

QUARRY LEASE AGREEMENT

This Quarry Lease Agreement (this "Lease") is made effective as of _____, 2004 and is by and between LARRY HOOPER and PENNIE J. HOOPER, husband and wife (the "Hoopers"), whose address is P.O. Box 2624, Deming, NM 88070, and ST. CLOUD MINING COMPANY, a New Mexico corporation ("St. Cloud"), whose address is P.O. Box 1670, Truth or Consequences, NM 87901.

RECITALS

The Hoopers own fee simple title to both the surface and mineral estates in S/2 W/2 NW/2 Section 34, Township 24 South, Range 10 West, N.M.P.M., a tract of 40-acres, more or less, in the Snake Hills in Luna County, New Mexico (the "Leased Land").

The Hoopers also own fee simple title to land between the Leased Land and public roads in the vicinity of the Leased Land over which they can grant St. Cloud easements for access to the Leased Land from such roads.

St. Cloud wishes to lease the Leased Land so that it can quarry aggregate thereon and to obtain easements and rights of way for roads to the Leased Land so that it can operate the quarry.

The Hoopers wish to lease the Leased Land to St. Cloud so that it can quarry aggregate thereon and to grant easements and rights of way to St. Cloud for roads to the Leased Land so that it can operate the quarry.

St. Cloud has paid the Hoopers \$2,500 as non-refundable earnest money and as the advance annual payment for the first year (which ends on September 30, 2005) of the term of this Lease.

THEREFORE, for and in consideration of the payment by St. Cloud to the Hoopers of \$2,500 as non-refundable earnest money and as the advance payment annual payment for the first year of the term of this Lease, and on and subject to the terms, conditions, warranties, representations and covenants expressly set forth in this Lease, the Hoopers and St. Cloud agree as follows:

1. Grant of Lease. The Hoopers hereby lease the Leased Land (including but not limited to any interests therein the Hoopers may hereafter acquire) exclusively to St. Cloud for (a) exploring for, developing, quarrying, processing, removing and selling, when and as determined by St. Cloud, mineral materials which may be used or useful as aggregate for construction, industrial, agricultural and other purposes and (b) uses and activities determined by St. Cloud to be necessary or desirable in connection therewith, including but not limited to, from time to time, constructing, installing, using and removing equipment (including but not limited to blast hole drills, compressors,

generators, crushers, screens, conveyors, scales, loaders, dozers, water trucks, haulage trucks, and other mobile support equipment), buildings, portable toilets, pits, excavations, stockpiles, impoundments, settling basins, fuel storage areas, berms, roads, utilities, pipelines, and other facilities and improvements). St. Cloud shall have no right to mine or remove base or precious metals, oil or gas from or to construct permanent dwellings on the Leased Land. The Hoopers shall not conduct or permit others to conduct any activity on the Leased Land that would materially interfere with any of the activities of St. Cloud authorized in this Lease.

2. Rights of Way and Easements. The Hoopers hereby grant St. Cloud easements and rights of way across other lands owned by them for efficient access to and egress from the Leased Land and for the construction, use, maintenance and removal of roads. The initial easements and rights of way granted by the Hoopers to St. Cloud are shown on Attachment 1 hereto. The Hoopers and St. Cloud shall in good faith negotiate and agree upon the locations and alignments of such additional easements and rights of way as may be necessary or desirable in connection with St. Cloud's operations on the Leased Land. St. Cloud shall be solely responsible for maintaining roads constructed or installed by it on such easements and rights of way. St. Cloud shall keep all of the Hoopers' gates on roads used by St. Cloud outside the Leased Land posted, closed and locked except when such roads are being used. St. Cloud's personnel shall not except in an emergency enter any of the Hoopers' land other than the Leased Land and the easements and rights of way granted in this Lease.

