

Ennis, David, EMNRD

From: Roth, Daniela, EMNRD
Sent: Thursday, July 6, 2017 3:21 PM
To: Ennis, David, EMNRD
Subject: RE: Request for comments on Modification 17-1, Mesa Verde Star Lake Mine (No. MK007ME)

Dear David Ennis:

Thank you for providing me with the opportunity to comment on Modification 17-1 Application, for the expansion of the permit area in Section 4, at the Mesa Verde Resources Star Lake Mine, in McKinley County, New Mexico (Permit No. MK007ME). I do not anticipate any impacts to state listed endangered plants from the proposed expansion of the permit area.

Please let me know if I can be of further assistance.

Sincerely,

Daniela Roth

Botany Program Coordinator
EMNRD – Forestry Division
1220 S. Saint Francis Drive
Santa Fe, NM 87505
505-476-3347
<http://www.emnrd.state.nm.us/SFD/>



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NEW MEXICO
ENVIRONMENT DEPARTMENT

Ground Water Quality Bureau

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Phone (505) 827-2900 Fax (505) 827-2965
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BUTCH TONGATE
Cabinet Secretary

J.C. BORREGO
Deputy Secretary

MEMORANDUM

Date: July 13, 2017

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

Through: Jeff Lewellin, Mining Act Team Leader, Mining Environmental Compliance Section

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

Subject: **NMED Comments, Mesa Verde Resources, Star Lake Mine, Expansion of Permit Area, McKinley County, New Mexico, MMD Permit No. MK007ME, Modification 17-1**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on June 27, 2017 requesting NMED review and provide comments on the above referenced MMD permitting action. The modification is submitted to expand the permit area by approximately 160 acres. MMD requested comments within 20 days of receipt in accordance with Section 19.10.3.303 I. NMAC. NMED has the following comments.

Background

The Mesa Verde Resources (MVR), Star Lake Mine, is a minimal impact existing humate mine assigned MMD Permit No. MK007ME. The original permit area is in Section 10, T19N, R6W. This application proposes to expand the permit area in to the northwest quarter of Section 4, T19N, R6W. The proposed expansion area is approximately 160 acres on Indian Allotted Land managed by the Bureau of Indian Affairs and the Allottees.

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.

Mining Environmental Compliance Section

A search of the New Mexico Office of the State Engineer (OSE) database that contains information related to wells installed throughout New Mexico was performed. No wells were reported in the OSE database for Section 4, T19N, R6W. In comments submitted by NMED to MMD on December 13, 2013 related to the Star Lake Mine, ground water in Section 10, T19N, R4W is stated to be greater than 100 feet below ground surface. The mining of humate in Section 4 will occur above the probable depth to ground water and should have no adverse impacts to ground water.

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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BUTCH TONGATE
Cabinet Secretary

J. C. BORREGO
Deputy Secretary

MEMORANDUM

DATE: July 7, 2017

TO: Jeff Lewellin
Mining Act Team Leader, Ground Water Quality Bureau (GWQB)
New Mexico Environment Department

FROM: Alan Klatt
Environmental Scientist & Specialist, Surface Water Quality Bureau (SWQB)
New Mexico Environment Department

RE: **Request for Comments, Expansion of Permit Area, Mesa Verde Resources, Star Lake Mine, McKinley County, MMD Permit No. MK007ME, Modification 17-1**

On June 28, 2017 SWQB received a request for comments from GWQB regarding a permit application submitted to the Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals, and Natural Resources Department by Mesa Verde Resources to modify permit number MK007ME for the Star Lake Mine. The Star Lake Mine is operated by Mesa Verde Resources as a minimal impact existing humate mine. The proposed permit modification, Modification 17-1, will incorporate the northwest quarter of Section 4, T19N, R6W into the permit area which is approximately 160 acres. Pursuant to 19.10.3.303 NMAC, SWQB has the following comments:

The proposed permit area contains a portion of an unnamed stream subject to 20.6.4.98 NMAC that is a tributary of the Gas Tank Wash-Chaco Wash which flows to the Chaco River, San Juan River, and then to the Colorado River. To protect water quality, SWQB recommends the following:

- Appropriate spill clean-up materials such as absorbent pads must be available on-site at all times during road construction, site preparations, and drilling activities to address potential spills. Report all spills immediately to the 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 505-428-2500. 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 (New Mexico Department of Public Safety).
- Pressure wash and/or steam clean all mobile equipment used in the project area before the start of the project and inspect daily for leaks. A written log of inspections and maintenance should be

completed.

