

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd Leahy, JD, PhD
Deputy Secretary

Jerry Schoeppner, Director
Mining and Minerals Division



March 31, 2020

New Mexico Environmental Law Center
Attn: Mr. Charles de Saillan, Staff Attorney
1405 Luisa Street, Suite 5
Santa Fe, NM 87505

**RE: Rescission of Notice of Technical Approvability—Copper Flat Mine, Sierra County,
Permit Tracking No. SI027RN**

Mr. De Saillan:

Enclosed are the transmittal letter and Director's Order rescinding the notice of technical approvability and reopening review of the Copper Flat application.

If you have any questions, please contact Jerry Schoeppner at (505) 476-3435 or by email at gerard.schoeppner@state.nm.us.

Sincerely,

Stephanie J. Rodriguez
Records Manager
Mining & Minerals Division

State of New Mexico
Energy, Minerals and Natural Resources Department

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March 31, 2020

Mr. Jeffrey Smith
New Mexico Copper Corporation
P.O. Box 4209
Truth or Consequences, NM 87901

**RE: Rescission of Notice of Technical Approvability—Copper Flat Mine, Sierra County,
Permit Tracking No. SI027RN**

Mr. Smith:

This letter covers transmittal and summarizes the enclosed Director's Order rescinding the notice of technical approvability and reopening review of the Copper Flat application.

The Mining and Minerals Division ("MMD") has become aware of a press release from THEMAC Resources Group Limited dated February 28, 2020, which reports an update of project economics and permitting for the Copper Flat Mine Project in Sierra County. The update included the status of New Mexico Copper Company's ("NMCC") acquisition of water rights to support the operation of the mine facility as proposed.

As you are aware, MMD issued a letter dated June 13, 2018, notifying NMCC that the Permit Application Package ("PAP") was approvable in accordance with 19.10.6.605.E NMAC. This determination was based on several factors including "evidence" that NMCC could acquire sufficient water rights to support the proposed Mining Operation and Reclamation Plan (19.10.6.606.B(2) NMAC).

Based on THEMAC's press release and legal notice posted in the Las Cruces Bulletin on December 27, 2019, the following is the status of water rights NMCC is pursuing or has acquired:

Vested Water Rights

Through the Office of the State Engineer's ("OSE") adjudication process, the State of New Mexico's Third District Court ruled that, NMCC's vested water right under a purchase agreement to acquire 7,500 acre-feet per year ("AFY") yielded only 864 AFY. NMCC has filed an appeal protesting the Court's decision, however, a date to hear oral arguments has not yet been set and therefore, NMCC currently holds only 864 AFY of vested water rights. These same water rights had been limited in 2012, and the NMCC challenged the OSE decision. This challenge has been docketed as case number 2012-055 in an administrative hearing process, which has been stayed because of the aforementioned adjudication and appeal.

Leased Water Rights

Under a lease from the Jicarilla Apache Nation, NMCC has acquired 3,000 AF for a term of 15 years. The lease was authorized and approved by the United States Department of Interior

and the United States Bureau of Reclamation in February 2016 and will be used to offset depletions of water from the Rio Grande and Caballo Reservoirs.

Other Leased Water Rights

According to the legal notice in the Las Cruces Bulletin, referenced above, NMCC has entered into an agreement to lease an additional 2,400 AFY from Tulla Resources Group PTY LTD and Santa Teresa Capital LLC. NMCC has filed an application with OSE to change the point of diversion and place of use in August 2019. However, a protest has been filed and therefore, the lease has not been approved or denied.

In summary, NMCC's water rights portfolio for the Copper Flat Mine to date totals 864 AFY of vested rights. An additional 2,400 AFY of leased rights are currently under appeal. NMCC states in its application for the Copper Flat Mine that a total of 6,100 AFY is needed to support the proposed Mining Operation and Reclamation Plan. Approximately eight years have passed since NMCC applied for a mine permit with MMD and NMCC has only acquired 864 AFY of vested water rights. Other water rights have been contested and therefore are not currently available. Considering NMCC's lack of success over the past eight years, MMD is concerned that many more years and protracted litigation may not result in obtaining sufficient water rights to operate and reclaim the mine. Securing sufficient water rights to fully implement the Mining Operation and Reclamation Plan has been an overarching concern of MMD as indicated in the December 21, 2018 Status update letter to NMCC.

Based on the foregoing and this new information that raises uncertainty about when and if NMCC can secure the water rights for the project, MMD formally rescinds the notice of technical approvability dated July 18, 2018, and reopens the permit review process for consideration of the following issues:

- 1) Demonstration that NMCC has secured the approximately 6,100 acre feet ("AF") per year of water from the production wells necessary to operate and reclaim the mine as proposed in the Mining Operation and Reclamation Plan, either through final resolution in NMCC's favor of the determination of the water rights currently pending in *State of New Mexico, ex rel. Office of the State Engineer v. EBID et al.*, Case No. A-1-CA-37258, or by securing and permitting diversion of the necessary amount of permanent water rights from a different source;
- 2) Demonstration that the term of the lease agreement between Tulla Resources Group PTY LTD and the Santa Teresa Capital LLC or any other owner of water rights for diversion at the production wells is sufficient to ensure operation and reclamation of the Copper Flat Mine;
- 3) Demonstration that the term of lease agreement the with the Jicarilla Apache Nation or any other lessor is sufficient to completely offset the depletion of a cumulative amount of approximately 16,382 AF of water from the Rio Grande/Caballo system through diversion at the production wells;
- 4) Final approval and administrative or judicial determination of any transfer of water rights to the production wells;
- 5) Demonstration that NMCC has obtained or is likely to obtain a dam safety permit from NMOSE for the tailings storage facility (demonstration of water rights satisfactory to justify the size of the impoundment is necessary for the dam safety permit); and

This summary of issues paraphrases the Ordering paragraphs in the attached Director's Order which are binding on NMCC. At such time as MMD determines that the PAP adequately addresses the issues listed, above, MMD may schedule a second public hearing on these issues to satisfy the requirements of 19.10.19 NMAC.

Also, MMD suspends review of the reclamation plan cost estimate until after the second public hearing if one is held or after determination of the PAP is complete. Following the second public hearing, or determination that the PAP is complete, NMCC shall revise the estimate of reclamation costs to include amounts sufficient to cover purchase of the approximately 2,200 AF of water needed to

accomplish the rapid fill of the pit by MMD and the 16,382 AF of water needed to offset depletion of water from the Rio Grande/Caballo system in the event of default by NMCC and for any other costs identified during the reopened review directed by the Order.

If you have any questions, please contact me at (505) 476-3435 or by email at gerard.schoeppner@state.nm.us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jerry Schoeppner", is positioned above the printed name.

Jerry Schoeppner, P.G.
MMD Director

cc: Holland Shepherd, Mining Act Program Manager
Brad Reid, NMED Permit Lead

**BEFORE THE DIRECTOR OF THE MINING AND MINERALS DIVISION
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT**

IN THE MATTER OF:

**THE APPLICATION OF NEW MEXICO
COPPER CORPORATION FOR A REGULAR
NEW MINE PERMIT FOR THE COPPER
FLAT MINE UNDER PART 6 OF THE
MINING ACT RULES, 19.10.6 NMAC,
PERMIT TRACKING NO. SI027RN**

**DIRECTOR'S FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER
TO REOPEN REVIEW OF THE PERMIT APPLICATION**

THIS MATTER comes before the Director of the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department of the State of New Mexico, upon the application of the New Mexico Copper Corporation for a permit for a regular new mining operation under Part 6 of the Mining Act Rules, 19.10.6 NMAC for the Copper Flat Mine, Permit Tracking No. SI027RN, located in Sierra County near Hillsboro, New Mexico.

The Director, being fully informed on the premises including the materials identified as the permit application package, newly obtained information and legal considerations explained in this Order, and as required by the New Mexico Mining Act (NMSA 1978, §69-36-1, et seq. (2014)) and the Mining Act Rules, 19.10 NMAC, enters this Findings of Fact, Conclusions of Law and Order Reopening Review of the Permit Application ("this Order").

DEFINITIONS

To the extent that terms used in this Order are taken from the Mining Act or the Mining Act Rules, those terms shall be understood as they are defined or used in those authorities.

Unless listed, below, abbreviations of frequently used terms are stated after their first appearance in the text.

“*” before a number in a citation refers to the page number indicated by Adobe Acrobat Reader for a document in which the pages are not numbered.

“af” and “afy” means a quantity of water measured in acre-feet or acre-feet per year, respectively.

“App. E” means Appendix E, Mine Reclamation and Closure Plan, Copper Flat Mine, Revision 1, prepared by Golder Associates, Inc., dated July 17, 2017, and attached to the Updated Mining Operation and Reclamation Plan, Revision 1 prepared by Velasquez Environmental Management Services, Inc.

“BLM” means the Bureau of Land Management of the United States Department of the Interior.

“BLM ROD” means the Copper Flat Copper Mine Record of Decision prepared by the U.S. Department of the Interior, Bureau of Land Management, Las Cruces Field Office, August 2019.

“Copper Flat Mine” means the proposed action and includes all undertakings described in the PAP.

“EMNRD” means the Energy, Minerals and Natural Resources Department of the State of New Mexico.

