

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Secretary

Jerry Schoeppner, Director
Mining and Minerals Division



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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

August 28, 2020

Mr. Ed Dvorak, Vice President -Operations
CR Minerals Company, LLC
P.O. Box 708
Ohkay Owingeh, New Mexico 87566

RE: Transmittal of Documents: Modification 19-1, Permit No. RA004RE, Rocky Mountain Mine

Dear Mr. Dvorak:

The New Mexico Mining and Minerals Division (“MMD”) has approved Modification 19-1 to Permit No. RA004RE, for the Rocky Mountain Mine. A copy of the permit document is enclosed with this letter. MMD will retain the original of this document on file.

If you have any questions in this matter, please feel free to contact me at 505-216-8945 or David.Ohori@state.nm.us.

Sincerely,

David R. Ohori, Permit Lead
Mining Act Reclamation Program (“MARF”)
Mining and Minerals Division

Enclosure

cc: Holland Shepherd, Program Manager, MARP
Anthony Gallegos, Mining Engineer, BLM – Rio Puerco Field Office, Farmington
Robyn Tierney, Permits West, Inc.
Mine File (RA004RE)

**PERMIT MODIFICATION 19-1 TO PERMIT NO. RA004RE
ROCKY MOUNTAIN MINE
REGULAR EXISTING MINING OPERATION**

**MINING AND MINERALS DIVISION
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT**

This Modification 19-1 (“Modification 19-1”) to Permit No. RA004RE (“Permit”) is issued by the Director of the Mining and Minerals Division (“MMD”) of the New Mexico Energy, Minerals and Natural Resources Department to:

CR Minerals Company, LLC
Whose correct address is: P.O. Box 708
Ohkay Owingeh, NM 87566

(“Permittee”) for the Rocky Mountain Mine, located in Rio Arriba County, New Mexico.

This Modification 19-1:

1. Approves the Closeout Plan and New Unit Standards for the 14.02 acre Rocky Mountain Mine E-3 Unit – BLM East Permit Area located within the Permit Area identified in the Permit Modification Package.
2. Adds \$127,616.00 of financial assurance (“FA”) for reclamation of the additional 14.02 acres of the E-3 Unit by the Permittee.
3. Amends Irrevocable Standby Letter of Credit No. CTCS-916533, issued by the JP Morgan Chase Bank, N.A. from \$140,087.00 to \$267,703.00, dated July 30, 2020.

In order to accomplish the approval contemplated by Modification 19-1, the following sections of Permit No. RA004RE are added or modified as follows:

Section 1 (19-1). STATUTES AND REGULATIONS

- A. This Permit modification is issued pursuant to the New Mexico Mining Act, NMSA 1978, §69-36-1, et seq. (1993, as amended).
- B. This Permit modification is subject to all applicable regulations of the New Mexico Mining Act (“Act”), the New Mexico Mining Act Rules (“Rules”), (Parts 19.10.1 through 19.10.14 New Mexico Administrative Code (“NMAC”) 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 1a (19-1). PERMIT MODIFICATION PACKAGE

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The Permit Modification Application, dated September 12, 2019, was received by MMD on September 13, 2019. Any correspondence subsequently submitted to MMD, by the Permittee or its representatives, can be found within the Division's files, and is titled, Rocky Mountain Mine, RA004RE, or similar.

The Modification 19-1 Permit Modification Package ("19-1 PMP") is comprised of the following documents:

- A. *Rocky Mountain Mine Overburden Request for Modification 19-1 of Permit No. RA004RE*, dated September 12, 2019, submitted by CR Minerals Company, LLC.
- B. Electronic mail ("e-mail") submittals, dated October 9, 2019, supplementing the 19-1 PMP with an electronic copy of the Application, Application Cover Letter, and Reclamation Cost Estimate.
- C. Response to Comment Letter, dated January 31, 2020, with CR Minerals responses to MMD comments, dated January 6, 2020 on the Application and Reclamation Cost Estimate.
- D. Letter from CR Minerals, dated April 21, 2020, with information amending the Reclamation Cost Estimate.
- E. Letter from Permits West, Inc. on behalf of CR Minerals, dated June 15, 2020, with information supplementing the Reclamation Cost Estimate.
- F. E-mail from CR Minerals, dated June 27, 2020, regarding the acceptance of the revised Reclamation Cost Estimate amount of \$127,616.00.
- G. Letter from Permits West, Inc. on behalf of CR Minerals, dated July 8, 2020, accepting the MMD revised Model 2 of the Reclamation Cost Estimate amount of \$127,616.00.
- H. Amended Irrevocable Standby Letter of Credit No. CTCS-916533, dated July 30, 2020, increasing the amount by \$127,616.00 to \$267,703.00, issued by the JP Morgan Chase Bank, N.A., Global Trade Services, 131 South Dearborn, 6th Floor, Chicago, IL 60603-5506, was received by MMD on September 23, 2016.

