



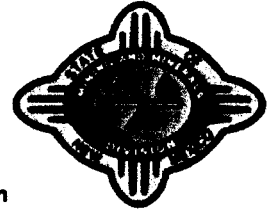
New Mexico Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

John H. Bemis
Cabinet Secretary-Designate

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary

Fernando Martinez
Acting Division Director
Mining and Minerals Division



September 14, 2011

Mr. David Davidson
Gulf Coast Mining Group, LLC
20701 Scottsdale Rd 107-293
Scottsdale, AZ 85255

**Re: Technical Comments on Minimal Impact New Mine Permit Application;
Permit No. OT006MN – Iron Duke Mine, Otero County, New Mexico.**

Mr. Davidson,

The Mining and Minerals Division (MMD) has received, on July 15, 2011, a permit application package (PAP) from Gulf Coast Mining Group, LLC (Gulf Coast Mining) requesting a minimal impact mining permit (No. OT006MN). The PAP proposes to mine existing iron and magnetite ore piles at the Iron Duke Mine located in Otero County, approximately 5 miles north of Orogrande, New Mexico. In order for MMD to complete the permitting process, and pursuant to 19.10.3.304 NMAC, Gulf Coast Mining must address the following comments and request for additional information.

1. Pursuant to 19.10.304.D.1 NMAC, please provide a statement of the basis on which the applicant has the right to enter the property to the south of the Virginia claim where disturbance has been both created and proposed.
2. Pursuant to 19.10.304.D.2 NMAC, please amend Plate 2 and/or Plate 3 (maps) to include the boundaries of the proposed permit area, all previously disturbed areas, ephemeral drainages, and the access route(s) that will be utilized to access the north waste piles. Note; during the agency site visit of August 1, 2011 access to the north waste pile is not in existence.

Furthermore, on Plate 3 (map) provided in the PAP, it is difficult to correlate the proposed and existing disturbances to the numeric identifiers addressed in Table 1 (Summary of areas disturbed or improved). The numeric identifiers are positioned too far away. Please place the numeric identifiers closer to the proposed and/or existing disturbances illustrated on Plate 3 of the PAP. Additionally, the map must illustrate where improvements have been made, or will be made, to existing roads. Note, in the Attachment to the PAP it is stated (Part 5, Section C) that one new road was recently constructed, but it is not clearly illustrated on the map. Please correct or clarify.

3. Pursuant to 19.10.304.D.4 NMAC, please provide the dimensions (length and width) for all new roads and the dimensions of the extension, and/or widening, of existing roads within the proposed permit area. Furthermore, provide clarification for the dimensions of all disturbances at their



maximum extent, as the PAP currently describes existing dimensions and not necessarily the extent of all dimensions that will have to be reclaimed.

4. Pursuant to 19.10.304.D.7, in addition to safeguarding the entrance to the site, as described in the PAP, provide a description of how the mining and reclamation will be designed and operated to safeguard the public from unauthorized entry and to protect human health and safety, the environment, and wildlife in areas at a distance from the entrance.
5. Pursuant to 19.10.304.D.8 NMAC, please provide a description of how the roads will be reclaimed and how all disturbances (pads, roads, and native ground beneath the removed piles,) will be prepared to reduce compaction and allow for successful re-seeding.
6. Appendix A of the PAP provides a seed mix and a claim that the seed mix was "BLM-Recommended", yet BLM has informed MMD that they have not provided consultation on a seed mix for this location. MMD encourages Gulf Coast Mining to consult with the BLM and determine and provide to MMD a suitable seed mix for this area.
7. Pursuant to 19.10.304.E NMAC, please provide a financial assurance amount based on the cost of reclaiming the site by a third party. Note; to assist you, enclosed is a copy of MMD's "Guideline Regarding Financial Assurance for Minimal Impact Mine Sites"
8. Please review and respond to the agency comments attached. MMD received comments from New Mexico Department of Game and Fish, New Mexico Department of Cultural Affairs, New Mexico Environment Department, and the Bureau of Land Management.

If you have any questions, please contact me at 505-476-3438.

