

**PERMIT MODIFICATION 20-1 TO PERMIT NO. SA001RE
EL CAJETE MINE
EXISTING MINING OPERATION**

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

Permit Modification 20-1 (“Modification 20-1”) to Permit No. SA001RE (“the 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, NM 87532

(“Permittee”) for the El Cajete Mine, which includes the two separate El Cajete and Las Conchas Units located in Sandoval County, New Mexico.

This Modification 20-1:

1. Releases the Las Conchas Unit from the requirements of the New Mexico Mining Act. The only remaining unit for this Modification 20-1 is the El Cajete Unit, subject to the conditions of the Permit and this Modification 20-1; and
2. Releases financial assurance (“FA”) in the form of a jointly held Surety Bond No. DVIFSU0719090 in the amount of \$12,103.00 for the Las Conchas Unit pursuant to the approved closeout plan. All financial assurance held for the El Cajete Unit, held in the form of a jointly held Surety Bond No. DVIFSO0719089 in the amount of \$78,747.00 will remain unchanged.

In order to accomplish the approval contemplated by this Modification 20-1, the following subparagraphs are added to the Permit:

Section 1 (20-1).

STATUTES AND REGULATIONS

- A. This Modification 20-1 is issued pursuant to the New Mexico Mining Act, NMSA 1978, §69-36-1, et seq. (1993, as amended through 2019) (“the Mining Act”) and New Mexico Mining Act Rules, Title 19, Chapter 10 (“the Mining Act Rules”) of the New Mexico Administrative Code (“NMAC”).
- B. The El Cajete Mine is and continues to be permitted as an Existing Mine under 19.10.5 NMAC.
- C. This Modification 20-1 is subject to the Mining Act, the Mining Act 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 (20-1).

PERMIT MODIFICATION PACKAGE

The permit application package for Modification 20-1 (“20-1 PMP”) consists of:

- A. A written request from the Permittee requesting release of the Las Conchas Unit of the El Cajete Mine from the requirements of the Mining Act and associated FA titled *Closeout Plan Completion Report, Las Conchas Unit of the El Cajete Mine, Permit NO. SA001RE*, received via electronic mail (“e-mail”) on September 11, 2020.
- B. Proof of Public Notice received via e-mail on September 29, 2020, including the affidavits of publication of the public notice in Spanish and English from the Journal North, photographs of public locations where the public notice was posted, and certified mail receipts.
- C. The Modification 20-1 fee in the amount of \$1,000 received in the mail on September 30, 2020, along with the original Permit Modification request and proof of public notice.
- D. An e-mail from the Permittee on May 20, 2021 summarizing the field inspection for the Modification 20-1 on May 18, 2021, including the Las Conchas Gully Reclamation Work Plan and Summary of Work for the repairs at Las Conchas completed in Spring 2019.
- E. An e-mail submittal from the Permittee on July 8, 2021 providing the Gully Reclamation Plan for the active erosion features at El Cajete.
- F. An e-mail from the Permittee on October 6, 2021 with a description of the work completed at the Las Conchas Unit and the Reclamation Project Summary for the Las Conchas erosion feature.
- G. Two Surety Bond Riders for Surety Bonds No. DVIFSU0719090 and No. DVIFSO0719089 received in the mail on September 7, 2022, changing the name of the Insurance Company.

Section 2 (20-1).

PERMIT AREA

The Permittee is authorized to conduct reclamation activities only on those lands specifically designated and authorized as the permit area. The permit area is located in the S. ½ of Section 5, T18N, R4E, in Sandoval County, New Mexico (NMPM), and is delineated in Appendix A. The only remaining unit for this Modification 20-1 is the El Cajete Unit, as this Modification 20-1 releases the Las Conchas Unit from the requirements of the Mining Act.

Section 3 (20-1).

FINDINGS OF FACT

Permit Modification Package

- A. The 20-1 PMP is complete and demonstrates that the proposed operation will meet the performance and reclamation standards and requirements of §19.10.5.507.A NMAC.

