

State of New Mexico
Energy, Minerals and Natural Resources Department

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Albert Chang, Director
Mining and Minerals Division



March 10, 2025

Mr. Jeff Warren
New Mexico Humate, LLC
P.O. Box 2010
Milan, New Mexico 87021

RE: Agency Review Comments and Request for Additional Information, Fire Rock Mine, San Juan County, New Mexico, Permit Tracking No. SJ005MN

Dear Mr. Warren,

The New Mexico Mining and Minerals Division (“MMD”) has reviewed the Permit Application Package (“PAP”) submitted on December 5, 2024, by New Mexico Humate for the Fire Rock Mine Minimal Impact excavation located in San Juan 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”), and the New Mexico Department of Game and Fish (“NMDG&F”). Also enclosed are 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*. MMD has conducted a review of the PAP and has the following comments to be addressed in writing within 30 days of receipt of this letter:

1. In the 2024 PAP Fig.1 and Fig. 2 show the Permit area and the numbered mine areas. MMD is requesting digital shp files and/or corner GPS measurements of boundaries so we can monitor field activities accurately.

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NMED Mining Environmental Compliance Section:

Please Review the comment Letter received from NMED Mining Environmental Compliance Section and respond to any concerns.

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.

If you have any questions, please contact me at (505) 216-8399, or via email at charles.barber@emnrd.nm.gov

Sincerely,



Charles Barber P.G.
Mining Act Reclamation Program ("MARF")

Enclosures:	Agency Letters
Cc with enclosures:	Jeff Warren, New Mexico Humate, LLC Brackett Mays, WSP
Cc w/o enclosures:	David "DJ" Ennis, Program Manager, MARF/MMD File (SJ005MN)



Electronic Transmission

MEMORANDUM

Date: January 21, 2025

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

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

From: Eliza Martinez & Alan Klatt, Surface Water Quality Bureau (SWQB)
Sufi Mustafa, Air Quality Bureau (aqb)
Corey Dimond (MECS)

Subject: **New Mexico Environment Department (NMED) Comments, Fire Rock Mine, New Mine, San Juan County, New Mexico, Mining Act Permit No. SJ005MN**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on December 19, 2024, requesting that NMED review and provide comments on the above-referenced MMD permitting action. Pursuant to the Mining Act, the operation is a minimal impact new mine project. MMD requested comments on the application within 20 days of receipt of the request for comments. NMED requested an extension to that timeline.

Background

New Mexico Humate, LLC (Applicant) is requesting to open a new humate mine. Total disturbance to the site will be 10 acres at a time, with the total project acreage being 23.5 acres.

Air Quality Bureau

The AQB comments are attached.

Surface Water Quality Bureau

The SWQB comments are attached.

Mining Environmental Compliance Section

MECS has the following comments:

1. A source for water on site is not discussed in the application. If the Applicant chooses to use a municipal supply, MECS will not request analysis prior to use on site. However, if the Applicant chooses to use an individual well, NMED will require a specified set of water quality analysis to be performed to ensure the water is not introducing contaminants
2. At the time of the MECS inspection, ground disturbance and mining have not begun. MECS requests an additional inspection when the operations begin to ensure the site is being operated in an environmentally protective manner.

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
Shelly Lemon, Bureau Chief, NMED-SWQB
Cindy Hollenberg, Acting Bureau Chief, NMED-AQB
Charles Barber, EMNRD-MARP



Environment Department Internal Memorandum

DATE: December 20, 2024

TO: Amber Rheubottom, Mining Environmental Compliance Section, Ground Water Quality Bureau

FROM: Alan Klatt, Watershed Protection Section, Surface Water Quality Bureau

SUBJECT: **Request for Comments, Fire Rock, San Juan County, New Mexico Mining Act Permit No. SJ005MN**

On December 20, 2024, the Surface Water Quality Bureau (SWQB) received a request for comments regarding a mining application for a minimal impact mining permit from New Mexico Humate, LLC for the Fire Rock Mine located in San Juan County, New Mexico at the approximate coordinates 36.009092° N, 107.670192° W. The proposed humate mine will disturb no more than 10 acres at any one time. The pit disturbance area may be up to 1.5 acres at any one time. The mining pit will be approximately 30 feet deep. The entire mining area is 60 acres. Reclamation will be performed contemporaneously with mining and will include recontouring to the approximate natural contours and promote positive drainage, revegetation, treating invasive/noxious weeds, and monitoring. The proposed mine is located on land managed by the U.S. Bureau of Land Management. SWQB has prepared the following comments in accordance with 19.10.3.304.H New Mexico Administrative Code (NMAC).