Sincerely,



Chris Eustice, Permit Lead, MARP/MMD
Mining Act Reclamation Program (MARP)

Cc: Fernando Martinez, Acting Director, MMD
Holland Shepherd, Program Manager MARP
Kurt Vollbrecht, NMED
Rachel Jankowitz, NMDGF
Doug Rappuhn, OSE
Michelle Ensey, DCA
Mike Smith, BLM – Las Cruces
Mine File (OT006MN)

L:\MARP\OT006MN---Iron Duke

Eustice, Chris, EMNRD

From: mikesmit@blm.gov
Sent: Friday, August 05, 2011 8:09 AM
To: Eustice, Chris, EMNRD
Cc: Edward_Seum@nm.blm.gov; rlist@blm.gov; crkrause@blm.gov; DLegare@blm.gov; Shepherd, Holland, EMNRD; wchildre@blm.gov; jnavarro@blm.gov; MHNash@blm.gov
Subject: Las Cruces BLM comments on MIP OT006MN (Iron Duke Mine - Gulf Coast Mining, received July 22, 2011)

Chris:

Thank you for providing the Las Cruces BLM with the opportunity to review the subject proposed permit. This office is submitting the following comments:

1. Access: As you are aware, the proponents widened and incised approximately 5000' of roadway on BLM administer Federal land without authorization. LC BLM is currently processing a ROW application from the proponent. Until this ROW is granted, they do not have legal access across Federal land (c.f. NMMA 304.D.1).
2. Archaeology: Sites were damaged during the unauthorized road work. LC BLM is currently evaluating the extent of affects and will be prescribing remedial activities. The Federal ROW cannot be issued until archeology remediation has been complete.
3. P. 12 (attachment 1 p. 1 and plates 2 & 3) review of mineral surveys suggests that some of the disturbance shown on BLM land south of the Virginia patent may actually be on private land. How accurate are private boundaries designated in the field? If the applicant has not already done so, they should hire a licensed surveyor to delineate the boundaries of their property
4. P. 13 (attachment 1 p. 2) "the only improvement to the existing road to the mining district from pavement was a 0.4 acre widening across a drainage " Not true; a considerable length of road across Public Domain and NM State Trust Land was widened without authorization from either agency. Aerial photographs show that the existing road averaged 15-17 feet in width. The road now averages 30 ' in width for most of its length.
5. P 16 (attachment 1 p. 5): section F - although possibly limited, any topsoil that may be present should be recovered and used in reclamation.
6. P. 16 (attachment 1 p. 5 & appendix A) Seed mix: Where did this recommended seed mix come from? There is no record that the proponent contacted BLM for this information.
7. Sensitive Species: Roetter's hedgehog cactus (*Echinocereus x roetteri* var. *roetteri*) occurs in several mountainous areas of New Mexico west of the Guadalupe Mountains, and in west Texas in El Paso and Hudspeth counties. A related hybrid taxon (*E. x roetteri* var. *neomexicanus*) occurs in NM east of the Guadalupe Mountains in the remainder to Trans-Pecos Texas east and south of Hudspeth county. Both of these varieties were once named Lloyd's hedgehog cactus (*Echinocereus lloydii*) and were afforded protection as an endangered species under the Endangered Species Act. Both were delisted in the 1990's due to their hybrid nature. The hybrid taxon has been shown experimentally to be a cross between 2 common cacti of southern New Mexico, the rainbow cactus (*Echinocereus dasyacanthus*) and the claret cup cactus (*Echinocereus coccineus*).

Roetter's hedgehog cactus is known from 3 areas of BLM land in the Las Cruces District, the Jarilla Mountains, the Sacramento Escarpment, and the East Potrillo Mountains. Currently the hybrid taxon has no official protection under Federal or State law. However, the taxon has had unofficial BLM status in the Las Cruces District since its ESA delisting, primarily due to its uniqueness and due to a significant loss of plants on public land due to collecting.

The roetter's hedgehog cactus population in the Jarilla Mountains, approximately 30 miles south of Alamogordo, NM, occurs as a large hybrid swarm that varies throughout the Jarillas - north to south. Known locations occur on public lands immediately adjacent to the proposed private mine lands. It is highly likely that these plants also occur on the adjacent private lands as well.