- B. The \$1,000.00 modification application fee was received on September 30, 2020, pursuant to §19.10.2.201.H NMAC.
- C. Pursuant to §19.10.5.505.B(1) NMAC, the Director has determined that the 20-1 PMP will not have a significant environmental impact.
- D. Pursuant to §19.10.5.505.B(2) NMAC, the 20-1 PMP was accompanied by sufficient information for the Director to determine whether any of the factors listed in §19.10.5.505 NMAC are present.
- E. Pursuant to §19.10.5.505.C NMAC, the 20-1 PMP was in a format acceptable to the Director.
- F. The areas to be released under this Modification 20-1 have met the Post-Mining Land Use (“PMLU”) criteria of recreation, wildlife habitat, and livestock grazing.
- G. The jointly held Surety Bond No. DVIFSO0719089 and Surety Bond Rider for the El Cajete Unit in the amount of \$78,747.00 will remain held by MMD and the USDA Forest Service to cover reclamation costs associated with the El Cajete Unit.

MMD’s Request for Comments to the Agencies and Tribes

- H. Pursuant to §19.10.5.505.B(3) NMAC and §19.10.12.1210.A(4) NMAC, the Director has provided notice to and consulted with the appropriate agencies on the 20-1 PMP.
- I. MMD provided notification of the 20-1 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.
- J. A virtual tribal consultation between MMD and the Santa Clara Pueblo was performed on October 28, 2020, at the request of the Santa Clara Pueblo.
- K. MMD received notification from the USDA Forest Service on October 20, 2022 that the reclamation work was inspected and all work completed on the Las Conchas Unit was considered to be adequate.
- L. MMD performed a tribal consultation at Las Conchas with the Permittee and members of the Zia Pueblo on January 12, 2023, at the request of Zia Pueblo. Zia Pueblo had no concerns with releasing the Las Conchas Unit from the requirements of the Act and all associated FA.

Release of Financial Assurance

- M. The Permittee has filed an application for release of financial assurance, pursuant to §19.10.12.1210.A NMAC.
- N. The Permittee has described the reclamation and closeout measures completed, and the 20-1 PMP contains an estimate of the cost of reclamation that has not been completed, pursuant §19.10.12.1210.A(2) NMAC.
- O. The Permittee has provided proof that the public notice of the 20-1 PMP has been provided in accordance with §19.10.9.902 NMAC, §19.10.9.903 NMAC, and §19.10.12.1210.A(3) NMAC.
- P. The Director conducted inspections of the site with the Permittee, other state agencies, and the surface estate owner, the USDA Forest Service, on May 18, 2021 and September 19, 2022, in accordance with §19.10.12.1210.B NMAC.
- Q. The Director is satisfied that the reclamation on the Las Conchas Unit covered by the financial assurance to be released has been accomplished in accordance with the New Mexico Mining Act, the Mining Act Rules, and the Permit, pursuant to §19.10.12.1210.E NMAC.
- R. The jointly held Surety Bond No. DVIFSU0719090 and Surety Bond Rider for the Las Conchas Unit in the amount of \$12,103.00, issued by the Harco National Insurance Company, is hereby released in accordance with §19.10.12.1210 NMAC.

Section 4 (20-1). COMPLIANCE REQUIREMENTS

- A. The Permittee shall conduct reclamation operations only as described in the approved 20-1 PMP, this Permit or any revisions or modifications approved by the Director, as required by §19.20.5.505 NMAC.
- B. This Modification 20-1 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 Modification 20-1. MMD does not, by issuing this Modification 20-1 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.
- C. The Permittee shall obtain and maintain all environmental permits required for the permit area, including, but not limited to, the Mine Plan of Operations submitted to the USDA Forest Service.

Section 5 (20-1). **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:

- A. To enter upon, or through, any reclamation operation at any time, as provided for in §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
- B. 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 the Permit.

Section 6 (20-1). **PERMIT COVERAGE / ENVIRONMENTAL COVERAGE**

- A. This Permit shall be binding on any person(s) and/or corporate or business entities conducting reclamation operations under this Permit.
- B. The Permittee shall take all necessary steps to minimize any adverse impact to the environment or public health and safety resulting from non-compliance with any term or condition of the Permit, the Rules, or the Act.
- C. The Permittee shall maintain this Permit until reclamation is complete at the site.

Water Rights

- D. This Permit does not grant or create any water rights. Nor does MMD, by approving 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.

Surface and Mineral Rights

- E. The Permit does not grant or create any property rights. Nor does MMD, by issuing this Permit 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 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.

Cultural Resources

- F. The Permittee shall comply with all state and federal requirements and standards as applicable, including without limitation any applicable requirements of the Cultural

Properties Act, NMSA 1978, Section 18-6-1 to 27 and the regulations promulgated pursuant thereto.