- The use of overland travel and site selection, design, and construction of well pads, reserve pits, and roads should comply with the guidelines described in the Bureau of Land Management "Gold Book"¹, Chapter 4. Suspend construction, maintenance activities, or off-road travel during periods when the soil is too wet to adequately support heavy equipment without causing surface disturbance. Operator should commit to repair any surface disturbance they caused.
- Roads, pads, and other facility structures should be set back a minimum of 100 feet from any watercourses, including springs, wetlands, and ephemeral stream channels.
- Implement Best Management Practices to prevent direct impacts to watercourses, including ephemeral channels. For temporary surface disturbances during exploration and reclamation activities, the operator should implement 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").
- Activities within watercourses or wetlands may require coverage under a Clean Water Act Section 404 permit. If you have questions about this permitting, please contact Ms. Marcy Leavitt, Regulatory Division, US Army Corps of Engineers, Albuquerque (505-342-3678).
- The applicant should design and construct containment systems capable of retaining storm water running off of the mining area during precipitation events. The containment system should be sufficient in size to contain storm water generated within its catchment area from 100-year, 3-day storm event or less. Discharge of storm water from disturbed areas to any Water of the United States without a National Pollutant Discharge Elimination System (NPDES) permit may be a violation of the Clean Water Act.
- Certain mining activities may require a permit from EPA under Section 402 (NPDES) of the Clean Water Act, under the Multi-Sector General Permit (MSGP). The permittee must submit the appropriate application to EPA prior to initiating activities that may result in a discharge. For additional information, contact:

EPA Region 6
1445 Ross Avenue
Suite 1200
Dallas, Texas 75202
Ph: 800-887-6063 or 214-665-2760 if calling from outside Region 6

If you have questions about NPDES or MSGP coverage please contact Sarah Holcomb, SWQB, at 505-827-2798.

If you have any other questions related to these comments, please contact me at 505-827-0388.

¹<https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/operations-and-production/the-gold-book>



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BUTCH TONGATE
Cabinet Secretary
JUAN CARLOS BORREGO
Deputy Cabinet Secretary

MEMORANDUM

DATE: July 7, 2017

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 17-1 Application, Expansion of Permit
Area in Section 4, Mesa Verde Resources Star Lake Mine, McKinley County,
New Mexico, Permit No. MK007ME

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 has not issued any air quality permits for this operation.

Details

The applicant has applied for a modification of their Minimal Impact Existing Mining Operation Permit MK007ME to expand the current permit area, located in Sections 4 and 10, T19N, R6W in McKinley County, New Mexico, to incorporate approximately 160 acres of the northwest quarter of T19N, R6W, Section 4 into the Permit Area. The proposed permit area expansion occurs on Indian Allotted Lands managed by the Bureau of Indian Affairs and the Allottees.

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:

Subsection A of 20.2.72.200 NMAC, *Application for Construction, Modification, NSPS, And NESHAP - Permits and Revisions*, states that: "Permits must be obtained from the Department by:

(1) "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 (e.g. PM, TSP). 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 [. . .]"; and

(3) "Any person constructing or modifying any source or installing any equipment which is subject to 20.2.77 NMAC, *New Source Performance Standards* (e.g. Subpart OOO—*Standards of Performance for Nonmetallic Mineral Processing Plants*), 20.2.78 NMAC, *Emission Standards for Hazardous Air Pollutants*, or any other New Mexico Air Quality Control Regulation which contains emission limitations for any regulated air contaminant;"

Also, Paragraph (1) of Subsection A of 20.2.73.200 NMAC, *Notice of Intent* states that:

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

In addition, pursuant to Subsection A of 19.10.3.303 NMAC, *Minimal Impact Existing Mining Operations*:

"An existing mining operation that continues mining operations will not be considered a minimal impact existing mining operation if it exceeds 10 acres of disturbed land, or 40 acres of disturbed land in the case of dolomite, garnet, humate, perlite and zeolite operations that: (1) are located outside Bernalillo, Dona Ana and Santa Fe counties; and (2) are committed to perform concurrent reclamation of disturbed areas to the extent practicable. Permanent roads and areas within the permit area that are reclaimed will not be counted as part of the acreage limitation for a minimal impact existing mining operation. Reclaimed, for this purpose, means all financial assurance has been released, except the amount held to re-establish vegetation pursuant to Subsection A of 19.10.12.1204 NMAC. Construction of roads and access ways, the types of disturbances, and the applicant's previous history of compliance with the act and 19.10 NMAC will be major factors in the director's determination of minimal impact status. Notwithstanding the frequency for inspections of minimal impact mining operations specified in Paragraph (4) of Subsection A of 19.10.11.1101 NMAC, if a minimal impact operation permit is issued under this subsection for more than

10 acres of disturbance, the director shall conduct on-site inspections at least once per year during the term of the permit.”

Humate is prone to become suspended in the air; therefore, the AQB recommends implementation of a strategy to reduce fugitive humate from the mining operation.

Permitting Requirements for Regulated Equipment and Sources of Fugitive Dust (e.g. PM and TSP)

The Air Quality Bureau regulates particulate matter emissions from stationary sources that process mined materials via: 20.2.15 NMAC, *Pumice, Mica, and Perlite Processing*; 20.2.19 NMAC, *Potash, Salt or Sodium Sulfate Processing Equipment – PM*; 20.2.42 NMAC, *Coal Mining and Preparation Plants – PM*; and 20.2.72 NMAC, *Construction Permits*. The emissions from equipment and activities such as crushers, screens, conveyors, baghouses, material drop and transfer points, haul roads, and storage piles must all be considered in determining applicability under 20.2.72 NMAC. Please contact the Permit Section for additional guidance.

Fugitive dust is a common problem at mining sites. Fugitive dust emissions are regulated generally by 20.2.72.200.A NMAC (e.g. 10 lb./hour or 25 TPY). However, specific strategies to control fugitive dust are left up to the discretion of the owner and operator of the source. 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).

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

Recommendation

The AQB has no objection to the current request for permit modification.

The applicant is expected to comply with all requirements of federal and state laws pertaining to air quality. This written evaluation does not supersede the applicability of any forthcoming state or federal regulations.

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

STATE OF NEW MEXICO DEPARTMENT OF GAME & FISH

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17 July 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 17-1 Application, Expansion of Permit Area in Section 4, Mesa Verde
Resources Star Lake Mine, McKinley County, New Mexico, Permit No. MK007ME; NMDGF
No. 17907**

Dear Mr. Ennis,

The New Mexico Department of Game and Fish (Department) has reviewed the project referenced above. Mesa Verde Resources (MVR) is requesting a permit modification to expand mining operations into the northwest corner of Section 4, Township 19N, Range 6W in McKinley County, New Mexico. The project will disturb a total area of approximately 160 acres. Department, MMD and MVR staff conducted a site inspection on 8 February 2017. A juvenile Golden Eagle (*Aquila chrysaetos*) was observed soaring above the project area. The Department provides the following recommendations to minimize impacts to wildlife.

The proposed areas where the humate deposits will be mined contains grassland habitat that could support Gunnison's prairie dog (*Cynomys gunnisoni*) colonies. Gunnison's prairie dog is designated by the Department as a Species of Greatest Conservation Need, and its colonies provide important habitat for other grassland wildlife. The Department recommends, if possible, that occupied prairie dog towns found on the site be left undisturbed and that mining activities be directed the prairie dog colony. Burrowing owls (*Athene cunicularia*) may be associated with prairie dog towns and use abandoned burrows as breeding (March-August) and sometimes as wintering habitat. The Department recommends conducting burrowing owl surveys during the breeding season prior to any ground-disturbing activities. The Department's Burrowing Owl Guidelines (<http://www.wildlife.state.nm.us/download/conservation/habitat-handbook/project-guidelines/Burrowing-Owl-Surveys-and-Mitigation-2007.pdf>) provide information on appropriate procedures. Burrowing owls are protected against take under New Mexico state statute and under the federal Migratory Bird Treaty Act, which specifies that active burrows must remain undisturbed until the young have fully fledged and all the owls have left the area. If mining operations cannot wait until the burrows are vacant, then a permit must be obtained from the U.S. Fish and Wildlife Service and the Department to safely capture and relocate owls from the area.

