

**PERMIT NO. CI005RE  
TINAJA PIT MINE  
EXISTING MINING OPERATION**

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

Permit No. CI005RE is issued by the Director of the Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department to:

C & E Concrete, Inc.  
PO Box 2547  
Milan, NM 87021

(Permittee) for the Tinaja Pit, located in Cibola County, New Mexico.

This permit approval document incorporates the site assessment, permit application, and closeout plan for the Tinaja Pit Mine. It also includes the new unit expansion of the Tinaja pit area.

**Section 1. STATUTES AND REGULATIONS**

- A. This Permit is issued pursuant to the New Mexico Mining Act, NMSA 1978, §69-36-1, et seq. (1993).
- B. This permit is subject to all applicable requirements of the New Mexico Mining Act (Act), New Mexico Mining Act Rules Title 19, Chapter 10, Parts 1 through 14 NMAC (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 2. PERMIT APPLICATION PACKAGE**

The Permit Application Package (PAP) is comprised of the following Document:

- A. Mine Plan and Permit Application For Tinaja Pit, Cibola County, New Mexico, January 2004

**Section 3. PERMIT AREA AND DESIGN LIMITS**

- A. The permit area encompasses the S 1/2 of Section 33, Township 10 North, Range 13 West, and a portion of the NW 1/4 of Section 4, Township 9 North, Range 13 West, in Cibola County, New Mexico (NMPM). The approved permit area is delineated in the PAP on Figure 2 titled *Permit Area Map Tinaja Pit Cibola County, New Mexico*.
- B. The approved design limits are delineated in the PAP on Figure 3 titled *Mine Plan Map Tinaja Pit Cibola County, New Mexico, Jan. 2004*. The following units, shown on Figure 3 titled *Mine Plan Map Tinaja Pit Cibola County, New Mexico, Jan. 2004*, are approved as existing units:
  - 1) Access Road,
  - 2) Sedimentation Pond,
  - 3) Water Wells,
  - 4) Water Tanks,
  - 5) Petroleum Storage Area
  - 6) Limestone Pulverizer Plant Shop,
  - 7) Warehouse, Scale House,

- 8) Stockpile Areas,
- 9) Wet Plant, and
- 10) Crusher System, Existing Pit

The following units, shown on Figure 3 titled *Mine Plan Map Tinaja Pit Cibola County, New Mexico, Jan. 2004* are approved as new units:

- 1) Storm Water Diversion, and
- 2) New Unit, mine expansion, (40 Year Plan)

**Section 4. FINDINGS OF FACT**

- A. The application contains all of the information required, including a Closeout Plan, as required by §19.10.5.503.F.1 NMAC;
- B. The Permittee has provided written information stating the name and official business address of the applicant as required by §19.10.5.503.F.2 NMAC;
- C. The Permittee has provided the required signature and certification on page 3 of this permit document, as required by §19.10.5.503.F.3 NMAC.
- D. A Permit Application fee in the amount of \$9,585.00 has been paid, as required by §19.10.5.503.F.4 NMAC.
- E. Public notice for the Permit Application was given and a public hearing was held on October 20, 2004, as required by Subpart 9 and §19.10.5.503.F.5 NMAC. Public notice for the Closeout Plan was given and a public hearing was held on October 20, 2004, as required by Subpart 9 and §506J.1 NMAC.
- F. The Permittee has provided satisfactory financial assurance to complete the Closeout Plan in the amount of \$161,514.00 as required by §19.10.5.506.J.2 NMAC. The financial assurance instrument is in the form of an Irrevocable Letter of Credit.
- G. The approved Post-Mining Land Use (PMLU) is industrial/construction aggregate operation.
- H. The Secretary of Environment has provided a written determination, dated March 4, 2004, stating that the Permittee has demonstrated that the activities to be permitted or authorized will be expected to achieve compliance with all applicable air, water quality and other environmental standards if carried out as described in the Closeout Plan, as required by §19.10.5.506.J.5 NMAC.
- I. The applicant has submitted a notarized statement signed by the applicant that he agrees to comply with the performance and reclamation standards and requirements of the permit, Subpart 5 and the Act and allows the Director to enter the permit area without delay for the purpose of conducting inspections during mining and reclamation, as required by §19.10.5.503.F.6 and §19.10.5.507 and §19.10.5.508 (new units) NMAC.

**Section 5. DEFINITIONS**

Whenever any terms defined in the Rules, are used in this Permit, including any documents incorporated herein by reference, those definitions shall apply. In addition, whenever the terms listed below are used in this Permit, including any documents incorporated herein by reference, the following definitions shall apply:

"Cessation of Mining Operations" means any cessation of the mining operation of the Tinaja Pit Mine Facility that is not part of normal mining operations or is due to bankruptcy or abandonment and includes without limitation, the cessation of all facility operations.

