



**Michelle Lujan Grisham**  
Governor

**Howie C. Morales**  
Lieutenant Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

Ground Water Quality Bureau

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**James C. Kenney**  
Cabinet Secretary

**Jennifer J. Pruett**  
Deputy Secretary

**MEMORANDUM**

Date: January 19, 2021

To: Holland Shepherd, Program Manager, Mining Act Reclamation Program

Through: Anne Maurer, Team Leader, Mining Environmental Compliance Section

From: Amber Rheubottom, Mining Environmental Compliance Section  
Alan Klatt, Surface Water Quality Bureau  
Sufi Mustafa, Air Quality Bureau

Subject: **NMED Comments, Updated Application, Terrero Exploration Project, Comexico, LLC, Santa Fe County, New Mexico Mining Act Permit No. SF040ER**

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The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on November 16, 2020 requesting NMED review and provide comments on the above-referenced MMD permitting action. Pursuant to the Mining Act a regular exploration permit application has been submitted to MMD. The applicant submitted an update to their application. MMD requested comments on the updated application within 60 days of receipt of the request for comments. NMED has the following comments.

**Background**

Comexico, LLC (Applicant) submitted an update to their regular exploration permit application that includes a response to agency comments, an updated Hydrogeologic Resources Report, and Road Maintenance Plan.

**Air Quality Bureau**

The Air Quality Bureau comments are attached.

**Surface Water Quality Bureau**

The Surface Water Quality Bureau comments are attached.

### **Mining Environmental Compliance Section (MECS)**

MECS has the following comments:

1. Updated Application, Number 5A, "*End Date: August 1, 2024 (USFS) or 2022 (NM MMD)*" – Please elaborate on the difference in end dates for the project, specifically stating which activities are USFS related and which are MMD related.
2. Updated Application, Number 5D, "*Drilling*" – Please provide additional discussion on the water management procedures for all non-core drilling activities. Discharge directly to the ground surface is not permitted without prior approval from NMED.
3. Updated Application, Number 5E, "*road maintenance*" – MECS has knowledge of mine waste being used on the roads in the region. In the event any historic mine waste is encountered during road improvements and or maintenance, it should be removed and disposed in a manner that is protective of surface water and groundwater quality.
4. Updated Application, Number 6A, "*Water source – well UP 00826*" Prior to any use on-site, a ground water sample shall be collected from well UP 00826 and tested for New Mexico Water Quality Control Commission (NMWQCC) constituents shown in the attached list (Attachment 1). NMED will evaluate the results, and if any constituent is found to exceed 20.6.2.3103 NMAC standards, use of the water on-site may not be permitted. NMED also requests the sampling and analysis of water from springs, historical shafts, and historical adits on-site for constituents shown in Attachment 1 prior to permitted exploration activities. The purpose of the sampling of springs, shafts, and adits is for the establishment of baseline water quality. At the conclusion of site activities, NMED may request a repeat sampling event to confirm the exploration activities did not impact water quality. NMED requests all water quality results be submitted a minimum of 60 days prior to the start of activities on site.

### **NMED Summary Comment**

Additional information is needed prior to NMED determining that the proposed exploration activities will be protective of the environment. NMED will make this determination once the applicant has submitted the information requested above.

If you have any questions, please contact Anne Maurer at (505) 660-8878.

cc: David Ogori, Lead Staff, EMNRD-MMD  
Kurt Vollbrecht, Program Manager, MECS  
Shelly Lemon, Bureau Chief, NMED-SWQB  
Elizabeth Bisbey-Kuehn, Bureau Chief, NMED-AQB

