

State of New Mexico
Energy, Minerals and Natural Resources Department

Michele Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd Leahy, JD, PhD
Deputy Cabinet Secretary

Jerry Schoeppner, Director
Mining and Minerals Division



Electronic Transmission

December 30, 2020

E. Terry Jensen
Gila Mining, LLC
3450 Peru Mill Road
Deming, NM 88030

RE: Transmittal of Documents: Modification to Permit No. LU038EM Peru Mill Tailings Exploration Project

Dear Mr. Jensen:

New Mexico Mining and Minerals Division (“MMD”) has approved has approved Modification 20-1 to Permit No. LU038EM, for the Peru Mill Tailings Exploration project. A copy of the permit document is enclosed with this letter. MMD will retain the original of these documents on file.

If you have any questions, please feel free to contact me at 505-470-5354 or via e-mail at: jennifere.johnson@state.nm.us.

Sincerely,

Jenn Johnson, Permit Lead
Mining Act Reclamation Program (“MARP”)

Enclosures: Modification 20-1 to Permit No. LU038EM

cc: Holland Shepherd, Program Manager, MARP
Mine File (LU038EM)

**PERMIT MODIFICATION 20-1 TO PERMIT NO. LU038EM
GILA MINING PERU MILL TAILINGS PROJECT
MINIMAL IMPACT EXPLORATION OPERATION**

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

Permit Modification 20-1 to Permit No. LU038EM (“Permit”) is issued by the Director of the Mining and Minerals Division (“MMD”) of the New Mexico Energy, Minerals and Natural Resources Department to:

Gila Mining, LLC (“Gila Mining”)
Terry Jensen, Authorized Company Representative

Whose correct address is: 3450 Peru Mill Road
Deming, NM 88030

(“Permittee”) for the Gila Mining Peru Mill Tailings Project, located approximately 4 miles northwest of Deming, NM in Luna County, New Mexico, as described in Section 3 of this Permit document.

This Permit Modification 20-1 approves, and incorporates into Permit No. LU038EM, the excavation of no more than 999 yd³ of material from the existing tailings piles within the current Permit Area.

The Financial Assurance (“FA”) for Permit No. LU038EM will remain at \$22,550.00 for this permit modification.

The following sections of Permit No. LU038EM have been added or are revised to read as follows:

Section 1 (20-1). **STATUTES AND REGULATIONS**

- A. This Permit is issued pursuant to the New Mexico Mining Act, NMSA 1978, §69-36-1, et seq. (1993, as amended through 2020).
- B. This Permit is subject to all applicable regulations of the New Mexico Mining Act (“Act”), New Mexico Mining Act Rules (“Rules” (§19.10.1 through §19.10.15 New Mexico Administrative Code (“NMAC”)) 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 (20-1). **PERMIT MODIFICATION PACKAGE**

The Permit Modification Package (“PMP”) for Modification 20-1 was received on September 4, 2020 and deemed administratively complete on September 16, 2020. Any correspondence subsequently submitted to MMD, by the Permittee or its representatives, can be found at MMD offices within the Division’s files, and is titled *Gila Mining Peru Mill Tailings, LU038EM* or

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similar.

The PMP is comprised of the following documents:

- A. *Part 3 Minimal Impact Exploration Operation Permit Application*, dated September 4, 2020 (“Application”), to modify the existing permit.
- B. *Agency Review Comments and Request for Additional Information, Peru Mill Tailings Minimal Impact Exploration Project Modification 20-1 Application, Permit No. LU038EM – Luna County, New Mexico*, dated October 31, 2020.
- C. Financial Assurance (“FA”), in the amount of \$22,550.00 (twenty-two thousand five hundred fifty dollars), was received by MMD on March 18, 2020, in the form of a Surety Bond No. 800047580 issued by Atlantic Specialty Insurance Company.

Section 3 (20-1).

PERMIT AREA

- A. The Permittee is authorized to conduct mineral exploration and reclamation operations only on those lands that are specifically designated and authorized within the permitted area (“Permit Area”). For this Modification 20-1, exploration activities shall be limited to the Permit Area locations identified in the PMP:
 - 1. North Excavation,
 - 2. South Excavation,
 - 3. Cover Staging Areas,
 - 4. Tailing Storage Building,
 - 5. Equipment Staging Area,
 - 6. Identified Road Extensions.
- B. The Permit Area is shown on the map within the PMP titled: *Figure 2: Surface Impact Map* within *Part 3 Minimal Impact Exploration Operation Permit Application*, dated September 4, 2020.
- C. The Permittee is authorized to only disturb up to a maximum of 0.4 acres of tailings and 0.7 total acres within the Permit Area, pursuant to §19.10.3.302.A NMAC.