“FEIS” refers to the Copper Flat Copper Mine Final Environmental Impact Statement, April 2019, prepared by the Las Cruces District Office of the Bureau of Land Management of the United States Department of the Interior as required by the National Environmental Policy Act of 1969, as amended.

“Hearing Officer Report” means the report of the hearing officer prepared from the testimony and public comment taken in the public hearing held on October 23 and 24, 2018, at the Albert J. Lyons Event Center in Truth or Consequences, New Mexico, as required by 19.10.9.901(A) NMAC.

“Mining Act” means the New Mexico Mining Act (NMSA 1978, §§ 69-36-1 through 69-36-20 (2014)).

“Mining Act Rules” means the administrative rules adopted by the Director under authority of the Mining Act that are codified at 19.10 NMAC.

“MMD” means the Mining and Minerals Division of EMNRD.

“MORP” means the “Updated Mining Operation and Reclamation Plan, Revision 1” for the Copper Flat Mine prepared by Velasquez Environmental Management Services, dated July 2017.

“NMAC” means the New Mexico Administrative Code.

“NMCC” means the New Mexico Copper Corporation, in its capacity as applicant of the Copper Flat Copper Mine and includes any successor in interest or permit transferee.

“NMED” means the New Mexico Environment Department.

“NMSA” means the New Mexico Statutes Annotated.

“OSE” means the New Mexico Office of the State Engineer.

“PAP” means the Permit Application Package and includes all the materials identified in Section 2 of the Permit.

“Permit” means the permit contemplated by the application by NMCC for the Copper Flat Mine that is identified as Permit Tracking No. SI027RN that is the subject of this Findings of Fact, Conclusions of Law and Order.

“PHC Report” means the Revision 1.0 Probable Hydrologic Consequences of the Copper Flat Project, Sierra County, New Mexico, revised May 22, 2018, prepared by John Shomaker & Associates, Inc.

“TSF” means “tailings storage facility” and means the same as the term “tailings disposal facility” used in the Mining Act Rules.

“Water Quality Act” refers to the Water Quality Act codified at Chapter 74, Article 6, NMSA 1978 and the rules adopted under authority of the act.

“WQCC” means the New Mexico Water Quality Control Commission.

FINDINGS OF FACT

The Applicant

1. NMCC owns and controls the entire interest in the proposed Copper Flat Mine.
2. NMCC is incorporated under the laws of the State of New Mexico with a mailing address at PO Box 4209, Truth or Consequences, NM 87901, and its principal place of business listed at 88 Copper Rock Road, Hillsboro, NM 88042.

3. NMCC is a wholly owned subsidiary of THEMAC Resources Group, Limited, an entity formed under the laws of Yukon, Canada, with its head office located at: THEMAC Resources Group Limited, 1500-409 Granville Street, Vancouver, BC, Canada V6C 1T2.

The Proposed Action

4. The proposed action is the development, operation, and reclamation of the Copper Flat Mine which is located in Sierra County approximately 150 miles south of Albuquerque and 20 miles southwest of Truth or Consequences, New Mexico, north of NM State Highway 152 between the communities of Caballo to the east and Hillsboro to the west. *See* MORP § 1.0.

5. The portion of the proposed Copper Flat Mine that is not located on private land lies on federal land managed by the BLM.

6. The proposed Copper Flat Mine includes an open pit, haul roads, waste rock dumps, a mineral processing facility (or “concentrator”) including crushers and a froth floatation plant, a lined TSF, water impoundments, water wells, water pipelines, and other ancillary facilities. MORP § 2.1.

7. As required by the National Environmental Policy Act, the BLM prepared its FEIS for the proposed Copper Flat Mine. The FEIS analyzes and evaluates the potential physical, biological, economic, and social consequences that would likely result from implementing the project. Under authority of 19.10.13.1303(B) NMAC, MMD participated in the environmental review process as a Cooperating Agency through a Memorandum of Understanding with BLM, signed on October 4, 2011.

8. The FEIS considered four alternatives:

- a) a No Action alternative;

- b) the BLM Preferred Action, with mining estimated to continue for 11 to 12 years at the maximum proposed daily production rate of 47,950 tons of ore and waste rock per day;
- c) the Proposed Action with mining estimated to continue for 16 years at a production rate of 17,500 tons per day of ore; and,
- d) two mine plans of intermediate duration and production rate.

See FEIS ES 3-8; MORP §§ 1.0, 2.1 (Table 2-2)).

9. The ore body proposed for mining is a porphyry copper-molybdenum deposit that also contains minor, but potentially recoverable, gold and silver bearing minerals. *See* MORP § 4.1.1, p. 4-3; SRK Consulting, Pit Lake Modeling Report (2014¹) p. v.

10. Mining activities occurred at the site of the Copper Flat Mine prior to enactment of the Mining Act in 1993. The mine operated for approximately seven months in 1982. For approximately half that time, the mine was engaged in commercial production. No mining has occurred at the site since June 1982. The previous mining operations left behind several waste rock stockpiles, an open pit with an existing pit lake², a tailings storage facility, other

¹ The administrative record contains two versions of the Pit Lake Modeling Report, one marked “draft” dated December 2014 and another dated December 2017. The 2014 report predated NMCC’s decision to rapidly fill the pit lake early in the reclamation period. The 2017 report proposes somewhat different methodologies than the 2014 Pit Lake Modeling Report and offers conclusions based on the rapid fill scenario, it does not contradict the other information contained in the earlier report. Also, the 2017 report was prepared after NMED determined that the water quality standards contained in the Water Quality Act did not apply to the pit lake.

² This Order distinguishes between the “existing pit lake” and the “post-mining pit lake” that is anticipated after mining described in the PAP has ceased.

impoundments, a mineral processing plant, and associated infrastructure. Major facilities such as the mineral processing plant have been removed. The bottom level of the pit currently lies at 5,400 feet above mean sea level. *See* FEIS p. 2-1, 2-2; MORP § 2.1.1, p. 2-6.

11. Implementation of the BLM Preferred Action results in construction and operation of the Copper Flat Mine and concentrator for a maximum throughput of 30,000 dry tons per day of ore, generating up to 25,264,000 gallons per day of tailings slurry. MORP §§ 2.1.5, 2.2.7.

12. As required by the Mining Act Rules, the MORP describes a Reclamation and Closure Plan to re-establish grazing in the area and allow for long-term use of the reclaimed areas by wildlife known to historically use the area and livestock without affecting the potential for other uses such as mining and recreation. *See* MORP § 2-3, p. 2-54; 19.10.6.606(B)(1) NMAC; MORP App. E *passim*.

13. Geochemical testwork identified the potential for sulfide bearing rocks in the area to potentially release trace metals and sulfate and generate acidic rock drainage. SRK Consulting, Pit Lake Modeling Report (2014) p. v; SRK Consulting, Pit Lake Modeling Report (2017) p. 20.

14. During and after reclamation, the pit will function as an evaporative sink, with the elevation of the post-mining pit lake stabilizing below the surrounding groundwater levels in the crystalline bedrock.

15. The post-mining pit lake chemistry is likely to be dominated by surface run off, evapoconcentration effects, and by equilibrium chemistry in the lake. The engineering analysis prepared by Golder Associates, Inc. indicates that the pit lake will rise to an equilibrium elevation of approximately 4,895 feet above sea level where inflows of groundwater and

stormwater are offset by natural evaporation. App. E 16; SRK Consulting, Pit Lake Modeling Report (2017) § 6.1, p. 67.

Permit Review Events Pertinent to this Order

16. NMCC submitted various portions of the PAP between 2012 and 2018 under authority of 19.10.6.602 NMAC.

17. As required by 19.10.6.605(E) NMAC, the Director notified the NMCC that the PAP was technically approvable on July 13, 2018.

18. MMD received public comment and testimony at the public hearing held on October 23 and 24, 2018, as required by 19.10.9.901(A) NMAC. The hearing officer prepared a Hearing Officer Report for the meeting.

Water Rights Necessary to Operate and Reclaim the Copper Flat Mine

19. The primary source of water for the mine, the concentrator, and the TSF are four production wells (“the production wells”) located about 6 miles east of the permit boundary in the Santa Fe Group rock formation. *See* PHC Report iii, 21, Fig. 3.6.

20. According to the MORP, NMCC requires approximately 6,095 afy of water from the four production wells to operate the mine, the concentrator, the TSF, and other facilities. *See* PHC Report, § 2-1.

21. At the beginning of the reclamation period, NMCC proposes pumping approximately 2,200 af of untreated groundwater from the production wells into the pit until the surface elevation of the post-mining pit lake reaches approximately 4,895 feet above sea level, the estimated static water table as determined by the Pit Lake Modeling Report. This rapid fill

process is expected to require pumping of water into the pit for six months. SRK Consulting, Pit Lake Modeling Report § 6.1, p. 64; App. E 16; PHC Report p. iii.

22. The purpose of rapid fill of the open pit with good quality groundwater is to minimize the formation of acid rock drainage in the pit by limiting the exposure of the mineralized portion of the pit walls to oxygen. *See* SRK Consulting, Pit Lake Modeling Report (2017) § 6.1, p. 64.

23. NMCC projects a maximum annual rate of withdrawal of water from the production wells in the amount of 6,095 afy while the deposit is being mined and reclaimed. Water removed from the aquifer over a pumping duration of 25 years that includes the mine construction and start up, 11.5-year mining period for the Preferred Alternative, and through the end of reclamation is projected to total 73,856 af, including 2,200 af for rapid fill of the pit, and 1,276 af for other reclamation activities. *See* PHC Report 8, Table 2.2.