Attachment 1 – Water Quality Analyte List & NMWQCC 20.6.2.3103 NMAC Applicable Standard

| Analyte                                    | NMWQCC Standard & Unit |
|--------------------------------------------|------------------------|
| Aluminum                                   | 5.0 mg/l               |
| Antimony                                   | 0.006 mg/l             |
| Arsenic                                    | 0.01 mg/l              |
| Barium                                     | 2 mg/l                 |
| Beryllium                                  | 0.004 mg/l             |
| Boron                                      | 0.75 mg/l              |
| Cadmium                                    | 0.005 mg/l             |
| Chloride                                   | 250 mg/l               |
| Chromium                                   | 0.05 mg/l              |
| Cobalt                                     | 0.05 mg/l              |
| Copper                                     | 1.0 mg/l               |
| Cyanide                                    | 0.2 mg/l               |
| Fluoride                                   | 1.6 mg/l               |
| Iron                                       | 1.0 mg/l               |
| Lead                                       | 0.015 mg/l             |
| Manganese                                  | 0.02 mg/l              |
| Total Mercury                              | 0.002 mg/l             |
| Molybdenum                                 | 1.0 mg/l               |
| Nickel                                     | 0.2 mg/l               |
| Nitrate (NO <sub>3</sub> as N)             | 10.0 mg/l              |
| Nitrite (NO <sub>2</sub> as N)             | 1.0 mg/l               |
| pH                                         | 6-9 units              |
| Radioactivity: Combined Radium 226 and 228 | 5 pCi/l                |
| Selenium                                   | 0.05 mg/l              |
| Silver                                     | 0.05 mg/l              |
| Sulfate                                    | 600 mg/l               |
| Thallium                                   | 0.002 mg/l             |
| Total Dissolved Solids                     | 1,000 mg/l             |
| Uranium                                    | 0.03 mg/l              |
| Zinc                                       | 10.0 mg/l              |

mg/l – milligrams per liter      pCi/l – picocuries per liter



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Surface Water Quality Bureau

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**James C. Kenney**  
Cabinet Secretary

**Jennifer J. Pruett**  
Deputy Secretary

**MEMORANDUM**

DATE: January 15, 2021

TO: Kurt Vollbrecht, Program Manager, Mining Environmental Compliance Section

FROM: Alan Klatt, Surface Water Quality Bureau

SUBJECT: **Request for Comments, Updated Application, Terrero Exploration Project, Comexico, LLC, Santa Fe County, New Mexico Mining Act Permit No. SF040ER**

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The New Mexico Environment Department (NMED)-Surface Water Quality Bureau (SWQB) received the Subject request for comments on November 17, 2020. The updated application has been submitted by Comexico, LLC for the Terrero Exploration Project in Santa Fe County. SWQB previously provided comments on the original application and the Hydrogeologic Report. In accordance with 19.10.4.402.F. NMAC, SWQB has prepared the following comments.

The Hydrogeologic Report dated October 2019 had committed to hauling all mud material off-site via drum or vacuum trucks to prevent drilling mud from interacting with the ground surface; However, the updated application dated August 2020 proposes to use two mud pits per drill site (30 drill sites), 5-10 ft long by 5-10 ft wide and about 5 ft deep, lined with plastic to keep the drilling fluids from seeping into the ground. The mud pits and contents will be buried on-site and revegetated after use. The updated application has also revised the list of drilling additives and drilling mud products to include AMC 206, AMC EZEE BORE, AMC EZEE PAC R, AMC HV Foam, AMC Torque Guard, and AMC Grout 20.

The updated list of drilling fluids includes a combination of water-based fluids and synthetic-based fluids which are generally considered safer than the oil-based fluids originally proposed. The Applicant's response to agency comments, dated September 30, 2020, commits to containing all water to the drill site and maintaining appropriate spill clean-up materials at all times which should reduce the greatest risk to humans and the environment that could result following a spill.

SWQB supports the USDA's National Core BMP Technical Guide<sup>1</sup> and recommends using nontoxic, nonhazardous drilling fluids whenever practicable. This practice provides the greatest assurance that State surface water quality standards will be maintained and protected and that no exceedances will occur under 20.6.4.13.F NMAC for toxic pollutants.

For questions related to these comments, please contact Alan Klatt, SWQB, at 505-819-9623.

