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MINING & MINERALS DIVISION

Toltec Mesa Resources LLC

7823 Quintana Dr. NE Albuquerque, New Mexico (505)238-4770 | newcomer.b.tmr@gmail.com

July 15, 2022

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

**RE: Application Fee for Permit Modification for OT005MN - W.W. Mining and Production
Orogrande Gold Placer Minimal Impact Mining Permit.**

Dear Carmen:

Please find included a check in the amount of \$250.00 for the application fee for the permit modification.

Sincerely,



Bob

Principal

encl. check for \$250.

Toltec Mesa Resources LLC

7823 Quintana Dr. NE, Albuquerque, New Mexico | (505)238-4770 | newcomer.b.tmr@gmail.com

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JUL 20 2022

MINING & MINERALS DIVISION

July 11, 2022

Carmen Rose
Reclamation Specialist
Mining Act Reclamation Program
Mining and Minerals Division - Energy, Minerals and Natural Resources Department
Wendell Chino Building
1220 South St. Francis Dr.
Santa Fe, New Mexico 87505

sent via email: carmen.rose@state.nm.us

RE: REQUEST FOR MODIFICATION OF PERMIT OT005MN OROGRANDE PLACER GOLD MINE – MINIMAL IMPACT MINING OPERATION

Dear Carmen:

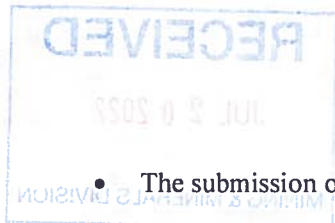
Toltec Mesa Resources LLC (TMR), acting as agent for Wade White (Principal) and W.W. Mining and Production, is submitting this letter to request a modification of Permit OT005MN. This request is pursuant to our prior discussions regarding W.W. Mining and Production's interest in continuing to operate within the requirements of Permit OT005MN within the conditions of the requirements in the Amended Settlement Agreement, which replaces the attachment to the Director's Order dated December 6, 2021 (amended agreement attached).

This proposed modification will allow future mining as authorized in Section 3 of the Permit OT005MN, titled 'Permit Area'. TMR will complete the following as part of this application in support of compliance with the amended Settlement Agreement and the proposed modification to the permit:

- Coordinate with you and schedule an inspection of the recently completed reclamation sometime between August 1 and 31, 2022; and
- Submit a report after the inspection and before September 15, 2022 that documents reclamation activity and completion of reclamation necessary to achieve a self-sustaining ecosystem.

The proposed permit modification is intended to allow W.W. Mining and Production to continue to operate the minimal impact mining operation at their Orogrande Placer Gold mine under Permit OT005MN. The principal elements of include:

- future mining and reclamation activities will be conducted in accordance with Section 10 of Permit OT005MN and will incorporate the best management practices provided in the Erosion Management and Reclamation Plan submitted to MMD April 25, 2022.
- W.W. Mining and Production proposes and estimates a lifespan of 20 years for the mine.



- The submission of a permit modification fee of \$250.

A description of the mining and concurrent reclamation activities that are proposed, involve those outlined in Section 10 of Permit OT005MN, supplemented by the details in the Erosion Management and Reclamation Plan.

Sincerely,
Toltec Mesa Resources LLC

Bob Newcomer
Principal

cc: Wade White (via email: whitezoo12@gmail.com)
Holland Shepherd (via email: holland.shepherd@state.nm.us)
David Otori (via email: david.otori@state.nm.us)

AMENDED ATTACHMENT A TO DECEMBER 6, 2021, DIRECTOR'S ORDER

AMENDED SETTLEMENT AGREEMENT

This Amended Settlement Agreement replaces the Attachment to Director's Order dated December 6, 2021. The Mining and Minerals Division of the Energy, Minerals and Natural Resources Department of the State of New Mexico ("MMD"), and Wade White as principal of W.W. Mining and Production (Permittee"), together, the "Parties" agree as follows:

RECITALS

WHEREAS:

- A. The MMD Director issued Permittee Permit No. OT005MN ("the Permit") for the Orogrande Gold and Placer Mine ("the Mine") located in Otero County, New Mexico on January 21, 2010.
- B. In a Notice of Violation ("NOV") dated January 25, 2021, the MMD Director notified Permittee of violations of the terms of the Permit and the New Mexico Mining Act Rules, 19.10 NMAC ("Mining Act Rules") by failing to submit annual fees, annual reports for the calendar years 2013 through 2019 and for failing to complete reclamation of the Mine.
- C. In a Cessation Order dated April 26, 2021, the Director Ordered Permittee to cease all operation until it complied with the abatement directives contained in the January 25, 2021.
- D. On or about July 28, 2021, the Director issued his Order to Show Cause why the Permit should not be revoked and why Permittee and Mr. White are disqualified from receiving a permit under the New Mexico Mining Act, §§ 69-36-1 to 69-36-20 NMSA 1978 ("the Mining Act").
- E. On October 1, 2021, the Director issued his *Director's Order Revoking Permit No. OT005MN and Disqualification of Permittee* ("the October 1, 2021 Director's Order") that revoked Permit No. OT005MN and disqualified Permittee from undertaking any activities requiring a permit under the Mining Act and the Mining Act Rules.

F. The Parties wish to avoid an administrative appeal and agree to the terms of this Settlement Agreement.

G. The terms used in this Agreement are taken from the Mining Act or the Mining Act Rules, those terms shall be understood as they are defined or used in those authorities.

Otherwise, abbreviations and definitions used in this Agreement are as set forth and explained in the October 1, 2021 Director's Order.

AGREEMENT

WHEREFORE, the Parties agree as follows:

1. MMD will withdraw the Director's Order dated October 1, 2021, that revokes Permit No. OT005MN and disqualifies Permittee from further permitting under the New Mexico Mining Act and provides the process whereby the permit will be released from the requirements of the Mining Act upon completion of the obligations set forth in this Agreement.
2. In consideration for the foregoing, Permittee shall comply with the obligations set forth in paragraphs 3 through 9, below.
3. The Permittee must comply with the following abatement directives listed in the NOV:
 - a) Pay the unpaid annual fees in the amount of \$1,750.00 required by 11(4) of Permit No. OT005MN and Section §19.10.2.202.D NMAC for calendar years 2013, 2014, 2015, 2016, 2017, 2018, and 2019 by no later than April 25, 2022;
 - b) Submit the annual report as required by Section 10(9) of the permit and Section §19.10.6.610 NMAC for calendar year 2021 that includes a summary of any operations conducted during calendar years 2013 through 2021 by no later than April 25, 2022; and

- c) Pay the penalties assessed in the NOV in the amount of \$4,200.00 by no later than April 25, 2022.
- 4. Permittee must pay unpaid annual fees required by Section 11(4) of Permit No. OT005MN and Section §19.10.2.202.D NMAC in the amount of \$500.00 for calendar years 2020 and 2021 by no later than April 25, 2022;
- 5. In lieu of the annual report required by Section 10(9) of the permit and Section §19.10.6.610 NMAC for calendar year 2022, Permittee shall submit a reclamation plan addressing erosion repair, soil amendments and scarification, and revegetation by no later than April 25, 2022, that explains to the satisfaction of MMD how Permittee will complete the requirements of subparagraphs 6(a), (b), and (c), below.
- 6. Permittee must stabilize the permit area and establish a self-sustaining ecosystem as required by Section 10(8) and Section §19.10.6.603.D NMAC by no later than August 31, 2022, including:
 - a) Backfilling the erosion damage that has occurred since the first attempt at reclamation in 2013 so that final surface configuration of the disturbed area shall be suitable for achieving a self-sustaining ecosystem or approved post-mining land use;
 - b) Completing other soil scarification and amending, backfilling or contouring necessary so that the final surface configuration of the disturbed area shall be suitable for achieving a self-sustaining ecosystem or approved post-mining land use;
 - c) Reseeding the disturbed area by broadcast seeding with mulch sufficient to achieve a self-sustaining ecosystem;

