

PERMIT MODIFICATION 18-1 TO PERMIT NO. MK026MN
BLACK SPRING MINE
MINIMAL IMPACT NEW MINING OPERATION

MINING AND MINERALS DIVISION
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT



This Modification 18-1 (“Modification 18-1”) to Permit No. MK026MN (“Permit”) is issued by the Director of the Mining and Minerals Division (“MMD”) of the New Mexico Energy, Minerals and Natural Resources Department to:

Menefee Mining Corporation (“Menefee”)
Whose address is: 8144 Walnut Hill Lane, Suite 987
Dallas, TX 75231

(“Permittee”) in order to conduct mining and reclamation at the Black Spring Mine, McKinley County, New Mexico.

This Modification 18-1:

- Expands the Permit Area to eighty (80) acres consisting of the south half of the southwest quarter of Section 4, Township 19 North, Range 5 West, and
- Increases the Design Limit from 2.5 acres to a maximum of ten (10) acres of total disturbance allowed at any given time.

In order to accomplish the approval contemplated by Modification 18-1, the following subparagraphs are added to Permit No. MK026MN:

Section 1 (18-1). STATUTES AND REGULATIONS

- A. Modification 18-1 is issued pursuant to the New Mexico Mining Act, NMSA 1978, §69-36-1, et seq. (1993, as amended through 2018) (“Act”) and New Mexico Mining Act Rules, Title 19, Chapter 10 of the New Mexico Administrative Code (“NMAC” or “Rules” or “Regulations”).
- B. Modification 18-1 is subject to the Act, the Rules, and any other regulations which are now or hereafter in force under the Act; and all such regulations are made a part of this Permit by this reference.

Section 2 (18-1). PERMIT APPLICATION PACKAGE

- A. The permit application package for Modification 18-1 (“18-1 PAP”) consists of:

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1. A written request from the Permittee, received by MMD on June 4, 2018, for expansion of the Permit Area from 10 acres in Section 4 to 1,280 acres (i.e., all of Section 4 and Section 5), and expansion of the Design Limit from 2.5 acres to 10 acres. The written request also proposes that the Permittee rip and reseed approximately 11.8 acres of backfilled and stabilized land mined between 2011 and the end of 2017 in order to complete reclamation.
2. An email dated October 3, 2018, requesting a change in the application for Modification 18-1 to expand the Permit Area from 10 to 80 acres consisting of the south half of the southwest quarter of Section 4, which coincides with the "Project Area" depicted in the 2011 Environmental Assessment for the Bureau of Land Management ("BLM"). This correspondence also requests that MMD revise permit conditions related to revegetation and noxious weed management.
3. Financial assurance in the form of Certificate of Deposit ("CD") No. 3635167335, issued by Wells Fargo Bank on March 28, 2019, in the amount of \$29,628.64.

Section 3 (18-1). PERMIT AREA

- A. The Permittee is authorized to conduct mining and reclamation operations only on those lands that are specifically designated and authorized within the permitted area ("Permit Area") and within the Design Limit. For this Permit and Modification 18-1, the entire Permit Area is defined as a total of 80 acres comprised of the south half of the southwest quarter of Section 4, Township 19 North, Range 5 West.
- B. The Design Limit for this mine is redefined herein as no more than ten (10) acres of total mining related disturbance, at any one time, within the 80 acre Permit Area. The Design Limit of no more than ten (10) acres is for total disturbance, including discontinuous areas that are mined, explored, or otherwise disturbed within the defined Permit Area.

Section 4 (18-1). FINDINGS OF FACT

The Permit Application Package

- A. The Permittee has paid the permit modification fee of \$250.00 as required by §19.10.2.201 of the Rules.
- B. The application for permit modification has been reviewed in accordance with §19.10.6.608 of the Rules. The application for permit modification is complete, accurate, and complies with the requirements for permit modifications under §19.10.6.608 of the Rules.