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<sup>1</sup> [https://www.fs.fed.us/naturalresources/watershed/pubs/FS\\_National\\_Core\\_BMPs\\_April2012.pdf](https://www.fs.fed.us/naturalresources/watershed/pubs/FS_National_Core_BMPs_April2012.pdf)



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Cabinet Secretary

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Deputy Secretary

**MEMORANDUM**

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**DATE:** January 8, 2021

**TO:** Kurt Vollbrecht, Program Manager, Mining Environmental Compliance Section

**FROM:** Sufi Mustafa, Staff Manager, Air Dispersion Modeling and Emission Inventory Section, Air Quality Bureau

**RE: Request for Comments, Updated Application, Terrero Exploration Project, Comexico, LLC, Santa Fe County, New Mexico Mining Act Permit No. SF040ER**

The New Mexico Air Quality Bureau (AQB) has completed its review of the above-mentioned mining project. Pursuant to the New Mexico Mining Act Rules, the AQB provides the following comments.

**Air Quality Permitting History**

The AQB has no previous record of this operation.

**Details**

Comexico will drill up to 30 holes at up to 30 drill sites. The maximum disturbed area is less than 7.72 acres. Mined material will not be processed on site

**Air Quality Requirements**

The New Mexico Mining Act of 1993 states that "Nothing in the New Mexico Mining Act shall supersede current or future requirements and standards of any other applicable federal or state law." Thus, the applicant is expected to comply with all requirements of federal and state laws pertaining to air quality.

20.2.15 NMAC, *Pumice, Mica and Perlite Processing*. Including 20.2.15.110 NMAC, *Other Particulate Control*: "The owner or operator of pumice, mica or perlite process equipment shall

not permit, cause, suffer or allow any material to be handled, transported, stored or disposed of or a building or road to be used, constructed, altered or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne."

Paragraph (1) of Subsection A of 20.2.72.200 NMAC, *Application for Construction, Modification, NSPS, and NESHAP - Permits and Revisions*, states that air quality permits must be obtained by:

"Any person constructing a stationary source which has a potential emission rate greater than 10 pounds per hour or 25 tons per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard. If the specified threshold in this subsection is exceeded for any one regulated air contaminant, all regulated air contaminants with National or New Mexico Ambient Air Quality Standards emitted are subject to permit review."

Further, Paragraph (3) of this subsection states that air quality permits must be obtained by:

"Any person constructing or modifying any source or installing any equipment which is subject to 20.2.77 NMAC, *New Source Performance Standards*, 20.2.78 NMAC, *Emission Standards for Hazardous Air Pollutants*, or any other New Mexico Air Quality Control Regulation which contains emission limitations for any regulated air contaminant."

Also, Paragraph (1) of Subsection A of 20.2.73.200 NMAC, *Notice of Intent*, states that:

"Any owner or operator intending to construct a new stationary source which has a potential emission rate greater than 10 tons per year of any regulated air contaminant or 1 ton per year of lead shall file a notice of intent with the department."

The above is not intended to be an exhaustive list of all requirements that could apply. The applicant should be aware that this evaluation does not supersede the requirements of any current federal or state air quality requirement.

### **Fugitive Dust**

Air emissions from this project should be evaluated to determine if an air quality permit is required pursuant to 20.2.72.200.A NMAC (e.g. 10 lb/hour or 25 TPY). Fugitive dust is a common problem at mining sites and this project will temporarily impact air quality as a result of these emissions. However, with the appropriate dust control measures in place, the increased levels should be minimal. Disturbed surface areas, within and adjacent to the project area, should be reclaimed to avoid long-term problems with erosion and fugitive dust. EPA's *Compilation of Air Pollutant Emission Factors, AP-42, "Miscellaneous Sources"* lists a variety of control strategies that can be included in a comprehensive facility dust control plan. A few possible control strategies are listed below:

Paved roads: covering of loads in trucks to eliminate truck spillage, paving of access areas to sites, vacuum sweeping, water flushing, and broom sweeping and flushing.

Material handling: wind speed reduction and wet suppression, including watering and application of surfactants (wet suppression should not confound track out problems).

Bulldozing: wet suppression of materials to “optimum moisture” for compaction.

Scraping: wet suppression of scraper travel routes.

Storage piles: enclosure or covering of piles, application of surfactants.

Miscellaneous fugitive dust sources: watering, application of surfactants or reduction of surface wind speed with windbreaks or source enclosures.

