

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

Ken McQueen
Cabinet Secretary

Matthias Sayer
Deputy Cabinet Secretary

Fernando Martinez, Director
Mining and Minerals Division



November 9, 2017

Thomas L. Shelley – Manager
Freeport-McMoRan Cobre Mining Company (“Cobre”)
P.O. Box 10
Bayard, NM 88023

**RE: Scope of Work for Third-Party Review of Closure-Closeout Plan Cost Estimate,
Permit No. GR002RE, Revision 15-2 - Continental Mine and Mill
Grant County, New Mexico**

Dear Mr. Shelley:

Pursuant to §19.10.12.1201.D NMAC of the New Mexico Mining Act Rules (“Rules”) cost estimates and financial proposals submitted to the Mining and Minerals Division (“MMD”) by applicants or permittees may require review by a third-party contractor as ordered by the Director of MMD, with all costs for such review being borne by the applicant or permittee.

MMD has completed technical review of Cobre’s updated 2014 Closure Closeout Plan (“CCP”) and provided comments to Cobre regarding certain aspects of the cost estimate included within its updated CCP, particularly the indirect cost percentage used throughout the CCP. In technical comments dated January 31, 2017, MMD provided its revised guidance on estimating the indirect costs used in the updated CCP to Cobre and suggested that the guidance be utilized by Cobre in the updated CCP going forward in establishing an indirect cost percentage that is agreeable to both parties. Cobre responded to MMD on May 31, 2017, with comments and suggested that it didn’t favor the use of MMD’s revised guidance for indirect cost estimating for the Continental Mine.

Cobre and MMD had met on several occasions to discuss MMD’s guidance document on indirect cost estimation and moving forward on the indirect cost percentage question, with little agreement on either the indirect cost percentage or how it is calculated. As a result, MMD believes a third-party contractor review the CCP and associated cost estimate will provide the best solution to calculate indirect cost percentage, cost estimate and CCP for Cobre as well as for other cost estimates proposed for other FMI mines.

Mr. Tom Shelley, Manager

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Below, please find a proposed draft Scope of Work ("SOW") that MMD intends to utilize in selecting a contractor to complete the third-party review of the CCP and associated cost estimate.

Anticipated Scope of Work:

- Contractor will meet with MMD staff for preliminary discussions. MMD will provide background on the mine, permitting process, closeout plan and provide expectations on the financial review process and submittals; MMD will present questions regarding industry standards for the cost estimate process, such as how indirect costs factor into an appropriate hourly rate for equipment usage;
- Review the cost estimate relative to the requirements for financial assurance found in the New Mexico Mining Act Rules;
- Review the *2014 Continental Mine Closure/Closeout Plan Update* ("CCP") submitted by Freeport-McMoRan Cobre Mining Company and prepared by Telesto Solutions Inc. and all subsequent supporting documents updating the CCP. The Continental Mine CCP can be viewed at: <http://www.emnrd.state.nm.us/mmd/MARP/GR002RE-2.html>. Also include cost items that may not be currently included in the CCP but should be included in the financial assurance estimate (e.g., stationary mining/milling equipment decommissioning and removal);
- Visit and tour the Continental Mine, if necessary;
- Determine level of effort and cost to perform engineering redesign at time of bond forfeiture (i.e. design-build process or other mechanism to bring the CCP to final design);
- Produce a detailed 3rd party cost estimate for completion of the mine reclamation work as detailed in the CCP; identify as many Direct Costs as possible; analyze appropriate labor rates with fringe benefits, equipment rates for Silver City, New Mexico and explain how these rates are affected by Indirect Costs; identify all other costs that can't be captured as a Direct Cost and categorize them into whatever Indirect Costs the state may incur at bond forfeiture;
- Contractor to meet as-needed with MMD for Q&A and discussion;
- Evaluate the financial assurance/cost-estimate proposal given in the *2014 Continental Mine Closure/Closeout Plan Update*, including relevant subsequent submittals, and document any deficiencies it may have;
- Provide a report to MMD identifying where the CCP and cost estimate are sufficient and insufficient for the state of New Mexico to contract all work to implement the plan to completion; This will include a presentation by the contractor to MMD, two (2) hard copy reports and one (1) digital version in PDF or other suitable format. Final report shall give a breakdown as to how all costs were derived and address individual rates involving equipment, labor, per diem, standby, etc.;
- Act as an expert witness before the New Mexico Mining Commission, if needed.

Please review the draft SOW and let us know when Cobre is available to meet to discuss any specifics that may be necessary toward further development and finalizing the SOW in addition to developing a cost-purchase agreement and selecting a suitable contractor for implementing the SOW. MMD proposes to meet on November 14, 2017, to accomplish these tasks. If you have

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any questions or comments, please contact me at (505) 476-3437 or you may also contact James Hollen of my staff at (505) 476-3436 or via e-mail at: james.hollen@state.nm.us.

Sincerely,



**Holland Shepherd, Program Manager,
Mining Act Reclamation Program**

**cc: Fernando Martinez, Director, MMD
Gabriel Wade, Assistant General Counsel, EMNRD-MMD
Kurt Vollbrecht, Program Manager, NMED GWQB-MECS
James Hollen, MMD Permit Lead – GR002RE
Mine File GR002RE Rev. 15-2**

