

September 22, 2020

Matt Wolfe
Stillwater Mining Company dba as Sibanye-Stillwater
East Boulder Mine
PO Box 1227
Big Timber, MT 59011

Sent via email to Matt.Wolfe@sibanyestillwater.com

RE: Approval of Amendment 003 to Operating Permit No. 00149 - Stillwater Mining Company

Dear Mr. Wolfe,

On November 30, 2017, Stillwater Mining Company (SMC), the Project Proponent, applied to the Montana Department of Environmental Quality (DEQ) for Amendment 003 (amendment) to Operating Permit No. 00149 for the East Boulder Mine and to the U.S. Forest Service Custer Gallatin National Forest (CGNF or Forest Service) for a revision to the East Boulder Mine Plan of Operations. In the submittal, SMC proposed construction and operation of the Stage 6 raise of the existing Tailings Storage Facility (TSF) and construction of the associated infrastructure (Proposed Action or Project). SMC also submitted the Stage 6 raise design to an Independent Review Panel (IRP) as required by § 82-4-377, Montana Code Annotated (MCA).

After the initial 2017 submittal, SMC revised its proposed Stage 6 TSF raise design four times to address comments from the agencies (CGNF and DEQ) and the IRP. Revised versions of the Stage 6 TSF raise design were submitted to DEQ, CGNF, and the IRP in October 2018, December 2018, April 2019, and February 2020. DEQ reviewed each revision and determined that each submittal did not impact DEQ's completeness and compliance determination or the draft permit that was issued on March 6, 2019. The final Stage 6 raise design, referred to as Revision 5, was submitted to the agencies and the IRP on February 3, 2020. The submittals up to and including Revision 5 constitute the Proposed Action analyzed in the joint Environmental Assessment (EA).

The proposed Project is in the Yellowstone Ranger District of CGNF approximately 23 miles south of Big Timber, Montana, in Sweet Grass County. As described in the Final EA, the Proposed Action will expand the permitted disturbance area from 243.88 acres to 286.85 acres and will authorize SMC to construct the Stage 6 raise of the TSF, increasing the height of the impoundment 14 feet in elevation above what was previously authorized. Other activities related to the Project include extension of TSF operations from 2027 to 2033 (based on current production), improvements to and relocation of portions of two National Forest System roads (Lewis Gulch Road and East Boulder Road), and relocation of existing mine facilities (e.g., soil stockpiles, underdrains, guard house). All Project activities will occur within the existing 396.99-acre permit boundary. The Project will result in the disturbance of an additional 56.74 acres, all of which are located within the proposed 286.85-acre disturbance boundary.

DEQ and the CGNF published a joint Draft EA on May 14, 2020, which disclosed the possible environmental impacts of two alternatives—the No Action Alternative and the Proposed Action. DEQ identified the Proposed Action as its preferred alternative. A 30-day public comment period was initiated after publication of the Draft EA. Four private individuals living in Montana, two State of Montana agencies, the

Good Neighbors Task Force, SMC, and the Northern Cheyenne Tribe provided comments (nine correspondences total).

On September 11, 2020, DEQ and CGNF issued a Final EA. The Final EA included responses to substantive comments submitted during the public comment period, along with minor edits and corrections to the EA. The decisions contained in this decision document are based on the analysis documented in the Final EA. The Stage 6 TSF raise design (Revision 5), Draft EA, Final EA, and supporting documents are available upon request or on the project webpages: <http://deq.mt.gov/Public/ea/hardrock> or <https://www.fs.usda.gov/project/?project=55061>.

DEQ's Decisions

DEQ has applied the significance criteria, according to the Administrative Rules of Montana 17.4.608, to determine the significance of potential impacts on the human environment. After applying those criteria, DEQ has determined that preparation of an environmental assessment is the appropriate level of review under the Montana Environmental Policy Act (MEPA). A summary of DEQ's review of the significance criteria is included in **Chapter 7** of the Final EA.

DEQ has decided to approve SMC's Amendment 003 application, selecting the Proposed Action, as described in **Section 2.2** of the Final EA. The approved operating permit allows SMC to construct and operate Stage 6 of the TSF and to complete other Project activities that will disturb 56.74 acres within the new 286.85-acre disturbance boundary.

