

**PERMIT MODIFICATION 21-1 TO PERMIT NO. SA004MN  
COPAR SOUTH PIT MINE  
MINIMAL IMPACT NEW MINING OPERATION**

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

This Permit Modification 21-1 (“Modification 21-1”) to Permit No. SA004MN (“Permit”) is issued by the Director of the Mining and Minerals Division (“MMD”) of the New Mexico Energy, Minerals and Natural Resources Department to:

The Española Mercantile Company  
Whose correct address is: 1302 N. Riverside Drive  
Española, New Mexico 87532

(“Permittee”) for the Copar South Pit Mine, located in Sandoval County, New Mexico.

This Modification 21-1 renews Permit No. SA004MN and adds the following technical revegetation success criteria:

1. A minimum of 35% live vegetative ground cover;
2. A minimum of 50% combined live vegetation and litter ground cover; and
3. Noxious weed species within the reclaimed area does not exceed 5% of the live vegetative cover. Noxious weed species are listed in the New Mexico Department of Agriculture, New Mexico Noxious Weed List.

In order to accomplish the approval contemplated by Modification 21-1, the following subparagraphs are added to Permit No. SA004MN:

**Section 1 (21-1). STATUTES AND REGULATIONS**

- A. Modification 21-1 is issued pursuant to the New Mexico Mining Act, NMSA 1978, §69-36-1, *et seq.* (2014) (“Act”) and New Mexico Mining Act Rules (“Rules”), Title 19, Chapter 10 of the New Mexico Administrative Code (“NMAC”).
- B. Modification 21-1 is subject to the Act and any amendments 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 1a (21-1). PERMIT MODIFICATION PACKAGE**

The Permit Modification Application, dated July 12, 2021, was received by MMD on July 15, 2021. Any correspondence subsequently submitted to MMD by the Permittee or its representatives, can be found within the Division’s files, and is titled, Copar South Pit Mine, SA004MN, or similar.

The Modification 21-1 Permit Modification Package (“21-1 PMP”) is comprised of the following documents:

- A. A written request from the Permittee titled *South Pit Minimal Impact Operation Permit No. SA004MN – Application for Permit Modification*, dated July 12, 2021, and a \$250.00 application fee received by MMD on July 15, 2021, for the modification to set a new technical revegetation success criterion.
- B. An electronic mail (“e-mail”) submittal from the Permittee dated July 23, 2021, supplementing the 21-1 PMP with two maps identifying the location of the Permit Area.
- C. A letter dated August 23, 2021, submitted via e-mail, with responses from the Permittee addressing MMD concerns regarding a minimum live vegetative cover in addition to a minimum live combined vegetation and litter cover.

**Section 3 (21-1). FINDINGS OF FACT**

*The Permit Modification Package*

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- A. The 21-1 PMP is complete and demonstrates that the proposed operation will meet the performance and reclamation standards and requirements of 19.10.3.304.(6 through 8) NMAC.
- B. The Permittee has paid the permit modification fee of \$250.00 as required by §19.10.2.201.I NMAC.
- C. The 21-1 PMP provides that the proposed operation meets the standards of a "Minimal impact mining operation," addressed in 19.10.1.7.M(2) NMAC, and in 19.10.3.304 NMAC, and does not fall within the exclusions in 19.10.1.7.M(2) NMAC. MMD and the other agencies, pursuant to 19.10.3.304.H NMAC, reviewed the minimal impact designation.
- D. The 21-1 PMP has been reviewed in accordance with §19.10.6.608 NMAC. The 21-1 PMP is complete, accurate, and complies with the requirements for permit modifications under §19.10.6.608 NMAC.
- E. Pursuant to §19.10.6.608.D NMAC, the proposed changes do not require public notice nor the opportunity for a public hearing.
- F. Pursuant to §19.10.6.608.D(1) NMAC, the proposed changes would not have a significant environmental impact.

- G. Pursuant to §19.10.6.608.D(2) NMAC, the 21-1 PMP was accompanied by sufficient information for the Director to determine whether any of the factors listed in §19.10.6.608 NMAC are present.
- H. The approved Post Mining Land Use (“PMLU”) is designated as grazing and wildlife habitat for the entire Permit Area.
- I. The proposed changes, described in the 21-1 PMP and this Permit Modification, will meet the requirements of reclamation, as identified in 19.10.3.302.D(5) and 19.10.1.7.R(1) NMAC. The Permit and the changes described in the 21-1 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 appropriate for the life zone of the surrounding areas.
- J. The term of this Permit is governed by 19.10.6.607 NMAC. In accordance with 19.10.6.607 NMAC, the term of this Permit shall not exceed 20 years, and permit renewals shall not exceed 10 years.
- K. NMED Confirms that the original Environmental Determination dated March 24, 1997 still stands in letter: *New Mexico Environmental Department (NMED) Comments, Copar South Pit Mine, Minimal Impact New Mine, Modification 21-1 Application, Response to Agency Comments, The Espanola Mercantile Company, Sandoval County, New Mexico, New Mexico Mining Act Permit No. SA004MN*, dated October 12, 2021.

