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# New Mexico Energy, Minerals and Natural Resources Department

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**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



August 2, 2011

Ms. Tyler Lown  
Manager, Corporate Operations  
Menefee Mining Corporation  
8144 Walnut Hill Lane, Suite 1075  
Dallas, TX 75231

**RE: Permit Approval, Black Spring Minimal Impact Mine Project Permit No. MK026MN,  
Menefee Mining Corporation, McKinley County, New Mexico**

Dear Ms. Lown:

The New Mexico Mining and Minerals Division (MMD) hereby acknowledges the approval of Menefee Mining Corporation's Minimal Impact Mining Permit Application for the Black Spring Mine Project, Permit No. MK026MN. The Black Spring Mine Project area is located on Federal Lands, in eastern McKinley County, New Mexico. The proposed minimal impact mining operation consists of a 10 acre permit area which will be mined in phases, for the shallow extraction of humate. Phases I and II will total 2.5 acres of disturbance. Before Phase III mining operations begin, a new Financial Assurance (FA) instrument must be submitted that is of adequate value and is in an acceptable format to the Director of MMD. If you have any questions, please contact me at (505) 476-3435, or Chuck Schultz of my staff at (505) 476-3425.

Sincerely,

Fernando Martinez  
Acting Director  
Mining and Minerals Director

**Enclosure:** Black Spring Minimal Impact Mine Project, Permit No. MK026MN

**Cc with attachment:** Holland Shepherd, Manager, Mining Act Reclamation Program (MARF)  
Kurt Vollbrecht, Team Leader, MECS/NMED-GWQB  
Matthew Wunder, Chief, Conservation Services Division, NMDGF  
Michelle Ensey, Archeologist, NMDCA-HPD  
Michael Johnson, Chief, Hydrology Bureau, NMOSE  
Shannon Hoefeler, Senior Mining Engineer, BLM-FFO  
Mine File (MK026MN)







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- F. 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.
- G. The Secretary of the New Mexico Environment Department ("NMED") has provided a written determination, dated May 24, 2011, stating that the Permittee has demonstrated that the operation permitted hereunder is likely to have minimal environmental impact if operated and reclaimed in accordance with the approved permits and NMED comments, and will be expected to achieve compliance with all applicable air, water quality and other environmental standards if carried out according to the reclamation plan. This determination addresses applicable standards for air, surface water and ground water protection enforced by, or for which, NMED is otherwise responsible.
- H. The Permittee has provided satisfactory financial assurance to complete the Closeout Plan in the amount of \$11,000.00, as required by 19.10.3.304 J (3) NMAC. This \$11,000 initial FA instrument will cover Phase I & II mining operations for a total of 2.5-acres. The financial assurance instrument, a Certificate of Deposit (CD # 7886603211 from Wells Fargo Bank, of Dallas TX) is in a form acceptable to the Director.

**Section 5**

**COMPLIANCE REQUIREMENTS**

The Permittee shall comply with the statutes and regulations referred to in Section 1 of this permit and with all other applicable state or federal statutory, regulatory and permitting requirements. The issuance of the permit does not relieve the Permittee from the responsibility of complying with other state and federal requirements and standards.

**Section 6**

**AGENCY RIGHT OF ENTRY**

The Permittee shall allow the authorized representatives of the Director, without advanced notice, upon presentation of appropriate credentials, and without delay:

- (a) to enter the permit area as provided for in 19.10.3.304.J.5 NMAC and 19.10.11.1101.E.1 NMAC; and
- (b) at reasonable times, and without delay, have access to and copies of any records associated with permitting and compliance required by the Act, 19.10.NMAC or the Permit.



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disposed of. Regrading shall be done in the pit area to MMD's specifications. All high walls greater than five (5') feet in height shall be regraded. Backfilling and rough grading shall occur concurrently during the mining. The backfill material shall be the by-product of mining, such as any unused materials, or unmarketable materials from the permit area. Cover material shall be the original overburden material and stockpiled soil. The approved seed mix shall be drill seeded to a depth of 1/4 to 1/2 inch or broadcast across the disturbed area. The seeded areas shall be dragged with a chain harrow, or if the seed, soil, and mulch mix shall be crimped, then the disc crimping depth shall be shallow, at approximately 1 inch, mulched with certified weed-free straw, (all mulch shall be certified weed and seed free), and the straw and/or mulch mix shall be crimped into the cover material. Any cacti transplanted from the regional area shall be taken from roadsides and areas selected in advance with approval by MMD.

- C. At the time of the first reclamation activities on the Phase II mining area, the establishment of three (3) permanent baseline monitoring plots shall be established in the vegetated areas surrounding the grassland/shrubland vegetation communities within the project boundary. In accordance with "Black Spring Humate Mining and Reclamation Plan", revegetation performance standards shall be based upon percent canopy cover, species diversity, and invasive species presence and cover. Reclamation will be considered successful when percent canopy cover of each reclamation plot is at least 70% of the baseline cover, species diversity approximates baseline plot conditions, and invasive species percent cover does not exceed that of the baseline reference sites.
- D. Additionally, pedestrian surveys covering 100% of the reclaimed areas shall be conducted for the presence of invasive species twice every year (once early in the growing season [May-June] and once after the monsoon season [September]. Invasive species control shall adhere to the standards provided by the BLM/FFO and the McKinley County Noxious Weed Management Program. These surveys and management considerations shall include efforts to control Halogeton, a Class B Noxious Weed listed with the New Mexico Department of Agriculture (NMDA).
- E. The reclamation seed mix listed in Table 4 (page 21) of the "Black Spring Humate Mining and Reclamation Plan" shall be modified to replace the seeding of Crested Wheatgrass (*Agropyron cristatum*) with a halogeton competing forb such as Scarlet Globemallow (*Sphaeralcea coccinea*).
- F. The Permittee shall maintain the Permit until the Director releases all of the financial assurance pursuant to 19.10.12.1204 NMAC and 19.10.12.1210 NMAC. The term of the Permit is governed by 19.10.6.607 NMAC.
- G. The Permittee shall notify MMD, within at least thirty (30) days, prior to initiating any reclamation approved pursuant to this Permit.

