

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Dylan Fuge
Deputy Cabinet Secretary (Acting)

Albert Chang, Director
Mining and Minerals Division



January 11, 2024

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

RE: Agency Review Comments and Request for Additional Information, Brie 1 Mine, McKinley County, New Mexico, Permit Tracking No. MK039MN – Modification 23-2

Dear Mr. Klewsaat,

The New Mexico Mining and Minerals Division (“MMD”) has reviewed the Permit Application Package for Modification 23-2 (“PAP”) submitted by Miocene, LLC, for the Brie 1 Mine, Section 7 Permit Area, 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”), 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 Surface Water Quality Bureau Comments:

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

NMED Air Quality Bureau Comments:

Please review the comment letter received from NMED Air Quality Bureau 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.

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NMDCA/HPD Comments:

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

BLM Comments:

Please review the comment memo received from BLM and respond to any concerns.

If you have any questions, please contact me at (505) 470-5354, or via email at kevin.barnes@emnrn.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 (“MARP”)

Enclosures: Agency Letters

Cc w/o enclosures: David “DJ” Ennis, Program Manager, MARP/MMD
File (MK039MN)



Electronic Transmission

MEMORANDUM

Date: December 1, 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, Brie I Mine, Minimal Impact New Mining Operation, Modification 23-2, Miocene, LLC, McKinley County, New Mexico, New Mexico Mining Act Permit No. MK039MN**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on November 6, 2023 requesting that NMED review and provide comments on the above-referenced MMD permitting action. Pursuant to the Mining Act, the Brie I 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 November 30, 2023. NMED has the following comments.

Background

Miocene, LLC (Applicant) is requesting partial release of financial assurance associated with approximately 5.13 acres of reclamation located in Section 7, Township 20N, Range 6W.

Air Quality Bureau

The Air Quality Bureau comments are attached.

Mr. David Ennis
Brie Mine, MK039MN
December 1, 2023

Surface Water Quality Bureau

The Surface Water Quality Bureau comments are attached.

Mining Environmental Compliance Section (MECS)

MECS has no comments.

NMED Summary Comment

NMED has determined that the activities proposed in the application including responses to these comments 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



MEMORANDUM

DATE: November 22, 2023

TO: Anne Maurer, Mining Environmental Compliance Section, Ground Water Quality Bureau, New Mexico Environment Department

FROM: Alan Klatt, Watershed Protection Section, Surface Water Quality Bureau, New Mexico Environment Department

SUBJECT: **Request for Review and Comment, Minimal Impact New Mining Operation, Modification 23-2, Brie Mine, Miocene, LLC, McKinley County, New Mexico, Mining Act Permit No. MK039MN**

The New Mexico Environment Department (NMED)-Surface Water Quality Bureau (SWQB) received the subject request for comments on November 13, 2023. The application for permit modification 23-2 requests the partial release of financial assurance for the reclamation of 5.13 acres. SWQB has prepared the following comments pursuant to 19.10.3.302.G New Mexico Administrative Code (NMAC).

The reclamation area is located within the riparian zone¹ of Papers Wash. Papers Wash is subject to 20.6.4.98 NMAC (State of New Mexico, Standards for Interstate and Intrastate Surface Waters) and has designated uses that include livestock watering, wildlife habitat, primary contact, and marginal warmwater aquatic life. SWQB has no objections to the partial release of financial assurance, provided that the following comments are addressed:

- 1.) The facility should maintain appropriate Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) permit coverage, specifically the Multi-Sector General Permit² (MSGP), during mining and reclamation activities. Humate mining activities may require MSGP coverage under Sector C Chemicals and Allied Products, C1 Agricultural Chemicals and/or Sector J Mineral Mining and Dressing, J2 Nonmetallic Minerals Services, Except Fuels, or Miscellaneous Nonmetallic Minerals, Except Fuels.
- 2.) The permittee should update the Stormwater Pollution Prevention Plan and Sediment Control Plan based on the reclamation activities.
- 3.) Please provide a description of the Best Management Practices that are being used to control erosion until permanent stabilization is achieved through successful revegetation.
- 4.) Please provide photos or construction maps of the reclaimed area that supports the claim that the parcel was returned to the original approximate contour.

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

¹ <https://enviroatlas.epa.gov/enviroatlas/interactivemap/>

² <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-epas-2021-msgp>



MEMORANDUM

DATE: November 29, 2023

TO: Anne Maurer, 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, Minimal Impact New Mining Operation, Modification 23-2, Brie Mine, Miocene, LLC, McKinley County, New Mexico, Mining Act Permit No. MK039MN

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.

Recommendation

The Air Quality Bureau has no objection to this partial financial assurance release request.

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



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

20 November 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 23-2, Brie I Mine, Partial Release of Financial Assurance, McKinley County, New Mexico, Permit No. MK039MN; NMDGF Project No. NMERT-3016.

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 5 acres of reclamation work performed at the Brie I 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 completed in late 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 continues to implement an integrated weed management program that includes a commitment to control Russian thistle and other introduced invasive weeds that may occur 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



**DEPARTMENT OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION**

BATAAN MEMORIAL BUILDING
407 GALISTEO STREET, SUITE 236
SANTA FE, NEW MEXICO 87501
PHONE (505) 827-6320 · NM.SHPO@DCA.NM.GOV

November 9, 2023

Kevin Barnes
Permit Lead
Mining Act Reclamation Program (MARF)
State of New Mexico Energy, Minerals, and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

VIA EMAIL ONLY

RE: HPD Log #121035, Request for Comments on Modification 23-2 Application for Brie 1,
Partial Release of Financial Assurance on 5.13 Acres of Reclamation, McKinley County,
New Mexico, Permit No. MK039MN

Dear Mr. Barnes,

I am writing in response to your request for review and comment on the above referenced
Mine Modification Application received at this office November 7, 2023.

