

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Melanie A. Kenderdine
Cabinet Secretary

Dylan A. Fuge
Deputy Secretary

Albert Chang, Director
Mining and Minerals Division



July 15, 2024

Mr. Mitchell Vokaty
7508 Hill and Dale Rd NW
Elk River, MN 22660

RE: Agency Review Comments and Request for Additional Information, Chloride North Face Placer No. 1, Sierra County, New Mexico, Permit Tracking No. SI060MN

Dear Mr. Vokaty,

The New Mexico Mining and Minerals Division (“MMD”) has reviewed the Permit Application Package (“PAP”) submitted by Candy Mountain Mining Company on behalf of Mitchell Vokaty (“Permittee”) for the Chloride North Face Placer No. 1 mining project (“Site”) located in Sierra County, New Mexico. In accordance with 19.10.3.304.H NMAC, MMD requested comments on the PAP from cooperating state and federal agencies.

Enclosed with this letter are comments from MMD along with 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”), the New Mexico Energy, Minerals, and Natural Resources Department – Forestry Division (“Forestry”), and the United States Forest Service – Gila National Forest, Black Range Ranger District (“USFS”).

General Comments:

MMD has the following comments:

- MMD recommends that the any area for laydown of equipment or storage of vehicles should be moved out of the floodplain of Chloride Creek.
- The PAP mentions that material may be relocated from the Lucky Well Lode claim (Permit No. SI059DRY) to the Site during reclamation. How much material is estimated to be relocated from Lucky Well and what equipment will be utilized to do so? MMD notes that under a general permit, Lucky Well is limited to 200 cubic yards of excavation per year.
- The permit area is roughly divided into three working areas: west, central, and east. During the site visit it was indicated that not all working areas may be initially used for mining. MMD requests clarification on the mining schedule and what areas may be expected to be mined first.
- Please provide the Material Safety Data Sheet (“MSDS”) for any chemicals to be used as part of the mining process.
- Please clarify the route of the water diversion channel and how this will be kept separate from the mining areas.
- Please provide the approximate depths of excavation within the mining areas.

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MMD has reviewed the PAP and has found it to be *technically incomplete* 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 Mining Environmental Compliance Section, Ground Water Quality Bureau Comments ("MECS")

Please review the comment letter received from NMED MECS Ground Water Quality 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.

Forestry Comments:

Please review the comment letter received from Forestry and respond to any concerns.

NMDCA/HPD Comments:

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

USFS Comments:

Please review the comment letter received from USFS and respond to any concerns.

If you have any questions, please contact me at (505) 470-5354, or via email at kevin.barnes@emnr.dnm.gov.

Sincerely,



Kevin Barnes, Permit Lead
Mining Act Reclamation Program ("MARF")

Enclosures: Agency Letters

Cc with enclosures: Kiel Schleusner, Candy Mountain Mining Company

Cc w/o enclosures: David "DJ" Ennis, Program Manager, MARF/MMD
Jenna Padilla, US Forest Service

Mine File (SI060MN)



Electronic Transmission

MEMORANDUM

Date: June 5, 2024

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

Through: Anne Maurer, Mining Act Team Leader, Mining Environmental Compliance Section (MECS)

From: Sean Madden, MECS
Davena Crosley, Surface Water Quality Bureau (SWQB)
Sufi Mustafa, Air Quality Bureau (aqb)

Subject: **New Mexico Environment Department (NMED) Comments, Chloride North Face Placer No. 1, Minimal Impact New Mining Operation, Mitchell Vokaty, Sierra County, New Mexico, New Mexico Mining Act Permit No. SI060EM**

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on April 25, 2024 requesting that NMED review and provide comments on the above-referenced MMD permitting action. Pursuant to the Mining Act, the Chloride North Face Placer No. 1 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 June 5, 2024. NMED has the following comments.

Background

Mitchell Vokaty (Applicant) is requesting to disturb approximately 0.5 acres of U.S. Forest Service land for a gold mining operation located near Chloride, NM in Section 19, Township 11S, Range 8W.

Air Quality Bureau

The Air Quality Bureau comments are attached.

Mr. David Ennis
Chloride North Face Place No. 1
June 5, 2024

Surface Water Quality Bureau

The Surface Water Quality Bureau comments are attached.

