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

Certified Mail No. 7011 0470 0002 9197 6176
Return Receipt Requested

May 25, 2012

Peter Yucupicio, Chairman
Pascua Yaqui Tribe
7474 S. Camino De Oeste
Tucson, AZ 85746

Re: Request for Government-to-Government Tribal Consultation regarding the Proposed Florence Copper Project

Dear Chairman Yucupicio:

The United States Environmental Protection Agency, Region IX (EPA) is evaluating an Underground Injection Control (UIC) permit application from Curis Resources (Arizona), Inc. (Curis Arizona) for a proposed in-situ copper recovery facility located 2.5 miles northwest of Florence, Arizona. I am writing to initiate government-to-government consultation on the proposed facility, including consultation under the National Historic Preservation Act (NHPA).

The federal action or undertaking is the potential UIC permitting of the construction of a production test facility of 24 wells (the "facility") and operation for approximately 14 months to evaluate treatment and recovery technologies. In addition, Curis Arizona will construct an evaporation pond, temporary processing facility and an above-ground pipeline. Curis Arizona holds title to a Mineral Lease with the Arizona State Land Department for 160 acres of State Trust land within the Curis property boundary. The facility will be located on the State Trust land within the boundaries of the Curis Arizona property area ("Property Area"). The State Trust land is located in the North ½ South ½ of Section 28, Township 4 South, Range 9 East. The entire Property Area includes Sections 26, 27, 28, 33, 34, and 35 of Township 4 South, Range 9 East (map enclosed).

EPA previously issued a UIC permit to BHP Copper in 1997 for an in-situ copper mining facility within the Property Area. Since then, Curis Arizona purchased the property and requested transfer of the UIC permit. On March 25, 2011, Curis Arizona submitted an application for modification and transfer of the BHP Copper permit, pursuant to 40 C.F.R. § 144.39, which covered both the Phase 1 production test facility and subsequent development of a Phase 2 full-scale in-situ copper recovery facility. However, following further discussion with the applicant, Curis Arizona has revised their request to EPA to process the application only for the UIC activities associated with the Phase 1 production test facility at this time. This potential UIC permit is the subject of this consultation request to your tribe pursuant to the *EPA Policy on Consultation and Coordination with Indian Tribes* and the NHPA Section 106 (36 C.F.R. Part 800).

The NHPA Section 106 review process requires consultation with federally-recognized tribes to ensure that Indian tribes, which may attach religious or cultural significance to historic properties in the area of potential effect, are provided a reasonable opportunity to participate in the process. "Historic properties" are defined in the NHPA regulations to include prehistoric or historic districts, sites, buildings, structures, or objects that are included in, or are eligible for inclusion in, the National Register of Historic Places. This term includes artifacts, records and remains that are related to and located within such properties. The Property Area has known archaeological sites that are eligible for inclusion in the National Register of Historical Places.

In the Section 106 process, EPA consults with tribes and state historic preservation offices to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize or mitigate adverse effects to historic properties. Typically, measures to resolve adverse effects that are adopted as a result of Section 106 consultation are documented in an agreement that then governs the undertaking. For the prior UIC permit action in 1997, EPA, along with the Gila River and Hopi Tribes, Arizona State Historic Preservation Office, Magma Copper Company (subsidiary of former permittee, BHP Copper) and Advisory Council on Historic Preservation negotiated a Programmatic Agreement to mitigate potential adverse effects on historic properties. EPA anticipates that a new agreement will be developed through this Section 106 process. EPA requests your assistance in identifying any additional historic properties that have traditional religious and cultural importance to your tribe that may be located within the Property Area, and if identified, EPA would like to consult with you on possible measures to avoid or minimize potential adverse effects to such properties.

EPA also seeks consultation with your tribe pursuant the *EPA Policy on Consultation and Coordination with Indian Tribes* (Policy). The Policy complies with the Presidential Memorandum issued November 5, 2009, directing agencies to develop a plan to implement fully Executive Order 13175. EPA's Policy is to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests.

If you wish to participate in the consultation, EPA will provide additional information on the proposed facility and opportunities for you to provide and discuss input. In the consultation, if it is determined that you need access to additional records regarding known archaeological sites to participate effectively, EPA may consider your request for this information. If you would like to use the convenient return letter (enclosed) to indicate your level of interest, please check the appropriate item(s) and return in the self-addressed envelope. Please provide your request for additional information and for consultation within 30 days from the date of this letter to the staff contact, Nancy Rumrill, at rumrill.nancy@epa.gov or at the following address:

Attn: Nancy Rumrill (WTR-9)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105

EPA proposes a timeline for government-to-government consultation and coordination from the date of this letter to July 30, 2012.

