

**PERMIT NO. OT002MN  
B.O.W. MINE  
MINIMAL IMPACT NEW MINING OPERATION**

**MINING AND MINERALS DIVISION  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT**

This Permit No. OT002MN is issued by the Director of the Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department to:

B.O.W. Corporation  
P.O. Box 971670  
El Paso, TX 79997

(Permittee) for the B.O.W Mine, located in Otero County, New Mexico.

**Section 1.                    STATUTES AND REGULATIONS**

This Permit is issued pursuant to the New Mexico Mining Act, NMSA 1978, §69-36-1, et seq. (1993, as amended through 1999).

This permit is subject to all applicable regulations of the New Mexico Mining Act (Act), New Mexico Mining Act Rules (19.10.1 New Mexico Administrative Code (NMAC) through 19.10.14 NMAC) and any other regulations which are now or hereafter in force under the Act; and all such regulations are made a part of this Permit by this reference.

**Section 2.                    PERMIT AREA**

The Permittee is authorized to conduct mining and reclamation operations only on those lands that are specifically designated and authorized as the permit area. The permit area is located in Section 3 and a portion of Section 4, Township 22 South, Range 8 East in Otero County, New Mexico as delineated in the Permit Application Package (PAP). The PAP is comprised of the permit application dated August 25, 2003 and the correspondence subsequently submitted to MMD by the Permittee or his representative found in the binder entitled "PAP for the B.O.W Mine."

**Section 3.                    FINDINGS OF FACT**

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- A. The PAP is complete and demonstrates the proposed operation will meet the performance and reclamation standards and requirements of Subsection D, Paragraphs 1 through 10 of 19.10.3.304 NMAC.
- B. The Permittee has paid the initial permit application fee of \$350.00 as required by Subsection D of 19.10.2.201 NMAC.
- C. The Permittee has provided financial assurance in the amount of \$15,932.00, for 9.5 acres, and is in the form of a Letter of Credit in accordance with Subsection E of 19.10.3.304 NMAC.
- D. The Post Mining Land Use is designated as wildlife use.
- E. The Permit Area shall be the outlined portion of the map received by MMD on August 25, 2003 and designated by the Permittee as Map 1.
- F. The Permittee is not in violation of the terms of another permit issued by the Director or in violation of a substantial environmental law or substantive regulation at another mining operation, has not forfeited or had forfeited financial assurance in connection with another mining, reclamation or exploration permit, and has not demonstrated a pattern of willful violations of the Act or other New Mexico environmental statutes.
- G. The applicant has signed a notarized statement that he agrees to comply with the requirements of the permit, the Rules, and the Act and allows the Director to enter the permit area for the purpose of conducting inspections.
- H. The Secretary of Environment has provided a written determination, dated December 17, 2003, stating that the permit applicant has demonstrated that the activities to be permitted or authorized will be expected to achieve compliance with all applicable air, water quality and other environmental standards if carried out as described in the closeout plan. This determination addresses applicable standards for air, surface water and ground water protection enforced by the Environment Department or for which the Environment Department is otherwise responsible.

**Section 4.            COMPLIANCE REQUIREMENTS**

The Permittee shall comply with the statutes and regulations in Section 1 of the permit and with the applicable regulatory and permitting requirements. The

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issuance of this permit does not relieve the permittee from the responsibility of complying with other state and federal requirements and standards.

**Section 5.            AGENCY RIGHT OF ENTRY**

The Permittee, to the extent he has the authority under his mineral leases, shall allow the authorized representatives of the Director without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay:

- A. to enter the permit area as provided for in Subsection J, Paragraph 5 of 19.10.3.304 NMAC and Subsection E, Paragraph 1 of 19.10.11.1101 NMAC; and
- B. to be accompanied by one or more citizens for the purpose of conducting an inspection in accordance with Subsection B of 19.10.12.1210 NMAC when the inspection is in response to a complete financial assurance release application.

**Section 6.            PERMIT COVERAGE**

This permit shall be binding on any person or persons conducting mining and reclamation operations under this Permit.

**Section 7.            ENVIRONMENTAL COVERAGE**

The Permittee shall take all necessary steps to minimize any adverse impact to the environment or public health and safety resulting from noncompliance with any term or condition of the Permit, the Rules or the Act.

**Section 8.            COMPLIANCE WITH THE PERMIT APPLICATION PACKAGE**

The Permittee shall conduct mining and reclamation operations only as described in the approved PAP and any modifications approved by the Director pursuant to 19.10.6.608 NMAC. The Permittee shall comply with any and all conditions that are incorporated in this PAP.

