Walker River Paiute Tribe

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December 21, 2016

Jeryl Gardner, PE CEM
NDEP Anaconda Mine Project Manager
Nevada Division of Environmental Protection
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Carson City, NV 89701
jgardner@ndep.nv.gov

RE: Proposed Plan for Operable Unit 8 of the Anaconda Copper Mine, Lyon County, NV, November 2016.

Mr. Gardner:

The Walker River Paiute Tribe Environmental Staff has reviewed the Proposed Plan for Operable Unit 8. We are an interested and active stakeholder as we work to protect our natural and cultural resources. Your presentation along with EPA on December 13, 2016 was helpful but unfortunately critical supporting documentation, including the Yerington Mine Operable Unit 8 Focused Feasibility Study, Conceptual Closure Plan, a key document for this review that was prepared through your office appears to not have been provided in a timely manner. This does limit our review.

In general, capping, management of acidic, heavy metal contaminated liquid mine waste, and improved stormwater management are appropriate actions for the site in general. Our review indicates that Alternative 4, with a cap that is better approximated by Alternative 3, is the best option to pursue. The following general comments are applicable to the selection of that combination of Alternatives:

1. The 2-foot cap is overly ambitious to meet expected standards for long term effective containment. Two feet of soil is highly unlikely to prevent plant update of heavy metals and radionuclides in native plants; the vast majority have greater than 2 feet of roots to accommodate our desert climate. With plant root zones including mine waste material, update is a concern as a release from the site that directly effects Tribal members as they utilize local plants and animals. Fact is, tribal members cannot use the plants, vegetation and cultural practices have been compromised. With wildlife known to use the site, minimal dust control and no institutional controls these effects are magnified. Adding to

and cultural practices have been compromised. With wildlife known to use the site, minimal dust control and no institutional controls these effects are magnified. Adding to this, Lyon County has a reputation for inconsistent land use policies, as recently experienced by the residents living in the Comstock, that will require broad assumptions regarding future land use and site access.

2. Adding to the issues with plant update, a two-foot cover may not be adequate to provide needed vegetative cover to prevent erosion. Overly steep slopes and inadequate depth of topsoil result in limits regarding re-vegetation. Additional design documents will need to better describe the material to be used, seed mix, modeling results and monitoring efforts including moisture monitoring in and below the cap (similar to systems at BGMI and Rio Tinto).
3. The stormwater plan for the operable unit is a step in the right direction but will not be functional without a site wide plan to connect it to. Please consider this a request to develop a site wide stormwater program before the ROD is expected in mid-2017. We consider this critical to protect the Walker River from the site.

4. Adding to the plant update question is the unsupported and technically incorrect statements regarding agriculture in Mason Valley. There is agriculture adjacent to the site and it uses water downgradient from the site. One of the largest volume wells in the valley is the Peri and Sons Farms' fields on Luzier Lane currently closed due to elevated uranium from the mine. This well was used for decades to irrigate fields. These same fields and irrigation water discharge to the Wabuska Drain which flows onto our Reservation, into the Walker River and is an Operable Unit of the site.

   The Walker River Paiute Tribe recognizes that issues with mine waste in agriculture products and uptake of hazardous substances from mine waste in plants gathered by our Tribal members share pathways and health hazards. The EPA study by TetraTech often cited from 2009 was not only of inadequate scope to provide useful information, it completely disregarded pathways that directly affect Tribal members. The whitewashed explanation regarding mine waste and agriculture found in this Program Plan on page 6 regarding the mine site and agriculture is unacceptable.

   NDEP statements such as; "With regard to surface water, there is currently no information that indicates any impact from the Anaconda site to the Walker River has diminished the potential historical pathway for site contaminants and should be further investigated. This is the time to fill the data gaps agreeable to active stakeholders.

   Walker River Paiute Tribe is requesting a correction to the situation which is best described as having inadequate data for conclusions, but adequate data to support an expanded study, and would likely include follow up with NDEP and EPA to fill this important data gap to protect our community's health and economy.

5. The report states that OU7, the Wabuska Drain, is a higher priority. This is appreciated since this includes Tribal property, but there are currently no plans available to determine the risk from this operable unit on our property or at its confluence with the Walker River

(and subsequent effect on Weber Reservoir and Walker Lake). We would like to use this opportunity to request a plan be in place and reviewed for in-stream equipment to be installed before the start of the 2017 irrigation season.

Our Tribal Environmental Staff looks forward to completing their review of the Final Feasibility Study and Conceptual Plan for the program in preparation for review design documents over the next few months. Leadership at Walker River Paiute Tribe confidently supports the continued work to be completed for our tribal interests.

In addition, they are available to arrange access for sampling the downstream section of the Wabuska Drain and other locations on Tribal property. And finally, we look forward to improving the ecological and human health assessments and ET cap designs by collecting additional data on plant update of mine related waste in both agricultural products and native species.

Respectfully,

Amber Torres

Amber Torres, Chairman
Walker River Paiute Tribe

Cc: Laurie A. Thom, Chairman, Yerington Paiute Tribe
Jeff Page, County Manager, Lyon County
Alexis Strauss, Acting Regional administrator, US EPA Region IX
Enrique Manzanilla, Director, Superfund Division, US EPA Region IX
John Ruhs, Nevada Director, Bureau of Land Management
Cynthia Oceguera, Environmental Walker River Paiute Tribe