*MMD’s Request for Comments to the Agencies and Tribes*

- L. The Director has provided notice of this application to other government agencies deemed appropriate, in accordance with §19.10.6.608.D(3) NMAC.
- M. MMD provided notification of the 21-1 PMP to the following tribal entities: Hopi Tribe, the Navajo Nation, the Pueblo of Laguna, the Pueblo of Cochiti, the Pueblo of Jemez, the Pueblo of Isleta, the Ohkay Owingeh Pueblo, the Pueblo of San Felipe, the Pueblo of San Ildefonso, the Pueblo of Sandia, the Pueblo of Santa Ana, the Pueblo of Santa Clara, the Pueblo of Santo Domingo, the Pueblo of Tesuque, the Pueblo of Zia, the Jicarilla Apache Nation, and the Comanche Nation, such tribes being identified on a notification list maintained by the New Mexico Department of Indian Affairs. MMD received comments via e-mail from the Pueblo of San Ildefonso on August 4, 2021.

*Agency Comments and Site Inspection*

- N. Agency comments on the 21-1 PMP were received by MMD from the New Mexico Department of Cultural Affairs, New Mexico Office of the State Engineer, New Mexico State Forestry Division, New Mexico Department of Game and Fish, and the New

Mexico Environment Department and were provided to the Permittee on August 18, 2021.

- O. An inspection and evaluation of the Permit Area was conducted by MMD and the New Mexico Department of Game and Fish personnel on August 4, 2021.

*Right-To-Enter / Property Access Information*

- P. The Permit Area is managed by the U.S. Forest Service, and the Permittee has demonstrated its right of access pursuant to §19.10.304.D(1) NMAC through a Plan of Operations OMB No. 0596-0022 with the U.S. Forest Service.
- Q. The Permit does not grant or create any property rights. Nor does MMD, by issuing the Permit or this Modification 21-1 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, exploration and reclamation. The 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.
- R. The Permit 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. The 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.

*Financial Assurance*

- S. The Permittee has provided financial assurance to cover the costs of reclamation as required by §19.10.3.304.J(3) NMAC. The financial assurance instrument for the Copar South Pit Mine, Permit No. SA004MN, is in the form of a Joint Surety Bond No. DVIFSU0719088, dated February 14, 2018, in the amount of \$33,516.00, issued by the International Fidelity Insurance Company, One Newark Center, 20<sup>th</sup> Floor Newark, NJ 07102-5207, and was received by MMD on February 14, 2018.

**Section 4 (21-1). COMPLIANCE REQUIREMENTS**

- A. This Permit Modification 21-1 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.



- B. Where the 21-1 PMP is ambiguous or in apparent conflict with the provisions outlined in this Permit Modification, the language of this Permit Modification will supersede the 21-1 PMP.

**Section 5 (21-1).**      **AGENCY RIGHT OF ENTRY**

The Permittee shall allow the authorized representatives of the Director, without advanced notice, upon presentation of appropriate credentials, and without delay:

1. To enter upon, or through, any mining or reclamation operation at any time, as provided for in 19.10.3.304.J(5) NMAC and 19.10.11.1101.E(1) NMAC for the purpose of conducting inspections and to determine if the Permittee is in compliance with the Permit requirements and conditions; and
2. At reasonable times, and without delay, have access to and copies of any records associated with permitting and compliance required by the Act, 19.10 NMAC or this Permit Modification.

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**Section 8 (21-1).**      **COMPLIANCE WITH THE PERMIT & 21-1 PMP**

The Permittee shall conduct mining, exploration and reclamation operations only as described in the approved 21-1 PMP, this Permit Modification, the Permit, and any other modifications approved by the Director, pursuant to 19.10.6.608 NMAC. The Permittee shall comply with the statutes and regulations in Section 1 of this Permit Modification, the applicable regulatory and permitting requirements, and all conditions that are incorporated into this Permit.

**Section 9 (21-1).**      **GENERAL OBLIGATIONS AND CONDITIONS**

The following consists of a summary of the proposed, and in most cases implemented, closeout activities on disturbed areas within the Permit Area. This Modification 21-1 is subject to the following Conditions:

*Reclamation Requirements*

- A. All lands to be disturbed by the mining operation will be addressed under the performance reclamation standards and requirements described and referenced in §19.10.3.304 NMAC and in accordance with this Permit.
- B. Periodic site monitoring shall be conducted by the Permittee to ensure the successful establishment of vegetation and stabilization of the site. Revegetated areas with significant erosion shall be mitigated by reseeding, mulching, grading, and/or application of best management practices (“BMPs”) to prevent erosion and site degradation.

- C. The site shall be considered reclaimed and eligible for release of financial assurance once the following criteria have been met:
1. Canopy cover within the reclaimed area equals at least 35% live vegetative cover;
  2. Canopy cover within the reclaimed area equals at least 50% live vegetative and litter cover;
  3. Noxious weed species within the reclaimed area does not exceed 5% of the live vegetative cover. Noxious weed species are listed in the New Mexico Department of Agriculture, New Mexico Noxious Weed List; and
  4. No significant erosion is evident on reclaimed areas.
- D. Fencing around reclaimed areas is recommended to protect reclaimed areas from grazing and recreation until re-vegetated areas can tolerate managed grazing pressure and recreational use.
- E. The Permittee shall leave all disturbances in a manner that is stable, both long term and short term, and non-hazardous to humans and wildlife.
- F. The Permittee shall notify MMD at least thirty (30) days prior to initiating any reclamation or reseeded activities approved pursuant to this Permit.

