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STATE OF NEW MEXICO
DEPARTMENT OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION

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July 16, 2020

David J. (DJ) Ennis,
P.G., Permit Lead
Mining Act Reclamation Program (MARF)
Mining and Minerals Division
1220 South Saint Francis Drive
Santa Fe, NM 87505

Re: HPD Log# 113383, Request for Agency Comments, Amended Application for Modification 20-1, Billali Mine, Grant County, New Mexico, Permit No. MKGR058MN

Dear Mr. Ennis:

I am writing in response to your request for comment on the above referenced permit modification received at this office July 13, 2020

Pursuant to 19.10.5.505 NMAC, Permit Modifications and Revisions, the Director shall determine whether a permit modification would have an adverse impact on cultural resources listed on either the National Register of Historic Places or the State Register of Cultural Properties or be located in a known cemetery or other burial ground.

According to our files, there are no cultural resources listed on either the National Register of Historic Places or the State Register of Cultural Properties in the modified permit area. There are also no known cemeteries or other burial grounds. Based on this information, this permit modification will have no adverse impacts to cultural resources listed on the National or State Registers.

Although there are no cultural resources listed on either the National Register of Historic Places or the State Register of Cultural Properties, the expanded portions of the permit area have never been archeologically surveyed. Therefore, this office recommends that a cultural resources survey be conducted on any undisturbed portions of mine property that have not been previously surveyed and where proposed new ground disturbance will occur for this permit modification.

This survey should be performed by a qualified professional to determine if any historic or archaeological properties are present and if so, to provide documentation of those resources to our office. This information can then be used to evaluate the National Register of Historic Places eligibility of any resources identified during the survey and determine project effects on those resources. A list of state permitted archaeologists and archaeological firms are available from this office upon request or can be downloaded from our web site at:

<http://www.nmhistoricpreservation.org/documents/consultants.html>

If you have any questions concerning these comments, please do not hesitate to contact me by phone at (505)-452-6115 or e-mail me at richard.reycraft@state.nm.us

Sincerely,

Richard Reycraft

Richard. Reycraft
Staff Archaeologist



DIRECTOR AND SECRETARY
TO THE COMMISSION
Michael B. Sloane

STATE OF NEW MEXICO
DEPARTMENT OF GAME & FISH

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2 August 2020

David J. (DJ) Ennis, P.G., Permit Lead
Permit Lead, Mining Act Reclamation Program
Mining and Minerals Division (MMD)
1220 South St. Francis Drive
Santa Fe, NM 87505

***RE: Amended Application for Modification 20-1, Billali Mine, Grant County, New Mexico,
Permit No. GR058MN; NMDGF No. NMERT-676.***

Dear Mr. Ennis:

The New Mexico Department of Game and Fish (Department) has reviewed the amended application for Modification 20-1 referenced above. Billali Mine LLC (Billali) is proposing new locations for three percolation ponds for water discharge from the Billali Mine. The Department provides the following comments;

The proposed location of percolation pond A is immediately adjacent to Bitter Creek. In order to minimize any additional excess soil erosion, the Department recommends that Billali maintain a buffer area of native vegetation that is left undisturbed by pond construction activity for at least 150 feet on both sides of Bitter Creek.

Thank you for the opportunity to review and comment on the proposed permit modification. If you have any questions, please contact Ron Kellermueller, Mining and Energy Habitat Specialist at (505) 476-8159 or ronald.kellermueller@state.nm.us.

Sincerely,

Matt Wunder, Ph.D.
Chief, Ecological and Environmental Planning Division

cc: USFWS NMES Field Office



Michelle Lujan Grisham
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**NEW MEXICO
ENVIRONMENT DEPARTMENT**

Ground Water Quality Bureau

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James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

MEMORANDUM

Date: August 10, 2020

To: Holland Shepherd, Program Manager, Mining Act Reclamation Program

Through: Anne Maurer, Mining Environmental Compliance Section

From: George Llewellyn, Mining Environmental Compliance Section
John Moeny, Surface Water Quality Bureau
Rhett Zyla, Air Quality Bureau

Subject: **NMED Comments, Amended Modification 20-1, Billali Mine, Grant County, New Mexico Mining Act Permit No. GR058MN**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on July 13, 2020 requesting NMED review and provide comments on the above-referenced MMD permitting action. The operators of the Billali Mine are requesting to modify Mining Act Permit No. GR058MN. MMD requested comments on the workplan within 20 days of receipt in accordance with Section 19.10.3.304 H. NMAC. NMED requested an extension until August 10, 2020, which was granted on July 27, 2020. NMED has the following comments.

