Robert R. John
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December 1, 2016

Ms. Gladys Gooden-Jackson
Water Enforcement Branch (6EN-WC)
EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

RE: Administrative Order; Docket No. CWA-06-2017-1708; NPDES Permit No. NM0022306

Dear Ms. Gooden-Jackson:

Chevron Mining, Inc. ("CMI") submits this report in satisfaction of the requirements of Section B of Administrative Order; Docket No. CWA-06-2017-1708, dated November 18, 2016 (the "Order"). Submission of this report does not constitute an admission by CMI of the truth of any of the "Findings" contained in the Order.

Section B of the Order provides as follows:

> B. In the event that compliance cannot be achieved immediately, the Permittee shall submit a report to EPA by December 2, 2016 that includes a projected date of when discharges of mill process wastewater, mine drainage, captured groundwater, and spring water to the tailings facility will cease. This report shall also include descriptions of the work needed to achieve compliance, the estimated capital and operational costs and projected completion dates of any construction needed to come into compliance with the violations cited herein.

CMI's responses to the two inquiries contained in Section B are provided below.

I. Projected Date for Cessation of Conveyances to Tailing Facility

Based on the Order's reference to "Part I.B.iii of the permit" in the paragraph describing the sole violation alleged,[1] CMI understands the first sentence of Section B to be a reference to the schedule milestone contained in Part I (B)(iii) of the NPDES Permit No. NM0022306, effective November 1, 2013 (the "Permit"). That milestone provides as follows:

[1] Order at Paragraph 10.

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> iii. By October 1, 2016: Totally cease conveying mill process wastewater, mine drainage, and captured groundwater or spring water to tailings facility; . . ..

As the EPA is aware, CMI initially met that milestone on October 1, 2016 when it timely ceased discharges of mine drainage, captured groundwater and spring water into the mine on or before October 1, 2016.[2]

Even before the effective date of the Permit in 2013 CMI had been diligently pursuing the development of a permanent water treatment plant ("WTP") capable of treating flows that historically have been directed to the tailing facility, and then discharging the treated water through Outfall 001 in compliance with the effluent limitations applicable to that outfall.[3] To this end, CMI began design of the WTP on March 4, 2013. Construction of the WTP commenced on November 20, 2013 with a projected post-completion turnover to CMI of April 19, 2015 and was revised in April 2015 to May 23, 2016 as the result of project delays associated with the June 2014 mine shutdown. CMI has pursued that project diligently throughout.

As of its January 2016 construction schedule, the consultant managing construction was projecting a construction completion date of May 9, 2016 and a shakedown completion date of July 4, 2016. On July 13, 2016, with construction not yet completed, the consultant acknowledged to CMI for the first time that there was a potential that the WTP would not be completed and operational by October 1, 2016. One week later, on July 20, 2016, the consultant confirmed that the facility would not be in operation by the October 1 date. This information was provided by letter from CMI to the EPA on August 1, 2016 (appended as Attachment A).

Immediately upon learning of this delay CMI began evaluating extraordinary measures to ensure that conveyance of the listed waters to the tailing facility would cease by October 1, 2016 in compliance with Part I (B)(iii) of the Permit. Measures evaluated included:

- Redirecting captured groundwater and spring water into the mine on or before October 1, 2016;[4] and
- Design and construction of a temporary water treatment plant ("TWTP") capable of treating captured groundwater and spring water so that water would be suitable for discharge at Outfall 001 consistent with the effluent limitations applicable to that outfall.

Recognizing that these extraordinary measures were potentially duplicative, CMI nonetheless elected to adopt and actively pursue both of them.

Because the TWTP could not be put in place and made operational by October 1, 2016, CMI's initial response to the delay in completion of the WTP was to redirect listed waters into the mine on or before that date, ceasing their conveyance to the tailing facility in compliance with Part I (B)(iii) of the Permit.

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[2] The other source of water listed in Part I (B)(iii), "mill process wastewater," ceased to exist following the mine's shutdown in October 2014.

[3] CMI agreed in an EPA Administrative Order on Consent (CERCLA Docket No. 06-13-12) with an effective date of October 19, 2012 to perform a pre-design treatability study for water treatment. The final report on the treatability testing was submitted to EPA on February 20, 2015 and approved by EPA on June 1, 2015, and CMI moved ahead with the design of the WTP based on the results of the treatability testing.

[4] Mine drainage, the other water addressed in Part I (B)(iii) of the Permit, was not redirected, but was simply not extracted from the mine.

A test of the TWTP on November 16, 2016, demonstrated that it was within hours of producing effluent of a quality sufficient for discharge through Outfall 001. However, that same day, high winds blew a part of the not-yet installed enclosure building onto the system, damaging it. A damage assessment is ongoing.