3. Water. St. Cloud may upon the conditions set forth in this Section 3 elect to purchase from the Hoopers and use water from the existing well near the northwest corner of Section 34, Township 24 South, Range 10 West, and may at its own cost construct, use and maintain a pipeline to transport such water from the well to St. Cloud's facilities on the Leased Land. If St. Cloud elects to purchase and use such water, it shall install a meter on the well and, unless prohibited by the State Engineer, pay the Hoopers \$2.50 per 1000 gallons of water used by St. Cloud. St. Cloud shall not use such water so as to impair the Hooper's existing livestock grazing and livestock habitat operations. St. Cloud may at its own cost and in the names of the Hoopers apply to the State Engineer for a permit to drill a well on and appropriate water from the Leased Land to provide water for use only on the Leased Land for dust suppression, reclamation and employee hygiene. The Hoopers hereby grant St. Cloud permission at its own cost to drill, use and maintain such a well on the Leased Land and agree not to protest against any application St. Cloud may file with the State Engineer for a permit for such a well. At the end of the term or upon termination of this Lease, St. Cloud will transfer to the Hoopers all of its rights, titles and interests in such permits, well and related equipment and facilities.

4. Term. Subject to Section 6, this Lease shall remain in effect for a primary term ending September 30, 2014 and continuing for each Lease Year thereafter for which St. Cloud pays the Hoopers the advance annual payment provided for in Section 5(a). For the purposes of this Lease, a Lease Year shall start on October 1 of a calendar year and end on September 30 of the next calendar year.

5. Advance Annual Payments, Production Royalties and Adjustments.

(a) Advance Annual Payments. St. Cloud has paid the Hoopers an advance annual payment of \$2,500 for the first Lease Year (which shall end September 30, 2005). For the second and each subsequent Lease Year during the term of this Lease, St. Cloud shall pay the Hoopers, on or before September 15, an advance annual payment of \$5,000, adjusted pursuant to Section 5(c), by mailing its check for the appropriate amount to the Hoopers at their address set forth in the first paragraph of this Lease or to such other address as the Hoopers hereafter specify in writing to St. Cloud.

(b) Production Royalties. For the first Lease Year, St. Cloud shall pay the Hoopers a production royalty of \$0.40 for each ton of aggregate removed and sold by St. Cloud from the Leased Land during such Lease Year. For the second and each subsequent Lease Year, St. Cloud shall pay the Hoopers a production royalty of \$0.50, adjusted pursuant to Section 5(c), for each ton of aggregate removed and sold by St. Cloud from the Leased Land during such Lease Year. To calculate production royalties, St. Cloud shall determine tonnages by using certified truck scales or another accurate method. St. Cloud shall pay production royalties due with respect to any aggregate it removes and sells during any month before the end of the following month by mailing its check for the appropriate amount to the Hoopers at their address set forth in the first paragraph of this Lease or to such other address as the Hoopers hereafter specify in writing to St. Cloud. St. Cloud shall accompany each such check with a statement showing how it calculated the production royalty paid by the check.

(c) Adjustment of Advance Annual Payments and Production Royalties. For the second (which shall begin October 1, 2005) and each subsequent Lease Year, both advance annual payments and production royalties shall be adjusted on the basis of changes in the Consumer Price Index for All Urban Consumers – West Region, Size B/C, All Items, 1982-1984 = 100 (“CPI”) published by the Bureau of Economic Analysis of the United States Department of Commerce or its successor agency. The base value of the CPI for purposes of such adjustments shall be 117.9, the CPI for June 2004. Before August 15 of each year after 2004, St. Cloud shall adjust both the advance annual payment of \$5,000 provided for in Section 5(a) and the production royalty of \$0.50 per ton provided for in Section 5(b) by multiplying the amount to be adjusted by a fraction, the numerator of which is the CPI first published for June in the year in which the adjustment is made and the denominator of which is 117.9. The resulting number shall be rounded to the nearest whole cent. However, in no event shall the adjusted production royalty on any aggregate removed and sold by St. Cloud exceed 10% of the gross sales price received by St. Cloud for such aggregate.

