

State of New Mexico  
Energy, Minerals and Natural Resources Department

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Mining and Minerals Division



November 27, 2024

Mr. Skyler Wildenstein  
Empire Trust, Inc.  
Trustee for Southwest Resources Inc. (SWI)  
4011 Mesa Verde Rd. NE  
Albuquerque, NM 87110

**Agency Response to August 22, 2024 Submittals, Southwest Resources Inc., Section 12 Mine, McKinley Co., NM, Permit Tracking No. MK046RE**

Greetings:

The New Mexico Mining and Minerals Division (MMD) has received submittals from Southwest Resources Inc. dated August 22, 2024. Please see comments regarding each document listed below.

Final Reclamation Plan, dated April 2024

Section 4.2.7.2:

1. What is the plan for radiation surveys post construction of the Covered Waste Consolidation Area (CWCA)? Will this area meet the Ra-226, 5/15 pCi/g rule covered in the *State of New Mexico Radiation Cleanup Criteria* in Section 2 of the *Joint Guidance for the Cleanup and Reclamation of Existing Uranium Mining Operations in New Mexico* (MMD/NMED, 2016).
2. MMD understands the financial constraints of this project and the approval of 1 ft. of cover of the CWCA. With this said, MMD urges SWI to maximize cover of the CWCA to the extent financially possible. A 2 ft. cover system is recommended.

Earthwork Specification (Appendix G) and associated Construction Drawings, dated July 2020

1. No. 2 in Section 2 was left blank
2. There are multiple discrepancies regarding the information found in the Table of Construction Drawings on page 3 of the document and the actual provided Construction Drawings. Please correct these issues to help facilitate the agencies' review of these documents.
3. What were the cancelled items 4 and 5 on Drawing CL06?

Section 12 Mine Revised Cost Estimate

1. Please explain how the Removal Volume Amended CY tab and the Cost Table tab are

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related.

2. What is the actual total amount for this project. It is unclear to the agencies with the two tabs and the various totals at the bottom of the tabs.

Draft Settlement Agreement, dated April 26, 2024

1. Please see the attached redline-strikeout version of this document.

MMD would like to set up a meeting prior to the submittal of final documents for this project. Please respond with your availability in the month of December. Should you have any questions, comments, or require additional information concerning this letter, please contact me at (505) 467-9589, or via email at: [clinton.chisler@emnrd.nm.gov](mailto:clinton.chisler@emnrd.nm.gov).

Sincerely,



Clint Chisler, Permit Lead  
Mining Act Reclamation Program (MARF)  
New Mexico Mining and Minerals Division

cc: Gabriel Wade, Mining and Minerals Division Counsel  
Amber Rheubottom, Mining Act Team Leader, NMED

Mine File (MK046RE)



## Environment Department Internal Memorandum

DATE: November 6, 2024  
TO: Amber Rheubottom, Mining Environmental Compliance Section, GWQB  
FROM: Alan Klatt, Watershed Protection Section, SWQB  
SUBJECT: **Request for Review and Comment, Section 12 Mine, Existing Mine, McKinley County, New Mexico, Mining Act Permit No. MK046RE.**

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On September 17, 2024 the Surface Water Quality Bureau (SWQB) received a request for comments from the Ground Water Quality Bureau (GWQB) regarding the Section 12 Mine to review the following documents submitted to the Mining and Minerals Department (MMD) under Mining Act Permit MK046RE:

- Earthwork Specification Rev. 1 0424
- Reclamation Plan Rev. 2 0424
- Sect. 12 Mine Revised Cost Estimate
- 2024 Reclamation Plan and Earthwork Specification
- 2024 Construction Drawings Combined

### SWQB Comment 1: Turbidity Controls

The *2024 Construction Drawings Combined* locates clay borrow areas within Ambrosia Lake. This is a change from the *2022-10-26 Excavation Plan* which eliminated the excavation of clay from the lake basin. The Mineral and Mining Division's (MMD) *2021 Conditional Approval for Final Reclamation Plan* only allows clay to be removed from areas where contaminated waste rock is also being removed. Excavation activities within Ambrosia Lake must apply all practicable turbidity techniques (20.6.4.13.J New Mexico Administrative Code). The *2024 Reclamation Plan* should identify which turbidity control techniques will be implemented during excavation to minimize potential impacts to water quality in Ambrosia Lake. Potential turbidity control techniques include, but are not limited to, scheduling excavation activities when the lake is dry, minimizing the excavation area to only those areas that are necessary for the removal of waste rock, installing non-erodible coffer dams around excavation areas to control turbidity should lake levels rise during excavation, and reclaiming excavation areas immediately after excavation is complete.