CMI continued to monitor the elevation of water in the mine after it redirected listed waters to the mine on or about October 1, 2016. Rising water levels observed in the mine led CMI to conclude on November 18, 2016 that it was prudent to terminate conveyance of listed waters[5] to the mine and to recommence extraction of mine drainage water so as not to incrementally increase the risk of a discharge from the mine to the Red River. CMI provided the EPA and the State with the requisite written notification of that decision (appended as Attachment B) and began diverting listed waters to the tailing facility on that same date. As of the date of this letter CMI remains convinced that conveying these waters to the tailing facility is the best environmental solution.

At present, the best projected date for the cessation of the conveyance of listed waters[6] to the tailing facility is **June 9, 2017**, the date on which the system will be capable of operating in compliance with the effluent limitations applicable to Outfall 001. That date reflects reliance on assurances by its contractors, however, and may need to be revised if those assurances are not made good for any reason, including but not limited to the occurrence of events that would be recognized as a force majeure.

Evaluation for the potential use of a TWTP will continue during this period. During that time, CMI will determine, whether the TWTP can be completed and demonstrate a capability to produce treated water that consistently achieves the effluent limitations applicable to Outfall 001. Should the TWTP reach the point where it consistently achieves the effluent limitations, CMI will utilize the TWTP to treat as much of the listed waters[7] as possible until the WTP can be brought online.

II. Description of the Work Needed to Cease Conveyance of Listed Waters to the Tailing Facility, Estimated Capital and Operational Costs of that Work, and Interim Milestone Dates

A. Description of the Work Needed to Cease Conveyance of Listed Waters to the Tailing Facility

The following contains a list of major work that remains to be done to complete, test and commission the WTP:

- Complete firewater tank and tie in to fire suppression system;
- Complete septic system and final site grading;
- Complete system and subsystem inspections towards mechanical completion;
- Complete pipe-support re-work;
- Complete system and subsystem punch list items;
- Complete final inspection and verification of all punch list items prior to functional testing;
- Functional testing;

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[5] It is important to note that "mill process wastewater" listed in Part I (B)(iii) ceased to exist following the mine's shutdown in October 2014.
[6] See footnote number 5 above.
[7] See footnote number 5 above.

- Turnover activities to CMI.

B. Estimated Capital Costs and Operational Expenses

CMI reasonably estimates that the capital cost for work remaining uncompleted after November 18, 2016, when listed waters were again conveyed to the tailing facility, is approximately $14 million. CMI's estimate of the monthly operating cost of the completed WTP is $510,654. Balanced against these costs, CMI estimates that it will expend an additional approximately $7 million for development and construction of the TWTP.

CMI recognizes that all of these estimated costs will need to be more concretely rendered for final consideration by EPA. We stand ready to develop those more mature cost figures.

C. Interim Milestone Dates

Subject to the same conditions and caveats that are stated in Section I with respect to the current projected completion date of the WTP, the following are the current projected interim milestone dates associated with completion of the WTP.

Milestone	Projected Completion Date[8]
Mechanical Completion	February 20, 2017
WTP Commissioning	May 10, 2017
Final Turnover to Operations	May 26, 2017
Attainment of Stable, Compliant Discharge	June 9, 2017

CMI appreciates the opportunity to provide the EPA with these responses in satisfaction of Paragraph B of the Order, and looks forward to working with EPA to develop an appropriate compliance schedule for completion of the WTP and taking other steps necessary to bring this matter to a prompt and mutually acceptable conclusion.

Sincerely,

Robert John

Robert John
President
Chevron Mining Inc.

[8] These dates reflect reliance on assurances by its contractors and may need to be revised if those assurances are not made good for any reason, including but not limited to the occurrence of events that would be recognized as a force majeure.

Attachment A – CMI Notification Letter Dated 8/1/16
Attachment B – CMI Notification Letter Dated 11/18/16

Armando Martinez
Environmental Manager

Questa Mine
Chevron Environmental Management Company –
Mining and Specialty Portfolios Business Unit
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BY CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED

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New Mexico Environment Department
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RE: Chevron Mining, Inc. — Questa Mine; NPDES Permit No. NM0022306

To Whom It May Concern:

As discussed on July 28, 2016 with Brent Larson, there has been a potential for delay in the completion of the Water Treatment Plant ("WTP") being constructed at the Questa Mine to terminate discharges to the tailings facility and to assure compliant discharges through Outfall 001. *See* Chevron Mining, Inc. — Questa Mine NPDES Permit No. NM0022306, Part I, Sections B (iii) and (iv) (the "Permit"). On July 13, 2016, the consultant managing the WTP project acknowledged that potential to Chevron Mining, Inc. ("CMI") for the first time. One week later, on July 20, 2016, that consultant confirmed that the WTP would not be in operation by October 1, 2016.