Section 4 (20-1).

FINDINGS OF FACT

The Permit Modification Package

- A. The PMP is complete and demonstrates that the proposed operation will meet the performance and reclamation standards and requirements of Subsection D, Paragraphs 1-6 of §19.10.3.302 NMAC.

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- B. The 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 §19.10.3.302 NMAC, and does not fall within the exclusions in §19.10.1.7.M(2) NMAC. MMD and the other agencies reviewed the minimal impact designation pursuant to §19.10.3.302.G NMAC.
- C. The Permittee has paid the initial permit modification fee of \$500 as required by §19.10.2.201.F NMAC.
- D. The proposed operation and reclamation, as described in the PMP and this permit modification, will meet the requirements of reclamation, as identified in §19.10.1.7.R(1) NMAC of the Rules. The reclamation plan, subject to the conditions in the Permit, demonstrates 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 within the Permit Area that is appropriate for the life zone of the surrounding areas.
- E. The term of this permit modification is governed by Subsections A, C and D of §19.10.4.405 NMAC. The permit term shall be one year from the date of the Director's signature on this Permit.

General Information Regarding the Permittee

- F. The Permittee is not in violation of the terms of another permit issued by the Director or in violation of a substantial environmental law or substantive regulation at another mining operation, has not forfeited or had forfeited financial assurance in connection with another mining, reclamation or exploration permit, and has not demonstrated a pattern of willful violations of the Act, the Rules or other New Mexico environmental statutes.
- G. The Permittee has signed and certified a statement, provided within the PMP, that the Permittee agrees to comply with the requirements of this permit modification, the Rules, and the Act, and allows the Director to enter the Permit Area for the purpose of conducting inspections.

MMD's Request for Comments to the Agencies and Tribes

- H. MMD provided the cooperating agencies (New Mexico Environment Department, Department of Game & Fish, State Forestry Division, State Historic Preservation Office, and the Office of the State Engineer) with a copy of the PMP pursuant to §19.10.3.302.G NMAC, and requested comments from the agencies on September 16, 2020.
- I. MMD provided the PMP to the following tribal entities and requested review and comment: White Mountain Apache Tribe, Ysleta del Sur Pueblo, Mescalero Apache Tribe, Fort Sill Apache Tribe, and the Hopi Tribe on September 17, 2020. Tribal comments were received from Ysleta del Sur Pueblo, White Mountain Apache Tribe Office of Historic Preservation, and the Hopi Cultural Preservation Office.

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- J. MMD provided the Permittee with comments provided by the cooperating agencies and tribal entities on October 15, 2020, via electronic mail.
- K. Permittee provided MMD with sufficient responses to all agencies and tribal comments on October 31, 2020, via electronic mail.

Financial Assurance

- L. The Permittee has provided FA, in accordance with §19.10.12.1201.A NMAC, in the amount of \$ 22,550.00 (twenty-two thousand five hundred fifty dollars). FA has been provided by the Permittee in the form of Surety Bond No. 80047580 issued by Atlantic Specialty Insurance Company on March 13, 2020.

Section 5 (20-1).

COMPLIANCE REQUIREMENTS

- A. All other provisions for exploration and reclamation contained in the Peru Mill Tailings Project Permit No. LU038EM remain unchanged.
- B. This Permit Modification 20-1 is issued pursuant to NMSA 1978, Section 69-36-1 et. seq. and Title 19, Chapter 10 NMAC. 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 Permittee's compliance with such other laws. It is Permittee's sole responsibility to investigate and comply with the requirements of such other laws.

Section 10 (20-1).

GENERAL OBLIGATIONS AND CONDITIONS

Description of Project/Authorized Disturbances

- A. The Permittee is authorized to excavate up to a maximum of nine hundred and ninety-nine (999) cubic yards from the North Excavation area and South Excavation area of the existing tailings piles. Reclamation of the disturbed areas shall be initiated as soon as possible and completed in accordance with the schedule in this permit modification.
- B. The Permittee is authorized to disturb no more than 0.4 acres of the tailings piles. The Permittee is authorized to disturb no more than 0.7 acres of total cumulative disturbance within the Permit Area.
- C. Access to the excavation locations shall consist of a maximum of 110 feet of overland travel up to 10 feet wide. The Permittee shall minimize any new surface disturbance.

