NPDES PERMIT NO. NM0022101
RESPONSE TO COMMENTS

RECEIVED ON THE SUBJECT DRAFT
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM(NPDES)
PERMIT IN ACCORDANCE WITH REGULATIONS LISTED AT 40CFR124.17

APPLICANT: Rio Algom Mining LLC
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ISSUING OFFICE: U.S. Environmental Protection Agency
Region 6
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PERMIT ACTION: Final permit decision and response to comments received on the draft reissued NPDES permit publicly noticed on August 27, 2005

DATE PREPARED: December 8, 2005

Unless otherwise stated, citations to 40CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of 7/1/05.

CHANGES FROM DRAFT PERMIT

There are minor changes from the draft reissued NPDES permit publicly noticed on August 27, 2005.

A. The reporting period has been changed from once per quarter to monthly.

B. The compliance schedule for vanadium has been removed

C. Typographical errors have been corrected.

STATE CERTIFICATION

Marcy Leavitt (NMED) to Miguel I. Flores (EPA) dated September 26, 2005.

The following effluent limitations and/or conditions are included in the final permit in conformance with regulations listed at 40CFR122.44(d)(3):

There were no State conditions of certification.

RESPONSE TO COMMENTS

ISSUE NUMBER 1

The permittee requested confirmation that the test methods required for analysis are those listed in 40 CFR Part 136 rather than the methods previously listed in the expired permit.

RESPONSE

As requested, the reissued permit (see Part II.C.5.a) requires the use of EPA approved test methods listed in 40 CFR Part 136.

ISSUE NUMBER 2

Rio Algom commented that the compliance schedule for Vanadium is inappropriate because the outfall has been operated as a zero discharge outfall since 1993.

RESPONSE

The compliance schedule has been removed from the permit as requested.

ISSUE NUMBER 3

The permittee noted that the reporting period has been changed from monthly to quarterly and supported the change. However, the draft permit contains some discrepancies which would require reporting before test results are available.

RESPONSE

The change in the reporting period was made in error. The permit is rated as a major industrial facility and the previous permit's monthly reporting frequency is retained in the final permit. As was required by the previous permit, discharge Monitoring Reports will be due on the 15th day of the month following the reporting period.

ISSUE NUMBER 4

NMED noted that EPA produced a Statement of Basis for the proposed permit whereas a Fact Sheet should have been prepared since the facility is rated as a major .

RESPONSE

EPA regrets any confusion created by this error. The document should have been labeled ''Fact Sheet'' rather than ''Statement of Basis'' as NMED suggests. It does, however, contain all the pertinent material that the regulations at 40 CFR 124.56 require in a Fact Sheet. Therefore, the error does not affect the conditions included in the permit.

ISSUE NUMBER 5

NMED noted that EPA did not include the Rio Puerco and Rio Grande in the list of downstream waters.

RESPONSE

The Rio Puerco and Rio Grande have been added to the waterbody description in the final permit.

ISSUE NUMBER 6

NMED noted that the water body uses were incorrectly stated in the ''Statement of Basis''.

RESPONSE

The error is noted in the administrative record.

ISSUE NUMBER 7

NMED stated that the water bodies, to which the facility could drain, are designated as supporting limited aquatic life and secondary contact. Toxicity testing would normally be required for this facility; however, previous testing has shown no toxic effects. Therefore NMED is not requiring further testing at this time.

RESPONSE

EPA agrees. Designated uses of the receiving water are limited aquatic life and secondary contact. The designated uses are noted in the administrative record. As noted by NMED, previous toxicity testing done by the permittee shows that the effluent complies with the limited aquatic life use.

ISSUE NUMBER 8

NMED noted that Part II of the permit only lists a Minimum Quantification Level (MQL) for aluminum. The state suggested that the permit contain MQLs for vanadium, zinc, and cadmium.

RESPONSE

MQLs are included in permits as the compliance benchmark for cases where a limit is set at a concentration too low to reliably quantify. All parameters except selenium are limited to concentrations which are greater than the established MQLs. Therefore, there is no need to list additional MQLs. Accordingly, the list has not been expanded in the final permit.

NMED also noted several typographic errors in the permit. Those errors have been corrected.