

**From:** [Roth, Daniela, EMNRD](#)  
**To:** [Ennis, David, EMNRD](#)  
**Subject:** RE: Request for Forestry Comments - Black Spring Mod 21-1  
**Date:** Wednesday, September 22, 2021 4:45:01 PM

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Dear David Ennis:

Thank you for providing me the opportunity to review and comment **on** Modification 21-1, Black Springs Mine, in McKinley County, New Mexico (Permit No. MK026MN). Based on the information provided I do not anticipate any impacts to state listed endangered plants from the increase of the design limit.

However, I do recommend removing crested wheatgrass from the seed mix used for planting in existing disturbed areas, if it's not too late. Crested wheatgrass is not native to the United States and often forms dense monocultures that interfere competitively with the establishment of desirable native vegetation and may alter the composition, structure, and function of vegetation communities, which can result in reduced biodiversity, wildlife habitat, and ecosystem services over large areas. Only plant species native to the area should be used in seed mixes.

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

Sincerely,

Daniela Roth

Botany Program Coordinator  
EMNRD – Forestry Division  
1220 S. Saint Francis Drive  
Santa Fe, NM 87505  
505-372-8494 (cell)  
<https://www.emnrd.nm.gov/sfd/rare-plants/>

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**From:** Ennis, David, EMNRD <David.Ennis@state.nm.us>  
**Sent:** Wednesday, September 22, 2021 1:35 PM  
**To:** Roth, Daniela, EMNRD <Daniela.Roth@state.nm.us>  
**Subject:** Request for Forestry Comments - Black Spring Mod 21-1

Hi Daniela,

Menefee Mining Corporation has submitted an application to modify their mine permit, number MK026MN. MMD is processing this request as Modification 21-1 to permit MK026MN.

The application requests an increase in the amount of acreage they can disturb (the “design limit”) from 10 to 12 acres and also requests the partial financial assurance release of 0.88 acres of concurrent reclamation.

The application for Modification 21-1 can be found on MMD’s website at:

<https://www.emnrd.nm.gov/mmd/mining-act-reclamation-program/pending-and-approved-mine-applications/minimal-impact-new/>

Attached is a letter from MMD request any comments your agency has on the application. Please provide any comments within 20-days of receipt.

If you have any questions, please let me know.

Thanks,  
DJ

*DJ Ennis, P.G.  
Mining and Minerals Division  
1220 S. St. Francis Dr.  
Santa Fe, NM 87505  
(505) 372-8634 cell/office  
[david.ennis@state.nm.us](mailto:david.ennis@state.nm.us)*

**MEMORANDUM**  
**OFFICE OF THE STATE ENGINEER**  
*Hydrology Bureau*

DATE: September 28, 2021

TO: David J. Ennis, PG, Permit Lead, Mining Act Reclamation Program

THROUGH: Ghassan Musharrafieh, Ph.D., P.E., Hydrology Bureau Chief *JRM*

FROM: Christopher E. Angel, PG, Hydrologist, Hydrology Bureau *CEA*

SUBJECT: Comments on Modification 21-1 Black Springs Mine, McKinley County, NM  
Permit No, MK026MN

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The New Mexico Office of the State Engineer (NMOSE) Hydrology Bureau received the Mining and Minerals Division's (MMD's) September 22, 2021, request for comments on the subject Black Springs Mine design limit increase from 10 to 12 acres and a request for partial financial release associated with 0.88 acres of concurrent reclamation performed in 2021.

According to a previous review of the mine by the OSE Hydrology Bureau dated May 17, 2011, the depth to groundwater in the area ranges from 20 to 40 feet. This memo concluded that "the Hydrology Bureau has no comments or issues related to the permit application."

Should water be encountered or needed to irrigate the "seeding" or other purposes, the NMOSE District I Office (5550 San Antonio Dr NE Albuquerque, NM 87109-4127; 505-383-4000) should be contacted to discuss the need for water rights.

NMOSE has no comments on the increase in mine design limit or partial release of financial assurance for the Black Springs Mine.

**General Concerns Related to NMOSE Regulation of Exploratory Borehole Drilling Encountering Groundwater and Associated Plugging of those Borings**

Well drilling activities, including exploratory borehole drilling (drilling of “mine drill holes”) that penetrate a water-bearing stratum and well plugging, are regulated in part under 19.27.4 NMAC (New Mexico Administrative Code) promulgated 6/30/2017, which requires any person engaged in the business of well drilling within New Mexico to obtain a Well Driller License issued by the NMOSE (New Mexico Office of the State Engineer). Therefore, a New Mexico licensed Well Driller shall perform the drilling and plugging of exploratory boreholes that encounter groundwater.