Hybrids have backcrossed with the parent species to produce a population that varies in both stem and spine morphology and flower color; reflecting various mixes between both parental lines. In addition to hybridization with the 2 parent species mentioned previously, it is believed that hybrids with *Echionocereus fendleri* and *Echinocereus viridiflorus* are involved in the hybridization occurring in the Jarillas. Probably most attractive to collectors is the unusual flower colors which range from the yellow of the parent rainbow cactus to the red of the claret cup cactus, and include a wide range of unique pink and orange flowered plants.

Due to the attractiveness of this hybrid taxon to collectors, and the reported loss of the more attractive plants over time, BLM views this species as a public resource worthy of management and protection, regardless of its genetic status. The public lands portion of the Jarilla Mountains adjacent to and surrounding the proposed private land Iron Duke Mine was nominated to receive special protection as an Area of Critical Environmental Concern (ACEC) in 1992 due to the presence of both a high diversity of cactus species and the presence of roetter's hedgehog cactus.

Possible designation of an ACEC for this area is to be analyzed in a future revision of the BLM land use plan for the BLM Las Cruces District. The BLM Las Cruces District requests that the NM Mine and Minerals Division consider the potential impacts to this sensitive species when processing their permit for the proposed Iron Duke Mine operation in the Jarilla Mtns.

Should the applicant propose any new mining activity on Federal land, the proponent would be required to submit a Federal Mine Plan of Operations (MPO) due to their prior history in the area. The approval of this MPO would include mitigations to monitor and protect for Roetter's hedgehog cactus (i.e. preferably avoidance; transplantation if avoidance is not possible).

In closing: the BLM will pursue a separate Federal reclamation bond for road work on public domain lands and part of the ROW grant. Please contact me if you have any questions regarding these comments.

Regards,

Michael Smith
Geologist - BLM
Las Cruces District Office
1800 Marquess Street
Las Cruces, NM 88005
575-525-4421

GOVERNOR
Susana Martinez



DIRECTOR AND SECRETARY
TO THE COMMISSION
Tod W. Stevenson

STATE OF NEW MEXICO
DEPARTMENT OF GAME & FISH

One Wildlife Way
Post Office Box 25112
Santa Fe, NM 87504
Phone: (505) 476-8008
Fax: (505) 476-8124

Visit our website at www.wildlife.state.nm.us
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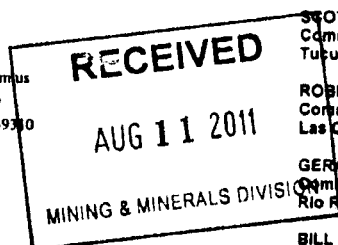
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August 9, 2011

Chris Eustice, Permit Lead
EMNRD Mining & Minerals Division
1220 South St. Francis Drive
Santa Fe NM 87505

Re: Iron Duke Minimal Impact Mining Permit Application OT006MN; NMDGF Project No.14486

Dear Mr. Eustice:

In response to your letter dated July 19, 2011, the New Mexico Department of Game & Fish (NMDGF) has reviewed the above referenced document. The applicant proposes to remove existing waste rock piles from prior mining activity, for off-site recovery of hematite and magnetite. The project is located in Otero County, in the Jarilla Mountains, utilizing an approximately 2 mile long access road from US Highway 54. No site inspection was conducted by NMGF staff in connection with this consultation request.

Neither the extent of the permit area nor the area of proposed disturbance are clearly specified in the application. The project is described as private patented surface, yet on page 6 of the attachment, reference is made to 1.2 acres of BLM surface. Table 1 calculates a total 7.88 acres of surface disturbance, being the sum of 6.92 acres existing, 0.66 acres new, and 0.30 proposed. This project is currently under a Cessation Order from MMD, due to unpermitted widening of the access road. BLM has indicated that approximately 5000 feet of road was widened by approximately 15 feet. That would amount to approximately 1.72 acres of new surface disturbance, and it is not clear that this disturbance is included in the figure submitted by the applicant. The application should be resubmitted with clarification of the surface disturbance area calculations. NMDGF recommends that the access road from Highway 54 be returned to its approximate previous condition, to avoid increased traffic, and potential wildlife harassment or poaching, in the mining area.

The application states incorrectly that reclamation, and therefore financial assurance, are not required when mining on private land. The Mining Act Rules require reclamation of all mining-related surface disturbance, except roads that the owner requests to retain for access purposes.