Section 8 (20-1). GENERAL OBLIGATIONS AND CONDITIONS

The conditions specified in this Modification 20-1 are required to mitigate the disturbance within the permit area and to ensure stabilization of the permit area and minimize future impacts to the environment and protect air and water resources in accordance with §19.10.7.R.(1) NMAC. The conditions specified in this Modification 20-1 are necessary to reclaim the permit area to the conditions that allow for establishment of a self-sustaining ecosystem.

Reclamation Requirements

- A. All lands disturbed by the mining operation shall be addressed under the performance reclamation standards and requirements described and referenced in §19.10.5.507.A 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 permit area shall be assessed by the Permittee and 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 PMLU for the entire permit area shall be recreation, wildlife habitat, and livestock grazing.
- F. 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.

- G. 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”)

- H. The Permittee will implement BMPs in a manner that prevents direct impacts to surface water and ephemeral, intermittent, and perennial water courses. The Permittee will implement erosion control measures that are designed, constructed, and maintained using professionally recognized standards. As demonstrated by previous attempts to control erosion in the permit area, rock armoring will be required on any erosion feature to develop within the permit area.
- I. The Permittee shall visually inspect reclaimed lands for signs of significant erosion and shall mitigate significant erosion features to prevent further degradation of the site. Erosion control measures that are damaged or ineffective shall be repaired or re-designed as necessary. The Permittee shall notify MMD within seven (7) days of discovering any significant erosion on site and provide a corrective action plan to MMD to address the erosion feature(s) within 30 days of discovery.
- J. The Permittee 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.
- K. 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.
- L. Appropriate spill clean-up materials, such as absorbent pads, must be available on-site at all times during 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

- M. 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

- N. Any changes, modifications or amendments to the approved Permit must be approved by MMD, in writing, prior to implementation.

Annual Report and Fees

- O. 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 new reclaimed areas to MMD in the annual reports.

Reclamation Schedule

- P. 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.
- Q. The Permittee will maintain the permit until all financial assurance is released under §19.10.12 NMAC.

Section 10 (20-1). CONCLUSIONS OF LAW

- A. The Director has jurisdiction over the Permittee and the subject matter of this proceeding.
- B. The 20-1 PMP is complete, accurate, and complies with the requirements of the Mining Act and Sections §19.10.5.502 NMAC and §19.10.1210 NMAC and with conditions described in this Modification 20-1.
- C. The Permittee is permitted pursuant to the Mining Act to conduct reclamation operations in the only remaining unit (El Cajete Unit) upon the condition that the Permittee complies with the requirements of this Order, the Act, the Rules, the Permit, and all modifications and revisions to the Permit.
- D. The Las Conchas Unit is hereby released from the requirements of the Mining Act.
- E. The jointly held Surety Bond No. DVIFSU0719090 in the amount of \$12,103.00, issued by the Harco National Insurance Company, for the Las Conchas Unit is hereby released. All financial assurance held for the El Cajete Unit, held in the form of a jointly held Surety Bond No. DVIFSO0719089 in the amount of \$78,747.00 will remain unchanged.

CERTIFICATION

I certify that I have read, understand, and will comply with the requirements of this Permit, this Permit Revision, 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.

Katherine C. Fishman
Authorized Representative of the Permittee
Katherine C. Fishman

President
Title

The Espanola Mercantile Co. Inc.
Company

Subscribed and sworn to before me this 8th day of February, 2023

[Signature]
Notary
Public

My Commission Expires

June 01, 2025

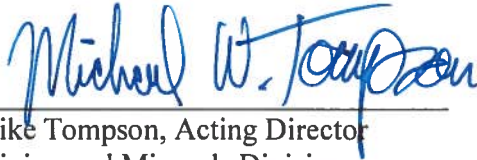
STATE OF NEW MEXICO
NOTARY PUBLIC
REBECCA M. MARTINEZ
Commission Number 1101494
My Commission Expires June 01, 2025

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that Permit Modification 20-1 of Permit No. SA001RE, releasing a partial amount of the financial assurance, is approved. 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.

