

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

Ken McQueen
Cabinet Secretary Designate

Matthias Sayer
Deputy Cabinet Secretary

Fernando Martinez, Director
Mining and Minerals Division



March 3, 2017

Ms. Tyler Lown
Menefee Mining Company
8144 Walnut Hill Lane, Suite 1075
Dallas, TX 75231

RE: Technical Comments on Closeout Plan Modification 15-1, Menefee Mill, Menefee Mining Company, Sandoval County, New Mexico, Permit No. SA005ME

Dear Ms. Lown,

Mining and Minerals Division ("MMD") received the revised Closeout Plan for the Menefee Mining Company Production Plant Site, prepared by Toltec Mesa Resources, LLC, and has the following technical comments:

1. The south stormwater pond is both currently in use and is proposed to be used at closeout of the facility. As such, the south stormwater pond shall be included within the permit area and reclaimed at closeout. Please address this comment by providing a revised map of the proposed permit area to include the south stormwater pond as well as details about how this pond will be reclaimed at closure.
2. Additional details are needed about the reclamation/closeout plan:
 - a. The closeout plan is unclear about whether any remaining humate stockpiles on-site at closure will be buried in an incised pit (below ground disposal) or whether borrow soil will be excavated and used to grade and cover remaining stockpiles in-place (above ground disposal). Please clarify the plan. Financial assurance will be required to enact one of these scenarios depending on what is proposed. If a soil borrow area is proposed for above ground disposal, please also describe how the borrow area will be reclaimed after use (e.g. contoured, ripped and seeded, etc.).
 - b. A map showing the location of either an incised pit location for below ground disposal or a borrow source for above ground disposal is required. The acreage of a proposed incised pit or a borrow source shall also be included within the proposed permit area. Please provide a revised map of the proposed permit area including these areas.
 - c. The closeout plan on page 7 states that "any trash, debris and equipment, machinery and vehicles, etc. will be removed from the site. Wastes will be transported to permitted facilities for proper disposal. Fuel storage tanks will be closed in accordance with permits and the tanks removed." The financial assurance estimate is required to include completion of these tasks by a third party contractor, particularly the removal of tanks, equipment and machinery that is specific to mining and would not be part of a typical Industrial post-mining land use ("PMLU"). If there is equipment, machinery, etc. present that is to remain on-site as part of the industrial

RE: Technical Comments on Closeout Plan Modification 15-1, Menefee Mill, Menefee Mining Company, Sandoval County, New Mexico, Permit No. SA005ME

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PMLU, then this equipment should be inventoried with a brief written justification describing plausible non-mining uses for that equipment. Equipment and other machinery that is specific to mining will have to have a third-party financial assurance cost estimate for removal under the closeout plan.

3. The reclamation seed mix in Table 2, page 6 of the closeout plan was developed in consultation with MMD personnel, however this table contains incorrect average seeding rates. The correct seeding rates for the species in Table 2 will be provided in the permit language of Modification 15-1 when approved by MMD.
4. The closeout plan states that "the disturbed areas will be covered with one foot of suitable borrow material and reseeded." MMD requires a minimum of 18-inches of suitable cover at reclamation in order to provide suitable plant root depth, which must be reflected in the financial assurance cost estimate.
5. The financial assurance cost estimate must include the cost for an independent engineer or professional building inspector to evaluate and verify that the buildings are in good condition, meets all local ordinances, meets all applicable codes, is structurally sound, meets all zoning requirements, and that all utilities are operable upon implementation of the industrial use PMLU.

In accordance with §19.10.3.303.I NMAC, MMD solicited comments from several cooperating agencies regarding Modification 15-1. Comments from the various agencies are included with this letter and any concerns from the various agencies shall be addressed by Menefee.

Please provide a written response to the technical comments in this letter and the agency comments within 30-days after receipt of this letter.

If you have any questions, please contact me at (505) 476-3434 or by email at david.ennis@state.nm.us.

