

NEW MEXICO
HEALTH AND ENVIRONMENT
DEPARTMENT

ENVIRONMENTAL IMPROVEMENT DIVISION
Harold Runnels Bldg. -1190 St. Francis Drive
Santa Fe, New Mexico 87503

Richard Mitzelfelt
Director

Received 11/2/88
by Chino ECA

GARREY CARRUTHERS
Governor

CARLA L. MUTH
Secretary

MICHAEL J. BURKHART
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 31, 1988

D.P. Milovich, Manager
Chino Mines Company
Hurley, NM 88043

R E C E I V E D
NOV 08 1988
GROUND WATER BUREAU

RE: Discharge Plan Approval (DP-484)

Dear Mr. Milovich:

This letter confirms that on June 30, 1988 I approved Chino Mines Company's ("CMC") proposed discharge plan (DP-484) for Tailings Pond 7, located at Hurley, Grant County, New Mexico. The approved discharge plan consists of CMC's plan dated May 6, 1987 and the materials dated December 15, 1987, February 9, 1988, April 28, 1988 (excluding contingency plan), May 4, 1988, June 1, 1988 (excluding contingency plan), June 6, 1988, June 15, 1988, June 24, 1988, June 30, 1988 (as clarified/modified herein), and July 1, 1988, submitted as supplements to the discharge plan.

At the time I approved the plan, I stated that the conditions relating to that approval would follow. In addition to confirming my approval of the plan, this letter serves as your notice of those conditions. In general, those conditions are clarifications/modifications to the CMC letter of June 30, 1988 and are described below.

- (?)
1. Confusion and disagreement exist between the CMC's June 30, 1988 letter and its ~~verbal commitments~~ made on June 29, 1988 and earlier. The final location of monitor wells must be negotiated between CMC and EID technical staff. Therefore, my approval of DP-484 is conditioned on CMC and EID reaching agreement within thirty (30) days of the date of this letter on the number, specifications, and placement of monitoring wells. The monitoring wells shall be sufficient in number and properly constructed, placed and maintained to identify the effects, to the extent technically feasible, on ambient ground water quality of discharges authorized by DP-484 and the accuracy of the modeling submitted by CMC in support of DP-484.

EXHIBIT

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2. Within thirty (30) days of the date of this letter, CMC shall submit to EID the name of the consultant hired by CMC for the seepage study addressed in Item 1 of the June 30, 1988 letter and a copy of the study's scope. The thirty day requirement is necessary in order to meet the 180-day deadline for completion of the study. The EID will review the proposed scope of study and will comment on its adequacy for meeting the intent of Item 1. The EID will provide its comments within thirty (30) days after receipt of the scope of study.
3. EID staff, on July 15, 1988, observed seepage/flow from the starter dam drain blanket at Tailings Pond 7. As soon as possible, but no later than thirty (30) days of the date of this letter, CMC shall provide a plan to the EID for completely capturing and handling this flow.
- ✓ 4. To fulfill and supplement the commitments in Item 2 of CMC's June 30, 1988 letter, within thirty (30) days of the date of this letter, CMC shall submit hard copies of computer input and output for the modeling studies upon which this approval is based, including Tailings Pond 6 and other sources; Tailings Pond 7, at a seepage rate of 1500 gpm, plus Pond 6 and other sources; and Tailings Pond 7, at a seepage rate of 2000 gpm, plus Pond 6 and other sources.
5. With reference to Item 3 of CMC's letter, CMC shall submit the name of the consultant which has been contracted for the study of the interceptor well system and a copy of the scope of study. EID will review the scope of study and will comment on its adequacy. The study must consider the need for methods, such as monitor wells or geophysical techniques, to ensure that the system is designed and operated properly. The study shall also consider the need for the installation of continuous reading, water-level measurement devices on the recovery wells. In order to meet the 15-month deadline of February 1, 1990, the scope of study shall be submitted to the EID by February 1, 1989. EID will provide its comments within thirty (30) days of receipt of the scope of study. These deadlines are necessary due to the time that has already elapsed in the development of this letter. 7
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6. With reference to paragraph 3 of Item 3 of CMC's June 30, 1988 letter, cessation of the interceptor well pumping must be based on accumulated data and must be approved by EID, prior to such cessation.
7. With reference to Item 4 in the CMC letter, it is important that the best possible estimates of seepage rate be obtained using the proposed water balance calculations. In this regard, a rain gauge and an evaporation pan utilizing decant water must be operated and maintained at the site for use in calculating the water balance. Additionally, to obtain the best possible estimates of water quality for the seepage, a horizontal seepage collection device shall be

installed at the bottom of Tailings Pond 7. If CMC considers this to be infeasible, CMC must demonstrate such infeasibility in writing. CMC shall provide a written response to EID concerning these matters within thirty (30) days after the date of this letter.