24. Rapid fill of the pit is a critical measure to reduce or slow the concentration of toxic constituents in the post-mining pit lake from acid rock drainage and minimize potential adverse impacts to birds and bats that may use the pit walls and the pit lake. *See* 19.10.6.603(C)(2) NMAC.

25. The FEIS recognizes that, “[a] critical element of the approval process for mining operations is assurance of sufficient water rights for all phases of the mine project.” FEIS § 1.6.3, p. 1-10.

26. On December 28, 2017, in *State of New Mexico, ex rel. New Mexico State Engineer v. Elephant Butte Irrigation Dist., et al.*, 3rd Jud. Dist. Ct. No. 96-888, Subfile Nos. LRO-28-008-9009, LRO-28-008-9010, Judge James J. Wechsler issued Findings of Fact and Conclusions of Law and on February 28, 2018, issued Subfile Orders and Judgment (“the Wechsler

Determination”). Judge Wechsler determined that many of the water rights associated with the production wells had been abandoned or forfeited and that the total amount of water rights available to NMCC from the production wells is 861.84 afy, from the pit is 34.45 afy, and from one well, 3.0 afy rather than the 6,095 afy that the owners of those water rights had claimed. Wechsler Determination ¶ 43. In reaching his determination Judge Wechsler adopted the assessment of the OSE.

27. The combined water rights available from the production wells and one livestock well identified in the PAP are only 864.84 afy, or less than 15% of NMCC’s stated need.

28. The Wechsler Determination is pending appeal before the New Mexico Court of Appeals, *State of New Mexico ex rel. Office of the State Engineer v. Elephant Butte Irrigation Dist., et al.*, Ct. App. No. A-1-CA-37258.

29. According to a notice appearing in the Las Cruces Bulletin on Friday, December 27, 2019, an entity affiliated with NMCC, Tulla Resources Group PTY LTD, has applied to the OSE for approval of a lease of 2,400 afy. Ex. 1.

30. THEMAC Resources Group, Limited, issued a press release dated February 28, 2020, to notify the public of acquisition of water rights to support the operation of the mine facility as proposed. Ex. 2.

31. According to information available on the OSE website, the application to transfer the leased water rights described in paragraph 29 is subject to a protest. *See* Ex. 3 (Excerpt of OSE Docket)

32. OSE rules governing the administration of surface waters limit the term of a lease of water rights for other than municipal use to ten years. *See* 19.26.2.18 NMAC.

33. A lease of water rights for a term of ten years is not sufficient to ensure the availability of water necessary to operate and reclaim the Copper Flat Mine in accordance with the MORP whether the period of mining continues for 12 or 16 years according to any of the three action alternatives described in the FEIS.

34. Reliance on leased water rights as opposed to permanent water rights for a project spanning several decades adds risk that the water rights may not remain available throughout the entire mine operation and reclamation period, if needed.

35. There is no assurance that NMCC's lease of water rights for diversion at the production wells will be approved by OSE.

36. In the time since the June 13, 2018 notice of technical approvability, NMCC has not demonstrated that it has obtained sufficient permittable water rights in the amount of 6,095 afy necessary to operate and reclaim the Copper Flat Mine.

37. In addition, NMCC cannot claim that it has obtained or is likely to obtain the approvals and permits necessary to withdraw or divert the necessary amount of water through the production wells. *See* 19.10.6.606(B)(2) NMAC (applicant for a new mine permit must provide evidence that all other applicable state and federal permits required to be obtained by the new mining operation either have been or will be issued before the activities subject to those permits begin).

38. Securing water rights sufficient to ensure rapid fill of the pit after mining ceases is critical to reclamation of the Copper Flat Mine in accordance with the MORP and is necessary to minimize the concentration of toxic or otherwise harmful contaminants in the post-mining pit lake that may pose a threat to wildlife. *See* 19.10.6.603(C)(2) NMAC.

Water Rights Necessary to Mitigate Depletions to the Rio Grande Caballo Reservoir

39. Withdrawal of water through the production wells from the regional Santa Fe Group (“SFG”) aquifer will result in local groundwater-level drawdown over time that will in turn cause reduced discharge from the SFG aquifer to the Rio Grande and the Caballo Reservoir, and reduced discharge to other connected hydrogeologic systems. *See* PHC Report iii, 14, Table 3.1.

40. Depletion of the Rio Grande is projected to peak at approximately 2,200 afy at the end of mining, then reduce to 28 afy by 100 years after mining is completed. *See* PHC Report iii, 14, Table 3.1.

41. The cumulative depletion of water from the Rio Grande/Caballo Reservoir system due to pumping from the production wells is estimated to be 16,382 af by three months after rapid fill of the pit is complete. *See* PHC Report 14, Table 3.1. NMCC pledged to ensure no net reduction in flows of the Rio Grande. *See* PHC Report 16. Avoiding a net reduction in flows to the Rio Grande will require diversion of water to the Rio Grande system or curtailment or retirement of withdrawals of water from the Rio Grande system for the duration of the 45-year recovery period after pumping from the production wells ceases. *See* PHC Report 15, Figure 3.4.

42. NMCC has leased water rights from the Jicarilla Apache Nation for the purpose of offsetting depletions of water attributable to the use of the production wells through a lease for a term of fifteen years from when ore crushing begins. *See* PHC Report, pp. 16-17.

43. The total cumulative amount of 16,382 af of water expected to be depleted from the Rio Grande both above and below the Caballo Dam will have to be mitigated through the Jicarilla Apache Nation lease. *See* PHC Report 14 (Table 3.1).

44. In order to achieve no net reduction in flows to the Rio Grande, the cumulative estimated depletion amount of 16,382 af must be increased to compensate for evaporation and other losses attributable to conveyance of water subject to the Jicarilla Apache Nation lease from the discharge point in northern New Mexico to the Caballo Reservoir. *See* PHC Report 16.

45. In a letter from NMCC to the BLM dated March 23, 2017, NMCC committed to fully offsetting calculated and actual depletions to the Rio Grande resulting from mining operations. In a subsequent letter to the BLM on June 29, 2017, NMCC confirmed that the offset was to be provided with water obtained from the Jicarilla Apache Nation for a period beginning 15 years after ore crushing begins. FEIS § 1.6.3.2, p. 1-12.

46. NMCC pledged to either extend the lease for an additional term or secure other water sources to provide offsets up to year 29 after mine operations begin. FEIS § 1.6.3.2. In a letter to the BLM dated August 27, 2017, NMCC reiterated its pledge to fully offset all NMCC pumping impacts on the Rio Grande, including years beyond year 29 with actual water. FEIS § 1.6.3.2.

47. Notwithstanding NMCC's pledge, the 15-year term of NMCC's lease agreement with the Jicarilla Apache Nation is not sufficient to guarantee mitigation of depletions of water from the Rio Grande-Caballo Reservoir system for the duration of the 45-year recovery period after pumping from the production wells ceases.

48. Notwithstanding NMCC's pledge, the extended 29-year term of NMCC's lease agreement with the Jicarilla Apache Nation is not sufficient to guarantee mitigation of depletions of water from the Rio Grande-Caballo Reservoir system for the duration of the 45-year recovery period after pumping from the production wells ceases.

49. OSE rules governing the administration of surface waters to limit the term of a lease of water rights for other than municipal use to ten (10) years. *See* 19.26.2.18 NMAC.

50. The OSE rules governing administration of surface waters prohibit leases of water rights for a term necessary to ensure that water is available to completely mitigate depletion of water from the Rio Grande/Caballo system, a period of at least 45 years after use of the production wells ceases.

51. Based on the findings in paragraphs 39 to 50, NMCC has not demonstrated that it has secured or will be able to secure water rights sufficient to offset depletions of water to the Caballo Reservoir attributable to the use of the production wells through 45 years after pumping of the production wells ceases.

52. Notwithstanding NMCC's pledge to ensure that depletion of water from the Rio Grande/Caballo Reservoir system will be mitigated, there remains a significant risk that NMCC will not be able to secure those water rights in the future, or secure them at a price that it would be willing to pay. In the event that NMCC is unable to extend or renew its lease with the Jicarilla Apache Nation or otherwise acquire the water rights that are pledged through the lease, the burden of offsetting depletion of water due to operation and reclamation of the Copper Flat Mine will fall on the citizens of the State of New Mexico. Because any adverse consequences to New Mexico and its citizens attributable to the unmitigated depletions of water from the Rio Grande/Caballo Reservoir system may not be remediable through suspension of a Permit, monetary damages, injunctive relief, NMCC must demonstrate that it has obtained water rights sufficient to mitigate depletions to the Rio Grande/Caballo Reservoir system for a period of at least 45 years after pumping from the production wells ceases.

The Dam Safety Permit for the TSF

53. The TSF is an impoundment³ structure constructed to store process waste from the Copper Flat Mine mineral processing facilities. The TSF will occupy approximately 564-acres.

54. The proposed TSF qualifies as a “jurisdictional dam” and is subject to regulation and permitting by the Dam Safety Bureau of the OSE. See § 72-5-32 NMSA 1978. Accordingly, a TSF that complies with the Mining Act Rules must be designed as required by a Dam Safety Permit issued by OSE.

