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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