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- C. Pursuant to §19.10.6.608.D of the Rules, the proposed change does not require public notice nor the opportunity for public hearing.
- D. Pursuant to §19.10.6.608.D(1) of the Rules, the proposed changes would not have a significant environmental impact.
- E. Pursuant to §19.10.6.608.D(2) of the Rules, the application for permit modification was accompanied by sufficient information for the Director to determine whether any of the factors listed in §19.10.6.608 NMAC are present.

MMD's Request for Comments to the Agencies and Tribes

- F. The Director has provided notice of this application to other government agencies deemed appropriate, in accordance with §19.10.6.608.D(3) NMAC.
- G. MMD provided 18-1 PAP to the following tribal entities and requested review and comment: Pueblo of Acoma, Hopi Tribe, Pueblo of Isleta, Pueblo of Laguna, Navajo Nation, Pueblo of Tesuque, White Mountain Apache Tribe, and Pueblo of Zuni. Comments were received by MMD from the Hopi Tribe and White Mountain Apache Tribe.

Agency Comments and Site Inspection

- H. Agency and tribal comments on 18-1 PAP were provided to the Permittee in an email dated July 13, 2018.
- I. An inspection and evaluation of the proposed Permit Area was conducted by MMD and New Mexico Game and Fish personnel on May 17, 2018.

Right-To-Enter / Property Access Information

- J. The Permit Area is managed by BLM Farmington Field Office. The Permittee has satisfactorily demonstrated its right of entry pursuant to §19.10.304.D(1) NMAC through a mining lease with BLM.
- K. The Permit or Modification 18-1 does not grant or create any property rights. Nor does MMD, by issuing the Permit or this Modification or otherwise, make any comment on the surface or mineral rights that the Permittee may or may not have in the area covered by the Permit; only that the Permittee has provided a statement of basis on which the Permittee has a right to enter the property to conduct mining and reclamation. Permittee is solely responsible to take whatever steps are necessary to ensure that Permittee has property rights sufficient to support the activities contemplated by the Permit.

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Financial Assurance

- L. Financial assurance in the total amount of \$65,628.64 is in place and has been determined by MMD to be sufficient to meet the requirements of the Act, Rules, and Permit for a period of up to five years from the date of this Permit, for up to ten (10) acres of disturbance within the approved Permit Area.

The financial insurance instruments are:

1. CD No. 7886603211, issued on June 17, 2011, by Wells Fargo Bank in the amount of \$11,000.00;
2. CD No. 013847187, issued on January 17, 2012, by Frost Bank in the amount of \$25,000.00;
3. CD No. 3635167335, issued on March 28, 2019, by Wells Fargo Bank in the amount of \$29,628.64.

Section 5 (18-1). COMPLIANCE REQUIREMENTS

- A. This Permit and Modification is issued pursuant to NMSA 1978, Section 69-36-1 et. seq. and Title 19, Chapter 10 NMAC. Permittee may be required to comply with other federal, State, county or local laws or ordinances before or while undertaking the activity that is the subject of this Permit and Modification. MMD does not, by issuing this Permit, Modification or otherwise, make any comment on Permittee's compliance with such other laws. It is Permittee's sole responsibility to investigate and comply with the requirements of such other laws. The issuance of this Permit and Modification does not relieve Permittee from the responsibility of complying with other state and federal requirements and standards.
- B. The Permit and Modification does not grant or create any water rights. Nor does MMD, by issuing this Permit or otherwise, make any comment on the water rights that the Permittee may or may not have available for use in the area covered by the Permit. Permittee is solely responsible and obligated to comply with all state and federal laws related to water rights sufficient to support the activities contemplated by the Permit.