CMI is working to develop a solid estimate for the date on which the WTP will be completed, treatment commenced, and a reasonable shakedown period concluded to assure full and consistent compliance with the effluent limitations for Outfall 001. That analysis is not yet complete. CMI will share that date with the agencies as soon as it is available.

In the interim, CMI also has begun working with the New Mexico Environmental Department to develop a framework for a short, 2 to 3 month, technical solution to the termination of discharges to the tailings facility. That solution would entail pumping the water back into the underground mine beginning before the October 1 milestone. Even if achievable, however, that solution may not provide relief sufficient to bridge the gap between October 1, 2016 and the date on which it is prudent to anticipate full and consistent compliance by the WTP.

CMI believes the best and most responsible path forward, in addition to continuing to work on this short-term solution, is to begin a discussion now to develop a vehicle for a brief extension of the October 1, 2016 milestone date. It is our intention to reach out to the appropriate personnel within EPA Region 6 and the State within the next two weeks to schedule a meeting for this purpose.

CMI notes that Part III, Section D (2) of the Permit requires advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. While CMI does not believe that the circumstances described above trigger the Section D (2) notice requirement, we nonetheless submit this notification in the interest of full transparency and in satisfaction of that obligation, if applicable.

Sincerely,

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Armando Martinez
Name

Environmental Manager
Title

8/1/16
Date

Michael D. Coats
Vice President, Chevron Mining, Inc.

November 18, 2016

VIA CERTIFIED U.S. AND ELECTRONIC MAIL

Compliance Assurance and Enforcement Division
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RE: Chevron Mining, Inc. — Questa Mine; NPDES Permit No. NM0022306

To Whom It May Concern:

The above mentioned NPDES permit contains a compliance schedule that required Chevron Mining, Inc. ("CMI") to "Totally cease conveying mill process wastewater, mine drainage, and captured groundwater or spring water to tailings facility" by October 1, 2016. CMI did cease those conveyances by October 1, 2016, but due to construction delays was not able to begin treating this water at the water treatment plant ("WTP") located at the former Questa Mine ("Mine"). Instead a temporary water treatment plant ("TWTP") was brought to the Mine in order to treat water that otherwise would need to be conveyed to the tailing facility until construction and a shakedown period were completed on the WTP. While CMI worked to bring the TWTP online, all water that formerly was conveyed to the tailing facility has been pumped to the underground mine per a temporary use permit issued by the New Mexico Environmental Department.

Despite best efforts by CMI and its contractors, the TWTP has yet to become fully operational. With the onset of freezing temperatures at the Mine, that task has become even more difficult. CMI continues its efforts to get the TWTP fully operational, but has concerns as to when the TWTP will be fully functional while at the same time being mindful of the underground mine filling up with water. CMI believes that using the mine as the sole destination for the flow is no longer a viable short term option considering that the current water elevation in the mine is at approximately 7,209 feet and the top of the mine workings are at 7,350 feet, CMI believes that it is prudent to terminate the current conveyance to the mine so as not to incrementally increase the risk of a discharge from the mine to the Red River.

Questa Mine
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The only other outlet available to CMI would be to convey water down the tailing pipeline to the tailing facility. Doing so would avoid the mine filling up with water as described above. It is important to note that the water that will be conveyed to the tailing facility is not mill process waste water as the mine has been shut down since October 2014. The water that will be conveyed to the tailing facility consists of mine drainage, and captured groundwater or spring water. Accordingly, the water that will be conveyed to the tailing facility is not the result of production activities that could be shut down to avoid the conveyance. Pending completion of the TWTP, CMI's only responsible option to manage this water is to convey it to the tailing facility. As a result, CMI is providing this notice that it intends to immediately begin conveying water down the tailing pipeline to the tailing facility.

CMI notes that Part III, Section D(2) of the Permit requires advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. CMI submits this notification in the interest of full transparency and in satisfaction of that obligation.

Additionally, CMI notes that Part III D(7) of the permit, calls for 24-hour oral notice with a 5-day written follow-up of specified content where a noncompliance which may endanger health or the environment. CMI does not believe that the use of the tailing pipeline will endanger health or the environment, but in an abundance of caution notes that the 24-hour oral notice was provided to various EPA officials on November 17, 2018. Furthermore, this notice, which is within 24 hours of the event, is intended to serve the same purpose as to the New Mexico Environment Department.

Sincerely,

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Michael D. Coats

Michael D. Coats
Vice President for CMI

11/18/16

Date

Cc: Steve Gilrein – US EPA
Gary Baumgarten – US EPA
Elizabeth Pletan – US EPA
Bruce Yurdin – NMED
Jennifer Hower – NMED
Sarah Holcomb - NMED