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Michael B. Sloane

STATE OF NEW MEXICO  
DEPARTMENT OF GAME & FISH

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27 March 2023

David J. (DJ) Ennis, P.G., Permit Lead  
Mining Act Reclamation Program  
Mining and Minerals Division (MMD)  
1220 South St. Francis Drive  
Santa Fe, NM 87505

**RE: *Workplan for Road Repair, Summa Silver Mogollon Minimal Impact Exploration, Catron County, New Mexico, Permit No. CA027EM; NMDGF No. NMERT-2469.***

Dear Mr. Ennis:

The New Mexico Department of Game and Fish (Department) has reviewed the Workplan for Road Repair (Plan) submitted by Summa Silver. Summa Silver is requesting permission to repair Fannie Road (Catron County C-040) and Forest Service Road FS4056O north of Mogollon, NM, during the Mexican spotted owl (MSO) closure and migratory bird survey season (March 1 – August 31). Summa Silver anticipates the road repair work to be completed within two to three days on approximately 1.23 miles of road. The repairs would require three to five loads of rock to be applied with the aid of a backhoe. The Department provides the following comments to minimize potential impacts to the MSO.

The proposed road work will occur at least 0.5 miles (i.e., recommended buffer distance) from the two active MSO nest sites that were identified in 2022 by NV5 using the U.S. Fish and Wildlife Service's MSO Survey Protocol. The road work is at least 1.5 miles from the further of these two nest sites. The Department recommends delaying road work until at least two rounds of year two MSO surveys have been completed to verify that the MSO pairs have not moved to another nest site location that is less than 0.5 miles from the proposed road work.

To minimize potential impacts to MSO foraging behavior, the Department recommends that road work operations be limited to one to two hours after sunrise until one to two hours before sunset during the MSO breeding and fledgling-dependency period (March 1 – August 31).

The Department also recommends that Summa Silver consult with the U.S. Fish and Wildlife Service for concurrence with the Department's recommendations and for any additional concerns or mitigation measures related to the proposed Plan.

Thank you for the opportunity to provide comments on Summa Silver's proposed work plan to conduct road repairs. If you have any questions, please contact Ron Kellermueller, Mining and Energy Habitat Specialist, at (505) 270-6612 or [ronald.kellermueller@dgf.nm.gov](mailto:ronald.kellermueller@dgf.nm.gov).

David J. (DJ) Ennis, Permit Lead  
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Sincerely,

Matt Wunder, Ph.D.  
Chief, Ecological and Environmental Planning Division

cc: USFWS NMES Field Office