



THE SAN MARCOS ASSOCIATION

P.O. Box 722

Cerrillos, NM 87010

<https://thesanmarcosassociation.org/>

April 28, 2023

Jerry Schoeppner

Director, Mining and Minerals Division

New Mexico Department of Energy, Minerals and Natural Resources

Dear Mr. Schoeppner:

The San Marcos Association (SMA) (<https://thesanmarcosassociation.org/>) is a non-profit community service organization (IRS Code 501(c) (4)), and a Registered Organization under Chapter 2 of the Sustainable Land Development Code of Santa Fe County. Our goals are to protect the rural, residential character of the area for which we advocate; to monitor development to see that it is consistent with that character and with applicable plans and ordinances of Santa Fe County; and to advocate on behalf of property owners/residents of the area in matters of public service, utilities and the general welfare of people. Our area of advocacy includes down gradient neighbors of the Cunningham Hill Mine property. We have monitored the Permit Revision 20-1 Application from LAC Minerals for closure, and visited the Cunningham Hill site during the August 2, 2022, Open House. Three SMA board members attended the Hearing November 2, 2022, remotely, but like many attendees we were unable to use the chat function or to offer comments. The comments below are in response to LAC's responses to comments from that hearing.

The San Marcos Association would like to thank MMD for requiring an update to the original site assessment that reflects how any changes affect the exit strategy regarding erosion and water quality impacts or other site impacts. We are supportive of the position of the Friends of Santa Fe County, a group that has worked on behalf of the Gold Mine Road and Cerrillos-area communities since the 1990s. In support of and in addition to their comments and specific suggestions, we would like to stress the following.

First, a better and more in-depth financial analysis of the fiscal assurance plan is needed. LAC has performed its analysis, but we feel it does not take into adequate account appropriate long-term assumptions for such elements as the discount rate, possible effects of climate change, and potential effects on local groundwater supplies in areas outside of the mine property. Given the scope of this reclamation project, and the need for it to be sustained into the future, SMA feels that the state agencies involved – MMD and/or NMED – should conduct their own analyses rather than rely on LAC. That analysis should then be made available for public review prior to it being finalized.

Moreover, when considering that 30 years of reclamation has already passed in the blink of an eye, bringing dramatic changes in weather patterns along with potential reassessment of suitable reclamation plants and materials, it is far too conservative to anticipate new problems arising in just 100 years (or less). The SMA proposes that a financial assurance structure be imposed that will protect the site for as long as can be legally required, and that will involve periodic review to reset the duration of that financial assurance plan. Recognizing that there may be regulations that determine the allowable time for continuing site monitoring and care, we support rigorous enforcement of measures that can be taken to make the site as resilient as possible before allowing LAC to vacate.

Second, we feel that any financial assurance instruments should:

- Explicitly name Barrick Gold, or LAC Minerals' succeeding parent company, as the agent providing financial assurance bonds, in the event that current business structures change over the term of the agreement.
- Be structured as separate bonds for MMD and NMED, bonds reflecting the distinct administrative responsibilities of those agencies, as they are currently doing.
- Explicitly contain budget line items for all site monitoring and for fire access road construction and maintenance to the mine site and to public properties above the site.

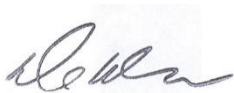
Third, the SMA Board of Directors requests that LAC conduct at least yearly monitoring of the site regarding risks and progress of pit wall failure, erosion, degradation of the retention ponds for acid residue, and onsite wells. Importantly, data and analyses from this regular monitoring should be made available within a reasonable time (e.g., 60 days) on easy-to-use publicly accessible websites. Regardless of the term of any financial assurance instrument, SMA feels this monitoring should take place beyond that term, until such time as, through a process involving the public, future state administrators certify that all impacts have been mitigated, and the site has been returned to a self-sustaining ecosystem.

Beyond the specific review and management of agreements with LAC, SMA is concerned that the EMNRD approach is weak in its protection of groundwater resources in neighboring and nearby properties. We heard discussion at the hearing of a separate process for the New Mexico Department of Environment to address off-site water issues. SMA, requests more detail regarding a coordinated and robust effort between the various Departments of the State of New Mexico that can suitably address groundwater-related issues in this instance. With whom should we schedule a meeting to deal with such issues proactively?

Our understanding is that, according to official guidelines, LAC cannot be released from its responsibilities on the site unless certain conditions are met, including ensuring "that the open pit or waste unit will meet all applicable federal and state laws, regulations, and standards for air, surface water and groundwater protection following closure and will not pose a current or future hazard to public health or safety." We feel strongly that these responsibilities should also include addressing potential issues offsite that affect the mine's nearby neighbors and the local ecosystem.. To view the property where the mine is located, and events past and future on that site, as somehow unconnected to and having no influence on the surrounding area flies in the face of ecological and hydrologic principles. Doing so would be incorrect and short-sighted.

We thank you for your attention to this matter and await a report concerning the ongoing process.

Sincerely,



Dennis Kurtz, President
The San Marcos Association

Cc: Carmen Rose, Permit Lead – MARP

Ross Lockridge, Las Candelas de Los Cerrillos

Thomas Parker, Friends of Santa Fe County

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