55. OSE rules governing Dam Design, Construction and Dam Safety (19.25.12 NMAC) require the applicant to demonstrate water rights sufficient for impoundment by the proposed dam. *See* 19.25.12.11(B) and 19.10.6.606(B)(2) NMAC.

56. As explained in paragraphs 19 through 38, NMCC has not provided evidence that it has secured water rights sufficient support an application to for a dam safety permit by the New Mexico Office of the State Engineer for the TSF as “jurisdictional dam” under 19.25.12 NMAC. *See* 19.10.6.606(B)(2) NMAC.

³ Although a tailings storage facility may be commonly considered a type of “impoundment” it is not regulated as an impoundment under the Mining Act Rules. *See* 19.10.1.7(I)(3) NMAC.

CONCLUSIONS OF LAW

57. The Mining Act and the Mining Act Rules authorize the Director to review and approve applications for mining and issue permits for a new mining operation if the Director determines that the requirements of the Mining Act and the Mining Act Rules have been met.

58. NMED has jurisdiction over surface and groundwater quality under authority of the New Mexico Water Quality Act (WQA), NMSA 1978, §§ 74-6-1 through 74-6-17, and the New Mexico Water Quality Control Commission (WQCC) Regulations, 20.6.2, 20.6.4, and 20.6.7 NMAC.

59. The Mining Act Rules prohibit the Director from issuing a permit until NMCC “has provided evidence that all other applicable state and federal permits required to be obtained by the new mining operation either have been or will be issued before the activities subject to those permits begin.” 19.10.6.606(B)(2) NMAC.

60. Notwithstanding the requirements of the Water Quality Act, the Mining Act Rules require that “measures be taken to minimize adverse impacts on wildlife [including] restricting access of wildlife . . . to toxic chemicals or otherwise harmful materials.” 19.10.6.603(C)(2), (2)(a) NMAC.

61. The Mining Act Rules provide for termination of technical review of the Permit application:

The Director shall, within 30 days after completion of the technical review of the application and the draft environmental evaluation, notify the applicant in writing whether the application is approvable, or, if not approvable, shall specify in detail what additional submittal or changes are required.

19.10.6.605(E) NMAC.

62. “The Mining Act as a whole gives broad discretionary authority to the Commission and the Director to implement the purposes of the Mining Act.” *Rio Grande Chapter of Sierra Club v. New Mexico Min. Comm’n*, 2003–NMSC–005, ¶ 20, 133 N.M. 97.

63. “[O]nly by granting certain discretion to the Director to administer and enforce the regulations could the Act be effectively implemented.” *Old Abe Co. v. New Mexico Min. Comm’n*, 1995–NMCA–134 ¶ 29, 121 N.M. 83 (internal quotations and citations omitted).

64. After notice of technical approvability, the Director may rescind that notice and reopen permit review if the Director concludes that information in the PAP is inaccurate or based upon new information indicating that the PAP is not sufficient to support issuance of the Permit.

65. Based on the information received and considerations arising after the date of notice of technical approvability under 19.10.6.605(E) NMAC on June 13, 2018, found by the Director in this Order, the Director concludes that the PAP is not sufficient to support issuance of the Permit.

ORDER

THEREFORE, THE DIRECTOR ORDERS that the June 13, 2018 notice of technical approvability is hereby rescinded and review of the Permit application for the Copper Flat Mine is reopened and NMCC shall provide the following information:

A. Demonstration that NMCC has secured the approximately 6,095 afy of water from the production wells necessary to operate and reclaim the Copper Flat Mine as proposed in the PAP, either through final resolution in NMCC’s favor of the determination of the water rights currently pending in *State of New Mexico, ex rel. Office of the State Engineer v. EBID et al.*, Case No. A-1-CA-37258, or by securing and permitting diversion of the necessary amount of permanent water rights from a different source or lease of water rights for a term sufficient to

cover the period of operation and reclamation of the Copper Flat Mine as proposed in the Mine Operation and Reclamation Plan;

B. Demonstration that the term of the lease agreement between Tulla Resources Group PTY LTD and the Santa Teresa Capital LLC or any other owner of water rights for diversion at the production wells is sufficient to cover the period of operation and reclamation of the Copper Flat Mine as proposed in the Mine Operation and Reclamation Plan;

C. Demonstration of final approval of any transfer of water rights to the production wells by the OSE including final and unappealable determination of any administrative proceeding or appeal;

D. Demonstration that the term of the lease agreement with the Jicarilla Apache Nation or any other lessor is sufficient to completely offset the depletion of a cumulative amount of approximately 16,382 af of water from the Rio Grande/Caballo system through diversion at the production wells for the duration of the 45-year recovery period after pumping from the production wells ceases;

E. Demonstration that NMCC has obtained or is likely to obtain a dam safety permit from OSE for the TSF (demonstration of having secured water rights satisfactory to justify the size of the impoundment is necessary for the dam safety permit); and

F. When the Director determines that the PAP adequately addresses the issues listed, above, MMD may schedule a second public hearing on these issues to satisfy the requirements of 19.10.9 NMAC.

G. MMD will suspend review of the reclamation plan cost estimate until after NMCC complies with this order and a second public hearing, as determined by the Director. NMCC

shall revise the estimate of reclamation costs to include amounts sufficient to cover purchase of the approximately 2,200 acre feet of water needed to accomplish the rapid fill of the pit by MMD and the 16,382 acre feet of water needed to offset depletion of water from the Rio Grande/Caballo system in the event of default by NMCC and for any other costs identified during the reopened review directed by this Order.

By Order of the Director of Mining and Minerals Division



Jerry Schoeppner

March 31, 2020

Date

NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

A person who is or may be adversely affected by this Director's Findings of Fact, Conclusions of Law and Order reopening review of the application for Permit No. S1027RN may file a written petition to the New Mexico Mining Commission for review within 60 days after notice of this Order. See NMSA 1978 § 69-36-15 (Administrative Review); 19.10.14 NMAC (Mining Commission Adjudicatory Review).

CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2020, copies of this Director's Findings of Fact, Conclusions of Law and Order reopening review of the application for Permit No. SI027RN were emailed to the persons listed below. Copies will be mailed first class upon request to the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department.

New Mexico Copper Corporation Attn: Mr. Jeff Smith, Chief Operating Officer P.O. Box 4209 Truth or Consequences, NM 87901 jsmith@themacresourcesgroup.com	Sierra County Commission Attn: Mr. James E. Paxon, Chair 855 Van Patten Truth or Consequences, NM 87901 jpaxon@sierraco.org
Modrall Sperling Attn: Mr. Stuart Butzier, General Counsel P.O. Box 9318 Santa Fe, NM 87504 sbutzier@modrall.com	New Mexico Environmental Law Center Attn: Mr. Charles de Saillan, Staff Attorney 1405 Luisa Street, Suite 5 Santa Fe, NM 87505 cdesaillan@nmelc.org
Mr. Kurt Vollbrecht NMED Ground Water Quality Bureau Mining Environmental Compliance Section P.O. Box 5469 Santa Fe, NM 87502 kurt.vollbrecht@state.nm.us	Barncastle Law Firm Attn: Ms. Samantha R. Barncastle, Attorney P.O. Box 1556 Las Cruces, NM 88004 samantha@h20-legal.com
Dr. Ghassan Musharrafieh Office of the State Engineer P.O. Box 25102 Santa Fe, NM 87504-5102 ghassan.musharrafieh@state.nm.us	Elephant Butte Irrigation District Attn: Mr. Gary Esslinger, Treasurer 530 South Melendres Las Cruces, NM 88005 gesslinger@ebid-nm.org
Dr. Matthew Wunder NM Department of Game and Fish P.O. Box 25112 Santa Fe, NM 87504 matthew.wunder@state.nm.us	Rio Grande Compact Commission Attn: Mr. Pat Gordon, Commissioner 401 E. Franklin Ave., Ste 560 El Paso, TX 79901-1212 pgordon@gordonmottpc.com
Ms. Leighandra Keeven Bureau of Land Management 1800 Marquess St. Las Cruces, NM 88005 lkeeven@blm.gov	Gordon Davis Johnson & Shane P.C. Attn: Mr. Pat Gordon 4695 North Mesa Street El Paso, TX 79912 pgordon@gordonmottpc.com

Hillsboro Pitchfork Ranch, LLC Attn: Mr. Robert Cunningham and Ms. Kathy McKinney P.O. Box 478 Hillsboro, NM 88042 bcunni4668@aol.com	Gila Resources Information Project Attn: Ms. Allyson Siwik, Executive Director 305A North Cooper St. Silver City, NM 88061 grip@gilaresources.info
Turner Ranch Properties L.P. HC 31, Box 95 Caballo, NM 87931 steve.dobrott@tedturnerexpeditions.com	

EXHIBITS

- Ex. 1 Legal Notice appearing in the Las Cruces Bulletin on Friday, December 27, 2019**
- Ex. 2 THEMAC Resources Group Limited issued a press release dated February 28, 2020**
- Ex. 3 Excerpt of OSE Docket**

water has been or will be put to beneficial use. This notice is ordered to be published in the Las Cruces Bulletin and the Sierra County Sentinel.

Any person, firm or corporation, or other entity having standing to file objections or protests shall do so in writing (objection must be legible, signed, and include the writer's complete name, phone number, email address, and mailing address). The objection to the approval of the application must be based on: (1) impairment; you must specifically identify your water rights; and/or (2) Public Welfare/Conservation of Water; if public welfare is your basis, you must

Date: 12/27, 2019, 01:03.