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- D. After a one-inch or greater rainfall event within any 24-hour period, Permittee shall visually inspect the Permit Area, with specific attention paid to the North Excavation and South Excavation areas, for tailing material/sediment that may have eroded or otherwise been transported from the open excavation areas. Permittee shall pick up any displaced tailing sediment found and place the sediment back into the tailing piles.
- E. All cover material shall be salvaged, stockpiled, and protected from erosion until it is used to reclaim the excavated areas of the tailings piles.
- F. Any excess excavated tailings that are not shipped off site must be returned to the excavation areas and reclaimed or properly disposed of offsite following federal, state, and local regulations.
- G. Excavated areas shall be returned to a similar slope to the adjacent tailings pile and covered with the salvaged cover material. Any slopes that may be created by excavation shall be regraded to a slope no steeper than 3H:1V and revegetated according to the requirements of the approved closeout and reclamation plan.
- H. Regraded surfaces of reclaimed and revegetated areas shall be covered with a total of at least 36 inches of the salvaged cover material or other suitable cover material as approved by MMD. The textural characteristics of the cover material shall be supportive of a self-sustaining ecosystem. The cover material shall be stockpiled for storage adjacent to the excavation areas to be applied evenly over the regraded slopes, then seeded and mulched as described in the approved reclamation plan.
- I. Any roads shall be graded for stormwater control and shall be ripped to a minimum depth of 24 inches or covered with a minimum of 18 inches of suitable cover material and revegetated according to the requirements of the approved closeout and reclamation plan.

Best Management Practices to be Performed

- J. The Permittee shall install berms around the crest of each excavation as illustrated in *Figure 2 North Stockpile Excavation Info* and *Figure 3 Excavation Cross-Section*. The Permittee shall implement additional erosion-control measures, or Best Management Practices (“BMP’s”), in a manner that prevents direct impacts to surface water and ephemeral watercourses that are designed, constructed and maintained using professionally recognized standards (e.g., Natural Resource Conservation Service Standards, or the BLM *Gold Book*) for surface disturbances during the exploration project and reclamation activities as needed for erosion control, spill prevention and the avoidance or damage to ephemeral watercourses in the area. Placement of water bar structures or other appropriate measures should be taken to reduce head-cutting adjacent to roads and to prevent roadways from channelizing surface flow.

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- K. Erosion control measures or any other BMP's that are damaged or ineffective shall be repaired, replaced or redesigned, as necessary, within 24 hours, or as soon as reasonably possible, following discovery of damages. The Permittee shall commit to using a variety of erosion-control measures, as needed, if erosion control problems develop.
- L. The Permittee shall prevent contamination of the surface soils by removing tailings from construction equipment with compressed air at the stockpile excavation locations. Road trucks shall not drive over any tailings areas and shall be limited to the maintained roads between the site entrance/exit and container trailer hook-up area so no contamination will take place on the road trucks. Any visually impacted soils shall be removed and properly reclaimed or disposed following the excavation events.
- M. The Permittee shall comply with all requirements of federal and state laws pertaining to air quality requirements pursuant to §20.2.72 NMAC.

Reclamation and Revegetation Requirements

- N. Reclamation of disturbed areas shall occur concurrently, or directly after the completion of excavation operations as weather and field conditions allow. Pursuant to §19.10.3.302.K NMAC, all lands, including overland access routes or terrain damaged in gaining access to or clearing the excavation locations, or lands where vegetation is substantially disturbed or whose natural state has been substantially disturbed as a result of the excavation, shall be restored as nearly as possible to their original condition and reseeded utilizing an appropriately certified weed-free, pure live seed mixture of native cool- and warm-season grasses and shrubs beneficial to wildlife. The seed mixture and application rate are as follows but may be modified subject to MMD approval:

The seeding rate is given for Pure Live Seed (**PLS**).
Percent purity X percent germination = Pure Live Seed.

<u>Species</u>	<u>LBS/AC PLS</u>
Blue grama	0.5
Spike dropssed	0.2
Sideoats grama	0.5
Desert globemallow	5.0
Fourwing saltbush	4.0
White-thorn acacia	7.0
TOTAL	17.2

- O. Any salvaged topsoil material that is suitable as a plant growth medium, shall be spread over the surface of the excavation areas, roads, and other disturbed areas, including any other heavily compacted areas, then raked prior to seeding to prepare a suitable seedbed for seed germination and root growth. The seed mixture shall be broadcast sown immediately after seedbed preparation has been completed and while the soil surface is

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still friable. After the seed mix has been sown, the soil shall be raked into the surface using hand tools to cover the seed. Reclaimed areas not seeded before or during the summer shall be seeded in late fall to maximize the probability of successful revegetation.

