

**PERMIT MODIFICATION 22-1 TO PERMIT NO. SF001ME
SAN PEDRO MINE
MINIMAL IMPACT EXISTING MINING OPERATION**

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

This Permit Modification 22-1 (“Modification 22-1”) to Permit No. SF001ME (“Permit”) is issued by the Director of the Mining and Minerals Division (“MMD”) of the New Mexico Energy, Minerals and Natural Resources Department to:

St. Cloud Mining Company
Whose correct address is: P.O. Box 196
Winston, New Mexico 87943

(“Permittee”) for the San Pedro Mine, located in Santa Fe County, New Mexico.

This Modification 22-1 to Permit No. SF001ME adds the following technical revegetation success criteria:

1. A minimum of 32.7% live vegetative ground cover;
2. A minimum shrub density of 200 shrubs per acre;
3. At least one plant species in each of the following life form categories: cool season grass, warm season grass, perennial forb, annual forb, shrub, and sub-shrub; and
4. Noxious weed species within the reclaimed area do not exceed 1% of the live vegetative cover and invasive weed species within the reclaimed area do 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 22-1, the following subparagraphs are added to Permit No. SF001ME:

Section 1 (22-1). STATUTES AND REGULATIONS

- A. Modification 22-1 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 22-1 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 (22-1). PERMIT MODIFICATION PACKAGE

The Modification 22-1 Permit Modification Package (“22-1 PMP”) is comprised of the following documents:

- A. A written request from the Permittee titled *Modification to San Pedro Mine Closeout Plan Permit No. SF001ME*, dated August 17, 2022, and a \$250.00 application fee received by MMD on August 24, 2022, for the modification to set new technical revegetation success criteria.
- B. An electronic mail (“e-mail”) submittal from the Permittee dated August 25, 2022, supplementing the 22-1 PMP with changes to the original proposed vegetation success criteria.
- C. An e-mail submittal from the Permittee dated August 26, 2022, with an updated Revegetation Success Plan reflecting changes discussed in paragraph B, above.
- D. An e-mail submittal from the Permittee dated December 12, 2022, responding to MMD’s request for additional information with an Erosion Mitigation Plan to address unstable erosion features on the south slope of the reclaimed tailings pond.
- E. An e-mail submittal from the Permittee received by MMD on January 10, 2023, providing an update on the status and current principle balance of the Certificate of Deposit No. 3355527072 with Wells Fargo Bank in the amount of \$9,521.52 currently held by MMD.

Section 3 (22-1). FINDINGS OF FACT

The Permit Modification Package

- A. The 22-1 PMP is complete and demonstrates that the proposed operation will meet the performance and reclamation standards and requirements of §19.10.3.303.E (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 22-1 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 §19.10.3.303 NMAC, and does not fall within the exclusions in §19.10.1.7.M(2) NMAC. MMD and the other agencies, pursuant to §19.10.3.303.I NMAC, reviewed the minimal impact designation.
- D. The 22-1 PMP has been reviewed in accordance with §19.10.5.505 NMAC. The 22-1 PMP is complete, accurate, and complies with the requirements for permit modifications under §19.10.5.505 NMAC.

- E. Pursuant to §19.10.5.505.B NMAC, the proposed changes do not require public notice nor the opportunity for a public hearing.
- F. Pursuant to §19.10.5.505.B(1) NMAC, the proposed changes would not have a significant environmental impact.
- G. Pursuant to §19.10.5.505.B(2) NMAC, the 22-1 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.
- H. The approved Post Mining Land Use (“PMLU”) is designated as wildlife habitat for the reclaimed areas, and residential use for existing roads and remaining buildings on site.
- I. The proposed changes, described in the 22-1 PMP and this Permit Modification, will meet the requirements of reclamation, as identified in §19.10.3.303.E(6) and §19.10.1.7.R(1) NMAC. The Permit and the changes described in the 22-1 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 §19.10.5.504 NMAC. In accordance with §19.10.5.504.A NMAC, the Permittee shall maintain this Permit until financial assurance is released under §19.10.12 NMAC.

Agency Comments and Site Inspection

- K. The Director has provided notice of this application to other government agencies deemed appropriate, in accordance with §19.10.5.505.B(3) NMAC.
- L. Agency comments on the 22-1 PMP were received by MMD from the New Mexico Department of Game and Fish and were provided to the Permittee on November 30, 2022.
- M. An inspection and evaluation of the Permit Area was conducted by MMD and the New Mexico Department of Game and Fish personnel on October 3, 2022.