### SWQB Comment 2: Revegetation of Ambrosia Lake

SWQB recommends that a specific revegetation plan be developed for Ambrosia Lake – planting Blue Grama and Sideoats Grama may not be appropriate for Ambrosia Lake.

### SWQB Comment 3: Maintenance of Diversion Structures

The *2024 Construction Drawings Combined* notes that an existing diversion berm will be restored to divert runoff around the covered waste consolidation area. A long-term maintenance plan should be considered for the diversion structures. To protect water quality in Ambrosia Lake, the SWQB recommends armoring these diversion structures to improve their function and to reduce the amount of long-term maintenance.

**SWQB Comment 4: NPDES Permitting**

The 2024 Reclamation Plan Rev. 2 says,

There will be no new drainage courses that would convey drainage off-site or trigger actions under the Clean Water Act (CWA) for permitting under Section 404 or NPDES. SRI believes that, because the reclamation of the mine area will produce no pollutants and will be not involve dredging or filling of a waterway, neither of these CWA sections will apply.

The SWQB advises the applicant to contact the U.S. Environmental Protection Agency (USEPA) to determine whether or not the proposed reclamation activity requires permit coverage under Section 402 of the Clean Water Act. Sediment that may result from ground disturbing activities is considered a pollutant (<https://www.epa.gov/npdes/construction-general-permit-cgp-frequent-questions>). The proposed activities may require permit coverage under the National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) and/or the Multi-Sector General Permit (MSGP). The 2022 CGP information is available at <https://www.epa.gov/npdes/2022-construction-general-permit-cgp>; the 2021 MSGP information is available at <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-epas-2021-msgp>. The USEPA CGP contact for New Mexico is Suzanna Perea ([perea.suzanna@epa.gov](mailto:perea.suzanna@epa.gov) or 214-665-7217); the MSGP contact is Nasim Jahan ([jahan.nasim@epa.gov](mailto:jahan.nasim@epa.gov) or 214-665-7522).

For questions related to these comments, please contact Alan Klatt, SWQB, at 505-819-9623.



## Electronic Transmission

### MEMORANDUM

Date: November 22, 2024

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

Through: Amber Rheubottom, Acting Mining Act Coordinator, Mining Environmental Compliance Section (MECS)

From: Alan Klatt and Eliza Martinez, Surface Water Quality Bureau (SWQB)  
Sufi Mustafa, Air Quality Bureau (aqb)  
Yushan Li (MECS)

Subject: **New Mexico Environment Department (NMED) Comments, Section 12, McKinley County, New Mexico, Mining Act Permit No. MK046RE**

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The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) September 12, 2024, requesting that NMED review and provide comments on the above-referenced MMD permitting action. Pursuant to the Mining Act, there is a regular existing mine permit with tracking number MK046RE. MMD requested comments on the application within 60 days of receipt of the request for comments. NMED requested an extension to provide comments on November 22, 2024.

#### **Background**

Southwest Resources Inc. (Applicant/SRI) is requesting approval on a reclamation plan and construction drawings.

#### **Air Quality Bureau**

The AQB comments are attached.

#### **Surface Water Quality Bureau**

The SWQB comments are attached.

#### **Mining Environmental Compliance Section**

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Ground Water Quality Bureau | 1190 Saint Francis Drive, PO Box 5469, Santa Fe, New Mexico 87502-5469

Telephone (505) 827-2900 | [www.env.nm.gov/gwqb/](http://www.env.nm.gov/gwqb/)

MECS comments:

1. NMED recommends SRI to prioritize the cleanup of the most contaminated material on site. NMED recommends SRI place the most contaminated waste rock and soil into the shaft to increase environmental and human health protectiveness, instead of construction debris as proposed.
2. Please provide an explanation of canceled debris pits included in Sheet CL07 and CL08 of the construction drawings. If no debris pits are planned for the project, NMED recommends SRI consolidate construction debris in a designated section of the Covered Waste Consolidation Area (CWCA).
3. Based on the lack of directional information and other map components in construction drawings CL06, CL07 and CL08, NMED is unclear of the location of the diversion berm and drainage swale around the CWCA. At minimum, NMED recommends placing an enforced berm on the west side of the CWCA, to divert stormwater from draining into Ambrosia Lake. A berm that surrounds the entire CWCA is also recommended.
4. Please elaborate on the direction of the 1% slope on top of the CWCA. NMED prefers that the slope to be dipping to the north and or south side, instead of the to the west in the direction of Ambrosia Lake. Universally equal directional drainage is also acceptable.

**NMED Summary Comment**

NMED has determined the proposed activities will be protective of the environment if done in accordance with the approved permits and pollution controls as presented.