Background

The amended Modification 20-1 application includes a proposal to discharge groundwater pumped from the Billali Mine decline into three water detention ponds designated as Location A, Location B, and a cattle pond. Groundwater pumped from the decline will be conveyed through pipelines to the proposed water detention ponds.

Air Quality Bureau

The Air Quality Bureau comments are attached.

Surface Water Quality Bureau

The Surface Water Quality Bureau comments are attached.

Mining Environmental Compliance Section (MECS)

Mr. Les Billingsley (permittee) submitted an amended Notice of Intent (NOI) to the MECS to reflect the proposed pond locations submitted in the amended Modification 20-1 application. The amended NOI is currently be reviewed and processed.

MECS and SWQB staff performed a site inspection of the proposed water detention pond locations on July 29, 2020. Based on a discussion with the permittee, Location B is no longer being considered. Location A and the cattle pond remain proposed locations for water detention. MECS has the following comments:

1. The Location A pond needs to be sized appropriately based on the estimated discharge from the decline. The operational capacity of the pond should be monitored during pumping to ensure that the pond capacity will not be exceeded in any event including during a storm event unless the permittee has obtained coverage to discharge to a Water of the United States under a National Pollutant Discharge Elimination System (NPDES) permit.
2. Section 9 (14-1).C of the existing Mining Act *Permit Modification 14-1 to Permit No. GR058MN, Billali Mine*, executed on July 18, 2014, requires the permittee to perform semiannual sampling of the water pumped from the Billali Mine during future mine dewatering. This condition should be maintained in the Modification 20-1 permit.

NMED Summary Comment

Based on the site inspection of Location A, an NPDES permit may not be required if there is sufficient capacity in the pond to prevent a discharge to Bitter creek. However, an NPDES permit will need to be obtained prior to any discharge to a water of the United States. Based on the information provided in the amended Modification 20-1 application and the amended NOI, NMED expects to make a no groundwater Discharge Permit (DP) required determination. NMED will copy MMD on the formal response/no DP required determination.

If you have any questions, please contact Kurt Vollbrecht at (505) 827-1095.

cc: David Ennis, Lead Staff, EMNRD-MMD
Kurt Vollbrecht, Program Manager, NMED-MECS
Shelly Lemon, Bureau Chief, NMED-SWQB
Elizabeth Bisbey-Kuehn, Bureau Chief, NMED-AQB



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James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

MEMORANDUM

Date: August 5, 2020

To: Anne Mauer, Mining Act Team Leader (Acting)
Mining Environmental Compliance Section
Ground Water Quality Bureau (GWQB)

From: John Moeny
Watershed Protection Section
Surface Water Quality Bureau (SWQB)

Subject: **Request for Agency Comments, Amended Application for Modification 20-1, Billali Mine, Grant County, New Mexico, Permit No. GR058MN.**

On June 13, 2020, NMED received a request for comments regarding a permit modification for a minimum impact mine located north of Lordsburg in Grant County on private lands.

Summary of Proposed Action

The Billali Mine ("Applicant") proposes to construct a mine dewatering pond to contain and infiltrate pumped mine water from the underground workings at the Billali Mine (Figure 1 below). The pond will be sited approximately 0.5 miles upgradient from the mine on a terrace above Bitter Creek. Proposed dimensions are 200 feet x 75 feet x 10 feet deep resulting in a $\frac{1}{3}$ -acre pond with a volume of 1.12 million gallons. The Applicant anticipates pumping up to 100 gallons per minute for up to 10 days to purge the mine followed by a maintenance level of pumping at 5-20 gallons per minute. Infiltration rates for the pond are unknown, but the site sits on coarse alluvium and is likely to be conducive to rapid infiltration absent any underlying restrictive layer. An existing 0.1-acre livestock watering pond will be filled as needed with mine water from the Billali Mine (Figure 2 below).

Relevant State and Federal Water Quality Regulations

Bitter Creek is an unclassified tributary to the Gila River in Arizona. Intermittent water quality standards under 20.6.4.98 NMAC apply to all unclassified nonperennial waters of the state, including ephemeral drainages in the project area, until a *Hydrology Protocol* survey is conducted and a Use Attainability Analysis is approved by the Water Quality Control Commission in accordance with 20.6.4.15 NMAC.