Mining Environmental Compliance Section (MECS)

Based on the Office of the State Engineer well data, provided by the applicant, groundwater is located at a depth of approximately 64 feet below ground water surface. Assuming the depth of excavation will not exceed six (6) feet and the reported depth to groundwater, the activities proposed in the application will be protective of groundwater if completed in accordance with the approved permit.

NMED Summary Comment

NMED has determined that the activities proposed in the application 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: May 31, 2024

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, Chloride North Face Placer No. 1, New Minimal Impact Mining Permit Application, Mitchell Vokaty, Sierra County, New Mexico Mining Act Permit No. SI060EM

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

Applicant will surface mine for gold. The total disturbed area will be less than 0.5 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."

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:

Request for Review and Comment, Chloride North Face Placer No. 1, New Minimal Impact Mining Permit Application, Mitchell Vokaty, Sierra County, New Mexico Mining Act Permit No. SI060EM

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“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:

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).

Request for Review and Comment, Chloride North Face Placer No. 1, New Minimal Impact Mining Permit Application, Mitchell Vokaty, Sierra County, New Mexico Mining Act Permit No. SI060EM

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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

If there is going to be any onsite material processing or screening and or rock crushing is involved in this project please consult the Air Quality Bureau for potential air quality permit needs.

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



MEMORANDUM

May 15, 2023

To: Anne Maurer, Mining Act Team Leader
Mining Environmental Compliance Section
Groundwater Quality Bureau (GWQB)

From: Davena Crosley
Watershed Protection Section
Surface Water Quality Bureau

Subject: **Request for Review and Comment, New Minimal Impact Mining Permit Application, Chloride North Face Placer No. 1, Sierra County, New Mexico, Permit No. SI060EM**

On May 3, 2024, NMED received a request for comments regarding a new minimal-impact mining permit application submitted by Mitchell Vokaty ("Applicant"). The project is in Sierra County, approximately 1.5 miles west of Chloride, NM on public lands managed by the U.S. Forest Service.

Summary of Proposed Action

The Applicant seeks to placer mine for gold in Chloride Creek, disturbing approximately 0.5 acres including one 0.0482-acre staging area, one 0.0085-acre stockpile, and one 20' x 20' x 3' deep lined tailing pond. Material will be dug from the dry stream bed and processed using a recirculating closed loop system. During mining, ponds will be pumped empty into a new location with full containment of water and water will not be treated with any regulated or unregulated EPA chemicals. Water in the tailings pond will be settled and emptied during reclamation and no wet material or water with suspended solids from the tailings pond will be discharged.

Relevant State and Federal Water Quality Regulations

Mine activities may affect Surface Waters of the State as defined in 20.6.4.7 NMAC, which includes ephemeral arroyos within the mining operations and are subject to 20.6.4.98 NMAC. Furthermore, operations must ensure protection of surface waters of the state including General Criteria at 20.6.4.13 NMAC, established to sustain and protect existing or attainable uses of surface waters of the State. These general criteria apply to all surface waters of the state at all times. Surface waters of the State 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.

The Applicant, as described in the project application, will disturb an estimated total of 0.5 acres. However, if conditions of the project change to disturb more than one acre, the Applicant may be required to obtain coverage for storm water discharges under either the U.S. Environmental Protection Agency (USEPA) National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) or under USEPA's Multi-Sector General Permit (MSGP) under Sector G Metal Mining.

The Applicant is required to 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 or 505-428-6535 (voice mail, twenty-four hours a day). For emergencies only, call 505-827-9329 twenty-four hours a day (NM Dept of Public Safety).

In addition to the above regulatory standards, SWQB requires the following practices to avoid contamination and to protect surface and groundwater quality:

- Best Management Practice (BMPs) that were identified in the permit application must be implemented to limit erosion from surface water runoff on areas of your site that, due to topography, activities, soils, cover, materials, or other factors are likely to experience erosion. At no time should construction materials including fuel, oil, grease, or other contaminants be staged or stored in flood prone areas during the summer monsoon season, typically July-September.
- Tailing ponds must be sized to prevent overtopping during precipitation events.
- Process water must be contained within the closed-loop system or lined pits and may not be discharged unless a discharge permit has been secured from the EPA and/or NMED.
- Fuel, oil, hydraulic fluid, lubricants, and other petrochemicals must have a secondary containment system to prevent spills. Store these materials outside of the flood-prone zone.
- Perform all work, when practicable, in the dry season and postpone work during wet and muddy conditions.
- Appropriate spill clean-up materials such as absorbent pads must be available on-site at all times during road construction, site preparations, drilling and reclamation to address potential spills.
- Provide a minimum 50' setback from existing drainages to staging areas.