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- H. The Permittee shall monitor the site, at least once per year for the duration of the permit, in order to assure knowledge of the general site conditions and compliance with the Permit and the approved permit area.
- I. The Permittee shall implement erosion control measures that are designed, constructed and maintained using professionally recognized standards as needed.
- J. The Permittee shall leave all disturbances in a manner that is stable, both long term and short term, and non-hazardous to humans and wildlife. The preliminary reclamation plan for the site is described in Attachment VI of the PAP and this Permit.
- K. The Permittee shall submit annual reports pursuant to 19.10.6.610 NMAC, and any fees as required by 19.10.2 NMAC.
- L. The Permittee is authorized to operate a minimal impact mining operation. The Director has determined that the mining operation will have minimal impact on the environment, in accordance with 19.10.1.7.M.2 NMAC. In addition, the minimal impact mining operation shall not exceed ten (10) acres of total disturbed land, pursuant to 19.10.3.304.A NMAC. The Menefee Black Spring Mine will no longer qualify as a Minimal Impact operation if permit authority is exceeded or if any of the characteristics described in 19.10.1.7.M.2 NMAC, exist.
- M. All lands to be disturbed by the mining operation shall be addressed under the performance reclamation standards and requirements of 19.10.3.304 NMAC and in accordance with the reclamation plan provided in the PAP and this Permit.
- N. In order for the operator to conduct mining operations beyond the Phase I & II operations that will total 2.5-acres, an additional FA instrument will be required. This additional FA instrument must be of adequate monetary value, and it must be in a form acceptable to the Director. The operator is permitted to disturb up to 10 acres, under this permit.
- O. Any mining operations conducted between March 1 and July 31, must have nesting surveys conducted to ensure that there are no Mountain Plover nesting sites in the project area. In the event that Mountain Plover nesting sites are discovered, a 1/4 mile buffer zone shall be established between the nesting site and any mining activity.

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**Section 11**

**CONCLUSIONS OF LAW**

- A. The Director concludes the application meets the requirements of a "Minimal Impact Mining Operation," addressed in 19.10.1. 7.M.2. The operation authorized by this permit is eligible as a minimal impact operation, and the Permittee is authorized to operate a minimal impact mining operation, pursuant to 19.10.1. 7.M.2 NMAC and 19.10.3.304.A NMAC.
- B. The PAP is complete, accurate, and it complies with the requirements of the Act 19.10.3.304 NMAC.
- C. The Director has jurisdiction over the Permittee and the subject matter of this proceeding.
- D. The Permittee, Menefee Mining Corporation, is permitted to conduct mining and reclamation operations at the Black Spring Mine, McKinley County, New Mexico, upon the condition that the Permittee complies with the requirements and conditions of the Order, the Act, the Rules, and this Permit, 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.
- E. Permittee has provided to MMD, as part of the application, a statement of the basis upon which Permittee has the right to enter the permit area for the purpose of conducting mining and reclamation. MMD does not, by issuing this permit or otherwise, confirm, deny or make any comment on the surface or mineral rights that the permittee may or may not have in the permit area. This permit does not grant or create any property rights. Permittee is solely responsible to take whatever steps are necessary to ensure that permittee has property rights sufficient to support the activities authorized by this permit.



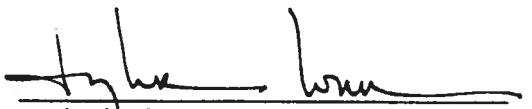
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**CERTIFICATION**

**I certify that I have personally examined and am familiar with the information submitted herein, 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 this Permit. I also agree to comply with the performance and reclamation standards and requirements of the Permit, the Rules, and the Act, and without limitation that I will allow the Director to enter the Permit Area as required by this Permit and/or the Rules and/or as otherwise required by law.**

  
Authorized Representative of the Permittee

MANAGER  
Title

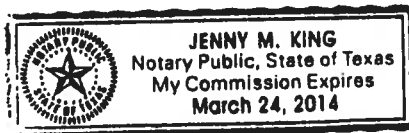
MENEFEE MINING CORPORATION  
Company

Subscribed and sworn to before me this 1st day of August, 2011

  
Notary Public

My Commission Expires

\_\_\_\_\_, 20\_\_\_\_



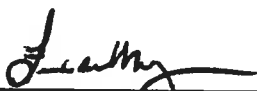
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**ORDER**

NOW THEREFORE, IT IS HEREBY ORDERED that Permit No. MK026MN, for the Black Spring Mine, located in McKinley County, New Mexico, is approved.

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

By:   
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Fernando Martinez, Acting Director  
Mining and Minerals Division  
Energy, Minerals and Natural  
Resources Department

Date: 8/02/2011