

**DEMING ALPHA MINE
PERMIT NUMBER LU042MN
MINIMAL IMPACT NEW MINING OPERATION**

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

Permit No. LU042MN (“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 (“Permittee”)
Whose correct address is: 645 Hamilton Street, Suite 800
Allentown, PA 18101

(“Permittee or Permittees”) for the Deming Alpha Mine, located on land owned by the City of Deming, New Mexico, within the boundaries of the former Peru Mill, to conduct mining and reclamation of a reclaimed tailings stockpile for extraction of magnetite, silicates, and other marketable commodities. The site is located in Section 18, Range 9 West, Township 23 South, Luna County, New Mexico.

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, as amended).
- B. This Permit is subject to all applicable regulations of the New Mexico Mining Act (“Act”), New Mexico Mining Act Rules, Title 19, Chapter 10 of the New Mexico Administrative Code (“NMAC” or “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

- A. The Permit Application Package (“PAP”) consists of the following:
 - 1. *Subpart 3 Minimal Impact New Mining Operations Permit Application* (“Application”), submitted to MMD on February 12, 2021;
 - 2. *Agency Review Comments and Request for Additional Information, Deming Alpha Mine New Minimal Impact Permit Application, Permit No. LU042MN – Luna County, New Mexico*, issued by MMD on April 19, 2021;
 - 3. *RE: Agency Review Comments and Request for Additional Information, Deming Alpha Mine New Minimal Impact Permit Application, Permit No. LU042MN – Luna County, New Mexico*, issued by the Permittee and received by MMD on May 7, 2021;
 - 4. *Technically Approvable Minimal Impact Mine Application, Deming Alpha Mine, Permit No. LU042MN, Gila Mining LLC*, issued by MMD on July 6, 2021;
 - 5. *Request for Infrastructure Removal Cost, Deming Alpha Mine, Permit No. LU042MN, Gila Mining, LLC*, issued by MMD on July 29, 2021;



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6. *Discharge Permit Not Required, Deming Alpha Mine*, letter issued by the New Mexico Environmental Department (“NMED”) on August 13, 2021;
7. *New Mexico Environment Department Determination for the Deming Alpha Mine, Permit No. LU042MN*, issued by NMED on August 20, 2021;
8. *NMED Comments, Environmental Determination, Minimal Impact New Mine, Deming Alpha Mine, Gila Mining, LLC, Luna County, New Mexico Mining Act Permit No. LU042MN*, issued by NMED on August 26, 2021;
9. *Figure: 1 Leased Area*, issued by the Permittee and received November 4, 2024;
10. *New Financial Assurance Amount, Minimal Impact Mine, Deming Alpha Mine, Permit No. LU042MN, Gila Mining, LLC*, issued by MMD on September 24, 2021; and
11. *Irrevocable Standby Letter of Credit No-201*, issued by New Tripoli Bank on October 15, 2024, in the amount of \$61,326.59.

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 entitled *Deming Alpha Mine Permit No. LU042MN* or similar.

Section 3. PERMIT AREA AND DESIGN LIMIT

- A. The Permittee is authorized to conduct mining, exploration and reclamation operations only on those lands that are specifically designated and authorized within the permitted area (“Permit Area”) and within the proposed design limit.
- B. For this Permit, the Permit Area and design limit are different. The Permit Area consists of a 161.48-acre area as shown on Figure 1 of Appendix A of this Permit and is located on land owned by the City of Deming. The design limit is limited to 9.82 acres, and shall include improvements to access roads, equipment staging and storage areas, cover stockpile, waste stockpile, screening areas, loading areas, excavation pit(s) and all other surface disturbance areas. For a minimal impact new mining operation, the design limit can be no more than ten (10) acres of disturbed land.