If you have any questions, please contact Davena Crosley at davena.crosley@env.nm.gov or (575) 636-3425.



DIRECTOR AND SECRETARY
TO THE COMMISSION
Michael B. Sloane

STATE OF NEW MEXICO DEPARTMENT OF GAME & FISH

One Wildlife Way, Santa Fe, NM 87507
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DR. SABRINA PACK
Silver City

30 May 2024

Kevin Barnes, Permit Lead
Mining Act Reclamation Program
Mining and Minerals Division (MMD)
1220 South St. Francis Drive
Santa Fe, NM 87505

***RE: New Minimal Impact Mining Permit Application, Chloride North Face Placer No. 1,
Permit No. SI060EM; NMDGF No. NMERT-3453.***

Dear Mr. Barnes,

The New Mexico Department of Game and Fish (Department) has reviewed the above referenced minimal impact mining permit, submitted by Mitchell Vokaty (Operator). The proposed project site is in Sierra County in Section 19, Township 11S, Range 8W. The Operator will excavate all material to be processed from the dry sediment bed of Chloride Creek and will not disturb any riparian vegetation. Excavated sediment will be separated using water in a recirculating, closed loop system utilizing a 20 X 20 foot, lined pond. The total area that will be disturbed by the proposed mining activities is approximately 0.5 acres. Staff from the Department, MMD, U.S. Forest Service (USFS), and the Operator conducted a site inspection on 22 May 2024.

During the site inspection, Department staff scanned nearby cliffs for active raptor nests that could potentially be disturbed by mining activities; none were observed. Provided that the Operator adheres to the best management practices stipulated in the Plan of Operations and those discussed during the site inspection regarding potential monsoon flood events, the Department does not anticipate any significant adverse impacts to wildlife or associated riparian habitat.

The Department requests that the Mining and Energy Habitat Specialist be given an opportunity to review the finally approved MMD/USFS native seed mix that will be used to reclaim the camping and equipment lay down areas. The Department also 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.

Thank you for the opportunity to comment on the proposed minimal impact mining permit. 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 for Technical Guidance

cc: USFWS NMES Field Office

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Melanie A. Kenderdine
Cabinet Secretary

Dylan Fuge
Deputy Cabinet Secretary

Laura McCarthy, State Forester
Forestry Division



October 12, 2023

Kevin Barnes
Reclamation Specialist
Mining and Minerals Division
Mining Act Reclamation Program
1220 S. St. Francis Drive
Santa Fe, NM 87505

**RE: Request for Comments on New Minimal Impact Mining Permit Application, Chloride
North Face Placer No. 1, Sierra County, New Mexico, Permit No. SI060EM**

Thank you for the opportunity to comment on the above-referenced project. I do not anticipate any impacts to NM State Listed Endangered Plants or Federally Listed Endangered or Threatened plants, as a result of this project.

Please let me know if I can be of further help.

Sincerely,

A handwritten signature in blue ink that reads "Erika Rowe".

Erika Rowe
State Botanist/Endangered Plant Program Coordinator
EMNRD-Forestry Division
1220 S. St. Francis Dr.
Santa Fe, NM 87505
erika.rowe@emnrd.nm.gov
<http://www.emnrd.state.nm.us/SFD/>
cell: (505) 699-6371



**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

May 22, 2024 (corrected July 1, 2024)

Kevin Barnes
Reclamation Specialist
Mining and Minerals Division
1220 South St. Francis Drive
Santa Fe, New Mexico

VIA EMAIL ONLY

RE: HPD Log #122385—Chloride North Face Placer No. 1 project (Permit No. S1060MN)

Dear Mr. Barnes,

Thank you for submitting the information for the proposed Chloride North Face Placer No. 1 Project, Permit No. S1060MN, Mitchell Vokaty, Mineral Owner. Our office received the information on April 25, 2024, via email. The New Mexico State Historic Preservation Office (SHPO) reviewed the proposed project under 19.10.3.304 NMAC, Minimal Impact New Mining Operations.