Section 2 (19-1). PERMIT AREA

- A. The Permittee is authorized to conduct mining and reclamation operations only on those

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PERMIT MODIFICATION 19-1 TO PERMIT NO. RA004RE**

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lands that are specifically designated and authorized as the permit area. The Rocky Mountain Mine New Unit – BLM East Permit Area, covering 349 acres, encompasses a portion of Sections 33 and 34, T21N, R7E, Rio Arriba County, New Mexico, as delineated on Figure 2, Map of Project Area, Active Mine, and Vegetation Reference Area, and Figure 3, Aerial Photograph of the Rocky Mountain Mine BLM-East Parcel Relative to Active Mine, of the 19-1 PMP, and is subject to the reclamation standard of 19.10.5.507.A NMAC.

- B. The 14.02 acre Rocky Mountain Mine E-3 Unit located within the BLM East Permit Area is delineated on Figure 4: Map of E-3 Project Area in Relation to E1 and E2 Units, of the 19-1 PMP, and is subject to the reclamation standard of 19.10.5.507.A NMAC.

Section 3 (19-1). FINDINGS OF FACT

The Permit Modification Package

- A. The 19-1 PMP is complete and demonstrates that the proposed operation will meet the performance and reclamation standards and requirements of 19.10.5.507.A NMAC.
- B. The Permittee has paid the permit modification fee of \$1,000.00 as required by 19.10.2.N NMAC.
- C. The 19-1 PMP has been reviewed in accordance with 19.10.5.505 NMAC and has been determined to be a Modification. The 19-1 PMP is complete, accurate, and complies with the requirements for Permit Modifications under 19.10.5.505 NMAC.
- D. The approved post-mining land-use (“PMLU”) is livestock grazing for the New Unit – BLM East Permit Area.
- E. The proposed operation and reclamation, as described in the 19-1 PMP and this Permit Modification, will meet the requirements of reclamation, as identified in 19.10.1.7.R(1) NMAC. The Permit, the operation, and the reclamation plans described in the 19-1 PMP, along with the conditions set forth in this Permit Modification, demonstrate that the reclamation of the disturbed areas within the Permit Area will result in a condition that allows for the establishment of a self-sustaining ecosystem within the Permit Area that is appropriate for the life zone of the surrounding areas.

Right-To-Enter / Property Access Information

- F. The Permit or this Modification does not grant or create any property rights. Nor does MMD, by issuing this Permit Modification or otherwise, make any comment about the

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surface or mineral rights that the Permittee may or may not have in the area covered by the Permit. The Permittee is solely responsible to take whatever steps are necessary to ensure that Permittee has surface rights sufficient to support the activities contemplated by the Permit and this Permit Modification.

- G. The surface and mineral estate of the 14.02 acres proposed for the proposed new mining disturbance, all located within the Permit Area, are owned by the U.S. Bureau of Land Management (“BLM”). The Permittee has demonstrated its right of access pursuant to §19.10.5.502.D(3) NMAC through the holding of mining claims for the BLM-East parcel as shown in Figures 6, 7, and 8 of the 19-1 PMP, BLM Mining Claim Geographic Reports

General Information Regarding the Permittee

- H. The Permittee is not in violation of the terms of another permit issued by the Director or in violation of a substantial environmental law or substantive regulation at another mining operation, has not forfeited or had forfeited financial assurance in connection with another mining, reclamation or exploration permit, and has not demonstrated a pattern of willful violations of the Mining Act, the Mining Act Rules or other New Mexico environmental statutes.

MMD’s Request for Comments to the Agencies and Tribes

- I. The Director has provided notice of this application to other government agencies deemed appropriate, in accordance with 19.10.5.505.B(3) NMAC. An inspection and evaluation of the 14.02 acres requested to be mined was conducted by MMD, on December 18, 2019.