*Best Management Practices ("BMPs")*

- G. The Applicant must contain any water produced from the operation at the site. Discharge of water or any industrial fluids to any watercourse may be a violation of the Clean Water Act. All waste material shall be collected and disposed of properly.
- H. Travel within the Permit Area should be suspended during wet, muddy conditions. Construction or maintenance activities should not be performed during periods when the soil is too wet to adequately support heavy equipment.
- I. Appropriate spill clean-up materials, such as absorbent pads, must be available on-site at all times during mining and reclamation activities to address potential spills. Spills must be reported immediately to NMED 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) 476-6000. For non-emergencies after hours, call (866) 428-6535 or (505) 428-6535 (voice mail, twenty-four hours a day). For emergencies only, call (505) 827-9329 twenty-four hours a day (NM Department of Public Safety).

*Cultural and Paleontological Resource Preservation Requirements*

- J. 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 MMD. 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.

*Changes, Modifications, or Revisions to the Permit*

- K. Any changes, modifications or amendments to the approved Permit must be approved by MMD, in writing, prior to implementation.
- L. Pursuant to 19.10.3.304.K NMAC and 19.10.6.607.B NMAC, the term of this permit is renewed for a period of 10 years to allow adequate time to demonstrate the re-establishment of a self-sustaining ecosystem and PMLU of wildlife habitat within the Permit Area.

*Annual Report and Fees*

- M. The Permittee shall submit annual reports pursuant to 19.10.6.610 NMAC, and any fees as required by 19.10.2 NMAC. The Permittee shall identify any areas of new disturbance due to exploration activities in each annual report submitted to MMD.

*Reclamation Schedule*

- N. The Permittee shall monitor the site, at least once per year, for the duration of the Permit to assure knowledge of the general site conditions and compliance with the Permit and the approved Permit Area.
- O. The Permittee will maintain the permit until all financial assurance is released under 19.10.12 NMAC. In accordance with 19.10.6.607 NMAC, the term of this Permit shall not exceed 20 years, and permit renewals shall not exceed 10 years.

**Section 10 (21-1). CONCLUSIONS OF LAW**

- A. The Director concludes the application meets the requirements of a "Minimal Impact Mining Operation," addressed in 19.10.1.107.M(2) NMAC. The operation authorized by this Permit is eligible as a minimal impact operation, and the Permittee is authorized to operate a minimal impact mining operation, pursuant to 19.10.1.107.M(2) NMAC and 19.10.3.304 NMAC. The Copar South Pit Mine will no longer qualify as a Minimal

Impact operation if permit authority is exceeded or if any of the characteristics described in 19.10.1.7.M(2) NMAC exist.

- B. The Director has jurisdiction over the Permittee and the subject matter of this Permit Modification and process.
  - C. The 21-1 PMP is complete and accurate and complies with the requirements of the Act, 19.10.3.303 and 19.10.8 NMAC. The Permittee is authorized pursuant to the New Mexico Mining Act to conduct reclamation operations on the Permit Area upon the condition that the Permittee complies with the requirements and conditions of the Act, the Rules, and this Permit, and upon the submission of such annual reports and fees as may be required under 19.10.6.610 NMAC and 19.10.2 NMAC.
  - D. All other provisions, modifications, and revisions for mining and reclamation contained in the Copar South Pit Permit, Permit No. SA004MN, remain unchanged.
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**CERTIFICATION**

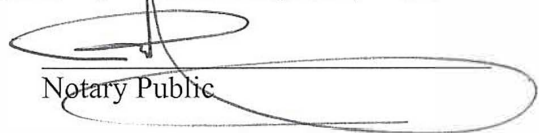
I certify that I have read, understand and will comply with the requirements of this Permit Modification, the Act, the Rules, including without limitation that I will allow the Director to enter the Permit Area as required by the Permit and/or the Rules and/or as otherwise required by law.

  
Authorized Representative of the Permittee

President  
Title

The Espanola Mercantile Co.  
Company

Subscribed and sworn to before me this 3rd day of November, 2021

  
Notary Public

My Commission Expires

June 01, 2025

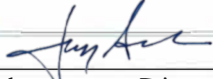


**ORDER**

NOW THEREFORE, IT IS HEREBY ORDERED that the Director approves Permit Modification 21-1 to the Copar South Pit Mine – The Española Mercantile Company, Permit No. SA004MN, located in Sandoval County, New Mexico.

By Order of the Director, Mining and Minerals Division, Energy, Minerals and Natural Resources Department, of the State of New Mexico.

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By:   
Jerry Schoepner, Director  
Mining and Minerals Division  
Energy, Minerals and Natural Resources Department

Date: 11/16/2021