Placement of fill material into Bitter Creek is likely subject to Clean Water Act (CWA) Section 404 permitting from the U.S. Army Corps of Engineers (Corps). The Corps issues or authorizes Standard

Individual Permits, Nationwide Permits, and the Emergency Regional General Permits for activities such as earth-moving work within wetlands, lakes, and streams (including ephemeral streams or arroyos) that are waters of the United States. If you have questions about activities within watercourses or wetlands that may require coverage under a CWA Section 404 permit, then more information is available on-line from the USACE, Albuquerque District, Regulatory Division at:

<http://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/>.

The U.S. Environmental Protection Agency (EPA) administers the National Pollutant Discharge Elimination System (NPDES) program under Section 402 of the CWA in the State of New Mexico. The Applicant must obtain coverage under coverage under EPA's Multi-Sector General Permit (MSGP) as soon as practicable as described in NMED's "Notice of Deficiency" letter to the Applicant dated April 21, 2020. Since the permit is currently expired, new facilities cannot submit a notice of intent (NOI) for coverage until the 2020 MSGP is finalized and issued by EPA. As of the time of this comment, NMED does not have a projected date for the availability of the 2020 MSGP.

Information regarding NPDES Stormwater Coverage is available at <https://www.epa.gov/npdes/npdes-stormwater-program>. If you have questions related to pollutant discharges to surface water or NPDES permits in the State of New Mexico, please contact Sarah Holcomb, Program Manager, Point Source Regulation Section, NMED-SWQB at (505) 827-2798.

Recommendations to protect surface water quality

Recent water quality samples submitted by the applicant, in addition to NMED sampling in 2013 have shown that the mine water meets all applicable Surface Water Quality Standards. That said, SWQB requests semi-annual monitoring for the following analytes: total dissolved solids (TDS), Sulfate, pH, Al, As, Cd, Cr, Fe, Pb, Mn, Mo, Ni, Se, Ag, and Zn when mine dewatering is occurring.

In addition to the regulations above, the following best management practices are recommended to protect surface water quality.

- Maintain a minimum buffer of at least 10 meters between the Bitter Creek and the pond.
- Fuel, oil, hydraulic fluid, lubricants, and other petrochemicals must have a secondary containment system to prevent spills.

Appropriate spill clean-up materials such as absorbent pads must be available on-site at all times during road construction, site preparations, drilling and reclamation to address potential spills.

Report all spills immediately to the 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) 428-2500. 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 Dept of Public Safety).



Figure 1. Site of proposed infiltration pond. Photo taken August 29, 2020



Figure 2. Existing cattle watering pond. Photo taken August 29, 2020



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MEMORANDUM

DATE: July 24, 2020

TO: Kurt Vollbrecht, Program Manager, Mining Environmental Compliance Section

FROM: Rhett Zyla, Environmental Scientist & Specialist - Air Quality Bureau

RE: Request for Agency Comments, Amended Modification 20-1, Billali Mine, Grant County, New Mexico, Permit No. GR058MN

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.

Air Quality Permitting History

The AQB has not issued any air quality permits for this operation.

Details

The Applicant is requesting an amended modification to permit GR058MN, for the dewatering and discharge/disposal of groundwater from the Billali Mine decline, located in Township 16S Range 21W, Sections 25 & 26.

The original modification request was submitted to MMD, and commented on by AQB, in May 2020. The applicant now proposes new locations for the retention ponds but has not submitted written details delineating the locations as it had originally done.

Air Quality Requirements

The New Mexico Mining Act of 1993 states that "Nothing in the New Mexico Mining Act shall supersede current 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. Current requirements which may be applicable in this mining project include, but are not limited to the following:

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.”

In addition, pursuant to Subsection A of 19.10.3.302 NMAC, *Minimal Impact Exploration Operations*:

“A minimal impact exploration operation will not exceed 1000 cubic yards of excavation per permit. Disturbances for constructed roads, drill pads and mud pits shall be no more than 5 acres total and will not be counted in the excavated materials. The type of road construction, the number and type of drill pads, and other disturbances when considered with site specific conditions will be major factors in determining eligibility for minimal impact status which is in the discretion of the director.”

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:

Unpaved haul roads and traffic areas: paving of permanent and semi-permanent roads, application of surfactant, watering, and traffic controls, such as speed limits and traffic volume restrictions.

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 AQB has no objection to the current request for an amended permit modification.

The applicant is expected to comply with all requirements of federal and state laws pertaining to air quality. 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) 476-4304.