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July 2, 2018

Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1200 Pennsylvania Avenue, NW  
Mail Code 1103M  
Washington, DC 20460-0001

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**U.S. EPA, HEADQUARTERS**

**JUL - 9 2018**

**ENVIRONMENTAL APPEALS BOARD**

**Reference: Permit No. R9UIC-AZ3-FY16-1**  
Class III In-Situ Production of Copper  
Gunnison Copper Project

Dear sir/madam:

This is an appeal of the final permit decision on the above referenced permit. I attended the public hearing in Dragoon, AZ on February 27, 2018 and submitted comments related to the draft permit, prior to the EPA deadline. I have three issues which I'm formally requesting be reviewed. Those issues are enumerated below.

Please refer to EPA document: <https://www.epa.gov/sites/production/files/2018-06/documents/r9uic-az3-fy16-1-excelsior-permit-response-to-comments-2018-06-22.pdf>  
Response to Comments and Description of Changes to the Draft Permit relating to Gunnison Copper Project, Excelsior Mining Arizona Inc. Class III In-Situ Production of Copper Permit No. R9UIC-AZ3-FY16-1.

**Issue 1)** Comment #70, Page 27

While it is understood that EPA regulations do not require formal National Environmental Policy Act (NEPA) compliance for UIC permitting actions, this exemption is premised upon the EPA process providing the "functional equivalent" to a NEPA study. The supplemental comments submitted for the hearing by numerous groups on February 26, 2018, have stressed the legal and technical need for a cumulative review, which would be equivalent to analysis carried out under the National Environmental Policy Act. EPA must complete a Cumulative Impacts Analysis in a revised/supplemental UIC Permit. This analysis must include cultural impacts, social impacts, socioeconomic impacts and long term cumulative environmental impacts. Once completed and incorporated into a revised/supplemental UIC Permit, it should be re-noticed for a new 90-day public comment period.

The EPA failed to provide a "functional equivalent" to a NEPA study before granting this final permit. Please review.

**Issue 2) Comment # 83, Page 35**

The impacts to wildlife and habitat within and near the project area should be evaluated. Twelve special status species occur within five miles of the Project, including the federally listed Lesser Long-nosed Bat and Chiricahua Leopard Frog. Also, 79 Species of Greatest Conservation Need and 12 Species of Economic and Recreation Importance occur within five miles of the Project. A significant number of federally listed wildlife species may occur in the area.

EPA's conclusion that the proposed project may affect, but is not likely to adversely affect, the lesser long-nosed bat listed as an endangered species under ESA, ignores the reality that *any* impact will be an adverse one. Furthermore, reliance of Excelsior's documentation is biased and needs to be reviewed.

**Issue 3) Comment #84, Page 35**

If EPA grants an aquifer exemption for the project, a current and future source of drinking water would be permanently compromised.

EPA response that the aquifer in question will not serve as a future source of drinking water because it contains minerals that are expected to be commercially producible is not a protection of a future source of limited potable groundwater. This is short-sighted and short-circuited thinking and needs to be reviewed.

Thank you for your thoughtful consideration of my perceived shortcomings in these key areas of this permitting process.

Respectfully,



Sharon Rock