To proceed, SMC will need other approvals and authorizing actions, including Forest Service approval of a revised Plan of Operations, as described in **Section 1.3** of the Final EA. CGNF issued its Draft Decision Notice (DN)/Finding of No Significant Impact (FONSI) on September 11, 2020 for a pre-decisional administrative review period (objection process) per 36 Code of Federal Regulations 218 Subparts A and B. CGNF will issue a final DN/FONSI upon concluding its objection process.

Before commencing activity authorized by the operating permit, the permittee must be in compliance with Title 75, Chapter 2, MCA as amended; Title 75, Chapter 5, MCA as amended; Title 75, Chapter 6, MCA as amended; and administrative rules adopted pursuant to these laws. DEQ has determined that SMC's amendment complies with Title 75, Chapter 2, MCA as amended; Title 75, Chapter 5, MCA as amended; Title 75, Chapter 6, MCA as amended; and administrative rules adopted pursuant to these laws. DEQ added two permit stipulations to ensure compliance with the provisions.

Pursuant to Sections 82-4-337(1)(h)(i) and 82-4-338, MCA, SMC is required to file with DEQ a reclamation bond in a form and amount determined by DEQ. DEQ will calculate the bond in accordance with Section 82-4-338, MCA, and is required to provide SMC with the bond determination within 40 days of the date of this decision document (Section 82-4-337(2)(c), MCA). SMC is not authorized to conduct any ground-disturbing activities associated with the approved amendment (Amendment 003) until SMC submits the required bond to DEQ and DEQ has notified SMC of acceptance of the bond.

Permit Stipulations

Pursuant to Section 82-4-337(2)(b), MCA, DEQ shall consult with the applicant before placing stipulations in a draft or final permit. Permit stipulations in a draft or final permit may, unless the applicant consents, address only compliance issues within the substantive requirements of this part or rules adopted pursuant to this part. For a stipulation imposed without the applicant's consent, DEQ shall provide to the applicant in writing the reason for the stipulation, a citation to the statute or rule that gives DEQ the authority to impose

the stipulation, and, for a stipulation imposed in the final permit that was not contained in the draft permit, the reason that the stipulation was not contained in the draft permit.

On September 21, 2020, SMC consented to adding two stipulations to the Hard Rock Mining Operating Permit No. 00149. SMC agreed with DEQ's request to add the stipulations that it deemed were needed to address substantive requirements of the Metal Mine Reclamation Act specific to Title 75, Chapter 5, MCA and Title 82, Chapter 4, Part 3, MCA. The necessary permit stipulations are shown below. Other mitigation measures described in **Section 2.3, Mitigation Measures** of the Final EA are requirements of the Forest Service and are described in their Draft DN/FONSI.

- **Stipulation No. 1:** By no later than 18-months before closure, SMC shall conduct additional investigations and analysis to ensure proper cap design, ensure proper execution of cap contouring, and facilitate a successful positive surface drainage. If the investigations identify necessary changes to the reclamation plan to ensure proper cap design, ensure proper execution of cap contouring, or facilitate a successful positive surface drainage, SMC shall modify the reclamation plan in accordance with the Metal Mine Reclamation Act.
- **Stipulation No. 2.** SMC must submit an updated Notice of Intent application form to modify the authorization under the Multi-Sector Montana Pollutant Discharge Elimination System (MPDES) General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activity, as needed, including the relocation of any outfalls. SMC must maintain and keep up-to-date the Storm Water Pollution Prevention Plan to reflect current site conditions as outlined in the MSGP.

Appeal of DEQ's Decisions

Legal actions seeking review of DEQ's approval of SMC's operating permit amendment must be filed within 90 days from the date of this decision document under Section 82-4-349(1), MCA.

Any action or proceeding alleging a failure by DEQ to comply with MEPA, or inadequate compliance with a MEPA requirement, must be brought within 60 days after issuance of this decision document pursuant to Section 75-1-201(5)(a)(ii), MCA.

Sincerely,



Dan Walsh
Chief, Hard Rock Mining Bureau
e-mail: dwalsh@mt.gov
telephone number: (406) 444-6791

Cc: Robert Grosvenor, CGNF (sent via e-mail to: robert.grosvenor@usda.gov)