6. Options of Hoopers and St. Cloud if Production Royalties do Not Exceed \$25,000 Every Fifth Lease Year. If production royalties paid pursuant to Section 5(b) do not exceed \$25,000 in any Lease Year ending in a calendar year ending in 4 or 9 (for example, 2009, 2014, and 2019), the Hoopers may elect before November 15 of the

Lease Year beginning in such calendar year to give St. Cloud written notice of intent to terminate this Lease. St. Cloud may within 10 days following such notice elect to pay the Hoopers the difference between \$25,000 and the amount of production royalties paid during the preceeding Lease Year. If St. Cloud makes such payment, the term of this Lease shall continue. If St. Cloud does not make such payment, the term of this Lease shall end.

7. St. Cloud's Obligations in Addition to Royalty Obligations.

(a) Staking Leased Land. St. Cloud shall have the four corners of the Leased Land clearly staked by a registered land surveyor. Following such staking, the surveyor shall prepare a plat of the Leased Land. A copy of the plat shall be attached to this Lease as Attachment 1 and incorporated herein by reference.

(b) Taxes. St. Cloud shall pay any additional ad valorem, property and other taxes attributable to this Lease and/or St. Cloud's operations hereunder and any taxes on property it places on the Leased Land. St. Cloud may in accordance with applicable law contest any such tax and seek its reduction, adjustment or cancellation.

(c) Insurance. St. Cloud shall maintain in full force and effect all workers' compensation insurance required by the law of the State of New Mexico ("New Mexico"), an umbrella type premises liability policy pertaining to the Leased Land, and such other insurance, of the types and in the amounts, as is customary for operators of quarries in New Mexico of the size St. Cloud will operate on the Leased Land. At the Hoopers' request, St. Cloud will furnish the Hoopers with certificates of any or all such insurance.

(d) Indemnities. St. Cloud shall indemnify and hold the Hoopers harmless from any and all claims, demands, suits, losses, damages, and costs (including but not limited to reasonable attorney fees) incurred by the Hoopers, which may be asserted against the Hoopers by reason of, which may arise out of, or which may be related to, St. Cloud's activities and operations under this Lease. Nothing in this Section 7(d) is intended to create, and does not create, any obligation, agreement, covenant or promise to indemnify declared by NMSA 1978, Sec. 56-7-1 or Sec. 56-7-2 to be against public policy, void and unenforceable.

(e) Compliance with Statutes. St. Cloud shall conduct all of its operations, including but not limited to both its quarrying and its reclamation operations, under this Lease in material compliance with all applicable statutes, rules and regulations, including but not limited to those relating to any materials deemed by such statutes, rules and regulations to be "hazardous materials," and obtain all permits which may be required for such operations.

(f) Reclamation; Trash; Disturbed Area Limited to 25 Acres at Any One Time. St. Cloud shall reclaim in material compliance with applicable statutes, rules and regulations now or hereafter in effect all portions of the Leased Land disturbed by its

operations under this Lease. Statutes, rules and regulations, which become effective hereafter and impose quarry reclamation requirements with respect to the Leased Land shall be deemed to amend and be incorporated in this Lease. The Hoopers recognize that St. Cloud's operations on the Leased Land may create topographic depressions that will remain after reclamation. Although St. Cloud does not anticipate that water will permanently pond in such depressions due to the probable permeability of the soil, St. Cloud anticipates that such depressions will serve as temporary water collection basins desirable in an arid environment. To the extent that it is feasible for it to do so, St. Cloud shall conduct reclamation operations on the Leased Land concurrently with quarrying operations. St. Cloud shall not maintain any trash pits or abandoned equipment or supplies on the Leased Land or dump or dispose of off-site materials thereon. The portions of the Leased Land disturbed at any one time by St. Cloud's operations and not previously reclaimed shall not at any one time exceed 25 acres.

8. Representations, Warranties and Covenants.

(a) By St. Cloud. St. Cloud represents and warrants to and covenants with the Hoopers that the following statements are true and correct:

(i) This Lease constitutes its valid, legal and binding obligation, enforceable against it in accordance with its terms.

(ii) It has full right, power and authority to enter into this Lease.

(iii) Its execution, delivery and performance of this Lease do not in any way violate or conflict with any statute, law, rule, regulation, permit, license, certificate, judgment, injunction, order, decree, instrument, agreement, indenture, mortgage, deed of trust or lease.

