

State of New Mexico  
Energy, Minerals and Natural Resources Department

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**Michele Lujan Grisham**  
Governor

**Sarah Cottrell Propst**  
Cabinet Secretary

**Todd E. Leahy, JD, PhD**  
Deputy Cabinet Secretary

**Jerry Schoeppner, Director**  
Mining and Minerals Division



**Electronic Transmission**

November 12, 2020

Matt Lane  
The Española Mercantile Company  
1302 N. Riverside Drive  
Española, NM 87532

**RE: Agency Review Comments, Closeout Plan Completion Report Las Conchas Unit,  
Modification 20-1, Permit No. SA001RE**

Dear Mr. Lane,

The New Mexico Mining and Minerals Division (“MMD”) received an application to modify Permit No. SA001RE El Cajete Mine on September 30, 2020 from The Española Mercantile Company (“TEMCO”) titled *Closeout Plan Completion Report Las Conchas Unit of the El Cajete Mine Permit No. SA001RE*. MMD designated this permit action as Modification 20-1.

Pursuant to §19.10.12.1210.A(4) and §19.10.6.608.D(3) of the New Mexico Administrative Code (“NMAC”), MMD requested the review of the Modification 20-1 application by the U.S. Forest Service (“USFS”), the Mexico Department of Game and Fish (“NMDG&F”), the New Mexico Environment Department (“NMED”), the New Mexico Office of the State Engineer (“NMOSE”), the New Mexico State Forestry Division (“NMFDD”), and the New Mexico Department of Cultural Affairs (“NMDCA”). These agencies had 30 days from the date of receipt of the letter in which to provide comments.

MMD received written comments from USFS, NMDCA, NMDG&F, NMOSE, and NMED. Copies of the comments from these agencies are attached. Please review these responses and contact me at (505) 216-8399 or at [carmen.rose@state.nm.us](mailto:carmen.rose@state.nm.us) to set up a virtual meeting to discuss the responses within 7 days of receipt of this letter.

Sincerely,

Carmen Rose, Permit Lead  
Mining Act Reclamation Program (“MARP”)  
Mining and Minerals Division

Enclosures:   October 7, 2020 Letter from NMDCA  
                  October 19, 2020 Letter from NMOSE  
                  October 30, 2020 Letter from USFS  
                  October 31, 2020 Letter from NMDG&F  
                  November 10, 2020 Letter from NMED

CC:   Holland Shepherd, Program Manager, MARP, MMD  
      David Ohori, Senior Reclamation Specialist, MARP, MMD  
      Katharine Fishman, President and CEO, TEMC  
      Larry Gore, Geologist, USDA Forest Service



Michelle Lujan  
Grisham  
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

October 7, 2020

Carmen Rose, Permit Lead  
Mining Act Reclamation Program ("MARF")  
Mining and Minerals Division  
1220 South Saint Francis Drive  
Santa Fe, NM 87505

Re: HPD Log# 113839, Application for Partial Financial Assurance Release, Permit Modification 20-1, Permit No.SA001RE, El Cajete Mine

Dear Ms. Rose:

I am writing in response to your request for comment on the above referenced permit modification received at this office September 30, 2020

Pursuant to 19.10.5.505 NMAC, Permit Modifications and Revisions, the Director shall determine whether a permit modification would have an adverse impact on cultural resources listed on either the National Register of Historic Places or the State Register of Cultural Properties or be located in a known cemetery or other burial ground.

According to our files, there are no cultural resources listed on either the National Register of Historic Places or the State Register of Cultural Properties in the permit area. There are also no known cemeteries or other burial grounds. Based on this information, this permit will have no adverse impacts to cultural resources listed on the National or State Registers.

Finally, the permit application indicates that United States Forest Service (USFS) Santa Fe National Forest retains land ownership of the permit area. Because of this, we recommend that the USFS should be contacted concerning this permit modification.

If you have any questions concerning these comments, please do not hesitate to contact me by phone at (505)-452-6115 or e-mail me at [richard.reycraft@state.nm](mailto:richard.reycraft@state.nm). Us

Sincerely,

*Richard Reycraft*

Richard. Reycraft  
HPD Staff Archaeologist

**From:** [Zemlick, Katie, OSE](#)  
**To:** [Rose, Carmen, EMNRD](#)  
**Cc:** [Shepherd, Holland, EMNRD](#); [Musharrafiieh, Ghassan R., OSE](#); [Solis, Jose, OSE](#)  
**Subject:** NMOSE Comments Re: El Cajete Mine, Permit No. SA001RE  
**Date:** Monday, October 19, 2020 2:17:20 PM

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Dear Carmen,

The NMOSE Hydrology Bureau received your request for comment on the Application for Partial Financial Assurance Release, Permit Modification 20-1, Permit No. SA001RE, El Cajete Mine on September 30, 2020. Hydrology has reviewed the information on El Cajete Mine application on the MMD website. The applicant does not anticipate or intend to encounter, consumptively use, or otherwise affect the availability of surface or ground water. Therefore, the Hydrology Bureau has no comments related to the partial release of financial assurance at this time.