"Tinaja Pit Mine Facility" means the permit area and mine units depicted on Figure 3, titled *Mine Plan Map Tinaja Pit Cibola County, New Mexico, Jan. 2004*, of the Permit Application Package.

"Effective Date" means the date of the Director of MMD's Order approving this Permit.

"MMD" means the New Mexico Mining and Minerals Division of the New Mexico Energy, Minerals and Natural Resources Department.

"NMMA" means the New Mexico Mining Act, NMSA 1978, §69-36-1, *et seq.* (1993, as amended).

"Order" means the MMD Director's Order approving the Permit or Permit Revision.

"Permit" means Mining Act Permit, CI005RE, issued to C & E Concrete by MMD

"Reclamation" means the employment during and after a mining operation of measures designed to mitigate the disturbance of affected areas and Permit areas and to the extent practicable, provide for the stabilization of a Permit area following closure that will minimize future impact to the environment from the mining operation and protect air and water resources. This definition shall not supersede the definition as stated in §19.10.1.7.R (1) NMAC.

"Rules" means Title 19, Chapter 10, Parts 1 through 14 NMAC (New Mexico Mining Act Rules), and any amendments thereto.

"Self-Sustaining Ecosystem" means reclaimed land that is self-renewing without augmented seeding, amendments, or other assistance, which is capable of supporting communities of living organisms and their environment. A self-sustaining ecosystem includes hydrologic and nutrient cycles functioning at levels of productivity sufficient to support biological diversity. This definition shall not supersede the definition as stated in §19.10.1.7.S (2) NMAC.

"Standby Status" means the permitted temporary cessation of a mining operation which is expected to resume.

"Temporary Cessation of Mining" means the suspension, with the intent to resume ore and waste excavation/extraction, haulage, and placement of material from an Open Pit, and the suspension, with the intent to resume of ore processing/treatment facilities.

## **Section 6. COMPLIANCE WITH PERMIT AND OTHER REQUIREMENTS**

The Permittee shall conduct mining and reclamation operations only as described in the approved PAP, the Permit, and any revisions or modifications approved by the Director. The Permittee shall comply with the statutes and regulations in Section 1 and with the applicable regulatory and permitting

requirements. The issuance of this permit does not relieve the Permittee from the responsibility of complying with other state and federal requirements and standards.

**Section 7. AGENCY RIGHT OF ENTRY**

The Permittee shall allow the authorized representatives of the Director without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay to:

- A. Enter as provided for in §19.10.5.503.F.6, and §19.10.5.1101.E.1 NMAC; and
- B. Be accompanied by one or more citizens for the purpose of conducting an inspection in accordance with §19.10.5.1210.B NMAC when the inspection is in response to a complete financial assurance release application.

**Section 8. PERMIT COVERAGE**

This Permit shall be binding on any person or persons conducting mining or reclamation operations under this Permit.

**Section 10. CONDITIONS**

This permit is subject to the following conditions:

- A. The Permittee may be subject to enforcement action according to Subpart 11 of the Mining Act Rules for failing to submit any of the following:
  - 1. Annual reports as required by §19.10.5.510 NMAC;
  - 2. Annual fees as required by §19.10.5.202 NMAC, or for any condition, practice or violation that violates the NMMA, the Rules, this Permit, or the Order.
- B. The following conditions are required to ensure that adequate financial assurance is provided for the site, pursuant to §19.10.5.506.J(2), §19.10.12.1202.B, §19.10.12.1204.A, §19.10.12.1206.A, and §19.10.12.1210 NMAC. This financial assurance provided by the operator shall cover all disturbed areas in the permit area and the unconstructed new unit:
  - 1. The Permittee may apply for and obtain release of financial assurance in accordance with §19.10.12.1210 NMAC.
  - 2. The Permittee shall evaluate the adequacy of the financial assurance approved as a part of the Permit every five years, beginning March 2010 or sooner as required by the Director. This evaluation shall be provided to MMD with the annual report due April of the year the evaluation is due. If upon review of the evaluation, MMD determines that a change to the financial assurance amount or form is required; the Permittee shall submit to MMD a request to revise the Permit. The Permittee may request a change to the financial assurance in accordance with §19.10.12 NMAC.
- C. The issuance of this Permit does not relieve the Permittee from the responsibility of complying with other state and federal requirements and standards, including but not limited to obtaining all necessary approvals from the New Mexico Environment Department prior to conducting activities.