Donna Ana is the County affected by the diversion and in which the water has been or will be put to beneficial use. This notice is ordered to be published in the Las Cruces Sun-News.

Use of well LAQ-10879-1,
located within the SW 1/4 of
sec. 18, T22S, R01E,
NMRM and more

To view the application and supporting documentation contact the State Engineer District Office to arrange a date and time for an appointment located at 1880 Hickory Loop, Suite J, Las Cruces, NM 88003.

polluter-credits and
if it is possible to
conservation of water
within the state of New
Mexico, you must show
how you will
substantially and
specifically address the
written protest must be
filed, to triplicate, with the
State Engineer, 1900
[Slicker Loop, Suite J, Las
Alamos, NM 87801, or
before February 20, 2002].
Facsimiles (faxes) will
be accepted as a valid protest
if the hard copy is
hand-delivered or mailed
postpaid to the State
Engineer, within
24-hours of the facsimile.
Mailing postmark will be
used to validate the
24-hour period. Protests
can be faxed to the Office
of the State Engineer at
524-4100. If no valid
protest or objection is
filed, the State Engineer
will evaluate the
application in accordance
with the provisions of
Chapter 72 NMSA 1978.

Dates: 12/13, 12/20, 12/27,
2019

Two additional wells, LRO023 and LRO024, are located within the NW ¼ of NW ¼ SW ¼ of projected Section 8, Township 34 South, Range 2 East (NMRP), and were specifically located where Latitude and Longitude intersect at 32° 14' 34" N, 100° 45' 12" W (WGS84), on land owned by the applicant, and by drilling new well LRO-03380-PD03, to be located within the NW ¼ NW ¼ SW ¼ of projected Section 8, Township 34 South, Range 2 East (NMRP), and were specifically located where Latitude and Longitude intersect at 32° 14' 48" N, 100° 45' 17" W (WGS84), on land owned by the

The applicant has requested emergency authorization to drill the proposed well under NHPA, 1976, Section 74.1221.

The proposed site of well LRG-03880-POB3 is located south of Las Cruces, NM and is approximately 2,383 feet southwest of the intersection of S. Main St. and White Oak Rd.

Done Ana is the County affected by the diversion and in which the water has been or will be put to

beneficial use. This notice is ordered to be published in the Las Cruces Bulletin.

Any person, firm or corporation or other entity having standing to file objections or protests shall do so in writing (objection must be legible, signed, and include the writers complete name, phone number, email address, and mailing address). The objection to the approval of the application must be based on: (1) impairment; If impairment, you must specifically identify your water rights; and/or (2) Public Welfare/Conservation of Water; If public welfare or conservation of water within the state of New

Notice, you must know that the protest will be considered mailed and specifically affected. The written protest must be filed, in triplicate, with the State Engineer, 1830 Hickory Avenue, Suite J, Las Cruces, NM 88003 on or before February 14, 2020. Preliminary (these) will be accepted as a valid protest if the hard copy is hand-delivered or mailed and postmarked within 24-hours of the facsimile. Mailing postmark will be used to validate the 24-hour period. Protests can be filed to the Office of the State Engineer, at 753-334-6160, if a valid protest or objection is filed. The State Engineer will evaluate the application in accordance with the provisions of Chapter 73 NMSA 1978.

Date: 12/13, 12/20, 12/31,
2018

NOTICE is hereby given that on November 14, 2019, Jonna Bell, PO Box 57, Arroyo, NM filed with the STATE ENGINEER Application No. LRG-13288-P0D1 for Permit to Change an Existing Water Right within the Lower Rio Grande Underground Water Basin of the State of New Mexico.

Dura Ana is the County affected by the diversion and in which the water has been or will be put to beneficial use. This notice is returned to: the publisher in the Las Cruces Bulletin.

Request to supplement use of well LRG-13288-POD2 located within the 31 1/4 of projected Sec. 1, T17S, R3W, NMPM, near the intersection of X=1516974 Y=677507 NMSP Central NAD83, on land owned by

panse Ball, with existing well LRG-13284-P01, located within SE $\frac{1}{4}$ of said sec. 1, near E-W intersection of N $\frac{1}{2}$ 13170th Y-677570. RMSP Control NAD83, on and owned by the applicant, for the diversion of 3.0 acre-feet per annum for domestic use as described in Mobile No. LRR150010009 of the Lower Rio Grande Hydrographic Survey. The applicant has requested emergency authorization to use supplemental well under RMSEA, 1978, Section 12-24.2. The subject wells are located, NW of Arroyo, NM, approximately 1,500, NW of the intersection of Divore Edge and Tumbleseed Rd.

To view the application and supporting documentation contact the State Engineer District Office to arrange a date and time for an appointment located at 1680 Hickory Loop, Suite J, Las Cruces, NM 88005.

any person, firm or corporation, or other entity having knowledge of file objections or records shall do so in writing (objection must be legible, signed, and include the writer's complete name, address, telephone number, and e-mail address).

The objection to the approval of the application must be based on:

- (1) Impairment;
- (2) Impairment of public welfare/conservation.

If Water, if public welfare/conservation of water within the state of New Mexico, you must show how the proposed facility and/or activity will be a significant adverse effect to the community affected.

The criteria provided must be filed in triplicate, with the State Engineer, 1600 Hickory Avenue, Suite 1, Las Cruces, NM 88003, on or before 11:59 a.m. on the date of the hearing. The criteria provided will be accepted as a valid protest if the hard copy hand-delivered or mailed and postmarked within 48-hours of the feasible planning postmark will be accepted for the hearing. Protesters can be found on the Office of the State

Engineer. (575) 524-6160. If no valid protest or objection is filed, the State Engineer will evaluate the application in accordance with the provisions of Chapter 72 PMSA 1978.

Deliver: 12/20, 12/27, 2019,
1/11, 2020

LRG-01260-PODZ,
SB Pile No
Change Location of Well
within the Lower Rio
Grande Underground Water
System of State of New
Mexico by Ditching the
well LRG-01260-A,
SSM within the SB 4, NW
Section 14, Township 31
North, Range 1 East (N14MPE), and
are specifically located
where Latitude and Longi-
tude intersect at 32° 11'
61" N, 106° 48' 27.54" W
(WQ34.8), on land owned by
applicant, by the construc-
tion of the use of well
LRG-01260, located within
the SB 4, NW ¼ of the
Section 14, Town-

[illegible]

The applicant has requested emergency authorization to drill the proposed well under MSA, 1978, Section 17-22.

old well LRC-09791-A will be plugged and old well LRC-01260 will be retained for other rights. The proposed site of well LRC-01260-POM2 is in Las Cruces, NM and is approximately 697 feet east of the intersection of W. Hinkley

Ann is the County
ected by the diversion and
which the water has been
will be put to beneficial
use. This notice is ordered to
be published in the Lan
ow Bulletin.

view the application and supporting documentation at the State Engineer District Office to arrange a site visit and time for an interview located at 1680 Wilshire Loop, Suite J, Las Vegas, NM 88001.

[illegible]

Revised: 12/20, 12/27, 2019, 03, 2020

NOTICE is hereby given that on November 14, 2019, Timothy A. Conoverhoff, PO Box 1353, Faircross, NM, 87003, filed with the STATE ENGINEER Application No. G-16105-PDD3, OSH No. NR-16105-1 for permit to Change an Existing Water Right within the Lower Rio Grande Underground Water Basin of the United States of Mexico by the following well: G-16105-PDD3 located within the NE 1/4 SW 1/4 N1 of Section 21, Range 12, Township 22S, Range 12, N1M, and more specific-

[illegible]

view the application and supporting documentation, contact the State Engineer District Office to arrange a date and time for an appointment located at 1680 Gregory Loop, Suite J, Las Vegas, NM 88005.

person, firm or corporation or other entity having standing to file objections or protests shall do so in writing. Objections must be timely, signed, and include the writer's complete name, home number, email address, and mailing address. Objections to the approval of the application must be based on: (1) impairment; (2) impairment; you must specifically identify your own rights; and/or (3) the Wellfare/Conservation of water; If public welfare conservation of water is the issue of New

Exhibit 2 to Director's Order

THEMAC Resources Group Ltd Announces Update of Project Economics and Permitting for Copper Flat Project

     |  Email |  Print Friendly |  Share

February 28, 2020 16:42 ET | **Source:** THEMAC Resources Group Limited

VANCOUVER, British Columbia, Feb. 28, 2020 (GLOBE NEWSWIRE) – **THEMAC Resources Group Limited** (TSX VENTURE:MAC) ("THEMAC" or the "Company") announced today an update of project economics and permitting for the Copper Flat Mine Project in Sierra County, New Mexico, USA. A technical report titled "Copper Flat Project, Form NI 43-101F1 Technical Report Project Feasibility Study Update" meeting the CIM definitions for a feasibility study to support this announcement is being prepared by M3 Engineering & Technology Corporation in Tucson, Arizona. The Technical Report will be issued within 45 days of the date of this news release. When complete, the Report will be available on SEDAR (www.sedar.com) and on the Company's website (www.themacresourcesgroup.com).

All amounts and quantities presented in this report are stated in United States Dollars and US standard units unless labeled otherwise.