### **Recommendation**

The AQB has no objection to this exploration request.

This written evaluation does not supersede the applicability of any forthcoming state or federal regulations.

If you have any questions, please contact me at 505.476.4318.

**From:** [Kellermueller, Ronald, DGF](#)  
**To:** [Ohuri, David, EMNRD](#)  
**Subject:** RE: Tererro Exploration Project Comments  
**Date:** Friday, February 19, 2021 1:37:34 PM

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David,

The New Mexico Department of Game and Fish (Department) did not submit any comments for Comexico's most recent updated supplemental application because there was nothing that would change our original comments and recommendations that were submitted to MMD in a comment letter dated 11 October 2019. The Department addressed and made recommendations about requiring Comexico to conduct breeding bird surveys within at least a half mile buffer zone in the event that drilling operations had to be conducted during the primary breeding season for migratory birds and raptors. For active nest sites appropriate buffers would have to be established ( $\geq 100$  feet from songbird and raven nests, 0.25 mile from most raptor nests, and 0.5 mile from Mexican Spotted Owl nests). The Department had also addressed and made recommendations to protect wildlife from mud pits in the event that closed containment systems were not used to contain drilling fluids. The Department does reiterate that we would prefer that Comexico conduct drilling operations outside the breeding season for migratory birds and raptors, and that closed containment systems are used to contain drilling fluids. If you have any questions or concerns please do not hesitate to contact me.

Yours Truly, Ron

**RON KELLERMUELLER**  
MINING AND ENERGY HABITAT SPECIALIST  
ECOLOGICAL AND ENVIRONMENTAL PLANNING DIVISION  
NEW MEXICO DEPARTMENT OF GAME AND FISH  
1 WILDLIFE WAY  
SANTA FE, NM 87507  
OFFICE: (505) 476-8159  
CELL: (505) 270-6612  
[ronald.kellermueller@state.nm.us](mailto:ronald.kellermueller@state.nm.us)

### **Conserving New Mexico's Wildlife for Future Generations**

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**From:** Ohuri, David, EMNRD  
**Sent:** Friday, February 19, 2021 11:41 AM  
**To:** Kellermueller, Ronald, DGF <[Ronald.Kellermueller@state.nm.us](mailto:Ronald.Kellermueller@state.nm.us)>  
**Subject:** Tererro Exploration Project Comments

Hi Ron,

Hope that you are well. Its been a while since we last spoke. Maybe I'll see you next week at



Cunningham Hill.

Last November we sent a request for comments on the Comexico supplemental application and supporting documents (Road Maintenance Plan, Hydro Resources Report) to NMDG&F. I can't seem to locate your comments, if any were sent. Since Comexico is now proposing to do their exploration year-round instead of outside of the MSO breeding season I thought that you may have some comments on that. Anyway, attached is a copy of MMD's request for comments letter. Please let me know if you'll have comments or resend the comments to me. I apologize in advance if you've already sent them.

Thanks.

-David

*David Ohori*  
*Supervisor, Senior Reclamation Specialist*  
*New Mexico Mining and Minerals Division*  
*1220 So. St. Francis De.*  
*Santa Fe, NM 87050*  
*(505) 216-8945*  
[David.Ohori@state.nm.us](mailto:David.Ohori@state.nm.us)

**From:** [Roth, Daniela, EMNRD](#)  
**To:** [Ohori, David, EMNRD](#)  
**Subject:** RE: Request for Comments - Tererro Exploration Project Updated Application and Supplements  
**Date:** Tuesday, November 17, 2020 8:20:20 AM

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Dear David Ohori:

Thank you for providing me with the opportunity to review and comment on the Updated Application and Supplements for the Tererro Exploration Project. Based on the updated application and supplemental information provided, I do not expect any adverse impacts to the Indian Creek population of Holy Ghost Ipomopsis (*Ipomopsis sancti-spiritus*), which is a state and federally listed endangered plant species, as long as road 190 will not be used for the project and there will be no project related traffic past the Holy Ghost Ipomopsis enclosure. Comexico states that surveys were performed for the species and a no effects determination is proposed in the draft biological survey report. However, no draft biological survey report was provided. Hence I cannot concur with this determination. Please provide a biological survey report as soon as it becomes available.