(iv) There is no notice, action, suit, investigation or proceeding outstanding, pending or threatened before any court, arbitrator, official or any other person or body which, individually or in the aggregate and directly or indirectly, could at any time adversely affect (A) its ability to perform each of its obligations under this Lease or (B) the correctness of each of its warranties and representations expressed in this Lease.

(b) By the Hoopers. The Hoopers represent and warrant to and covenant with St. Cloud that the following statements are true and correct:

(i) This Lease constitutes their valid, legal and binding obligation, enforceable against them in accordance with its terms.

(ii) They have full right, power and authority to enter into this Lease.

(iii) Their execution, delivery and performance of this Lease do not in any way violate or conflict with any statute, law, rule, regulation, permit, license, certificate, judgment, injunction, order, decree, instrument, agreement, indenture, mortgage, deed of trust or lease.

(iv) They are the sole owners of and are vested with good and merchantable fee simple title to the Leased Land, free from all grants, options, agreements, clouds, leases, liens, claims, mortgages, security interests, pledges, assessments, charges and encumbrances (except the lien of 2004 property taxes not yet due or payable).

(v) There is no notice, action, suit, investigation or proceeding outstanding, pending or threatened before any court, arbitrator, official or any other person or body which, individually or in the aggregate and directly or indirectly, could at any time adversely affect (A) their ability to perform their obligations under this Lease, (B) the correctness of each of their representations and warranties expressed in this Lease, (C) their title to the Leased Land or (D) St. Cloud's use and enjoyment of the Leased Land pursuant to this Lease.

9. Force Majeure. The respective obligations of the Hoopers and St. Cloud under this Lease are subject to all applicable laws, rules, regulations and orders of any governmental authority having jurisdiction. When compliance by either party with any obligation is prevented or delayed by any such law, rule, regulation or order, by inability to obtain necessary permits, equipment, services, labor, material, water, electricity, fuel, access or easements, or by fire, flood, adverse weather condition, act of God, war, terrorism, sabotage, insurrection, riot, strike or other labor dispute, breakdowns of or damage to equipment or facilities, or by any cause not reasonably within the control of the party whose compliance is prevented or delayed, this Lease shall not terminate on account of such prevention or delay, neither party shall be liable for breach of any provision hereof on account of such prevention or delay, and the period of such prevention or delay shall be added to the term hereof.

10. Release. St. Cloud may at any time deliver to the Hoopers or file for record in Luna County, New Mexico a release of this Lease. Such a release shall relieve St. Cloud only from obligations thereafter arising and shall not relieve St. Cloud from its obligation to reclaim the Leased Land.

11. Removal of Equipment Following the End of the Term or Any Release. Within 180 days or as required by law following either the end of the term of or any release of this Lease, St. Cloud shall complete any remaining required reclamation on the Leased Land and remove equipment, machinery, facilities, and other property at any time placed by it on the Leased Land or on any easements and rights of way granted by the Hoopers.

12. Breach or Default. Neither party shall file an action for damages or any other relief on account of any breach of or default under this Lease until at least 90 days after

the party claiming the breach or default has delivered to the other party a written notice fully describing the claimed breach or default, and then only if the party receiving such notice has failed to remedy any breach or default within 90 days after receiving the notice. In the event of a final judicial determination that a breach or default has occurred, this Lease shall not be forfeited or cancelled in whole or in part unless the party which committed the breach or default fails to remedy the same within a reasonable time after the final judicial determination. If one party to this Lease institutes legal proceedings against the other party, the prevailing party shall be entitled to recover reasonable attorney fees and court costs from the other party.

