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DEPARTMENT OF GAME & FISH

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25 February 2025

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

RE: Modification 25-1, Black Spring Mine, McKinley County, New Mexico, Permit No. MK026MN; NMDGF Project No. NMERT-4191.

Dear Ms. Osimowicz,

The New Mexico Department of Game and Fish (Department) has reviewed the above referenced permit modification. Menefee Mining Corporation (Menefee) is proposing to expand their existing Black Spring Humate Mine permit area by approximately 117 acres. Menefee is also requesting to increase the current mine design limit from 10 to 12 acres. Staff from the Department were unable to attend MMD's agency site inspection conducted on 18 February 2025.

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.

Prior to expanding mining operations into undisturbed areas, the Department recommends that Menefee survey all suitable grassland areas for Gunnison's prairie dog (*Cynomys gunnisoni*) colonies. Gunnison's prairie dogs are designated as a New Mexico Species of Greatest Conservation Need, and their colonies provide important habitat for other grassland wildlife. If

any prairie dog colonies are documented, mine construction activities should avoid disturbing the colony by establishing a 100-foot buffer zone from the outermost burrows.

The Department also recommends that mine development activities avoid disturbing banner-tailed kangaroo rats (*Dipodomys spectabilis*) by establishing a 50-foot buffer zone around any burrow mound complexes.

If the destruction of occupied prairie dog or banner-tailed kangaroo rat burrows cannot be avoided, the Department recommends trapping and relocating the animals prior to burrow disturbance. Department biologists are available for consultation and can help facilitate contact with qualified personnel that can perform occupied burrow mitigations.

Thank you for the opportunity to review and comment on the proposed permit modification. 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, Ecological and Environmental Planning Section

cc: USFWS NMES Field Office