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NMMC



BEFORE THE DIRECTOR OF THE MINING AND MINERALS DIVISION

**In the Matter of Permit No.
GR016ME, Malone Mine**

DIRECTOR'S ORDER RELEASING PERMIT

THIS MATTER comes before the Director of the Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department to vacate, terminate and release Permit No. GR016ME, Malone Mine; the Director having reviewed the permit file and being otherwise fully advised in the premises, hereby FINDS as follows:

1. On March 29, 1999, MMD issued to Louis L. Osmer, Jr. (Osmer) minimal impact exploration Permit No. GR016ME (the Permit) for the Malone Mine, located within the Malone Mining District, Western Grant County, New Mexico.
2. Osmer never conducted any mining operations under the Permit, nor did Osmer engage in any production, disturbance or excavation activities at the Malone Mine. Osmer also failed to perform annual assessment work in an adequate amount to develop minerals at the Malone Mine and did not pay annual fees to the United States Bureau of Land Management; consequently, Osmer's claim was succeeded and occupied by another mine locator.
3. Osmer should have notified MMD of the absence of any mining operations conducted by him pursuant to the Permit and requested MMD release and terminate the Permit to avoid accrual of annual permit fees for the Malone Mine. In fact, MMD recommended such course of action to Osmer but received no response.
4. MMD issued Notices of Violation Nos. N08-16-7 and N08-16-8 to Osmer for failure to submit annual reports and pay annual permit fees as required by the New Mexico Mining Act Rules, 19.10.1 NMAC et seq. (the Rules).
5. Osmer tendered payment of \$100.00 to MMD stating it represented "payment of the monetary fine...identified as 'Notice of Violation Penalty Assessment...to comply with the amount determined by the point system.'" That action reflects a good faith effort by Osmer to resolve outstanding penalties and Osmer has not intentionally sought to avoid permit compliance under the Rules. Osmer also filed an appeal of the Notices of

Violation with the New Mexico Mining Commission to challenge the Notices of Violation.

6. After reviewing the Permit file and the Appeal filed by Osmer, it is apparent that, through no fault of either party, confusion arose between MMD and Osmer as to whether the Permit should have been released and terminated after it was issued on March 29, 1999.

7. Osmer filed an affidavit with the New Mexico Mining Commission on July 7, 2008, verifying that he never conducted any mining activity at the Malone Mine and also requested that the Permit be vacated, released and terminated by the MMD Director effective March 29, 1999.

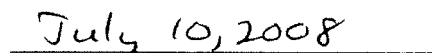
8. Based upon the Permit file and documentation accompanying Osmer's Appeal it is apparent that: (1) no mining operation was ever conducted by Osmer at the Malone Mine, (2) no production disturbance or excavation activities were ever conducted by Osmer at the Malone Mine and (3) Osmer no longer has any legal authority to occupy a location claim at the Malone Mine. Further, any site disturbance that may exist within the Malone Mining District that could potentially be associated with the Malone Mine all occurred between 1893 and 1936 and are not subject to the New Mexico Mining Act as such did not occur between January 1, 1970 and June 18, 1993 so as to be subject the Mining Act pursuant to NMSA 1978, Sections 69-36-1 et seq.

IT IS THEREFORE ORDERED as follows:

Permit No. GR016ME is hereby vacated, released and terminated effective March 29, 1999 and all fees and penalties heretofore assessed by MMD after that date are likewise vacated and dismissed.

By Order of the Director of Mining and Minerals Division


Bill Brancard


Date