The BLM has indicated the presence of a complex of unusual or unique *Echinocereus* cactus hybrids in the project area, which are managed as a sensitive plant species. In the interest of retaining habitat biodiversity, NMDGF

supports the BLM recommendation that areas of proposed surface disturbance in the Jarilla Mountains should be surveyed for these cactus plants. Disturbance of the *Echinocereus* cacti should be avoided, or, where avoidance is not possible, the plants should be transplanted according to accepted protocols. In order to provide good seedbed for cactus (and other shrubs), grass seed should be avoided or minimized in rocky ground within the cactus habitat, except where erosion is anticipated to be a problem.

Thank you for the opportunity to comment on this permit application. If there are any questions, please contact Rachel Jankowitz at 505-476-8159, or rjankowitz@state.nm.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Wunder", with a stylized flourish at the end.

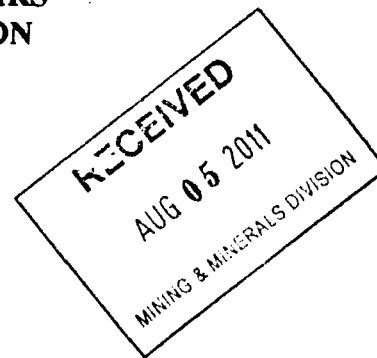
Matthew Wunder, Chief
Conservation Services Division

cc: Wally Murphy, Ecological Services Field Supervisor, USFWS
George Farmer, SE Area Habitat Specialist, NMGF
Kurt Vollbrecht, NMED Groundwater Quality Bureau



STATE OF NEW MEXICO
**DEPARTMENT OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION**

BATAAN MEMORIAL BUILDING
407 GALISTEO STREET, SUITE 236
SANTA FE, NEW MEXICO 87501
PHONE (505) 827-6320 FAX (505) 827-6338



August 3, 2011

Chris Eustice
Permit Lead
Mining Act Reclamation Program
Mining and Minerals Division
1220 South St. Francis Drive
Santa Fe, NM 87505

Re: New Minimal Impact Mining Operation Permit Application, Iron Duke Mine, Otero County,
New Mexico, Permit No. OT006MN

Dear Mr. Eustice:

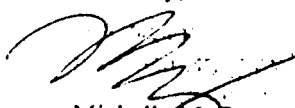
I am writing in response to your request for review and comment on the above referenced application received at the Historic Preservation Division on July 21, 2011. The permit application states that the surface and mineral owner is private although your letter seems to indicate that the Bureau of Land Management (BLM) may be a surface or mineral owner since an archaeological survey is being conducted.

According to our records, no properties listed on the National Register of Historic Places or the New Mexico State Register of Cultural Properties are present within the proposed permit area. Although there are no registered properties, archaeological sites were recorded in 2005 during an archaeological survey for the Abandoned Mine Lands Bureau. It appears that the proposed removal of historic waste rock dumps from the claims is within these archaeological sites. Removal of historic waste from historic mines could be considered an adverse effect on archaeological sites that have been determined eligible for listing on the National Register of Historic Places.

If BLM is a surface or mineral owner, they will determine if the proposed operations will have an effect on eligible archaeological sites as required under Section 106 of the National Historic Preservation Act. We look forward to receiving a copy of the archaeological survey report when it is prepared.

If you have any questions concerning these comments, please do not hesitate to contact me. I can be reached by telephone at (505) 827-4064 or by email at michelle.ensey@state.nm.us.

Sincerely,



Michelle M. Ensey
Archaeologist

Log: 92590



SUSANA MARTINEZ
Governor
JOHN SANCHEZ
Lieutenant Governor

NEW MEXICO
ENVIRONMENT DEPARTMENT

Ground Water Quality Bureau

1190 St. Francis Drive, P.O. Box 5469
Santa Fe, New Mexico 87502
Phone (505) 827-2900 Fax (505) 827-2965
www.nmenv.state.nm.us



DAVID MARTIN
Secretary
BUTCH TONGATE
Acting Deputy Secretary

DATE: August 10, 2011

TO: Holland Shepherd, Program Manager, Mining Act Reclamation Program

FROM: George Llewellyn, Ground Water Quality Bureau
David Menzie, Surface Water Quality Bureau

THROUGH: Kurt Vollbrecht, NMED Mining Act Team Leader

RE: **Iron Duke, Minimal Impact New Mine Permit Application
OT006MN**

The New Mexico Environment Department (NMED) received the Iron Duke Minimal Impact New Mine Permit Application from the Mining Act Reclamation Program (MARF) on July 22, 2011. The New Mexico Mining Act rules require NMED to comment within 20 days of the date of receipt; comments were submitted prior to the August 11, 2011 deadline.

