

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Ramm Power Group LLC

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Project No. 14869

**COMMENTS OF ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY TO
PRE-APPLICATION DOCUMENT AND NOTICE OF INTENT TO FILE
APPLICATION**

Pursuant to 18 C.F.R. § 5.3(d)(1), the Arizona Department of Environmental Quality (“ADEQ”) submits these comments to the Pre-Application Document and Notice of Intent filed on January 15, 2020 in the above-captioned docket (the “PAD/NOI”) by RAMM Power Group LLC (“RAMM”). ADEQ is generally supportive of green energy projects such as the one proposed by RAMM. However, this project presents several challenges related to the ability of RAMM to successfully implement the proposed project without upsetting or contributing to the current environmental conditions at this property. The Sacaton property (the “Sacaton Site”) on which RAMM is proposing their project has been and will be an active copper mining site. Elim Mining Incorporated (“Elim”), has an executed agreement to purchase the Sacaton Site from the ASARCO Multi-State Environmental Custodial Trust (the “Trust”). That agreement was entered into with ADEQ’s consent and became effective after ADEQ and U.S. Environmental Protection Agency (U.S. EPA) approval on September 19, 2019.

The Sacaton Site is a former open pit copper mine that dates back to 1972. Since 2009, after the bankruptcy of the former mining company ASARCO LLC, the Sacaton Site is owned by the Trust, the State of Arizona through the ADEQ, and the United States through the U.S.EPA, are the beneficiaries of the Trust as it relates to the Sacaton Site. The Trust’s primary purpose is to remediate and, if possible, sell the Sacaton Site.

The Sacaton Site has been under the oversight of the Trust since 2009, and approximately \$13 Million has been spent to monitor, maintain and remediate various environmental issues on the site under direction from ADEQ. To that end, the Trust recently completed extensive remediation of the Sacaton Site, with an end use in mind that would be protective of the environment yet will allow economic use of the site.

As proposed, the hydroelectric project would significantly disturb the balance currently achieved after a decade of environmental study and remediation, under ADEQ’s oversight, at the proposed location. RAMM’s PAD/NOI did not recognize many of the ongoing environmental conditions as they currently exist and RAMM did not include an in-depth engineering and hydrogeological analysis.

The Sacaton Site consists of an open pit, a former Waste Rock Area and a Tailings Storage Facility. At the Sacaton Site, there is a body of water that formed at the bottom of the open pit mine. In its current state, the pit lake operates as a hydrological sink. Due to the significant evaporation and limited recharge, the highly impacted groundwater present in the pit does not flow from the pit lake into the surrounding groundwater system.

The 350-acre Tailings Storage Facility has recently been reclaimed, and has a 1.5 to 2 feet engineering cap with vegetation to prohibit exposure pathways. This requires periodic maintenance to prevent erosion of the engineered cap.

The Waste Rock Area consists of approximately 560-acres of a loose, non-cohesive rock pile that has limited cover material. RAMM's plans indicate that a reservoir will be constructed on the former Waste Rock Area. The plan calls for an initial pumping of approximately 150 million cubic meters (nearly 40 billion gallons) of water onto the Waste Rock Area to start the process and 100 gallons per minute (approximately 53 million gallons a year) to balance against evaporation. The PAD/NOI is not specific as to an available source of substantial water requirements but identifies groundwater and surface water as possible sources. RAMM does not outline how they will handle, specifically treat, or otherwise direct the disposition or use of the low pH acidic water in the pit that will be generated by this project.

The Sacaton mine site is situated over the Pinal Aquifer Management Area (AMA), an Arizona Department of Water Resources control project which regulates the withdrawal of groundwater in the area. The mine itself is limited to withdraw only 45.36 acre-feet (approximately 14.8 million gallons) annually pursuant to the class I water rights of the onsite well. Effectively, the mine property has limited groundwater rights. ADEQ has concerns that RAMM has not specified how such a large amount of water required for their project will be obtained, and how movement of such a large amount of water can be maintained without an available water resource or negative environmental impact.

RAMM describes the project as relying "only on temporary withdrawals from surface waters or groundwater for the sole purpose of initial fill and periodic recharge." This description ignores the fact that the water itself is contaminated, that the "temporary" withdrawals would continue for the life and duration of the project, and that this regular and persistent circulation of contaminated water from its current location would likely have significant impacts on the site and local groundwater and could change the entire hydrologic regime at the Sacaton Site.

RAMM references the Trust's Site Improvement Plan (SIP), dated March 11, 2019 as the basis for all environmental issues. The SIP evaluated specific environmental issues related to historic mining operations and did not encompass the entire site. RAMM asserts that it "does not expect significant dispute over studies" in large part because of the "existing information" found in "historical studies" from the 1970's and the "environmental review testing and remediation" that has been carried out by ADEQ and the Trust. RAMM even asserts that the "present standing of the property in the eyes of the ADEQ" should indicate that there will be no disputes over studies. The SIP did not include, discuss or evaluate specific hydrogeologic areas of the property in depth or detail and was not prepared for or intended to be used to support the assertions by RAMM.

As mentioned in RAMM's proposal, ADEQ has concerns regarding the complexity and risks of RAMM's proposed pumping of highly contaminated water at the Sacaton Site and the use of the Waste Rock Area for a pumped storage project. ADEQ also does not have enough information related to the financial capabilities of RAMM to ensure the remediation that has been conducted on the Site will be maintained in perpetuity. RAMM's proposal does not acknowledge or address in any serious way the risks of the spread of contamination at the Sacaton Site which could be caused by its proposed project. RAMM also asserts that "there are no likely significant issues with the identified stakeholders." ADEQ is filing these comments to make it clear that it is a stakeholder, being a beneficiary of the Trust which owns the Sacaton Site and being the agency tasked with the protection of Arizona's environment, and that it has significant issues with RAMM's proposal.

ADEQ also endorses the use of the Integrated License Process (ILP) for RAMM's proposed project. The ILP would be the most appropriate way forward to efficiently identify all environmental concerns, educate stakeholders, and study and resolve the complex issues presented.

Respectfully submitted,

A handwritten signature in cursive script that reads "Laura L. Malone".

Laura L. Malone, Director
Waste Programs Division
Arizona Department of Environmental Quality

Dated: February 13, 2020

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