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  
Tel: (505)827-6153 | [katie.zemlick@state.nm.us](mailto:katie.zemlick@state.nm.us)

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**File Code:** 2810  
**Date:** October 30, 2020

Carmen Rose  
Mining and Minerals Division  
Mining Act Reclamation Program  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

Dear Ms. Rose,

The Santa Fe National Forest inspected the Las Conchas site on October 16, 2020 to determine whether we concur with the release of the jointly held financial assurance for the site. Overall, the site looks very good except the portion of the gulley below the erosion control features.

The inspection included Forest geologist Larry Gore, Regional geologist Diane Tafoya, Forest hydrologist Micah Kiesow, and me. We have concerns the gulley won't heal by itself, as it is a long-standing feature which has existed for nearly 20 years. The upper part of the gulley where the erosion and water control features have been installed looks very good; however, the lower part does not show evidence that it will reclaim itself. Therefore additional work is necessary before the Forest can authorize complete release of the bond for the site.

The work necessary is:

- Create slopes of 3 (horizontal) to 1 (vertical) along the sides of the gulley. This could be accomplished by backfilling with rock and/or reshaping the slopes by pulling the steep banks into the gulley.
- Add structures (zuni bowls/one rock dams) at points along the gulley where gradient changes occur. Micah could either stake these locations or meet with Mat on-site.
- Apply slash (small wood or wood chips) from the wood piles between the highway and mine site or reseed with the native species that already occur on the site.

We would prefer this work be done with the minimal amount of ATV or equipment travel into the site and using hand tools to the maximum extent possible.

If there are any concerns or questions, please contact Larry Gore at [larry.gore@usda.com](mailto:larry.gore@usda.com) or Micah Kiesow at [micah.kiesow@usda.com](mailto:micah.kiesow@usda.com).

Sincerely,

*/S/ Brian Riley*  
BRIAN RILEY  
District Ranger



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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Placitas

2 November 2020

Carmen Rose, Reclamation Specialist  
Mining and Minerals Division (MMD)  
Mining Act Reclamation Program  
1220 South St. Francis Drive  
Santa Fe, NM 87505

**RE: Partial Financial Assurance Release, Permit Modification 20-1, El Cajete Mine,  
Permit No. SA001RE; NMDGF No. NMERT-831.**

Dear Ms. Rose:

In response to your letter dated 30 September 2020, the New Mexico Department of Game and Fish (Department) has reviewed the above referenced project. The Española Mercantile Company (TEMC) is requesting the partial release of financial assurance for the reclamation work completed at the Las Cochass Unit of the El Cajete Mine. A site inspection was conducted on 15 October 2020 by staff from the Department, MMD, New Mexico Environment Department, U.S. Forest Service, and the Operator. The Department provides the following comments.

Overall, vegetation looked good, with many volunteer ponderosa pines that are well established within the reclamation area. The perimeter livestock fencing had recently been taken down; however, cattle have had access to the reclamation site for at least several years, due to what the Department assumes was inadequate fence maintenance. An area that had erosional downcutting issues was recently mitigated by TEMC with the installation of Zuni Bowls. This area should continue to be monitored and adequate financial assurance should be retained until the mitigation measures prove to be successful. The Department also believes that the reclamation site and recent mitigation work would benefit if livestock were excluded from the area.

Thank you for the opportunity to review and comment on the proposed 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



**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: November 10, 2020

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

Through: Anne Maurer, Mining Environmental Compliance Section

From: Amber Rheubottom, Mining Environmental Compliance Section  
Alan Klatt, Surface Water Quality Bureau  
Sufi Mustafa, Air Quality Bureau

Subject: **NMED Comments, Modification 20-1, El Cajete Mine, The Española Mercantile Company, Sandoval County, New Mexico Mining Act Permit No. SA001RE**

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The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on September 30, 2020 requesting NMED review and provide comments on the above-referenced MMD permitting action. The request is to review and provide comments on the Modification 20-1 application for the Las Conchas Unit of the El Cajete Mine. Pursuant to the Mining Act this operation is permitted as a regular existing mine. MMD requested comments on the workplan within 30 days of receipt. NMED requested an extension to submit comments by November 11, 2020. NMED has the following comments.

**Background**

The Española Mercantile Company (applicant) is requesting partial financial assurance release for reclamation work completed at the Las Conchas Unit of the El Cajete Mine. The applicant is requesting release of \$12,103 from the total \$90,850 that MMD holds jointly with the U.S. Forest Service. Approximately 28 acres have been reclaimed. The proposed new financial assurance is to be reduced by the amount commensurate with the cost for reclamation of the Las Conchas Unit.

