STATE OF NEVADA
Department of Conservation & Natural Resources
DIVISION OF ENVIRONMENTAL PROTECTION
Jim Gibbons, Governor
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February 20, 2009

## NOTICE OF DECISION

Web posting date 02/20/09

Water Pollution Control Permit
Number NEV0090058

Newmont Mining Corporation
Lone Tree Mine

The Nevada Division of Environmental Protection has decided to renew Water Pollution Control Permit NEV0090058 to Newmont Mining Corporation. This permit authorizes the construction, operation, and closure of approved mining facilities in Humboldt County. The Division has been provided with sufficient information, in accordance with Nevada Administrative Code (NAC) 445A.350 through NAC 445A.447, to assure the Division that the groundwater quality will not be degraded by this operation, and that public safety and health will be protected.

The permit will become effective March 7, 2009. The final determination of the Administrator may be appealed to the State Environmental Commission pursuant to Nevada Revised Statute (NRS) 445A.605 and NAC 445A.407. All requests for appeals must be filed by 5:00 PM, March 2, 2009, on Form 3, with the State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. For more information, contact Rob Kuczynski, P.E. at (775) 687-9441 or visit the Division's Bureau of Mining Regulation website at www.ndep.nv.gov/bmrr/bmrr01.htm.

One comment letter was received during the public comment period. The letter, dated December 5, 2008 was received electronically from Mr. John Hadder, Staff Scientist, Great Basin Resource Watch (GBRW). Division responses to Mr. Hadder's comments are attached to this Notice of Decision.

NDEP acknowledges the assistance provided by the Permittee in addressing GBRW's concerns.

GBRW Comment #1: "Great Basin Resource Watch (GBRW) has no serious concerns regarding this permit renewal; however, there are a few issues [tailings facility and pit lake] that we see need to be addressed at some point."

*NDEP Response: Comment Noted.*

GBRW Comment #2: "GBRW has some concerns over long-term contamination from the tailings facility"... "[I]t appears that no seepage was collected in the 3rd quarter…some collected in the 1st and 2nd quarters of 2008."…"The nature of the solutions collected at the East and West Seep Vaults is generally substandard…East Seep Vault…low in pH (5-6 generally)…West Seep Vault high in TDS, aluminum, and nitrate."…[I]t appears as though seepage is decreasing, and any that does occur is collected…this is an active capture system, which will not be suitable for the long-term."…"GBRW assumes that the long-term seepage issue will be dealt with in the reclamation of tailings facility upon permanent closure, and will account for heavy precipitation events."

*NDEP Response: The Permittee is required to submit a Final Permanent Closure Plan (FPCP) to the NDEP two years prior to the anticipated closure of the facility. The plan will provide closure goals for the facility and detail the methodology for activities necessary to achieve stabilization of all known and potential contaminants. The plan will include a description of the proposed monitoring to be conducted to demonstrate how the closure goals will be met.*

*For the last 3 reporting years (2006-2008) a sum total of 2 gallons of water has been collected by the East and West Vaults seepage collection system.*

GBRW Comment #3: "[T]ailings facility [monitoring wells] S23MW2A, S23MW3, and S23MW4 registered dry and have been dry since the later part of 2006."…"We assume this is a result of the dewatering…as ground water levels rebound data can again be collected in these wells."…"[T]here has been leakage observed at the downstream toe of the west and east dam embankment…there could be seepage into the ground below the tailings facility, but the monitoring wells cannot determine if groundwater has been contaminated."

*NDEP Response: The tails monitor wells went dry in the latter part of 2006 as a result of the Lone Tree pit dewatering operations. Most of the wells are completed to a total depth of 800 feet. Quarterly inspections of these wells are being conducted to determine the nature of the groundwater recovery in this area. The quarterly sampling as required under the WPCP will resume when the water level has sufficiently recovered to collect representative samples of the aquifer in this area.*

GBRW Comment #4: "We do recommend that NDEP work with Newmont to have in place an effective method to clarify that tailings contamination is not in the rebounding groundwater or will be."

*NDEP Response: Comment Noted.*

*GBRW Comment #5:* "GBRW notes that the Permittee is actively trying to improve water quality in the pit lake…it is the long-term problems that we [GBRW] are concerned with."…"[P]it lake predictive modeling results show that as like [sp.] elevation continues to rebound, pH and water quality are expected to improve"…"…active management today is unlikely to be viable for the long-term. We recommend that NDEP exercise caution is regards to the long-term accuracy of the predictive model."…"The complexity of pit lake systems make long-term modeling very challenging…the results should be viewed skeptically when making decisions for the long periods that a pit lake may be toxic. GBRW recommends that NDEP require Newmont to develop a long-term plan based on an assumption that the predictive model is wrong."

NDEP Response: Pit lake models are intended to be utilized as long range planning tools rather than short term predictors due to the geochemical and hydrologic complexities associated with the formation of a pit lake. It should be noted that predictive modeling results for pit lakes that have recently formed in Nevada has proven the usefulness and accuracy of the models as long range planning tools. The Lone Tree pit lake has been filling for 2 years and is in an early stage of formation. The Permittee has undertaken active management of the Lone Tree pit lake as described in the management section of the 2002 Pit Lake Optimization plan, since the lake first began to form in late 2006. The Permittee is updating the pit lake model to improve the calibration to the present chemical and hydrologic conditions and meets with NDEP quarterly to discuss the status of the modeling efforts to date. The updated pit lake model, due December 2009 and final report due July 2010, will incorporate all lake management to date and be used to predict the long term pit lake water quality. Sensitivities for these future predictions will be used to further qualify the model predictions. Both short and long term management will be evaluated with this updated model.