation



Katie Emmer  
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