The noxious weed halogeton (*Halogeton glomeratus*) is known to occur near the proposed project site and is present on other humate mines in the area. Halogeton thrives on disturbed sites and along road

sides, and is toxic to grazing animals due to the accumulation of oxalates in its foliage. The Department recommends that any vehicles and equipment arriving on site be thoroughly cleaned of all visible dirt and mud to help contain and control the potential spread of associated weed seeds. The operator should initiate a weed monitoring program to aggressively detect and control the spread of halogeton if it invades the project area.

Thank you for the opportunity to review and comment on the proposed project. If you have any 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", is written over a circular blue stamp.

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

cc: USFWS NMES Field Office



Susana Martinez
Governor

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

July 14, 2017

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

Re: MK007ME Modification 17-1, Expansion of Permit Area in Section 4, Star Lake Mine.

Dear Mr. Ennis:

This letter is in response to the aforementioned permit application received at the Historic Preservation Division (HPD) on June 28, 2017. According to the application, the proposed project is within Township 19 North, Range 6 West, in the northwest corner of Section 4.

In accordance with rule 19.10.3 NMAC, *Minimal Impact Operations*, I reviewed our records to determine if cemeteries, burial grounds or cultural resources listed on the State Register of Cultural Properties or the National Register of Historic Places exist within or near the permit area. Our records show that there are no cultural resources listed on the National Register or State Register within or near the proposed permit area and no known cemeteries or burial grounds. Although there are no cultural resources listed on the State or National Register, our records show two archaeological surveys in the permit area, and one archaeological site.

The application does not indicate who owns the surface and mineral estates for the property. However, the review suggests that the Navajo Nation owns the surface estate and that the Bureau of Land Management (BLM), Farmington Field Office, may own the minerals. If these are correct, BLM may require survey of the project area of potential effect, and will consult with the Navajo Nation Tribal Historic Preservation Officer (THPO) under Section 106 of the National Historic Preservation Act.

If you have any other information regarding the land status and mineral estate for this undertaking, please let me know as soon as possible and I will revisit the review, and revise the comments if necessary. Please do not hesitate to contact me if you have any questions regarding these comments. I can be reached by telephone at (505) 827-4225 or by email at bob.estes@state.nm.us

Sincerely,

Bob Estes
Archaeologist

Log: 106012

Ennis, David, EMNRD

From: Rappuhn, Doug H., OSE
Sent: Wednesday, July 19, 2017 1:57 PM
To: Ennis, David, EMNRD
Cc: Musharrafieh, Ghassan R., OSE; Watson, Blaine, OSE
Subject: Request for Comments on Modification 17-1 App., Expansion of Permit Area in Sect. 4, Mesa Verde Resources Star Lake Mine, McKinley County, NM, MMD Permit No. MK007ME; OSE San Juan Administrative Basin (T19N-R6W-Sec 4.100)

Hello Mr. Ennis –

Thank you for your 7/18/2017 e-mailed granting of a short extensions of time to provide OSE comments on the Mesa Verde Resources applications to expand humate mining under existing MMD Permits MK007ME (Star Lake Mine) and MK008ME (Pueblo Alto Mine). It appears that no new exploratory drilling for the Star Lake expansion was addressed in the MK007ME application (<http://www.emnrd.state.nm.us/MMD/MARP/StarLakeMod17-1.html>), therefore the new application strictly regards a request to expand the area allowed for mining.

Available information suggests an excavation depth on the order of proposed exploratory drilling (approximately 50-ft below current land surface) likely remains above local water table. Ideally, the proposed onsite exploratory drilling will offer confirmation, since the scant shallow-well water level information exists in OSE files for the area. If earlier exploratory drilling was requested and required OSE well construction permitting, the OSE would benefit from applicant submittal of related Well Records for the holes, since information either noting the presence of shallow groundwater or the lack of it would substantiate subsurface conditions locally.