Copper Flat is a former producing mine located in Sierra County, New Mexico, approximately 150 miles south of Albuquerque, New Mexico, and 20 miles southwest of the town of Truth or Consequences, New Mexico. The project land package comprises 5,077 acres, with the majority of the mineral reserves located on patented mining claims that are wholly owned by THEMAC through its 100% ownership of New Mexico Copper Corporation (NMCC).

HIGHLIGHTS

- Recent updates of Project capital and operating costs produced the following financial return estimates:

	NPV@0% (US\$000)	NPV@8% (US\$000)	IRR (%)	Payback (Years)
Base Case	\$554,000	\$240,000	21.1	3.3
Upside Price Case	\$721,000	\$344,000	25.9	2.8

Base Case: Copper \$3.25/lb, Moly \$10.50/lb, Gold \$1,300/oz; Silver \$16.00/oz
 Upside Sensitivity: Copper \$3.60/lb, Moly \$10.50/lb, Gold \$1,300/oz; Silver \$16.00/oz

- At the federal level, the US Bureau of Land Management completed a seven-year environmental review of the proposed mine and has issued environmental clearance to proceed with the Company proposed operation. Additionally, the US Army Corps of Engineers has authorized the Copper Flat Mine to operate under the Nationwide Permit 44 for mining activities.
- Multiple state permits have been received. Approval by the New Mexico Mines and Minerals Division of the Energy, Minerals, and Natural Resources Department of a Company financial guarantee for reclamation and closure of the site after mining is required to obtain the Mining Permit; when that step is accomplished, the Copper Flat Mine will be a fully permitted facility.
- The Company has filed an appeal of the State of New Mexico Third District Court ruling that invalidated a large percentage of 7,500 acre-feet of inchoate water rights. That appeal has been assigned to the New Mexico Court of Appeals and awaits a court date to hear oral arguments. Meanwhile, a 2019 lease agreement has secured more than half of the water supply required to operate the project.

"We are pleased that Copper Flat remains a viable project. Since the last economic study, the team has made excellent progress on obtaining the necessary permits to operate the mine. Now that the updated feasibility is complete, we will be focusing on funding to enable us to develop the mine," said Andrew Maloney, CEO.

FINANCIAL SUMMARY

The economic update includes financial analysis on two metal price scenarios: 1) The base case using a long-term copper price of \$3.25/lb; and 2) a price upside case using a long-term copper price of \$3.60/lb. All other metal prices are held constant between the two scenarios.

The financial return table below is after tax, unlevered and with no escalation in commodity prices.

FINANCIAL RETURNS

	NPV@0% (US\$000)	NPV@8% (US\$000)	IRR (%)	Payback (Years)
Base Case	\$554,000	\$241,600	21.1	3.3
Upside Price Case	\$721,000	\$343,800	25.9	2.8

Base Case: Copper \$3.25/lb, Moly \$10.50/lb, Gold \$1,300/oz; Silver \$16.00/oz
 Upside Sensitivity: Copper \$3.60/lb, Moly \$10.50/lb, Gold \$1,300/oz; Silver \$16.00/oz

CAPITAL COSTS

The total initial capital cost for construction, mine pre-development, commissioning and owner's cost is estimated to be \$373.9 million. Sustaining capital will total \$40.9

million over the life of the operation.

The project is a brownfield redevelopment project in a stable region with excellent access to existing infrastructure. The project will realize savings through the reuse of significant infrastructure that remains from the original Quintana Mine, which provides an estimated \$55.0 million in value to the Project.

INITIAL AND SUSTAINING CAPITAL

Initial Capital	Amount (\$1000)
Mine	\$10,400
Plant	\$328,500
Owner Cost	\$35,000
Total	\$373,900

Sustaining Capital	Amount (\$1000)
Mine	\$10,200
Plant	\$27,700
G&A	\$3,000
Total	\$40,900

OPERATING COSTS

Average cash operating costs, net of by-product revenue, and using the base case pricing scenario, are estimated at US\$1.14 per pound of copper recovered into concentrate before smelter deductions during the first five years of production and US\$1.35 per pound of copper recovered into concentrate before smelter deductions over the full life-of-mine. On an equivalent copper basis, cash operating costs average \$1.73 per equivalent pound of copper recovered into concentrate before smelter deductions over the life-of-mine.

On a cost per ton basis, cash operating costs are estimated at \$12.14 per ton processed, excluding by-product credits. Cash operating costs include mining, processing, site general and administration, treatment and refining, concentrate transportation, and royalties.

LIFE-OF-MINE CASH OPERATING COST

Operating Cost	\$/Ton of Ore	\$/lb of Cu
Mining Cost	\$2.75	\$0.50
Process Cost	\$5.01	\$0.90
General Administration Cost	\$0.53	\$0.10
Treatment & Refining Charges	\$3.24	\$0.58
Royalties	\$0.61	\$0.11

Total Cash Operating Cost	\$12.14	\$2.19
By-Product Revenue		(\$0.84)
Total Cash Operating Cost Net of By Product Revenue		\$1.35

PERMITTING

The proposed operation has been evaluated by the Bureau of Land Management (BLM) through completion of a National Environmental Policy Act ("NEPA") compliant Environmental Impact Statement ("EIS"). Initial scoping for the EIS was conducted with public input in February 2012. The BLM released the Draft EIS ("DEIS") on the Copper Flat Copper Mine Project in November 2015, hosted two public meetings shortly thereafter and allowed 120 days to receive public feedback on the DEIS. On April 19, 2019, the BLM announced completion of the Final EIS ("FEIS") for the Copper Flat Mine and the document was released to the public.

The EIS was prepared by the Las Cruces District Office of the BLM in consultation with several Cooperating Agencies that included: the U.S. Fish and Wildlife Service ("USFWS"); the New Mexico Energy, Minerals, and Natural Resources Department, the New Mexico Environment Department, the New Mexico Department of Game and Fish, and the New Mexico Office of the State Engineer. The EIS also considered public comments received during the scoping effort as well as comments received on the Draft EIS. Consultation with USFWS resulted in a Biological Assessment and the USFWS Biological Opinion, an important component of the NEPA process was signed in February 2019.

The Copper Flat Mine EIS was an extensive review that took seven years to complete. The FEIS identifies potential impacts on the physical, biological and social environment from all phases of the proposed project, including construction, mine operation and closure. The document identifies long-term, cumulative effects from this project and other activities in the region, while considering a reasonable range of alternatives that meet the Agency's legal mandates.

In a separate action, the BLM on August 22, 2019, issued a positive decision on the Copper Flat Mine FEIS. With this decision, the BLM formally approved the Alternative 2 Plan evaluated in the EIS. The BLM decision approves open pit mining and 30,000 tons per day mineral processing by sulfide flotation, which matches plans used for the Company's state permit applications. With the EIS, the BLM determined that implementation of the approved alternative along with Company commitments to environmental monitoring and protection measures will not cause unnecessary or undue degradation of public lands and the Agency has determined the decision is consistent with other applicable legal requirements. In announcing the decision, the BLM recognized that the Copper Flat Mine will enhance economic development by creating jobs and enabling community growth. The full Copper Flat FEIS and associated Record of Decision ("ROD") are available for viewing at:

<https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=112703>

In a separate Federal process, the Company has evaluated the Copper Flat site for jurisdictional waters of the US (WOTUS), which may include ephemeral drainages.

Section 404 of the US Clean Water Act regulates the discharge of dredged or fill material into WOTUS. The program is administered by the US Army Corps of Engineers (USACOE) and a permit issued under authority of the US Clean Water Act is required before dredged or fill material may be placed or discharged into WOTUS. The Copper Flat facilities have been designed to avoid, to the most practicable extent, WOTUS, such that potential impacts are less than 0.02 acres (less than 0.008 hectares) for the entire project site, thus qualifying the project for approval under the USACOE's Nation-wide Permit 44 for mining activities. The Company prepared a Pre-Construction Notification ("PCN") with supporting documents for a nation-wide permit, which was submitted to USACOE in October. In addition to project designs, the USACOE also considers impacts to threatened and endangered species and to historic properties before making a decision. In a letter dated February 6, 2020, USACOE notified NMCC that its plans for the Copper Flat Mine are authorized by Nationwide Permit 44 for Mining Activities, which meets the US Clean Water Act requirements for a permit.

The Company has also achieved significant progress on state permits for the Copper Flat Mine.

The NMED Air Quality New Source Review Permit 0365-M3 was issued to New Mexico Copper Corporation for the Copper Flat Mine in June 2013 and the permit remains in effect.

The NMED Groundwater Discharge Permit DP-1840 was issued to New Mexico Copper Corporation for the Copper Flat Mine in December 2018 and the permit remains in effect. The decision to issue Permit DP-1840 was appealed by project opponents; arguments were heard by the State Water Quality Control Commission ("WQCC") in August 2019, followed by a unanimous decision from the WQCC to uphold the permit. The WQCC decision has been appealed to the NM Court of Appeals and the appeal schedule is pending.

