

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Dylan Fuge
Deputy Cabinet Secretary (Acting)

Albert Chang, Director
Mining and Minerals Division



November 17, 2023

Darin Klewsaat, Mining Manager
Miocene, LLC
100 Fillmore Street, Suite 350
Denver, CO 80206

RE: Agency Review Comments and Request for Additional Information, Ojo Encino Mine, McKinley County, New Mexico, Permit Tracking No. MK043MN – Modification 23-1

Dear Mr. Klewsaat,

The New Mexico Mining and Minerals Division (“MMD”) has reviewed the Permit Application Package for Modification 23-1 (“PAP”) submitted by Miocene, LLC, for the Ojo Encino Mine located in McKinley County, New Mexico. In accordance with 19.10.3.302.G NMAC, MMD requested comments on the PAP from cooperating state and federal agencies.

Enclosed with this letter are the reviewing agency comment letters submitted by the following state agencies: the New Mexico Environment Department (“NMED”), the New Mexico Department of Game and Fish (“NMDG&F”), the New Mexico Department of Cultural Affairs - Historic Preservation Division (“NMDCA/HPD”), the New Mexico Energy, Minerals, and Natural Resources Department – Forestry Division (“Forestry”), and the Bureau of Land Management (“BLM”). Additionally, please find general comments from MMD based on review of this application.

General Comments:

MMD has reviewed the PAP and has found it to be *technically complete* contingent on the Permittee’s response to the following comments by reviewing agencies. Please respond to any comments or recommendations in writing within 30 days.

NMED Mining Environmental Compliance Section, Ground Water Quality Bureau Comments (“MECS”)

Please review the comment letter received from NMED MECS Ground Water Quality and respond to any concerns.

NMDG&F Comments:

Please review the comment letter received from NMDG&F and respond to all concerns and recommendations raised.

Forestry Comments:

Please review the comment letter received from Forestry and respond to any concerns.

NMDCA/HPD Comments:

Please review the comment letter received from NMDCA/HPD and respond to any concerns.

If you have any questions, please contact me at (505) 470-5354, or via email at kevin.barnes@emnrd.nm.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kevin Barnes', with a long horizontal flourish extending to the right.

Kevin Barnes, Permit Lead
Mining Act Reclamation Program (“MARF”)

Enclosures: Agency Letters

Cc w/o enclosures: David “DJ” Ennis, Program Manager, MARF/MMD
File (MK043MN)



Electronic Transmission

MEMORANDUM

Date: August 16, 2023

To: David Ennis, Program Manager, Mining Act Reclamation Program

Through: Anne Maurer, Mining Act Team Leader, Mining Environmental Compliance Section (MECS)

From: Amber Rheubottom, MECS
Alan Klatt, Surface Water Quality Bureau (SWQB)
Sufi Mustafa, Air Quality Bureau (AQB)

Subject: **New Mexico Environment Department (NMED) Comments, Ojo Encino Mine, Minimal Impact New Mining Operation, Modification 23-1, Miocene, LLC, McKinley County, New Mexico, New Mexico Mining Act Permit No. MK043MN**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on July 28, 2023 requesting that NMED review and provide comments on the above-referenced MMD permitting action. Pursuant to the Mining Act, the Ojo Encino Mine is a minimal impact new mine. MMD requested comments on the application within 20 days of receipt of the request for comments. NMED requested an extension to submit comments by August 16, 2023. NMED has the following comments.

Background

Miocene, LLC (Applicant) is requesting partial release of financial assurance associated with approximately 6.35 acres of reclamation located in Section 9, Township 19N, Range 5W.

Air Quality Bureau

The Air Quality Bureau has no comments.

Mr. David Ennis
Ojo Encino Mine, MK043MN
August 16, 2023

Surface Water Quality Bureau

The Surface Water Quality Bureau has no comments.

Mining Environmental Compliance Section (MECS)

MECS has no comments.

NMED Summary Comment

NMED has determined that the activities proposed in the application will be protective of the environment.