Additionally, all onsite well drilling activities, including but not limited to exploratory borehole drilling encountering groundwater and plugging of such water-bearing boreholes shall be conducted under the supervision of the New Mexico licensed Well Driller or a NMOSE-registered Drill Rig Supervisor under the direction of the licensed Well Driller.

Plugging of exploratory boreholes that encounter groundwater will occur under joint jurisdiction of the NMOSE and MMD (Mining and Minerals Division). Filing and acceptance of the NMOSE Well Plugging Plan of Operations ([http://www.ose.state.nm.us/STST/Forms/WD-08%20Well%20Plugging%20Plan%20of%20Operations\\_2016-01-20\\_final.pdf](http://www.ose.state.nm.us/STST/Forms/WD-08%20Well%20Plugging%20Plan%20of%20Operations_2016-01-20_final.pdf)) in conjunction with filing NMOSE Applications for Permit to Drill a Well with no Consumptive Use of Water ([http://www.ose.state.nm.us/WR/Forms/WR-07%20Application%20for%20Permit%20to%20Drill%20a%20Well%20with%20No%20Consumptive%20Use\\_2012-06-14\\_final.pdf](http://www.ose.state.nm.us/WR/Forms/WR-07%20Application%20for%20Permit%20to%20Drill%20a%20Well%20with%20No%20Consumptive%20Use_2012-06-14_final.pdf)) are required where it is expected water-bearing stratum/strata may be penetrated by project boreholes.

Additional NMOSE filings will be required where it is requested that an exploratory borehole be converted to a water well. The well design and construction shall be subject to the provisions of 19.27.4 NMAC Regulations. Appropriation of water from such a conversion may require a water right. **The MMD may disallow the conversions of exploratory borings to water wells if not permitted specifically in the MMD permit.**

Any exploration drilling where a water-bearing stratum is encountered will be subject to pertinent sections of those rules and regulations contained in 19.27.4 NMAC (6/30/2017), including but not limited to Sections 19.27.4.30.C NMAC for plugging and abandonment of non artesian wells; 19.27.4.31 NMAC for artesian wells; and 19.27.4.36 NMAC for mine drill holes that encounter water. A complete version of the NMOSE 19.27.4 NMAC regulations can be found on the NMOSE website at:  
<http://164.64.110.239/nmac/parts/title19/19.027.0004.htm>

**Use/extraction of Temporary Casing**

When drilling through caving overburden or unconsolidated geologic units, use of temporary casing may be desired. Any temporary casing should be inserted into a borehole of sufficiently large diameter to allow easy extraction upon termination of all drilling. To help prevent deleterious fall-in or drainage of cuttings/sediments into the annulus outside the temporary casing, the top of the annulus should be made appropriately fluid-tight.

If the temporary casing becomes stuck in-place, difficulties in the proper plugging of the borehole and resultant potential for commingling of aquifers or surface water drainage may occur via an

unsealed annulus. When setting of temporary casing occurs or is expected, appropriate detail of the proposed casing extraction and borehole clean-out process prior to plugging will be required in the NMOSE Well Plugging Plan of Operations if the borehole encounters a water-bearing stratum. Should casing be left in a water-bearing boring, 19.27.4 NMAC provisions apply, including those requiring an appropriate type and extent of annular seal surrounding the well casing.

### **Exploratory Borehole Plugging**

Terms of borehole plugging will be established jointly by the evaluation of the NMOSE Well Plugging Plan of Operations and the review of the relevant MMD application for water-bearing boreholes. Approved high-solids bentonite abandonment-grade sealants and/or approved cement slurries will be required for plugging as deemed hydrogeologically appropriate by the agencies. If the exploratory borings do not encounter groundwater, MMD plugging regulations (19.10.3 NMAC) prevail over those of 19.27.4 NMAC.

NMOSE well plugging regulations require tremie placement of the column of well sealant, which shall extend from the bottom of the borehole to ground surface. The NMOSE defers to the discretion of the MMD for the choice of sealant versus natural fill in the upper ten to twelve feet of a borehole plug to facilitate site restoration.

Required plugging of water-bearing exploratory borings shall occur within the timeframe specified by either the NMOSE or MMD. The MMD may enforce a plugging time frame that would minimize cave-in and the potential for incomplete plugging due to blockages in the borehole.

### **Drill Rig Fuels, Oils and Fluids**

Drill rigs contain and consume fuels, oil, and hydraulic fluids, and are subject to leaks. The rig often remains in-place longer than other pieces of exploration equipment onsite, are frequently running, and are positioned immediately above and adjacent to the open borehole. As a standard practice to prevent contamination and reduce site cleanup activities, it may be beneficial to use bermed, impermeable ground sheeting under the drill rig. Consideration of bermed containment volume sufficient to accommodate a high-intensity precipitation event is also a good practice.

