

PERMIT NO. LI005ME
CAPITAN IRON MINE
MINIMAL IMPACT EXISTING MINING OPERATION

MINING AND MINERALS DIVISION
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

This Permit No. LI005ME is issued by the Director of the Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department to:

El Capitan LTD
P.O. Box 1319
Capitan, NM 88316-1319

(Permittee) for the Capitan Iron Mine, located in Lincoln 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. (Repl. Pamp. 1993)

This permit is subject to all applicable regulations of the New Mexico Mining Act (Act), New Mexico Mining Act Rules 1-13 (Rules and Subparts) 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 and secured by adequate financial assurance. The permit area encompasses portions of Sections 10, 11, 14, and 15, Township 8 South, Range 14 East in Lincoln County, New Mexico as delineated in the Permit Application Package (PAP). The PAP is comprised of the permit application dated January 27, 1997 and the correspondence submitted to MMD by the permittee or his representative found in the binder entitled "Binder #1 - PAP for the Capitan Iron Mine."

Section 3. **FINDINGS OF FACT**

- A. The PAP is complete and demonstrates the proposed operation will meet the performance and reclamation standards and requirements of §§303.E5 and 303.E6 of the New Mexico Mining Act Rules.
- B. The Permittee has paid the permit fee of \$250.00.
- C. The Permittee is has provided financial assurance in the amount of \$15,000 in accordance with §303.F of the Rules.
- D. The applicant has signed a notarized statement that he agrees to comply with the requirements of the permit, § 303 of the Rules, and the Act and allows the Director to enter the permit area for the purpose of conducting inspections.
- E. The Secretary of Environment has provided a written determination 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 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 as provided for in §§303.K4, and 1101.E1; and
- B. to be accompanied by one or more citizens for the purpose of conducting an inspection in accordance with §1210.B 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 §505. The Permittee shall comply with any and all conditions that are incorporated in this PAP.

Section 9. **CONDITIONS**

This permit is subject to the following Conditions:

- A. The Permittee shall maintain a permit until financial assurance is released under Subpart 12. The term of the permit is governed by §504.
- B. The Permittee shall submit annual reports pursuant to §509 of the Rules.
- C. The Permittee is authorized to operate a minimal impact existing mining operation, pursuant to §§107.W and 303.A of the Rules. All lands to be disturbed will be addressed under the performance and reclamation standards and requirements of §303 of the Rules and in accordance with the closeout plan provided in the PAP and will be secured by adequate financial assurance. The Capitan Iron Mine will not qualify as an existing Minimal Impact Mining Operation if permit authority exceeded or Minimal Impact requirements are violated.

Section 10. **CONCLUSIONS OF LAW**

- A. The PAP is complete, accurate and complies with the requirements of the Act and §303 of the Rules.
- B. The Director has jurisdiction over the Permittee and the subject matter of this proceeding.
- C. The Permittee, El Capitan LTD, is permitted to conduct mining and reclamation operations at the Capitan Iron Mine in Lincoln 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 §509 and Subpart 2.

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.

Bobby J. Bouldin
Authorized Representative of the Permittee

Vice-President
Title

El Capitan Ltd.
Company

Subscribed and sworn to before me this 29th day of June, 1999

Dorretta Nolen
Notary Public

My Commission Expires

12-22, 93


ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the Permit Application Package of El Capitan LTD to conduct mining and reclamation operations at the Capitan Iron Mine in Lincoln 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: 
Douglas M. Bland, Director
Mining and Minerals Division
Energy, Minerals and Natural
Resources Department

DATED: June 30, 1999