- d) Scheduling of an agency inspection of the reclamation to occur from August 1 through August 31, 2022; and
 - e) Submitting a report that documents reclamation activity and completion of reclamation necessary to achieve a self-sustaining ecosystem by no later than September 15, 2022.
7. Permittee must submit an application to modify Permit No. OT005MN to describe future mining and reclamation activities and an anticipated lifespan of the mine and the permit modification fee of \$250 to MMD by no later than August 31, 2022. MMD will require financial assurance if the proposed total disturbance, including the reclamation described in paragraph 6 above, is two acres or more pursuant to Section §19.10.3.304.E NMAC.
8. Permittee stipulates to notify MMD of and maintain until such time as the Permit is released, reliable points of contact, including a mailing address and phone number that Permittee will routinely monitor for communications from MMD;
9. Permittee agrees to remit the annual fee for the Orogrande Mine as required by Section 11(4) of Permit No, OT005MN and Section 19.10.2.202.D NMAC during the year 2022 and for any subsequent years in which Permit No. OT005MN shall remain effective; and
10. Permittee further stipulates that each or any occurrence of failure by Permittee to comply with the payment deadlines, fees, reports, or reclamation schedules set forth in this Settlement Agreement, shall satisfy the predicates of 19.10.11.1102.C NMAC for the Director to issue an Order to Show Cause why Permit No. OT005MN should not be revoked and disqualifying Permittee, individually or as part of a control group of an applicant, from undertaking any activities requiring a permit under the Mining Act and the Mining Act Rules at the Orogrande Placer Gold Mine or anywhere else in

the State of New Mexico, plus any assessment of unpaid fees and penalties and any additional penalties assessable after the date of this Settlement Agreement pursuant to 19.10.11.1105 and 1106. Permittee shall retain his right to administrative review of any such order of the Director under 19.10.14 NMAC.

11. This Agreement incorporates all the agreements, covenants, and understandings between the Parties with respect the Permit and operations at the Mine.

12. This Agreement shall not be altered, changed, or amended except in a writing executed by the Parties.

13. This Agreement may be executed through counterparts.

AGREED:

**WADE WHITE, INDIVIDUALLY AND AS PRINCIPAL OF W. W. MINING
AND PRODUCTION:**


Wade White

7-13-22
Date

FOR THE MINING AND MINERALS DIVISION:

Jerry Schoeppner, Director

Date

Re: [EXTERNAL] Re: Orogrande Permit No. OT005MN DRAFT amended settlement agreement

1 message

Robert Newcomer <newcomer.b.tmr@gmail.com>
To: "Rose, Carmen, EMNRD" <Carmen.Rose@state.nm.us>
Bcc: Bob Newcomer <newcomer.b.tmr@gmail.com>

Fri, Jul 15, 2022 at 9:11 AM

Hi Carmen,

I have had a discussion with Wade White regarding your questions and comments and have developed the following responses (**bold**) and have included your comments/questions for reference (*italics*), which are shown below. We are still waiting on the results of the surveyor's work, which would include the boundaries of the patented land associated with the historical placer claims. This would allow us to calculate the actual acreage of the patented land, which we are proposing as the Permit Area. I have also estimated the alignment of the Village of Orogrande's water line from their tank, which is off the property. The line then runs down the drainage, buried at a shallow depth (you can see it exposed along the road in a few places) to the Village. Wade still does not know if the Village has an easement for this line, but we've assumed, at this point the area and a buffer on either side of it, would be avoided with mining work under this permit. There is also an overhead powerline that (and I assume an easement) crosses part of the property. I am hoping the surveyor captures both the water line and powerline in more detail than I have in my map.

The draft application looks great, thank you for making my job so easy. A couple of things I will need to see in the modification request:

1. *A detailed map of the design limit and total anticipated disturbance acreage. Ideally this would be the 20-year design limit plan, but I understand there may be modifications and changes in the FA over the course of those 20 years.*

- Please see attached map –
 - The design limit will include the process area, which will be about 0.15 acres [I am still waiting for Wade to confirm this, as he is assessing his needs]; balance (1.8 acres) will be for mining, staying below the 2-acre limit of the permit.
 - As for a 20-year plan, I've attached a figure that shows the boundary (estimated) of the patented ground of the two mining claims [we expect a survey and map soon]. I've shown the areas of historical mining and placer tailing spoils. The plan is to re-mine and process these spoils and possibly underlying placer resources systematically with concurrent reclamation to keep the "active" disturbance [design limit] at less than two acres of disturbance at any point in time.
 - Mining excavations would be expected to be to depths of less than 10 feet below the base of the arroyo, or the reach of a small excavator. These areas would be bermed to prevent stormwater run-on to the excavations.
 - At this point, it is anticipated the "area" used for mineral processing would remain fixed in the same place, even as the mining and subsequent reclamation was moved across the site.
 - An accounting of the "active" disturbance, areas of prior mining and reclamation and unmined areas in the Permit Area would be maintained and reported annually to the MMD.
 - This is anticipated to be an intermittent operation, so there may be long periods of inactivity, potentially years; the site would be inspected, and conditions documented annually, regardless.
 - The total anticipated and estimated disturbance, with reclamation, through a proposed 20-year mine life would be about 10 acres, based on the Permit Area shown in the attached figure