Pursuant to Subpart 304.H of the New Mexico Mining Act Rules (NMMA), the NMED Air Quality Bureau, Surface Water Quality Bureau and Ground Water Quality Bureau have reviewed the Iron Duke application. The Surface Water Quality Bureau and Ground Water Quality Bureau are submitting comments jointly in this memorandum. Air Quality Bureau comments are provided under a separate memorandum.

Site Location and Description

The proposed project is located in Sections 3 and 4 of Township 22S, Range 8E in Otero County, New Mexico. The application states that this project is located on patented mining claims owned by Gulf Coast Mining Group, LLC. Depth to ground water is reported as 70 to 400 feet and no water quality data is available. The proposed project is a minimal impact new mine for removal of iron ore minerals (hematite and magnetite).

The applicant proposes to remove waste rock from three dumps that were left behind by historical mining operations. This material will be loaded into trucks for transport offsite to a processing facility. No new pits, quarries or stockpiles will be constructed. It will be necessary to reconstruct or improve 3.75 acres of existing roads, pads and staging areas, 0.96 acres of new or proposed roads, pads and staging areas, and remove 3.17 acres of waste rock. The application states the total acreage of surface disturbance will be less than 7.88 acres.

After the waste rock piles are removed, the site will be graded to pre-mining topography and reseeded.

Permit Application Requirements and Minimal Impact Status

The applicant should provide a written storm water pollution prevention plan (SWPPP) for review and approval prior to commencing operations. The SWPPP should incorporate best management practices regarding storm water management including run-on controls, minimizing ponding, erosion prevention, sediment control, pollution prevention, and final site stabilization.

In general, the following measures should be implemented at minimal impact mining sites to provide for protection of surface and ground water quality.

- All mining activities need to implement BMPs in a manner that prevents direct impacts to surface water and water courses (ephemeral, intermittent and perennial). For surface disturbances during mining and reclamation activities, the operator must commit to implementing erosion control measures that are designed, constructed and maintained using professionally recognized standards (e.g. Natural Resource Conservation Service Standards or the Bureau of Land Management "Gold Book").
- All heavy equipment used in the project area must be pressure washed and/or steam cleaned before the start of the project and inspected daily for leaks. A written log of inspections and maintenance should be completed.
- Appropriate spill clean-up materials, such as absorbent pads, must be available on-site at all times during mining activities to address potential spills.
- Spills must be reported immediately to NMED as required by the New Mexico Water Quality Control Commission Regulations (20.6.2.1203 NMAC). For non-emergencies during normal business hours, call (505) 476-6000. For non-emergencies after hours, call (866) 428-6535 or (505) 428-6535 (voice mail, twenty-four hours a day). For emergencies only, call (505) 827-9329 twenty-four hours a day (NM Department of Public Safety).
- The U.S. Environmental Protection Agency (USEPA) requires National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-sector General Permit (MSGP) coverage for facilities that engage in "industrial activities" as defined at 40 Code of Federal Regulations Part 122.26(b)(14). Because this project appears to meet this definition (specifically 40 CFR Part 122.26(b)(14)iii, Standard Industrial Classification code 1011 Iron Ores covered under MSGP SECTOR G: METAL MINING) it may require appropriate NPDES permit coverage prior to beginning operations.
- This project may require coverage under a Clean Water Act §404 permit, such as for stream crossings or fill in adjacent wetlands. Failure to receive and implement proper permit coverage would be a violation of the Clean Water Act. If you have questions about

this coverage, please contact Lesley McWhirter, US Army Corps of Engineers, at (505) 342-3678.