Section 10 (18-1). GENERAL OBLIGATIONS AND CONDITIONS

Reclamation of Prior Disturbance

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- A. Within 60-days after approval of this Modification, Permittee shall complete reclamation of the approximate 11.8 acres of previous mine disturbance using the approved seed mix in permit No. MK026MN. Completion of reclamation shall be performed as described in 18-1 PAP and MK026MN.
- B. MMD shall be notified in writing within 30-days after Permittee's completion of reclamation of the approximate 11.8 acres of prior mine disturbance.

Groundwater

- C. Mining activities are not expected to encounter groundwater. However, if groundwater is encountered during mining activities, the Permittee shall notify MMD immediately. The Permittee must contain any water produced. Discharge of any produced water or any drilling fluids to any watercourse may be a violation of the Clean Water Act.

Cultural and Paleontological Resource Preservation Requirements

- D. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the Permittee, or any person working on the Permittee's behalf, shall be immediately reported to the Department of Cultural Affairs and the Mining and Minerals Division. The Permittee shall suspend all operations in the immediate area of such discovery until authorization to proceed is issued by the Department of Cultural Affairs. An evaluation of the discovery will be made by the Department of Cultural Affairs to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Permittee shall be responsible for the cost of evaluation, and any decision as to the proper mitigation measures will be made by the Department of Cultural Affairs after consulting with the Permittee.
- E. The Permittee is obligated to comply with procedures established in Section 18-6-11.2 of the Cultural Properties Act, NMSA and §4.10.11 NMAC to protect such cultural items as human remains, associated funerary objects, sacred objects, and objects of cultural patrimony discovered inadvertently during the course of project implementation. In the event that any of the cultural items listed above are discovered during the course of project work, the Permittee shall immediately halt the disturbance and contact the Office of the Medical Investigator and the local law enforcement agency pursuant to Section 18-6-11.2 of the Cultural Properties Act and the Department of Cultural Affairs within 24 hours for instructions. The Permittee shall be held responsible for protecting, evaluating, reporting, excavating, treating, and disposing of these cultural items according to the procedures established by the Department of Cultural Affairs in consultation with Indian Tribes.

Revised Conditions

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- F. In accordance with *Black Spring Humate Mining and Reclamation Plan* (March 2011; prepared by Ecosphere Environmental Services), revegetation performance standards shall be based upon percent canopy cover, species diversity, and noxious weed species presence and cover. Reclamation will be considered successful when percent canopy cover within the reclaimed area(s) equals at least 70% of the baseline cover, species diversity approximates the species diversity within future reference area(s) or within the ecological site description provided by the Natural Resources Conservation Services, and noxious weed species percent cover does not exceed that of the future reference area(s).
- G. Periodic pedestrian surveys of any reclaimed areas shall be conducted for the presence of noxious weeds. Invasive species control shall adhere to the standards provided by the BLM Farmington Field Office 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.

Section 11 (18-1). CONCLUSIONS OF LAW

- A. The request for permit modification is complete and accurate and complies with the requirements of the Act and §19.10.3.304 NMAC.

All other provisions, modifications, and revisions for mining and reclamation contained in the Black Spring Mine Permit, Permit No. MK026MN, remain unchanged.

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CERTIFICATION

I certify that I have read, understand and will comply with the requirements of the Permit, this Permit Modification, the Act and the Rules, including without limitation that I will allow the Director to enter the Permit Area as required by the Permit and/or the Rules and/or as otherwise required by law.

[Signature]
Authorized Representative of the Permittee

Vice president
Title

Menefee Mining Corporation
Company

Subscribed and sworn to before me this 11 day of April, 2019

[Signature]
Notary Public

My Commission Expires

Sept. 12, 2022



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ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the Director approves Permit Modification 18-1 to the Black Spring Mine, Permit No. MK026MN, located in McKinley County, New Mexico. The approval expands the Permit Area into the south half of the southwest quarter of Section 4, Township 19 North, Range 5 West. In total, the Permit Area is a maximum of 80 acres, and the Design Limit is a maximum of ten (10) acres of disturbance at any given time.

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:



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

Date:

4/16/2019