

## Ennis, David, EMNRD

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**From:** Zemlick, Katie, OSE  
**Sent:** Thursday, September 12, 2019 3:51 PM  
**To:** Ennis, David, EMNRD  
**Cc:** Musharrafieh, Ghassan R., OSE; Larios, Susana, OSE  
**Subject:** OSE Comments for MK043MN Ojo Encino Mine - Request for Modification 19-1, Partial Release of Financial Assurance

DJ,

On September 3, 2019, the Hydrology Bureau of the Office of the State Engineer (OSE) received a request from MMD for review and comment of Modification 19-1 Application of MK043MN – Ojo Encino Mine – request for partial release of financial assurance (FA). Applicant is Broken Pick Propriety, LLC. (BPP). OSE has reviewed the modification request of reclamation release for 7.18 acres within the Ojo Encino Mine. OSE has no comments regarding these modifications to FA as they present no water related issues.

Please contact me if you have any questions.

Sincerely,

Katie Zemlick, Ph.D.  
Hydrology Bureau  
New Mexico Office of the State Engineer  
Concha Ortiz y Pino Building  
130 South Capitol St., Santa Fe, NM 87502  
Email: [katie.zemlick@state.nm.us](mailto:katie.zemlick@state.nm.us)  
Office: (505)827-6153

## **Ennis, David, EMNRD**

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**From:** Gallegos, Anthony <agallegos@blm.gov>  
**Sent:** Monday, September 16, 2019 1:55 PM  
**To:** Ennis, David, EMNRD  
**Cc:** Mankiewicz, David; Christopher Wenman  
**Subject:** [EXT] Comments - MK043MN Mod 19-1 - partial release of financial assurance- Ojo Encino Mine

Mr. Ennis,

BLM Farmington agrees with the partial release of financial assurance for the Ojo Encino Humate Mine, BLM Serial Number NMNM129193 as Modification 19-1 to MK043MN. This partial release recognizes the completion of reclamation earthwork on 7.18 acres in T19N R5W, Section 9 as verified by the EMNRD site inspection of 8/23/2019.

BLM Farmington has no further comments on this proposal. Thank you for your coordination in this matter.

Regards,  
Tony

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**Anthony Gallegos (Tony)**  
**Solid Minerals, Mining Engineer**  
**BLM Farmington District Office**

**Email:** [agallegos@blm.gov](mailto:agallegos@blm.gov)  
**Phone:** 505.564.7723



**Michelle Lujan Grisham**  
Governor

**Howie C. Morales**  
Lieutenant Governor

## NEW MEXICO ENVIRONMENT DEPARTMENT

### Ground Water Quality Bureau

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**James C. Kenney**  
Cabinet Secretary

**Jennifer J. Pruett**  
Deputy Secretary

### MEMORANDUM

DATE: September 20, 2019

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

THROUGH: Jeff Lewellin, Mining Act Team Leader

FROM: Alan Klatt, Surface Water Quality Bureau  
Rhett Zyla, Air Quality Bureau

**RE: NMED Comments, Broken Pick Propriety, LLC, Ojo Encino Mine, Partial Release of Financial Assurance, McKinley County, New Mexico; New Mexico Mining Act Permit No. MK043MN, Modification 19-1**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on September 3, 2019 requesting NMED review and provide comments on the above referenced MMD permitting action. The modification requests partial release of financial assurance associated with reclamation of approximately 7.18 acres located in Section 9, T19N, R5W. MMD requested comments within 20 days of receipt in accordance with Sections 19.10.3.303.I and 19.10.12.1210.A(4) 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.

#### **Mining Environmental Compliance Section**

Surface reclamation activities in accordance with the approved reclamation plan should ensure no adverse effects on ground water quality.

Holland Shepherd, Program Manager

September 20, 2019

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**NMED Summary Comment**

NMED has no objection to partial release of financial assurance associated with the completed reclamation as long as the questions from the Surface Water Quality Bureau have been addressed.