Concerning the Partial Release of Financial Assurance on 5.13 Acres of Reclamation, McKinley
County, New Mexico, the SHPO has no comments regarding this proposed action. If you have
any questions, please contact me at (505) 476-1341 or by email at cortney.wands@dca.nm.gov.

Sincerely,

Archaeological Reviewer

Barnes, Kevin, EMNRD

From: Wenman, Christopher P <cwenman@blm.gov>
Sent: Friday, December 29, 2023 10:25 AM
To: Barnes, Kevin, EMNRD
Subject: Re: [EXTERNAL] MK039MN - Brie 1 Mine - Request for Comments on Modification 23-2

Follow Up Flag: Follow up
Flag Status: Completed

Thanks Kevin, BLM does not have any comments on Modification 23-2.

--

Chris Wenman
Supervisory Natural Resource Specialist
Farmington Field Office
Bureau of Land Management
6251 College Blvd. Suite A
Farmington, NM 87402
Office: (505) 564-7727
Cell: (505) 635-0722

From: Barnes, Kevin, EMNRD <Kevin.Barnes@emnrd.nm.gov>
Sent: Friday, December 8, 2023 2:36 PM
To: Wenman, Christopher P <cwenman@blm.gov>
Subject: RE: [EXTERNAL] MK039MN - Brie 1 Mine - Request for Comments on Modification 23-2

Sure, I've attached my inspection report. Got caught in some downpours that day, thus all the pictures of mud.

Kevin Barnes
Reclamation Specialist
Mining and Minerals Division
Mining Act Reclamation Program
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 470-5354

From: Wenman, Christopher P <cwenman@blm.gov>
Sent: Friday, December 8, 2023 2:30 PM
To: Barnes, Kevin, EMNRD <Kevin.Barnes@emnrd.nm.gov>
Subject: Re: [EXTERNAL] MK039MN - Brie 1 Mine - Request for Comments on Modification 23-2

Hi Kevin,

Do you have notes on your August 23, 2023 site visit?

Thanks,

--

Chris Wenman
Supervisory Natural Resource Specialist
Farmington Field Office
Bureau of Land Management
6251 College Blvd. Suite A
Farmington, NM 87402
Office: (505) 564-7727
Cell: (505) 635-0722

From: Wenman, Christopher P <cwenman@blm.gov>
Sent: Friday, December 1, 2023 4:52 PM
To: Barnes, Kevin, EMNRD <Kevin.Barnes@emnrd.nm.gov>
Subject: Re: [EXTERNAL] MK039MN - Brie 1 Mine - Request for Comments on Modification 23-2

Thanks Kevin, I'll take a look early next week and get back to you.

--

Chris Wenman
Supervisory Natural Resource Specialist
Farmington Field Office
Bureau of Land Management
6251 College Blvd. Suite A
Farmington, NM 87402
Office: (505) 564-7727
Cell: (505) 635-0722

From: Barnes, Kevin, EMNRD <Kevin.Barnes@emnrd.nm.gov>
Sent: Wednesday, November 29, 2023 1:35 PM
To: Wenman, Christopher P <cwenman@blm.gov>
Subject: [EXTERNAL] MK039MN - Brie 1 Mine - Request for Comments on Modification 23-2

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good afternoon Chris,

I have been working with Darin Klewsaat from Horizon-Ag on a proposed financial release for 5.13 acres at Section 7 of the Brie 1 Mine (Permit No. MK039MN) and would like to request your comments, if any, on the proposed action. Please see the attached letter outlining this request. Apologies for not sending over for your comments on this permit modification sooner, I have recently taken on this permit and didn't realize initially that Section 7 is on BLM land and has a jointly held bond as well.

The Minimal Impact New Mining Permit Modification application can be viewed at <https://www.emnrd.nm.gov/mmd/mining-act-reclamation-program/pending-and-approved-mine-applications/minimal-impact-new/mk039mn-brie-mine/> Please let me know if you have any questions.

Regards,

Kevin

Kevin Barnes

Reclamation Specialist
Mining and Minerals Division
Mining Act Reclamation Program
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 470-5354

Miocene - Brie I Mine Financial Assurance Calculation (Section 7 Only)

Surface Disturbance

		Notes
Total Acres:	10	
First Acre:	\$ 8,900.00	
Next 9 Acres:	\$ 44,100.00	
Subtotal:	\$ 53,000.00	
TOTAL: With five year escalation at 2.5%:	\$ 59,964.64	

Revegetation Failure @ 5%/year of \$800 per acre

Acres	Years	\$ Per Acre	Cost	Notes	Potential Release Date
5.13	12	\$480	\$ 2,462.40	Mod 23-2, release of acres	2035
5.13			\$ 2,462.40		
TOTAL FA NEEDED			\$ 62,427.04		
Existing FA			\$59,965.00	ILOC S327292	
Add'l FA required:			\$ 2,462.04		