If the applicant decides to initiate operations at the Iron Duke site that involve mining of undisturbed material from the surface or subsurface they must first submit a Notice of Intent to Discharge with the New Mexico Ground Water Quality Bureau, subject to Section 20.6.2.1201 NMAC.

NMED finds the proposed mining activities are likely to have a minimal environmental impact if operated and reclaimed in accordance with the approved permit and requirements listed above.

xc: Jerry Schoeppner, Acting Bureau Chief, GWQB
James Bearzi, Bureau Chief, SWQB
Richard Goodyear, Acting Bureau Chief, AQB
Fernando Martinez, Acting Director, EMNRD-MMD
Rachel Jankowitz, NMDGF
Mary Ann Menetrey, GWQB-MECS



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Governor

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Lieutenant Governor

New Mexico
ENVIRONMENT DEPARTMENT

Air Quality Bureau

1301 Siler Road, Building B

Santa Fe, NM 87507-3113

Phone (505) 476-4300

Fax (505) 476-4375

www.nmenv.state.nm.us



DAVID MARTIN
Secretary

RAJ SOLOMON, PE
Deputy Secretary

MEMORANDUM

DATE: August 5, 2011

TO: Kurt Vollbrecht,
Mining Act Team Leader
Ground Water Quality Bureau

THROUGH: Richard Goodyear,
Acting Bureau Chief, Air Quality Bureau

FROM: Sufi Mustafa,
Manager Air Dispersion Modeling Section

RE: Iron Duke Mine, Minimal Impact New Mine Permit Application, Permit No. OT006MN

The New Mexico Air Quality Bureau (AQB) has completed its review of the above mentioned mining project. Pursuant to 19 NMAC 10.2, Subpart 302.G of the New Mexico Mining Act Rules, the AQB has the following comments:

Air Quality Permitting History

The AQB has no previous record of this operation.

Air Quality Requirements

The New Mexico Mining Act of 1993 states that "Nothing in the New Mexico Mining Act shall supersede current or future requirements and standards of any other applicable federal or state law." Thus, the applicant is expected to comply with all requirements of federal and state laws pertaining to air quality. Current requirements which may be applicable in this mining project include, but are not limited to the following:

20 NMAC 2.72 states:

Air Quality permits must be obtained from the Department by any person constructing a stationary source which has a potential emission rate greater than 10 pounds per hour or 25 tons per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard. If the specified threshold in this subsection is exceeded for any one regulated air contaminant, all regulated air contaminants with National or New Mexico Ambient Air Quality Standards emitted are subject to permit review. Air Quality permits must be obtained prior to startup of the permitted operation or activity.

Any person constructing or modifying any source or installing any equipment that is subject to 20 NMAC 2.77, New Source Performance Standards, must comply with those applicable federal New Source Performance Standards (NSPS).

Also, 20 NMAC 2.73 states:

Any owner or operator intending to construct a new stationary source which has a potential emission rate greater than 10 tons of any regulated air contaminant per year or 1 ton per year of lead shall file a notice of intent with the division.

Details

Applicant will remove waste rock from the two waste rock dumps. Bulldozer and front end loader will be used to move the rock and to load the trucks to ship it out. Applicant did not mention processing of the rock material on the site. Applicant also mentioned intent to submit an application to the Air Quality Bureau for an air quality permit.

The above is not intended to be an exhaustive list of all requirements that could apply. The applicant should be aware that this determination does not supersede the requirements of any current federal or state air quality requirement.

Fugitive Dust

Fugitive dust is a common problem at mining sites. The Air Quality Bureau does not regulate fugitive dust; however, we do recommend controls to minimize emissions of particulate matter from fugitive dust sources. The following control strategies can be included in a comprehensive facility dust control plan (from EPA's *Compilation of Air Pollutant Emission Factors, AP-42*):

Unpaved haul roads and traffic areas: paving of permanent and semi-permanent roads, application of surfactant, watering and traffic controls, such as speed limits and traffic volume restrictions.

Paved roads: covering of loads in trucks to eliminate truck spillage, paving of access areas to sites, vacuum sweeping, water flushing, and broom sweeping and flushing.

Material handling: wind speed reduction and wet suppression, including watering and application of surfactants (wet suppression should not confound track out problems).

