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MINING & MINERALS DIVISION

**PERMIT MODIFICATION 22-1 TO PERMIT NO. LU009RE
DEMING MILL AND TAILING IMPOUNDMENT
EXISTING MINING OPERATION**

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

Permit Modification 22-1 to Permit No. LU009RE is issued by the Director of the Mining and Minerals Division (“MMD”) of the New Mexico Energy, Minerals and Natural Resources Department to:

Geo Southwest, LP
PO Box 353
Silverton, TX 79257

(Permittee) for the Deming Mill and Tailings Impoundment located in Luna County, New Mexico.

This Permit Modification partially releases financial assurance (FA) requirements for part of the site. Specifically, the Permittee requested release of the reclaimed main tailing impoundment, located north of the Mimbres River without any changes to the amount of FA. Permit No. LU009RE holds a Deed of Trust (July 16, 2019) FA collateral instrument in the amount of \$254,056.21 for reclamation at the mill site, borrow area and additional tailing acreage south of the main tailing impoundment and Mimbres River. The partial release was requested in a letter from the Permittee, dated April 11, 2022.

Figure 1 shows the location and approximate boundaries of the main tailing impoundment.

The Tailing facility did not meet prior reclamation requirements as documented in MMD letter dated July 27, 1999, and MMD required permitting of the Tailings Facility. Prior to bankruptcy, ASARCO did not complete the process of revising permit No. LU009RE to include the Tailing Facility, which was reclaimed in 2008. The NMED Voluntary Remediation Program (“VRP”) issued a conditional certificate of completion on February 6, 2009, for VRP site number No. 53043001 for windblown tailing site 2. On behalf of the ASARCO Multi-State Environmental Custodial Trust, ENVIRON constructed placed riprap on eroded slopes and completed a small-scale seeding event as a corrective action on May 19, 2012.

The following sections of Permit No. LU009RE are added or revised to read as follows:

Section 1 (22-1) STATUTES AND REGULATIONS

- A. This Permit is issued pursuant to the New Mexico Mining Act, NMSA 1978, §69-36-1, et seq. as amended.
- B. This permit is subject to all applicable regulations of the New Mexico Mining Act (“Act”), New Mexico Mining Act Rules (19.10.1 New Mexico Administrative Code [“NMAC”])

through 19.10.14 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 (22-1) PERMIT MODIFICATION PACKAGE

- A. The Permit Modification Package (“22-1 PMP”) is comprised of the following documents:
- 1) Request for Modification to Permit No. LU009RE, dated April 11, 2022, identifying the 77.267-acre reclaimed tailings area for partial FA release.
 - 2) Application fee of \$1,000 dated April 11, 2022, from Geo Southwest, LP., to MMD.
 - 3) Public Notice was provided with application, while the proof of public notice was provided on July 12, 2022.
 - 4) MMD sent notification of inspection and evaluation of Modification 21-1 to New Mexico Environment Department (NMED), Office of the State Engineer and Game & Fish (NMGF) on July 18, 2022.
 - 5) MMD report of site inspection conducted on August 4, 2022.
 - 6) 2021, 2020 and 2019 Reports of Vegetation Success Monitoring for Deming Mill Tailing Impoundment prepared High Desert Native Plants LLC provided on December 16, 2021, May 24, 2021 and May 25, 2021, respectively.
 - 7) Modification 20-1 set vegetation success criteria approved on September 23, 2021.
 - 8) February 15, 2022 MMD letter regarding review of vegetation success reports and suggestions for african rue management. MMD determined that vegetation success criteria of Modification 20-1 had been met by GeoSW and the tailing impoundment.
 - 9) On August 15, 2022, NMED and NMGF emailed similar comments Modification 22-1 by supporting the partial release while expressing concern about the management of african rue because of its classification of a Class B noxious weed, which is potentially harmful to livestock and wildlife as well as being toxic to soil and other plants.
 - 10) On October 4, 2022, MMD contacted the NRCS Deming, and they referred MMD to USDA cooperative extension service for Luna County. MMD provided USDA contact information and African rue management to the Permittee on October 25, 2022.