**From:** [Reycraft, Richard, DCA](#)  
**To:** [Ennis, David, EMNRD](#)  
**Subject:** HPD Log# 115929, Request for Agency Comments, Modification 21-1, Black Springs Mine, McKinley  
**Date:** Tuesday, October 5, 2021 8:18:01 AM  
**Attachments:** [Log#115929.pdf](#)

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Dear Mr. Ennis:

This letter is in response to the above Modification 21-1 of Permit Area application received at the Historic Preservation Division (HPD) on September 22, 2021

I reviewed our records to determine if any cemeteries, burial grounds or cultural resources listed on the State Register of Cultural Properties (SRCP) or the National Register of Historic Places (NRHP) exist within or near the project area. Our records show that the permit area has been surveyed for archaeology and there are no cultural resources within or near the permit modification area. Also, it contains no known cemeteries, burial grounds.

However, according to our database, the archaeological surveys in the general permit area were done more than 30 years ago. Archaeological survey standards have changed in the past 30 years, and ground conditions, such as erosion, may have exposed previously buried archeological sites. Because of this, if this or future projects in the mine permit area will result in new ground disturbance, we recommend that the mine operator conduct a cultural resource survey. This survey should be performed by a qualified professional to determine if any historic or archaeological properties are present and if so, to provide documentation of those resources to our office. This information can then be used to evaluate the National Register of Historic Places eligibility of any resources identified during the survey and determine project effects on those resources. A list of state permitted archaeologists and archaeological firms are available from this office upon request or can be downloaded from our web site at:

<http://www.nmhistoricpreservation.org/documents/consultants.html>

Finally, the permit application indicates that land ownership in the proposed permit area includes the United States Bureau of Land Management (BLM), the BLM should be contacted regarding their requirements for a cultural resource survey in areas that will be affected by the proposed mining activities.

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.us](mailto:richard.reycraft@state.nm.us)

Sincerely,

Richard Reycraft

Richard. Reycraft  
HPD Staff Archaeologist



DIRECTOR AND SECRETARY  
TO THE COMMISSION  
Michael B. Sloane

# STATE OF NEW MEXICO DEPARTMENT OF GAME & FISH

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Cebolla  
**ROBERTA SALAZAR-HENRY**  
Las Cruces

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12 October 2021

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 21-1, Black Spring Mine, McKinley County, New Mexico, Permit No. MK026MN; NMDGF Project No. NMERT-1449.**

Dear Mr. Ennis,

The New Mexico Department of Game and Fish (Department) has reviewed the above referenced project. Menefee Mining Corporation (Menefee) is proposing to increase the mine design limit from 10 to 12 acres, and is also requesting the partial financial assurance release associated with 0.88 acre of concurrent reclamation that is scheduled to be performed in the fall of 2021. A site inspection was conducted on 9 September 2021 by staff from the Department, MMD, the New Mexico Environment Department and Menefee.

The Department does not have any issues with the proposal to expand the design limit by approximately two acres. For the 0.88 acre of reclaimed habitat, financial assurance should be retained by MMD until it is confirmed that ripping and seeding has been satisfactorily completed.

The submitted seed mix, contains the species crested wheatgrass (*Agropyron cristatum*) which is an introduced cool season grass that is not native. The Department has previously recommended and reiterates that Menefee substitute crested wheatgrass with a regionally appropriate native grass species for all future reclamation projects. The Department suggests substituting bottlebrush squirreltail (*Elymus elymoides*) for crested wheatgrass as an appropriate native cool season grass species that can be effective in controlling wind and water erosion. The Department also recommends that only certified weed-free seed be used to avoid inadvertently introducing non-native species to the reclamation site. When possible, the Department recommends using seeds that are sourced from the same region and habitat type as the reclamation site.

Halogeton (*Halogeton glomeratus*) was observed to be widespread throughout areas that had been recently reclaimed by Menefee. Following this reclamation, the operator should implement a weed monitoring and management program that includes a commitment to aggressive control of the noxious weed halogeton and other invasive or noxious weeds within the mine permit area.

Thank you for the opportunity to review and comment on the proposed permit modification. 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





## Electronic Transmission

### MEMORANDUM

Date: October 15, 2021

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

Through: Anne Maurer, Mining Act Team Leader, Mining Environmental Compliance Section (MECS)

From: Amber Rheubottom, MECS  
Alan Klatt, Surface Water Quality Bureau (SWQB)  
Sufi Mustafa, Air Quality Bureau (AQB)

Subject: **New Mexico Environment Department (NMED) Comments, Black Springs Mine, Minimal Impact New Mine Permit, Modification 21-1, Menefee Mining Corporation, McKinley County, New Mexico, New Mexico Mining Act Permit No. MK026MN**

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The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on September 22, 2021 requesting that NMED review and provide comments on the above-referenced MMD permitting action. Pursuant to the Mining Act, the Black Springs Mine is a minimal impact new mine. MMD requested comments on the application within 20 days of receipt of the request for comments. NMED requested an extension to submit comments by October 15, 2021. NMED has the following comments.

