UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

First Notice – UIC
September 5, 2019

CERTIFIED MAIL: RETURN RECEIPT REQUESTED #7015 3010 0000 3883 3105

Daniel Johnson
Vice President - General Manager
Florence Copper, Inc.
1575 W. Hunt Highway
Florence, Arizona 85132

Re: Administratively Incomplete Underground Injection Control (UIC) Permit Application No. R9UIC-AZ3-FY19-1

Dear Mr. Johnson:

On August 5, 2019, we received your application requesting to modify existing UIC permit No. R9UIC-AZ3-FY11-1. We have reviewed your application and determined that it is incomplete, as specified at Chapter 40 of the Code of Federal Regulations (40 CFR) § 124.3(c). The permitting regulations prohibit EPA from processing an application for a UIC permit until it has met all applicable requirements. See 40 CFR § 124.3(a)(2).

Based on our review, we spoke with you by phone on August 22, 2019 and clarified that your application should be for a new UIC permit to construct and operate a commercial-scale project rather than a modification of the existing Production Test Facility (PTF) permit (UIC Permit No. R9UIC-AZ3-FY11-1). We also discussed with you the additional information necessary to complete your application.

Specifically, the following information is necessary to make your application complete:

1. The Permit action requested on UIC Permit application form 7520-6 should be for a new permit instead of a modification (see 40 CFR § 144.31). Moreover, there is language throughout the Attachments referring to a permit modification that should be revised to reflect the appropriate permit action request. If we issue a new permit for the proposed commercial scale In-Situ Copper Recovery (ISCR) facility, we anticipate revoking the existing PTF permit concurrently with the new permit issuance (see 40 CFR § 124.5).

2. Attachment A, Maps and Area of Review, Section A.3.2: The description of groundwater flow model simulation results is not sufficiently detailed to predict migration for each layer in the model for the new permit application (see 40 CFR §§ 144.31, 146.6). Please provide additional discussion and illustrations depicting the horizontal and vertical extent of migration of injected fluids under the different model scenarios, including the extent of vertical movement within the sidewinder and other intersecting faults. Also, provide the electronic files for the updated groundwater flow model data runs and results in the UIC application.

3. Plugging and Abandonment (P & A) plans, EPA Forms 7520-19: Plugging and abandonment plans for the BHP test wells, 308 coreholes, and all non-Class III wells proposed for abandonment are missing from the application. In addition, we need you to confirm and correct the abandoned bottom hole depth for core hole 454S in the PTF well and corehole abandonment summary Table 1, Exhibit A-2. In addition, the P&A plans in the UIC Permit application for each block are not signed and dated. Please provide the missing P&A plans, pursuant to 40 CFR §§ 144.51, 146.34, and the signed and dated forms, pursuant to 40 CFR § 144.32.

4. Attachment F, Financial Assurance, Exhibit F-1: This document contains combined closure and post-closure cost estimates for both the Aquifer Protection Permit and the commercial-scale UIC Permit. Closure and post-closure cost estimates for the UIC regulated activities only should be provided in the UIC permit application so we may ensure that your financial responsibility proposal meets UIC requirements pursuant to 40 CFR §§ 144.31, 144.51, and 144.52. In addition, please provide evidence that the cost estimates represent independent third-party estimates for plugging and abandonment, aquifer restoration, and closure/post-closure activities.

5. Attachment K, Optional Additional Project Information (40 CFR § 144.4): The description of Endangered Species Act (ESA) compliance references the WestLand Resources report from 2011, included in Exhibit K-2. The description of National Historical Preservation Act (NHPA) compliance refers to amending the existing Memorandum of Agreement for the PTF. Please provide an updated biological evaluation of listed threatened or endangered species for the FCP site and provide a discussion of steps necessary to implement the NHPA Section 106 process for the commercial-scale FCP.

Please submit the entire revised application requested above by October 7, 2019. If you are unable to provide the information by October 7, 2019, you may withdraw your application until you have all the required information. Once you have all the required information, you may resubmit your full application at any time.

Under EPA regulations, if an applicant fails or refuses to correct deficiencies in the application, the permit may be denied. If, by October 7, 2019, we do not receive the additional information, and if you do not withdraw your application, EPA may initiate proceedings to deny your permit application. *See* 40 CFR § 124.3(d). Please note that, to ensure the protection of underground sources of drinking water, the Safe Drinking Water Act Section 1421 prohibits underground injection which is not authorized by rule or a permit issued by EPA or an authorized State. Safe Drinking Water Act, 42 U.S.C. 300h(b)(1)(A).

Thank you for your consideration. If you have questions, please contact me at (415) 972-3971 or you may contact Nancy Rumrill at (415) 972-3293.

Sincerely,

David Albright
Manager, Groundwater Protection Section

cc: Maribeth Greenslade, ADEQ
David Ross, Assistant Administrator, Office of Water