Section 3 (22-1) **FINDINGS OF FACT**

- 1) The Permittee has paid the permit modification fee of \$1,000.00 as required by 19.10.2.201 NMAC with check dated April 11, 2022.
- 2) Pursuant to 19.10.5.505(B) NMAC, the proposed change does not require public notice nor the opportunity for public hearing. However, pursuant to 19.10.12.1210.A(3) public notice was published and parties notified. Proof of notice was provided in accordance with 19.10.9.902 and 19.10.9.903 NMAC. No public comments and no requests for public hearing were received. No public hearing was held.
- 3) Pursuant to 19.10.5.505(B)(1) NMAC, the proposed changes would not have a significant environmental impact.
- 4) Pursuant to 19.10.5.505(B)(1)(b) NMAC, the proposed changes would not result in a significant increase in the amount of financial assurance cognizable as a significant environmental impact.
- 5) Pursuant to 19.10.5.505(B)(2) NMAC, the application was accompanied by sufficient information for the Director to determine whether any of the factors listed in 19.10.5.505(B)(1) NMAC are present.
- 6) Pursuant to 19.10.5.505(B)(3) NMAC and 19.10.12.1210.A(4), the Director consulted with New Mexico Environment Department (NMED), New Mexico Office of the State Engineer and New Mexico Game & Fish (NMGF).
- 7) Pursuant to 19.10.5.505(C) NMAC and 19.10.12.1210 NMAC, 22-1 PMP and release application were in a format acceptable to the Director. The 22-1 PMP has been reviewed in accordance with 19.10.5.505 NMAC and the release application in accordance with 19.10.12.1210 NMAC. The 22-1 PMP and release application are complete, accurate, and complies with the requirements for permit modifications under 19.10.5.505 NMAC and 19.10.12.1210 NMAC.
- 8) Pursuant to 19.10.12.1210.B NMAC, the August 4, 2022 inspection observed good plant establishment and no erosion. The only issue was the observation of a few dozen african rue (*Peganum harmala*) plants cover less than one acre on the main tailing impoundment.
- 9) Pursuant to 19.10.12.1210.D and E NMAC, the entire main tailing impoundment is released from financial assurance obligation as a partial release under LU009RE, and no

FA instruments change because of this partial release because MMD does not hold FA for the main tailing impoundment after the surety company's management of the FA instrument following the ASARCO bankruptcy, multi-state trust and VRP funding of the reclamation.

- 10) Pursuant to 19.10.12 NMAC, GeoSW provides FA for the mill site and remainder of the site, including the mill, borrow areas, roads and tailing south of the main tailing impoundment and tailing south of the Mimbres River.

Section 10 (22-1) CONCLUSIONS OF LAW

- A. The 22-1 PMP and release application are complete, accurate, and complies with the requirements in the Act and 19.10.5.505 and 19.10.12.1210 NMAC, respectively.

All other provisions, modifications, and revisions for mining and reclamation contained in the Deming Mill and Tailing Permit No. LU009RE and Closeout Plan, remain unchanged.

CERTIFICATION

I certify that I have read, understand and will comply with the requirements of the Permit. I also agree to comply with the performance and reclamation standards and requirements of the permit, the Rules, and the Act, and allow the Director to enter the permit area without delay for the purpose of conducting inspections during mining and reclamation.



Authorized Representative of the Permittee

Gerald SMITH, President
Metal Southwest, LLC
General Partner

Title

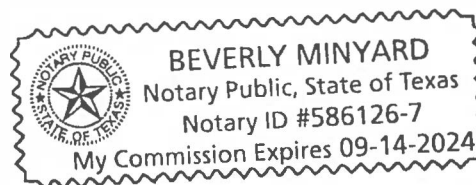
Geo Southwest, Ltd.
Company

Subscribed and sworn to before me this 26 day of October, 2022


Notary Public

My Commission Expires

9-14, 2024



ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that Permit Modification 22-1 of Permit No. LU009RE GeoSW Deming Mill and Tailing, located in Luna County, New Mexico. The approval partially releases the permitted facility's FA requirement by release of the entire main tailing impoundment and releases only the main tailing impoundment from the requirements of the New Mexico Mining Act. The Permit may not be transferred without approval by the Director. The Permit is subject to all conditions set out in the Director's Findings of Fact, General Obligations and Conditions, and Order.