By:

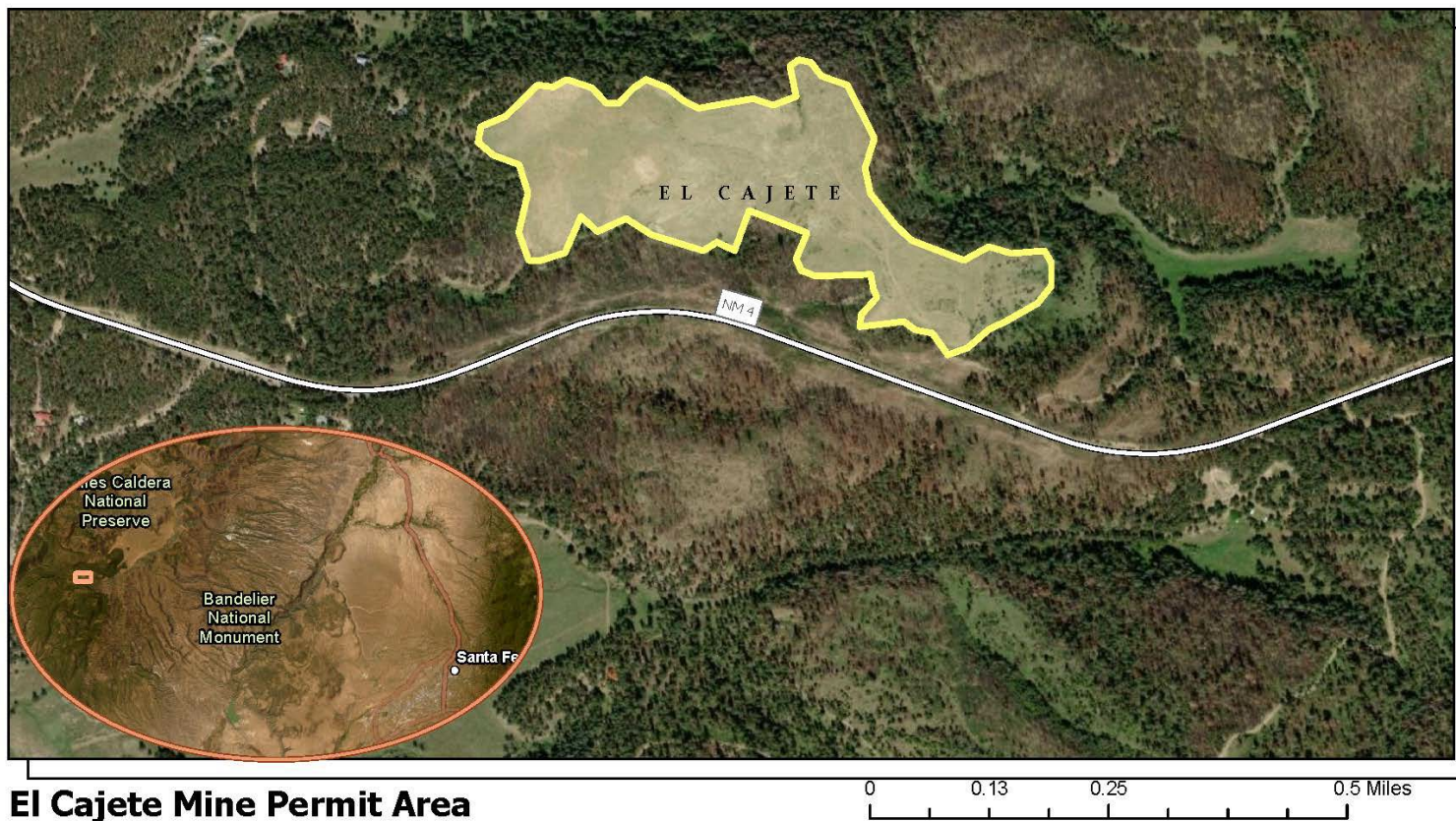


Mike Tompson, Acting Director
Mining and Minerals Division
New Mexico Energy, Minerals and Natural Resources Department

DATED: _____

Feb. 10, 2023

APPENDIX A



El Cajete Mine Permit Area
Permit No. SA001RE
January 11, 2023



Prepared by Carmen Rose
Energy, Minerals and Natural Resources Department
NM Mining and Minerals Division
Mining Act Reclamation Program

Legend

- Roads
- ▭ Permit Area



New Mexico State University, Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, FAO, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, Earthstar Geographics, Esri, HERE, Garmin, IPC, Maxar