#### **Background**

Menefee Mining Corporation (Applicant) is requesting to increase the design limits from 10 to 12 acres. In addition, the Applicant is requesting partial financial assurance release associated with 0.88 acres of concurrent reclamation completed in 2021.

Mr. Holland Shepherd  
Black Springs Mine  
October 15, 2021

**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 has no comments.

**NMED Summary Comment**

NMED has determined that the activities proposed in the application will be protective of the environment.

If you have any questions, please contact Anne Maurer at (505) 660-8878.

cc: David Ennis, Permit Lead, EMNRD-MMD  
Kurt Vollbrecht, Program Manager, NMED-MECS  
Shelly Lemon, Bureau Chief, NMED-SWQB  
Elizabeth Bisbey-Kuehn, Bureau Chief, NMED-AQB



## MEMORANDUM

DATE: October 12, 2021

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

FROM: Sufi Mustafa, Staff Manager, Air Dispersion Modeling and Emission Inventory Section, Air Quality Bureau.

RE: Request for Review and Comment, Modification 21-1, Minimal Impact New Mine, Black Springs Mine, Menefee Mining Corporation, McKinley County, New Mexico, Mining Act Permit No. MK026MN

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 no previous record of this operation.

### **Details**

The applicant has requested to increase the design limit and associated financial assurance for the Black Spring mine from current 10 to a new 12 acres disturbance area. Menefee Mining is also reseeding 0.88 acres area and request release of financial assurance associated with it.

### **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.

20.2.15 NMAC, *Pumice, Mica and Perlite Processing*. Including 20.2.15.110 NMAC, *Other*

*Particulate Control*: "The owner or operator of pumice, mica or perlite process equipment shall not permit, cause, suffer or allow any material to be handled, transported, stored or disposed of or a building or road to be used, constructed, altered or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne."

Paragraph (1) of Subsection A of 20.2.72.200 NMAC, *Application for Construction, Modification, NSPS, and NESHAP - Permits and Revisions*, states that air quality permits must be obtained by:

“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. 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.”

Further, Paragraph (3) of this subsection states that air quality permits must be obtained by:

“Any person constructing or modifying any source or installing any equipment which is subject to 20.2.77 NMAC, *New Source Performance Standards*, 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.”

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.

### **Fugitive Dust**

Air emissions from this project should be evaluated to determine if an air quality permit is required pursuant to 20.2.72.200.A NMAC (e.g. 10 lb/hour or 25 TPY). Fugitive dust is a common problem at mining sites and this project will temporarily impact air quality as a result of these emissions. However, with the appropriate dust control measures in place, the increased levels should be minimal. Disturbed surface areas, within and adjacent to the project area, should be reclaimed to avoid long-term problems with erosion and fugitive dust. EPA’s *Compilation of Air Pollutant Emission Factors, AP-42, “Miscellaneous Sources”* lists a variety of control strategies that can be included in a comprehensive facility dust control plan. A few possible control strategies are listed below:

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.

**Recommendation**

The AQB has no objection to the expansion of the disturbance area and release of financial assurance for 0.88 acres.

This written evaluation does not supersede the applicability of any forthcoming state or federal regulations.

If you have any questions, please contact me at 505 629 6186



MICHELLE LUJAN GRISHAM  
GOVERNOR

JAMES C. KENNEY  
CABINET SECRETARY

October 4, 2021

TO: Anne Maurer, Mining Environmental Compliance Section, Ground Water Quality Bureau

FROM: Alan Klatt, Watershed Protection Section, Surface Water Quality Bureau

SUBJECT: **Request for Review and Comment, Modification 21-1, Minimal Impact New Mine, Black Springs Mine, Menefee Mining Corporation, McKinley County, New Mexico, Mining Act Permit No. MK026MN**

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Surface Water Quality Bureau (SWQB) received a request for comments on September 24, 2021 regarding the subject application. The application for modification 21-1 proposes to increase the mine design limit from 10 to 12 acres and also requests the partial financial assurance release associated with 0.88 acres of reclamation performed in 2021. Pursuant to 13.10.3.304.H NMAC, SWQB is providing the following comments:

To protect surface water quality, erosion and stormwater controls, such as those identified in the Original Application and Approved Permit, should be implemented at the new disturbance areas and maintained at the reclamation area until permanent site stabilization is achieved through revegetation success. The Storm Water Pollution Prevention Plan (SWPPP) for this site should be updated to address the new disturbance area.

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