**Air Quality Bureau**

The Air Quality Bureau comments are attached.

### **Surface Water Quality Bureau**

The Surface Water Quality Bureau comments are attached.

### **Mining Environmental Compliance Section (MECS)**

MECS reviewed the September 2020 *Closeout Plan Completion Report for Los Conchas Unit of the El Cajete Mine* (Report), submitted as Modification 20-1 for Mining Act Permit No. SA001RE. MECS has no comments on the Report. MECS attended a site visit on October 15, 2020. Also, in attendance were the operator, MMD, New Mexico Game & Fish and the U.S. Forest Service. MECS shares the concerns expressed in the October 20, 2020 letter from the U.S. Forest Service, that the gully will not heal naturally, and additional work is necessary before a full release of the bond is granted. MECS recommends that the bond not be released until the repairs to the gully have been shown to withstand a high intensity precipitation event (i.e., spring runoff or summer monsoons). MECS also recommends that the fencing be re-established to limit grazing in the area of the gully.

### **NMED Summary Comment**

NMED finds that the changes proposed in the Modification 20-1 application will be protective of the environment if done in accordance with the approved permits, pollution controls, and the comments above.

If you have any questions, please contact Kurt Vollbrecht at (505) 827-1095.

cc: Carmen Rose, Lead Staff, EMNRD-MMD  
Kurt Vollbrecht, Program Manager, MECS  
Shelly Lemon, Bureau Chief, NMED-SWQB  
Elizabeth Bisbey-Kuehn, Bureau Chief, NMED-AQB





**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

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**Michelle Lujan Grisham**  
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**James C. Kenney**  
Cabinet Secretary

**Howie C. Morales**  
Lt. Governor

**Jennifer J. Pruett**  
Deputy Secretary

**MEMORANDUM**

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**DATE:** October 2, 2020

**TO:** Kurt Vollbrecht, Program Manager, Mining Environmental Compliance Section

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

**RE:** Request for Review and Comment, El Cajete Mine, Partial Financial Assurance Release, Modification 20-1, Sandoval County, New Mexico Mining Act Permit No. SA001RE

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**

The Española Mercantile Company, "TEMC", is requesting the release of \$12,103 from the total \$90,850 that MMD holds jointly with the US Forest Service in financial assurance in the form of two surety bonds. The proposed new financial assurance is to be reduced by a sum commensurate with the release of the Las Conchas Unit, approximately 28 acres, which has been reclaimed. This disturbed area has been principally topsoiled and revegetated since 1996, and now exhibits substantially adequate ground cover and species composition for the post-mining uses approved by MMD.

The reclaimed Las Conchas Mine is in Section 5, T18N, R4E, SE¼, Redondo Peak Quadrangle, Sandoval County, New Mexico. The Las Conchas Mine was an open pit pumice mine operated by Copar Pumice Company over a 6-year period beginning in 1989. Reclamation activities of the 28 acres disturbed at the site ran concurrently with mining operations and were completed in 1996.

### **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**

There are no implications for air quality in the release of financial assurance; 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.



**Michelle Lujan Grisham**  
Governor

**Howie C. Morales**  
Lt. Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

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**James C. Kenney**  
Cabinet Secretary

**Jennifer J. Pruett**  
Deputy Secretary

**MEMORANDUM**

DATE: October 30, 2020

TO: Kurt Vollbrecht, Program Manager, Mining Environmental Compliance Section

FROM: Alan Klatt, Surface Water Quality Bureau

SUBJECT: **Request for Review and Comment, El Cajete Mine, Partial Financial Assurance Release, Modification 20-1, Sandoval County, New Mexico Mining Act Permit No. SA001RE**

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The New Mexico Environment Department (NMED) – Surface Water Quality Bureau (SWQB) received the Subject request for comments on October 1, 2020. The application is for the partial release of financial assurance in the amount of \$12,103.00 for the Las Conchas portion of the El Cajete Mine. The El Cajete Mine was an open pit pumice mine that operated between 1989 and 1996 located adjacent to New Mexico State Road 4, approximately 1,000 feet from the East Fork of Jemez River, in Sandoval County. SWQB has prepared the following comments pursuant to 19.10.12.1210.B New Mexico Administrative Code (NMAC):

Page 6 of the application explains that minor reclamation activities were completed in 2019 to address an erosional feature. SWQB recommends that these reclamation activities be described in more detail. For example, what were the approximate dimensions of the erosional feature, what was the cause of this erosional feature at this location, and what specific reclamation activities were conducted to ensure that this feature will not erode in the future?

For questions related to these comments, please contact Alan Klatt, SWQB, at 505-819-9623.