Sincerely,

Daniela Roth

Botany Program Coordinator  
EMNRD – Forestry Division  
1220 S. Saint Francis Drive  
Santa Fe, NM 87505  
505-476-3347  
<http://www.emnrd.state.nm.us/SFD/>

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**From:** Ohori, David, EMNRD <david.ohori@state.nm.us>  
**Sent:** Monday, November 16, 2020 1:31 PM  
**To:** Roth, Daniela, EMNRD <Daniela.Roth@state.nm.us>  
**Subject:** Request for Comments - Tererro Exploration Project Updated Application and Supplements

Good Afternoon Ms. Roth,

Please see the attached request for comments.

Thank you.

*David Ohori*  
*Supervisor, Senior Reclamation Specialist*  
*New Mexico Mining and Minerals Division*  
*1220 So. St. Francis De.*

*Santa Fe, NM 87050*

*(505) 216-8945*

*[David.Ohori@state.nm.us](mailto:David.Ohori@state.nm.us)*



Michelle Lujan  
Grisham  
Governor

STATE OF NEW MEXICO  
**DEPARTMENT OF CULTURAL AFFAIRS**  
**HISTORIC PRESERVATION DIVISION**

BATAAN MEMORIAL BUILDING  
407 GALISTEO STREET, SUITE 236  
SANTA FE, NEW MEXICO 87501  
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November 20, 2020

David Ohori,  
Permit Lead  
Mining Act Reclamation Program ("MARF")  
Mining and Minerals Division  
1220 South Saint Francis Drive  
Santa Fe, NM 87505

Re: HPD Log# 114193, Request for Comments on Updated Regular Exploration Application, Tererro Exploration Project, Permit No. SF040ER, Comexico LLC.

Dear Mr. Ohori:

I am writing in response to your request for comment on the above referenced permit modification received at this office November 16, 2020

Pursuant to 19.10.5.505 NMAC, Permit Modifications and Revisions, the Director shall determine whether a permit modification would have an adverse impact on cultural resources listed on either the National Register of Historic Places or the State Register of Cultural Properties or be located in a known cemetery or other burial ground. According to our files, there are no cultural resources listed on either the National Register of Historic Places or the State Register of Cultural Properties in the permit area. There are also no known cemeteries or other burial grounds. Based on this information, this permit application will have no adverse impacts to cultural resources listed on the National or State Registers.

In Section 9 of the updated permit application Comexico LLC states that: "*A third party contractor will be undertaking cultural surveying activities at the project area and a report will supplement this application upon completion of the survey*" The State Historic Preservation Officer (SHPO) would like to commend Comexico LLC. for conducting this survey and we look forward to receiving this report.

Regarding the comment: "*While it may never have been submitted to the NM Department of Cultural Affairs Historic Preservation Division, Comexico have evidence that an archaeological report authored in 1981 and titled "Archaeological Survey of Conoco's Jones Mine Property has been submitted to the USFS."* Please be aware that this survey was completed almost 40 years ago and environmental conditions and professional archaeological standards have changed in that time. As the mine application states that the surface estate owner is the USDA Forest Service, Santa Fe National Forest, we continue to recommend that Comexico LLC consult with USDA Forest Service to ensure that the project meets their cultural resource and other environmental requirements.

If you have any questions concerning these comments, please do not hesitate to contact me by phone at (505)-452-6115 or e-mail me at [richard.reycraft@state.nm.us](mailto:richard.reycraft@state.nm.us)

Sincerely,

*Richard Reycraft*

Richard. Reycraft  
Staff Archaeologist

**Henry P. Roybal**  
*Commissioner, District 1*

**Anna Hansen**  
*Commissioner, District 2*

**Rudy N. Garcia**  
*Commissioner, District 3*



**Anna T. Hamilton**  
*Commissioner, District 4*

**Hank Hughes**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

January 7, 2021

**BY ELECTRONIC MAIL**

State of New Mexico Energy, Minerals and Natural Resources Department  
Mining and Minerals Division  
1220 South Saint Francis Drive  
Santa Fe, New Mexico, 87505  
Attention: David Ohori

**Re: Tererro Exploration Project Permit Application**

On November 16, 2020, Santa Fe County Building and Development Services received a request, by your department, to comment on an Updated Regular Exploration Application, Tererro Exploration Project, Permit No. SF040ER, Comexico LLC.