- D. Closeout of the Tinaja Pit Mine will be conducted as described in Section 506, titled Closeout Plan, of the Permit Application Package.
- E. The reclamation and operation standards of §19.10.5.508 NMAC, addressing new units, shall apply to the storm water diversion and mine expansion area shown on Figure 3 of the Permit Application Package.
- F. 180 days following cessation of mining operations the Permittee must implement the closeout plan.
- G. If, due to a temporary cessation of mining operations exceeding 180 days, and the Permittee wishes to suspend reclamation, the Permittee shall submit an application for permit revision for standby status pursuant to §19.10.5.505 and §19.10.7.701 NMAC.
- H. The PMLU shall be industrial/construction aggregate operation. The Tinaja Pit Mine Facility is conditionally approved as an industrial PMLU. The approval is granted for a five-year term, to be re-evaluated five years after the approval of the Permit and once every five years thereafter.

In addition, the approval is subject to the following conditions:

1. The Permittee shall not be released from requirements of the New Mexico Mining Act and Rules until the industrial PMLU has been implemented. Implementation shall be demonstrated as follows:
    - a. At closeout the Permittee shall provide to MMD a building inspection certification signed by a professional engineer, that the buildings are in good condition, meet all applicable codes, are structurally sound, meet all zoning requirements, meet local ordinances, and all utilities are operable.
    - b. If soil contamination exists in and around buildings and facilities for industrial use, the Permittee must demonstrate that any required remediation has been completed for these areas to be utilized for the Industrial PMLU.
    - c. The Permittee shall demonstrate that it, or another entity, has entered into contracts, agreements or other forms of commitments for the sale of aggregate products and that such contracts, agreements or commitments shall continue. Also, the Permittee shall demonstrate that it will no longer be mining any material that requires a permit under the NMMA.
    - d. MMD shall determine whether the Permittee has complied with those requirements.
  2. Permittee shall demonstrate that revegetated areas within the Industrial PMLU provide sufficient cover to stabilize those areas where reseeding has occurred.
  3. Maintain documentation that the area comprising the Industrial PMLU meets NPDES requirements.
- I. The Permittee will establish a reference area, to help in the evaluation of revegetation success after reclamation. The reference area will be established in the north margin of Section 4, R13W, T9N, as described in the PAP. The reference area will be fenced to exclude livestock and signage will be posted warning people not to disturb it. The reference area shall be fenced and posted 180 days after permit approval.

**Section 11. CONCLUSIONS OF LAW**

- A. The Director has jurisdiction over the Permittee and the subject matter of this proceeding.
- B. The PAP is complete, accurate and complies with the requirements of the Act and §19.10.5.502, §19.10.5.503, §19.10.5.506 §19.10.5.507 and §19.10.5.508 of the New Mexico Mining Act Rules.
- C. The Permittee, C & E Concrete, Inc., is permitted to conduct operations at the Tinaja Pit Cibola County, New Mexico, upon the condition that the Permittee complies with the requirements of the Order, the Act, the Rules, and the Permit Conditions and requirements imposed by this Permit.

**CERTIFICATION**

I certify that I have personally examined and am familiar with the information submitted herein, and based on my inquiry of those individuals responsible for obtaining the information, I believe the submitted information is true, accurate, and complete.

I certify that I have read, understand and will comply with the requirements of this Permit Revision. I also agree to comply with the performance and reclamation standards and requirements of the permit, the Rules, and the Act, and allow the Director to enter the Permit area without delay for the purpose of conducting inspections.

Walter J. Mearl

Authorized Representative of the Permittee

President

Title

C & E Concrete, Inc.

Company

Subscribed and sworn to before me this 21st day of April, 2005

Belle J. Moore  
Notary Public

My Commission Expires

10/21/06

(date)

**ORDER**

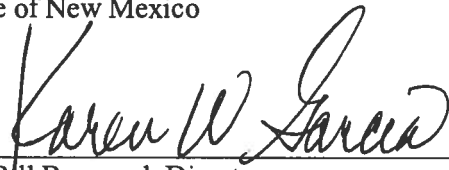
NOW THEREFORE, IT IS HEREBY ORDERED that Mine Permit CI005RE, for the Tinaja Pit Mine Facility, incorporating the Closeout Plan and allowing C & E Concrete to conduct mining, closeout and reclamation operations in Cibola County, New Mexico, is approved.

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

Mining and Minerals Division

The State of New Mexico

By:

  
\_\_\_\_\_  
Bill Brancard, Director  
Mining and Minerals Division  
Energy, Minerals and Natural  
Resources Department

DATED:  \_\_\_\_\_