The Copper Flat Mine is being permitted as a new mine under Part 6 of the New Mexico Mining Regulations, which are administered by MMD. The NMCC permit application package (PAP) includes construction, operation, reclamation and closure plans and other content specified by state regulation. In a letter dated July 13, 2018, the MMD notified NMCC that the Copper Flat PAP is approvable in accordance with 19.10.6.605.E NMAR and a public hearing on the PAP was held in October 2018. In a letter dated December 21, 2018, MMD provided the Company with a status letter that identified the following actions needed to complete the mine permit:

1. Completion of the Hearing Officer's report on the October hearing. This report was completed and submitted to MMD in December 2018, and subsequently posted on the MMD website for public review.
2. Completion of a financial assurance plan with approval and acceptance by MMD, NMED and the BLM ("FA Agencies").
3. MMD's receipt of the NMED Secretary's Determination "stating that the permit applicant has demonstrated that the activities to be permitted... will be expected to achieve compliance with all applicable air, water quality and other environmental standards if carried out as described in the permit application."

The NMED indicated when they issued the Discharge Permit that the NMED's Secretary Determination will be considered after the Financial Assurance Plan is approved by all participating agencies.

4. MMD's receipt of BLM's approval of the proposed mining operation. BLM has indicated that approval of the proposed mining operation will be considered after the Financial Assurance plan is approved by participating agencies.

Financial assurance for reclamation and closure of the Copper Flat Mine requires approval by MMD, NMED and BLM. The Company prepared and submitted to the Agencies a proposed reclamation and closure cost estimate for the life-of-mine plan and has revised the calculations to fully address Agency comments. In correspondence dated August 21, 2019, MMD, with concurrence from NMED and BLM, informed the Company that the proposed calculation was accepted. Completion of financial assurance now requires completion of the FA funding schedule and submittal of FA in a form meeting applicable regulatory requirements.

Water Supply

The Company has determined that it will require approximately 6,100 acre-feet ("AF") of water for planned operations. Water resources are carefully managed and controlled in the Western United States; in New Mexico, the appropriation of water rights is managed by the New Mexico Office of the State Engineer ("NMOSE" or "OSE").

In 2010, the Company entered into an option and purchase agreement to acquire approximately 7,500 AF of vested and inchoate water rights for the mine. In 2015, the Company filed for court adjudication of the acquired water rights. On December 28, 2017, the State of New Mexico Third District Court ruled that the inchoate water rights controlled by the Company were invalid and extinguished as the result of non-use and the failure to pursue a continuous plan of development by prior owners of the water rights; leaving the Company with approximately 861 acre feet of vested water rights. This amount falls short of the quantity needed to operate the Copper Flat Mine as planned. The Company filed an appeal of this decision on March 27, 2018. At the same time, parties opposing the Company's water rights filed cross appeals protesting the Court recognized water rights. The appeals have been assigned to the New Mexico Court of Appeals General Calendar; however, a date to hear oral arguments in this appeal has not been established by the Court.

Ensuring pumping groundwater will not impair other water users is necessary in New Mexico and the Company has taken steps to avoid the potential impairment of other groundwater users. To offset groundwater pumping effects that are projected to reach the river, the Company has acquired a lease from the Jicarilla Nation to release 3,000 AF of water per annum into the Rio Grande and is further reviewing additional options for further water offsets. The Jicarilla lease was authorized and approved by the United States Department of Interior and the United States Bureau of Reclamation in February 2016.

In April 2019, the Company entered into an agreement to lease 2,400 AF of existing water rights for use at the Copper Flat Mine. The leased water is in the same basin as the mine and is currently permitted for multiple purposes, including commercial and

industrial use. An application to OSE to change the point of diversion and place of use was completed and filed with OSE in August 2019. The application was accepted by OSE in December 2019, and public notice of the application was completed in January 2020. This agreement brings the current water supply available for the Copper Flat Mine to 3,261 AF, including 861 AF of adjudicated water rights acquired through the 2010 Option and Purchase Agreement, more than half of the 6,100 AF total required by the planned operation.

The Company continues to identify other potential sources of water for the Copper Flat Mine and is pursuing options to secure the full amount of water needed for the operation.

MINERAL RESERVES AND RESOURCE

Copper Flat's mineral resources and reserves are unchanged from the November 2013 report. Proven and probable reserves at Copper Flat total 113.1 million tons; measured and indicated mineral resources, inclusive of mineral reserves, total 305 million tons. Copper Flat reserves contain 675 million pounds of copper, 20 million pounds of molybdenum, 340 thousand ounces of gold and 6.8 million ounces of silver and has an average copper equivalent grade of 0.39%. Copper equivalent factors used account for metal price, metallurgical recovery and smelter payable factors.

Mineral Reserves^{1,2,3}

	Cut-Off Grade (NSR/t)	Tons (000s)	Cu Eq (%)	Copper (%)	Moly (%)	Gold (opt)	Silver (opt)
Proven	\$6.11	78,857		0.32	0.010	0.003	0.07
Probable	\$6.11	34,227		0.25	0.007	0.003	0.04
Total	\$6.11	113,084	0.39	0.30	0.009	0.003	0.06

Mineral Resources^{1,2}

	Cut-Off Grade (NSR/t)	Tons (000s)	Copper (%)	Moly (%)	Gold (opt)	Silver (opt)
Measured	\$6.11	126,655	0.28	0.009	0.003	0.06
Indicated	\$6.11	178,571	0.19	0.005	0.002	0.04
Total	\$6.11	305,226	0.23	0.007	0.002	0.05

(1) Effective October 7, 2013

(2) Reserves and resources based on \$3.00/lb Copper, \$8.00/lb Moly, \$1,350/oz Gold: \$20.00/oz Silver

(3) Mine design based on \$2.50/lb cone

The Copper Flat reserves and resources are developed from a computerized block model that utilizes a drill hole database containing 233 drill holes and 181,326 feet of drilling that continued through to the end of 2012. In addition to the drilling program, the company re-assayed more than 6,000 historical pulps to obtain gold and silver data.

MINING AND PROCESSING

Copper Flat is a porphyry copper-gold deposit that is near surface and amenable to open pit mining methods. The pit operations are planned to use standard mining equipment, including: 45,000 lb., single pass rotary blast hole drills, 19-cu-yd front-end loaders, and 100 ton off-highway haul trucks. The mine plan includes a mine support fleet comprised of track and rubber-tired dozers, motor graders, and 10,000-gallon water trucks. Material mined totals 158 million tons of ore and waste over the life-of-mine at an average stripping ratio of 0.40 tons of waste per ton of ore. The mining rate peaks at 17.5 million tons of total material per year.

The construction program benefits from the use of existing infrastructure and the timeframe expected to construct and commission the project is estimated to require 18 months. Following construction, the project schedule includes 11.1 years of mining and ore processing.

Ore will be processed through a standard crushing, grinding and sulfide flotation concentrator to produce a copper-gold-silver concentrate and a molybdenum concentrate. The Copper Flat concentrator is scheduled to process 10.8 million tons per year for the first five years of production and 9.9 million tons per year for the remainder of the mine life when harder ores are encountered at depth in the deposit. Copper recovery to concentrate is projected to average 70 million pounds per year during the first five years of operation and 57 million pounds per year when averaged over the full life-of-mine.

The Copper Flat ore lends itself to common crushing and grinding practice and standard flotation reagents and the mill is designed to have a simple gyratory crusher and SAG/ball mill grinding circuit followed by a conventional flotation circuit to produce separate copper and molybdenum concentrates. Metallurgical testing shows the Copper Flat ore contains coarse gold that is recoverable through physical separation and gravity separation equipment, this equipment is included in the process flow sheet to improve gold recovery. As a result of metallurgical test work, the expected life-of-mine process recoveries are projected to be: 93% copper; 78% molybdenum; 74% gold; and 83% silver.

The mine will produce approximately 100,000 tons of copper concentrate and 1,300 tons of molybdenum concentrates per year for the life-of-mine. The copper concentrate is expected to assay 27% to 30% copper based on lab tests and actual plant performance achieved by Quintana Minerals in the past operation. The molybdenum concentrate is expected to assay 50% to 60% molybdenum oxide. ICP analysis of the copper concentrate determined that the concentrate is expected to contain very low concentrations of potential smelter penalty elements

PRODUCTION METRICS

Mine Life (Years)	11.1
Strip Ratio (Waste Tons : Ore Tons)	0.4:1
LOM annual processing rate (Ktons)	10,200
Copper equivalent LOM annual production (Klbs)	71,700
Copper equivalent LOM production (Klbs)	796,000
Copper LOM annual production (Klbs)	56,600

Copper LOM production (Klbs)	628,000
Gold LOM annual production (Ktrozs)	20
Gold LOM production (Ktrozs)	227
Copper equivalent LOM average grade	0.38%

Note: Copper equivalent grade and production based on base case metal prices and plant recoveries

TECHNICAL REPORT

A technical report on the update will be filed on SEDAR at www.sedar.com and will also be available on the Company's website at www.themacresourcesgroup.com within 45 days of the date of this news release. The Company will release an announcement regarding report availability when the report is posted.

Technical information in this news release has been read and approved by Richard Zimmerman, R.G. (M3 Engineering), John Marek, P.E. (Independent Mining Associates), Dave Kidd, P.E. (Golder Associates), and Jeff Smith, P.E. (THEMAC Resources) all of whom are Qualified Persons under Canadian NI 43-101.

ABOUT M3 ENGINEERING & TECHNOLOGY CORPORATION

The Feasibility Study Technical Report update is being compiled by M3 Engineering & Technology Corporation (M3) of Tucson, Arizona. M3 provides full-service industrial design and EPCM services and is recognized as an industry leader in Feasibility Studies and associated NI 43-101 technical reports.