Section 4. FINDINGS OF FACT

Permit Application Package

- A. The PAP is complete and demonstrates that the proposed operation will meet the performance and reclamation standards and requirements of Subsection D, Paragraphs 6 through 8, of 19.10.3.304 NMAC.
- B. The Permittee has paid the initial permit application fee of \$1,000.00, as required by Subsection D of 19.10.2.201 NMAC.



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- C. The PAP 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 §19.10.3.304 NMAC, and does not fall within the exclusions in §19.10.1.7.M(2) NMAC. MMD and the other agencies, pursuant to §19.10.3.304.H NMAC, reviewed the minimal impact designation.
- D. The proposed and approved Post Mining Land Use ("PMLU") is designated as wildlife habitat. The reclamation plan described in the PAP, subject to conditions in this Permit, demonstrates that the work to be done will reclaim disturbed areas within the Permit Area to a condition that allows for the establishment of a self-sustaining ecosystem appropriate for the life zone of the surrounding areas.
- E. The term of the Permit is 10 years from the date of signature by the MMD Director and is governed by Subsections A, C and D of 19.10.6.607 NMAC.

Right-To-Enter / Property Access Information

- F. The Permit does not grant or create any property rights. Nor does MMD, by issuing this Permit or otherwise, make any comment on the surface or mineral rights that the Permittee may or may not have in the area covered by the Permit; only that the Permittee has provided a statement of basis on which the Permittee has a right-to-enter the property to conduct mining, exploration and reclamation. Permittee is solely responsible to take whatever steps are necessary to ensure that Permittee has property rights sufficient to support the activities contemplated by the Permit.
- G. The surface and mineral estate is owned by the City of Deming. The Permittee has satisfactorily demonstrated its right of access pursuant to §19.10.304.D(1) NMAC.

General Information Regarding the Permittee

- H. Neither the Permittee, entities that are directly controlled by the Permittee, nor entities that directly control the Permittee: (i) are in violation of the terms of another permit issued by the Director or in violation of a substantial environmental law or substantive regulation, as those terms are defined in §19.10.3.304.J(4)(a) NMAC at another mining operation in the United States, (ii) have forfeited or had forfeited financial assurance required for another mining, reclamation or exploration permit in the United States, or (iii) have demonstrated a pattern of willful violations of the Act or other New Mexico environmental statutes.
- I. The Permittee has signed a notarized statement agreeing to comply with the requirements of the Permit, 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

- J. MMD provided the Agencies (the New Mexico Environment Department ("NMED"), the Department of Game & Fish, the State Forestry Division, the State Historic Preservation



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Office, and the Office of the State Engineer) with a copy of the PAP and requested comments from the agencies.

- K. The Secretary of NMED has provided a written determination, dated August 20, 2021, stating that the Permittee has demonstrated that the operation permitted hereunder is likely to have minimal environmental impact if operated and reclaimed in accordance with the approved permits and NMED comments, and will be expected to achieve compliance with all applicable air, water quality and other environmental standards if carried out according to the reclamation plan. This written determination addresses applicable standards for air, surface water and ground water protection enforced by or for which NMED is otherwise responsible.
- L. MMD provided the PAP to the following tribal entities and requested review and comment: Pueblo of Acoma, Hopi Tribe, Navajo Nation, Fort Sill Apache Tribe, Mescalero Apache Tribe, White Mountain Apache Tribe, and the Ysleta del Sur Pueblo. Comments were received from the Hopi Tribe, White Mountain Apache Tribe, and the Ysleta del Sur Pueblo.
- M. MMD provided the Permittee with MMD's comments and any comments also provided by the other agencies and tribes through electronic mail messaging on April 19, 2021, and adequate responses from the Permittee were received on May 7, 2021.

Financial Assurance

- N. The Permittee has provided Financial Assurance ("FA"), in accordance with §19.10.12.1201.A NMAC, in the amount of \$61,326.59 (sixty-one thousand, three hundred and twenty-six dollars and fifty-nine cents). FA has been provided by the Permittee in the form of an Irrevocable Letter of Credit No. 201 issued by the New Tripoli Bank of Orefield, Pennsylvania.