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

cc: Shelly Lemon, Bureau Chief, SWQB  
Liz Bisbey-Kuehn, Bureau Chief, AQB  
Mike Tompson, Interim Director, EMNRD-MMD  
DJ Ennis, Lead Staff, EMNRD-MMD  
Kurt Vollbrecht, Program Manager, MECS



**Michelle Lujan Grisham**  
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**James C. Kenney**  
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**Jennifer J. Pruett**  
Deputy Secretary

**MEMORANDUM**

**DATE:** September 20, 2019

**TO:** Jeff Lewellin, Mining Act Team Leader, NMED-GWQB

**FROM:** Alan Klatt, Watershed Protection Section, NMED-SWQB

**SUBJECT:** Partial Release of Financial Assurance, Ojo Encino Mine, McKinley County, MMD Permit No. MK043MN, Modification 19-1

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The New Mexico Surface Water Quality Bureau (SWQB) has reviewed the above referenced mining permit. On September 4, 2019, SWQB received a request for comments from the Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department regarding the Partial Release of Financial Assurance associated with 7.18 acres of reclamation performed at the Ojo Encino humate mine by Broken Pick Propriety, LLC. Pursuant to 19.10.3.303.I NMAC, SWQB has prepared the following comments.

The Original Application from 2013 and the Approved Permit from 2014 contains detailed information regarding Performance Standards, Reclamation Plan and Reclamation Requirements, and General Obligations and Conditions. To ensure that the hydrologic balance is being protected as described in the Permit Application Package and that state water quality standards are being met, SWQB recommends that the request of reclamation release further document that the reclamation plan is being fully implemented. For example:

- Are reclamation photos available to compare topography and vegetation of reclaimed areas with the surrounding landscape? Are photos of the Vegetative Reference Area available for comparison?
- What are the finished slope gradients?
- Were the Stormwater Pollution Prevention Plan and Sediment Control Plan updated for reclamation activities? If so, how were they updated?
- Were earthen swales, straw wattles, and/or silt fences utilized? If so, where were they constructed? Are they being maintained? What is the maintenance schedule?
- Are erosion controls and cattle fencing in place while vegetation is being re-established?
- How/When is periodic monitoring of the reclaimed areas happening?
- Have vegetative/reclamation goals been achieved for the reclaimed areas? How do you know?

For questions related to these comments, please contact Alan Klatt, SWQB, at 505-827-0388.



**NEW MEXICO  
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Deputy Secretary

**MEMORANDUM**

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**DATE:** September 9, 2019

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

**FROM:** Rhett Zyla, Environmental Scientist & Specialist - Air Quality Bureau

**RE:** Request for Comments, Partial Release of Financial Assurance, Ojo Encino Mine, McKinley County, MMD Permit No. MK043MN, Modification 19-1

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 provides the following comments.

**Air Quality Permitting History**

The aqb has not issued any air quality permits for this operation.

**Details**

Broken Pick Proprietary, LLC, has applied for reclamation release for approximately 7.18 acres within the Ojo Encino Mine, permit number MK043MN. The acreage has been recontoured to match appropriate surface slope character and reseeded with a mix approved by EMNRD-MMD and BLM-FFO. The Ojo Encino Humate Mine is located in S9, T19N, R5W, in McKinley County, New Mexico.

**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.

**Recommendation**

On the matter of financial release, there are no implications for air quality; the AQB, therefore, defers to the Director of MMD for that determination, pursuant to 19.10.12 NMAC.

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) 476-4304.

GOVERNOR  
Michelle Lujan Grisham



DIRECTOR AND SECRETARY  
TO THE COMMISSION  
Michael B. Sloane

STATE OF NEW MEXICO  
DEPARTMENT OF GAME & FISH

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25 September 2019

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

***RE: Modification 19-1 Application, Partial Release of Financial Assurance on 7.18 Acres  
Of Reclamation, T19N R5W Sec. 9, Ojo Encino Mine, Permit No. MK007ME;  
NMDGF No. 19344.***

Dear Mr. Ennis,

In response to your letter dated 3 September 2019, the New Mexico Department of Game and Fish (Department) has reviewed the above referenced project. Broken Pick Propriety, LLC (BPP) is requesting the partial release of financial assurance associated with an estimated 7.18 acres of reclamation at the Ojo Encino Mine. The Department, MMD, and BPP conducted a site inspection on 23 August 2019.

A small prairie dog colony was observed near the reclamation site, and is within the mine permit area. However, BPP does not plan to mine that portion of the permit area, and agreed to leave the colony undisturbed by mining activities.

The reclaimed area has been graded and contoured in conformance with the surrounding topography, ripped to minimize erosion, and seeded using a native seed mix approved by MMD. The Department concurs with MMD granting the partial release of financial assurance.

Thank you for the opportunity to review and comment on the request for partial release of financial assurance. If you have any questions, please contact Ron Kellermueller, Mining and Energy Habitat Specialist, at (505) 476-8159 or [ronald.kellermueller@state.nm.us](mailto:ronald.kellermueller@state.nm.us).

Sincerely,

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

cc: USFWS NMES Field Office