Santa Fe County recognizes the effort Comexico LLC has made in addressing the comments made by Santa Fe County in letters dated October 25, 2019 and April 6, 2020. Santa Fe County would like to emphasize that Comexico is required to comply with requirements as outlined in Ordinance No. 2019-2 (DCI Ordinance) and Ordinance 2016-9 the Sustainable Land Development Code and submit an application for a Conditional Use Permit (CUP) for the proposed mineral exploration project. Santa Fe County will consider Comexico's exploration permit application once all relevant state and federal mineral exploration permits are obtained. As part of the CUP application, the comments made by Santa Fe County in these letters will require a more thorough response.

Mineral exploration and extraction is regulated under Chapter 11 (Ordinance No. 2019-2) of the Santa Fe County Sustainable Land Development Code (SLDC). Section 11.3.1.2 (2) states that applications for mineral exploration on federal lands must complete a Conditional Use Permit (CUP) in accordance with Chapter 4 of the SLDC. Section 4.9.6.3 states that a CUP application shall include any studies, reports, and assessments required in Table 6-1 as determined at the pre-application TAC meeting. In the September 17, 2019 TAC letter to Comexico, LLC., Santa Fe County Staff determined that the applicant must include a Water Service Availability Report (WSAR) and Environmental Impact Report (EIR) as part of the mineral exploration permit application to comply with the hydrological requirements of the SLDC.

In his September 17, 2019 email to the County Development Review Team Leader, David Ohori indicated that the County will have an additional opportunity to submit comments when all of Comexico's final reports and studies have been submitted. Please inform us when all final reports and studies have been submitted so we can have an opportunity to submit comments at that time.

In order to avoid delays with future submittals to Santa Fe County, the County emphasizes that the submittal requirements to the County will differ from the requirements of the application submitted to the Mining and Minerals Division.

If you have any questions, please do not hesitate to contact our office at (505) 986-6225.

Sincerely,

A handwritten signature in black ink that reads "Vicki Lucero". The signature is written in a cursive style with a large, sweeping initial "V".

Vicki Lucero  
Building & Development Services Manager

Cc: Penny Ellis-Green, Growth Management Department Director  
Robert Griego, Planning Manager  
Jose E. Larranaga, Development Review Team Leader



STATE OF NEW MEXICO  
OFFICE OF THE STATE ENGINEER  
District VI Office, Santa Fe, NM

JOHN R. D'ANTONIO JR., P.E.  
STATE ENGINEER

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October 14, 2020

United States Department of Agriculture  
US Forest Service, Santa Fe National Forest  
Attn: James Melonas, Forest Supervisor  
11 Forest Lane  
Santa Fe NM 87508

**Re: Compliance with Conditions of Approval for OSE Permit for Well UP-826**

Greetings:

The OSE issued Permit UP-826 to you on September 11, 2019. You are required to follow the Conditions of Approval of this permit. Condition 17-L informs you that "this permit is subject to cancellation for non-compliance with the conditions of approval." The specific concern is condition 17-5E that requires the installation of a meter to record all diversions, and the quarterly submission of those diversions to the OSE. Condition 17-5E reads:

*All wells pertaining to this Permit shall be equipped with totalizing meters installed before the first branch of the discharge line from the wells and the installation shall be acceptable to the State Engineer; the Engineer shall be advised of the make, model, serial number, installation date, and initial meter reading prior to appropriating water; pumping records shall be submitted to the District Supervisor for each calendar month on or before the 10th of Jan, Apr, Jul and Oct of each year.*

To date our office has not received meter details or any meter readings. Please address this deficiency immediately.

Feel free to contact me if you have any questions or comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug Crosby".

Doug Crosby  
AWRM Supervisor – District VI Water Rights Division  
(505) 827-6139