Section 5. COMPLIANCE REQUIREMENTS

- A. The Permittee shall comply with the statutes and regulations referred to in Section 1 of this Permit and with all other applicable state or federal statutory, regulatory or 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.
- B. The expiration or termination of the City of Deming authorization to conduct mining and/or exploration operations on the property automatically suspends the Permittee's authority to continue mining and exploration operations on the property. Such suspension does not include reclamation operations by the Permit issued under §19.10.3 NMAC.

Section 6. AGENCY RIGHT OF ENTRY

- A. The Permittee shall allow the authorized representatives of the Director, without advanced notice, upon presentation of appropriate credentials, and without delay:



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1. to enter upon, or through, any mining or reclamation operation at any time, as provided for in §19.10.3.304.J(5) NMAC and §19.10.11.1101.E(1) NMAC for the purpose of conducting inspections and to determine if the Permittee is in compliance with the Permit requirements and conditions; and
 2. at reasonable times, and without delay, have access to and copies of any records associated with permitting and compliance required by the Act, §19.10 NMAC or the Permit.
- B. In the event that the City of Deming revokes, terminates, or otherwise prevents or impedes access to the Permit Area by the authorized representatives of the Director, the Director will notify the Permittee. The Permittee shall immediately cease all mining operations within the Permit Area and will not resume mining operations until such authorized representatives' access to the Permit Area has been restored.
- C. In the event that the Director's authorized representatives' access to the Permit Area is not restored by the City of Deming within 60 days after the Director has given Permittee the notice provided for in subparagraph B of this Section 6, the Permittee shall immediately begin reclamation of the Permit Area.

Section 7. PERMIT COVERAGE

- A. This Permit shall be binding on any person or persons conducting mining, exploration and reclamation operations under this Permit.

Section 8. ENVIRONMENTAL COVERAGE

- A. The Permittee shall take all necessary steps to minimize any adverse impact to the environment or public health and safety resulting from non-compliance with any term or condition of the Permit, the Rules or the Act.

Section 9. COMPLIANCE WITH THE PERMIT & PAP

- A. The Permittee shall conduct mining, exploration and reclamation operations only as described in the approved PAP, this Permit, and any other modifications approved by the Director, pursuant to §19.10.6.608 NMAC. The Permittee shall comply with the statues and regulations in Section 1 of this Permit, the applicable regulatory and permitting requirements, and any and all conditions that are incorporated into this Permit.
- B. Where the PAP is ambiguous or in apparent conflict with the provisions outlined in this Permit, the language of this Permit will supersede the PAP.

Section 10. GENERAL OBLIGATIONS AND CONDITIONS

Description of Project / Authorized Disturbances



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- A. Within the approved Permit Area, the Permittee will stage a surface mining operation that will excavate mine tailings from a previously reclaimed tailings pile. Various excavation and processing equipment will be staged within the Permit Area including but not limited to a trackhoe, a backhoe, dump trucks, water tanks, and screening equipment. This equipment will be staged on an approximately 1.15-acre processing/staging area when not in the active excavation pit. Mining activities shall be limited to areas denoted as "North Pile" and "South Pile" on Figure 1 of Appendix A, which measure 5.18 and 54.16 acres, respectively. Mining and reclamation are anticipated to occur in approximate 8.0-acre phases. Permittee will access the Permit Area via existing county and city roads. Excavated materials will be transported to a loading area where they will be processed by a single deck vibrating screen to segregate any cover materials included in the excavated materials. Sorted tailings will then be loaded for transport by truck or by rail from a nearby rail spur.
- B. Pursuant to §19.10.3.304.A, the Permittee will conduct mining and exploration activities within the 9.82-acre design limit. The Permittee shall conduct reclamation to maintain a total disturbed area that does not exceed 9.82 acres. The Permittee is obligated to complete reclamation of all disturbed areas upon completion of mining or upon termination or withdrawal of approval to operate by the City of Deming.
- C. The Permittee shall maintain this Permit until reclamation is complete at the site.