8. CMC may only discharge treated mine water (neutralized to a pH at or above 9.0) in the quantities proposed in its June 30, 1988 letter into Tailings Pond 7. The authorization to dispose of mine water into Pond 7 may be re-evaluated by the Division as a result of ongoing studies and evaluations by CMC and EID with respect to the treatment of mine water.
9. With reference to Item 8 of the CMC June 30, 1988 letter, the monitoring shall be as described on the attached discharge plan summary.

The deadlines specified in paragraphs 1-7 above, may be extended upon a showing by CMC that it was unable to meet the deadline because of conditions beyond CMC's control. A request for such an extension must be submitted in writing, before the expiration of the referenced deadline and must fully explain the reasons for the extension and shall propose a new deadline.

→ The conditions stated above are necessary in order to assure that ground water at places of present or reasonably foreseeable future use is protected and will not exceed the water quality standards contained in WQCC Reg. 3-103. The conditions relating to effluent and ambient monitoring, and the number, design and construction of monitoring and interceptor wells are particularly important because of the nature of the evidence supporting the approvability of the discharge plan.

My determination that the discharge from Pond 7 "will not result in either concentrations in excess of the standards of Section 3-103 or the presence of any toxic pollutant at any place of withdrawal of water for present or reasonably foreseeable future use," WQCC Reg. 3-109.C.2, is based on modeling submitted by CMC which considered the effect of discharges from Pond 7, assuming an interceptor well system and discharge, in accordance with other approved discharge plans, on the present and future quality of ground water. I found it persuasive that the approval of the proposed discharge plan for Pond 7, including an interceptor well system, will not cause an increase in concentration or areal extent of ground water contamination at the site. The monitoring wells and additional monitoring and data analysis is necessary to evaluate the validity of the modeling analysis and to prevent the resultant ground water contamination if the modeling is found to be invalid.

→ Further, as a result of that modeling, I am concerned that significant ground water impacts are resulting and will result from the approved discharge plan for Pond 6. As a result, I have asked Stuart Castle, Chief of the EID's Ground Water Bureau, to evaluate the approved discharge plan for Pond 6 and, if necessary, initiate action to modify that plan to assure ground water quality is protected.

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The monitoring and reporting shall be as specified in the discharge plan and supplements thereto. These requirements are summarized on the attached sheet(s). Any inadvertent omissions from this summary of a discharge plan monitoring or reporting requirement shall not relieve you of responsibility for compliance with those requirements.

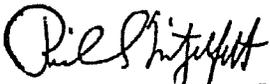
The discharge plan was submitted pursuant to WQCC Reg. 3-106 and is approved pursuant to WQCC Reg. 3-109. Please note WQCC Reg. 3-109.E. and F. provide for possible future amendment of the plan. Pursuant to WQCC Reg. 3-109.G.4., this plan approval is for a period of five (5) years and thus, will ~~expire June 30, 1993~~. CMC should submit an application for new approval in ample time before that date.

The approval of this plan does not relieve CMC of liability should CMC's operation result in actual pollution of surface or ground waters which may be actionable under other laws and/or regulations. Further, approval of this ground-water discharge plan does not relieve CMC the responsibility to comply with any other applicable local laws and regulations, such as zoning requirements and nuisance ordinances.

Please note that WQCC Reg. 3-104 requires that "discharges must be consistent with the terms and conditions of the [approved discharge] plan." Also, please be aware that in this discharge plan CMC has made commitments which are legally enforceable under the New Mexico Water Quality Act (Sections 74-6-1 to 74-6-13 NMSA 1978). These include constructing all aspects of your installation as designed, properly installing any required monitor wells in the prescribed locations and completely fulfilling any required monitoring commitments on schedule. CMC may be fined should it not fulfill these commitments.

If CMC is dissatisfied with the action taken by the Division, it may file a petition for hearing before the Commission. Pursuant to Section 74-6-5.K, NMSA 1978 and WQCC Reg. 3-112, the petition must be made in writing to the Director within thirty (30) days after CMC has received this letter. Unless a timely request for hearing is made, the Division's decision shall be final.

Sincerely,



Richard Mitzelfelt
Director

RM:lr

Enclosures

cc: Jon F. Thompson, Deputy Director for Community Protection
Stuart Castle, Chief, Ground Water Bureau
Keh Smith, EID District III Manager, Las Cruces
Mike Koranda, Phelps Dodge, Tyrone Branch
Steve Cary, EID Superfund Section, Santa Fe
Louis W. Rose, Deputy General Counsel, HED
Scott Crozier, Phelps Dodge, Phoenix