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**Section 9.            GENERAL OBLIGATIONS AND CONDITIONS**

This permit is subject to the following Conditions:

- A. The Permittee will maintain the permit until any and all financial assurance is released under 19.10.12 NMAC. The term of the permit is governed by 19.10.6.607 NMAC.
- B. The Permittee shall notify MMD at least 30 days prior to initiating any reclamation approved pursuant to this permit.
- C. The Permittee shall monitor the site and reclamation status at least once a year for the duration of the permit in order to assure knowledge of the general site conditions and compliance with the approved permit.
- D. The Permittee will implement erosion control measures that are designed, constructed and maintained using professionally recognized standards (e.g., Natural Resource Conservation Service standards) as needed.
- E. The Permittee shall leave the sides of the pit in a manner that is stable for the long term and non-hazardous to humans and wildlife. The preliminary reclamation plan for the sides of the pit is described in Section 8D of the August 25, 2003 submittal.
- F. The Permittee shall construct a continuous berm around the edge of all high walls. This berm shall be a minimum of three feet in height.
- G. The Permittee shall submit annual reports pursuant to 19.10.6.610 NMAC.
- H. The Permittee is authorized to operate a minimal impact new mining operation. The mining operation will have minimal impact on the environment pursuant to Subsection M, Paragraph 2 of 19.10.1.107 NMAC. In addition the mining operation will not exceed 10 acres of disturbed land pursuant to Subsection A of 19.10.3.304 NMAC. The B.O.W Mine will no longer qualify as a Minimal Impact Mining Operation if permit authority is exceeded or Minimal Impact requirements, as described in Subsection M, Paragraph 2 of 19.10.1.107 NMAC are violated.
- I. All lands to be disturbed by the mining operation will be addressed under the performance and reclamation standards and requirements of

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19.10.3.304 NMAC and in accordance with the closeout plan provided in the PAP and will be secured by adequate financial assurance.


**Section 10.            CONCLUSIONS OF LAW**

- A. The PAP is complete, accurate and complies with the requirements of the Act and 19.10.3.304 NMAC.
- B. The Director has jurisdiction over the Permittee and the subject matter of this proceeding.
- C. The Permittee, B.O.W. Corporation, is permitted to conduct mining and reclamation operations at the B.O.W. Mine in Otero County, New Mexico, upon the condition that the Permittee complies with the requirements of the Order, the Act, the Permit Conditions and requirements imposed by this Decision, and upon the submission of such annual reports and fees as may be required under 19.10.6.610 NMAC and 19.10.2 NMAC.

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I certify that I have personally examined and am familiar with the information submitted in the Permit Application Package, and based on my inquiry of those individuals responsible for obtaining the information, I believe the submitted information is true, accurate and complete.

I certify that I have read, understand and will comply with the requirements of the Permit. I also agree to comply with the performance and reclamation standards and requirements of the permit, the Rules, and the Act, and allow the Director to enter the permit area without delay for the purpose of conducting inspections during mining and reclamation.

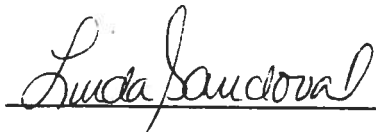
  
\_\_\_\_\_  
Authorized Representative of the Permittee

Warren T. Burns, Jr., President

\_\_\_\_\_  
Title

\_\_\_\_\_  
B.O.W. Corporation  
Company

Subscribed and sworn to before me this 21<sup>st</sup> day of March 2004,  
2004

  
\_\_\_\_\_  
Notary Public

My Commission Expires

5-4-06, \_\_\_\_\_



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**ORDER**

NOW THEREFORE, IT IS HEREBY ORDERED that the Permit Application Package of B.O.W. Corporation to conduct mining and reclamation operations at the B.O.W. Mine in Otero County, New Mexico, is approved. The Permit may not be transferred without approval by the Director. The Permit is subject to all conditions set out in the Director's Findings of Fact, Conditions and Conclusions of Law, and Order.

By Order of the Director, Mining and Minerals Division, Energy, Minerals and Natural Resources Department, of the State of New Mexico.

Mining and Minerals Division

The State of New Mexico

BY: Bill Brancard  
Bill Brancard, Director  
Mining and Minerals Division  
Energy, Minerals and Natural Resources Department

DATED: March 29, 2004