13. Miscellaneous. This Lease constitutes the entire agreement between the Hoopers and St. Cloud. All negotiations between them relating to this Lease are merged herein. No term, condition, representation, warranty or covenant not expressly set forth in this Lease has been made by or shall be binding upon either party. Neither party is bound by any implied covenant or owes any implied obligation to the other. No provision of this Lease may be changed or waived except by an agreement in duly executed by both parties. Each party shall from time to time promptly execute and deliver to the other party such additional documents and do such other and further acts, as may be necessary or desirable to achieve the purposes of this Lease. The relationship between the Hoopers and St. Cloud is strictly limited to that of lessor and lessee. This Lease does not create, and shall not be deemed to create, any of the following relationships: agency, joint venture, mining partnership, commercial partnership, association, trust or any other relationship (including but not limited to any relationship rendering a party liable for the debts or obligations of the other or giving a party power to bind the other) except the lessor-lessee relationship. The descriptive section and subsection headings in this Lease have been inserted for convenience only and shall not in any way be deemed to affect the meaning of any provision. All notices required or permitted by this Lease shall be in writing and shall be deemed to have been duly given and delivered when mailed by United States certified mail, with required postage prepaid, to the address for the receiving party set forth in the first paragraph of this Lease or to such other address as the receiving party shall have hereafter specified in writing to the other party. This Lease shall be binding upon and shall inure to the benefit of the respective assigns, heirs, personal representatives and any other successors of the parties.

In witness whereof, the Hoopers and St. Cloud have each executed and delivered this Lease as of the date set forth in the first paragraph hereof.

Larry Hooper

Pennie J. Hooper

St. Cloud Mining Company

By _____

Name: _____

Title: _____



PATRICK H. LYONS
COMMISSIONER

State of New Mexico
Commissioner of Public Lands

310 OLD SANTA FE TRAIL
P.O. BOX 1148
SANTA FE, NEW MEXICO 87504-1148

COMMISSIONER'S OFFICE

Phone (505) 827-5760

Fax (505) 827-5766

www.nmstatelands.org

December 9, 2005

John Bokich
St. Cloud Mining Company
PO Box 1670
T or C, NM 87901

Re: Right-of-way Easement No. RW-29566 (Access Road)

Dear Mr. Bokich:

Please replace your existing first page of the captioned easement with the enclosed first page that has been revised to read the correct amount and term.

If you have questions, please feel free to contact this office at (505) 827-5728 or 5729.

Sincerely,


Lorrie Salazar, Management Analyst
Surface Resource Management Division



-State Land Office Beneficiaries -

Carrie Tingley Hospital • Charitable Penal & Reform • Common Schools • Eastern NM University • Rio Grande Improvement • Miners' Hospital of NM • NM Boys School • NM Highlands University • NM Institute of Mining & Technology • New Mexico Military Institute • NM School for the Deaf • NM School for the Visually Handicapped • NM State Hospital • New Mexico State University • Northern NM Community College • Penitentiary of New Mexico • Public Buildings at Capital • State Park Commission • University of New Mexico • UNM Saline Lands • Water Reservoirs • Western New Mexico University

ORIGINAL

**STATE OF NEW MEXICO
COMMISSIONER OF PUBLIC LANDS
GRANT OF RIGHT-OF-WAY**

Right-of-Way Easement No. RW-29566

RECEIVED
2005 NOV 17 PM 8:00
STATE OF NEW MEXICO

This indenture, made this 14th day of NOVEMBER, 20 05 by and between the State of New Mexico, acting by and through its Commissioner of Public Lands, "Grantor" St. Cloud Mining Company whose address is PO Box 1670, Truth or Consequences, NM 87901, "Grantee";

WITNESSETH:

That Grantor, for and in consideration of the sum of \$16,727.20-----Sixteen Thousand Seven Hundred Twenty Seven and 20/100-----cash in hand, receipt of which is hereby acknowledged, and other good and valuable consideration, hereby conveys to grantee a right-of-way for the sole and exclusive purpose of a gravel road including the right to enter upon the real estate hereinafter described at any time that it may see fit to construct, maintain and repair the structures upon the right-of-way, together with the right to remove trees, brush, undergrowth, and other obstructions interfering with the location, construction, and maintenance of said right-of-way.

The right-of-way hereby granted covers a strip of land 40 and 80 feet in width in Luna County (ies), as more particularly described by the attached centerline description and survey plats, which are incorporated herein.