If you have any questions, please contact Anne Maurer at (505) 660-8878.

cc: Kevin Barnes, Permit Lead, EMNRD-MMD
Joseph Fox, Program Manager, NMED-MECS
Shelly Lemon, Bureau Chief, NMED-SWQB
Elizabeth Bisbey-Kuehn, Bureau Chief, NMED-AQB



DIRECTOR AND SECRETARY
TO THE COMMISSION
Michael B. Sloane

STATE OF NEW MEXICO
DEPARTMENT OF GAME & FISH

One Wildlife Way, Santa Fe, NM 87507

Tel: (505) 476-8000 | Fax: (505) 476-8180

For information call: (888) 248-6866

www.wildlife.state.nm.us

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Santa Fe

29 August 2023

Kevin Barnes, Permit Lead
Mining Act Reclamation Program
Mining and Minerals Division (MMD)
1220 South St. Francis Drive
Santa Fe, NM 87505

RE: Modification 23-1, Ojo Encino Mine, Partial Release of Financial Assurance, McKinley County, New Mexico, Permit No. MK043MN; NMDGF Project No. NMERT-2758.

Dear Mr. Barnes,

The New Mexico Department of Game and Fish (Department) has reviewed the above referenced project. Miocene, LLC (Miocene) is requesting the partial release of financial assurance associated with approximately 6.35 acres of reclamation work performed at the Ojo Encino Mine. Staff from the Department, MMD, and the Operator conducted a site inspection on 24 August 2023.

Department staff observed that the mine site had been backfilled, recontoured to conform with the surrounding habitat, deep-ripped, and seeded. Seeding was done in early August, 2023. The Department does not have any concerns regarding the proposed partial release of financial assurance for the completed reclamation work.

The invasive, non-native, annual weed Russian thistle (*Salsola tragus*) is widespread in the area surrounding the reclamation site and has become the dominant plant species at this site. The Department recommends that Miocene implement an integrated weed management program that includes a commitment to control Russian thistle within the mine permit area.

Thank you for the opportunity to review and comment on the proposed partial release of financial assurance. If you have any questions, please contact Ron Kellermueller, Mining and Energy Habitat Specialist, at (505) 270-6612 or ronald.kellermueller@dgf.nm.gov.

Sincerely,

Matt Wunder, Ph.D.
Chief, Ecological and Environmental Planning Division
cc: USFWS NMES Field Office

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Cabinet Secretary

Laura McCarthy, State Forester
Forestry Division



August 8, 2023

Kevin Barnes
Permit Lead; Mining and Minerals Division
Energy, Minerals and Natural Resources Department (EMNRD)
1220 S. St. Francis Drive
Santa Fe, NM 87505

RE: Request for Comments on Modification 23-1 Application for Ojo Encino, Partial Release of Financial Assurance on 6.35 Acres of Reclamation, McKinley County, New Mexico, Permit No. MK043MN

Thank you for the opportunity to comment on the above referenced project. I do not anticipate any impacts to New Mexico State Listed Endangered Plants or Federally Listed Endangered or Threatened plants as a result of this project, as described in the application.

Please let me know if I can be of further help.

Sincerely,

A handwritten signature in blue ink that reads "Erika Rowe".

Erika Rowe
State Botanist/Endangered Plant Program Coordinator
EMNRD-Forestry Division
1220 S. St. Francis Dr.
Santa Fe, NM 87505
erika.rowe@emnrn.dnm.gov / <http://www.emnrn.dnm.us/SFD/>
cell: (505) 699-6371

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From: [Reycraft, Richard, DCA](#)
To: [Barnes, Kevin, EMNRD](#)
Subject: Log#120258-Ojo Encino Humate Mine - Modification 23-1 - Request for Comment
Date: Monday, August 7, 2023 8:33:57 AM

Good Morning Mr. Barnes,

The State Historic Preservation Office has no comment regarding this permit modification.

Sincerely

Richard Reycraft

Richard. Reycraft, Ph.D.
New Mexico Historic Preservation Division
407 Galisteo Street, Suite 236
Santa Fe, New Mexico 87501
505-827-6162