Re: Iron Duke Mine, Minimal Impact New Mine Permit Application
Permit No. OT006MN
August 05, 2011 - Page 3

Bulldozing: wet suppression of materials to "optimum moisture" for compaction.

Scraping: wet suppression of scraper travel routes.

Storage piles: enclosure or covering of piles, application of surfactants.

Miscellaneous fugitive dust sources: watering, application of surfactants or reduction of surface wind speed with windbreaks or source enclosures.

The Air Quality Bureau or the US EPA may implement requirements, regulations and standards for the control of fugitive dust sources in the future. This written determination does not supercede the applicability of any forthcoming state or federal regulations.

If you have any questions, please contact me at (505) 476-4318.



SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lieutenant Governor

State of New Mexico
ENVIRONMENT DEPARTMENT

Office of the Secretary

Harold Runnels Building
1190 Saint Francis Drive, PO Box 5469
Santa Fe, NM 87502-5469
Telephone (505) 827-2855 Fax (505) 827-2836
www.nmenv.state.nm.us



DAVE MARTIN
Secretary
BUTCH TONGATE
Acting Deputy Secretary

DETERMINATION PURSUANT TO
THE NEW MEXICO MINING ACT,
NMSA 1978, §69-36-7(P)(2), AND
NEW MEXICO MINING ACT RULE 304.J.6
FOR A MINIMAL IMPACT NEW MINING OPERATION

Determination is hereby provided that Gulf Coast Mining Group, LLC, the applicant for the Iron Duke Minimal Impact New Mining Operation, Permit No. OT006MN, submitted pursuant to the New Mexico Mining Act NMSA 1978, §69-36-1 through 20 (Repl. Pamp. 1997) (NMMA), 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 NMMA closeout plan and all applicable state and federal air, water quality, and other environmental permits.

Applicant: Gulf Coast Mining Group, LLC
Operation: Iron Duke
Permit: OT006MN

Determination by: David Martin
David Martin, Secretary
New Mexico Environment Department

Date: August 10, 2011

Date: April 9, 2007

Guideline Regarding Financial Assurance for Minimal Impact Mine Sites

For Minimal Impact Existing and New Operations 19.10.3.303.G and 19.10.3.304.A of the New Mexico Mining Act Rules (Rules) states:

The Director shall determine the amount of financial assurance appropriate for each operation based on the cost of reclaiming the site by a third party. Operations less than two acres total disturbance are not required to provide financial assurance.

In general operators submitting a minimal impact mining application do not provide sufficient information to accurately calculate a financial assurance (FA) amount. The requirements of the Rules do not require detailed information from minimal impact operations regarding the calculation of financial assurance.

Minimal impact operators generally do not have the expertise to calculate an adequate cost estimate without the help of a hired consultant. They often approach MARP for help in calculating their FA.

Costs for reclamation have increased since inception of the Mining Act Program.

In order to streamline the calculation of FA for minimal impact operations, MARP will adopt the following guideline that will allow minimal impact mine operators and MARP to easily calculate their FA costs. This will ensure that MARP maintains the funds necessary to perform the reclamation needed in the event that the operator is unable to fulfill the reclamation obligation. The following is a proposed new approach for the calculation of financial assurance for mine sites 10 acres and under in size:

\$5,400 for the first acre
\$3300 per acre for each additional acre

This calculates to \$35,100 for a 10-acre site and includes indirect costs unless otherwise specified. This method of calculation is based on what New Mexico and other states have determined as reasonable and appropriate costs for mined land reclamation of small acreage mining disturbances.

The above acreage amounts will be integrated into the Minimal Impact Mining Operation application form.

Sites less than 2 acres will be allowed the FA waiver allotted in the Rules.

In the event the operator feels that a lesser amount of financial assurance is appropriate, they may justify their position by providing MMD with a complete and detailed financial assurance worksheet. The financial worksheet must include all aspects of reclamation that would be conducted as if a third party were involved.

If MMD has reason to believe a minimal impact site would require substantially more financial assurance, than that provided by the guideline, MMD may require the operator to prepare a cost estimate for approval or MMD may prepare one. The financial assurance would then be the amount of the approved cost estimate.

MMD will conduct a periodic review of these guidelines to ensure that current day costs are being addressed.