[this may be adjusted to a small degree after the land survey is completed and a map is developed].

- There is also a Village of Orogrande water line from their storage tank, which is not in the permit area, across the permit area as shown in the attached figure. Mining activities that involve excavation and regrading will need to avoid this line. This would also include a 10- to 20-foot wide buffer along the easement.

- During the active operations, and certain periods, we anticipate permit modification requests would be submitted as the “active” mine area was moved, and previous areas reclaimed. These requests would be submitted by W.W. Mining and Production annually or as needed to address these changes and mining/reclamation progress. In less active times, the requests may be submitted less frequently and/or as needed.

- The mining and mineral processing of the placer spoils and placer deposits will focus on the previously disturbed and historic tailing deposits from earlier placer mining operations. All mining/excavation/mineral processing will be done within the surveyed boundaries of the two patented mining claims. Any changes in the mining and reclamation that require a modification to any financial assurance, would be addressed through a request for permit modification.

2. *Any changes in the reclamation plan in the original PAP (attached), including any anticipated water discharges in the ore processing process.*

- The reclamation will be fundamentally in accordance with the original PAP but will defer to the Erosion and Reclamation Plan submitted in April 2022 as part of the settlement between W.W. Mining and Production and the MMD, particularly if there are conflicts.

- There will be no water discharge as part of the mining or ore processing. If water is used, it will come from the Village of Orogrande municipal supply and be handled as part of a closed system and recycled as part of the operations. Some water will evaporate in one or two small frac tanks used to decant the tailings, which will allow the water to be reused in the process. Some water would be lost to the retained moisture content of the decanted tailings and sediment. The expected water quantities will be on the order of a few thousand gallons, depending on the level of activity. The water supply is limited and expensive, so water used in the processing work will not be wasted. The sediment or tailings that would be collected and removed from the tanks will be allowed to dry out and the dried material salvaged and integrated in the regrading and reclamation efforts. The details of this work would need to be tailored to the specific conditions at the time, but this work would all be completed within the specified design limit of the permit. Stormwater management, including run-on and run-off from the mining and mineral processing areas will be managed using best management practices, specifically berms and/or silt fences. Additional controls may be needed if mining in or near the active channel of the arroyo.

3. *Set revegetation standards in the permit. When we go out in August, we can try to identify a reference area out there and incorporate that into the permit modification.*

- W.W. Mining and Production concurs and will work with MMD to identify a suitable reference area.

As a final note, the permit will need to be renewed by January 2030 (it's current expiration date). These “minimal impact new” permits have odd permit terms, governed by 19.10.6.607.B. NMAC (max term of 20 years with 10 year renewals). Sorry, I know this is just another cog in the paperwork machine, but I thought it may be useful for you and Wade to know about.

- W.W. Mining and Production will renew the permit by January 2030 prior to its expiration, unless plans change and, if so, the permit will be terminated in accordance with Mining Act Rules and

Regulations and a termination report submitted by W.W. Mining and Production.

I know this may not be everything you need at this point, so please let me know if you have additional questions. I wanted to get you this so not to delay progress on the modification.

Regards,

Bob

Bob Newcomer, RG, CPG
Mining and Water Resources Consultant
Toltec Mesa Resources LLC
7823 Quintana Dr. NE
Albuquerque, NM 87109
(505) 238-4770

On Wed, Jul 13, 2022 at 4:04 PM Rose, Carmen, EMNRD <Carmen.Rose@state.nm.us> wrote:

Bob,

Wow, thanks for being so timely with all of this! I just sent the settlement agreement for Wade to sign at his convenience.