Financial Assurance

- J. The Permittee has provided FA to cover the costs of reclamation as required by 19.10.3.304.J(3) NMAC. The Permittee has provided an additional \$127,616.00 of FA for reclamation of the additional 14.02 acres of new mining disturbance at this site. The financial assurance instrument for the E-3 Unit of the Rocky Mountain Mine, Permit No. RA004RE, is in the form of an Irrevocable Standby Letter of Credit No CTCS-916533 issued by the JP Morgan Chase Bank, N.A. as amended from \$140,087.00 to \$267,703.00, dated July 30, 2020.

Permittee Certification

- K. The Permittee has submitted a notarized statement signed by the Permittee that he agrees to comply with the performance and reclamation standards and requirements of the Permit Modification, 19.10 NMAC and the Act and allows the Director to enter the permit area

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without delay for the purpose of conducting inspections during mining and reclamation.

Section 8 (19-1). **COMPLIANCE REQUIREMENTS**

- A. The Permittee shall conduct mining and reclamation operations only as described in the approved 19-1 PMP, the Permit, and any revisions or modifications approved by the Director.
- B. This Permit Modification is issued pursuant to NMSA 1978, Section 69-36-1 et. seq. and Title 19, Chapter 10 NMAC. The 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 Modification. MMD does not, by issuing this Permit Modification or otherwise, make any comment on the Permittee's compliance with such other laws. It is Permittee's sole responsibility to investigate and comply with the requirements of such other laws.
- C. Where the 19-1 PMP is ambiguous or in apparent conflict with the provisions outlined in this Permit Modification, the language of this Permit Modification will supersede the 19-1 PMP.

Section 9 (19-1). **GENERAL OBLIGATIONS AND CONDITIONS**

The Director may approve a closeout plan subject to conditions necessary to meet the requirements of the Mining Act and the Mining Act Rules. The Permittee shall reclaim the open pit(s)s, waste dumps, haul roads, ancillary facilities and stabilize the existing and new disturbed areas to mitigate off-site impacts. The conditions for the updated financial assurance and closeout plan are required to mitigate the disturbances within the Mine and provide for stabilization of the Mine that will minimize future impact to the environment and protect air and water resources in accordance with 19.10.1.7.R(1) NMAC. The permit area shall be reclaimed to a condition that allows for re-establishment of a self-sustaining ecosystem as required by 19.10.5.507.A NMAC.

- A. The Permittee is authorized to disturb no more than 14.02 acres total cumulative acreage in the E-3 Unit of the Rocky Mountain Mine New Unit – BLM East Permit Area. This area includes stockpiling areas on BLM and CR Minerals land. The Permittee may conduct mining operations in additional areas within the Rocky Mountain Mine New Unit – BLM East Permit Area only after obtaining a release of financial assurance for reclamation performed in Mining Blocks E-1, E-2, and/or E-3 in accordance with 19.10.12.1210 NMAC, and/or after obtaining MMD approval of additional financial assurance in accordance with 19.10.12 NMAC.
- B. The Permittee shall conduct mining and reclamation operations only as described in the 19-1 PMP and any other modifications and revisions approved by the Director, pursuant to

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19.10.5.505 NMAC. The Permittee shall comply with any and all conditions that are incorporated into the Permit.

- C. A minimum setback of 50 feet, from any watercourse within the area will be required. (Watercourse means any channel having definable beds and banks capable of conducting generally confined runoff from adjacent lands. During floods water may leave the confining beds and banks but under normal flows water is confined within the channel. A watercourse may be perennial, intermittent, or ephemeral).
- D. The Permittee shall implement erosion control measures or Best Management Practices (“BMP’s”) that are designed, constructed and maintained using professionally recognized standards (e.g., Natural Resource Conservation Service standards) for surface disturbances during mining and reclamation activities as needed for erosion control, spill prevention and the avoidance or damage to ephemeral stream channels in the area. Placement of water bar structures or other appropriate measures should be taken to reduce head-cutting adjacent to roads and to prevent roadways from channelizing surface flow.
- E. No storage of fuels or chemicals shall take place within any drainage areas that are in the permit area. Appropriate spill clean-up materials, such as absorbent pads, must be available on-site at all times during road construction, site preparations, and mining activities, to address potential spills.
- F. No excavation or filling shall take place within an ephemeral watercourse until the required permits or consultations are obtained from the U.S. Army Corps of Engineers.
- G. Haul road drainage control structures shall be used, as necessary, to control runoff and to minimize erosion, sedimentation, and flooding. Drainage facilities shall be installed as road construction progresses and shall be capable of handling a 10-year, 24-hour precipitation event unless site-specific characteristics indicate a different standard is appropriate. The surfaces of haul roads shall be reclaimed by ripping to a minimum depth of 24 inches. Culverts, if used, shall be removed on all haul roads where practicable. The ripped road surfaces shall be graded for stormwater control. Revegetation of haul roads shall be performed in accordance with Condition 9.I.
- H. The Permittee shall report all reportable spills immediately to the New Mexico Environment Department 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