Stockpiled Materials

- D. Cover material shall be stripped to the extent possible and separated from the tailings during excavation and stockpiled for reclamation. If cover materials are commingled with tailings during excavation, they shall be segregated with a vibrating screen as outlined in the PAP, and stockpiled as waste materials separately from known clean cover.
- E. Any cover or waste material stockpiles shall be located and protected so that wind and water erosion to this resource is minimized.

Reclamation Requirements

- F. Excavation will continue until native soil is reached. Prior to placement of a cover layer, the native surface shall be graded to match surrounding topography. Stockpiled cover materials shall be utilized to construct an engineered cover layer approximately 18 inches thick contoured to the surrounding terrain. Slopes shall not exceed 3H:1V. Cover shall be designed to prevent erosion by the implementation of low berms or swales.
- G. Stockpiled waste materials shall not be used as cover material unless sampled for metals, specifically arsenic, lead, and zinc, by U.S. Environmental Protection Agency ("EPA") Method 1312 / SW-846 or equivalent analytical method and testing shows that concentrations are below New Mexico Voluntary Remediation Program screening levels as defined in the PAP. Otherwise, stockpiled waste materials shall be interred on-site beneath the engineered cover layer during reclamation.



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H. The engineered cover layer shall be raked, disked or deep-scarified prior to seeding to prepare a suitable seedbed for seed germination and root growth. In addition, any additional disturbances occurring on native soil (including access roads, staging areas, or stockpile areas) shall be ripped to a minimum of 18 inches, scarified by furrowing, and revegetated with the approved seed mixture. The approved seed mixture shall be broadcast sown after site re-contouring and seedbed preparation has been completed and while the soil surface is still friable. After the seed mix has been sown, the soil shall be dragged with a chain or harrow or 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. All reseeding shall utilize an appropriately certified weed-free, pure live seed mixture of nation 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 dropseed	0.2
Sixweeks threeawn	0.5
Scarlet globemallow	1.0
American vetch	7.0
Fourwing saltbush	4.0
White-thorn acacia	7.0
TOTAL	20.2

I. Following the re-vegetation and restoration activities, periodic site monitoring shall be conducted by the Permittee to ensure the successful establishment of vegetation and stabilization of the site. Re-vegetated areas that do not exhibit satisfactory vegetative growth by the end of the third growing season shall be mitigated by reseeding, mulching, grading, and/or application of best management practices (“BMPs”) to prevent erosion and site degradation.

J. The Permittee shall leave all disturbances in a manner that is stable, both long term and short term, and non-hazardous to humans and wildlife. The reclamation plan for the site is described in the PAP and this Permit.

K. All lands to be disturbed by the mining operation will be addressed under the performance reclamation standards and requirements of §19.10.3.304 NMAC and in accordance with the reclamation plan provided in the PAP and this Permit.

L. The site will be considered reclaimed and eligible for release once the following criteria have been met:

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1. canopy cover within the reclaimed area equals at least 75% of canopy cover within the identified reference area(s);
2. species diversity within the reclaimed area approximates the species diversity within identified reference area(s) or within the ecological site description provided by the Natural Resources Conservation Service;
3. noxious weed species percent cover does not exceed that of the reference area(s);
4. no significant erosion is evident on reclaimed areas.