Old, possibly undocumented wells may exist in the vicinity of the proposed mining expansions. Should a water well be discovered in an area that will be excavated, the applicant shall contact the OSE for guidance on appropriate decommissioning of the well. Such decommissioning would require the services of a New Mexico-licensed Water Well Driller under an OSE-approved Well Plugging Plan of Operations (OSE Form WD-08), currently available at http://www.ose.state.nm.us/WR/NewForms/WD-08%20Well%20Plugging%20Plan%20of%20Operations_2017-06-30_final.pdf .

Mining activities or reclaimed terrain should not impound surface water in excess of that impounded prior to mining activity. If new impounding of water is likely to occur, the applicant shall contact the OSE Dam Safety Bureau at 505-827-6122 for guidance regarding the possible need for administrative submittals.

Since it appears there will be no water use or surface water impoundment associated with the proposed expansion of mining, the OSE Hydrology Bureau has no further comment on the application.

Douglas H. Rappuhn, P.G.

Hydrology Bureau / New Mexico Office of the State Engineer

5550 San Antonio Drive NE

Albuquerque, NM 87109-4127

Phone: 505-383-4000; Fax: 505-383-4030

e-mail: doug.rappuhn@state.nm.us

From: "Rodriguez, Stephanie, EMNRD" <stephanie.rodriguez@state.nm.us>

Date: June 27, 2017 at 11:07:13 PM GMT+3

To: "Musharrafiieh, Ghassan R., OSE" <ghassan.musharrafiieh@state.nm.us>

Cc: "Ennis, David, EMNRD" <David.Ennis@state.nm.us>

Subject: Req. for Comments on Mod. 17-1 App., Expansion of Permit Area in Sect. 4, Mesa Verde Resources Star Lake Mine, McKinley Cty, NM, Permit No. MK007ME

Attached is your electronic copy of the June 27, 2017, letter mailed to Dr. Ghassan Musharrafiieh, Office of the State Engineer, from David (DJ) Ennis, Permit Lead, MARP/MMD, regarding the above-referenced subject. Please print copies for your files as needed.

Thank you,

Stephanie J. Rodriguez

Records Manager

Mining Act Reclamation Program

Mining and Minerals Division

stephanie.rodriguez@state.nm.us

505-476-3433



White Mountain Apache Tribe

Office of Historic Preservation

PO Box 1032

Fort Apache, AZ 85926

Ph: (928) 338-3033 Fax: (928) 338-6055

To: Fernando Martinez, Director Mining and Minerals Division

Date: July 13, 2017

Re: Existing Mining Operations Modifications 17-1 – Pueblo Alto Mine – Permit No. MK008ME
Existing Mining Operations Modifications 17-1 – Star Lake Mine – Permit No. MK007ME

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The White Mountain Apache Tribe Historic Preservation Office appreciates receiving information on the proposed project, dated June 27, 2017. In regards to this, please attend to the following checked items below.

Please refer to the additional notes in regards to the proposed project:

Thank you for allowing the White Mountain Apache tribe the opportunity to review and respond to the above proposed expansion of the two existing mines, located on private lands, McKinley County, New Mexico, and we have determined the proposed project **will not have an impact** on the White Mountain Apache tribe's historic properties and/or traditional cultural properties.

Regardless, any/all ground disturbing activities should be monitored **"if"** there are reasons to believe that there are human remains and/or funerary objects present, and if such remains are encountered they shall be treated with respect and handled accordingly until such remains are repatriated to the affiliated tribe(s).

Thank you. We look forward to continued collaborations in the protection and preservation of places of cultural and historical importance.

Sincerely,

Mark T. Altaha

White Mountain Apache Tribe - THPO

Ennis, David, EMNRD

From: Terry Morgart <TMorgart@hopi.nsn.us>
Sent: Thursday, July 20, 2017 8:50 AM
To: Martinez, Fernando, EMNRD
Cc: Ennis, David, EMNRD
Subject: Star Lake Mine, Mesa Verde Resources, Permit No MK007ME, Permit No. MK044EM

July 20, 2017

Fernando Martinez, Director, Mining and Minerals Division
Attention: David J. Ennis
New Mexico Energy, Minerals, and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Minimal Impact New Mining Operation Modification 17-1
Star Lake Mine, Mesa Verde Resources, Permit No MK007ME, Permit No. MK044EM