Sincerely,



David J. (DJ) Ennis, P.G.
Permit Lead

Attachment: Agency comments

cc: Holland Shepherd, Program Manager

Ennis, David, EMNRD

From: cuddy, alan, OSE
Sent: Wednesday, December 14, 2016 11:35 AM
To: Ennis, David, EMNRD
Cc: Musharrafieh, Ghassan R., OSE
Subject: Menefee Mill Permit No. SA005ME, Modification 15-1

DJ,

On December 12, 2016, the Hydrology Bureau of the Office of the State Engineer received a *“Request for Comments on Modification 15-1 Revised Application, Menefee Mill, Sandoval County, New Mexico, Permit No. SA005ME”* submitted by Toltec Mesa Resources LLC on behalf of Menefee Mining Corporation. The Menefee Mill is located near Cuba, New Mexico. The current modification supersedes a previous version of Modification 15-1 and proposes to expand the permit area from 9.6 acres to 20 acres, provides a Closeout Plan and updates the cost estimates for financial assurance.

Menefee Mill currently receives municipal water from Cuba. No additional water use or well drilling is associated with the permit modifications or the Closeout Plan. Therefore, the Hydrology Bureau has no comments or issues regarding Modification 15-1.

Please contact me if you have any further questions.

Alan S. Cuddy
Hydrology Bureau
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
Phone: (505) 476-7400
Fax: (505) 476-0220
alan.cuddy@state.nm.us



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J.C. BORREGO
Deputy Secretary

MEMORANDUM

DATE: December 19, 2016

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

THROUGH: Jeff Lewellin, Mining Act Team Leader 

FROM: Alan Klatt, Surface Water Quality Bureau
Neal Butt, Air Quality Bureau

RE: **NMED Comments, Menefee Mill, Expansion of Permit Area, Sandoval County, New Mexico MMD Permit No. SA005ME, Modification 15-1**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on December 12, 2016 requesting NMED review and provide comments on the above referenced MMD permitting action. The modification proposes to expand the permit area from 9.6 to 20 acres, modify the post-mining land use, incorporate a revised closeout plan, and update the cost estimate for financial assurance. MMD requested comments within 20 days of receipt in accordance with Section 19.10.3.303.I. NMAC. NMED has the following comments:

Air Quality Bureau

The Air Quality Bureau comments are attached under separate letterhead.

Surface Water Quality Bureau

The Surface Water Quality Bureau comments are attached under separate letterhead.

Ground Water Quality Bureau

The Mining Environmental Compliance Section is currently reviewing a proposal from the permittee to contain discharges from the facility in accordance with Water Quality Control Commission Regulations 20.6.2 NMAC. The proposed Modification 15-1 for expansion of the permit area from 9.6 to 20 acres will have no relationship with the permittee's compliance with

20.6.2 NMAC provided that Menefee Mill addresses discharges in a manner that is protective of water quality, and does not require a discharge permit.

NMED Summary Comment

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

If you have any questions, please contact Jeff Lewellin at (505) 827-1049.

cc: Bruce Yurdin, Division Director, NMED-WPD
Shelly Lemon, Acting Bureau Chief, SWQB
Richard Goodyear, Bureau Chief, AQB
Fernando Martinez, Division Director, EMNRD-MMD
DJ Ennis, Lead Staff, EMNRD-MMD
Kurt Vollbrecht, Program Manager, MECS



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J. C. BORREGO
Deputy Secretary

MEMORANDUM

DATE: December 16, 2016

TO: Jeff Lewellin, Mining Act Team Leader
Mining Environmental Compliance Section
Ground Water Quality Bureau

FROM: Alan Klatt, Environmental Scientist & Specialist
Watershed Protection Section
Surface Water Quality Bureau

RE: **Requested Comments on Modification 15-1 Revised Application, Menefee Mill, Sandoval County, New Mexico, Permit No. SA005ME**

The New Mexico Surface Water Quality Bureau (SWQB) has completed its review of the above mentioned mining project. On December 8, 2016 the Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department received an application from Menefee Mining Corporation requesting to modify Permit No. SA005ME. The permit modification will address a notice of non-compliance issued by MMD for exceeding the original permit boundary.