Noxious Weed Management

- M. A Class B noxious weed on the New Mexico Noxious Weed List, African Rue (*Perganum harmala*), has been identified within the Permit Area and on areas designated to be mined. To prevent the spread of African Rue, as well as prevent the continued presence of African Rue seed or plant matter within the stockpiled cover material, the Permittee shall conduct noxious plant removal activities.
- N. Noxious weeds and/or competitive vegetation shall be controlled by the Permittee. Noxious weed management shall consist, at a minimum, of the following:
1. Training of on-site personnel to recognize African Rue (*Perganum harmala*), a Class B noxious weed known to occur on disturbed areas within Luna County;
 2. Prior to the excavation of any part of the Permit Area, the proposed excavation area shall be spot-treated for visually identifiable African Rue plants, or other noxious weeds, using an appropriate herbicide, applied in strict accordance with the manufacturer's recommendations, and mechanical removal of such plants to prevent the spread of noxious weeds or the presence of noxious weed seeds or plant matter within recovered cover materials to be reused with the Permit Area;
 3. Completion of two inspections per year (early growing season [May-June] and after the monsoon season [September]), of all disturbed areas such as roads, reclaimed areas, pits, and stockpiles within the Permit Area;
 4. Annual spot-treatment of visually identifiable African Rue plants, or other identified noxious weeds, using an appropriate herbicide, applied in strict accordance with the manufacturer's recommendations, and/or mechanical removal methods within disturbed areas, affected areas, and reclaimed areas within the Permit Area;
 5. Decontamination (i.e., pressure or steam washing) of mining equipment prior to introducing any equipment into the Permit Area or prior to any equipment leaving the Permit Area in order to prevent the spread of non-native or noxious plants to the Permit Area or outside the Permit Area.

Best Management Practices ("BMPs")



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- O. A minimum setback of 100 feet from any defined watercourse within the Permit Area is recommended. No excavation or filling shall take place within any watercourse until the required permits or consultations are obtained from the U.S. Army Corps. of Engineers.
- P. No storage of fuels or chemicals shall take place within any watercourse.
- Q. The Permittee shall implement best management practices (“BMPs”) in a manner that prevents direct impacts to surface water and ephemeral, intermittent, and perennial water courses. The Permittee shall implement erosion control measures that are designed, constructed and maintained using professionally recognized standards.
- R. The Permittee shall contain any water produced from the operation at the site. Discharge of water or any industrial fluids to any watercourse may be a violation of the Clean Water Act. All waste material shall be collected and disposed of properly.
- S. Travel should be suspended during wet, muddy conditions. Construction or maintenance activities should not be performed during periods when the soil is too wet to adequately support heavy equipment.
- T. Appropriate spill clean-up materials, such as absorbent pads, must be available on-site at all times during mining activities to address potential spills. Spills must be reported immediately to 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) 476-6000. 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 Department of Public Safety).

Cultural and Paleontological Resource Preservation Requirements

- U. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the Permittee, or any person working on the Permittee's behalf, shall be immediately reported to the Department of Cultural Affairs and the Mining and Minerals Division. The Permittee shall suspend all operations in the immediate area of such discovery until authorization to proceed is issued by the Department of Cultural Affairs. An evaluation of the discovery will be made by the Department of Cultural Affairs to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Permittee shall be responsible for the cost of evaluation, and any decision as to the proper mitigation measures will be made by the Department of Cultural Affairs after consulting with the Permittee.
- V. The Permittee is obligated to comply with procedures established in Section 18-6-11.2 of the Cultural Properties Act, NMSA and §4.10.11 NMAC to protect such cultural items as human remains, associated funerary objects, sacred objects, and objects of cultural patrimony discovered inadvertently during the course of project implementation. In the event that any of the cultural items listed above are discovered during the course of project work, the Permittee shall immediately halt the disturbance and contact the Office of the



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Medical Investigator and the local law enforcement agency pursuant to Section 18-6-11.2 of the Cultural Properties Act and the Department of Cultural Affairs within 24 hours for instructions. The Permittee shall be held responsible for protecting, evaluating, reporting, excavating, treating, and disposing of these cultural items according to the procedures established by the Department of Cultural Affairs in consultation with Indian Tribes.

Changes, Modifications, or Revisions to the Permit

- W. Any changes, modifications or amendments to the approved Permit shall be approved, in writing, prior to implementation.