Dear Mr. Martinez,

This letter is in response to your correspondence dated March 6 and June 27, 2017, regarding applications from Mesa Verde Resources to expand the permit area for the Star Lake Mine on Indian allotted land in McKinley County. The Hopi Tribe claims cultural affiliation to earlier identifiable cultural groups in New Mexico. The Hopi Cultural Preservation Office supports identification and avoidance of prehistoric archaeological sites and Traditional Cultural Properties, and we consider the archaeological sites that are habitations of our ancestors to be “footprints” and Hopi Traditional Cultural Properties. Therefore, we appreciate your continuing solicitation of our input and your efforts to address our concerns.

Your correspondence states that the application will expand the proposed permit area by 160 acres and minimal impact mining means disturbance will not exceed a total of 40 acres at any given time. Therefore, we continue to question how requests exceeding minimal impact new mining limits continue to be permitted under the New Mexico Mining Act.

We understand it is the Mineral and Mining Division (MMD)’s understanding that the Bureau of Indian Affairs (BIA) will require an archaeological survey and environmental assessment prior to BIA approval. Therefore, we request continuing consultation on this proposal including being provided with copies of the survey report and draft environmental assessment for review and comment.

In addition to summarize our previous letters regarding Star Lake Mine, Mesa Verde Resources, Permit Nos. MK007ME and MK044EM:

In the enclosed letter dated November 14, 2013, regarding a permit application to expand the permit area for the Star Lake Mine by approximately 323 acres, Permit No. MK007ME, we noted the MMD correspondence dated November 7, 2013 stated that an archaeological survey will be required prior to Bureau of Indian Affairs (BIA) approval. We requested to be provided with a copy of the survey report for review and comment. In the enclosed letter dated January 28, 2014 to the BIA, we requested a copy of the cultural resources survey report of the area of potential effect regarding this permit application. We have no record of receiving a response from the MMD or BIA.

In the enclosed letter dated December 22, 2014, we noted the MMD correspondence dated December 2, 2014 stated, "As conveyed previously, MMD cannot require the operator to perform a cultural resources survey on private land, and will rely on consultation with the Historic Preservation Division to assist with the assessment of listed cultural resources in the project area."

We stated that the MMD cannot provide us with the information it is requesting from us, and, when the Historic Preservation Division recommends that a cultural resources survey be conducted, MMD simply reiterates that it is not required. Therefore, we have previously conveyed our recommendation that the New Mexico Energy, Minerals, and Natural Resources Department require cultural resource surveys of the project areas it permits, so that it can determine if the undertakings it permits may adversely affect cultural resources significant to the State of New Mexico, the United States, and the Hopi Tribe.

The enclosed letter dated February 9, 2017, was in response to your correspondence dated February 1, 2017, regarding an application from Mesa Verde Resources requesting a modification to their Section 4 exploration permit on allotted land managed by the Bureau of Indian Affairs (BIA) in McKinley County, Permit No. MK044EM. The Hopi Cultural Preservation Office stated we understand "MMD does not have statutory authority to require the operator to conduct a cultural resources survey on private land." However, we asked the Indian allotted land is managed by the BIA, does this proposal constitute a federal undertaking pursuant to the National Historic Preservation Act? Therefore, to assist us in determining if this project may adversely affect cultural resources significant to the Hopi Tribe, if MMD's consultations with BIA and HPD identify cultural that may be adversely affected by project activities we requested to be provided us with copies of the cultural resources survey of the area of potential effect and any proposed treatment plans for review and comment.

Therefore, we would appreciate a response from MMD and BIA to our requests for continuing consultation on Minimal Impact New Mining Operation Modification 17-1 Star Lake Mine, Mesa Verde Resources, Permit Nos. MK007ME and MK044EM.

Should you have any questions or need additional information, please contact Terry Morgart at tmorgart@hopi.nsn.us. Thank again you for your consideration.

Respectfully,
/s/

Leigh J. Kuwanwisiwma, Director
Hopi Cultural Preservation Office

Enclosures: November 14, 2013, January 28 and December 24, 2014, February 9, 2017 letters

xc: Bureau of Indian Affairs
Navajo Nation Historic Preservation Department
New Mexico State Historic Preservation Office