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

Mining and Minerals Division

BY:



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

DATED: 11/1/2022

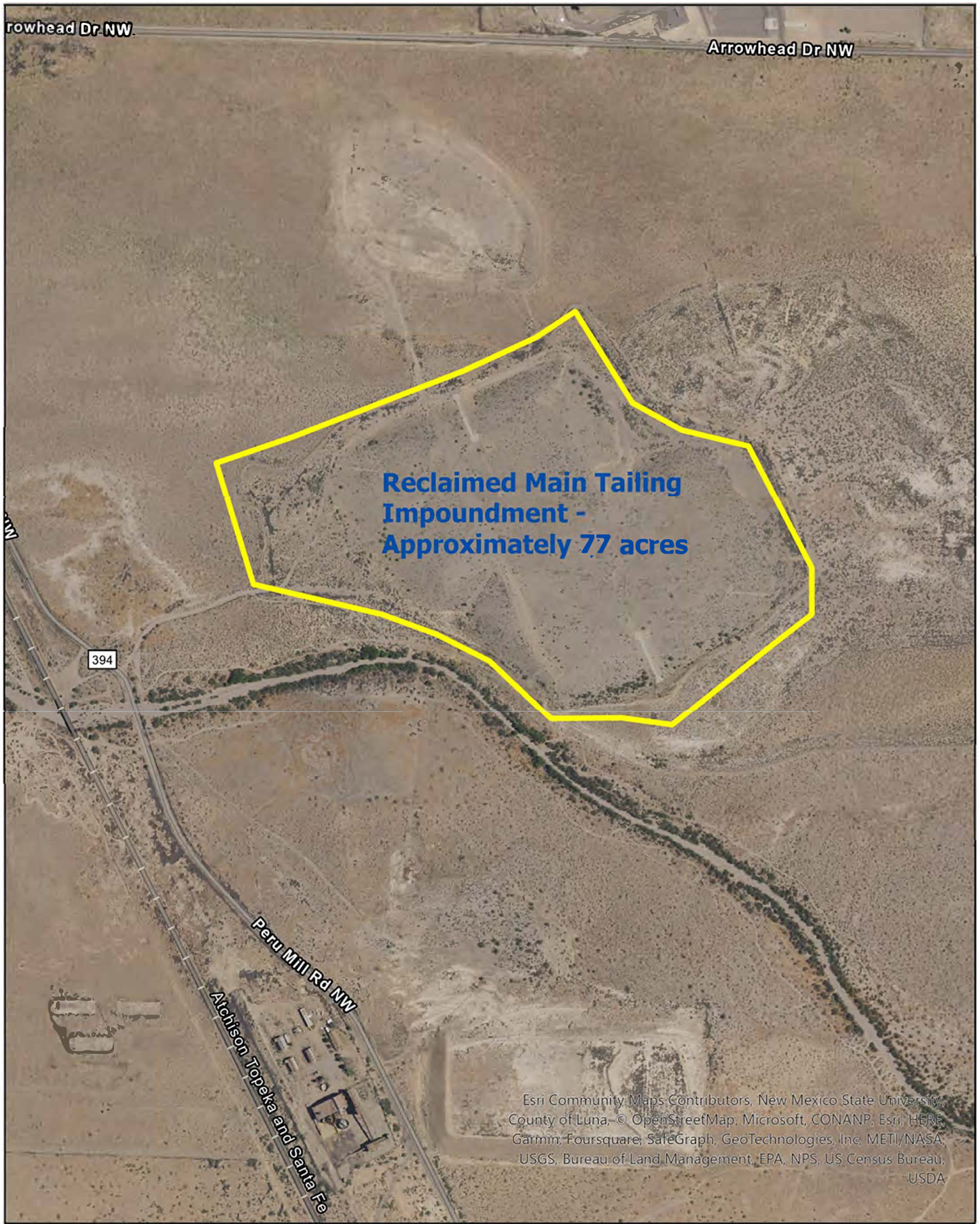


Figure 1 Tailing Facility Partial FA Release
LU009RE GeoSW (formerly ASARCO)
Deming Mill & Tailing

Orthomimagery 2020 base map