Description of relevant surface waters:

Stormwater runoff from the mill site is to an unnamed unclassified stream subject to Section 20.6.4.98 Standards for Interstate and Intrastate Surface Waters, New Mexico Administrative Code (NMAC) with designated uses of livestock watering, wildlife habitat, marginal warmwater aquatic life, and primary contact¹. The unnamed unclassified stream is a tributary to the Rio Puerco which is listed as not supporting warmwater aquatic life use for causes that include sedimentation/siltation, nutrient/eutrophication, and un-ionized ammonia². The probable sources are channelization, wildlife other than waterfowl, drought-related impacts, loss of riparian habitat, road/bridge runoff, natural sources, rangeland grazing, and streambank modifications/destabilization.

¹ <https://www.env.nm.gov/swqb/Standards/>

² <https://www.env.nm.gov/swqb/303d-305b/>

SWQB recommendations:

On March 4, 2015, SWQB conducted a National Pollutant Discharge Elimination System (NPDES) Compliance Evaluation Inspection (CEI) on behalf of the U.S. Environmental Protection Agency (USEPA) and found that (1) Menefee Mining Corporation did not submit a Notice of Intent (NOI) to obtain coverage for the Cuba Humate Production Facility under the Multi-Sector General Permit (MSGP), and (2) control measures (e.g., best management practices, minimizing exposure, erosion and sediment controls, including stabilization, management of runoff, etc.) were needed to minimize contact between stormwater and potential pollutants (e.g., exposed humate product, humate waste, humate waste materials, non-stormwater, fuel storage and fueling areas, other waste and tires, road maintenance, past activities, etc.)³. On December 14, 2016, SWQB reviewed the USEPA's Enforcement and Compliance History (ECHO) database⁴ and was unable to confirm USEPA 2015 MSGP coverage for the facility.

Section 402 of the Clean Water Act requires National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit (MSGP) coverage for industrial storm water discharges. Storm water discharges from active industrial facilities are generally covered under the current MSGP. To be covered (i.e., authorized to discharge) under the MSGP, the operator must submit to the U.S. Environmental Protection Agency (USEPA) a complete and accurate Notice of Intent (NOI). Permit authorization is not valid if the NOI upon which authorization is based is incomplete or inaccurate, or if the discharge is not eligible for permit coverage.

Among other things, the MSGP requires that a Storm Water Pollution Prevention Plan (SWPPP) be prepared for the site and that appropriate Best Management Practices (BMPs) be installed and maintained to prevent, to the extent practicable, pollutants in storm water runoff from entering surface waters (e.g., arroyos, streams, rivers). The SWPPP includes specific requirements to reduce, or eliminate, pollutant runoff associated with the industrial activities in order to minimize impacts to water quality. Operators must complete the development of a SWPPP prior to submitting the NOI for coverage under the 2015 MSGP⁵.

The permit application package for modification 15-1 states, "there is a stormwater pond immediately south of the southern permit boundary that collects surface water from the property and from a watershed upstream of the property"⁶. It is unclear in the closeout/reclamation description if or how the pond(s) will be reclaimed. SWQB recommends the permit modification include inspection, maintenance, and reclamation of the stormwater pond(s) as appropriate.

If you have any questions, please contact me at (505) 827-0388.

³ <https://www.env.nm.gov/swqb/NPDES/Inspections/>

⁴ <https://echo.epa.gov/facilities/facility-search>

⁵ The 2015 MSGP, NOI, deadlines, Fact Sheet, etc. are available at: <https://www.epa.gov/npdes/final-2015-msgp-documents>.