Pursuant to 19.10.3.304 NMAC, Minimal Impact New Mining Operations, the Director shall determine whether a permit would have an adverse impact on cultural resources listed on either the National Register of Historic Places (NRHP) or the State Register of Cultural Properties (SRCP) or be located in a known cemetery or other burial ground.

According to our files, only a small sliver of the project area has been surveyed for cultural resources and there are no known cemeteries, burial grounds, or cultural resources listed on, or eligible to, either the NRHP or the SRCP within the proposed mining operation permit area. We did note one site just outside the permit area that is eligible to the NRHP. A previously recorded site, with no eligibility determination, is within the permit boundary, but outside the work area. As such, the SHPO has no comment.

However, 19.10.3.304 NMAC also states, that “if the permit area includes state or federally owned lands, no permit will be issued unless the appropriate land management agency has approved or acknowledged the proposed operation...”

Our records indicate that all the project exploration locations are situated on lands owned by the USDA Forest Service (USFS)—Gila National Forest. And as these lands have not been surveyed for cultural resources, they will likely require a survey: the USFS should be contacted regarding this project.

If you have any questions, please contact me at 505-476-1341 or via email at cortney.wands@dca.nm.gov.

Sincerely,

Cortney Wands
Archaeological Reviewer

File Code: 2810

Date: May 3, 2024

Subject: Chloride North Face Placer #001 - Letter

To: Black Range District Files

Mitchell Vokaty
7508 Hill and Dale Rd NW
Elk River, MN 22330

Dear Mr. Vokaty,

This letter is in regards to your Chloride North Face Placer #001 Plan of Operations (POO) in accordance with the Forest Service (FS) mining regulations at 36 CFR 228 Subpart A. The POO is dated February 28, 2024, and was received on February 29, 2024, by the Black Range Ranger District, Gila National Forest (Gila). Minerals staff have completed a preliminary review, including a field visit on March 28, 2024, to ensure all necessary information has been provided in accordance with 36 CFR 228 Subpart A. From our field visit discussions, you submitted an amended Plan of Operations to the Gila on April 2, 2024. As part of the review, the FS assessed your proposed activities to ensure they are authorized by law, reasonable and follow logical progression, and are designed to minimize adverse environmental impacts.

In this regard, I am requesting the following additional information. Please note that the Section and Initial Letter below correlate to the appropriate section on the POO form FS-2800-05 that you submitted to the FS.

Section I:

- “3/31/2024” has passed, a start date further out will need to be discussed or option to put “Summer 2024 or as soon as Plan of Operations is approved.”

Section IV:

- Thank you for adding your proposed Plan of Operations on how stream channel diversion for future expected intermittent waterflow will be accomplished. We will need to work on this proposal or other ideas with the forest hydrologist and State of New Mexico surface water specialists.
- How will rock be moved from Lucky Well Lode Claim to this operation? Will another piece of equipment be necessary? Include in equipment section.
- Recommend adding into the tailings pond section, a wildlife ramp egress construction feature.

Section V:

- How will storm water be managed during a high-precipitation event and/or flash flood? We suggest working on this concern with the forest hydrologist and State of New Mexico surface water specialists.
- Will water be discharged into the stream channel during pond reclamation when operations conclude or during seasonal closures?
- How much fuel and other petroleum products stored onsite?
- Please attach the Jet Dry safety data sheet to this Plan of Operations.

Due to the proposal of operating within an active streambed, we will need to have another field visit with the forest hydrologist to take a look at this proposed Plan of Operations area. Please



wait on amending the Plan of Operations again until we have this field visit to ensure we do not have additional questions. We are coordinating the date of this field visit with the State of New Mexico and will keep you informed.

Feel free to contact myself by phone at 575-894-6677 or by email at bret.mellott@usda.gov, or Jenna Padilla at jenna.padilla@usda.gov for any other questions.

Sincerely,

BRET A. MELLOTT
District Ranger