- P. Following the revegetation and reclamation activities, monitoring shall be conducted by the Permittee to assure successful establishment of vegetation and stabilization of the site. Revegetated areas that have not become established by the end of the growing season shall be mitigated by reseeded, mulching, grading, and/or application of waterbars, or other BMP's, to prevent erosion and site degradation.
- Q. The Permittee shall notify MMD at least 30 days prior to initiating any reclamation approved pursuant to this Permit. The site will be considered reclaimed and eligible for release of FA, once the following criteria have been met:
- 1) The Permittee has shown that a uniform, self-sustaining vegetative cover on disturbed areas, similar in life form to the pre-disturbance vegetation, can be achieved.
 - 2) No significant erosion is evident on reclaimed areas.
 - 3) All excavated tailings and equipment have been removed from the site.
- R. All lands to be disturbed shall be addressed under the performance and reclamation standards and requirements of §19.10.3.302 NMAC and in accordance with the reclamation plan provided in the PMP and this Permit. The Permittee is obligated to complete reclamation of all disturbed areas upon completion of exploration activities.

Changes, Modifications, or Revisions to the Permit

- S. Any changes, modifications or amendments to the approved Permit shall be approved prior to implementation pursuant to §19.10.3.302.J and §19.10.4.406 NMAC.

Financial Assurance

- T. The Permittee shall maintain FA, after approval of this Permit, in the approved amount of \$ 22,550.00 (twenty-two thousand five hundred fifty dollars), using one or more approved FA instruments and until released, pursuant to Part 12 of the Rules and sufficient to cover third-party costs of surface reclamation of excavation areas, overland travel paths, and equipment and cover staging areas to be completed and reclaimed.

Project Completion Timeline/Termination Report Requirements

- U. Notwithstanding any other provision of this permit modification, the Permittee shall reclaim all disturbance within one (1) year of date of permit issuance.

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- V. The Permittee shall submit a termination report, pursuant to §19.10.4.407 NMAC, at the conclusion of the exploration operation, unless the Permittee has applied for renewal of the exploration permit or applied for a mining operation permit. The termination report shall contain the required information in §19.10.4.407 NMAC, and:
- 1) A description of the reclamation measures utilized by the Permittee.
 - 2) Evidence of the seed mix (seed tags from bags) and its application rate utilized by the Permittee.
 - 3) Photographs of the reclaimed areas, including any BMP's utilized by the Permittee during exploration.
 - 4) Verification that all excavated material has been removed from the site and have been shipped to laboratories for analyses.

Section 11. **CONCLUSIONS OF LAW**

- A. The Director concludes the project meets the requirements of a "Minimal Impact Mining Operation" addressed in §19.10.1.7.M(2) NMAC. The operation authorized by this Permit is eligible as a minimal impact operation, and the Permittee is authorized to operate a minimal impact exploration operation, pursuant to §19.10.1.7.M(2) NMAC and §19.10.3.302.A NMAC.
- B. The PMP is complete, accurate and complies with the requirements of the Act and §19.10.3.302 NMAC.
- C. The Director has jurisdiction over the Permittee and the subject matter of this Permit and process.
- D. The Permittee is permitted to conduct exploration and reclamation operations within the Permit Area upon the condition that the Permittee complies with the requirements of the Rules, Act, and this Permit, and upon the submission of such termination reports and fees as may be required under §19.10.3 NMAC and §19.10.2 NMAC.

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CERTIFICATION

I certify that I have read, understand and will comply with the requirements of the Permit. I further certify that I am not in violation of the Act or §19.10 NMAC. 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 during exploration and reclamation.

Terry Quisenberry
Authorized Representative of the Permittee

Chief Operating Officer
Title

Gila Mining LLC
Company Name

Subscribed and sworn to before me this 29th day of December, 2020

[Signature]
Notary Public
in and for the province of Ontario, lifetime appointment.
Barrett M. Beaudoin
Phone: 647-525-6829

My Commission Expires
_____, _____

No legal advice
sought or given



Dean Cservenyi LLP
Paralegals
73 Water Street North, Suite 503
Cambridge, ON N1R 7L6

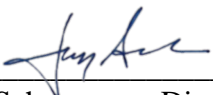
Witnessed as to execution only

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ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that Modification 20-1 to Permit No. LU038EM is approved. Gila Mining, LLC is authorized to conduct mining, excavation and reclamation operations at the Gila Mining Peru Mill Tailings project in Luna County, New Mexico. The Permit may not be transferred without approval by the Director. The Permit is subject to all conditions set out in the Director's Findings of Fact, Conditions and Conclusions of Law.

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

By: 

Jerry Schoeppner, Director
Mining and Minerals Division
Energy, Minerals and Natural Resources Department

Date: 12/29/2020