This grant is made upon the following express terms and conditions:

1. This right-of-way is granted for a term of 35 years. The grant may be renewed for additional periods upon application to Grantor. Any such renewals are subject to such terms and conditions as the Grantor may require, and payment of compensation.
2. Grantor reserves the right to authorize or grant rights-of-way or other easements to third parties, which may be parallel to, cross over or bisect this right-of-way. In such cases, the subsequent grantee may, at the discretion of the Grantor, be required to post a bond guaranteeing payment for damages to the installations and improvements of Grantee herein. In crossing any right-of-way for a highway, road, telephone, telegraph, transmission line, etc. Grantee herein will exercise due care so as not to interfere with said rights-of-way and will comply with all applicable laws, rules, and regulations in connection with the making of such crossings.
3. The right to grant additional rights-of-way or easements within this right-of-way belongs exclusively to Grantor. Grantor hereby agrees, however, that in the event Grantor elects to exercise such right and if Grantee herein is the New Mexico State Highway and Transportation Department, Grantor will secure in writing the agreement of subsequent right-of-way grantee that no facilities will be constructed or installed within the right-of-way subsequently granted without first obtaining from the Department a permit prescribing the conditions under which facilities may be placed within such right-of-way in accordance with the Department's applicable rules and regulations.
4. GRANTEE EXPRESSLY AGREES THAT PRIOR TO THE CONSTRUCTION OR INSTALLATION OF ANY FACILITIES WITHIN THE RIGHT-OF-WAY GRANTED HEREIN, GRANTEE WILL DETERMINE WHETHER THE RIGHT-OF-WAY IS WITHIN A PREVIOUSLY ESTABLISHED NEW MEXICO STATE HIGHWAY AND TRANSPORTATION DEPARTMENT RIGHT-OF-WAY, AND IF IT IS, GRANTEE WILL OBTAIN FROM THE DEPARTMENT A PERMIT THAT PRESCRIBES THE CONDITIONS UNDER WHICH FACILITIES MAY PLACED WITHIN THE RIGHT-OF-WAY IN ACCORDANCE WITH THE DEPARTMENT'S APPLICABLE

Handwritten signature and date: 12/14/2005



STATE OF NEW MEXICO
COMMISSIONER OF PUBLIC LANDS
GRANT OF RIGHT-OF-WAY

ORIGINAL

Right-of-Way Easement No. RW-29566

This indenture, made this 14th day of November, 2005 by and between the State of New Mexico, acting by and through its Commissioner of Public Lands, "Grantor" St. Cloud Mining Company whose address is PO Box 1670, Truth or Consequences, NM 87901, "Grantee";

WITNESSETH:

That Grantor, for and in consideration of the sum of \$6341.28-----Six Thousand Three Hundred Forty One and 28/100-----cash in hand, receipt of which is hereby acknowledged, and other good and valuable consideration, hereby conveys to grantee a right-of-way for the sole and exclusive purpose of a gravel road including the right to enter upon the real estate hereinafter described at any time that it may see fit to construct, maintain and repair the structures upon the right-of-way, together with the right to remove trees, brush, undergrowth, and other obstructions interfering with the location, construction, and maintenance of said right-of-way.

The right-of-way hereby granted covers a strip of land 40 and 80 feet in width in Luna County (ies), as more particularly described by the attached centerline description and survey plats, which are incorporated herein.

This grant is made upon the following express terms and conditions:

1. This right-of-way is granted for a term of 5 years. The grant may be renewed for additional periods upon application to Grantor. Any such renewals are subject to such terms and conditions as the Grantor may require, and payment of compensation.
2. Grantor reserves the right to authorize or grant rights-of-way or other easements to third parties, which may be parallel to, cross over or bisect this right-of-way. In such cases, the subsequent grantee may, at the discretion of the Grantor, be required to post a bond guaranteeing payment for damages to the installations and improvements of Grantee herein. In crossing any right-of-way for a highway, road, telephone, telegraph, transmission line, etc. Grantee herein will exercise due care so as not to interfere with said rights-of-way and will comply with all applicable laws, rules, and regulations in connection with the making of such crossings.
3. The right to grant additional rights-of-way or easements within this right-of-way belongs exclusively to Grantor. Grantor hereby agrees, however, that in the event Grantor elects to exercise such right and if Grantee herein is the New Mexico State Highway and Transportation Department, Grantor will secure in writing the agreement of subsequent right-of-way grantee that no facilities will be constructed or installed within the right-of-way subsequently granted without first obtaining from the Department a permit prescribing the conditions under which facilities may be placed within such right-of-way in accordance with the Department's applicable rules and regulations.
4. GRANTEE EXPRESSLY AGREES THAT PRIOR TO THE CONSTRUCTION OR INSTALLATION OF ANY FACILITIES WITHIN THE RIGHT-OF-WAY GRANTED HEREIN, GRANTEE WILL DETERMINE WHETHER THE RIGHT-OF-WAY IS WITHIN A PREVIOUSLY ESTABLISHED NEW MEXICO STATE HIGHWAY AND TRANSPORTATION DEPARTMENT RIGHT-OF-WAY, AND IF IT IS, GRANTEE WILL OBTAIN FROM THE DEPARTMENT A PERMIT THAT PRESCRIBES THE CONDITIONS UNDER WHICH FACILITIES MAY PLACED WITHIN THE RIGHT-OF-WAY IN ACCORDANCE WITH THE DEPARTMENT'S APPLICABLE

ORIGINAL

St. Cloud Mining Company

P.O. Box 1670 Truth or Consequences, New Mexico 87901
(ph) 505: 743-5215 (fax) 505: 743-3333 (email) jbokich@stcloudmining.com

November 1, 2005

Mr. Cody Morrow, R/W Manager
Surface Resource Management Division
PO Box 1148
Santa Fe, New Mexico 87504-1148

Re: Right-of-Way Application No. RW-29566 (Road Access ROW)

Dear Mr. Morrow:

Enclosed are the signed and notarized Grant of Right-of-Way and Easement for the access road applied for by St. Cloud Mining. As you and I discussed on the phone, to decrease "up front" capital, we have elected to reduce the initial term of the ROW and Easement from 35 years to 5 years. A check is enclosed for the fees for a five (5) year term of the ROW and Easement in the amount of \$6,341.28, as directed by you.

It is our intent at the renewal anniversary of the ROW and Easement to increase the term to the full remaining 30 years as you indicated would be possible. At this time we wish to establish the project and develop cash flow to support project development and growth.

I want to thank you and your staff for helping us through this process and granting the ROW and Easement the access road.

If you have any questions or comments, please contact me.

Regards,



John C. Bokich
Manager Technical Services

Cc: Patrick S. Freeman, President St. Cloud Mining Company

RECEIVED
2005 NOV 7 PM 8:10
STATE LANDS
SANTA FE, NM

Right-of-Way Easement No. RW-29566

RULES AND REGULATIONS. GRANTEE FURTHER UNDERSTANDS AND AGREES THAT THE FAILURE TO OBTAIN SUCH PERMIT SHALL RESULT IN THE FORCIBLE REMOVAL BY THE DEPARTMENT OF ANY FACILITIES THAT MAY BE CONSTRUCTED OR INSTALLED WITHIN THE RIGHT-OF-WAY.