If you have any questions, please contact Amber Rheubottom at (505) 660-2379.

cc: Joseph Fox, Program Manager, NMED-MECS  
Yushan Li, NMED-MECS  
Shelly Lemon, Bureau Chief, NMED-SWQB  
Cindy Hollenberg , Acting Bureau Chief, NMED-AQB  
Clint Chisler, EMNRD-MARP



## MEMORANDUM

DATE: November 21, 2024

TO: Amber Rheubottom, Acting Mining Act Team Leader, Mining Environmental Compliance Section, NMED

FROM: Sufi Mustafa, Staff Manager, Air Dispersion Modeling and Emission Inventory Section, Air Quality Bureau.

### **Request for Review and Comment, Section 12 Mine, Existing Mine, McKinley County, New Mexico Mining Act Permit No. MK046RE**

The New Mexico Air Quality Bureau (aqb) has completed its review of the above-mentioned mining project. Pursuant to the New Mexico Mining Act Rules, the aqb provides the following comments.

#### **Details**

This reclamation plan describes the reclamation objectives, the existing conditions, and the reclamation activities, both those already performed and those planned, to satisfy the requirements of the MMD Order and the reclamation objectives.

#### **Air Quality Requirements**

The New Mexico Mining Act of 1993 states that "Nothing in the New Mexico Mining Act shall supersede currherent or future requirements and standards of any other applicable federal or state law." Thus, the applicant is expected to comply with all requirements of federal and state laws pertaining to air quality.

20.2.15 NMAC, *Pumice, Mica and Perlite Processing*. Including 20.2.15.110 NMAC, *Other*

*Particulate Control*: "The owner or operator of pumice, mica or perlite process equipment shall not permit, cause, suffer or allow any material to be handled, transported, stored or disposed of or a building or road to be used, constructed, altered or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne."

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Paragraph (1) of Subsection A of 20.2.72.200 NMAC, *Application for Construction, Modification, NSPS, and NESHAP - Permits and Revisions*, states that air quality permits must be obtained by:

“Any person constructing a stationary source which has a potential emission rate greater than 10 pounds per hour or 25 tons per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard. If the specified threshold in this subsection is exceeded for any one regulated air contaminant, all regulated air contaminants with National or New Mexico Ambient Air Quality Standards emitted are subject to permit review.”

Further, Paragraph (3) of this subsection states that air quality permits must be obtained by:

“Any person constructing or modifying any source or installing any equipment which is subject to 20.2.77 NMAC, *New Source Performance Standards*, 20.2.78 NMAC, *Emission Standards for Hazardous Air Pollutants*, or any other New Mexico Air Quality Control Regulation which contains emission limitations for any regulated air contaminant.”

Also, Paragraph (1) of Subsection A of 20.2.73.200 NMAC, *Notice of Intent*, states that:

“Any owner or operator intending to construct a new stationary source which has a potential emission rate greater than 10 tons per year of any regulated air contaminant or 1 ton per year of lead shall file a notice of intent with the department.”

The above is not intended to be an exhaustive list of all requirements that could apply. The applicant should be aware that this evaluation does not supersede the requirements of any current federal or state air quality requirement.

**Fugitive Dust**

Air emissions from this project should be evaluated to determine if an air quality permit is required pursuant to 20.2.72.200.A NMAC (e.g. 10 lb/hour or 25 TPY). Fugitive dust is a common problem at mining sites and this project will temporarily impact air quality as a result of these emissions. However, with the appropriate dust control measures in place, the increased levels should be minimal. Disturbed surface areas, within and adjacent to the project area, should be reclaimed to avoid long-term problems with erosion and fugitive dust. EPA’s *Compilation of Air Pollutant Emission Factors, AP-42, “Miscellaneous Sources”* lists a variety of control strategies that can be included in a comprehensive facility dust control plan. A few possible control strategies are listed below:



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Paved roads: covering of loads in trucks to eliminate truck spillage, paving of access areas to sites, vacuum sweeping, water flushing, and broom sweeping and flushing.

Material handling: wind speed reduction and wet suppression, including watering and application of surfactants (wet suppression should not confound track out problems).

Bulldozing: wet suppression of materials to “optimum moisture” for compaction.

Scraping: wet suppression of scraper travel routes.

Storage piles: enclosure or covering of piles, application of surfactants.

Miscellaneous fugitive dust sources: watering, application of surfactants or reduction of surface wind speed with windbreaks or source enclosures.

**Recommendation**

The Air Quality Bureau does not have any objection to this project.

This written evaluation does not supersede the applicability of any forthcoming state or federal regulations.

If you have any questions, please contact me at 505 629 6186.