The proposed mine is located within the 12-digit Hydrologic Unit Code 140801060107, named Canda Alemita-Chaco Wash. The proposed mining area is approximately 500-ft from the centerline of a tributary to Chaco Wash which then flows to the Chaco River and then to the San Juan River. Non-perennial portions of Chaco Wash and its tributaries, that are located within the state of New Mexico, are subject to New Mexico surface water quality standards at 20.6.4.13 NMAC and 20.6.4.98 NMAC and have designated uses for livestock watering, wildlife habitat, marginal warmwater aquatic life, and primary contact. Major portions of Chaco Wash are located within the Navajo Nation and subject to Navajo Nation surface water quality standards. Surface waters of the state of New Mexico shall be free of any water contaminant in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or unreasonably interfere with the public welfare or the use of property (20.6.4.13 NMAC). Mine activities that have the potential to contribute pollutants to surface waters of the state must be implemented with appropriate and practicable Best Management Practices (BMPs) in order to prevent impacts to surface water quality. Any discharge of a water contaminant to a surface water of the state of New Mexico, in such quantity as may with reasonable probability injure or be detrimental to human health, animal or plant life, or property, or unreasonably interfere with the public welfare or the use of property, must be reported to the New Mexico Environment Department within twenty-four hours (20.6.2.1203 NMAC).

Appropriate and practicable BMPs for mining activities include, but are not limited to, the following:

- Appropriate spill clean-up materials such as absorbent pads must be available on-site at all times during road construction, site preparations, and drilling activities 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. For emergencies only, call 505-827-9329 twenty-four hours a day (New Mexico Department of Public Safety). For spills that reach a WOTUS and

or surface waters of the state (SWOTS), including ephemeral streams, also report via email at SWQ.reporting@env.nm.gov.

- All mobile equipment used in the project area must be pressure washed and/or steam cleaned off-site before the start of the project to facilitate noxious weed management and inspected daily for leaks to ensure surface waters are protected from contaminants. Keep a written log of inspections and maintenance activities.
- Comply with the guidelines described in the Bureau of Land Management “Gold Book” (<https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/operations-and-production/the-gold-book>) for the use of overland travel and site selection, design, and construction of well pads, reserve pits, and roads. Suspend construction, maintenance activities, or off-road travel during periods when the soil is too wet to adequately support heavy equipment without causing surface disturbance. The operator should commit to repair any surface disturbance they caused.
- Suspend construction, maintenance activities, or off-road travel during periods when the soil is too wet to adequately support heavy equipment without causing surface disturbance. The operator should commit to repair any surface disturbance they caused.
- Set back roads, pads, and other facility structures a minimum of 100 feet from any watercourses, including springs, wetlands, and ephemeral stream channels.
- Implement Best Management Practices (BMPs) to prevent or mitigate direct impacts to watercourses, including springs, wetlands, and arroyos. For temporary surface disturbances during exploration and reclamation activities, implement erosion control measures that are designed, constructed and maintained using professionally recognized standards (e.g., Natural Resource Conservation Service standards or the Bureau of Land Management “Gold Book”).
- Ensure that stormwater entering the project area (“run-on”) is diverted from soil storage piles and place piles uphill of excavations when possible.
- Design and construct containment systems that are capable of retaining stormwater runoff from the mining area during precipitation events. The containment system should be sufficient in size to contain stormwater generated within its catchment area from 100-year, 3-day storm event.