5. In clearing the right-of-way, Grantee agrees to dispose of brush and other debris so as not to interfere with the movement of livestock of state agriculture lessees.
6. All pipelines placed on said lands by virtue of this grant shall be buried not less than twenty inches (20") deep. An exception to this requirement may be granted on other than agricultural lands when hard rock is encountered which would require blasting, or when a temporary pipeline is necessary and will not unduly hamper other surface uses. Deviation of the twenty-inch depth must be shown on the plat accompanying the application for right-of-way or by the filing of an amended plat upon completion of construction.
7. Grantee hereby agrees to carefully avoid destruction or injury to any improvements or livestock lawfully upon the premises described herein, to close all gates immediately upon passing through same, and to pay promptly the reasonable and just damages for any injury or destruction arising from construction or maintenance of this right-of way.
8. Grantee shall not assign this right-of-way without the prior written approval of Grantor. Such approval may be conditioned upon the agreement by Grantee's assignee to additional conditions and covenants and may require payment of additional compensation to Grantor. This right-of-way is for the sole purpose stated and no other. Grantee agrees not to sell or otherwise grant to any person or entity any interest therein or the right to use any portion thereof.
9. The rights granted herein are subject to valid existing rights.
10. Grantor reserves the right to execute leases for oil and gas, coal, and minerals of whatsoever kind and for geothermal resources development and operation, the right to sell or dispose of same and the right to grant rights-of-way and easements related to such leasing.
11. In all matter affecting the premises described herein or operations thereon, Grantee, its employees, agents and contractors shall, at their own expense, fully comply with all laws, regulations, rules, ordinances, and requirements of any governmental authority or agency, which may be enacted or promulgated, including, but not limited to, requirements or enactment's pertaining to conservation, sanitation, aesthetics, pollution, cultural properties, fire, or ecology, including those provisions of the New Mexico Cultural Properties Act, §§18-6-1 through 17, NMSA 1978, that attach criminal penalties to the appropriation, excavation, injury or destruction of any site or object of historical, archaeological, architectural, or scientific value located on state lands. In addition, Grantee, its employees, agents and contractors must comply with the provisions of the Pipeline Safety Act, §§ 70-3-11 through 20, NMSA 1978, and rules enacted pursuant to the Act, and agree to provide the Public Regulation Commission access to records of compliance.
12. Non-use of the right-of-way granted herein for any period in excess of one (1) year without the prior written consent of Grantor shall be conclusive proof of abandonment of the right-of-way, and non-use for shorter periods shall place upon grantee the burden of providing that there was no intent to abandon. Grantee, if other than a governmental entity that is provided immunity from suit by the New Mexico Tort Claims Act, agrees to save and hold harmless, defend and indemnify the State of New Mexico, the Commissioner of Public Lands, and his agents or employees, in their official and individual capacities, of and from any and all liability, claims, losses, or

damages arising out of or alleged to arise out of or indirectly connected with the operations of Grantee, its employees, agents, or contractors hereunder.

13. Notwithstanding anything contained herein, Grantor may cancel this grant for violation of any of the covenants of this agreement; provided, however, that before any such cancellation shall become effective, Grantor shall mail to grantee or any approved assignee, by certified mail addressed to the post office address of Grantee or such assignee shown by Land Office records, a thirty (30) day notice of intention to cancel, specifying the default for which the grant is subject to cancellation. No proof of receipt of notice shall be necessary and thirty (30) days after such mailing, Grantor may enter cancellation unless Grantee shall have sooner remedied the default to the satisfaction of Grantor.
14. Grantee agrees to preserve and protect the natural environmental conditions of the land encompassed in this grant, and to take those reclamation or corrective actions that are accepted soil and water conservation practices and that are deemed necessary by Grantor to protect the land from pollution, erosion, or other environmental degradation.
15. Grantee agrees to reclaim by grading, leveling, or terracing all areas disturbed by the construction or maintenance of the right-of-way or operations thereon and to landscape such areas at its own cost and expense. Landscaping shall include the planting of native grasses, shrubs, or other vegetation so as to return disturbed areas to their natural state and prevent water and wind erosion.
16. This grant shall become effective upon its execution by Grantor.

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(4)

Right-of-Way Easement No. RW-29566

GRANTEE:

By: *JL C. [Signature]*

ACKNOWLEDGMENT

STATE OF *New Mexico*)
COUNTY OF *Sierra*) ss.

The foregoing instrument was acknowledged before me this *1st* day of *November*, 20*05*,
by *John C. Bokich*, of *St Cloud Mining Company*, a
New Mexico corporation, on behalf of said corporation.

My Commission Expires:

5/6/09

Linda L. Arnett
NOTARY PUBLIC



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STATE OF NEW MEXICO

BY: *Patrick H. Lyons*
COMMISSIONER OF PUBLIC LANDS