⁶ <http://www.emnrd.state.nm.us/MMD/MARP/SA005ME.html>



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Deputy Secretary

MEMORANDUM

DATE: December 16, 2016

TO: Jeff Lewellin, Mining Act Team Leader
Mining Environmental Compliance Section, Ground Water Quality Bureau

FROM: Neal Butt, Environmental Analyst
Air Quality Bureau

RE: Request for Comments on Modification 15-1 Revised Application, Menefee Mill,
Sandoval County, New Mexico, Permit No. SAOOSME

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

Air Quality Permitting History

The AQB issued a New Source Review Permit No. 3426 to the Menefee Mining Corporation (MMC) for the Menefee – Cuba Facility on April 12, 2011. The facility receives humate ore from offsite, at Menefee’s Black Spring mine, which is then processed, packaged and shipped offsite. This processing includes dry granular (screening and bagging) and further screening and wet soluble operations. The initial and secondary screened materials (the reject from screening) is stockpiled and then placed in containers (super sacks) for bulk sale. The fine fraction passing through the final screening is dissolved in heated potable water (from the Village of Cuba) and dried to form a powdered concentrate for bulk sale. Other nutrients are added to the powdered humate products during the processing, depending upon specifications of the agricultural or soil conditioner product. Final packaging in 55-gallon drums of the different products occurs on site. These powdered products are shipped offsite. The permittee anticipates that the air quality permit will no longer be needed with closeout and completion of reclamation and financial assurance release. However, the air quality permit will remain in effect until all processing and emissions of regulated air pollutants cease, and the Department is notified of such cessation of operations.

This facility is located at UTM Zone 13, UTM Easting 323,737 meters, UTM Northing 3,984,143 meters (NAD27); in Township 20 North, Range 1 West, Sections 4 & 5; 1.75 miles

south of the intersection of old State Hwy 44 (County Road 11) and State Highway 550 at the southern end of the Village of Cuba, New Mexico in Sandoval County.

Details

On April 4, 2016, the AQB provided comments on the applicant's request for modification to Permit SA005ME in order to conduct reclamation on 3.3 acres, thereby reducing the total disturbance at the site to less than 10 acres, as well as updating the reclamation plan and amount of financial assurance for the site to reflect this change in acreage. In addition, a site visit was conducted on March 24, 2016.

MMC is now requesting to modify the aforementioned permit to: expand the permit area from 9.6 acres to 20 acres, which includes an increase in the potential disturbed acreage from 6.1 acres to 15.7 acres; create two operational 'units', defined as an industrial/commercial unit (4.3 acres) and a wildlife unit (15.7 acres), for the purposes of the activities described in the Closeout Plan; change the PMLU for the permit area from livestock grazing to two separate PMLUs, a commercial/industrial PMLU for the building structures, facilities and parking areas (for the industrial/commercial unit) and a wildlife habitat PMLU (for the wildlife unit), which includes the humate handling, processing, humate storage facilities and associated disturbed areas outside the industrial/commercial area, but within the proposed permit boundary; and incorporation of a Closeout Plan and cost estimate for supporting financial assurance in the permit.

Recommendation

The AQB has no objection to the current request for application revision. However, the AQB has concerns about reports from the site visit that indicate that humate emissions are crossing the facility fence line and being deposited in the surrounding area. Menefee must ensure that the terms of their air quality permit are met, and that proper industrial hygiene practices are followed to minimize any emissions of humate dust from leaving the facility.

If you have any questions, please contact me at (505) 476-4317.

GOVERNOR
Susana Martinez



DIRECTOR AND SECRETARY
TO THE COMMISSION
Alexandra Sandoval

DEPUTY DIRECTOR
Donald L. Jaramillo

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Las Cruces

5 January 2017

David J. (DJ) Ennis P.G.
Permit Lead, Mining Act Reclamation Program
Mining and Minerals Division (MMD)
1220 South St. Francis Drive
Santa Fe, NM 87505

RE: Modification 15-1 Revised Application, Menefee Mill, Permit SA005ME; NMDGF No. 17479.