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or 505-428-6535 (voicemail, 24 hrs. /day). For emergencies only, call 505-827-9329, 24 hours/day to contact the New Mexico Department of Public Safety.

I. The E-3 Unit of the Rocky Mountain Mine New Unit – BLM East Permit Area shall be reclaimed by:

- 1) grading and contouring of the surface to be reclaimed; and
- 2) placement of growth media; and
- 3) seed bed preparation; and
- 4) seeding and mulching.

Grading and contouring shall provide slopes no steeper than 3 Horizontal: 1 Vertical (3H:1V) and shall be consistent with the post mining contours shown on Figure 7, Approximate Post Mining Topography at the Rocky Mountain Mine, Figure 8, Cross-sections A, B, and C (from Figure 7), and Figure 9, Cross-sections D, E, and F (from Figure 7) of the *Permit RA004RE Request for Modification 16-1 Rocky Mountain Mine*, dated February 29, 2016, Modification 16-1 and this Modification to Permit No. RA004RE. Highwalls greater than 10 feet in height shall be reduced in slope and contoured. The top (approximately) 9 inches of soil will be scraped and discretely stockpiled separate from the remaining 6-8 feet of soil-stained or weathered overburden. Topsoil stockpiles shall be interim seeded with a seed mix approved by MMD. The remaining 6-8 feet of subsoil and weathered overburden will be stockpiled in the designated overburden stockpiles for use in reclamation. Overburden and/or topsoil averaging one-foot in depth shall be placed on the floors of the mined-out pit that are not backfilled and on surfaces that have pumice as their predominant surface material. Seed beds shall be ripped to a depth of one to two feet. Slopes of 4H:1V and steeper shall be contoured plowed. Seeding shall be accomplished by drill seeding, broadcast, and harrow, or hydroseeding. After drill seeding, straw, or native grass, weed free mulch shall be applied at a rate of two tons per acre and stabilized by crimping. If broadcast and harrow seeding, or hydroseeding is utilized, a tackifier shall be applied to hold seed in place. Seeding rates for broadcast and harrow, or hydroseeding, shall be approved by MMD prior to seeding. The reclamation seed mix found in Table 6 of "Vegetation, Wildlife, and Revegetation Components for Rocky Mountain Pumice Mine Permit Application" of the of the *CR Minerals Company Rocky Mountain Mine Permit Application and Close Out Plan*, dated June 1999 has been supplemented to include at least two additional shrub species.

J. Following the reclamation including revegetation, monitoring shall be conducted by the

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- Permittee to assure successful establishment of vegetation and stabilization of the site. The success of the revegetation of the E-3 Unit of the Rocky Mountain Mine New Unit – BLM East Permit Area shall be evaluated in accordance with the Revegetation Monitoring Plan in the *CR Minerals Company, Rocky Mountain Mine, Mining Permit Application and Close Out Plan*, dated June 1999. The Permittee shall notify MMD at least two weeks prior to any monitoring conducted pursuant to this permit to allow MMD an opportunity to accompany personnel of the Permittee.
- K. The Permittee shall monitor the reclaimed areas for noxious weeds in accordance with a monitoring plan approved by the U.S. Bureau of Land Management (“BLM”) Environmental Assessment, dated December 2011. If noxious weeds are observed in the E-3 Unit of the Rocky Mountain Mine New Unit – BLM East Permit Area, an eradication plan shall be submitted to MMD and implemented within 30-days after MMD approval.
- L. The Permittee shall take measures during mining and at closeout at the E-3 Unit of the Rocky Mountain Mine New Unit – BLM East Permit Area, to minimize adverse impacts to wildlife, based on site-specific characteristics, by taking the following measures:
- 1) for the protection of migratory birds, vegetation removal shall be timed to take place outside the general bird nesting season (April 1 through August 31); and
 - 2) a minimum 50-foot buffer zone of native vegetation shall be maintained between ephemeral drainages and new mining surface disturbance.
- M. If buried cultural material is discovered during mining activities, all work shall immediately cease within the area of discovery, the remains should be protected in place, and the New Mexico Department of Cultural Affairs, Historic Preservation Division shall be immediately notified.
- N. All lands to be disturbed will be addressed under the performance and reclamation standards and requirements of 19.10.5.507 NMAC and in accordance with the reclamation plan provided in the 19-1 PMP and the *Rocky Mountain Mine Overburden Request for Modification 19-1 of Permit No. RA004RE*, dated September 12, 2019.
- O. The Permittee shall notify MMD at least 30 days prior to initiating any reclamation approved pursuant to this permit.
- P. Any changes, modifications or amendments to the approved permit must be approved by MMD prior to implementation.