Financial Assurance

- N. The Permittee has provided financial assurance to cover the costs of reclamation as required by §19.10.3.303.K(3) NMAC. The financial assurance instrument is in the form of a Certificate of Deposit No. 3355527072, dated May 21, 2003, in the current amount of \$9,521.52, issued by Wells Fargo Bank, 425 S. Telshor, Las Cruces, NM 88011.

Section 4 (22-1). COMPLIANCE REQUIREMENTS

- A. This Permit Modification 22-1 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 22-1 PMP is ambiguous or in apparent conflict with the provisions outlined in this Permit Modification, the language of this Permit Modification will supersede the 22-1 PMP.

Section 5 (22-1). 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 mining or reclamation operation at any time, as provided for in §19.10.3.303.K(4) 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
- 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 this Permit Modification.

Section 6 (22-1). PERMIT COVERAGE / ENVIRONMENTAL COVERAGE

- A. This Permit shall be binding on any person(s) and/or corporate or business entities conducting mining and 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. 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. 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 7 (22-1). COMPLIANCE WITH THE PERMIT & 22-1 PMP

The Permittee shall conduct mining, exploration and reclamation operations only as described in the approved 22-1 PMP, this Permit Modification, the Permit, and any other modifications approved by the Director, pursuant to §19.10.5.505 NMAC. The Permittee shall comply with the statues 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 8 (22-1). 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 22-1 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 §19.10.3.303 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 reseedling, mulching, grading, and/or application of best management practices (“BMPs”) to prevent erosion and site degradation.
- C. Unstable erosion features have been identified on the southern outslope of the reclaimed tailings pond, and an Erosion Mitigation Plan was submitted to MMD on December 12, 2022. The Erosion Mitigation Plan was conditionally approved by MMD on December 13, 2022.

1. The Permittee shall implement the conditionally approved Erosion Mitigation Plan within 120 days of this Modification 22-1 approval;
 2. The Permittee shall use rock armoring on any erosion features that are head cutting, or are creating a channel below the straw bales and/or wattles that were placed in the past; and
 3. Monitoring and any necessary maintenance of these erosion features will be done on a quarterly basis, and any significant erosion will be reported to MMD within seven (7) days of discovery.
- D. The site 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 areas equals at least 32.7% live vegetative cover;
 2. Shrub density within the reclaimed areas equals at least 200 shrubs per acre;
 3. At least one plant species in each of the following life form categories within the reclaimed areas: cool season grass, warm season grass, perennial forb, annual forb, shrub, and sub-shrub;
 4. Noxious weed species within the reclaimed area do not exceed 1% of the live vegetative cover and invasive weed species within the reclaimed area do 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
 5. No significant erosion is evident on reclaimed areas.
- E. The Permittee shall perform vegetation surveys on the permit area in calendar year 2023 and provide a report of the vegetation survey findings and analysis within 60 days of when the vegetation surveys were performed.
- 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 reseeding activities approved pursuant to this Permit.

Best Management Practices (“BMPs”)

- 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.

Annual Report and Fees

- L. The Permittee shall submit annual reports pursuant to §19.10.6.610 NMAC, and any fees as required by §19.10.2 NMAC.

Reclamation Schedule

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

Section 9 (22-1). 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 existing mine, and the Permittee is authorized to conduct reclamation activities under a minimal impact existing mining operation,

pursuant to §19.10.1.107.M(2) NMAC and §19.10.3.303 NMAC. The San Pedro 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 22-1 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 San Pedro Mine, Permit No. SF001ME, remain unchanged.

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

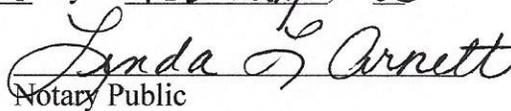
PRESIDENT

Title

ST. CLOUD MINING COMPANY

Company

Subscribed and sworn to before me this 13th day of February, 2023



Notary Public

My Commission Expires

Aug. 2nd, 2025



ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the Director approves Permit Modification 22-1 to the San Pedro Mine – St. Cloud Mining Company, Permit No. SF001ME, located in Santa Fe County, New Mexico.

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

By: Michael W. Tompson
Mike Tompson, Acting Director
Mining and Minerals Division
Energy, Minerals and Natural Resources Department

Date: Feb. 13, 2023