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18 October 2024

RE: Capital Dome Mine Safeguarding Project, Draft Environmental Assessment, Luna County, New Mexico; NMDGF Project No. NMERT-3189.

Leeland Murray, Project Manager
New Mexico Abandoned Mine Land Program (AML)
Energy, Minerals and Natural Resources Department (EMNRD)
8801 Horizon Blvd. NE, Suite 260
Albuquerque, NM 87113

Dear Mr. Murray,

The New Mexico Department of Game and Fish (Department) has reviewed the above-referenced Capital Dome mine safeguarding project Environmental Assessment (EA). The EMNRD, Mining and Minerals Division, AML, in cooperation with the U.S. Department of Interior, Office of Surface Mining Reclamation and Enforcement, and the Bureau of Land Management, are proposing to safeguard approximately 210 abandoned mine features within the boundaries of the Capital Dome Mine Safeguarding Project Area (Area) in the Florida Mountains. AML estimates that there are 62 low risk, 37 moderate risk, 29 high risk, and 67 extreme risk mine features within the proposed Area. Grouse Mountain Environmental Consultants, LLC submitted a Draft EA for the Area in July 2024. In addition, Bat Conservation International conducted abandoned mine surveys in the Area to identify bat habitat and recommend where bat gate installation is warranted (Final Report: Capital Dome Abandoned Mine Bat Surveys, 2024). Staff from the Department and AML conducted a site inspection on 9 October 2024.

Department staff observed a barn owl (*Tyto alba*) that flushed from shaft feature 10-7 during the site inspection. They also observed several juvenile greater earless lizards (*Cophosaurus texanus*) and a whiptail lizard (*Aspidoscelis* sp.).

The Department concurs with the mitigation and avoidance recommendations in the EA and provides the following, more specific recommendations for protecting migratory birds, reseeding the areas proposed for reclamation, and protecting wildlife microclimate refugia:

- To minimize the likelihood of adverse impacts to migratory bird nests, eggs, or nestlings during project construction activities, the Department recommends that ground disturbance and vegetation removal activities be conducted outside of the primary breeding season. That season is 1 March – 1 September for migratory songbirds and most raptors; it is 1 January – 15 July for golden eagle (*Aquila chrysaetos canadensis*) and great horned owl (*Bubo virginianus*). If ground-disturbing and clearing activities must be conducted during the breeding season, the area should

be surveyed for active nest sites (with birds or eggs present in the nesting territory) and avoid disturbing active nests until young have fledged. For active nests, establish adequate buffer zones to minimize disturbance to nesting birds. Buffer distances should be a minimum of 100 feet from songbird and raven nests; 0.25 miles from most raptor nests; and 0.5 miles for golden eagle, peregrine falcon (*Falco peregrinus*), and prairie falcon (*Falco mexicanus*) nests. Active nest sites in trees or shrubs that must be removed should be mitigated by qualified biologists or wildlife rehabilitators. Department biologists are available to consult on nest site mitigation and can facilitate contact with qualified personnel.

- Several of the shallow mine shaft features that are less than 10 feet deep and recommended in the EA for destructive closure by backfilling had western hackberry trees (*Celtis reticulata*) growing in them. In one of these features, a hackberry tree provided substrate for a migratory bird nest. The Department is concerned that backfilling these shafts is likely to kill the hackberry trees, thereby removing potential nest habitat. The Department recommends the use of metal bars, rather than backfilling, to safeguard the mine features that contain healthy hackberry trees.
- For reclamation of disturbed mine sites, the Department recommends that AML use only native plant species and that the reclamation seed mix is designed to enhance local pollinator habitat. The Department also recommends that only certified weed-free seed be used to avoid inadvertently introducing non-native species to the reclamation site. Any alternate seeds used to substitute for primary plant species that are unavailable at the time of reclamation should also be native. When possible, the Department recommends using seeds that are sourced from the same region and habitat type as the reclamation site or from a region that represents potential future climatic conditions at the site.
- Mine adit feature 10-13 provides a cave-like area that can provide wildlife shelter from the summer heat and adverse weather. The feature is approximately 15 feet deep and is in solid rock that does not pose a hazard to human safety. The Department recommends not destructively closing mine feature 10-13 so that wildlife can continue to access this cave-like area. The Department also recommends that any similar mine features that do not pose a hazard to human safety are also left untouched so they can continue to provide refugia for wildlife.

The Department does not anticipate any significant impacts to Persian ibex (*Capra aegagrus*) populations in the Florida Mountains as a result of the proposed mine safeguarding activities, including the temporary noise disturbance associated with helicopter flights planned to supply materials to the more remote and rugged sites in the Area.

Thank you for the opportunity to review and comment on the proposed mine safeguarding project. If you have any questions, please contact Ron Kellermueller, Mining and Energy Habitat Specialist, at (505) 270-6612 or ronald.kellermueller@dgf.nm.gov.

Sincerely,

Virginia Seamster, Ph.D.
Assistant Chief for Technical Guidance, Ecological and Environmental Planning Section

cc: USFWS NMES Field Office