Financial Assurance

- X. The Permittee shall maintain financial assurance, after approval of this Permit, in the approved amount of \$61,326.59 (sixty-one thousand three hundred and twenty-six 59/100 U.S. dollars), using one, or more, approved financial assurance instruments until released, pursuant to Part 12 of the Rules and sufficient to cover third-party costs of surface reclamation of all disturbed areas and exploration reclamation/borehole abandonment.

Annual Report and Fees

- Y. The Permittee shall submit annual reports pursuant to §19.10.6.610 NMAC, and any annual fees as required by §19.10.2 NMAC.

Additional Obligations

- Z. The Permittee shall maintain this Permit until reclamation is completed at the site.
- AA. The Permittee shall monitor the site, at least once per year, for the duration of the Permit in order to assure knowledge of the general site conditions and compliance with the Permit and the approved Permit Area.

Section 11. CONCLUSIONS OF LAW

- A. The Director concludes the application meets the requirements of a “Minimal Impact Mining Operation,” addressed in §19.10.1.1.7.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 mining operation, pursuant to §19.10.1.107.M(2) NMAC and §19.10.3.304 NMAC. The Deming Alpha Mine will no longer qualify as a Minimal Impact operation if permit authority is exceeded or if any of the characteristics described in §19.10.1.7.M(2) NMAC exist.
- B. The PAP is complete and accurate and complies with the requirements of the Act and §19.10.3.304 NMAC.
- C. The Director has jurisdiction over the Permittee and the subject matter of this Permit and



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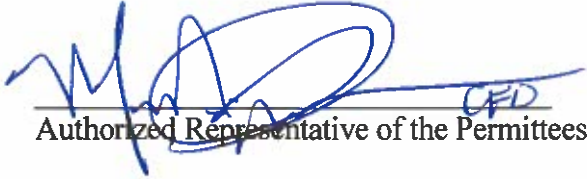
process.

- D. The Permittee is permitted to conduct mining, exploration and reclamation operations on the Permit Area and within the 9.82 acre design limit upon the condition that the Permittee complies with the requirements and conditions of the Act, the Rules, and this Permit, and upon the submission of such annual reports and fees as may be required under §19.10.6.610 NMAC and §19.10.2 NMAC.



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.


Authorized Representative of the Permittees

ZFO
Title

Gua Mining, LLC
Company

Subscribed and sworn to before me this 23rd day of January, 2025

Michael Koch
Notary Public

My Commission Expires

Sept 20, 2028

Commonwealth of Pennsylvania • Notary Seal
Michael Koch, Notary Public
Lehigh County
My commission expires September 20, 2028
Commission number 1300914
Member, Pennsylvania Association of Notaries

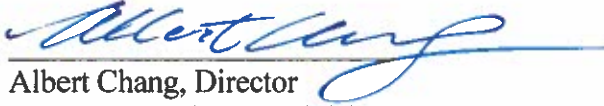


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ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that Permit No. LU042MN, for the construction, operation and reclamation of the mine referred to as the Deming Alpha Mine, located in a portion of Section 18, Range 9 West, Township 23 South, Luna County, New Mexico, is approved. The Permit may not be transferred without approval by the Director.

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

By: 
Albert Chang, Director
Mining and Minerals Division
Energy, Minerals and Natural Resources Department

Date: 1/28/2025



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APPENDIX A
SITE MAP



Handwritten initials/signature in the top left corner.



3000 East Water Right, Coahuila, Jalisco, Mexico

Map Key

- Railroad
- Permit Area
- Tailings Piles

0 150 Meters



Document Path: D:\Projects\23\Environ\23\Water_Mexico_Permit\03_MXD\Gile_Mining_Loade_Area.mxd

Map Notes:
1. Datum: WGS 1984
2. Projection: WGS 1984 UTM Zone 13N

Date: November 4, 2024

Drawn By:
SMART MAP

Project:

Peru Mill Tailings

Client:

Gila Mining, LLC

Figure: 1

Permit Area