The draft application looks great, thank you for making my job so easy. A couple of things I will need to see in the modification request:

1. A detailed map of the design limit and total anticipated disturbance acreage. Ideally this would be the 20-year design limit plan, but I understand there may be modifications and changes in the FA over the course of those 20 years.
2. Any changes in the reclamation plan in the original PAP (attached), including any anticipated water discharges in the ore processing process.
3. Set revegetation standards in the permit. When we go out in August we can try to identify a reference area out there and incorporate that into the permit modification.

As a final note, the permit will need to be renewed by January 2030 (it's current expiration date). These "minimal impact new" permits have odd permit terms, governed by 19.10.6.607.B. NMAC (max term of 20 years with 10 year renewals). Sorry, I know this is just another cog in the paperwork machine, but I thought it may be useful for you and Wade to know about.

Thank you,

Carmen

From: Robert Newcomer <newcomer.b.tmr@gmail.com>
Sent: Wednesday, July 13, 2022 1:16 PM
To: Rose, Carmen, EMNRD <Carmen.Rose@state.nm.us>
Subject: Re: [EXTERNAL] Re: Orogrande Permit No. OT005MN DRAFT amended settlement agreement

Hi Carmen,

Attached is a draft of what I have so far for a permit modification request. As you can see, I was going to reference the amendment. I'd appreciate your thoughts and if this is what you were expecting or if something additional was needed.

Thanks,

Bob

Bob Newcomer, RG, CPG
Mining and Water Resources Consultant
Toltec Mesa Resources LLC
7823 Quintana Dr. NE
Albuquerque, NM 87109
(505) 238-4770

On Wed, Jul 13, 2022 at 7:12 AM Rose, Carmen, EMNRD <Carmen.Rose@state.nm.us> wrote:

Bob,

Sorry for not getting back to you sooner. I finalized the settlement agreement, but our attorney is looking it over one last time. He may need to reach out to Wade's attorney just to have all the bases covered, but not sure yet. If you'd like to go ahead and submit the application, that's probably a good idea. Better to get started on it ASAP so Wade doesn't have to wait on permitting processes to get started this fall.

Thanks,

Carmen

From: Robert Newcomer <newcomer.b.tmr@gmail.com>
Sent: Wednesday, July 13, 2022 6:46 AM
To: Rose, Carmen, EMNRD <Carmen.Rose@state.nm.us>
Subject: [EXTERNAL] Re: Orogrande Permit No. OT005MN DRAFT amended settlement agreement

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Carmen,

Touching base. I've drafted a request for modification. I assumed we'd wait to finalize when the amendment was executed. Do you need anything else from us at this time?

I also wanted to look at calendars for our anticipated trip in August. I have potential conflicts the entire week of the 22nd and the weekend of the 4 to 6th. Other than that, clear at the moment.

Best,

Bob

Bob Newcomer, RG, CPG
Mining and Water Resources Consultant
Toltec Mesa Resources LLC
7823 Quintana Dr. NE
Albuquerque, NM 87109
(505) 238-4770

On Sat, Jul 9, 2022 at 6:58 AM Robert Newcomer <newcomer.b.tmr@gmail.com> wrote:

Hi Carmen,

Your proposed modifications are fine. Please make these changes and finalize. We can execute it and get started on the application to modify the permit.

Thanks,

Bob

Bob Newcomer, RG, CPG

Mining and Water Resources Consultant

Toltec Mesa Resources LLC

7823 Quintana Dr. NE

Albuquerque, NM 87109

(505) 238-4770

On Wed, Jul 6, 2022 at 5:18 PM Rose, Carmen, EMNRD <Carmen.Rose@state.nm.us> wrote:

Bob and Wade,

In order to facilitate future permitting activities and mining at the Orogrande Mine, we've made some suggested edits in redline strikeout to the settlement agreement (attached). Please review them and let us know if you have any questions or concerns. If all looks good to you, we can send you a final copy for your signature.

Thank you,

Carmen Rose

Sr. Reclamation Specialist

Mining and Minerals Division

Mining Act Reclamation Program

1220 S. St. Francis Drive

Santa Fe, NM 87505

(505) 216-8399

Schedule: Mon - Thurs, 7a - 5p



Figure 1. Map of proposed Permit Area - Orogrande Gold Placer Minimal Impact Mining Operation OT005MN