The U.S. Environmental Protection Agency (EPA) administers the National Pollutant Discharge Elimination System (NPDES) program under Section 402 of the Federal Clean Water Act (CWA) in the State of New Mexico. The EPA may require an NPDES permit for operations that discharge to a Water of the U.S. (WOTUS). Coverage under the NPDES 2021 Multi Sector General Permit (MSGP) is required for stormwater discharges to a WOTUS from industrial operations. Currently, Section 10 of the mining application lists a Section 402 Construction General Permit, but it does not list MSGP coverage. The proposed Fire Rock Mine may be required to obtain MSGP coverage under C (chemical and allied products manufacturing and refining) and/or Sector J (non-metallic mineral and dressing) of the NPDES 2021 MSGP. More information on EPA’s NPDES Stormwater Program is available on-line at <https://www.epa.gov/npdes/npdes-stormwater-program>. EPA’s web site includes information on eligibility, submitting a notice of intent (NOI), MSGP stormwater water pollution prevention plans (SWPPP), monitoring, inspections, record-keeping, electronic reporting, and sector fact sheets with guidance on best management practices to control pollutants. The point of contact with EPA Region 6 for MSGP related questions is Nasim Jahan who can be contacted at 214-665-7522 or jahan.nasim@epa.gov (<https://www.epa.gov/npdes/contact-us-stormwater>).



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

MEMORANDUM

DATE: January 16, 2025

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, Fire Rock, San Juan County, New Mexico Mining Act Permit No. SJ005MN

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

New Mexico Humate will surface mine for humate at the suggested mine area. The operation will also consist of a staging area and a temporary truck haul road. Total disturbance will be less than 10 acres.

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.

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."

**Request for Review and Comment, Fire Rock, San Juan County, New Mexico Mining Act
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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 the mining component of this project. Applicant should consult the Air Quality Bureau for a potential air quality permit if plans include processing, storing or bagging the mined material.

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

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6 January 2025

Charles Barber P.G., Reclamation Specialist
Mining Act Reclamation Program
Mining and Minerals Division (MMD)
1220 South St. Francis Drive
Santa Fe, NM 87505

RE: Minimal Impact New Mine Permit Application, Fire Rock Mine, San Juan County, New Mexico. Permit No. SJ005MN; NMDGF Project No. NMERT-4087.

Dear Mr. Barber,

The New Mexico Department of Game and Fish (Department) has reviewed the above referenced new mine permit application. New Mexico Humate, LLC (NMH) is requesting to develop a new minimal impact humate mine in Section 34, Township 21N, Range 8W. Staff from the Department, MMD, U.S. Bureau of Land Management, and the Operator conducted a site inspection on 4 December 2024.

To minimize the likelihood of adverse impacts to migratory birds, nests, eggs, or nestlings, the Department recommends that ground disturbance and vegetation removal activities be conducted outside of the primary migratory bird breeding season. This season runs from 15 April - 1 September for upland songbirds; 1 March - 1 September for most raptors; and 1 January - 15 July for the golden eagle (*Aquila chrysaetos canadensis*) and great horned owl (*Bubo virginianus*). If ground disturbing and clearing activities must be conducted during the breeding season, the area should be surveyed for active nest sites (with birds or eggs present in the nesting territory) and avoid disturbing active nests until young have fledged. For active nests, establish adequate buffer zones to minimize disturbance to nesting birds. Buffer distances should be at least 100 feet from songbird and raven nests; 0.25 miles from most raptor nests; and 0.5 miles for ferruginous hawk (*Buteo regalis*), golden eagle, peregrine falcon (*Falco peregrinus*), and prairie falcon (*Falco mexicanus*) nests. Active nest sites in trees or shrubs that must be removed should be mitigated by qualified biologists or wildlife rehabilitators. Department biologists are available to consult on nest site mitigation and can facilitate contact with qualified personnel.

The Department concurs with the native seed mix proposed by NMH and recommends that any alternate seeds used to substitute for primary plant species that are unavailable at the time of reclamation should also be native. When possible, the Department recommends using seeds that are sourced from the same region and habitat type as the reclamation site and suggests including seeds from a region that represents potential future climatic conditions at the site.

During the site inspection, Department staff did not document the presence of any Gunnison's prairie dog (*Cynomys gunnisoni*) colonies. However, a banner-tailed kangaroo rat (*Dipodomys spectabilis*) burrow mound complex was observed. The Department recommends that mine development activities avoid disturbing banner-tailed kangaroo rats by establishing a 50-foot buffer zone around the burrow mound complexes.

Thank you for the opportunity to review and comment on the proposed new minimal impact mine. 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,

Virginia Seamster, Ph.D.
Assistant Chief, Ecological and Environmental Planning Section
cc: USFWS NMES Field Office