ABOUT INDEPENDENT MINING CONSULTANTS

Mineral resources, reserves, mine planning, and cost estimating were prepared by IMC of Tucson, Arizona. Since 1983 Independent Mining Consultants, Inc. (IMC) has been recognized worldwide for its expertise in Open Pit Mine Design and Mine Planning as well as Ore Reserve Estimation and Mineral Economics. IMC has worked for large international mining conglomerates, medium sized mines, multiple commodity producers, and exploration firms.

ABOUT GOLDER ASSOCIATES

Engineering, design, and cost estimating of the Copper Flat tailings storage facility were prepared by Golder Associates of Tucson, Arizona. Design of the Copper Flat Mine reclamation plan was prepared by Golder Associates of Albuquerque, New Mexico. Employee owned since being founded in 1960, Golder Associates Inc. provides engineering and environmental consulting services to mining, energy and natural resource industries. Golder has conducted similar studies and engineering evaluations in the southwestern US and internationally.

ABOUT THEMAC RESOURCES GROUP LIMITED

THEMAC is a copper development company with a strong management team and as of May 18, 2011, a 100% ownership interest in the Copper Flat copper-molybdenum-gold-

silver project in New Mexico, USA. We are continuing to advance the closed copper mine, Copper Flat, in Sierra County, New Mexico, toward production with innovation and a sustainable approach to mining development and production, local economic opportunities, and the best reclamation practices for our unique environment. The Company is listed on the TSX Venture Exchange (ticker: MAC) and has issued share capital of 79,400,122 common shares (fully diluted share capital 93,064,866).

For more information please visit www.themacresourcesgroup.com or review the Company's filings on SEDAR (www.sedar.com).

FORWARD LOOKING STATEMENTS

Certain information contained or incorporated by reference in this press release, including any information as to THEMAC's future financial or operating performance, the likelihood and timing of commercial production, construction of plant, and obtaining required permits, statements with respect to the estimation of mineral resources and reserves, expanding mineral reserves and mineral resources, the realization of mineral reserve and mineral resource estimates, the timing and amount of estimated future production, capital costs, costs of production, metal or mineral recoveries, mine life and production rates, capital expenditures and success of mining operations, expected IRR and NPV constitute "forward-looking statements". All statements, other than statements of historical fact, are forward-looking statements. The words "believe", "expect", "anticipate", "contemplate", "target", "plan", "intends", "continue", "budget", "estimate", "may", "will", "schedule" and similar expressions identify forward-looking statements. Forward-looking statements are necessarily based upon a number of estimates and assumptions that, while considered reasonable by THEMAC, are inherently subject to significant business, economic and competitive uncertainties and contingencies. Such assumptions include the specific assumptions set out in this press release and in the Report, that future capital and operating costs will be in line with THEMAC'S assumptions, that mineral resource and mineral reserve estimates prove accurate, permits required to commence production will be obtained on a timely basis, copper, molybdenum, gold and silver prices will remain consistent with THEMAC's expectations, that there are no changes in THEMAC's development plans as new information is received, that THEMAC will be able to access financing, equipment and sufficient labor to carry out its planned business. Known and unknown factors could cause actual results to differ materially from those projected in the forward- looking statements. Such factors include, but are not limited to: fluctuations in the currency markets; fluctuations in the spot and forward price of copper, molybdenum, gold, and silver; volatility in the price of fuel and electricity; changes in national and local government legislation, taxation, controls, regulations and political or economic developments in Canada and the USA; business opportunities that may be pursued by THEMAC; operating or technical difficulties in connection with mining or development activities; employee relations; litigation; the speculative nature of exploration and development, including the risks of obtaining necessary licenses and permits; uncertainty surrounding the availability of water rights required for mining operations which, if not secured, could result in changes to the proposed plan for development of Copper Flat; contests over title to properties, particularly title to undeveloped properties; failure of processing and mining equipment to perform as expected; labor disputes; supply problems; uncertainty of production and cost estimates; the

interpretation of drill results; the assumptions upon which the estimation of mineral resources and reserves prove inaccurate, which could lead to a restatement of reserves and resources;; changes in project parameters as plans continue to be refined; possible variations in ore reserves, grade of mineralization or recovery rates may differ from what is indicated and the difference may be material; legal and regulatory proceedings and community actions; accidents, title matters; regulatory restrictions; permitting and licensing; volatility of the market price of Common Shares; insurance; competition; and hedging activities. In addition, there are risks and hazards associated with the business of exploration, development and mining, including environmental hazards, industrial accidents, unusual or unexpected formations, pressures, cave - ins, flooding and the risk of inadequate insurance, or inability to obtain insurance, to cover these risks. Many of these uncertainties and contingencies can affect actual results and could cause actual results to differ materially from those expressed or implied in any forward-looking statements made by, or on behalf of, THEMAC. Readers are cautioned that forward-looking statements are not guarantees of future performance. All of the forward-looking statements made in this press release are qualified by these cautionary statements. THEMAC disclaims any intention or obligation to update or revise any forward-looking statements whether as a result of new information, future events or otherwise, except to the extent required by applicable laws.

"Operating cost per pound of copper", "Life-of-mine sustaining capital", "IRR" and similar terms are alternative performance measures. These performance measures are included because these statistics are key performance measures that management may use to monitor performance. Management may use these statistics in future to assess how THEMAC is performing to plan and to assess the overall effectiveness and efficiency of mining operations. These performance measures do not have a meaning within International Financial Reporting Standards ("IFRS") and, therefore, amounts presented may not be comparable to similar data presented by other mining companies. These performance measures should not be considered in isolation as a substitute for measures of performance in accordance with IFRS.

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Exhibit 3 to Director's Order
copied March 26, 2020, 12:54 p.m.



New Mexico Office of the State Engineer Transaction Summary

CLWPP Change Location Well & Place & Purpose of Use (GW)

Transaction Number: 657508 Transaction Desc: LRG 03150 INTO LRG 17825 File Date: 08/16/2019

Primary Status: APP Application
Secondary Status: PRO Protest
Person Assigned: *****
Applicant: TULLA RESOURCES GROUP LTD
Contact: JEFFERY SMITH
Applicant: SANTA TERESA CAPITAL LLC
Contact: GILBERT MESA

Events

Date	Type	Description	Comment	Processed By
08/16/2019	APP	Application Received		*****
08/27/2019	RUB	Re-Update the WR Database	TO START THIS	*****
08/27/2019	CAP	Change Abstract to In-process		*****
08/27/2019	INC	Incomplete Application	WAITING FOR CO'S	*****
10/04/2019	NFP	Notice for Publication		*****
10/25/2019	COR	Corrected Application Received	COWNF RECVD	*****
01/08/2020	AOP	Affidavit of Publication rev		*****
01/13/2020	PRO	Protested Application		*****

Change From:

WR File Nbr	Acres	Diversion	Consumptive	Purpose of Use
LRG 03150 E	0	0		COM COMMERCIAL

**Point of Diversion

LRG 03150	345205	3524555	
LRG 03150 POD36	339730	3523008	
LRG 03150 POD41	340612	3518200	
LRG 03150 POD42	339826	3524500	
LRG 03150 POD46	338019	3526442	
LRG 03150 S-11	343294	3528218	
LRG 03150 S-12	342392	3525254	
LRG 03150 S-14	343520	3526991	
LRG 03150 S-15	346061	3523883	
LRG 03150 S-16	343810	3523815	
LRG 03150 S-17	339958	3522110	
LRG 03150 S-19	344180	3524760	
LRG 03150 S-2	341080	3524533	
LRG 03150 S-20	346606	3523468	
LRG 03150 S-22	347308	3523283	

LRG 03150 S-24	339459	3527062
LRG 03150 S-25	338787	3527446
LRG 03150 S-26	340811	3525970
LRG 03150 S-27	342691	3526440
LRG 03150 S-3	343291	3525521
LRG 03150 S-31	345221	3523683
LRG 03150 S-32	342287	3525381
LRG 03150 S-4	339465	3525498
LRG 03150 S-6	344568	3525969
LRG 07279	339031	3518361

****Place of Use**

Q	Q	Q	Q	Sec	Tws	Rng	Acres	Diversion	Consumptive	Use	Priority	Status	Other	Loc	Desc
256	64	16	4												
							0	2400			COM 09/13/1971	PMT			WITHIN 32,020.56 ACRES AS STATED IN DCLS AND AMENDED DCLS AND MAPS FILED

Change To:

WR File Nbr	Acres	Diversion	Consumptive	Purpose of Use
LRG 17825	0	0		COM COMMERCIAL

****Point of Diversion**

LRG 04652	276801	3650434
LRG 04652 S	277012	3649734
LRG 04652 S-2	276005	3650356
LRG 04652 S-3	276381	3649873

****Place of Use**

Q	Q	Q	Q	Sec	Tws	Rng	Acres	Diversion	Consumptive	Use	Priority	Status	Other	Loc	Desc
256	64	16	4												
							2190	0		COM		APP			

The data is furnished by the NMOSE/ISC and is accepted by the recipient with the expressed understanding that the OSE/ISC make no warranties, expressed or implied, concerning the accuracy, completeness, reliability, usability, or suitability for any particular purpose of the data.

3/26/20 12:51 PM

TRANSACTION
SUMMARY