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- Q. The following conditions are required to ensure that adequate financial assurance is provided for the site, pursuant to 19.10.5.506.J.2, 19.10.12.1202.B, 19.10.12.1204.A, 19.10.12.1206.A, and 19.10.12.1210 NMAC:

The Permittee may apply for and obtain release of financial assurance in accordance with 19.10.12.1210 NMAC.

- 1) The Director may require the Permittee to evaluate the adequacy of the financial assurance approved as a part of the Permit. If upon review of the evaluation, MMD determines that a change to the financial assurance amount or form is required, the Permittee shall submit to MMD a request to revise the Permit. The Permittee may request a change to the financial assurance in accordance with §19.10.12 NMAC.
 - 2) The Permittee has provided financial assurance in the amount of \$127,616.00 for reclamation of the additional 14.02 acres of new mining disturbance at this site. The financial assurance instrument for the E-3 Unit of the Rocky Mountain Mine, Permit No. RA004RE, is in the form of an Irrevocable Standby Letter of Credit No. CTCS-916533 issued by the JP Morgan Chase Bank, N.A., as amended from \$140,087.00 to \$267,703.00, dated July 30, 2020, to MMD and the BLM as beneficiaries.
- R. Pursuant to 19.10.5.509.C NMAC, during the term of the permit issued pursuant to 19.10 NMAC, the Permittee must maintain environmental permits required for the E-3 Unit of the Rocky Mountain Mine New Unit – BLM East Permit Area. Revocation or termination of such a permit or the forfeiture of financial assurance related to the Rocky Mountain Mine New Unit – BLM East Permit Area by another governmental agency is adequate grounds for the Director to issue a cessation order pursuant to 19.10.11 NMAC.

All other provisions, modifications, and revisions for mining and reclamation contained in the Rocky Mountain Mine Permit No. RA004RE, remain unchanged.

Section 10 (19-1). **CONCLUSIONS OF LAW**

- A. The Director has jurisdiction over the Permittee and the subject matter of this proceeding.
- B. The 19-1 PMP is complete, accurate, and complies with the requirements of Section 19.10.5 NMAC including those set forth in 19.10.5.505.D(1) NMAC. The Permittee is authorized pursuant to the New Mexico Mining Act to conduct mining and reclamation operations at the Rocky Mountain Mine, Rio Arriba County, New Mexico, upon the condition that the Permittee complies with the requirements of this Order, the Mining Act, the Mining Act Rules, Permit No. RA004RE, and all modifications thereof and Modifications thereto.

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PERMIT MODIFICATION 19-1 TO PERMIT NO. RA004RE

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All other provisions, modifications, and revisions for mining and reclamation contained in the Rocky Mountain Mine Permit, Permit No. RA004RE, remain unchanged.

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PERMIT MODIFICATION 19-1 TO PERMIT NO. RA004RE

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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.

Ed Dvorak
Authorized Representative of the Permittee
Ed Dvorak

VP - Operations
Title

CR Minerals Co, LLC.
Company

Subscribed and sworn to before me this 25th day of August, 2020

J. F. Lander Jr.
Notary Public

My Commission Expires

11/7, 2023

JAMES F. LANDER JR.
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20194042256
MY COMMISSION EXPIRES 11/07/2023


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ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that Permit Modification 19-1 to the Rocky Mountain Mine, Permit No. RA004RE for an additional 14.02 acres of mining disturbance, financial assurance for an additional 14.02 acres of mining area disturbance within the Permit Area, 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: 

Jerry Schoeppner, Director
Mining and Minerals Division
Energy, Minerals and Natural Resources Department

Date: 8/26/2020