EPA is sensitive to the possibility that you may not wish to divulge information about historic properties that have cultural or religious significance. Additionally, the NHPA and its implementing regulations provide protection from public disclosure of information about a historic property that might result in harm to the property, a significant invasion of privacy, or impediments to traditional religious practices at

If you are interested in participating in consultation or have any questions regarding the proposed project, please feel free to call me at (415) 972-3971, or contact Nancy Rumrill at (415) 972-3293. We look forward to working with you on this matter.

Sincerely,

Elizabeth James for

David Albright
Manager, Ground Water Office

Enclosures

cc: James Garrison, SHPO, Arizona State Parks
Chase Choate, Environmental Director
Pauline Jose, Director, Fort Yuma-Quechan Tribal Museum

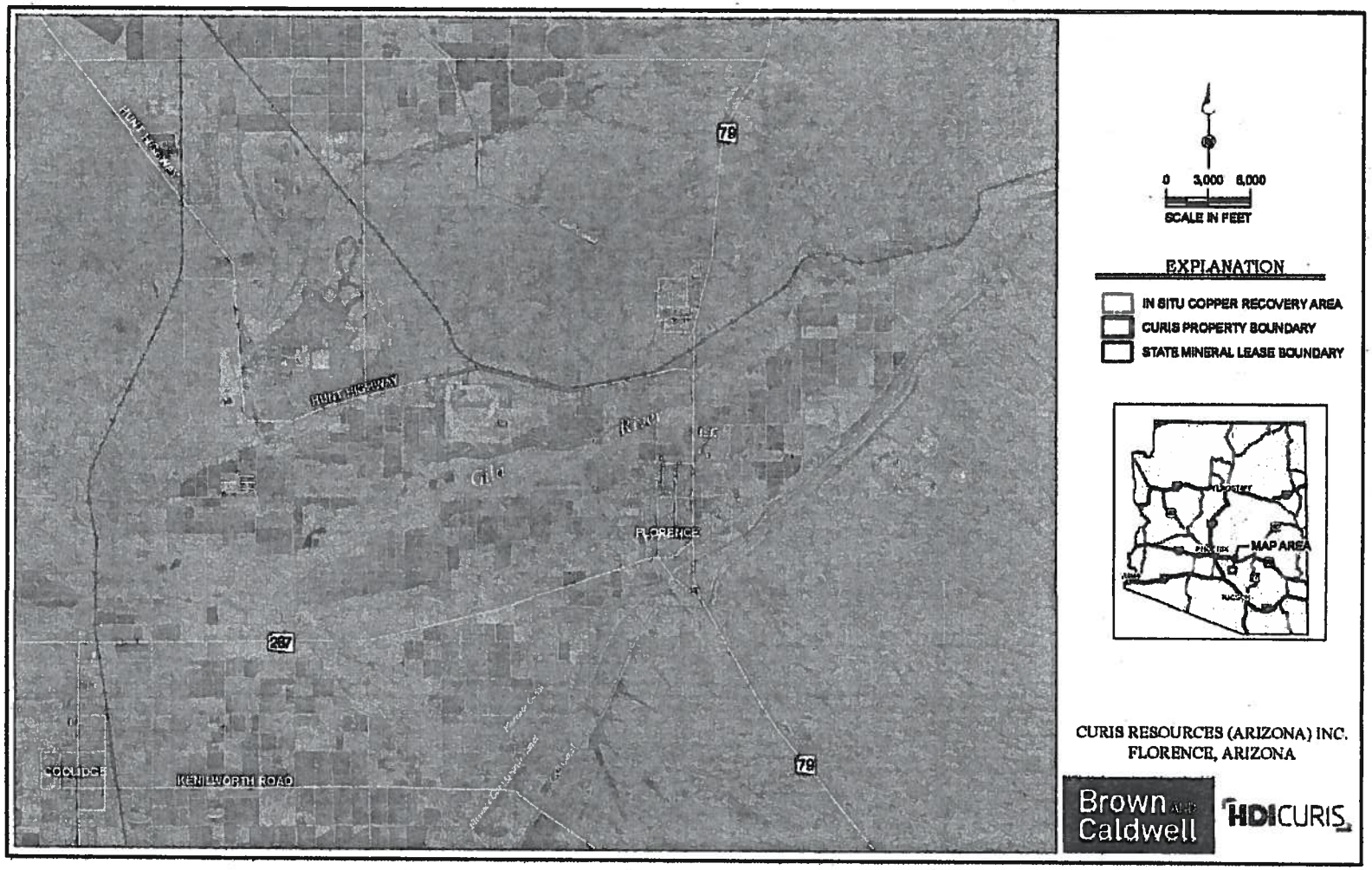

Figure 1. General project location.