Dear Mr. Ennis,

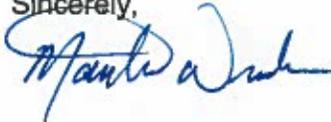
The New Mexico Department of Game and Fish (Department) has reviewed your letter dated 12 December 2016 regarding the above referenced project. Menefee Mining Corporation (MMC) is proposing to expand the current permit area from 9.6 to 20 acres, modify the post-mining land use for the entire permit area, incorporate a revised closeout plan, and update the cost estimate for financial assurance.

Part of MMC's reasoning to change the post-mining land use (PMLU) from grazing to wildlife habitat is to preclude having to address long-term grazing management issues. However, given the relatively small size of the proposed wildlife habitat areas, in addition to the proposed industrial unit that will exist between the two wildlife areas, it is difficult to understand how the proposed wildlife areas could function as appropriate wildlife habitat. There is also no mention of constructing a perimeter fence that would exclude cattle from the reclaimed areas designated as wildlife habitat. Since the surrounding area is primarily utilized for grazing cattle, the absence of fencing to exclude cattle makes the wildlife area a grazing area by default. Therefore, if MMD approves the PMLU designation for wildlife habitat, the Department recommends that a perimeter fence be installed around the reclaimed areas, and be designed to minimize potential injury to wildlife crossing under and over the fence. For options regarding different types of wildlife friendly-fencing, please consult the Department's Fencing Guidelines at <http://www.wildlife.state.nm.us/download/conservation/habitat-handbook/project-guidelines/Livestock-Wildlife-Fence-Guidelines.pdf>.

The Department concurs with the native seed mix proposed in Table 2, with the provision that any alternate seeds used to substitute for any primary species that are unavailable at the time of reclamation also be native. The seed mix and mulch used during reclamation should be certified weed-free. When possible, seeds that are sourced from the same region and habitat type are recommended.

Thank you for the opportunity to review and comment on your project. If you have any additional questions, please contact Ron Kellermueller, Mining and Energy Habitat Specialist, at (505) 476-8159 or ronald.kellermueller@state.nm.us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt Wunder". The signature is fluid and cursive, with the first name "Matt" being more prominent than the last name "Wunder".

Matt Wunder, Ph.D.
Chief, Ecological and Environmental Planning Division

cc: USFWS NMES Field Office

State of New Mexico
Energy, Minerals and Natural Resources Department

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Susana Martinez
Governor

Fernando Martinez, Director
Mining and Minerals Division

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HISTORIC PRESERVATION DIVISION



December 12, 2016

Mr. Bob Estes
Department of Cultural Affairs, Historic Preservation Division
407 Galisteo St., Suite 236
Santa Fe, NM 87501

Re: Request for Comments on Modification 15-1 Revised Application, Menefee Mill, Sandoval County, New Mexico, Permit No. SA005ME

Dear Mr. Estes,

On December 8, 2016, the Mining and Minerals Division ("MMD") of the New Mexico Energy, Minerals, and Natural Resources Department received a permit application from Menefee Mining Corporation to modify permit number MK005ME. Modification 15-1 proposes to expand the permit area from 9.6 to 20 acres, modify the post-mining land use for the entire permit area, incorporate a revised closeout plan, and update the cost estimate for financial assurance.

The Menefee Mill is located in Section 4, T20N, R01W in Sandoval County, New Mexico. Pursuant to §19.10.3.303.I NMAC, MMD is requesting comments from your agency regarding the revised application. The application received from the operator can be downloaded from MMD's website at <http://www.emnrd.state.nm.us/mmd/MARP/SA005ME.html>.

In accordance with §19.10.3.303.I NMAC, your agency has 20 days from the date of receipt of this letter in which to provide comments. The Director will consider these comments in making the determination of eligibility for minimal impact status.

If you have any questions, please contact me at (505) 476-3434 or by email at david.ennis@state.nm.us.

Sincerely,

David J. (DJ) Ennis, P.G., Permit Lead
Mining Act Reclamation Program (MARP)

cc: Mine File (SA005ME)

No Historic Properties Affected

John R. Ector June 9, 2016
for NM State Historic Preservation Officer